

The Iraq Inquiries: Publicity, Secrecy and Liberal Security

Submitted by Owen David Thomas to the University of Exeter as a thesis for the degree of Doctor of Philosophy in Politics in April 2014

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Signature:

For Margaret and Elsie

Abstract

The Iraq Inquiries: Publicity, Secrecy and Liberal Security

The Iraq ‘Chilcot’ Inquiry is the last in a string of public inquiries tasked with understanding how the British state went to war with Iraq. In so doing, the inquiries have become defined by the problem of striking a *balance* between publicity and secrecy. While exposing foreign policy decision-making to public scrutiny should be the norm in a liberal democracy, this must be balanced by state secrecy, which is justified in exceptional circumstances when there is a threat to national security. Striking the right balance acts to maintain and legitimise a distinction between liberal and illiberal regimes by justifying exceptions as the mitigation of existential threats to liberal values. In contrast to the balance metaphor, this thesis shows how the inquiries are a site of contestation between two technologies of government: the public gaze and official secrecy. Drawing on Foucault, I demonstrate how both technologies support the liberal ‘security dispositif’: the exercise of freedom without too little or too much government. Each technology *secures* this liberal governmentality in a different but mutually supportive way. The public gaze seeks constitutes security of the liberal subject by exposing, criticising and disciplining statesmen and statecraft. Official secrecy, meanwhile, constitutes security of the state by protecting the value of privileged information used to support a necessary minimum of government. In this context, the balance metaphor may be recognized as the discursive framework that, in any moment, legitimises either the exercise of publicity in response to insecurity engendered by secrecy or vice versa. The balance metaphor thereby supports a further distinction between the responsible liberal self and the illiberal other. I show how the Iraq Inquiry legitimizes British official secrecy while re-inscribing the conditions of possibility for waging liberal war.

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Preface

I began to formulate this research project in the spring and summer of 2010. The previous July, the Iraq Inquiry had been formally opened by Sir John Chilcot. Sir John stated that he wished to deliver the final report by the end of 2010. It seemed to me that there was an interest research project to be conducted into the formulation, delivery and reception of this report. How would the inquiry attempt to make sense of one of the most controversial episodes of foreign policy? What perspectives and what claims would be supported? Which ones would be rejected? And which ones would be silently ignored? How would the report be received in the public spheres that surround the inquiry? What kinds of responsibility and accountability would be attributed? What would this inquiry process and this report tell us about how a liberal state goes to war, and how could do so again?

As it turned out, my research project would answer very few of these questions. The reason was simple. Months and years went by with no report. Every now and again, Sir John and the committee would set a new date for publication. The end of 2011. The summer of 2012. The end of 2013. At the time of writing, in autumn 2014, the report has not seen the glare of publicity. Talk of avoiding the 2015 general election may push the report well into next year, and perhaps beyond.

The cause of this delay was, in one sense, very simple: the apparent need to balance publicity against security. The government refused to publish material related to the committee's investigations on the grounds that doing so would or would likely harm the public interest. The committee, meanwhile, refused to publish the report until publication of this material could be negotiated.

This delay created a whole new set of questions. How could public inquiry not be public? How could the British state cling to its identity as a liberal-democratic state whilst this apparent deadlock between liberal ideas of public scrutiny and the interests in securing the public interest were at odds? This thesis, as such, became a thesis about why I could never write the thesis I originally wanted to write.

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We place great emphasis on the solitude and the independence of the individual author, in the academy and elsewhere. But we also know that any undertaking of this type is influenced greatly by others. I could not have completed this work, nor could this work appear as it is without the patience and generosity of many people in many places.

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Beyond Exeter, I have been fortunate to present and develop my work through projects and workshops. In early 2010 I was given the opportunity to join the International Collaboratory on Critical Methods in Security Studies (ICCM). This programme provided a supportive and reflective atmosphere in which to advance my research and I extend my thanks, in particular, to Claudia Aradau, Martin Coward, Eva Herschinger, Jef Huysmans, Andrew Neal and Nadine Voelkner. In 2012, I participated in the University of Reading Liberal Way of War Programme Conference; I thank Alan Cromartie for his thoughtful comments on several drafts of this research. In 2014, I was invited to participate in a conference at the European Parliament organised by the Nonviolent Radical Party Transnational and Transparty (NRPTT). The discussions and proceedings from this event helped to my conclusion to this work, and I thank Claudio Radaelli, Matteo Anglioli and Laura Harth for involving me in their continuing campaigns.

Several organisation and individuals connected to the Iraq Inquiry have given me their time. Many individuals have asked to remain nameless, but their contributions in interviews and exchanges have been instrumental in guiding my research. Many others including Kate Hudson and the CND, Chris Ames, Stephen Plowden, Sir Menzies Campbell and several members of the inquiry public gallery have also given me their time. I am grateful for the generosity of them all.

Introduction

Publicity is a highly valued practice in liberal democracies. By ‘publicity’, I mean the practice of making the activities of the state compatible with public disclosure. Liberal states often claim a special kind of legitimacy and moral authority through the performance of this practice, and claim this legitimacy separates liberal from non-liberal states. In 2011 for instance, after the Baha Mousa inquiry¹, then Defence Secretary Liam Fox claimed that “what separates us from our adversaries are ...the ethics that guide our actions” and when there is suspicion that those values have been transgressed “it is vital that we get to the bottom of what has happened, are open about the issues and their causes... and do all that we can to prevent it from happening again” (Fox, 2011). Yet in the day-to-day language of politics, we often talk, hear and think about publicity as something that has to be traded off against another phenomenon: security. This trope litters our public discourse. Political figures fiercely debate how to ‘balance’ the need for public scrutiny of government affairs against the necessity of maintaining a veil of secrecy in order to protect national security. This trope, however, is misleading. The key claim in this thesis is that we must reject that trope and instead embrace a different frame, which I recover from the history of political thought and practice of liberal governance. Rather than a balance between publicity and security, *publicity and secrecy co-constitute liberal security*. Once we use this frame, and understand how it emerges, we uncover a richer account of the democracy, the security practices and the ways of war at work in the liberal state.

This introductory chapter is composed of five sections. I will foreground the main claims of thesis and explain what I mean by the co-constitution of security; I will then describe how these claims provide original contributions to the scholarly literature; I will tell a brief story from the Iraq Inquiry to illustrate the research puzzle that gives rise to the thesis; I will provide an outline of the thesis chapters; finally I will briefly describe the methods and methodology used in the research.

Upsetting the Balance of Publicity versus Security in the Iraq Inquiries

Holding on to this image of a balance between publicity and security generates an unnecessary problem. If publicity is a foundation norm of liberal governance as I have just

¹ Baha Mousa, a 26-year-old hotel receptionist, died on 14th September 2003 while in the custody of the British Army in Basra. In 2011, a public inquiry concluded that Baha Mousa had been subjected to “serious, gratuitous violence” and banned conditioning techniques, in violation of the European Convention on Human Rights, the Geneva Convention and UK domestic law (Fox, 2011).

described, it cannot be traded away without sacrificing some of the liberal character of the state, and the legitimacy this character affords. This is particularly important in matters of war and peace. Liberal International Relations (IR) scholars, as I will discuss in detail below, have long claimed that publicity shapes distinctive international relations. These scholars claim that publicity contributes toward peaceful relationships between liberal democracies due to the restraint of citizens seeking to avoid unnecessary wars and the trust established between open societies. In addition, wars between liberal and *non-liberal* states are expected and legitimised in part by reference to the absence of publicity in non-liberal regimes. The moral defensibility of war is justified by reference to the knowledge that the liberal state operates in accordance with publicity whilst the enemy does not. Thus, the metaphor of balancing publicity against security creates an *apparent* dilemma, and one that I challenge in this thesis. The dilemma is that, it *seems*, we must either bid farewell to notion of a distinctive and immutable liberal democratic way of war and peace (because liberal regimes trade the distinctive practice of publicity against the need for security) *or* by implication many actually existing liberal democratic regimes are not actually liberal (because they trade their liberal values for security).

The Iraq Inquiries are a window through which we can explore and seek alternatives for this puzzle; this apparent dilemma was exemplified in the events before, during and after the UK's participation in the Iraq War. The British government justified the need for war by claiming that the Iraqi regime was deceiving the international community - in other words, claiming that Iraq was not practising publicity. Yet the British government was accused of not practicing publicity either: lying about the motive for war and factual basis for the Iraqi threat. Since 2003 several public inquiries have been appointed to provide a public account of how the decision to go to war was made. In order to allay suspicions, these accounts must either exonerate the government or identify discrete failures by the government to practice publicity. Either way, the liberal character of the state – whether there is an actual *mea culpa* or not – should be recovered and preserved through an act of publicity. Yet a convincing account of this nature has been hard to produce because the government has kept certain evidence secret. This official secrecy is justified by the claim that unrestricted openness would not be in the public interest because of the risk of harm to national security. In other words, publicity is balanced against security. The effect is to constitute a kind of blackmail in which one either acknowledges the necessity of trading-off the democratic good of publicity against the need for security, or one objects to this sacrifice and in so doing rejects security entirely. The former, those who defend security, claim the terrain of realism whilst the latter, who fight for publicity, are labelled as feeble idealists who are unwilling to acknowledge what needs to be done to

protect the political community from harm (Ashley, 1988; Foucault, 1984b). Once again, we are faced with an apparent dilemma: either we must jettison the notion of distinctively liberal way of war based on practicing publicity, or we must question whether the UK fits in as a liberal-democratic state.

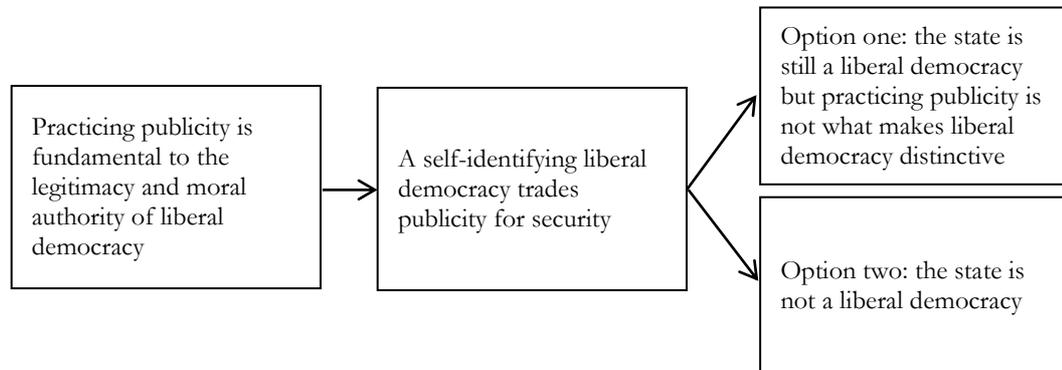


Figure 1. The False Dilemma caused by the Metaphor of Balancing Publicity against Security

In this thesis I show that apparent dilemma to be unfounded by the rejecting the balance between publicity and security. This rejection requires several moves. Firstly we need a *different understanding of 'the liberal state' and what makes it 'liberal'*. Drawing on the work of Michel Foucault, I understand the liberal state to be, first and foremost, concerned with guarding against 'too little' or 'too much' government (Foucault, 2008). The liberal state must, on the one hand, prevent too much government interference that would otherwise trample upon the everyday social and economic activities of liberal citizens and civil society – activities that the political economy of liberal governance relies upon. The best way to prevent this interference is for the citizenry to play a role in the limitation of government. On the other hand, the liberal state must be concerned with protecting against too little government; the liberal state must intervene within and beyond the state in order to sift out those ideas, practices and actors that pose a threat to these very same, highly valued, social and economic activities of liberal governance. This 'sifting' should not be interpreted only as a non-violent or indirect process. Rather, guarding against too much government sometimes require the violent killing and destruction of those savage or barbaric actors whose those ideas and practices threatened the liberal state.

Having established that the foundation of the liberal state is this constant concern with too much and too little government, we can include a second move. I *reject* the frame in which publicity must be balanced against security and *replace it* with a different frame. I cannot claim originality for this frame. Instead I recover it from the political thought and governing practices found in history of liberal governance. In this 'recovered' frame, publicity and secrecy are *co-constitutive* of liberal security. Liberal security means securing the political community against threats to this foundational concern with too much and too

little government. Thus by suggesting this recovered frame of co-constitution, I am arguing that publicity and secrecy co-constitute the governing practices of liberalism that mediate against such threats.

In order to understand how this co-constitution works, I introduce a distinction between what I call *hypothetical publicity* and *actual publicity*. Liberal security, I argue, depends on subjects who practice *at all times in public affairs* (and expect others to practice at all times) hypothetical publicity – in which subjects are sincere, truthful and only pursue public policies that they think the citizenry would agree with (as if the citizenry knew what was going on). In this sense, even when acting in secret, the subjects of liberal governance are always expected to practise publicity. Liberal security is supported at all times by subjects that think and act, truthfully and sincerely, that their actions do not infringe upon the economic and social activities of the citizenry but do provide enough government to protect and preserve these activities against threats. Of course the citizenry cannot know if subjects practice publicity in secret. Liberal citizens must very often trust that statesmen and government officials perform hypothetical publicity behind closed doors. Actual publicity provides a mechanism through which the citizenry can check the validity of the claims made by statesmen about their activities in secret. But this check is not an end in itself; it exists only as a disciplinary device to deter or expose deviant subjects or behaviours that violate hypothetical publicity. At the same time, liberal security and the possibility of governance based on hypothetical publicity could be supported by *either* actual publicity or state secrecy in any one moment or place.

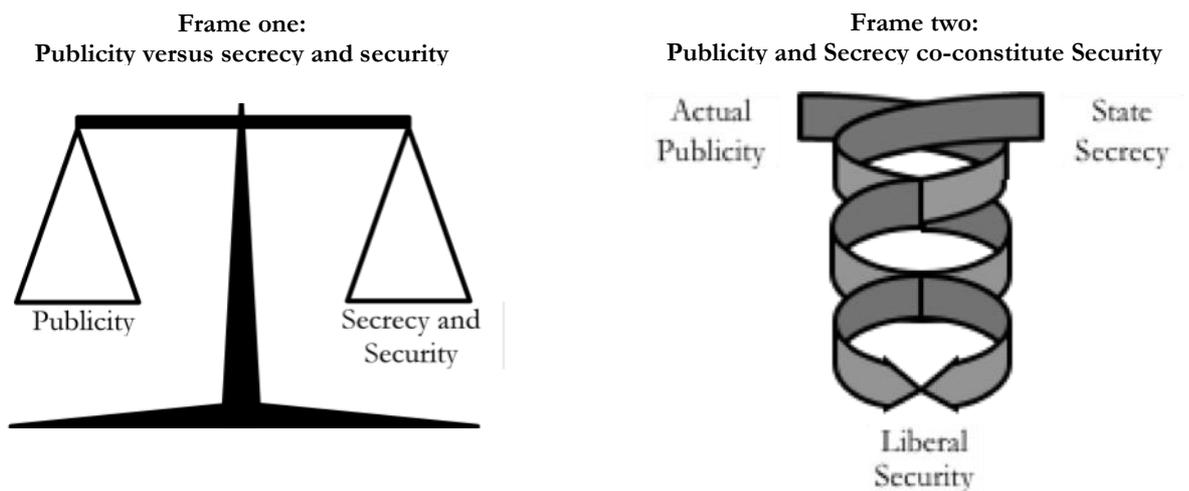


Figure 2. A Recovered Framing of the Relationship between Publicity, Secrecy and Security.

The illustrations above graphically convey the central claim that I make in this thesis. Rather than frame the relationship between publicity, secrecy and security as a balance between publicity and security, I show how both publicity and secrecy are co-constitutive of security.

Once we bring these three moves together, we can easily find examples in which actual publicity or state secrecy could support liberal security. They are both *technologies of security*. Actual publicity allows the citizenry to remove governors who – by iniquity or incompetence – fail to act in accordance by hypothetical publicity. Actual publicity can also be used internationally to judge whether other regimes actually pursue the policies that they claim to in public. State secrecy, on the other hand, protects activities that may be in the public interest – such as intelligence based security programmes that sift out threats to the liberal way of life – but can only be effective if they are hidden. Similarly state secrecy can protect the practice of hypothetical publicity by providing an environment in which statesmen may more easily conduct deliberations honestly and sincerely.

Of course, actual publicity and state secrecy remain opposed. One practice (e.g. secrecy) produces insecurities that are governed by the other practice (e.g. actual publicity). When we talk about ‘security’, we do not refer to a fixed and unchanging state of affairs that we wish to protect. Rather, the meaning of security is shaped by particular fields of knowledge, practice and expertise. Crucially I understand the underlying dynamic of security in modernity is to be the mediation of a fear of uncertainty (Huysmans, 1998). Technologies of security – like secrecy or actual publicity – are constituted as objects of insecurity when they are ‘problematised’ as sources of uncertainty. I show how state secrecy emerges as a security practice *only* because of the problematisation of actual publicity as source of uncertainty for the state, as vice versa, through a specific set of contingent events and knowledges. The constitution of liberal security, therefore, includes these two sources of insecurity which are at the same time the practices the mediate each other.

These three moves allow us to reject the false dilemma in which the balancing of actual publicity against security appears contrary to the character of liberal democracy. Instead these three moves allow us to understand how the British state could identify a non-liberal state as a source of insecurity because it fails to practice publicity whilst at the same time refusing to practice actual publicity itself. But this leads to a further question, how does the British state decide whether either actual publicity or state secrecy serves the best interests of liberal security? By answering this question we uncover hitherto unnoticed power relations that govern the British state in war and in peace, at home and abroad.

In this thesis I uncover the conditions of possibility through which the British state identifies the insecurity of actual publicity or state secrecy, and thus seeks to legitimise the practice of the other. In this way, secretive regimes, government behind closed doors, whistle-blowers and demands for open government can *all* be exposed to encouragement,

discipline and even violence by the liberal state. Moreover, I show that there is fundamental similarity between a case for war based on the threat posed by a secretive regime and a public inquiry that seeks to expose the state to actual publicity – these are part of the same security logic. The Iraq inquiries are capable of re-inscribing the conditions of possibility for the Iraq War.

For this task, I develop a methodological concept from Foucault: the *dispositif*. I will explain this concept further in this chapter below, and in far more detail in the thesis. For the moment, it is sufficient to say that the *dispositif* refers to an ensemble – or a ‘constellation’ – of discursive and non-discursive elements. By discursive elements I mean things like forms of knowledge, laws and moral propositions, and by non-discursive I mean things like architecture, material objects and scientific/technological apparatus. When a subject is positioned within this constellation, the subject will view the world in a particular and contingent way depending on the relations established amongst this ensemble. The subject may identify certain practices as problematic (like secrecy or actual publicity) and consider certain responses (like secrecy or actual publicity) only because particular relations between elements in a *dispositif* make it possible. This is not to say that a decision to go to war against a secret state or the decision to deny declassification in a public inquiry will not attract popular opposition, but when those decisions are made they must be presented in such a way that it appears to be a legitimate form of behaviour that is compatible with the public interest in hypothetical publicity and the governmental rationality of liberalism. That presentation and those interests are made possible by the *dispositifs* of security.

In summary of this section, I reject the trope in which publicity and security must be balanced against each other. Rather actual publicity and state secrecy are two technologies that secure liberal governance: a concern with too much or too little government. In the pursuit of this aim, both actual publicity and state secrecy help to ensure that the subjects of the liberal state can exist in a political community subject to the norms of hypothetical publicity. Yet, both actual publicity and state secrecy can also be problematised as sources of uncertainty and threat to this liberal state. Secretive regimes can be attacked, classified document unveiled and public inquiries curtailed all in the interests of the *same* rationality of government. We can understand how these responses take place by studying the *dispositifs* of security that make possible – although not always with the full intent on the part of the actors - the problematisation of actual publicity and secrecy.

Contribution to Literature

There are five specific areas in which this research contributes to scholarly knowledge. All of these contributions emerge from the central claim that publicity and secrecy co-constitute liberal security. This claim makes an important addition to the existing literature in security studies that critiques the tendency to balance ‘liberty vs. security’ (Waldron, 2003; Ashworth, 2007; Bigo and Guild, 2007; Neocleous, 2007; Zedner, 2007).

Firstly, this thesis demonstrates how actual publicity and political secrecy could become both sources of insecurity for liberalism as well as practices of mediating insecurity vital to the endurance of liberal governance. In doing so, this thesis adds to the literature devoted to understanding how Foucault’s genealogy of liberal governmentality underpins contemporary security practices (Dillon and Lobo-Guerrero, 2008; Odysseos, 2009; Aradau and Van Munster, 2011; Lobo-Guerrero, 2011). This thesis extends this literature by showing how changes in the relationship between practices of publicity, practices of secrecy and security are *vital* to this genealogy.

Secondly, this thesis shows how the Iraq War was commensurate with liberal governmentality. In other words, the Iraq War did not mark a break with the norms of liberalism; it was made possible by the insecurities that accompany these norms. The British case for war could only be made due to the conditions of possibility arising from the problematisation of political secrecy in international relations, the emergence of hypothetical publicity as a norm of behaviour in relation to weapons of mass destruction, and the practice of inspection regimes designed to expose states to actual publicity. In so doing, this thesis adds an important dimension to the scholarly literature that explains how both the Iraq War and more broadly the wars waged by liberal states could take place and how they are distinctively ‘liberal’ (Dillon and Reid, 2009; Evans, 2013; Freedman 2005, 2006; Howard, 1978).

Thirdly this thesis develops a methodological framework from Foucault’s ‘dispositifs’. This framework advances the scholarly literature committed a sociological approach to securitization (Neal, 2006; McDonald, 2008; Balzacq, 2010).

Fourthly, this thesis offers, for the first time, a detailed explanation of how the UK, is able to justify the endurance of official secrecy through the ‘Public Interest Test’. In other words, I show how the UK justifies official secrecy in accordance with liberal values even in the face of widespread suspicion. This thesis opens up a new area of study by analysing the discursive rules that govern public inquiries and freedom of information laws. This informs the Intelligence Studies and Public Policy literature which has, more than any other scholarly literature, paid attention to the tragedy and farce of public inquiries stymied

by attempts to “balance” publicity and security (Danchev, 2004; Doig, 2005; Phythian, 2010; Sagar 2007; 2013). The analysis also makes a societal impact: by laying bare the rules that govern disclosure, this thesis could inform those who wish to challenge *or* reinforce the non-disclosure of information. However this thesis also offers a word a caution by showing how seeking either actual publicity or secrecy constitute relations of power and governance.

Finally, this thesis shows how the Iraq public inquiries re-inscribe this rationality of liberal governance in which both publicity and secrecy constitute liberal security, which in turn supports a distinctively liberal way of war. In other words, I show how the inquiries and the British case for war are united by the *same* rationality of liberal governance and security. This line of argument supports and adds to recent scholarship that shows how the practices at work in ‘normal’ politics – that is to say, the period after an emergency in which, as inquiries do, government is exposed to scrutiny, can re-inscribe the conditions of possibility for security politics (Jabri, 2006; Neal, 2012a). More so, my claims make an important contribution by showing how a resistance to government secrecy in the name of actual publicity does *not* escape the effects of liberal security or the violence that is committed in the name of security. This resistance still works within a liberal rationality of governance that cannot tolerate – and will seek to remove – a subject that does not appear to conform with norms of hypothetical publicity. In this way, this thesis enriches and expands the critical literature that shows how the liberal ‘peace’ is troubled by a lack of tolerance for subjects – including those actors and regimes beyond the borders of the liberal state – who will not adopt our ‘freedoms’ (Dean, 2010; Dillon and Neal 2008; Odysseos, 2010).

