Hutton Inquiry: How Dr Kelly and the Foreign Affairs Committee were used by the government

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Documents and testimony given to the Hutton Inquiry into the death of whistleblower Dr David Kelly shows how he was persuaded to lie repeatedly to the Foreign Affairs Committee (FAC) in an attempt to discredit BBC reporter Andrew Gilligan. It has also confirmed that the FAC, or more correctly its majority Labour members, helped to ensure that Kelly's lies were used to exonerate the government of the charge that Prime Minister Tony Blair's Director of Communications Alastair Campbell had presided over the "sexing up" of a September 2002 security dossier detailing the alleged threat from Iraqi weapons of mass destruction.

Kelly was the anonymous source of Gilligan's May 29 report that someone intimately involved in the production of the September dossier (Kelly) was critical of the government's misuse of intelligence material to exaggerate the threat posed by Iraq. The allegation became the basis for two parliamentary inquiries, by the FAC and the Intelligence and Security Committee (ISC), both of which exonerated the government.

For weeks beforehand the government had faced mounting criticism over the failure to find any weapons of mass destruction in Iraq. Gilligan's report was highly damaging because it pointed to widespread disquiet within the security services and cited as its source someone who had been involved in drawing up the dossier. For this reason and partially because the BBC was a favoured target of the political right—not least Blair's main media backer Rupert Murdoch—the government decided to do everything in its power to discredit Gilligan's story.

It was against this background that on June 30 Kelly wrote to his manager at the Ministry of Defence (MoD), Bryan Wells, admitting he may be the source of Gilligan's report. So began 15 days of intensive discussion, quizzing of Kelly, threats and promises in order to make sure the scientist was made ready to discredit Gilligan before the FAC.

Kelly's coming forward to his MoD superior has always been described as an honourable move on his part. But interesting information has come to light showing that Kelly may have felt he had no choice but to do so.

Around the time of his letter the Metropolitan Police had considered arresting Kelly as the possible source for a previous report by Gilligan for Radio 4's *Today* programme in February. The MoD had urged the police not to act, with John Cochrane of the MoD's Defence Security Unit stating, "we are to resist any attempt by the police to interview Kelly or anyone who has interviewed him".

It appears that Kelly was already in the frame before writing his letter and it is unclear as to whether the MoD was discouraging the police because of an unlikely belief in his innocence, or whether Kelly had made his leaks with the agreement of others higher up than himself, or whether they wished at that point to ensure that things remained in-house.

In any event, the situation faced by the MoD and the government on June 30 was the following:

* Kelly had spoken to Gilligan and had said what the reporter had claimed.

* Kelly had also spoken to a number of other journalists voicing similar opinions, including the BBC's Susan Watts.

* Public interest in the issue was high and within parliament there was substantial disquiet, which meant that it would be very difficult to conceal Kelly's role and prevent him from appearing before the FAC.

But to all intents and purposes that is exactly what the government initially did.

The FAC inquiry into the allegations of government misuse of intelligence information was meeting and had taken evidence from Alastair Campbell, who had denounced Gilligan as a liar and claimed an anti-government witchhunt had been mounted by the BBC. Still Kelly's name was suppressed for days and the FAC inquiry had actually concluded with a statement exonerating the government on July 7, days before it was finally made public by the government.

The government would not have named Kelly unless it had convinced him to say what it wanted. The MoD had initially announced that an unnamed official had come forward saying that he was the likely source for Gilligan's story. And it would have been possible to claim that Kelly should not be named because of protocols governing the treatment of civil servants.

Kelly was subject to intensive questioning for days. He was made aware of the penalties he was facing and we now know that Defence Secretary Geoff Hoon offered him leniency in return for his cooperation.

Whilst this was taking place, a number of key government personnel were engaged in discussions as to the advisability of suppressing Kelly's identity from the FAC or under what conditions it would be best to allow him to be questioned—a discussion that Prime Minister Tony Blair was well aware of.

