

The Mysterious Death of Dr David Kelly: “Subversion of Due Process” of the Law in the United Kingdom

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Due process of the law has not been followed by the British state in the investigation into the death of Dr David Kelly. Of this there is now no doubt. The original inquest was derailed by Lord Falconer, in his dual capacity as Minister of State for Constitutional Affairs and Lord Chancellor.

Dr. Kelly remains the only British citizen not to have had his suspicious death examined properly at a coroner's inquest. This to some may seem trivial. It is not. It is a matter of the highest importance and should be of great concern to all British citizens, especially given the highly political context in which the death took place, inextricably linked as the death was to the United Kingdom's waging of illegal war (according to both the Geneva Conventions and the United Nations Charter) on the sovereign state of Iraq. Disregarding the political context of the death, all doctors are taught, or should be, that none of us is safe without inquests and that the Coroner speaks for the dead to protect the living.

The national disgrace, which the original failure to hold an inquest into this loyal public servant's death constitutes, is all the more concerning because it is a fact that the purported suicide verdict of Lord Hutton is the first time ever that a suicide verdict (if that is what Hutton's "finding" of suicide constituted) has been reached by someone other than a coroner. The standard of proof required to reach a suicide verdict is necessarily very high (the Coroner must be satisfied beyond reasonable doubt that the deceased not only killed himself but also that he intended to kill himself) because such a verdict closes down the case for ever, permanently smearing as it does the victim (who cannot argue back) and his family and stopping for ever any police investigation into the possibility of murder. With such a high standard of proof requirement one would have thought that Lord Hutton heard evidence under oath, but it later emerged that he did not. In simple practical terms, there has never been a case in which a suicide verdict has been overturned and a murderer subsequently convicted.

The possible, indeed probable, gross miscarriage of justice which Hutton's "finding" of suicide in the Kelly case constituted has now been compounded by the Attorney General Dominic Grieve's 9 June 2011 decision not to allow the doctors, who had put before him an unanswerable case for an inquest (see the twenty documents immediately below), permission to apply to the High Court, nor to apply himself, for an inquest.

The Memorial

http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/07_01_11davidkelly1.pdf ,

the Addendum to the Memorial

http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/03_03_11_kellyinquest.pdf,

and the Appendix to the Addendum to the Memorial

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/appendix-to-addendum-to-memorial.html>,

all of which were submitted in the proper manner by Frances Swaine of the well known London law firm Leigh Day & Co. as part of a formal Section 13 application, were supplemented by no fewer than seventeen other submissions to the Attorney General:

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/first-submission-of-14-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/second-submission-of-14-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/third-submission-of-14-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/fourth-submission-of-14-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/fifth-submission-of-13-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/sixth-submission-of-13-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/seventh-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/eighth-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/ninth-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/tenth-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/eleventh-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/twelfth-submission-of-12-from-me-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/submission-by-dr-david-halpin-to.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/office-of-attorney-general-december.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/third-submission-of-5-by-dr-david.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/fourth-submission-of-5-by-dr-david.html>

<http://drdavidkellyinquestrequired.blogspot.com/2011/06/fifth-submission-of-5-by-dr-david.html>

Worse still, an attempt by one of the group of doctors to judicially review the Attorney General's deeply disturbing decision was recently (19 December 2011) stopped, before clearing the first hurdle, by Mr Justice Nicol at the High Court. Despite the fact that the

Attorney General is a Cabinet Minister and that his June decision was clearly political when it should have been based solely on the law and that his decision was infamously pre-empted by David Cameron's remarks on the case in the House of Commons, it seems that there is no provision to challenge the Attorney General's decision through the Courts.

This of course makes an already very bad situation much worse and raises profound constitutional questions, as well as questions of propriety. For common sense surely informs us that, of the many disingenuous assertions which the Attorney General Dominic Grieve made on behalf of the British state in June of this year, the conclusions he reached in his oral statement to the House of Commons are indefensible and misled Parliament:

"Having given the most careful consideration to all the material that has been sent to me, I have concluded that the evidence that Dr Kelly took his own life is overwhelmingly strong. Further, nothing that I have seen supports any allegation that Dr Kelly was murdered or that his death was the subject of any kind of conspiracy or cover-up. In my view, no purpose would be served by my making an application to the High Court for an inquest, and indeed I have no reasonable basis for doing so. There is no possibility that, at an inquest, a verdict other than suicide would be returned."

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110609/debtext/110609-0002.htm>

The evidence that Dr Kelly took his own life was NOT overwhelmingly strong, for example crucially we are told there was no suicide note. Further, the Attorney General saw plenty of evidence that pointed to the possibility "that Dr Kelly was murdered" and plenty of evidence "that his death was the subject of" some "kind of conspiracy or cover-up". Further, the Attorney General's claim that "no purpose would be served by my making an application to the High Court for an inquest, and indeed I have no reasonable basis for doing so" is simply untrue. Finally, it is clearly impossible for him to predict the outcome of a future inquest and he must have known that for him to say in Parliament that "there is no possibility that, at an inquest, a verdict other than suicide would be returned" was misleading in the extreme.

Further, the Attorney General knew full well that the test for him (under a formal Section 13 application) to request an inquest or to allow the doctors to do so was very generous: he only had to conclude that at an inquest the verdict of suicide MIGHT be different NOT that it WOULD different.

There seems to be some confusion in the mind of the Attorney General as to whether or not an inquest took place. It makes no difference:

if an inquest DID NOT take place a Section 13 application should be successful if the Coroner refuses or neglects to hold an inquest which ought to be held

AND

if an inquest DID take place a Section 13 application should be successful if that inquest was inadequate for any one of the following reasons:

- 1) insufficiency of inquiry
- 2) irregularity of proceedings
- 3) new facts or evidence

4) fraud

5) rejection of evidence

Whether an inquest did or did not take place, the doctors, in the evidence which they submitted to the Attorney General, satisfied not just one of the six requirements, but all six.

There are thus reasonable grounds for concluding that a high level conspiracy to pervert the course of justice has taken place. But what was/is so important to hide which would justify the risk of blocking an inquest, apparently at any cost?

At the very least, the David Kelly suicide verdict must be considered unsafe.

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