Beyond the Academy, engaging with ‘Blair’

This thesis also contributes to the public debate beyond academia about the Iraq Inquiries and the Iraq War. In order to illustrate this public debate, which also reinforces the need to reject the balance metaphor, I will now briefly describe one event from the ongoing Chilcot public inquiry.

On 29th January 2010, a committee of five privy councillors enter a purpose built room in the Queen Elizabeth II Conference Centre in Westminster. The largest object in the room is a horseshoe shaped table swathed in a dark blue fabric and bristling with microphones, around which the committee sit. The committee are flanked on either side by inconspicuous staff, crowded around smaller tables and immersed in lever-arch folders and laptops. Facing the committee is a rectangular table with identical upholstery,

microphones and a single, empty, black leather executive chair. A stenographer is perched between the committee and the empty chair; the stenotype keyboard is connected to a large screen facing the gallery, ready to instantaneously record a transcript of the dialogue. Behind the committee, the width of the rear wall of the room is covered in identical painted blue squares. Upon each square are the same three words in white serif font: 'THE IRAQ INQUIRY'.

Behind the chair, in five lines of identical blue chairs, are sat sixty gallery members. Two thirds of these seats are occupied by members of the public; from 3,041 applications to a public ballot, 40 successfully won a seat for the morning session whilst another 40 won seats for the afternoon. The families of those killed in Iraq since 2003 occupy the remaining third of the seats. A further 700 are watching in a large auditorium two floors below, through cameras directed at the committee and the empty chair. Another fifteen or twenty journalists watch the same feed next door whilst countless thousands watch from computers and televisions across the world. An imposing velvet rope suspended by steel stanchions serves to separate the gallery from the remainder of the room.

The witness enters the room and sits down. Today, the Iraq Inquiry will be hearing from the Rt. Hon. Tony Blair, the Prime Minister from 1997 to 2007. Sir John Chilcot, the chairman of the committee, addresses the gallery:

'I would like to start by welcoming our witness and the others who join us ... as well as all those who are watching this session, either on television or through the Internet. The UK's involvement in Iraq remains a divisive subject. It is one that provokes strong emotions, especially for those who have lost loved ones in Iraq, and some of them are here today. They and others are looking for answers as to why the UK committed to military action in Iraq and whether we did so on the best possible footing. Our questions aim to get to the heart of those issues'

The hearing begins. Sir Roderic Lyne asks Blair to describe the significance of 11th September 2001 in changing the UK's policy toward Iraq. As Blair outlines how the "calculus of risk" changed after 9/11, the first signs of frustration in the room emerge. The conversation turns to 'an options paper', a key document in the decision-making process toward intervention.

'It is worth just going to the ...and I think –

Blair stumbles.

'–But forgive me if I mentioned a document and if you haven't ...but I think you have got the options paper'.

For some time, the committee have been irritated by the government's reluctance to declassify documents pertinent to their inquiry. The committee have full access to such documents, but they can't be shared with the public. The options paper is one of these classified documents but it is also, perversely, freely available.

'The March options paper is in the public domain'. Sir Roderic replies. 'You can get it on the internet'.

A few giggles resonate from the public gallery. The paper had been leaked on the Internet months before. Yet the Labour government now refused to declassify the document – so it could not be shared or discussed in public hearings.

'I'm not certain offhand,' Sir Roderic continues, clearly annoyed, 'whether or not it has been declassified –

Sir Roderic looks searchingly toward the inquiry secretary, Margaret Aldred, who shakes her head: it's still officially a secret document.

'–by the government which was elected under your leadership'.

'Right', Blair replied sheepishly. 'Maybe I will just say what it told me'.

Outside of the QEII centre, crowds had gathered for Blair's hearing. Some had gathered to support the inquiry. A team of cheerleaders guided the crowd in chants, dressed in 'TOUGH QUESTIONS FOR TONY BLAIR' t-shirts. They shouted:

'Give me a W!...Give me an M!...Give me a D!...W.M.D....No seriously, show us some!'

'If there's one thing that makes us hot, it's tougher questions, GO CHILCOT!'

The cheerleaders were been hired by 38 Degrees, an online campaigning group. The night before, a 38 Degrees member visited the home of Sir Roderic Lyne to deliver a cake with an icing message, '12,150 tough questions for Tony Blair', and a petition of questions gathered by the group for the committee to ask in the hearing.

*Others in the crowd were less supportive. A few hundred feet from the doors to the building, behind a few steel barriers and several neon-clad police officers, a speaker recited the names of British servicemen killed in Iraq. The crowd carried placards: the slogans ranged from the direct, 'BLAIR LIED THOUSANDS DIED'; to the subtle, 'BLAIR'; and the less subtle, 'GET YOUR TROOPS OUT FOR THE LADS' and 'BLAIR YOU ARE A WAR CRIMINAL AND A WANKER'. These protesters were angered to hear that Blair, 7.30am, had been driven around a back entrance to the building. Unlike the other witnesses who had given evidence to Chilcot, Blair would not be walking in the front door. 'This a cowardly and deceitful entrance,' claimed Andrew Murray, chairman of Stop the War Coalition, 'typical of how the former Prime Minister sold the war to the country – behind the backs of the public'. A similar attitude was demonstrated in the satirical coverage of Blair's appearance at the Iraq Inquiry. The previous evening, the BBC's current affairs television programme, *This Week*, screened a film following the comedian and impressionist Rory Bremner, grinning insanely in the guise of the former Prime Minister, reviewing his arguments for the hearing. Among the key lines of defence, Bremner's 'Blair' suggests, 'Blame the Public'. 'Well it's perfectly simple', 'Blair' continues, 'they voted for me. And in our system, they get to vote every five years, and in the middle I get to do what I like. And I'm sorry, but that's democracy'*

Introduction

SECRET UK EYES ONLY

IRAQ: OPTIONS PAPER

SUMMARY

Since 1991, our objective has been to re-integrate a law-abiding Iraq which does not possess WMD or threaten its neighbours, into the international community. Implicitly, this cannot occur with Saddam Hussein in power. As at least worst option, we have supported a policy of containment which has been partially successful. However:

- * Despite sanctions, Iraq continues to develop WMD, although our intelligence is poor. Saddam has used WMD in the past and could do so again if his regime were threatened, though there is no greater threat now than in recent years that Saddam will use WMD; and
- * Saddam's brutal regime remains in power¹ and destabilises the Arab and wider Islamic world.

We have two options. We could toughen the existing containment policy. This would increase the pressure on Saddam. It would not reintegrate Iraq into the international community.

The US administration has lost faith in containment and is now considering regime change. The end states could either be a Sunni strongman or a representative government.

Three options for achieving regime change are:

- * covert support to opposition groups to mount an uprising/coup;
- * air support for opposition groups to mount an uprising/coup; and
- * a full-scale ground campaign.

Figure 3 An extract from a leaked version of the 'March Options Paper'.

The paper was produced by the Defence and Overseas Secretariat on 6th March 2002. The paper considers three options for responding to the issue of Iraq, recognising that the US government was losing patience with a policy of containment and would soon attempt to remove Saddam's regime by force. The paper had been leaked by the Daily Telegraph in September 2004 but it had not been formally declassified. Despite the absurdity, the government placed great emphasis on maintaining its official classification and secretion of the document, which prevented Blair from openly discussing the paper at the inquiry.

The ex-prime minister had attempted to offer a justification for his government's policy only to find that the government, which he had formerly led, refused to lift a veil of official secrecy. Those watching the hearing had to trust Blair and the inquiry committee in their discussion of these documents. Yet one of the reasons for having the Iraq Inquiry, and the reason for having open hearings, was a profound sense of public suspicion and distrust of government. Thus the March options was symptomatic of the wider problem, namely that a purportedly *public* inquiry, intended to engender trust through revelation, could not fully disclose the historical record of the events under scrutiny. A sense of the ridiculous hung in the air; the public gallery guffawed at the farce. Sir Roderic's smile betrayed a note of frustration, while Blair's wore an uneasy grin. Those that laughed in the hearing, those that protested outside and Bremner's satire shared a suspicion of wrong-doing, that secrecy is used to hide actions by individuals like Blair that could not be defended in public, that secrecy is a tool used by the capricious in order to abuse power or by incompetents to veil embarrassment. These sentiments also appear in other responses to the hearing. In Andy Davey's cartoon, below, the Official Secrets Act protects Blair from the scrutiny of the inquiry. John Keane's portrait of Blair appearing at the inquiry is subtler. On Keane's

canvas Blair's mercurial visage is recognisable and yet unreadable; there is perhaps a touch of whitewash that hides his face.

There is, accordingly, a popular characterisation of the Iraq Inquiry with which I engage. This characterisation is that the inquiries are 'whitewash', that they represent a failure to enact the value and practices that define liberal democracy. Moreover, there is an impression that the motivation for war originated with Tony Blair in a way that also violated the values and norms of the liberal state. By rejecting the metaphor of balancing publicity and security and instead showing how publicity and secrecy can, simultaneously, be co-constitutive of liberal security, this thesis intervenes in this debate. This thesis shows how the Iraq War, the British case for war and the allocation of responsibility for the war are, firstly, part of and not a deviation from the norms and practices of the liberal state and, secondly, cannot be laid solely at the feet of particular individuals or explained solely in terms of one man's deception. The liberal way of war, of which the Iraq War is an example, is made possible by a wider dispositif, which we must interrogate.

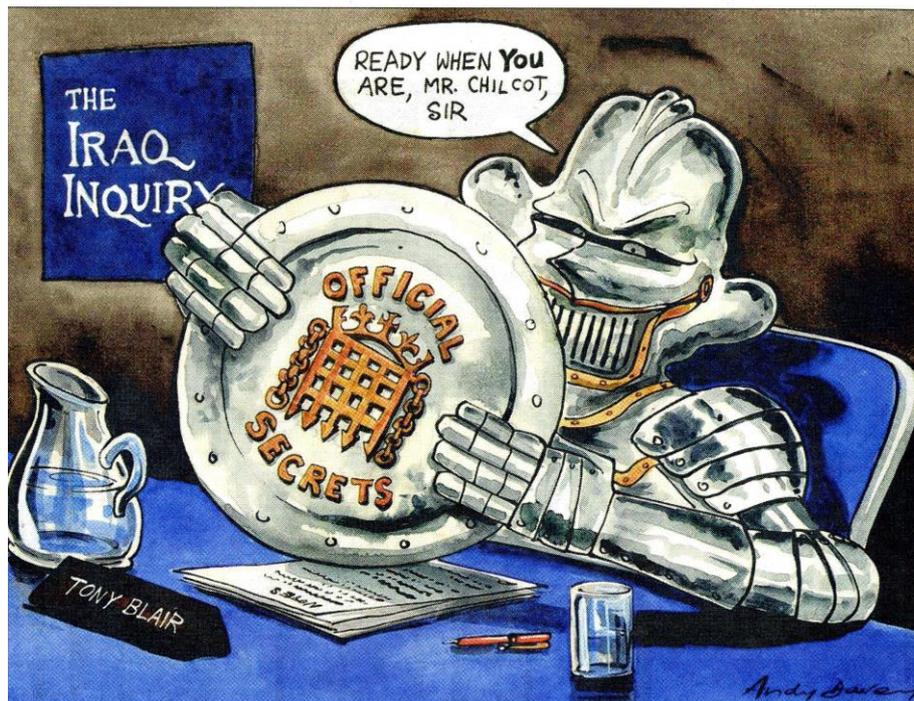


Figure 4. Andy Davey, *The Sun*, 30th January 2010.

Davey's cartoon expresses a concern that official secrecy is used for the protection of individuals rather than the protection of the public interest. The public interest in this case, at least for Davey, is the unveiling of Blair.

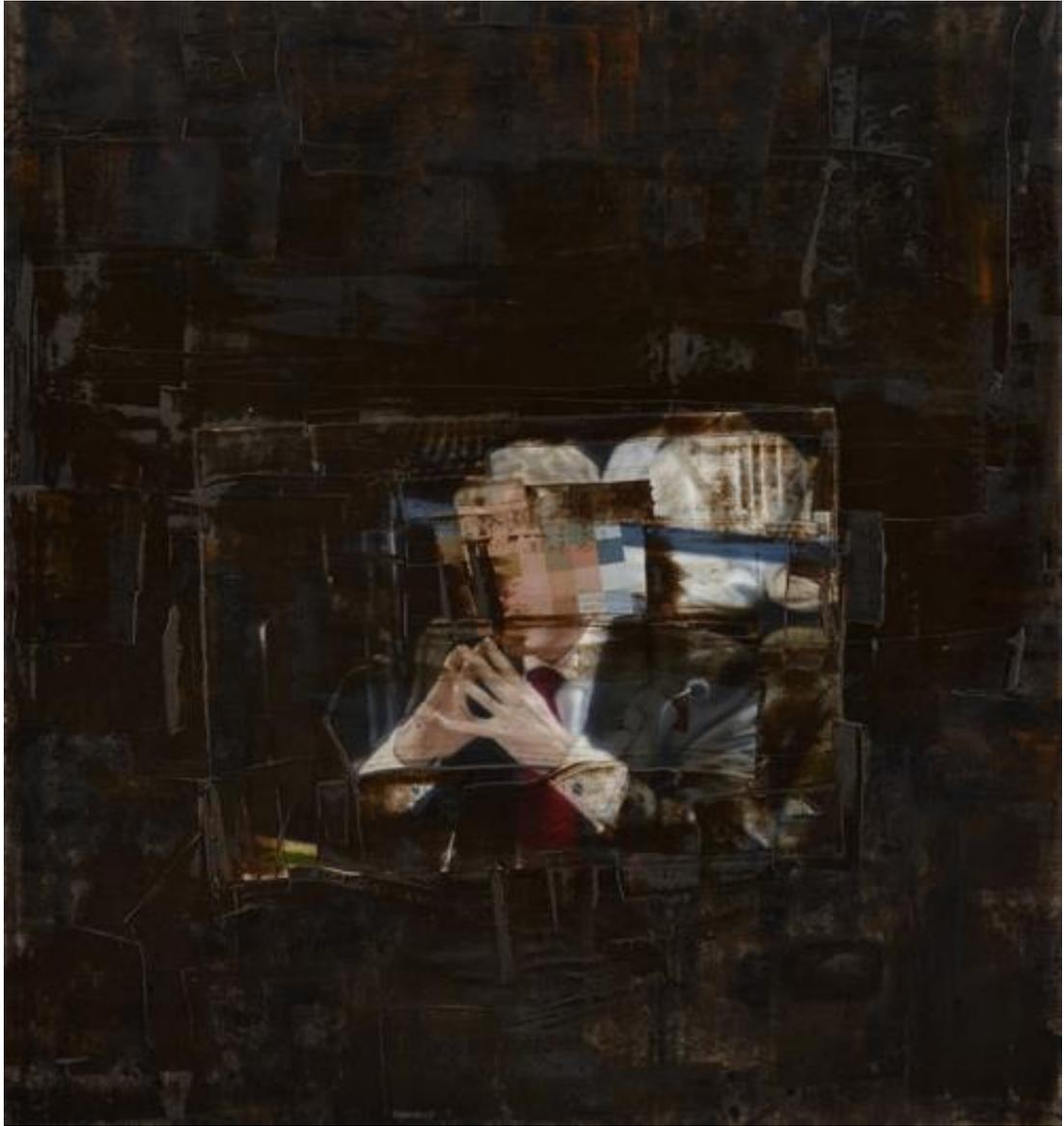


Figure 5. *Figure at an Inquiry no. 5* by John Keane (Keane, 2012).

This painting is one of several made by the artist John Keane for a collection entitled 'Scratching the Surface, Joining the Dots', which focusses several events in the Middle East. Keane recalls that he spent the whole day watching Blair's hearing at the Iraq Inquiry: "I was fascinated and appalled. It was a kind of sanctimonious self-denial. In the face of obvious facts, there was this sense of self-righteousness, which somehow seemed to trump everything else." Whilst watching the hearing online, Keane took screengrabs from the inquiry video feed, which he then rendered in paint. Blair appears heavily distorted in the paintings. "I just couldn't bring myself to address him in any sort of literal way," Keane recalls. (Keane cited in Brown 2012)

Research Question and Summary of Argument

I will now offer a brief summary of the argument as it appears through the thesis, after which I will outline the methods and methodological assumptions in the thesis.

Chapter One begins with the question generated by the false dilemma – *how is it that a liberal state which is based on the principle of publicity can legitimately engage in acts of secrecy?* – and uses this question to build the puzzle for the remainder of the thesis. By distinguishing between publicity as *hypothetical* and *actual*, I show how the liberal state can practice hypothetical publicity and state secrecy at the same time. *Actual publicity*, which cannot tolerate political secrecy by definition, is highly valued by scholars of liberal International Relations (IR). These scholars suggest that the practice of actual publicity constitutes pacific relations between democracies. By contrast, any regime that does not practice actual publicity will be viewed by liberal democracies with suspicion and mistrust. *Hypothetical publicity* also restrains the state from waging wars that are not in the interests of the citizenry, but political secrecy can be compatible with hypothetical publicity. In this instance the citizenry have to trust decision-makers that the justifications given for policies are truthful, sincere and grounded in norms of public right. There is, however, an implicit validity claim in the official discourse of the liberal state that it practices hypothetical publicity and that it could be called upon to prove it. Only when the citizenry demand that this claim is redeemed does actual publicity become necessary as a check that the executive is acting in accordance with the principles of hypothetical publicity.

Using this understanding of publicity, I explain that the events surrounding British involvement in the Iraq War were controversial because the accusation against the British government (of misleading the electorate and Parliament) amounted to a possible violation of hypothetical publicity. This loss of trust in the government led to calls for actual publicity through several public inquiries.² Yet an authoritative and convincing account has been difficult to produce because the government has kept certain evidence secret. This secrecy is justified by claims that the benefit of disclosure is outweighed by the likely harm of disclosure to the public interest. In other words, actual publicity is balanced against security. This balance metaphor creates the dilemma, described above, calling into question the British state's place in the neat dichotomy between the liberal and the non-liberal community. The starting puzzle for the rest of thesis is then as follows: how can the British state self-identify as a liberal state if it trades-off actual publicity against security?

² Most notably the Foreign Affairs Committee inquiry, the Intelligence and Security Committee inquiry, and the Hutton, Butler and ongoing Chilcot public inquiries. A full description of each is found in Chapter One.

In **Chapter Two** I approach this puzzle by asking, *what role do publicity and secrecy play in the constitution of distinctly liberal governance and a distinctively liberal kind of security?* I claim that actual publicity and political secrecy are co-constitutive of liberal security. Key to this claim is the understanding that ‘security’ refers to rationalities of government and problematisations that define, and in so doing *produce*, objects in the world to be mediated in the name of protecting the political community from uncertainty. Drawing on Foucault’s genealogy of governmentality, I describe the emergence of two distinct rationalities of governance with two distinct subjects of security that become intertwined.

The first rationality is *raison d’État*, which is concerned with preserving the *security of the state* through the collection of factual knowledge about its contents. But this factual knowledge must be kept secret. Political secrecy, for *raison d’État*, is thus a technology of security against the insecurity of actual publicity. Yet *raison d’État* also produces insecurity, namely that the mysteries of state constitute a hidden space, exemption from civil law, in which rulers can abuse secrecy for personal gain. Liberal governmentality emerges in response, concerned that the state is always at risk of trampling upon the liberties and ‘natural’ economic processes of civil society. Liberal governmentality suggests that the state cannot always know or always pursue the best course of action. Everything ought to be exposed to public opinion. In this context, the norms of hypothetical publicity constitute the conditions for the *security of the liberal citizen*. At the same time, political secrecy is increasingly distrusted as a source of insecurity because it constitutes a space where the iniquitous and the inept may not practice the norms of hypothetical publicity. This insecurity must be mediated in some way, thus the assumption of hypothetical publicity is backed with a disciplinary technology: the gaze of actual publicity. Drawing on Bentham’s writings on the political assembly, I show how actual publicity gives statesmen the impression of constant surveillance and compels statesman to act in accordance with norms of hypothetical publicity. Yet, actual publicity produces insecurity too. With no place for secrets, actual publicity can constitute too little government and threaten both the security of the state and the security of the liberal citizen. This leads to a need to balance two technologies of security: political secrecy and actual publicity – both of which constitute liberal security and both of which threaten to destroy it.

In **Chapter Three** I consider *how this understanding of liberal security informs our understanding of the conditions of possibility for British participation in the Iraq War*. I show how the British case for war depended on the political rationality of liberal governmentality. Firstly, using the Copenhagen School’s securitisation framework, I demonstrate that the British government’s case for war relied on a speech act in which an incalculable and existential threat – terrorism armed with WMD – could not be mediated by existing practices. The

government did not provide evidence of hidden weapons stocks but rather pointed to facilities that *could* contain hidden WMD and to unanswered questions about Iraq's remaining stocks. These questions, Blair claimed, could not be resolved because Iraq was deliberately obstructing the inspections process and deceiving the inspectors. In order to find these claims convincing, the parliamentary audience had to share Blair's fear of Iraqi secrecy and a liberal suspicion of Iraq's unanswered questions as a source of wrongdoing.

Yet the Copenhagen School approach must be rejected, because it does not tell us how the case for war was made possible in the first place, and because the framework places an undue and problematic emphasis on individual accountability, the role of speech and an exceptional moment in securitisation. Instead I develop a methodology based on Foucault's 'dispositif', though which I trace during the course of the twentieth century: the emergence of hypothetical as norm of state behaviour in relation to weapons of mass destruction; that states encourage each other to truthfully declare weapons stocks; and, when necessary, states demand that these declarations are verified by international inspection regimes. Iraq had shown that it was unwilling to govern itself in relation to this norm and, from 1991, the United Nations' imposed a programme of inspection upon Iraq that comprised a disciplinary apparatus of power based on actual publicity. The apparatus was intended to compel Iraq to fulfil its disarmament requirement and to rebuild trust. Yet the United Nations' panopticon generated more uncertainty. I claim that the practices of the inspections process helped to *produce* the impression of more Iraqi secrecy, which the Blair government could exploit. So whilst the inspections regime may have 'failed' in the sense that it produced more uncertainty about Iraq, the inspections support a successfully strategy of power in which liberal governmentality was writ large at the level of international relations. This governmentality constitutes the conditions of possibility of a liberal way of war against those states that are unable, or unwilling to internalise the norms of hypothetical publicity or respond to the disciplinary gaze of actual publicity.

This leads us to **Chapter Four**, in which I explain *how the British state could justify the continued exercise of official secrecy, in the face of demands for actual publicity in the aftermath of the Iraq War*. I show how it is possible that an enduring denial of actual publicity can be presented as legitimate and compatible with liberal interests. I examine the discursive formation of the 'public interest test' – the specific framework through which disclosure and non-disclosure is regulated in the inquiries and the Freedom of Information Act. The test legitimates the endurance of official secrecy by framing disclosure as a balancing act between the insecurity of actual publicity and the security of secrecy. The 'balance' is already biased toward the legitimisation of secrecy because the potential insecurities, or harms, of actual publicity are emphasised while the potential insecurities, or harms, of

secrecy are not. In addition, the public interest test provides justifications through which secrecy can guard against *both* too much and too little government. On the one hand, the refusal to disclose diplomatic exchanges is justified through a public interest in foreign alliances and information sharing upon which the *security of the state* is maintained. On the other hand, the refusal to disclose minutes of Cabinet meetings during 2003 is legitimated through the likely harm to the quality of future Cabinet deliberation and to the prospects of future accountability. The government argues that the ‘fear of publicity’ would likely inhibit ministers from sincerely and truthfully expressing themselves during deliberations and would stop ministers from discussing policy on the official record, which would replace the official record of government with mysterious off-the-record exchanges that could never be revealed. The choice, according to the test, was between the existing secrecy upon which future public scrutiny could be based, or the risk of no such record at all and no possibility of a future societal critique of too much government.