Sir David Omand from the Cabinet office wrote to senior MoD official Sir Kevin Tebbit on July 5, prior to the conclusion of the FAC, "At the appropriate point it would be incumbent upon us to inform the FAC (and the ISC) so that they were not placed in a false position. But we also noted your caveat about the need to be more certain of the facts before reaching any firm conclusion, given certain apparent discrepancies. The Prime Minister subsequently saw your letter and spoke to Jonathan Powell, and as I relayed to you, he agreed that as you had recommended no immediate action should be taken to try and correct the record with the FAC or with the BBC until we were more sure of our ground."

In any event, the FAC would be told nothing before they had concluded their deliberations. Omand discussed with Blair the foreign secretary's view "against any immediate action with the FAC in advance of the publication of their report".

Blair agreed.

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Following the issuing of the FAC's report the government had decided that it could be reconvened to question Kelly providing that he been properly coached. Hoon's private secretary Dominic Wilson wrote on July 8 recommending a more "intensive interview" with Kelly with the aim of establishing what happened between him and Gilligan, "with a reliability that will stand up to the intense glare of public scrutiny".

The key to determining whether Kelly would be named, Wilson continued, was, "Kelly's readiness to be associated with a public statement that names him and carries a clear and sustainable refutation of the core allegation on the 45-minute intelligence", as well as "our view about the robustness of the rest of his position, including on Iraq's WMD programmes generally".

A fallback position for the government was to allow Kelly to speak only before the ISC, which meets in private and is answerable to Blair, on the cynical grounds that the FAC had already completed its deliberations!

Now that this evidence has emerged, some of the key personnel involved have become fearful of its implications. Tebbit told the Hutton Inquiry that he was concerned that those involved could be accused of a cover up. "Here we are, sitting on information of great relevance to the Foreign Affairs Committee, and indeed the Intelligence and Security Committee, which arrives in a letter dated 30th June and here we already are, 7th July, the Foreign Affairs Committee have reported without any knowledge of this.

"This was a critical adjunct to Andrew Gilligan's testimony, which was the main reason for the Foreign Affairs Committee's hearing and process. We had said nothing about it. Here we were, a week later. It did look as if we were withholding information of great public interest."

In the end the government judged that Kelly had been sufficiently intimidated and cajoled to say what it wanted him to. Just how well Kelly's testimony was prepared is made clear in two papers dated July 14, the day before his FAC appearance.

A memo from the Foreign Office's Colin Smith stated, "DCDI [Deputy Chief of Defence Intelligence Martin Howard] is to brief David [Kelly] this afternoon for his appearances tomorrow before the FAC and the ISC and will strongly recommend that Kelly is not drawn on his assessment of the dossier (but stick to what he told Gilligan)."

Notes of this meeting between Kelly and various MoD personnel detail how he should respond to various questions. These included, "what Kelly thought of Government Policy on Iraq. Kelly said this was a matter for ministers" and "whether Kelly thought he was Gilligan's source. Kelly asked if he could say 'I don't believe I am', Howard replied that Kelly was free to decide how to answer this to his own conscience". The notes say, "Kelly concluded by saying that he appreciated Howard's giving up so much time to discuss his appearances before the Committee."

An additional safeguard was also put in place, however. Having tamed Kelly the next task was to ensure that the FAC did as it was told.

The FAC was set up in 1980 supposedly to enable parliament to scrutinise the executive. Its chairman, Labour MP Donald Anderson, was questioned by the Hutton Inquiry on August 21 and made grandiose claims that the body functioned as a representative of the public interest. Nothing could be further from the truth.

Consisting of 11 members, seven are Labour MPs giving the government a built-in majority. Moreover, the FAC has no powers to force witnesses to testify, nor even the right to demand to see documents. Its remit is entirely determined by what the government permits it to do.

In the case of the FAC inquiry into the allegations that the government misused intelligence material, the committee was not even allowed to see earlier drafts of the dossier it was supposedly investigating. Anderson told the Hutton Inquiry that Foreign Secretary Jack Straw had appeared in private session for three hours where he read them sections.

It is not simply that the government felt able to treat the FAC with contempt, but that the FAC, or at least its Labour members, were willing accomplices in a campaign to exonerate the government.

Nothing expresses this more clearly than the FAC agreeing to various government dictates on precisely what it could and could not ask Kelly before it would even allow his appearance.