Finally **Chapter Five** returns to the Iraq public inquiries. Here I ask, *how does the official discourse of the inquiries contest, remain silent upon or re-inscribe this rationality of liberal security?* I conduct a documentary analysis of the four completed public inquiries on Iraq. On the one hand, this analysis shows that the official discourse of the inquiries contains three distinct ‘lessons’ for reform: adherence to the standards of hypothetical publicity and the avoidance of ‘spin’; a split between government advocacy and the information upon which such advocacy was based; and a need to protect the future exposure to the gaze of actual publicity by preserving record keeping and note taking in government. Taken together, these lessons constitute a coherent re-inscription of the rationality of liberal governmentality in which actors are encouraged internalize the norms of hypothetical publicity, backed up with the disciplinary power of the gaze of actual publicity.

Had the government acted in accordance with these norms, the events leading up to the Iraq war may have been slightly different: the government would not have made the infamous ‘45 minutes claim’, and it would have described intelligence on Iraq as ‘sporadic and patchy’ rather than ‘detailed and authoritative’. Yet, as I claimed in Chapter Three, the British case for war did not depend on such claims. Indeed, the very lack of certainty about Iraq’s weapons stockpiles was a vital part of the case for war. Blair justified war on the basis of the threat of Iraqi WMD, emphasising: the regime’s intent to develop WMD, the regime’s capacity to do so and the incalculable risk of Iraq providing such weapons to terrorists. The claimed urgency of the threat lay in Iraq’s past use of WMD, its obstruction of the United Nations inspection process and the failure of this sanctions and inspections regime to prevent Iraq from continuing this noncompliance. None of these claims required Blair to break the normative standards of hypothetical publicity; the claims were all based

on a particular interpretation of facts. The Iraq inquiries re-inscribe the conditions of possibility for a liberal way of war, because the inquiry is already part of the performance of the same rationality of government. If the ongoing Iraq Inquiry is to challenge the underlying political imperative for war, it has to challenge the political imperative to pursue publicity abroad. Specifically, it has to provide an alternative answer the question of what can be done with a state that appears to refuse to adopt the norms of hypothetical publicity and then refuses to expose itself to the gaze of actual publicity.

Methods and Methodology

This thesis adopts methods and methodological assumptions developed by the Critical Security Studies (CSS) literature, and more specifically from the Foucauldian branch of this scholarship (Salter and Mutlu, 2013; Aradau et al., 2014). Often positioned as part of the ‘discursive turn’ in International Relations and Security Studies, this Foucauldian literature has emphasised how ‘dispositifs’, a set of related discursive and material elements that are situated in all political practices, produce certain ways of thinking about world around us (Foucault, 1990a:93). These ways of thinking lead to ‘events’ where forms of behaviour or phenomena become problematic. Designating particular phenomena as problems is a step in turning them into entities that can then be governed through particular political rationalities and technologies (Tully, 2002). In this way, Foucault’s methods encourage us to think about what forms of knowledge, what practices of speaking and interacting in the world make it possible to speak about an object called ‘security’ (Salter, 2013). Specifically, this thesis uses Foucault’s thought to “wonder” about how liberal governance has come to regard political secrecy and actual publicity as, simultaneously, objects of insecurity and technologies of governing that insecurity (Lobo-Guerrero, 2013).

The specifics of the Foucauldian methods and methodological assumptions deployed in this thesis are explored in depth in individual chapters. Chapter Two builds upon Foucault’s own genealogy of governmentality in order to show how actual publicity and secrecy emerge as technologies of government. This chapter includes a discussion of these terms – problematisation, power and governmentality. Chapter Three moves from away from the genealogical approach in order to explore how security problems emerge in locally situated practices. This chapter includes a description of the methodological principles associated with the concept of the ‘dispositif’ (see also Appendix C). Chapter Four utilises Foucault’s archaeological method to trace the discursive ‘rules’ at work in the regulation and interpretation of information laws.

This thesis draws its ‘data’ from a variety of source. Chapter One analyses the public and official discourse surrounding the decision to go to war and the subsequent inquiries. This discourse includes official policy documents, transcripts of parliamentary debates, press coverage and official correspondence. Chapter Two draws on the substantive content of Foucault’s own genealogy of governmentality supplemented by readings of Bacon, Hobbes, Bentham and other sources that reflect emerging political thought on *raison d’État* and liberalism. Chapter Three explores the British case for war through an analysis of the documentary archive including similar ‘official discourse’ as that utilised in Chapter One, but also official documentation and personal memoirs relating the work of UN weapons inspections, as well as internal reports and correspondence from the British government that has since been either official declassified or leaked into the public domain. Chapter Four draws on the official discourse surrounding three requests for declassification and disclosure of information relating to the decision to go to war. This record includes the written laws and protocols that govern disclosure and non-disclosure, but also public correspondence, proceedings and judgements relating to the three requests. Finally, Chapter Five relies on a documentary analysis of the official reports of the four completed Iraq inquiries. In analytical terms, taken together, these data allow us to map the dispositifs of security through which practices of publicity and secrecy become vital constituents of the liberal state.

Chapter One

Balancing Actual Publicity Versus Security: The Story of the Iraq Inquiries

‘Blair lied, thousands died!’

- Protestor’s placard from the Iraq Inquiry, 28th January 2010

‘This country was taken in to a war in both Iraq and Afghanistan and the public feel extremely aggrieved that they were not told the truth about it. They want to know what the facts were.’

- Lord Owen, former Foreign Secretary, 28th May 2013 (Owen, 2013)

Introduction

By appearing to trade-off publicity for security, participation in the Iraq War appeared to call into doubt Britain’s self-proclaimed identity as a liberal democratic state. During the 1990s, Britain had participated in several military interventions: the Gulf War, Bosnia, Kosovo, Sierra Leone and East Timor. Participation in the Iraq War was different. The wars of the 1990s seemed to accord with the values of liberal democratic politics, human rights and international law. The Iraq War, by contrast, was a troubled case that stretched these norms to breaking point. Military intervention was not a response to a clear, sudden act by Iraq. Instead the Blair government had to persuade the Labour Party, Parliament and the public that war was a necessity and not a choice. Whilst the government won parliamentary consent, the nation went to war divided. As weeks and months passed, Blair and his government were faced with a growing and widespread suspicion that the case for war had been disingenuous. This suspicion, however, remains unresolved. Over ten years, and after five public inquiries into various aspects of the war, the government refuses to disclose official documentation relating to the decision-making process leading up to war. For many this refusal amounts to incrimination – Blair lied, thousands died – as one protestor’s placard read. In this chapter I explore how it is theoretically possible for a liberal state to legitimately engage in acts of secrecy, and how this possibility is not reflected in the practice of the British government and the Iraq public inquiries. In so doing, this chapter offers a way of making sense of the controversy, which then builds the research puzzle for the remainder of the thesis: how to understand publicity and secrecy as co-constitutive of liberal security.

By answering this question, the chapter offers a way of making sense of the controversy, which then builds the research puzzle for the remainder of the thesis. The key concept in this endeavour is ‘publicity’. In the first section of this chapter I explore two different types of publicity which both feature in liberal political thought. Proponents of either suggest that the practice of publicity constitutes a way of war and peace in international relations. Firstly, there is what I call *actual publicity*, which is found in contemporary liberal International Relations (IR) scholarship. Actual publicity equates to

practices of transparency and openness in government. States are expected to expose the workings of the executive to the domestic legislature, the media and the public sphere. Actual publicity cannot tolerate political secrecy by definition. Liberal IR scholars do, however, accept that there will be occasions when liberal democracies will, in exceptional circumstances, keep political secrets in order to preserve the security of the state. Secondly, there is what I term '*hypothetical publicity*' – this understanding of publicity is found in Kantian and neo-Kantian political thought. Hypothetical publicity refers to the use of particular norms of reason and deliberation that restrain the state from waging wars that are not in the interests of the citizenry. Hypothetical publicity, however, relies on trust; we have to trust that those who deliberative or make decision behind closed doors are engaging in the practice. The liberal state can practice hypothetical publicity and political secrecy at the same time. Those who govern can, in principle, offer a justification for political secrecy that is compatible with the norms of hypothetical publicity. Crucially, however, there is an implicit validity claim in the official discourse of the liberal state, that when it makes or enacts policy in secret it could be called upon to prove, retrospectively, that it had done so in accordance with the norms of hypothetical publicity. Only at this point does actual publicity become necessary as a check that the executive is acting in accordance with the principles of hypothetical publicity.

This theoretical account of liberalism, secrecy and publicity is then used to give meaning to the controversy of Britain's participation in the Iraq War. In the second section of the chapter, I argue that the events surrounding the decision to go war created a suspicion that the British Government had not practiced hypothetical publicity – there was a suspicion that Tony Blair may have been 'mad, bad or had' in his claim that Iraq constituted an urgent threat to the UK. Put differently, Blair may have used reasons incompatible with public right, may have deceived the public or may have failed to encourage sufficient pluralism. If these claims were true, then the legitimacy upon which Britain claimed the authority to go to war would be destroyed. The neat distinction between a liberal state that wages legitimate war against an illiberal state would be dissolved. Trust in government was in decline. This was the moment in which the assumed practice of hypothetical publicity must be validated through actual publicity.

In the final section of the chapter, I examine the five public inquiries that have been appointed since 2003 to scrutinize how the decision to go to war was made. Many of the questions animating the inquiries have focused on whether the government broke with the norms of hypothetical publicity. Answering these questions required the state to unveil itself, yet a convincing account has been difficult to produce because the decision-making process inside Downing Street remains shrouded in a veil of secrecy. The government

claims that certain disclosures would not be in the public interest because the benefit of disclosure is outweighed by the burden, that burden is the likely harm of disclosure to the public interest. Actual publicity is balanced against security.

The purpose of an inquiry is to provide an authoritative and convincing account that represents any failure as temporary in order to restore public trust (Burton and Carlen, 1979:48). The inquiries, therefore, must show that any failures to perform in accordance with hypothetical publicity were attributable to specific agents and that any reoccurrence could be prevented. Whilst I show that a liberal democratic state does not have to practice actual publicity all the time, the prolonged inability to enact actual publicity in the inquiries calls into question Britain's place in the neat dichotomy between the liberal and the non-liberal community, and between liberal and illiberal ways of war and peace. This uncertainty generates the lines of enquiry for the remainder of the thesis: must actual publicity be balanced against security? How can the British state balance actual publicity against security whilst still clinging to its liberal democratic identity? How can the Iraq War be considered liberal? And what role do the inquiries play in contesting or reinforcing these practices?

Actual Publicity, Hypothetical Publicity and the Liberal Way of War

It seems obvious that liberal democratic government should be made public in some way, but what 'being made public' means is not so clear-cut. In this first section of the chapter I will explore the relationship between liberalism and publicity from two theoretical perspectives: firstly through contemporary liberal International Relations theory and secondly through the work of Kant and Habermas. In one sense these different thinkers represent the distinction between liberal internationalism and liberal cosmopolitanism (McGrew, 2002). I use these thinkers to make a different distinction about the role of publicity in the liberal democratic state; the former emphasises the role of actual publicity and the latter emphasises the role of hypothetical publicity. This is not to say that one type of practical and the other is not; they are both real practices in liberal democratic states. Many scholars of liberal IR theory that I will discuss below assume that we need actual publicity, but I show in this section that hypothetical publicity is more important. It is the norms of hypothetical publicity that lead to liberal foreign policy decisions, and the practice of hypothetical publicity that allows the state to retain its liberal identity whilst still practicing political secrecy.

Actual Publicity and Liberal IR

The first type of publicity is ‘actual publicity’. This practice of publicity occurs when the executive branch of the state actually exposes its workings to the domestic legislature, the media and the citizenry. Actual publicity is an important part of contemporary liberal IR scholarship, but its origins can be found in the idealist thinkers of the late nineteenth and early twentieth century, who argued against the use of secrecy in foreign policy and diplomacy.³ Instead they argued that the public opinion of democratic states would oppose unnecessary wars. These idealists sought to resist a classical realist account of the tragic nature of political life and a cyclical view of history, instead positing the possibility of progress (Hutchings, 1999). This progress could be attained through a liberal democratic citizenry that were suspicious about the reasons given for war by the state, and who judged the legitimacy of war through standards beyond reason of state (MacMillan, 2004:186). Taken together, the idealists claimed that international relations could be managed in such a way that inevitable conflicts of interest between societies can be settled without resort to war. Vestiges of these assumptions remain in the contemporary scholarly literature on liberalism and the democratic peace, as I will set out below. This scholarship continues to value actual publicity as part of the explanatory and normative frameworks behind a distinctively liberal way of peace and war. The importance actual publicity can be summarised in three points.

Firstly, actual publicity is one of the necessary conditions for peace between liberal democracies. This claim is most obvious in Michael Doyle’s ‘pillars’ of the liberal democratic peace, one of which is a “republican representative democratic government” in which legislators and public opinion restrain the executive from acts that contravene the interests of the electors (Doyle, 1983a; 1983b; 1986; 2005:464). However this restraint can only be effective if the government also practices “publicity” – a term Doyle borrows from Kant but equates with actual “transparency” (Doyle, 2005:464). By practicing publicity liberal republics “signal” to each other that their stated intentions are “credible” because

³ Gladstone remarked that any permanent pacifism depended on that “tribunal of paramount authority, the general judgement of civilised mankind” (Gladstone, 1879:256). Woodrow Wilson’s post-war idealist project relied on democratising foreign affairs, on ‘open covenants, openly arrived at’, and on turning nations away from the veiled and secretive diplomacy that had previously drawn them into war. In 1917 Wilson remarked that “peace can never be maintained except by partnerships of democratic nations ... only free people can hold their purpose and their honour steady to a common end and prefer the interests of mankind to any narrow interest of their own” (Wilson, 1918). During the inter-war period, the Union for Democratic Control UDC argued that wars were the result of secret diplomacy, and that such secrecy should be abolished in favour of greater parliamentary control over foreign policy (Harris, 1996). Almost thirty years later, British Foreign Minister Ernest Bevin argued “There has never been a war yet which, if the facts had been put calmly before ordinary folk, could not have been prevented. The common man is greatest protection against war” (cited in Holsti, 2004:6). In the United States, Elihu Root contended that privileging the role of the public in the formulation of foreign policy would fundamentally alter cause of war: “When foreign affairs are ruled by democracies the danger of war will be in mistaken beliefs. The world will be gainer by the change, for while there is no human way to prevent a king from having a bad heart, there is a human way to prevent people from having an erroneous opinion” (Root, 1922).

insincere declarations will soon be exposed as “rash acts and exposed bluffs” (Doyle, 2005:464). Charles Lipson makes a similar argument in which the need for actual publicity is articulated as openness between states (Lipson, 2003). Lipson argues that liberal democracies are just as likely as other regime types to have mixed interests, to bluff other nations, and to make threats. Yet what differentiates liberal democracies is that they have a “special capacity” to convincingly make promises with each other (Lipson, 2003:4). These promises serve as “credible, reliable, and durable” agreements that can avert conflict (Lipson, 2003:6). Actual publicity is vital to this mechanism: “The transparency of democratic governments lessens the chances they are bluffing or deceiving”; if a democracy practices transparency at home, “partners” can gauge the depth of commitments by watching how far the policy is deliberated and implemented in domestic political activities (Gaubatz, 1996; see also Kydd, 1997; Lipson, 2003:7).

Secondly, the practice of actual publicity constitutes distinctive relations between liberal and illiberal regimes, and the absence of actual publicity constitutes conditions of insecurity. Regimes that fail to enact actual publicity are “perceived to be in a state of aggression with their own people” and thus “their foreign relations become, for liberal governments, deeply suspect” (Doyle, 2005:464). Liberal regimes treat fellow liberals with “trust and accommodation” and “a presumption of amity”, whilst non-liberals “suffer from a presumption of enmity” and are met with “distrust and opposition” (Doyle, 1986:1161; Doyle, 2005:464). Lipson concurs, opaque procedures and closed political institutions “foster suspicion and impede reassurance” whilst creating fear that existing agreement could be reneged upon at any time (Lipson, 2003:106). In such circumstances democracies may act pre-emptively. “In a dangerous world, where there are often gaps between promises and performance, such secrecy fosters suspicion. There may be no obvious way to rule out deceit or bad faith, and they are often incentives to lie or misrepresent” (Lipson, 2003:106). A similar point is made by John Owen, who argues that liberal states “will trust states they consider liberal and mistrust those they consider illiberal” (Owen, 1994:103). Where actual publicity is not perceptible, democracies will view states “with suspicion, and sometimes believe that the national interest requires war with them” (Owen, 1994:124). In a claim that will become important for this thesis, Owen argues that waging such a war requires politicians to mobilise the public to accept war as a necessity, and “this persuasion typically includes arguments that the adversary state is not democratic” (Owen, 1994:100). Convincing the public that the other state does not practice publicity is thus crucial to the legitimisation of war. The moral defensibility of war is partly founded in the knowledge that the liberal state operates in accordance with publicity whilst the enemy does not.

Finally, the practice of actual publicity needs to be verifiable. Lipson argues, “states

must be confident their partners will live up to their promises” (Lipson, 2003:4). Especially in matters of security, democracies demand a right to verify compliance and, conversely agree to high level of transparency. They do not depend on blind trust. Owen highlights the importance of democracies *perceiving* the practice of actual publicity in another democracies: “that a state has enlightened citizens and liberal democratic institutions ...is not sufficient for it to belong to the democratic peace: if its peer states do not believe it is a liberal democracy, they will not treat it as one” (Owen, 1994:96; see also 2001; 2002; 2005). This peer belief, Owen implies, is obtained through the reciprocal practice of actual publicity.

Hypothetical Publicity

Publicity can be understood in a different way, however, as hypothetical publicity. By ‘hypothetical’ I mean that simply that when actors practice hypothetical publicity they do so upon the hypothesis of certain conditions. In other words, when a decision-maker is acting in accordance with hypothetical publicity, he or she is acting ‘as if’, or in supposition of, certain conditions. I offer two illustrations of hypothetical publicity. First, I show how Kant provides an account of hypothetical publicity whereby statesmen decide upon policies ‘as if’ these policies and the policy-making process were subject to the will of a rational public. Secondly, I show how Habermas extends hypothetical publicity into conditions of deliberation, whereby those who deliberate upon policies should do so on the supposition that interlocutors are speaking sincerely, truthfully with justifications that can be agreed as right.

Turning first to Kant, the concept of publicity originates in *Perpetual Peace* in which Kant expresses his despair at the bellicose nature of post-Westphalian Europe. These wars, Kant claims, were the result of fragile treaties based on balance of power politics, coupled with capricious monarchs who reduce their subjects to means of grand realpolitik affairs. In response, Kant sets a project of peace-making rather than truce-making through three ‘definite articles’. The first of these declares that “The Civil Constitution of Every State Must Be Republican” (Kant, 2006e:74). These republican principles are vital for the possibility of perpetual peace because they lay the foundations for self-legislation.

If the consent of citizens is required in order to decide that war should be declared (and in this [republican] constitution it cannot but be the case), nothing is more natural than that they would be very cautious in commencing such a poor game, decreeing for themselves all the calamities of war. (Kant, 2006e:75)

Such calamities include the horrors of warfare, the financial burden of war, the pains of post-conflict reconstruction, and the national debt likely entailed by such devastation.

Republic citizens should “obey no external laws except those to which I have been able to give my own consent” and so it is unlikely any citizen would wish such calamities upon themselves through war (Kant, 2006e:74). Republics are thus more pacific. Yet for non-republics, where the policies of the state are not constituted from the will of the citizenry, declaring war is the “easiest thing in the world” (Kant, 2006e:75). So far, it would seem that Kant is supporting a similar need for actual publicity. Yet this is not so, and in order explain this difference it is necessary to take short detour into Kant’s understanding of history and ethics. Kant claims that through the natural conditions that have forced men together, and through man’s unique capacity for reason, it is possible to determine and put into practice the guiding principles of the ideal republic constitution. Publicity is one of these principles, as I will explain.

Kant posits a universal history for humanity guided by a telos (Kant, 2006c; Kant, 2006b; Kant, 2006a).⁴ History is an account of progression in which nature, supplemented by a capacity for reason, compels the “crooked wood” of humanity toward the ideal constitution (Kant, 2006c:9; Waldron, 2006; Wood, 2006). This constitution is made necessary by our unsociable sociability: through natural constraints we tend to form societies but at the same time we seek superiority over each other and resist the attempts of others to do the same to us. Kant suggests that the goal of such a community should be to secure freedom itself. By this, Kant means “the greatest degree of freedom, hence one in which the limits of this freedom are specified and secured in the most exact manner, so that such freedom of each is consistent with that of others” (Kant, 2006c:8). But because we are not a race of angels, we cannot bring this society into existence without some principles of right and justice that can be universally administered and enforced. The state must be engineered so that moral politics becomes part of the rational self-interest of man. For this purpose, Kant introduces the Categorical Imperative: the evaluative criterion for moral action whereby we should “act only according to that maxim whereby you can, at the same time, will that it should become a universal law” (Kant, 2002:37). By ‘maxim’, Kant means a “subject principle of volition”, that is, a generalisation rule that can guide the motivation of an actor (Kant, 2002:16). The Categorical Imperative is a mechanism that

⁴ Kant’s project of perpetual peace also supports idealist International Relations theory, that is, the idea that through the course of human history, moral progress is discernible, desirable and possible. Kant seeks to dispel the view held by classical Realist contemporaries such as Mendelssohn, who suggest that history shows a cyclical and futile account of the human race that “has never made steps forward without soon thereafter slipping back into its previous states with twice the speed” (Mendelssohn cited in Kant, 2006d:61). By contrast Kant argues that nature is capable of forcing humans to pursue peace and, secondly, history imposes a contingent moral duty to pursue peace through the ideal constitution. Kant resists Mendelssohn’s pessimism by showing how our actions conform to certain historical trends, to discern something rationally intelligible in the otherwise accidental occurrence of history. In so doing, humanity can be said to be “constantly progressing in cultural matters (in keeping with its natural purpose)” but also “it is also engaged in progressive improvement in relation to the moral end of its existence” (Kant, 2006d:62).

tests whether a maxim, which can support the ends of one individual, can also be practised universally by everyone. Maxims that pass this test are moral, and those individuals that act only in accordance with moral maxims are acting in accordance with the use of reason. For instance, lying is not a universalisable maxim; one cannot follow a maxim to lie, because if lying were universally acceptable the concept of trust would collapse (Kant, 1889; Korsgaard, 1986). The Categorical Imperative lies at the foundation of Recht, or public right, which is institutionalized in the republic, the *Rechtstaat*, so that only universalisable freedoms are practicable and the autonomy of one citizen does not impinge upon that of another.

This brings us to the principle of publicity and its usage in international relations. Kant argues that relations between states are like relations between individuals in society, in so much as they are the relations of devils and not angels and they are plagued by the same social unsociability. The problem of establishing a perfect civil constitution is “dependent upon the problem of a law-governed external relation between states” (Kant, 2006c:9). Achieving peace between states depends on those states following the principle of publicity, as Kant proposes through the following test:

All actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public (Kant, 1991:126)

The publicity test is a derivation of the categorical imperative, and like the categorical imperative the publicity test operates in a negative way, identifying those political strategies that are incompatible with public right. The test does not guarantee that all maxims that pass this test are right;⁵ only that certain acts are unjust.

Kant provides three examples of how this may be so (Kant, 2006e:106-07). Firstly, an action is unjust if declaring it openly would be at odds with the intention behind it. For example, if a state were to consider renegeing on promises made to other states, publicizing such a maxim would lead other states to be suspicious in their relations toward this state. Secondly, an action is unjust if it must be kept secret to succeed. For example, if a state were to consider a pre-emptive or preventive attack on another state that had grown to a formidable size or power (and thus potentially capable of causing harm), publicizing this maxim would result in the state likely launching its own attack. Finally, an action is unjust if it would, if made public, attract opposition for being harmful or threatening to others. For example, if a larger state considers a strategy of subjugating a smaller state in order to

⁵ There is an exception to this. The publicity test can operate positively too, identifying those strategies that depend on their public acknowledgement. Kant asserts “all maxims which *stand in need* of publicity in order not to fail their end, agree with politics and right combined” (Kant, 2006e:109). These are ends that can be achieved by cooperative means.

improve its own security, publicizing this maxim would result in the smaller state taking action to protect itself (such as allying with other states) or other powerful states competing to subjugate the smaller state. The public announcement of this maxim would make it ineffectual.

The publicity test thus rules out unjust foreign policies, but it does *not* require actual transparency. The publicity test can operate as a hypothetical counterfactual, ruling out unjust actions “as if by an experiment of pure reason” (Kant, 2006e:104). Kant argues:

If it is at least possible that a people could agree to it, it is our duty to consider the law as just, even if the people is at present in such a position or attitude of mind that it would probably refuse its consent if it were consulted. (Kant, 1991:79)

Leaders need only ask themselves: “could I still get away with this if my action and my reason for doing it were publicly known?” If the answer is no, then the action is wrong (Luban, 1996:156). Kant is “extremely hesitant to make actual consent the mark of laws that are in the public interest” (Chambers, 2004:406). This makes sense if we consider that it is the responsibility of the *Rechtstaat* to ensure that public policies are enacted according to universal maxims, *not* to obey the actual democratic will of the citizenry.⁶ Still, the Kantian principle of publicity is useful as a form of protection for a liberal democratic communities by preventing acts of violence and coercion, deception and intimidation that occur when “people act on principles that cannot be principles for all” (O'Neill, 2002:34).

Kant’s publicity also provides the basis for a liberal way of war. Subjects of the state, and republican states themselves should, Kant argues, “demand” that every state enters into the republican constitution “for the sake of its own security” (Kant, 1991:102). It follows that an enemy to a republic state, and one toward whom the exercise of force would be legitimate, is “someone whose publicly expressed will, whether expressed in word for in deed, displays a maxim which would make peace among nations impossible and would lead to a perpetual state of nature if it were made into a general rule” (Kant, 1996:119). Kant claims, in contrast to some liberal International Relations theory, that

⁶ Kant claims that, “[it] is in fact merely an idea of reason, which nonetheless has undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation, and to regard each subject, in so far as he can claim citizenship, as if he had consented within the general will” (Kant, 2006d:51). It is necessary that government ensure that its policies are commensurate with a universalisable exercise of freedom that does not impinge on the autonomy of others, whether within or beyond its borders. This is important because, as Neal notes “the legitimacy of legislative power of sovereignty stems *not* from its constitutional structure or from the will of the people, but from a commitment to abstract reasoned principles” (Neal, 2010:51). The political imperative is not for the republic to represent the will of the people, whatever that will maybe; the political imperative is for the people to conform to the sovereign will as the *Rechtstaat*. The responsible exercise of public reason is internal to the problematique of sovereignty until such a time, which is as yet only hypothetical, when sovereign rule is rendered superfluous by the ultimate enlightenment of humanity, whose members need never experience sovereign coercion because the exercise of reason by the individual and the state will be one. In Neal’s words, “sovereignty guarantees and enforces the minimum conditions for political modernity before political modernity can become a self-realizing fact” (Neal, 2010:52).

behaviour rather than simply regime type determines the legitimacy of war (MacMillan, 1995:559).

We can develop the idea of hypothetical publicity further by examining an example of neo-Kantian deliberative democratic theory. These theorists take inspiration from the principle of publicity to produce regulative frameworks for critical rational debate – which would lead to progressive public reason and international relations (Chambers, 2004:390). As an example of this theoretical approach, Habermas transforms the principle of publicity from a hypothetical assumption of mutual knowledge to a normative principle of discourse ethics.

Habermas adopts the Kantian notion of only adopting those imperatives that could be rationally willed as binding to all, but transfers the emphasis from self-reflexivity to intersubjective dialogue. If Kant's practical reason was based on what can be willed without contradiction or frustration, Habermas' reason is based on what both speaker and hearer can agree as intersubjectively valid through the force of better argument. This argument is guided by the rule of 'communicative action' (Habermas, 1984). Of course it is not possible for every citizen to engage in communicative action on matters of public policy, the normative impetus of Habermas' work is that representative institutions must be conducted according to the principles of communicative action (Habermas, 1996). In this way the principles of communicative action have been used to appraise the standard of deliberation in domestic public inquiries (Kemp, 1987), and fora of international relations (Risse, 2000; Bjola, 2005).

Hypothetical publicity as communicative action implies three procedural norms (Habermas, 1979:1-67; Habermas, 1984:8-23). The first norm is sincerity. Interlocutors' public justifications for a policy or action ought to be the honest justifications that guide action. The second norm is rightness. Interlocutors' claims must relate to a legitimate normative context, in other words participants need to agree that a policy is 'the right thing to do'. The third norm is truth. Interlocutors' claims should be truthfully grounded and conform to the facts in the world as they are perceived or, put differently, the substantive content behind claims must be correct. Participants must therefore have equal opportunity to provide interpretations and explanations of truth claims presented. Interlocutors, however, can only *assume* that fellow interlocutors are practicing these norms. Most of it relies on trust. It is possible that an individual may justify action through reasons that pass deliberation conducted accordingly to these principles, but act for reasons that are not acceptable and remain hidden (Risse, 2000:10).⁷

⁷ This ideal speech situation is obviously problematic: discourse participants may occupy different positions of authority to 'decide' on arguments when the constraints of time and resources exert themselves or

The table below summarises the two types of publicity. Liberal IR understands publicity to refer to actual publicity qua transparency between states. The exercise of this actual publicity must be evident in the verifiable behaviour of the state. By contrast Kant's hypothetical publicity is a thought experiment used by leaders to ensure that their policies do not violate the categorical imperative. This notion of hypothetical publicity is expanded somewhat by Habermas, in which the idea of publicity becomes a standard of actual critical debate between citizens. But this standard relies on trust. In either case, the "peace-proneness" of a liberal state is understood to be contingent upon the influence of liberal politics, and the practice of publicity (MacMillan, 2004:200).

Table 1. Actual and Hypothetical Publicity

	Approach	Key Points
<i>Actual Publicity</i>	Liberal IR theory, Doyle's Three Pillars	Publicity must be verifiably practiced as transparency and openness
<i>Hypothetical Publicity</i>	Kantian publicity test	A thought experiment derived from the categorical imperative
	Habermasian Communicative Action	A normative standard of critical discourse between participants that is assumed and trusted to be in practice

Liberal Justifications of Secrecy with Hypothetical Publicity

Through this distinction between actual and hypothetical publicity we can now find an answer to the first of the questions posed in the introduction, namely how a liberal state can legitimately practice political secrecy. There are three ways in which the state can practice hypothetical publicity and political secrecy simultaneously.

- (i) *Justifying secrecy according to maxims that pass the Kantian hypothetical publicity test.*

The Kantian publicity test is not necessarily incompatible with secrecy. This is because Kant's focus is on the maxim – the generalisable rule of motivation – rather than the specific act itself. Consider the following hypothetical maxim:

Keeping secret the fact that the intelligence agencies can monitor Osama Bin Laden's telephone

participants may occupy different levels of status or reputation that affect the level of trust they command. For Habermas though, the ideal speech situation can be acknowledged as a counterfactual tool – as an aspirational norm or "critical standard" rather than a concrete possibility (Kemp, 1987:188).

This action could not pass the publicity test because it must be kept secret in order to proceed. It is a so-called “black secret” (Sagar, 2007:409-10), which can neither be confirmed nor denied without undermining the efficacy of the practice behind it. If the action were made public then Osama Bin Laden could stop using his telephone, which actually happened in 1998 (Chesterman, 2011). However, consider the action when described as a generalised maxim – for instance:

Intelligence agencies can monitor the telephones of terrorist suspects.

This could survive the publicity test, so long as one considers that a rationally minded public would agree that the policy was morally right. Luban explains, “by focusing the publicity test on maxims, that is, general rules of action, Kant invites us to deliberate at the level of policies, not at the level of specifics, which may indeed need to be kept secret” (Luban, 1996:169). For Kant, “actual public approval [is] irrelevant to the justice of any law or political action” and so “making publicity a transcendental condition of justice... actually permits extreme degrees of secrecy and suppression in politics” (Davis, 1991:409). Openness in government or popular rule is not necessarily part of moral politics. A more recent example of secrecy that would pass Kant’s test is from the former UK Security and Intelligence Co-ordinator, David Omand, who argued that secrecy for the intelligence community must be legitimised through public and parliamentary debate. The maxim provided by Omand is that secrecy should be legitimised so that governments can “take anticipatory action to enable terrorism and other major threats facing society to be managed” (Omand, 2009:49).⁸ The practice of publicly legitimating the policy of official secrecy for specific reasons is a practical reality (Buzan et al., 1998:28-9; Gosseries, 2010), and what I wish to emphasise here is that such maxims can be compatible with hypothetical publicity. I will discuss in depth how secrecy is justified in Chapter Four.

(ii) *The actual ‘gaze’ of publicity can harm deliberation and the quality of public reason.*

The claim made by theorists of deliberative democracy, as exemplified above, is that hypothetical publicity has a positive effect on the quality of deliberation by ensuring that only publicly reasonable arguments are acceptable. Yet others argue that in some circumstances, placing participants under actual publicity can have a harmful effect on the quality of deliberation and the quality of public reason. Put simply, “the quality of

⁸ In another recent example, the British Government has sought consent for a general policy of secret court proceedings without publishing specific details of what the content of proceedings will be, as entailed by in the Justice and Security Act 2013.

deliberation improves if debate takes place behind closed doors” (Chambers, 2004:392). Common examples include diplomatic negotiations or judicial panels that should be shielded from the public gaze because arguments would otherwise appeal to the lowest common denominator (Kornhauser, 1960; Pateman, 1960; Bachrach, 1967; Riker, 1982). Participants may abandon the normative standards of hypothetical publicity in favour of crude arguments that appeal to the majority (Chambers and Kopstein, 2001). The threat of such populism is exactly what Kant was trying to avoid when he argued that publicity should be hypothetical.

Conversely, if deliberation takes place in secret certain standards of deliberative democracy are more likely to be followed. Participants may be more likely to speak candidly, change their position or make a compromise without worrying what the public might do or say (Elster, 1995:251; Gutmann and Thompson, 1996:115-17). Morgenthau argues the point at length in the context of international relations (2005:155-58, 373-74).⁹ Behind closed doors, participants could still apply the Kantian publicity test, asking whether their policies would be acceptable to a rational public (Chambers, 2004:407). At the same time, however, certain standards are clearly impossible to enact, such as a commitment to pluralism. One indirect solution for reproducing pluralism is to create a deliberative body that encompasses a “diversity of opinion” (Chambers, 2004:408; Sagar, 2007:46-47). Beyond the deliberative process itself, Guttmann and Thompson argue that infinite secrecy cannot be justified on the grounds of improved deliberation, at some point citizens must be able to scrutinise the policy for themselves. This can be achieved through ratification or retrospective accountability for both the processes through which the policy was formulated and the policy itself (Gutmann and Thompson, 1996:120-21). In some cases, however, even post-hoc ratification may be impossible for the following reason.

(iii) Actual Publicity Threatens Security

Whilst liberal democratic states may favour actual publicity as the norm, this does not necessarily deny that secrecy can be exercised as an exception (Chambers, 2004:389). Aside from the manner in which secrecy can be justified in the Kantian sense, Liberal IR scholars

⁹ Morgenthau claims that that the ‘vice of publicity’ can harm diplomatic talk – that is, attempts by nations to persuade others nations in the interests of peace and order. Responding to Woodrow Wilson, Morgenthau suggests that we must carefully distinguish between open convents and covenant openly arrived at, or “publicity for the results of diplomatic negotiations and publicity for the diplomatic negotiations themselves” (Morgenthau, 2005:519). Morgenthau feared that a Wilsonian project of publicizing the act of diplomacy would turn otherwise cautious and conciliatory deliberation into a propaganda match, performed for the benefits of baying publics who expect their diplomats to argue how “they are right and the other side is wrong” (Morgenthau, 2005:520). The result would be that an inability to reach agreement and diplomatic relations that are in a worse state than before.

often – though not loudly – concede the importance of secrecy in the interests of ‘security.’¹⁰ Lipson, for instance, argues that “even the most open states have some secrets” which are kept for “good reasons” such as the protection of information relating to national security (Lipson, 2003:107).¹¹ Florini has written consistently on the benefits of actual publicity (1998; 2002; 2007), but she still concedes that the justifications for secrecy are sometimes sound. “No reasonable person”, for instance, would demand that the state release information about troop movements during wartime (Florini, 2007:3).

Of course, for realist IR scholars, secrecy and even deception is expected as part of prudent foreign policy (Gibbs, 1995; Morgenthau, 2005; Mearsheimer, 2011). Where these liberal scholars differ is that any suspension of actual publicity must be done in a way that is compatible with liberal values and must be retrospectively valid. The problem is that “the boundaries of what constitutes legitimate secrecy are rarely obvious”; in fact Florini hints that the determination of legitimate secrecy lies in coming to a judgment on the relative threats that secrecy or actual publicity could constitute: “no country wants its adversaries to have access to details about the design and potential weaknesses of its weapons - but soldiers whose lives may be threatened by those weaknesses would benefit greatly from having those weapons subjected to public scrutiny before they are needed” (Florini, 2007:3). The distinction is, perhaps, best expressed by Sir Humphrey: a cover-up is illiberal but political secrecy is compatible with liberal values when it is “responsible discretion, exercised in the national interest, to prevent unnecessary disclosure of eminently justifiable procedures, in which untimely revelation could severely impair public confidence” (Jay and Lynn, 1980a). Political secrecy can be compatible with liberalism so long as the state continues to practice hypothetical publicity.

Taken together, these three legitimate justifications of political secrecy require that “at some point we just have to trust” (O’Neill, 2002:6). Trusting statesman and state institutions opens up a space where the citizenry become vulnerable to abuses of that trust (Warren, 1999:1). In order to justify trust in statesmen and institutions to conduct deliberation and policy-making behind closed doors, we must assume that the statesmen and institutions are bound by the norms and values derived from hypothetical publicity. We can trust those in public office to act in accordance with normative standards of publicity, even if we don’t know that they are doing so. Trusting institutions in this way is a

¹⁰ Marquardt argues that in Liberal IR scholar do recognise that democracies keep secrets, but exactly how transparent the policy making process is difficult to measure. Moreover, “the depth and breadth of state secrecy in national security affairs among liberal democracies” is often ignored (Marquardt, 2011:34).

¹¹ In defence of the democratic peace Lipson argues that democracies simply keep less secrets than non-democracies: “Even in thoroughgoing constitutional democracies, some decision-making is hidden from public view and hidden from public debate. But what is rare and exceptional in democracies is commonplace and fundamental in dictatorships, absolutist monarchies, and other non-democratic states”.

necessary part of governing large, complex societies in which we cannot know what is going on in every public matter, all of the time (Offe, 1996; Warren, 1999). Hypothetical publicity can be reconciled with the concept of trust and secrecy. It is logically impossible, however, to integrate the principles of trust and actual publicity; one or the other must be exercised.

So long as a requisite level of mass loyalty is maintained (Habermas, 1975:46), the state can continue to justify controversial decisions via reference to suppressed evidence that validates the decision but cannot be disclosed. If, however, there is widespread suspicion that statesmen or individuals are not acting in accordance with these norms, actual publicity serves as a mechanism to redeem the validity of claims and policies made in secret. Trust is, paradoxically, validated through a distrustful retrospective accountability. Taking inspiration from Warren, we could argue that trust and actual publicity are “distinct but complementary ways of making collective decisions and organising collective actions” (Warren, 1999:4). Yet a problem emerges if large swathes of those within the public sphere lose trust in public institutions *but* the state refuses to lift the veil of secrecy. In the third section of this chapter, I will show how it is precisely this difficulty that constitutes the controversy of the Iraq public inquiries today. Before that, in the second section, I will show how that suspicion emerged in relation to the British government’s case for war.

Mad, Bad or Had?

Military intervention in Iraq was not a response to a clear, sudden act by Iraq. Whilst morally abhorrent in the eyes of the international community, the discernible behaviour of the Iraqi state had not changed significantly in the previous five years. Rather, in the months before the war the Blair administration had to persuade the Labour Party, Parliament and the public and media that a change of British policy was required and that war was a necessity and not a choice. These events are well documented, and will not be repeated here at length (Kampfner, 2003; Bluth, 2004; Freedman, 2004; Woodward, 2004; Keohane, 2005; Lawrence, 2006). Instead, I will focus my attention on how, in attempting to ‘sell the threat’, the British Government was suspected of breaking with the normative standards of hypothetical publicity.

The formal *casus belli* given by the British Government was Iraq’s material breach of UNSCR 1441, but to justify an urgent necessity to act the British Government relied on three interrelated claims as to how Iraq constituted a threat to British national interests and security concerns: the aggressive intent of the regime, the aggressive capacity of the regime

(in terms of weapons of mass destruction that Iraq possessed and/or could produce), and the existential threat posed to the United Kingdom by terrorist organisations armed with such weapons (Bluth, 2004). The urgency of taking military action was justified via three further claims: Iraq had demonstrated ‘rogue behaviour’ in the past by using chemical weapons, Iraq was committed to protecting and expanding its weapons of mass destruction capabilities through a purposeful programme of concealment, deception and intimidation, and finally the international community’s policy of containment and inspection was unable to overcome these acts of obstruction (Keohane, 2005). The British government argued that it was essential to disarm Iraqi by force because this was “the least worst option”, given that there was no other way to mediate the uncertainty of the Iraqi threat (Bluth, 2004:872).

Through the course of making these claims, the British Government attempted to show that *contra* Iraq it was behaving openly with the British citizenry, aping the standards of hypothetical publicity that distinguishes liberalism from absolutism. This is not new. Since at least the nineteenth century representatives of the state identified Britain as a modern liberal democracy “precisely by the absence of the multiple forms of public secrecy which characterized repressive regimes abroad”; by contrast it was “central to the liberal narrative of history that concealment be replaced by transparency as democracy succeeded despotism” (Vincent, 1999:5). By allowing society to exercise freedom through critical scrutiny and debate, the state preserves a liberal democratic identity that distinguishes ‘us and them’ and democracy from totalitarianism (Rourke, 1966: xv). In this way, the British case for war was haunted by the spectre of the illiberal other – concealment and deception – the very activities that the British Government accused Iraq of committing, and upon which the British Government rely in their construction of the Iraqi threat. This section will proceed in three parts that show how the British case for war brought into doubt Britain “existential” values as a liberal democratic state (MacMillan, 2005). Firstly I will describe how the British case for war was set out in the infamous September and February intelligence dossiers which themselves constituted doubts about the government’s honesty. Secondly, I will describe how a large swathe of the British parliament, media and the public sphere expressed doubts about the case for war. Finally I will show how these doubts became expressed, after the war, as accusations that the government had been unreasonable, deceitful or closed-minded, accusations that the norms of hypothetical publicity had been broken.

The September and February Dossiers

From the summer of 2002, there was increasing suspicion that the British Government favoured the use of military action against Iraq. In July 2002, the Foreign Affairs Committee beseeched the Government to “publish the fullest possible documentation on the need for military action, before such action is seriously contemplated ... to secure the widest possible support” (FAC, 2002:37). This required “a balance... between maintaining the integrity of sources and the need to inform public and parliamentary opinion” (FAC, 2003a:35). In September 2002, and in an attempt to persuade public and media opinion, the government issued an intelligence dossier known subsequently as the ‘September Dossier’.¹² Formally titled *Iraq’s Weapons of Mass Destruction: The Assessment of the British Government*, the publication was not written by government but by the Joint Intelligence Committee (JIC).¹³ Speaking after the war, former chair of the JIC Dame Pauline Neville-Jones suggested that the September Dossier was an attempt to provide evidence to the public whilst still preserving the secrecy of the sources behind the information.

It is not easy to ask people to send their sons and husbands into military conflict on the basis of evidence which the Government says, ‘it is too secret for me to be able [to] tell you what I know’. I think that is a very difficult proposition in a democracy. It did seem to me at the time that a way did have to be found for material ... which had clearly convinced [the Government] there was a real threat, could be made available so the rest of us could understand what that was and why we were being told this was so serious. The issue at the time certainly seemed to me how you did that in a manner compatible with protection of source ...that is so far as I know an unprecedented thing to try and do. (Cited in FAC, 2003a:35)

The dossier was intended to give a ‘serious and sober’ impression of the information that had convinced government of the need to act.¹⁴ In the forward to the September Dossier,

¹² The publication of dossiers was not an innovation itself. Limited intelligence material and assessment had been made public by the government during the military action in Kosovo during 1998. Precedent, and perhaps motivation for the September publication, was set by a dossier published in October 2001. That dossier established the conclusion that Al Qaeda were responsible for the September 11 attacks one month earlier – a link that, at the time, had been in doubt. The October 2001 dossier was downloaded one million times. The production of dossiers was, patently, capable of garnering significant public attention; over 100,000 copies of the September dossier were downloaded from the Downing Street website by the end of 2002. After the September Dossier the government also published a lesser-known dossier on Human Rights abuses, which was issued in December 2002 (Runciman, 2004;Humphreys, 2005;Keohane, 2005).

¹³ The JIC is a Cabinet Office committee responsible for directing the three intelligence agencies and for maintaining intelligence analysis standards

¹⁴ Blair explained to the Hutton Inquiry why he decided to publish the dossier in September 2003: “What changed was really two things which came together. First of all, there was a tremendous amount of information and evidence coming across my desk as to the weapons of mass destruction and the programmes associated with it that Saddam had. There was also a renewed sense of urgency, again, in the way that this was being publicly debated. I recall throughout the August break last year literally every day there were stories appearing saying we were about to go and invade Iraq. Military action had been decided upon. President Bush and I had a telephone call towards the end of that break and we decided: look, we really had to confront this issue, devise our strategy and get on with it and I took the view, in the end, and said this at the press conference I gave in my constituency on 3rd September, that we really had to disclose what we knew or as

the Prime Minister wrote that he “wanted to share with the British public the reasons why I believe this issue to be a current and serious threat to the UK national interest” (British Government, 2002:3). The Prime Minister wished to publicise some of the judgement and evidence that was influencing the decision-making process, suggesting adherence to hypothetical publicity. The dossier did not reveal all; Blair also wrote that the intelligence agencies could not be specific about the sources behind the judgements in the document and that “we cannot publish everything we know” (British Government, 2002:3). Instead the Prime Minister had to fall back upon trust, trust by the public, the media and parliament that “I and other Ministers have been briefed in detail ... and are satisfied as to its authority” (British Government, 2002:3).