Press attention on this issue has focused on the role played by Defence Secretary Geoff Hoon, who is singled out for his efforts to prevent Kelly voicing his views about the September dossier. In July 11 letter Hoon requested the FAC not to ask Kelly about "the wider issue of Iraqi WMD" or any questions on the preparation of the dossier.

This is part of ongoing efforts to single out Hoon as a fall guy so that Blair, Campbell and others can be shielded. In reality, everything to do with the Kelly affair was decided by Blair and his immediate coterie and implemented with the collaboration of the MoD.

Peter Watkins of the MoD wrote to MoD Permanent Secretary Geoffrey Adams on July 10, "we should invite Donald Anderson to agree that the Committee will confine its questioning to matters directly relevant to Andrew Gilligan's evidence. I understand that No. 10 would be content with this approach."

Anderson told the Hutton Inquiry that he had agreed to limit the interrogation of Kelly to 45 minutes and to confine discussion to his meeting with Gilligan and what he had said. He did so against the protestations of the non-Labour members of the FAC.

Anderson had replied to Hoon, "I share your clear understanding of the scope and duration of the questioning to which Dr Kelly will be subject, and will draw it to the attention of my colleagues on the committee."

Anderson even admitted that he had not wanted Kelly to be called before the FAC, but he was outvoted by four votes to three.

In the face of this Gilligan has unbelievably been accused of interfering with the FAC inquiry, after it emerged that he sent emails suggesting questions to be asked of Kelly by two non-Labour MPs on the committee. Anderson, who had already agreed what questions could be asked of Kelly with the government, expressed his outrage and complained that Gilligan's email was "unprecedented"!

Appearing before the FAC on July 15, Kelly only rarely deviated from the framework he had agreed with the government and the MoD. Not only did he do everything possible to discredit Gilligan, but stated his full agreement with the dossier he had previously been so critical of and denied any knowledge of broader disquiet within the security services.

Far from being given a "grilling" by the FAC, Kelly was treated with kid gloves.

When on rare occasions questioning by Liberal Democrat and Conservative Committee members elicited possibly awkward opinions from Kelly, Anderson intervened to bring things under control—declaring at one point, "We are concentrating on Gilligan," and at another, "I think we are getting close to being outside the terms of reference."

Kelly's testimony is an extraordinary mixture of lies and evasions. He claimed to recognise none of the comments cited in Gilligan's reports as his own and on this basis questioned whether he could even be the reporters only source.

Kelly also denied being the source of a similar report to Gilligan's by Susan Watts, stating, "I do not recognise those comments".

Asked how many journalists he had met, Kelly said he did not recall and a list "should be formally requested of the Ministry of Defence."

He specifically denied having said that Campbell was responsible for "sexing up" the September dossier, which was essential for the government if it was to pursue its anti-BBC campaign and use this as a snowjob to conceal the full extent of its own lies.

When asked whether he believed the dossier had been transformed by Campbell, Kelly said " I do not believe that at all", adding "I had no doubt that the veracity of it was absolute".

Based upon Kelly's testimony, Gilligan was summoned to appear

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before the FAC once again on July 17. The reporter was not exaggerating when he described the proceedings afterwards as a “kangaroo court”.

The Labour members of the FAC fell on him like a pack of wolves, wielding Kelly as a weapon against him. Kelly, a whistleblower who the government would naturally have despised, was elevated to the role of a honourable man whom Gilligan had supposedly ill-used to further his nefarious anti-government agenda.

Even before questioning began Anderson threatened Gilligan with possible retribution by telling him, “the committee has the power, if it sees fit, to make a report to the House of Commons of the circumstances of a refusal to answer a question put by it and the powers of the House in dealing with such a matter are considerable.”

Various members tried to discredit his May 29 report and other stories by reference to the fact that no one, including Kelly, was backing him up. Sir John Stanley said that the reporter had “led this whole Committee, and the wider public, up the garden path in a most staggering way,” whilst Labour MP Eric Illsley declared indignantly, “You have misled the whole world”.

There can be few examples of hypocrisy to match this statement by a representative of a government that not only lied to the entire world to justify war against Iraq, but then conspired to conceal that lie by perverting all democratic norms.

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