Much of the information in the dossier was already available in the public domain. However the government also expressed several “judgments” on the basis of secret intelligence sources: that Iraq continued to produce chemical and biological agents; that it had illegally retained long-range missiles; and that it had covertly attempted to acquire material for a nuclear weapon. The assertion that earned the most attention, however, was the judgment included in Tony Blair’s foreword and the executive summary: that Saddam Hussein’s “military planning allows for some of the WMD to be ready within 45 minutes of an order to use them” (British Government, 2002:4). On the evening of the 24th September the *Evening Standard* carried the headline ‘45 MINUTES FROM ATTACK’ (Reiss, 2002); the next morning *The Sun* carried ‘BRITS 45MINS FROM DOOM’, claiming that “British serviceman and tourists in Cyprus could be annihilated by germ warfare missiles by Iraq” (Pascoe-Watson, 2002). In fact, the 45-minute claim referred only to battlefield munitions and not long-range strategic missiles – a distinction not made clear in the dossier. The government did not attempt to rectify the misunderstanding. After this episode of media hype, both the relevance of the September Dossier and the importance of the 45-minute claim declined (Humphreys, 2005:156). Indeed some criticised the British Government for failing to add much new information to the debate.¹⁵

much as we could of what we knew. That was because there was an enormous clamour. Here we were saying: this is a big problem, we have to deal with it. Why did we say it was a big problem? Because of the intelligence. And people were naturally saying: produce that intelligence then.” (Blair, 2003)

¹⁵ Speaking in the House of Commons, Sir Menzies Campbell spoke as follows: “We can all agree—it has already been a measure of the debate—that Saddam Hussein is an evil tyrant with no regard for the sanctity of human life, for either his own citizens or the people of other countries. We all agree that he is in flagrant breach of a series of UN resolutions, and in particular those relating to his duty to allow the inspection, and indeed participate in the destruction, of his weapons of mass destruction. We can also agree that he most certainly has chemical and biological weapons and is working towards a nuclear capability. The dossier contains confirmation of information that we either knew or most certainly should have been willing to assume”. HC Deb, 24 September 2002, vol 390, col 43



Figure 6. Media coverage of the '45 minutes claim'. On the left is the front page from the *Evening Standard* on the evening of 24th September (Reiss, 2002). On the right is a page from *The Sun* on the morning of the 25th September (Pascoe-Watson, 2002).

The government published another dossier on 30th January 2003, titled *Iraq: Its Infrastructure of Concealment, Deception and Intimidation*. The document drew on “a number of sources, including intelligence material” to show “how the Iraqi regime is constructed to have, and to keep, WMD, and is now engaged in a campaign of obstruction of the United Nations Weapons Inspectors” (British Government, 2003a:1). Once again the dossier emphasized the acts of concealment and deception committed by the Iraqi regime in contrast to the openness of the British Government. Announcing the publication of the dossier to the House of Commons, Blair emphasised the credibility of the intelligence agencies: “They are not publishing this, or giving us this information, and making it up”. Rather the agencies and the government were acting as a conduit for public debate: “It is the intelligence that they are receiving, and we are passing it on to people”. Blair added, speaking of the Iraqi regime, “it is clear that a vast amount of concealment and deception is going on”.¹⁶

These comments would turn out to be highly ironic then when, on 6th February, the government was *itself* accused of deception. Unlike its predecessor, what was now called the ‘Dodgy Dossier’ was prepared by Downing Street without the approval of the JIC, individual intelligence agencies or cabinet ministers prior to publication. A Cambridge academic noticed that 10 of the 19 pages in the document comprised plagiarised material from an article published in the *Middle East Review of International Affairs*, written by Ibrahim al-Marashi, an Iraqi PhD student. Large chunks of text, including grammatical and

¹⁶ HC Deb 3 February 2003, vol 399, col 25

typographical mistakes, were copied without any attribution. The only changes were the strengthening of certain words (claims of Iraq ‘monitoring foreign embassies’ became ‘spying on foreign embassies’) (Rangwala, 2003). The article itself relied primarily on information from 1990, over twelve years before the publication of the dossier. Unsurprisingly, the dossier intensified public suspicion of the honesty and respect with which the government was treating the public. “This is the intelligence equivalent of being caught stealing the spoons,’ claimed the foreign affairs spokesman for the Liberal Democrats, “the dossier may not amount to much, but this is a considerable embarrassment for a government trying still to make a case for war” (Campbell cited in BBC, 2003a).¹⁷

Even without these embarrassing mistakes, it is doubtful that either dossier would have convinced those members of the public sphere who were suspicious of the government’s grounds for war. Government often make use of claims on the basis of an executive monopoly on access to knowledge relating to foreign affairs and often enjoy a degree of symbolic capital and deference from the legislature (Neal, 2012a). Yet Blair felt that it was not sufficiently persuasive to make general claims about what the government knew of the Iraqi threat; instead the dossiers sought to provide information – actual publicity – about how the government’s decision-making process was being shaped, thus allowing members of the public sphere to independently come to the same conclusions as the government whilst still maintaining a sharp distinction between the deception of the Iraqi regime and the openness of the British Government. Yet this placed the government in a performative contradiction, as Glees and Davies explain.

If the intelligence contained within the dossier is correct, but its source is concealed, the public cannot know if the intelligence is trustworthy – they have to accept the government’s word for it. Yet the purpose of the dossier was to convince the public that the intelligence could be relied on, irrespective of what the government was saying. (Glees and Davies, 2004:88)

Publication hampered the government’s persuasive efforts in two ways. On the one hand, the government actually exposed the limits of their case to the public. Many, like Campbell above, expressed surprise that the contents of the dossier were all that the government could muster. On the other hand there was no way the public could verify the accuracy of

¹⁷ Sir Menzies’ comment may sound like gibberish but it does carry appropriate meaning. The British criminal registers of the 18th and 19th centuries show how light fingered servants and burglars often targeted the valuable silver spoons of the house. Such acts of thievery, especially when performed by members of the household, were not only amongst the most ill-regarded acts of petty crime but demonstrated a profound lack of respect by the thief for values of property and trust in the household. Indeed ‘stealing the spoons’ would often earn the unfortunate guilty party a one-way ticket to the penal colonies of Australia. By describing the production of the dossier so, Sir Menzies characterizes the relationship between the government and the public – the servant and the master – as riddled with contempt and renders the act of plagiarism as amongst the most cheap and contemptible of acts.

the information or judgements. At the end of every thread of information was secrecy, which the government legitimised through claims to national security, claims that the public had to trust. Thus, rather than reduce the need for the trust in government, the dossier simply relocated where that need lay. Rather than allow society to scrutinise the state through actually publicising hitherto secret information, the government revealed more secrets that would not be unveiled. After the publication of the dossiers, the public sphere was filled with *more* questions and suspicions, not less.

Neither dossier had much impact on the substantive debate for or against war. After Blair referred to the infamous '45 minutes claim' in parliament on 24th September, it was never mentioned in the House by anyone again until after the war. By the spring of 2003, UN weapons inspectors had returned to Iraq to confirm that Saddam Hussein was still not cooperating with the requirements of UNSC 1441. The debate now hinged on whether Iraq and the inspectors should be given more time to resolve the remaining questions surrounding WMD stocks. Supporters of war asked why Saddam would comply without the threat of military action, and that it was impossible to maintain this threat of action indefinitely (Humphreys, 2005:164). For the moment, the point is that despite their minor importance at the time, the dossiers would subsequently become symptomatic of a growing suspicion that the British Government did not possess a legitimate case for war, and had failed to comply with the principles of hypothetical publicity.

Why Now? Divided Opinion on the Case for War

Public opinion was split. It was not "our wrong war, too" as one academic has suggested (Dunne, 2010), but neither was public opposition to war beyond doubt. Amongst the mainstream press the majority of papers supported invasion,¹⁸ but the official polls painted a picture of divided opinion. According to an oft-cited Ipsos MORI poll (2003), in February 2003 67 per cent of respondents were opposed to British troops joining any American-led military action against Iraq if the UN inspectors did *not* find proof that Iraq was trying to hide weapons of mass destruction and the UN security council did *not* vote in favour of military action; this opposition decreased slightly to 63 per cent in March. Yet this opposition decreased to 18 per cent (and 17 per cent in March) if the UN inspectors *did* find proof that Iraq was trying to hide weapons of mass destruction, and the UN Security Council *did* vote in favour of military action. If only one of these conditions were met, there was neither a majority in favour or against war. In March 2003 if UN inspectors found proof but there was no vote for war, 48 per cent supported war and 37 per cent

¹⁸ In terms of circulation, those daily papers supporting war outweighed those against by 9.4m to 2.7m, the same imbalance took place amongst the Sunday papers by 10.3m to 3m (Stanyer, 2004).

opposed. If no proof was found but the UN voted for war, 46 per cent supported war and 41 per cent opposed. On the eve of war, an IMC poll suggested that 44 per cent opposed war and 38 per cent opposed it (Curtice, 2003; for a discussion of the polling data see Lewis, 2004).

Whilst the opposition to the government's case for war was not overwhelming, it was put vehemently. On 15th February 2003 approximately one million people marched in the capital. Anecdotal evidence suggests that the protests were not composed of 'the usual suspects' but in fact represented a broad base of British Society (Chrisafis et al., 2003; Ferguson, 2003). Throughout February and March school children walked out of lessons in protest against the prospective resort to war.¹⁹ On the 19th February the Archbishop of Canterbury and the leader of the Roman Catholic Church in England and Wales issued a joint statement expressing doubts as to the moral legitimacy of a war (Williams and O'Connor, 2003). The statement did not argue for passivity but directly opposed the Prime Minister's claims that there was a moral case for the urgent removal of Saddam Hussein without consensus in the international community.



Figure 7. Press coverage of the protest march by the Daily Mirror, 15th February 2003
The Daily Mirror was one of a minority of publications to oppose war (see Stanyer, 2004)

With humanitarian justifications for war in decline, the Blair government focussed on the urgent threat posed by Saddam Hussein couched in the terms I explained above: the

¹⁹ Six months earlier the Blair government had launched compulsory citizenship classes in schools, devoted to the discussion of current affairs in the pursuit of 'responsible citizens' that would play an 'active role in society'. The irony was that the will to protest had perhaps been fostered by these classes (Parkinson, 2003). The overwhelming response of the educational establishment was to punish those who took part in the strikes (Cunningham and Lavalette, 2004).

interrelation of Iraq's aggressive intent and capacity, and the existential threat of terrorists armed with WMD, coupled with a regime that deceived the international community, and a lack of progress through inspections and containment. This debate focussed on a few factual questions but on normative questions like 'what is the standard of proof for threat?' and 'how is the urgency of threat to be judged?' (Freedman, 2004). Opening the parliamentary debate on the war on 18th March 2003, Blair asked the House,

What is the claim of Saddam today? Why exactly the same as before: that he has no WMD. Indeed we are asked to believe that after seven years of obstruction and non-compliance finally resulting in the inspectors leaving in 1998, seven years in which he hid his program, built it up even whilst inspection teams were in Iraq, that after they left he then voluntarily decided to do what has he had consistently refused to do under coercion... We are now seriously asked to accept then in the last few years, contrary to all history, contrary to all intelligence, he decided unilaterally to destroy the weapons. Such a claim is palpably absurd...Saddam is playing the same old games in the same old way. But no fundamental change of heart or mind...it is dangerous if such regimes disbelieve [our willingness to use force]. Dangerous if they think they can use our weakness, our hesitation, even the natural urges of our democracy towards peace, against us... Iraq is not the only regime with WMD. But back away now from this confrontation and future conflicts will be infinitely worse and more devastating.²⁰

But many MPs were unconvinced. The night before the debate, Robin Cook resigned from the Cabinet in protest, claiming that Iraq probably had no WMD in the sense of the strategic weapon and posed little threat to the UK. Cook rejected the scale of the threats and the urgency from military response.

I believe that the prevailing mood of the British people is sound. They do not doubt that Saddam is a brutal dictator, but they are not persuaded that he is a clear and present danger to Britain. They want inspections to be given a chance, and they suspect that they are being pushed too quickly ... by a US Administration with an agenda of its own ... Above all, they are uneasy at Britain going out on a limb on a military adventure without a broader international coalition and against the hostility of many of our traditional allies.²¹

Of the three main parties, the Liberal Democrats were staunchly opposed to the case for war. The Conservative party supported the Prime Minister's argument. Yet even the Tories were littered with discontents (Tyrie, 2003; Keohane, 2005). Douglas Hogg, a former Conservative foreign office minister during the 1991 Gulf War, told the House "if we're honest with ourselves we do not have a consensus in this house, or this country". Hogg continued:

If we were dealing with a situation in which Iraq had attacked another country I would vote for war. If Iraq had mustered troops on the frontier of another country I would vote for war. If there were compelling evidence that Iraq was delivering weapons of mass destruction to terrorists with which to attack another country I would vote for war. But

²⁰ HC Deb 18 March 2003, vol 401, col 762

²¹ HC Deb 17 March 2003, vol 401, col 726

none of those situations exist here.²²

Labour had their dissidents too. “It is the culmination of the process that troubles me”, said Joyce Quinn, a junior Foreign Office minister who had supported the Prime minister during the diplomatic efforts at the UN but would abstain from the vote for war. “War is a last resort ...I have to ask whether war is essential this week. Is it essential now?”²³

Over one third of the Prime Minister’s own MPs vote against the government in an attempt to attach an amendment stating that “the case for war against Iraq has not yet been established, especially given the absence of specific United Nations authorisation...”²⁴ The amendment was defeated by 396 to 217 votes. The vote on the motion itself was passed by 412 to 149 votes, however a quarter of Labour MPs voted against the government. The support of Blair’s own party could not be divorced from the pressures of “loyalty, tribalism and also the possibility that bringing down a prime minister might lose you your seat in the next election” (Hopkins, 2008). Government whips allegedly made it is very clear to MPs what would happen if the government lost the vote: “do you support regime change in Baghdad or in Downing Street?” (Cowley and Stuart, 2004:307). Many MPs were also convinced that members with access to secret intelligence knew something that the rest of Parliament did not. Members of the Intelligence and Security Committee allegedly cajoled backbenchers by suggesting, “if you knew what we know, you would vote for war, but we cannot tell you because it is a secret”.²⁵

By the end of the week, Britain was at war. Yet the ouster of Saddam Hussein did not heal rifts or bring an end to the discord. Sections of the British public, parliament, the media and the cabinet were left with a profound sense of disenfranchisement, bitter that the greatest mobilization of political activism for a generation had been dashed against the walls of Number 10. Beetham expresses this mood well:

To be sure, the government’s position prompted a huge politicisation of a new generation of people that had been written off as ‘apolitical’. But what did they learn from all their political participation in meetings, marches, demonstrations and school-walk-outs? What they learnt in practice was that parliament and government can defy the UN and invade another country when they choose, that they give more weight to the views of a foreign president than they do to the voice of their own people. (Beetham, 2003:608)

A sizeable section of the public considered their voice had not received the respect it deserved from the government, that the public debate had been rushed, and that institutional safeguards against unwise conflicts had been bypassed. Many in the domestic public sphere doubted the urgency, if not the certainty, of the Iraqi threat. Public disquiet

²² HC Deb 18 March 2003, vol 401, col 796

²³ HC Deb 18 March 2003, vol 401, col 806

²⁴ HC Deb 18 March 2003, vol 401, col 779

²⁵ HC Deb 13 June 2013, vol 564, col 568

arose from the suspicion that the ‘marketplace of ideas’ appeared to have, if not failed, been hindered (Kaufmann, 2004). This discontent was, however, greatly amplified by events that followed.

In the months after the formal end of war, and the beginning of lengthy post-conflict reconstruction mission in Iraq, no concrete evidence of Iraq’s WMD was found. On 12th May 2003, Clare Short, Secretary for International Development resigned claiming that the Prime Minister had ‘duped’ the country into war. Whether by oversimplification, exaggeration, or perhaps something more sinister, Short claimed that Blair had been deliberately less than truthful with the public in making the case for war. Speaking on 1st June 2003, Short stated that

I have concluded that the PM had decided to go to war in August [2002] sometime and he duped us all along. He decided for reasons that he alone know to go to war over Iraq and to create this sense of urgency and drive it. (Brown, 2003)

I’m saying there was an exaggeration of what everyone knew to be the case ... It’s the spin that’s put on ... to suggest that [Iraq’s WMD] was immediately useable, and an immediate threat to us in 45 minutes and that there’s a potential for Al Qaeda getting their hands on it. That’s where the spin was. That’s where the falsity was, and the point about that is it meant there had to be very urgent action. So it got us to war quickly. Whereas with the reality we could take more time and do it right. (Short, 2003)

In response to Short’s comments the Prime minister continued to ask for public trust in the search for Iraqi WMD, “just wait and have a little patience ... I have no doubt whatever that the evidence of Iraqi weapons of mass destruction will be there” (BBC, 2003b). Short’s allegations were compounded at 6.07am on 29th May when the BBC news programme, *Today*, carried a report by journalist Andrew Gilligan. Gilligan made three controversial allegations against the government: firstly, that, according to a “senior official” in charge of drawing up the September Dossier, the government “probably knew” that the 45 minute claim was wrong; secondly, Downing Street had ordered the dossier to be “sexed up, to be made more exciting and ordered more facts to be, er, to be discovered”; finally, Gilligan claimed that there was “unhappiness” amongst the intelligence community because the dossier “didn’t reflect the considered view they were putting forward” (Hutton, 2004b:12).

Iraq’s weapons of mass destruction were not found. The Iraq Survey Group, an international organization encompassing military and civilian weapons experts from the United States, United Kingdom, and Australia began a comprehensive search in June 2003. Both the interim and final reports stated that while Saddam Hussein showed ambition to develop weapons of mass destruction, no significant evidence emerged of any research or development after 1991. Former ISG chief David Kay, speaking before the Senate Armed

Force Committee in January 2004, summed up his shock remarking, “Let me begin by saying we were almost all wrong” (Kay, 2004). In fact Kay credited the intensive efforts of UNMOVIC and UNSCOM for controlling Iraq’s weapons stockpiles. Kay resigned shortly after.

Mad, Bad or Had: Pathologies of Publicity

In February 2004 Connor Gearty, wrote that,

The British public will in due course have to decide whether their prime minister had a totally unreasonable belief in the existence of such weapons, or whether he consciously lied about them to fool the country into war and please George Bush, or whether he was tricked by the intelligence ‘community’ into an unnecessary conflict. It is not an attractive choice for any country: *is their war leader mad or bad or has he just been had?* Perhaps the answer will eventually prove to be a bit of all three. (Gearty, 2004)

Gearty’s characterisation provides a useful starting point to frame my own analysis of the events described in this section. The accusation of ‘mad, bad or had’ evokes three distinct ways in which the norms of hypothetical publicity can be violated through ‘pathologies’ of the public sphere. Each of these pathologies should be prevented by an aspect of hypothetical publicity that operates as a kind of prophylaxis.

Firstly, ‘madness’ implies that the British Government adopted maxims that would not pass the normative standards of publicity. The object of focus here was the Blair government’s policy or maxim that in a post-9/11 age, pre-emptive force should be used to disarm a state that had used WMD in the past, sought WMD now, deceived the international community and was unyielding to existing containment programmes. Whilst this maxim does not necessarily fail the Kantian test, it may have failed a more ambitious test of deliberative democratic debate because there was no sign of consensus before war commenced. Immediately after the war Blair continued to insist that the decision to go to war was correct. Had the public debate continued, had the debate been conducted according to the terms of deliberative democracy, the reasonableness of the justification may have been settled. Alternatively, the words of Cook or Gearty above suggest that the ‘real’ reason Blair took the country to war was to maintain a close relationship with George Bush and the United States. Crucially, the question as to whether Blair really was ‘mad’ cannot be resolved on the basis of trust. The accusation of ‘mad, bad or had’ is, whilst put in different words, an attitude of distrust. The only way to resolve the question is through actual publicity qua transparency. What reasons – or maxims – were guiding the formulation of policy? Put to either a hypothetical test or critical-rational debate, do they

pass the publicity test? Only through the confession of the statesmen responsible for these decisions can the questions be resolved. Only an unveiling of the state would quell the concerns.

Secondly, ‘badness’ implies that in presenting the case for war, the government was deliberately less than truthful. Badness implies deception, in which an actor communicates messages meant to mislead the recipient, meant to make the recipient believe what the actor does not believe (Bok, 2011:13). Clare Short suggested that Blair might have considered an “honourable deception”, a noble lie designed to lead a hesitant country toward a just war (Short, 2003). Deception offends the principle of hypothetical publicity, whether in normative or actual terms, as described in the first section. Yet moreover, if the British Government did engage in deception, then it may have violated the principles of openness and sincerity upon which it distinguished itself from Iraq. Before the war, the Archbishop of Canterbury claimed, “the way in which you defend a society can affect the defensibility of that society ... it can become less morally worthy of defending” (cited in Petre, 2003). The Archbishop’s words are reminiscent of the conditions of legitimacy for war according to liberal publicity: the moral defensibility of war is partly founded in the knowledge that the liberal state operates in accordance with publicity whilst the enemy does not. If the state does not act in accordance with the principle of publicity, its wars lack legitimacy. If Gilligan’s and Short’s claims were correct, and the government had knowingly attempted to deceive the public sphere by publishing as fact information that it knew to be unreliable, Britain’s war was in danger of becoming an illiberal war. Once again, in order to quell the controversy as to whether Blair was ‘bad’, only transparency would do.



Figure 8. ‘Blair’, the front cover from *The Economist*, 5th June 2003.

Blair, the *Economist* argued, depended on his image as “a man who, in a cynical age and a sceptical country, is driven by deep moral convictions. ‘Trust me,’ he says. ‘I’ll work out the right thing to do, and then I’ll do it.’” (*Economist*, 2003)

Finally, ‘being had’ implies that mistakes were made through a lack of exposure to democratic pluralism. I am distinguishing here between ‘madness’ and ‘being had’ by differentiating between the unreasonableness of maxims (madness) and the unreliability of claims about the world (being had). An example of the latter is the view held by many individuals within the intelligence community, Number 10 and several foreign agencies that Iraq almost certainly possessed WMD. In order to avoid ‘being had’, claims about the world must be exposed to critical debate in a deliberative body encompassing a diversity of opinion. Publicity in this sense improves the reliability of claims because those judgements have been exposed to scrutiny and refutation from a wide array of perspectives in the public sphere.²⁶ By contrast, the absence of such scrutiny can only be considered just if the decision-maker(s) is infallible and omniscient. From this perspective it is deplorable for the state to secrete the knowledge and the decision making processes used by government, not simply because an individual loses his or her right to participate in public deliberation but because public deliberation is denied the benefit of what could be a unique criticism that can alter a policy for the better. After the publication of the *Pentagon Papers*, Arendt argued that over-classification damages public reason because,

Not only are the people and their elected representatives denied access to what they must know to form opinion and make decisions, but also the actors themselves ... remain blissfully unaware of them. And this is so not because some invisible hand deliberately leads them astray, but because they work on the circumstances, and habits of mind, that allow them neither the time nor inclination to go hunting for pertinent facts in mountains of documents, ninety-nine and a half percent of which should not be classified and most of which are relevant for all practical purposes. (Arendt, 1972:30)

Today, we might call this phenomena ‘Groupthink’ (Badie, 2010). Pluralism allows the political community to identify errors that we would not have found on our own, perhaps because we do not have the expertise or because we have “a truly amazing and entirely honest ignorance” of the background to an issue (Arendt, 1972:31; see also the discussion in Villa, 1992:714). In order to judge the accusation of being had, once again only actual transparency will do. We would need to know what information the government relied upon, what judgments it made on the basis of that information and, if the judgments were poor, whether those in the public sphere could have corrected those judgments.

Table 2. Pathologies of the Public Sphere before Invasion

²⁶ In words of one oft-cited thinker on the topic, “we ought to adopt the steady habit of correcting and completing [our] opinion by collating it with those of others, so far from causing doubt and hesitation in carrying it into practice, is the only stable foundation for a just reliance on it” (Mill, 2003:103).

	Suspected Pathology	Prophylactic standard of Hypothetical Publicity	Example
‘Mad’	Unreasonable maxims	Public Reason	Perception of Iraqi threat
‘Bad’	Deception	Sincerity and Truthfulness	The 45-minute claim
‘Had’	Blinkered interpretation	Pluralism	Certainty of Iraqi WMD

With trust in the legitimacy of the government’s decision to go to war in doubt, public figures began calling for some kind of “reckoning” (Danchev, 2004). In his Easter address, the Archbishop of Canterbury took to the language of Lent to express this need:

The strength of the disagreement over the processes leading up to the decision to commit troops to action cannot be undone, but lessons can be learnt from it. We need a *shared recognition* of the confusions and failures on all sides – *a shared repentance* ... some way to help gather us anew. (Williams, 2003b)

A few weeks later the BBC asked Clare Short whether she wanted an inquiry. “I just think the truth is very important”, said Short. A series of questions needed to be answered, including “were we duped” and “was there a better way that wouldn’t have lost all those lives” (Short, 2003). In the final section of this chapter I explore the inquiries that ensued. I examine how these inquiries attempted to resolve these concerns of mad, bad and had by attempted to lift the veil of secrecy and expose the state to transparency. I show how the inquiries failed to perform a sufficient act of publicity to redeem the validity claims made by the government; by trying to balance publicity against security, the questions of mad, bad and had remain.

Britain’s Season of Inquiry

The meaning of the term ‘public inquiry’ is so broad that the only shared characteristic is ‘the accident of a name’ (Wraith and Lamb, 1971); in this thesis the term refers a particular kind of ‘post-mortem’ inquiries constituted after, and in order investigate the suspicion of, and to make sense of, some controversial event or ‘State Crime’ that leads to public disquiet (Doig, 2010). In this sense, what is interesting about inquiries is that they represent existential crises in which the behaviour of the liberal democratic state does not match its self-ascribed identity. In the British season of inquiry on the Iraq War, Phythian has suggested, “the credibility of the entire political system is at stake” (Phythian, 2010:69). Inquiries are represented both as panacea and placebo: on the one hand a chance to

remedy failings and mishaps, on the other an establishment whitewash that provide only the impression that something is being done until the controversy is forgotten (Elliott and McGuinness, 2002). Public Inquiries are often ascribed reputable aims – finding facts, learning lessons, catharsis or reassurance – but they may also involve “kicking an issue into the long grass, blaming predecessors in government, making a gesture, or simply buckling to public pressure to do something” (PASC, 2005:9) Perhaps because they are only ever conducted into issues that divide public opinion, inquiries are often the subject of derision.²⁷

In order to be successful – in so far as an inquiry exists to investigate and make sense of supposed wrongdoing by the state – a public inquiry must “represent failure as temporary, or no failure at all” (Burton and Carlen, 1979:48). The inquiry must identify and allocate criticism where failings are found, but do so in a way that guarantees the legitimacy of, and renews authority in, the state itself (Gilligan and Pratt, 2004). In so doing, they reintroduce the basis of public trust. They are fora in which the state can redeem the validity of decisions taken behind closed doors. Inquiries can signal both domestically and internationally that the state adheres to liberal values of publicity. Inquiries, because they are responses to matters that generate public controversy, reflect our contemporary anxieties. They reflect aspirations as to how the political community defines itself and the qualities upon which it prides itself: “an open, transparent society where, if a disaster arises, the voices of the powerless are not ignored and the powerful are held to account” (Burgess, 2009:7; 2011:7). The practice of public inquiries reinforces the distinction between the liberal self, which attempts a performance of such values, and the illiberal other, which does not.

This kind of post-mortem inquiry has been described as the “British contribution to the legal world” (Segal, 1984:206). They are borrowed and applied by states all over the world, though particularly within the Commonwealth (See for instance Resnick, 1987; Hegarty, 2002; Anderson and Denis, 2003; McMullan and McClung, 2006; Prasser, 2006; McMullan, 2007). Inquiries into political aspects of the Iraq War are ongoing in Denmark,

²⁷ Inquiries have been criticised for a lack of impartiality, for too narrow scope, for investigative bias towards certain types of evidence, for a lack of criminal liability, for being time-consuming, for lacking a requirement to act on findings and for being “left-censored” – for only examining cases of failure and not decisions, policies or institutions that have not failed (Elliott and McGuinness, 2002:16-20; Farson and Phythian, 2010:4). These inquiries also have a long history of public scepticism, exemplified by AP Herbert’s poem on the fate of a royal commission published in *Punch*. The first verse goes: “I saw an old man in the Park; I asked the old man why, he watched the couples after dark; He made this strange reply; I am the Royal Commission on Kissing, appointed by Gladstone in ’74; The rest of my colleagues are buried or missing; Our Minutes were lost in the last Great War. But still I’m a Royal Commission, which never has made a Report; And acutely I feel my position; For it must be a crime (or a tort), To be such a Royal Commission. My task I intend to see through; Though I know, as an old politician, Not a thing will be done if I do” (cited in Lauriat, 2010).

have been completed in the Netherlands (Davids et al., 2010), whilst an Australian campaign for a public inquiry on Iraq continues today (IWIG, 2012). Inquiries, modelled on the British example, are also appearing in typically non-liberal environments, such as Sri Lanka (Silva et al., 2010) and Bahrain (Bassiouni et al., 2011), in response to public controversies.²⁸

Allaying public disquiet thus depends on the quality of actual publicity, which redeems the identity of the liberal state. There is no better illustration of this self-understanding than the words uttered by then-Secretary of State for Defence, Liam Fox, presenting the Baha Mousa public inquiry report to parliament.

In any conflict, no matter what the reason for our country's involvement and no matter how difficult the circumstances, what separates us from our adversaries are the values with which we prosecute it and the ethics that guide our actions. To represent Britain, in war as well as in peace, is to represent our inherent democratic values, the rule of law and respect for life. When those values are transgressed, it is vital that we get to the bottom of what has happened, are open about the issues and their causes, ensure that what reparations we can make are made and do all that we can to prevent it from happening again. Only in that way can we ensure that those values hold firm in how we think of ourselves and in how others perceive us. (Fox, 2011)

The emphasis on actual publicity in inquiries is not new. In 1966, the Royal Commission on Tribunals of Inquiry led by Lord Salmon – an inquiry about inquiries – recognised the importance of actual publicity “on the very rare very occasions when crises of public confidence occur” so that “the evil, if it exists, shall be exposed so that it may be rooted out; or if it does not exist, the public shall be satisfied that in reality there is no substance in the prevalent rumours” (Salmon, 1966:16). In these circumstances, actual publicity preserves “the purity and integrity of our public life” because,

It is only when the public is present that the public will have complete confidence that everything possible has been done to the purpose of arriving at the truth...When there is a crisis of public confidence about the alleged misconduct of persons in high places, the public naturally distrust any investigation carried out behind closed doors. (Salmon, 1966:38)

By contrast, an inquiry behind closed doors “will always tend to promote the suspicion, however unjustified, that they are not being conducted sufficiently vigorously and thoroughly or that something is being hushed up” (Salmon, 1966:38). Without publicity, the committee argued, public confidence could not be restored, “and without this confidence no democracy can long survive” (Salmon, 1966:38). In the section that follows I examine how the Iraq public inquiries can be understood as both a ‘probe’ and a ‘gauge’ of how the principle of publicity operates in the context of British governance. By this, I mean the

²⁸ Although the Sri Lankan inquiry was been criticised as whitewash for failing to enact a sufficient degree of independence and openness (Amnesty International, 2011)

following. Inquiries are a 'probe' because they provide "an account to the nation of the way in which the responsibilities of Government were discharged" (Danchev, 2004:438). As a probe, the Iraq public inquiries have focused, not exclusively but significantly, on the extent to which the UK government acted in accordance with the principle of publicity. In other words, a significant part of their story has been told in terms of the extent to which the British government conducted itself in accordance with the prophylactic standards of hypothetical publicity. Inquiries are 'gauge' because they are "investigations of fitness for purpose" (Danchev, 2004:438); the inquiries *themselves* can provide an indication of the capacity of the state to conform to the principle of the publicity. In this final section I examine each of the five inquiries in turn. I describe how each was established, I ask what the inquiry reported and examine how the inquiry acted as a probe of publicity, and finally I examine the inquiries as a gauge of the extent to which the principle of actual publicity was at work.

*The Foreign Affairs Committee and the Intelligence and Security Committee
(3rd June 2003 to 7th July 2003 and May 2003 to 11th Sept 2003)*

The first two inquiries were performed by standing committees. On 3rd June 2003, following the claims of Short and Gilligan, the Foreign Affairs Committee (FAC) announced an investigation motivated by the claims that Government's case for war was "not well founded ... exaggerated or embellished". If these claims were true "the war was fought on a false premise" and "parliament was misled" (FAC, 2003a:7). The terms of reference were to establish whether the government had "presented accurate and complete information to parliament in the period leading up to military action" (FAC, 2003a:7). The second investigation was undertaken by the Intelligence and Security Committee (ISC) around the start of May 2003. The ISC's terms of reference were "to examine whether the available intelligence, which informed the decision to invade Iraq, was adequate and properly assessed and whether it was accurately reflected in Government publication" (ISC, 2003:5). The FAC focussed more broadly on all the claims offered by government for war, whilst the ISC focussed only on how intelligence was collected, appraised and presented. However both investigations were concerned with the extent to which the government acted in accordance with the principles of hypothetical publicity – particularly whether the government's published claims were sincerely held and factually accurate.

Turning to the inquiries as a probe of publicity, I will discuss the FAC and ISC reports together – published on 7th July and 11th September 2003 respectively. Both committees agreed that the threat of Iraqi chemical and biological weapons was "genuinely

perceived” and well founded on available intelligence – although it was too soon to tell whether Iraq’s suspected WMD would actually be found (ISC, 2003:51). Both committees were, however, concerned by the Government’s style of presentation and use of language. For the FAC, the executive summary was notably more assertive than the justifications within the dossier itself. At times the dossier presented cautious intelligence assessments as if they could be facts established by the UN, or emphasising judgements in the summary without the significant caveats that follow in the remainder of the dossier (FAC, 2003a:30-32). Similarly, the ISC considered it “unfortunate” that the published version of the dossier did not include a sentence from an earlier draft, which made clear that Saddam could not launch a nuclear attack on London (ISC, 2003:26). The ISC also criticised the Defence Secretary, Geoff Hoon for “unhelpful and potentially misleading” behaviour by not disclosing that two members of the Defence Intelligence Staff had objected to the use of language in the dossier (ISC, 2003:30).

On the specific matter of the ‘45 minutes claim’, the FAC concluded that the claim “did not warrant the prominence given to it in the dossier”. The committee conspicuously borrowed the words of journalist Bronwen Maddox to suggest it was “simply stupid” of Blair to “flamboyantly” insert into the dossier what was simply a “banal” estimate of the length of time for an order to pass down the military chain of command (FAC, 2003a:57). The ISC adopted a more measured tone, claiming that by using the claim four times, but without pointing out that the claim only referred to battlefield munitions, the dossier encouraged speculation which was “unhelpful to an understanding of this issue” (ISC, 2003:31). For W.G. Runciman – himself previously a chair of a royal commission – this conclusion took “understatement almost to the point of parody” (Runciman, 2004:22). Neither the FAC nor the ISC found evidence of a blatant violation of the normative principles of hypothetical publicity. The government had not been mad, bad or had, but perhaps in ‘selling’ the threat the government had failed a strict duty to ensure that the public fully understood all the subtleties and caveats in the information.

With regard to the February Dossier, both committees were more critical. The FAC described the effect of the dossier as “wholly counter-productive” (FAC, 2003a:42). Both committees criticised Downing Street for not seeking wider consultation – either in the form of ministerial oversight or responses from the intelligence agencies. Furthermore, both committees agreed that by producing such a poorly drafted document, the government had undermined a small proportion of valid information concerning Iraq’s practices of concealment and deception.²⁹ Ironically, the dossier was intended to encourage

²⁹ During the committee hearings Campbell had told the committee that the dossier was his idea, the purpose of which was to “get our media to cover this issue of the extent to which Saddam Hussein was developing his

the media to consider how *Saddam* was engaging in lying and concealment (Campbell in FAC, 2003a:35), but the effect of the dossier was to cast doubt on the government's own trustworthiness.

I turn now to how the FAC and ISC can be viewed as a gauge of publicity. The conclusions of the committees varied in one important point that can be discerned from the different conclusions to the question of whether the September Dossier was 'sexed-up'. The ISC confidently concluded that the document was "not sexed-up by anyone" whilst the FAC could only conclude that "allegations of politically inspired modelling cannot be established" (FAC, 2003a:29; ISC, 2003:31).³⁰ The ISC had access to considerably more information than the FAC in order to conduct its investigation, but the ISC was also the less accountable committee. The FAC is a parliamentary select committee that meets almost entirely in public. The ISC, by contrast, was constituted by the Intelligence Service Act and is composed of members who meet *in camera* and are appointed by, and reported directly to, the Prime Minister. When ISC reports are published, the committee consent to requests by Number 10 and the intelligence agencies to redact sections of the public reports in order to conceal material which "would damage [the intelligence agencies'] work, for example by revealing their targets, methods, sources or operational capabilities" (ISC, 2013). In one example from the ISC's 2004 annual report, the farce is all too plain to see.

37. We have been told that ***
. **We are concerned that **

***. **We will return to this matter.**
(ISC, 2004:14; also cited in Danchev, 2004:453)

The redaction speaks volumes. These blacked out lines illustrate that whilst the state acknowledges the importance of actual publicity, it is suspended in order to protect the needs of 'security'.

programme and intimidation of the United Nations inspectors" (Campbell, 2003). It is the material associated with this claim that I consider the FAC to be endorsing (this material was based on publicly available reports from the UN weapons inspectors at the time.) The FAC considered the poor conduct of the dossier "diverted attention from its substance", which the committee considered "deeply unfortunate, because the information it contained was important" (FAC, 2003a:6). The ISC reported the public and parliamentary response to the deficiencies of the dossier meant that "the publicity surrounding the document was such that it devalued the input of the agencies". In a telling line, the ISC notes that the dossier was "counter-productive in that attention was distracted from the concealment, intimidation and deception of the Iraqi regime" (ISC, 2003:15). I will pursue the significance of these claims further in Chapter Three.

³⁰ Indeed the FAC was largely divided down party lines on this claim, the committee chairman casting a deciding vote to reject an alternative conclusion that the FAC was "neither equipped nor willing to arbitrate that dispute, or to come down in favour of one of the parties" (FAC, 2003a:93).

In the context of FAC and ISC investigations in 2003, the FAC complained bitterly of its lack of access to information and the lack of cooperation it had received from government. The FAC also attacked the ISC as an unaccountable body under the control of the executive. “We are strongly of the view”, the FAC protested, “that we were entitled to a greater degree of cooperation from the Government” (FAC, 2003a:7). Despite requesting the attendance of a swathe of top-level witnesses including the Prime Minister, the Head of the Joint Intelligence Committee and the Head of the Secret Intelligence Service, in the words of the report, “None of them replied” (FAC, 2003a:8). According to one senior MP on the FAC, there was an “unspoken view” within government that allowing intelligence staff to appear would compromise security (Charter, 2004).³¹ On the other hand, the ISC had access to numerous intelligence files and heard, in person, from the A-list of government and the intelligence community. In comparison to the FAC’s briefest glimpse at a single JIC assessment, the ISC had access to numerous intelligence files including no less than 93 JIC assessments – a point made by the FAC report in jealous tones,

In contrast, the Prime Minister has repeatedly said in the House that he will co-operate fully with a parallel inquiry by the statutory Intelligence and Security Committee (ISC). This is hardly surprising, since the Committee was appointed by and reports to him, and it meets entirely in private. The Foreign Affairs Committee, on the other hand, was appointed by and reports to the House of Commons, and we meet almost entirely in public. We believe our inquiry is the more credible of the two, and that it would have been in the Government’s best interests to have given full cooperation. (FAC, 2003a:8)

The ISC itself declined to comment on the FAC’s concerns, noting “it is a matter for Parliament” (ISC, 2003:56). Instead, and on this basis of its considerably greater access to evidence, the ISC passed its own ‘corrections’ of the FAC’s conclusions; in Danchev’s words, “rather in the manner of a school report; ‘could do better’ was the inescapable inference” (Danchev, 2005:235).

As an attempt to quell the public suspicion of wrongdoing, the FAC and ISC were always unlikely to succeed. Whilst the procedures of the FAC may have met with the needs of actual publicity, the committee did not have access to the official record; the ISC did have access, but its procedures were not public enough. This episode in the inquiries is the first moment in which the need to redeem the government’s claims under actual publicity –

³¹ As an aside, the FAC’s problems with transparency were not confined to the government. When the committee heard oral evidence from Andrew Gilligan about his conversation with a senior source within the intelligence community, Gilligan refused to answer questions about *his* sources identity, the date and time on which the meeting took place or any further information about the source. The committee noted the seemingly unintentional irony of Gilligan’s subsequent complaint that “the intelligence services are secret and do not like having their work exposed to the public gaze” (FAC, 2003a:47). Gilligan justified this act of secrecy on “a necessary principle of free journalism” (FAC, 2003b:1). Indeed, as I will discuss in Chapter Two, just as state secrecy serves the security of state, personal secrecy (or privacy) serves the security of the liberal citizen by providing a space in which to produce a social critique of the government.

a process vital to liberal governance – seems to clash with the enduring needs for ‘security’. Indeed Glees et al. have argued that the ISC seems to face “an impossible job in providing a convincing audit to the public at large” because “genuine public transparency in political terms can never be achieved” in relation to contemporary matters of state connected to the intelligence services. Certainly the restrictive rules of the ISC render impossible any investigation that would meet the needs of actual publicity. “How can the public be convinced that there is ever an effective audit”, Glees et al ask, “of things they can never see or judge?” (Glees et al., 2006:18) Any investigation to hold the government’s case for war to account would need to address this apparent dilemma between actual publicity and security. Certainly, the ISC was never the forum through which the government could acquit itself. The day after the ISC published, *The Times* published a cartoon that illustrates the lack of credibility and trust placed in the report.

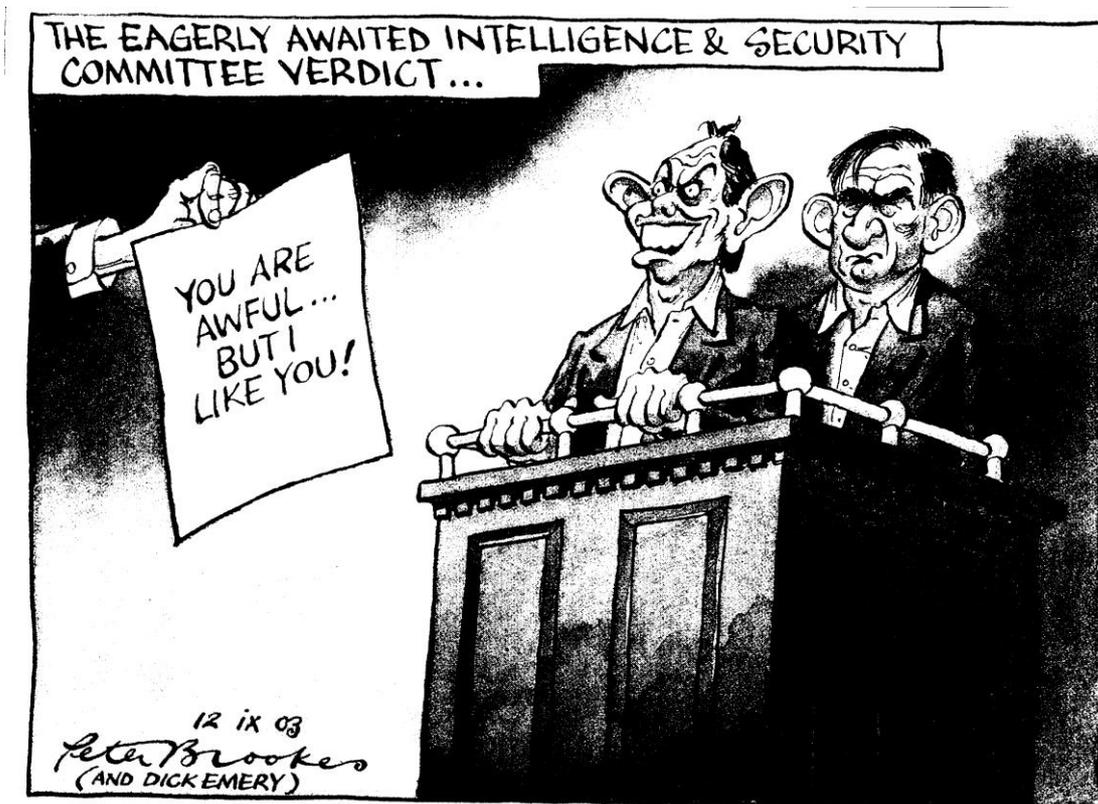


Figure 9. Peter Brookes, *The Times*, 12th September 2003

Brooke’s cartoon plays on the catchphrase of a sketch character by the comedian Dick Emery. The message of the cartoon sums up the suspicion with which the ISC was held: the ISC could have seen sufficient evidence to incriminate the government, but lacked any independence or will to do so as a committee that reports to the Prime Minister himself.

The Hutton Inquiry

(18th July 2003 to 28th Jan 2004)

On 30th June 2003, David Kelly – a UN and MoD weapons inspector – informed his line manager that he had met with Andrew Gilligan and may be the ‘official source’ behind the allegations on the BBC *Today* programme. The MoD published a press release noting that one of their officials had come forward, although the official was not in charge of drawing up the September Dossier. The MoD also decided that whilst they would not ‘out’ Kelly to the press immediately, they would confirm his name if they were asked directly – as denying a direct request would amount to patent deception of the media. The press release contained just enough information for journalists to eventually guess Kelly’s identity. Once outed, both the FAC and the ISC called Kelly as a witness for their respective hearings on 15th and 16th July, respectively. The next day Kelly was working from his home in Oxford. At approximately 3pm, Kelly left his house to walk in the woods close to his home. His wife reported him missing just after midnight. His body was found in the woods the next morning.

On 18th July Lord Hutton, a Lord of Appeal was appointed to conduct an inquiry. The Hutton Inquiry, like Butler and Chilcot, was a non-statutory ad-hoc inquiry (Gay and Sear, 2012:10). Without the political pressure, Kelly’s death could have been dealt with by a Coroner’s Inquest (Beloff, 2004:51). The inquiry was ‘judicial’ in that it was head by a judge, but Hutton had no powers to compel witnesses to attend or produce documentation. Nonetheless, Hutton claimed that the Government had promised to “provide me with the fullest cooperation and that it expects all other authorities and parties to do the same”; Hutton also announced his intention to “conduct the inquiry mostly in public” (Hutton, 2003a). The inquiry was inquisitorial but resembled common law proceedings by allowing oral testimony with examination and cross-examination (Twining, 2004:42). Hutton’s attempt to introduce the principles of open justice into this season of inquiry was significant, as I describe below.

The terms of reference were, simply, to “urgently ... conduct an investigation into the circumstances surrounding the death of Dr Kelly” (Hutton, 2004b:1). These terms left Hutton with considerable room to interpret the scope of inquiry, as he readily acknowledged: Hutton could hold a broad inquiry into the accuracy and strength of the information used in the Government’s published papers on the Iraqi threat and the case for war, or he could conduct a very narrow inquiry into the cause of Kelly’s death and any blame attached to it (Hutton, 2004b:2-3). In the end Hutton chose something in-between, deciding that he should consider those circumstances that might have had an effect on Kelly’s state of mind and influenced his actions leading to his death, and those that influenced the actions of others affecting Kelly. Thus Hutton dismissed many of the wider

questions surrounding the government's case for war.³² For Hutton the “major controversy” that had put in motion the events leading to Kelly's death was the broadcast by the BBC's Gilligan and, specifically, two of his claims: (i) that the ‘Government probably knew’, before the claim was put in the dossier, that the ‘45 minutes claim’ was wrong; and (ii), that ‘Downing Street ordered the dossier to be sexed up’. For Hutton these allegations, attacking the integrity of the Government, “drew Dr Kelly into the controversy” and were thus part of his terms of reference (Hutton, 2004b:3).

Hutton's final report ran into 328 pages. Briefly, Hutton concluded that Kelly had taken his own life and this could not have been reasonably foreseen. There had not, as had been alleged, been an “underhand strategy” by the MoD to expose him. On Gilligan's claim that the government probably knew that the 45 minutes claim was wrong, Hutton considered it unfounded; whilst some concerns were expressed by members of the Defence Intelligence Staff, the “higher echelons” including the JIC considered the claim to be reliable and were content to include it. On Gilligan's claim that the dossier was ‘sexed-up’, Hutton response is widely quoted.

The term “sexed-up” is a slang expression, the meaning of which lacks clarity in the context of the discussion of the dossier. It is capable of *two different meanings*. It could mean that the dossier was *embellished with items of intelligence known or believed to be false or unreliable* to make the case against Saddam Hussein stronger, or it could mean that whilst the intelligence contained in the dossier was believed to be reliable, *the dossier was drafted in such a way as to make the case against Saddam Hussein as strong as the intelligence contained in it permitted*. If the term is used in this latter sense, then because of the drafting suggestions made by 10 Downing Street for the purpose of making a strong case against Saddam Hussein, it could be said that the Government “sexed-up” the dossier. However in the context of the broadcasts in which the “sexing-up” allegation was reported and having regard to the other allegations reported in those broadcasts, I consider that the allegation was unfounded as it would have been understood by those who heard the broadcasts to mean that the dossier had been embellished with intelligence known or believed to be false or unreliable, which was not the case. (Hutton, 2004b:144)

In the course of the inquiry Gilligan admitted that his allegation was perceived as an allegation against the government of lying, when he had intended to accuse the government of spin. Because Hutton was focussed on Gilligan's allegation, not the wider suspicions in the public sphere, Hutton only dealt the question of whether the government had patently lied. Hutton judged that the government had not lied. The government did draft the

³² In 2004, Hutton appeared before the Public Administration Select Committee. One committee member said to Hutton that “to many people it seemed almost incomprehensible that ...the death of Dr Kelly, which turned so much on the reliability of the intelligence information that was being put out ... and also on whether the intelligence community were being asked to deliver, for political purposes, a document that they would not otherwise have produced in that way ...it seemed inexplicable that you had not cast your net slightly wider”. Hutton responded that “the question whether intelligence was reliable is, of course, a very serious question ...but an even graver allegation [the BBC's allegation] is that the government probably knew that the intelligence was wrong, and *that* is what created the major controversy, in my view, and which led on to the other events” (Hutton, 2004a). It was the actions of the BBC, rather than the Government, that Hutton considered instrumental in the circumstances surrounding Kelly's death.

dossier in such a way as to make the case against Saddam as strong as the intelligence allows – and did ‘sex up’ the dossier in this sense – but any judgement on the suitability of that drafting went beyond Hutton’s self-imposed remit. Instead, in Hutton’s eyes it was Gilligan who had committed the greatest offence. The suggestion of ‘embellishment’ once again suggests, though, that the government may have neglected the strictest norms of hypothetical publicity by focussing too much on selling the threat and not enough on being completely sincere and truthful with the public. I will return to this in Chapter Five. For the moment, the controversy surrounding the British government’s case for war continued because it seemed that Hutton had excluded the most important questions from his remit. I now turn to what the Hutton Inquiry tells us as a gauge of publicity.

On the one hand, the Hutton inquiry exposed government to actual publicity in ways that had never been seen before in a public inquiry. From the outset, Hutton took the decision that he would publish all the evidence to the inquiry on a website – with the exception of a few pages that were withheld on grounds of personal privacy or national security. The website received upward of 80,000 visits per day (Gibson, 2003). Material was set under the public gaze within weeks of its creation, instead of disappearing into the national archives for thirty years. Hutton published everything from official policy papers and memos to hastily written emails, hand written scrawls and even personal diaries. The transcripts of hearings were published almost immediately.³³ The inquiry had the appearance of “a courtroom drama” of human tragedy and high politics (Twining, 2004:44).

On the other hand, this ground-breaking openness in the inquiry goes some way to explaining how the *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly* was written off as whitewash almost the moment it was published. With oral and written evidence published on the website, members of the public could see lines of inquiry emerge, or even develop their own. However, the critiques of the government suggested by the published material had already been ruled out of Hutton’s frame of reference, which focussed solely on what Gilligan had claimed in the BBC broadcast. By ruling out wider questions about how the government used intelligence to support war, communicated the material, and the decision-making processes leading up to war, Hutton’s report would only ever be a sideshow to wider suspicions of wrong-doing (a point that the cartoonist Peter

³³ Hutton later said that he did not regard the use of the website, celebrated as revolutionary and innovative, as particularly novel. Hutton “wanted the public to hear every word that was spoken and to see every document that was put in evidence” (Hutton, 2004a). Hutton considered his inquiry akin to a court of law, and in this way continues a longstanding paradox of inquiries situated between policy and law (Sedley, 1989:469). In the “old days”, Lord Hutton noted, these documents would have been read out in court and reported in the press; posting these documents on a website instead was “merely taking advantage of modern technology to make available to the public what would have been available in the past in a rather more old-fashioned way” (Hutton, 2004a).

Brookes makes below). The unanswered question was well expressed by one scholar shortly after Hutton's report: "the events that preceded the Gilligan story were crucial and the real focus was whether or not the Prime Minister and the US president had manipulated intelligence to present a misleading justification for the invasion" (Doig, 2005:120). Whilst conducting the inquiry Lord Hutton had the appearance of a "fearless forensic investigator", yet once he published his report he was labelled "an establishment lackey" (Hutton, 2004a). Inquiries *produce* truth – a point I will consider in greater depth in Chapter Five – this truth can either validate the official account of events or it can constitute a truth that challenges the explanations offered by government. In this instance, through the openness of the inquiry, members of the public sphere had come to conclusions that Lord Hutton had ignored.



Figure 10. Peter Brookes, *The Times*, 12th September 2003

Brookes' cartoon captures the concerns of those – like Doig above – who thought that Hutton's focus on the Gilligan broadcast was just a sideshow to the story of whether the Blair government had manipulated the case for war and misrepresented the available information. These doubts were the same as those that remained after the FAC and ISC inquiries, except that the radical openness of the Hutton inquiry had hinted at particular lines of enquiry that were left unaddressed.

Presenting Lord Hutton's report to parliament the Prime Minister was immediately faced with calls for a new inquiry; one that *would* address the wider issues that Hutton had considered beyond his remit. "Is not the case for holding such an inquiry now

overwhelming?” asked the Leader of the Opposition, Michael Howard.³⁴ Tony Blair dismissed the calls for another inquiry as “blatant opportunism”, arguing that the Iraq Survey Group must complete its work before any such decision would be made.³⁵ As the parliamentary debate continued, the Speaker had to suspend proceedings for 15 minutes and order for the public gallery to be closed after seven protesters screamed, “No more illegal wars”, “Whitewash”, “War criminal” and “We want an independent inquiry, Tony” (Hall, 2004). The wait for a new inquiry would not be long.

The Butler Inquiry

(3rd Feb 2004 to 14th July 2004)

On the day that the Hutton report was published, another former weapons inspector called David Kay sat in front of another committee. David Kay – who resigned as the head of the Iraq Survey Group on 23rd January – told the Senate Armed Services Committee that he no longer believed Iraq had been in possession of illegal weapons or an active weapons programme on the eve of the war.

Let me begin by saying, we were almost all wrong... prior to the war ... my view was that the best evidence that I had seen was that Iraq indeed had weapons of mass destruction ... many governments that chose not to support the war ... referred to Iraq's possession of WMD ... it turns out that we were all wrong ... and that is most disturbing. (Kay, 2004)

Indeed Kay credited the work of the United Nations inspectors in deterring Iraq from acquiring weapons. Following Kay remarks, on 6th February, President Bush established the first and only American inquiry – the Iraq Intelligence Commission – a decision that in turn pressured the Prime Minister to set up another inquiry in the United Kingdom.

The Butler Inquiry was a Committee of Privy Counsellors – another kind of non-statutory ad-hoc inquiry (Gay and Sear, 2012:14). It was modelled on the 1982 Franks inquiry, which was established to review the actions of Government leading up to the Falklands War. On the committee, Lord Butler was joined by four other Privy Counsellors including: one Conservative MP, one Labour MP and the future Chair of The Iraq Inquiry – Sir John Chilcot. The Liberal Democrat MP was conspicuous by absence; the Liberal Democrats boycotted their invitation to participate in the inquiry for reasons that I explore below. The inquiry would have access to all intelligence material and government papers, it could call witnesses to give evidence, and work with both the American inquiry and the ISG. But it would do so behind closed doors because doing so, proponents claimed, would

³⁴ HC Deb 28 January 2004, vol 417, col 343

³⁵ HC Deb 28 January 2004, vol 417, col 304,358

allow the inquiry hearings to proceed unencumbered by restrictions on disclosure (Gay and Sear, 2012:14). Unlike the ISC report, the Butler Report would be intended to be in a form fit for publication from the start, but there were nonetheless considerations made to ensure that no part of the report would “prejudice continuing or future intelligence operations ... endanger source ... [and] not have implications for national security” (Butler, 2004b:3). The Butler Review were given terms of reference to investigate the intelligence on WMD programmes in “countries of concern” and particularly to investigate “the accuracy of intelligence on Iraqi WMD”, to examine any “discrepancies” in the intelligence gathered, evaluated and used by the Government before the conflict (Butler, 2004b:1).

I turn now to how the Butler inquiry can be read as a probe of the British state’s actions in relation to the standards of hypothetical publicity. The Butler committee published a wide-ranging set of findings and recommendations. I will focus on two points: the September Dossier and the informality of Blair’s government.

Firstly, the Butler committee, in keeping with the FAC and ISC, were concerned about the government’s use of language and presentation. In translating the September Dossier from JIC assessments, “warnings were lost” about the limitations of the available intelligence, and the language used “may have left with readers the impression that there was fuller and firmer intelligence behind the judgements than was the case” (Butler, 2004b:82). In March 2002, for instance, a JIC assessment warned that intelligence on Iraq’s weapons of mass destruction and ballistic missile programmes was “sporadic and patchy” (Butler, 2004b:81). This warning was absent from the September Dossier. Indeed the JIC’s warning jars with the claim made by the Prime Minister before the House of Commons on the day of publication, stating that the intelligence on Iraq was “extensive, detailed and *authoritative*”.³⁶ The committee held back, however, from suggesting that the dossier overtly misrepresented information or could have deceived the reader. The document “went to (although not beyond) the outer limits of the intelligence available” (Butler, 2004b:82, parenthesis original). Speaking after the report, Lord Butler put the point in less formal language:

When civil servants give material to ministers, they say ‘these are the conclusions we’ve drawn, but we’ve got to tell you that the evidence we’ve got is pretty thin’. Similarly, if you are giving something to the United Nations and the country, you should warn them. You should give the same warnings to the public as were given to ministers. (Johnson and Butler, 2004)

Despite these problems, the Butler report did not single out any particular individual for

³⁶ HC Deb 24 September 2002, vol 390, col 3

criticism. These failings were “not something that you could put at the door of a particular individual” (Butler, 2004a).

Secondly, the committee were “concerned” about “the informality and circumscribed character” of the Government’s decision-making (Butler, 2004b:148). Whilst the Cabinet discussed Iraq 24 times in the 12 months before war, the Cabinet committee responsible for defence and overseas policy did not meet once. Instead, there were 25 small and informal meetings amongst a select few ministers, officials and military officers close to the Prime Minister. The core discussions and decisions on Iraq took place in this informal setting. From this ‘sofa government’, Cabinet received “frequent but unscripted” oral briefings about Iraq from the Prime Minister, the Foreign Secretary or the Defence Secretary (Butler, 2004b:147). Despite an abundance of detailed policy papers on Iraq written by officials, these were not discussed in Cabinet. With a lack of papers, no formal meetings outside Cabinet, and only oral briefings to rely on, ministers outside Blair’s informal circle were not able to prepare adequately for debates, or “bring their political judgement and experience to bear on the major decisions” (Butler, 2004b:147). This informality “limit[ed] wider collective discussion and consideration” (Butler, 2004b:147). In the field of intelligence and security, the committee noted that “hard facts are inherently difficult to come by” and thus “the quality of judgment is ... all the more important”. Speaking after the report Butler argued that “good government” is a matter of “bringing to bear all the knowledge and all the arguments you can from inside and outside, debating and arguing them as frankly as you can, and to try to reach a conclusion”. Blair’s informal government had “too little of what I would describe as reasoned deliberation which brings in all the arguments” (Johnson and Butler, 2004). The committee were troubled by such informality, because it “risk[ed] reducing the scope for informed collective political judgement” (Butler, 2004b:148). Here, the committee’s findings clearly suggested that the Blair government violated the norms of publicity by failing to encourage a sufficient degree of democratic pluralism, opening up the possibility that the government may have been ‘had’ or may have pursued the war for reasons that were unreasonable, or ‘mad’.

As a gauge of the state’s capacity for publicity, there was one core objection to the Butler Inquiry. Perhaps surprisingly, the inquiry was not criticised for conducting itself behind closed doors – possibly because the inquiry was critical of certain aspects of the Blair government. The main criticism was that Blair had not given the country the inquiry that was needed. In parliament this objection was put forth by the Liberal Democrats, who boycotted their invitation to join the Butler committee.³⁷ Explaining the boycott, foreign

³⁷ The Conservative Party also withdrew their support of the inquiry at the later date, 1 March 2003, although Michael Mates remained a member of the inquiry. In a letter to the Prime Minister, opposition leader Michael

affairs spokesman, Menzies Campbell, argued that the remit was once again too narrow. Confined only to intelligence, the committee did not directly address “the workings of government, nor political decision making based on intelligence”. In the wake of Hutton, the “competence and judgment” of the Prime Minister and his colleagues “in the discharge of their responsibilities” were precisely the areas that demanded an inquiry.³⁸ If politicians and the political decision-making process were excluded, Campbell argued, the inquiry would be unlikely to command public confidence.

The Foreign Secretary mentioned the Franks report. Does he remember the remit of the Franks committee? It was to “review the way in which the responsibilities of Government . . . were discharged” . . . Why can we not have a remit of that breadth to deal with the matters with which we are concerned?³⁹

The Butler Inquiry may have exposed the practices surrounding the use of intelligence, but the inquiry had also stated, as was widely suggested, that the government’s decision in 2002 to pursue the enforcement of Iraqi disarmament “was not based on any new development in the current intelligence picture on Iraq” (Butler, 2004b:105). In order to understand how the decision to go to war was taken – and thus whether this decision was taken in keeping with the normative principles of hypothetical publicity – the practices of government inside No. 10 would have to be made public. In the words of one commentator, “we still have only a dusty old 60 watt bulb to illuminate . . . issues about motivation, judgement and personality” (Wilson, 2004:82). When the Butler Inquiry published its report a few commentators made sincere accusations of whitewash, but many pointed out that wider issues of government remained untouched.⁴⁰ The remaining questions were just as much about “judgement” as about truth and honesty; the outstanding question, as one member of the press put it, was whether “the threat from Saddam [was] so serious and so urgent as to justify military action then?”; by ignoring these questions, the Butler Inquiry “will not, and cannot, answer the question of why Britain went to war” (Riddell, 2004). Another wrote that “the crucial missing evidence is still what diplomatic and political advice was put forward by officials, and what legal advice was conveyed by the Attorney General. The Prime Minister tried on Wednesday to give the impression that the arguments are now closed. I do not believe that they are” (Wright, 2004). Butler had shown that the government’s informality had contributed to it being ‘had’, but questions of madness – public reason – and badness – deception – still remained.

Howard suggested that Lord Butler was interpreting the terms of reference in unacceptably restrictive fashion.

³⁸ HC Deb 3 February 2004, vol 417, col 631

³⁹ HC Deb 3 February 2004, vol 417, col 631

⁴⁰ One exception was *The Evening Standard*, which declared that Butler was “Whitewash II”



Figure 11. 'A litany of failure - but no one to blame' *The Guardian*, 15th July 2004
Few accused the Butler Inquiry of whitewash, but many were concerned that the political decision-making process had been excluded entirely from public accountability. Steve Bell here satirises Blair's comments in parliament, responding to the Butler report, in which Blair claimed that "I've searched my conscience" before defending the decision to go to war.

The Iraq 'Chilcot' Inquiry
(15th June 2009 to Present)

The Butler Inquiry did not quell the controversy surrounding Iraq. There remained a sense that "the country was moving toward a public truth in understanding how [the war] had come to pass" but "it had yet to fully arrive at it" (Phythian, 2010:66). Public suspicions were provoked during 2004 and 2005 when leaked documents suggested that Blair had committed the United Kingdom to war as early as April 2002 and that the legality of war had been in doubt.⁴¹ There was a sense of unfinished business, yet the government resisted

⁴¹ On 18th September, *The Daily Telegraph* obtained several leaked documents. One memo from Blair's foreign policy advisor, David Manning, records his meeting with US National Security Advisor Condoleezza Rice: "I said you would not budge in your support for regime change but you had to manage a press, a Parliament and a public opinion that was very different than anything in the States" (Manning, 2002). On 24th March 2005, the Foreign Office released the resignation letter of Elizabeth Wilmshurst – deputy legal advisor – under a Freedom of Information request. Wilmshurst resigned on 18th March 2003 – two days before the war – claiming that "I cannot in conscience go along with advice - within the Office or to the public or Parliament - which asserts the legitimacy of military action without [a new] resolution, particularly since an unlawful use of force on such a scale amounts to the crime of aggression; nor can I agree with such action in circumstances

calls for another inquiry by arguing that any such investigation would undermine troops serving in Iraq. By the summer of 2009, however, British troops had withdrawn from Iraq, and the pressure for an inquiry mounted. In June 2009, Gordon Brown announced a new inquiry with very broad terms of reference that *included* the political decision-making process.⁴²

It will consider the period from the summer of 2001 to the end of July 2009, embracing the run-up to the conflict in Iraq, the military action and its aftermath. We will therefore be considering the UK's involvement in Iraq, including the way decisions were made and actions taken, to establish, as accurately as possible, what happened and to identify the lessons that can be learned. (Chilcot, 2009e)

Once again, however, the inquiry would be an *in camera* committee of privy counsellors. Immediately, political opposition called for greater openness and transparency. In parliament, the leader of the opposition asked why there were no public sessions, “is that not what many will want and many will expect, and is it not part of the building of public confidence that is absolutely necessary?”⁴³ Similarly the leader of the Liberal Democrats warned against secrecy because “the purpose of an inquiry is not just to produce a set of conclusions but to allow the people of Britain to come to terms with a mistake made in their name”.⁴⁴ The newly appointed inquiry chairman, Sir John Chilcot, wrote to the Prime Minister, stating that it would be “essential to hold as much of the proceedings of the inquiry as possible in public” (cited in Wintour, 2009). Shortly afterward and under pressure from lobby groups and parliamentarians Brown announced that, as far as possible, the inquiry would be held in public. It has been suggested by one of the lobby groups responsible for marshalling parliamentary pressure for an open inquiry that MPs were particularly concerned to push for more transparency because they were smarting from the experience of the 2009 expenses scandal, and wished to avoid any connotations that parliament was once again complicit in gratuitous secrecy (Babbs, 2012).

Originally intending to report in 2011, the inquiry has been delayed into 2014. This delay is largely due to disputes over the declassification process. The inquiry and the Cabinet Office must negotiate requests for publication of official documentation that the committee wish to include in support of their conclusions (Chilcot, 2012). From the

which are so detrimental to the international order and the rule of law” (Wilmshurst, 2003). On 28th April 2005, the press obtained and published a memo written by the Attorney General at the time of the Iraq War. Contrary to his published advice on 17 March 2003, in the secret memo from 7 March 2003, the Attorney General advised the Prime Minister that the legal case for war was “unclear” (Norton-Taylor, 2005). On 1st May 2005, *The Sunday Times* published ‘The Downing Street Memo’, the minutes of a meeting held on 23rd July 2002 between the Prime Minister and senior ministers, officials and advisors; the memo notes that war was seen as “inevitable”, that the case for war was “thin”, and that in the United States “the intelligence and facts were being fixed around the policy” (Smith, 2005).

⁴² HC Deb 15 June 2009, vol 494, col 23

⁴³ HC Deb 15 June 2009, vol 494, col 26

⁴⁴ HC Deb 15 June 2009, vol 494, col 28

beginning of the inquiry, Sir John Chilcot emphasised the importance of “ensuring that our proceedings are as open as possible because we recognise that it is one of the ways in which the public can have confidence in the integrity and independence of the inquiry process” (Chilcot, 2009e).

The inquiry has not reported yet, and so it is not possible to consider the inquiry as a probe of publicity; it is possible however to consider the inquiry practices so far as a gauge of publicity. The Inquiry has, as the anecdote from Blair’s hearing in the introduction to this thesis illustrates, been frustrated by the exertion of dragging the state into the limelight. Witnesses will only appear in public and official documentation will only be published when the inquiry can agree disclosure with the Cabinet Office on the basis of a special protocol. The protocol prevents the release of any information that would, or would be likely to “cause harm or damage to the public interest”. The “balance of public interest” must weigh the normal expectations of disclosure against a list of possible harms, which include possible harm to “national security, defence interests or international relations” (Cabinet Office, 2009) The final decision rests with the Cabinet Office and on several occasions the Cabinet Secretary found that the balance of public interest was not in declassification. For instance, in relation to requests by the inquiry for the declassification of official communication between the Prime Minister and the US President, the Cabinet Office decided that the public interest in publishing particular exchanges between state leaders would not outweigh the risk of harm to the UK’s international relations that would likely be caused by the Cabinet Office authorising their disclosure (O’Donnell, 2011a). The possibility of actual publicity in the inquiry is governed according to a metaphor of balance. Actual publicity is balanced against a series of ‘harms’ that could threaten the security of the UK. Actual publicity is conceived as something that is balanced against security, the right of the public to know against the risk of harm to the well-being of the state as a result of that knowing. Where the harm or possible harm is too great, actual publicity is restrained by security.

This restraint upon openness in a self-confessedly liberal state drew much criticism. Then-leader of the Liberal Democrats, Nick Clegg, claimed that the protocols were “tantamount to Whitehall putting a blindfold over the whole process”; the inquiry committee were “allowing their hands to be bound before they ...even started work” with the government acting “as judge and jury on what will be disclosed” (Clegg cited in Grice, 2009). In the popular discourses that surround The Iraq Inquiry, the enduring veil of secrecy is interpreted as an indication that individual statesmen use and abuse official secrecy to cover-up embarrassing mistakes or actions that could not be reasonably defended in public. Examples abound in frequent accusation of inquiry ‘whitewash’

(Jenkins, 2009; German, 2012; Bennett, 2013; Owen, 2013). In the words of one commentator “the political class thinks it is above public scrutiny” (Kampfner, 2012). In the words of then leader of the Liberal Democrats and now Deputy Prime Minister, “the acid test for the Chilcot Inquiry for its legitimacy and cathartic value, for a country still trying to grapple, to come to terms why we went into Iraq in the way that we did, is it needs to be fully open” (Clegg cited in Bingham, 2010). On 4th November 2013, the tension between these apparently competing demands for publicity and secrecy reached a peak. The Chairman of the inquiry wrote to inform the Prime Minister that the inquiry could not complete its report until a satisfactory agreement could be reached between the Inquiry and the Cabinet Office on the disclosure of “difficult documents”. The Inquiry wish to publish some 200 records of Cabinet-level discussions, 25 notes from Tony Blair to George Bush and 130 records on conversations between either Tony Blair or Gordon Brown and George Bush. In early 2014, sources within Whitehall suggested that some compromise agreement had been reached, and that the report would be completed in a redacted form.



Figure 12. Daily Mail, 19th June 2009.

This cartoon appeared in the Daily Mail shortly after Gordon Brown announced an *in camera* inquiry. The message is not subtle: redaction in the name of security is being used to cover up the truth about the decision-making process leading up the war in which public trust was abused. The official forum for practicing actual publicity is severely limited by the state, apparently in the interests of the state.

Concluding Remarks

The controversy of British participation in the Iraq War can be explained through a suspicion in the public sphere that the Blair Government violated the principles of hypothetical publicity through unreasonable policies (madness), lying (badness) or a lack of pluralism (being had). In order to quell these suspicions and re-establish public trust, the state had to subject itself to enough actual publicity as to show that any failings, if they existed, were identifiable and repairable. Yet of the five inquiries into the Iraq War, all have failed to re-establish trust. The first two inquiries, by the parliamentary Foreign Affairs Committee and the Intelligence and Security Committee, both failed to provide a convincing account. This was because one inquiry was not provided with enough access to government, whilst the other was conducted in secret and subject to control from the executive. The needs for actual publicity were positioned in opposition to the needs for security. The next two inquiries failed to address all the areas of controversy. The third inquiry, the Hutton inquiry, opened the state up to actual publicity in radical ways but was confined to such a narrow remit that it served only as a sideshow to the public's concerns. A fourth inquiry, the Butler inquiry, exposed a failure to enact the principles of publicity in relation to the presentation of intelligence and the use of the Cabinet but, like Hutton, did not expose the actual decision-making processes of the Blair government to scrutiny. The fifth inquiry has yet to report, but it has been significantly delayed by a tension. On the one hand, the committee have attempted to conduct proceedings in public and published as much evidence as possible. On the other hand, the Cabinet Office claim that this openness must be weighed against the likely harm that it might cause to the public interest. Actual publicity must be balanced against security concerns.

This apparent 'dilemma' between actual publicity and security constitutes the puzzle for the remainder of the thesis and raises a series of questions to be dealt with in the forthcoming chapters. The first of these is whether actual publicity *must* be opposed with and restrained by security. In the next chapter I present an alternative account in which publicity *and* security can both be regarded as part of the governing technologies that support the liberal state. From this basis, the thesis will show how either actual publicity or political secrecy can be positioned at the expense of the other depending on how either can be constructed as a technology to secure the needs of liberal governance or a source of insecurity to those needs. This allows us to see how the British government can construct the Iraqi threat out of secrecy *and* can still legitimise its own official secrecy indefinitely, and how the public inquiries re-inscribe some of these conditions of liberal governance.

Chapter Two

Understanding Publicity and Secrecy as Co-constitutive of Liberal Security

In some countries secret intelligence is used to control their people – in ours, it only exists to protect their freedoms ... We should always remember that terrorists plan to harm us in secret, criminal networks plan to steal from us in secret, foreign intelligence agencies plot to spy on us in secret, and new weapons systems are devised in secret. So we cannot protect the people of our countries without devising some of the response to those threats in secret.

- William Hague, Foreign Secretary, 26th June 2013 (Hague, 2013)

This assertion, however, assumes that the state is either incapable of error or incapable of advertent or inadvertent wrongdoing. Surely, on reflection, the Foreign Secretary will accept that law-abiding citizens of this country also want to know and be assured of the fact that the agencies of government are themselves law-abiding

- Douglas Alexander, Shadow Foreign Secretary, 10th June 2013.⁴⁵

Introduction

In the previous chapter I explained how political secrecy could be compatible with liberal governance and a distinctively liberal way of war. The citizenry can trust the government to conduct itself in secret on the assumption that the government conducts itself in accordance with the norms of hypothetical publicity. Actual publicity serves as a form of retrospective validation of this trust, particularly where the citizenry have reason to doubt that the government may have neglected to act in accordance with these norms. The problem, as I subsequently described, is that the public inquiries into the Iraq War have been unable to enact this retrospective validation because of the endurance of official secrecy. This official secrecy is justified by a claim to security, and that the benefit of actual publicity is outweighed by the harm to security. Actual publicity undermines security; political secrecy helps maintain security. This discourse is not isolated. During the summer of 2013, the foreign secretary made a speech in response to the Snowden disclosures – an extract of which is included above – that justified political secrecy in the name of security. In 2010, the Chief of the Secret Intelligence Service appeared in public for the first time, ironically to defend the organisation's need for secrecy. In all these instances, the same language of balancing publicity and security is deployed.

In this chapter I argue that this is not the whole story. I ask whether liberal governance requires this trade-off between actual publicity and security, and what role practices of actual publicity and political secrecy play in the constitution of liberal security. I claim that actual publicity and political secrecy are *co*-constitutive of liberal security. There is no necessary trade-off. This co-constitutive relationship, furthermore, is embedded in the

⁴⁵ HC Deb. 10 June 2013, Vol. 564, Col. 34

history of liberal governmentality. Following Foucault, the overarching aim of the liberal state is a balance between too little and too much government in the pursuit of economic circulation. Intertwined in this aim are two rationalities of government and two subjects of security. One rationality is secured through political secrecy; one is secured through practices of actual publicity. Both are required in the pursuit of this overarching aim.

The argument of the chapter is set out as follows. The first section of this chapter describes the conceptual and methodological framework. Security is always tied to a particular theoretical outlook; security is always security of a particular subject. Borrowing from Huysmans and others, I understand ‘security’ as a “thick signifier” (Huysmans, 1998b). This means that security refers to rationalities of government and problematisations that *produce* subjects that need to be governed, produce objects that pose a threat to that subject, and produce technologies that mediate the relationship between this subject of security and this object of insecurity. Political order objectifies uncertainty as problems that can be mediated. This means that, on the one hand, ‘security’ is in one sense a contested concept, but on the other hand, contemporary accounts of the subject of security are rooted in the same underlying dynamic of modernity, to protect the political community from objects of uncertainty – an act of mediation which itself serves to mediate the fear of death. In the second and third sections of the chapter I build on Foucault’s genealogy of governance to trace the emergence of two rationalities of governance. Each rationality of governance does three important things. Firstly, each rationality produces a problem that governance ought to be concerned with, and a subject through which that governance should occur. Secondly, each rationality produces an object of insecurity that threatens the subject, and a technology of governance to mediate that insecurity. Thirdly, in each case the problem of uncertainty reappears.

Thus, the second section of this chapter traces the emergence of *raison d’État* in the fifteenth and sixteenth centuries. According to this rationality, the subject of security is *the state*. The problem for governance is the preservation and management the state, coupled with the production of a citizenry who link their wellbeing to the wellbeing of the state. This intensifies the need for good economic management of the state. One of the ways to preserve the state is through the collection of factual knowledge about the content of the state – wealth, resources and so on – which can be used to predict the field of possible action and plan the future. But this need for factual knowledge produces the need for political secrecy as a technology of governance. Preserving the state in this way, particularly in an atmosphere of European competition, can only work if this factual knowledge is kept secret. This rationality of governance relies on political secrecy as a technology of security, constituting security of the state by protecting the competitive

advantage of this factual knowledge about the state's strengths and weaknesses. Yet *raison d'état* also produces insecurity, namely that the mysteries of the state constitute a hidden space, exempt from civil law, in which rulers can abuse secrecy for personal gain.

The third section of this chapter explores the emergence of liberalism as a response to these new insecurities surrounding *raison d'État*. For this rationality of governance the subject of security is the *liberal citizen*. *Raison d'État*, according to liberal governmentality, is always at risk of trampling upon the liberties and 'natural' economic processes of civil society. This risk is important because good economic management depends on these liberties and natural processes. The state cannot always know or always pursue the best course of action. Instead matters of public policy ought to be exposed to public opinion. The norms of hypothetical publicity constitute the conditions for good governance; democratic rights facilitate the involvement of the liberal citizen in a societal critique of the state. In this context political secrecy is increasingly distrusted as a source of insecurity because it constitutes a space where the iniquitous and the inept may not self-govern and may not practice the norms of hypothetical publicity. This insecurity must be mediated in some way, thus the assumption of hypothetical publicity is backed with a disciplinary technology: the gaze of actual publicity. Drawing on Bentham's writings on the political assembly, I show how actual publicity gives statesmen the impression of constant surveillance and compels statesman to act in accordance with norms of hypothetical publicity.

Yet the technology of actual publicity constitutes a new insecurity, just as political secrecy had done. With no place for secrets actual publicity can threaten the political community; the publication of information about personal information or military planning could threaten both the security of the state and the security of the liberal citizen. The goal of liberal governmentality is thus a balance between 'too much and 'too little' government: just enough government to support the exercise of liberties and economic circulation, not too much government that this circulation is inhibited. This leads to a need to balance insecurity of actual publicity and the mediating effects of political secrecy against the insecurity of political secrecy and the mediating effects of actual publicity. This is not a trade-off between publicity and security. The importance of hypothetical publicity remains constant. It *is* a trade-off between two technologies of security: political secrecy and actual publicity – both of which constitute liberal security and both of which threaten to destroy it. Liberal governance does not begrudgingly accept the need for political secrecy; it actively requires it. The practice of actual publicity or political secrecy is not about being more or less secure, more or less liberal. Instead it is a matter of two different ways of mediating insecurity.

The Meaning of 'Security'

The meaning of the term 'security' is varied and contested. We can distinguish three in the realm of International Relations and Security Studies scholarship (Huysmans, 1998b). Firstly, 'security' can denote a definitive statement that is fixed within a particular research agenda. Walt, for instance, suggests that 'security' refers to "the specific policies that states adopt in order to prepare for, prevent, or engage in war" (1991:212). Secondly, 'security' can refer to a conceptual analysis that distinguishes between the varied meanings according to questions such as: 'security for whom?' 'Security for which values?' 'Security from what threats and by what means?' (Baldwin, 1997; Huysmans, 1998b). Thirdly, 'security' can be understood as a 'thick signifier'. The difference between the second and third meanings is subtle but important.

On the one hand, understanding 'security' as a conceptual analysis requires the researcher to differentiate and clarify competing definitions of security (for instance, the difference between 'national security' and 'societal security'). A conceptual analysis explains how any 'security story' must include a definition of a threat, a referent object and set of behavioural responses toward the threat. On the other hand, understanding 'security' as a 'thick signifier' requires the researcher to consider how a particular conceptualisation of 'security' produces and reproduces a rationality of governance for the political community, "a specific metaphysics of life" that "defines our relations to nature, to other human beings and to the self. In other words ... [it] brings us to an understanding of how the category 'security' articulates a particular way of organizing forms of life" (Huysmans, 1998b:231). The point is that when understood as a thick signifier, a given approach to security is located within and *produced* by a particular and contingent way of thinking about legitimate forms of political life and how to govern them.

Securing Knowledge; Mediating Uncertainty; Governing Insecurities

In order to grasp how security can be a 'thick signifier' of these rationalities of governance, three points are important. The first point is that security discourses are productive. A state of security is not perceptible in an Archimedean point. Rather, discourses of security establish what it means to be secure and these discourses constitute *insecurity* conditions (Huysmans, 1998b:232). Security "is neither an ontological predicate of being, nor an objective need" (Dillon, 1996:16). Security discourses do not identify particular values from objective philosophical or scientific processes but emerge from "an interlocking system of knowledges, representations, practices, and institutional forms" that imagines and directs

political order (Burke, 2002:2). This understanding changes the normative implications of studying security. A Security Studies that purports to identify threats ‘out there’ and help the political community formulate counter-measures is actually re-inscribing the production of (in)security conditions. In contrast, understanding security as a thick signifier turns the study of security into an attempt to “lay bare the political work of the signifier security, that is, what it does, how it determines social relations” (Huysmans, 1998b:233). Thus, the question of ‘security for whom?’ – security of the state or security of the individual, for instance – is a product of how security discourses articulate a particular political order. Mainstream security studies with its competing conceptualizations of security for different referent objects represents the terrain upon which different approaches to political order are contested, and what we gain by approaching security as a “thick signifier” is the examination of the constituent elements that account for the historical emergence and operation of all these approaches.

The second point concerns the question of the ontology, or nature, of ‘security’ itself. This question must be answered because ‘security’ must retain some unifying meaning in order to be of any use (Dillon, 1996:16). Various issues are suffixed with “security” – national security, economic security, social security, environmental security, food security, transport security – so what does the word ‘security’ add? The answer is that security discourses mediate fear for the political community. The knowledge produced by security discourses, the *arche* for the foundation of the political community, provides a ground “on which we can set out without *fear*” (Leibniz in Dillon, 1996:13).

Following Huysmans, we can say that securing truth is closely connected to practices of survival and the fear of death (Huysmans, 1998b:235). Social and political order is structured by a fear of death at the hands of, or inflicted by, other humans. Yet who to fear – that is who could inflict death and who could be trusted not to do so – is uncertain. Thus political order is defined by a ‘double fear’: in the first instance there is a fear of death, but this fear necessarily produces a second-order fear of who or what could be the source of death. Thus the political community is plagued by a fear of the unknown, a fear of uncertainty. This is “an epistemological fear – a fear of not knowing” (Huysmans, 1998b:236). In modernity a shift occurs from accepting death and uncertainty as an inherent condition of life. Death and uncertainty become something that can be avoided; this aversion takes place through securing political knowledge that externalises and objectifies death.

The abstract notion of death becomes concrete through identifying the objects to be feared (e.g. another state, human beings or God). This provides human beings with the possibility of postponing or, at least, mediating their relation to death by countering or moderating

the pressure of the object of death (e.g. by countering the threat of another state by arming, or moderating a fear of God through praying). (Huysmans, 1998b:236)

This is why security is metaphysics. The solution to the ‘double fear’ lies in the production of metaphysics – a foundation of truth about reality from which it is possible to locate some means of mediating the fear of not knowing. In this way security is essential part of political thought because it provides “an overarching political goal and practice that guarantees existence itself” (Burke, 2002:3) (Dillon, 1996:13).

Thirdly, security discourses must produce objects of insecurity and strategies to govern those objects. This is why the *arche* is important – it lays the foundations for “drawing a boundary between those-one-can-trust and those-one-fears ... [it] moderates the fear of uncertainty” (Huysmans, 1998b:235). Behind any security discourse is a political community that seeks to

create objects about which they can develop ‘true’ knowledge. The general category of death is displaced by concretized dangers, inimical forces ranging from the devil to criminals and rival states ... the fear of the unknown transcends into a fear of the concrete enemy or danger. The mediation of one’s relation with this ... becomes the primary problem. Institutional rationality plays a crucial role in this ‘secondary’ mediation in modern, industrialized societies. For example, medical sciences develop knowledge about disease in order to be able to formulate effective counter-measures as a part of an overall strategy to postpone death as long as possible. The state produces intelligence about rival states to be able to prepare itself against possible aggression. It also produces weapons technology to secure itself, or historical knowledge to learn how to deal with adversarial relations in international society. (Huysmans, 1998b:237)

It is these practices of objectifying and mediating fear that forms a people, *and* the limits to that people. The production of an object of fear leads to institutions and policies of governance. The need for medical science or intelligence services arises from the objectification of disease or espionage. A political community is formed “in the tragic denials of the (in)security of mortal life”, that is, insecurities produced by the economy of political knowledge to objectify the unceasing uncertainty of death (Dillon, 1996:35). The formulation of threats serves to mediate death by “guaranteeing the possibility of determinacy” (Huysmans, 1998b:240). Thus “a people ... are actually formed by attempts to extirpate the ‘foreign, strange, uncanny, [and] outlandish” (Nietzsche in Dillon, 1996:35). The mediating agent of security must act against objects that are definitively identified as threatening according to a particular rationality of government, but the agent must also act to mediate the ‘strange’ phenomena that “express the possibility of chaos from within the existing order” (Huysmans, 1998b:240). Our need for knowledge is the “need for the familiar, the will to uncover everything strange, unusual, and questionable” and turn it into “something that no longer disturbs us” (Dillon, 1996:17). Our need for knowledge is directly linked to “the instinct of fear”; and the will to truth is intimately linked to the will

to secure (Nietzsche in Dillon, 1996:17). Modernity is marked by a “quest for certainty” (Williams, 1998).

Interestingly, when understood in this way, the discourses of security that endure over time do so, not because they are successfully able to obliterate an object of insecurity, but because they *unable* to do so. Campbell notes the irony that “the inability of the state project of security to succeed is the guarantor of the state’s continued success as an impelling identity. The constant articulation of danger through foreign policy is thus not a threat to a state’s identity or existence: it is its condition of possibility” (Campbell, 1998:12). Security discourses endure so long as they remain capable of identifying objects of insecurity and plausible ways of mediating that object, regardless of whether or not the object is successfully confronted.

Method: Tracing the Problematisation of Secrecy and Publicity

One response to this understanding of ‘security’ has been to look for ways of overcoming this metaphysical discourse of security that defines modernity, or of rewriting it with the aim of quelling the violence committed in its name (Dillon, 1996:25). That is beyond the scope of this thesis. Instead I aim to show how attitudes toward the insecurities of publicity and secrecy emerge and are legitimated as a true or false approach to political order. In so doing, I draw on a Foucauldian understanding of security. ‘Security’ was never the object of sustained analysis for Foucault. Rather it was often in the background of Foucault’s studies of, for instance, sexuality, military organisation or (neo)liberalism (Foucault, 1979; 1990a; 2003; 2007a; 2008). Security contains no intrinsic quality except to refer to particular, historically contingent strategies of government that emerge from particular problematisations, sustained by a diverse set of discourses and practices held together by relations of power. Foucault was not searching for a solution to the problem of security but rather a “genealogy of problems, of problematiques”. The impetus for this project was the claim that everything is not bad but “everything is dangerous, which is not exactly the same as bad.” If accounts of what it means to be ‘secure’ are taken to be objective and universal, then the strategies of exclusion and mediation pursued in the name of securing the political community from the object of insecurity are naturalised. Foucault thus pursued a project of “hyper- and pessimistic activism” (Foucault, 1997b:256). Critique was a matter of studying the historically contingent ways in which certain objects were constructed as threats, and how this accompanied a certain way of governing the political community. A critique of security discourses must be considered:

not as a theory, a doctrine nor even as a permanent body of knowledge that is accumulating; it has to be conceived as attitude, and ethos, a philosophical life in which the critique of what we are is at one and the same time the historical analysis of the limits that are imposed on us and an experiment with the possibility of going beyond them. (Foucault, 1984b:50)

A given rationality of governing – or ‘governmentality’ – leads to the production of certain objects as representative of insecurity, but Foucault sought to show how these historically situated rationalities placed contingent limits upon what we think of as possible political orders. In the next few paragraphs I will explain the Foucauldian concepts of ‘power’, ‘governmentality’ and ‘problematization’, and how these concepts provide a methodological project for the remainder of the chapter.

Firstly, Foucault’s conceptualisation of power supports the understanding, above, that security discourses produce political knowledge. The Foucauldian approach to power breaks with the “strangely restrictive” juridical concept of power as repressive, uniform rule-based prohibition which “can do nothing but say no” (Foucault, 1990a:83). Instead Foucault understood power as “not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategical situation in a particular society” (Foucault, 1990a:94-95). Foucault advances five propositions for power: (i) it cannot be possessed; (ii) it is internal to the relations and interactions between subjects; (iii) it is not exerted solely from above, rather it comes from below and from every point in society; (iv) it is intentional but non-subjective, which is to say there is a strategy to power but no subject is masterminding its design; (v) resistance is part of power relations (Foucault, 1990a:94-95). Every relation of consent, silence or resistance is a relation of power – never a lack.

Secondly this brings us to ‘governmentality’, which can be understood in two ways. In one sense the term refers to the “conduct of conducts”. Governmentality “shapes the possible field of action of others” without the use of force (Foucault, 2001b:341; Foucault, 2008:186). Broken down into simple steps, governmentality refers to:

- (i) a calculated and rational activity undertaken by a multiplicity of authorities (such as the institutions of a state),
 - (ii) that, through techniques of governance and led by forms of knowledge,
 - (iii) seek to shape the conduct of actors through their desires, fears, interests and beliefs,
 - (iv) for particular but not permanent or universal ends,
 - (v) which can lead to unpredictable consequences.
- (Based on Dean, 2009:266)

‘Conduct’ concerns our behaviours and actions, and it extends beyond those extreme actions that contravene law into the subtlest social etiquette and norms by which behaviour can be judged. These norms are “moral” in the sense that they concern “what constitutes

good, virtuous, appropriate, responsible conduct of individuals and collectives” (Dean, 2009:11-12). This understanding of governmentality may seem so broad as to be tautological, but it is not “a catchall term” (Walters, 2012:11). As an activity that “structure[s] the possible field of action” (Foucault, 2001b:341), governmentality must shape how individuals exercise their freedom. In this way, governmentality is not about “states of domination” (Foucault, 1997a:299). The subject of power is encouraged to act in a particular way but is never forced. There is always the possibility that the subject of power could act or think otherwise, the strategic function of governmentality is, however, to ensure that this choice is not taken (Dean, 2009:23). In this way governmentality concerns how certain rationalities of government emerge and are practised; these mentalities are a collective way of thinking that is embedded in forms of knowledge that are available and given to us. These ways of thinking are often taken for granted, but as “arts of governments” are the results of “considered and calculated” refinement which we reinforce through everyday life (Foucault, 2001b:341; Walters, 2012:12).

This leads us to the manner in which Foucault’s studies of governmentalities take place through problematisation, which is a matter of studying “how... certain things became a problem” (Foucault, 2001a:171), or identifying “the development of a domain of acts, practices, and thoughts that ... pose problems for politics (Foucault, 1997c:114). Foucault examines how, for instance, certain behaviours become problems of madness and mental illness “arising out of social and medical practices” that define norms of being (Foucault, 1990b:12). Certain ways of thinking about and understanding the world around us lead to ‘events’ where forms of behaviour or phenomena become problematic, where previously they had been unproblematic. Designating particular phenomena as problems is a step in turning them into governable entities through new political rationalities and technologies (Bonditti et al., 2014).

Studying problematisations, Foucault remarks, is the “proper task of a history of thought... to define the conditions in which human beings ‘problematise’ what they are, what they do and the world in which they live” (Foucault, 1990b:10). The source material for such investigations can be political thought. The philosopher is a security expert because s/he tells you how to be secure and constructs, rather than passively describes, a ‘subject of security’ (Walker, 1997). By looking at political thought, we can ask “from whence does the demand for security arise? How does security secure? What does security secure? What is securing? Who is secured?” (Dillon, 1996:34).

Modern accounts of security are precisely about subjectivity, subjection, and the conditions under which we have constructed as subjects subject to subjection. They tell us who we must be. And then they offer to tell us how we might stay this way. (Walker, 1997:72-73)

[I]n the process of saying what we are menaced by, and in the course of harnessing means for dealing with whatever that is said to be, a politics of security, constituting and mobilising difference, imparts forms and character to human being and to its forms of life. It specifies who we are, and what we are allowed to be, by teaching us what to fear about what we are not. This is by no means a negative affair. Fear is an education in what we are not, what we do not have, what we are supposed to care for and to care about, whose lack, or the fear of it, is so integral to the pursuit of security. (Dillon, 1996:34)

Once these standards are known, the security project intensifies as governmental practices must locate and police these standards so that they are not lost or forgotten. These accounts of security, moreover, can only provide inclusivity and unity through a stark division between the inside and the outside – whether articulated in terms of space or territory, in terms of time or in terms of normative behaviours that express what it means to be secure; there is always a “potentially violent inscription” (Walker, 1997:78). In this way, force returns to politics in response to those subjects that refuse the forms of behaviour invited by governmentality – I will discuss this further in Chapter Three. The function of ‘security’ can now be simplified as follows.

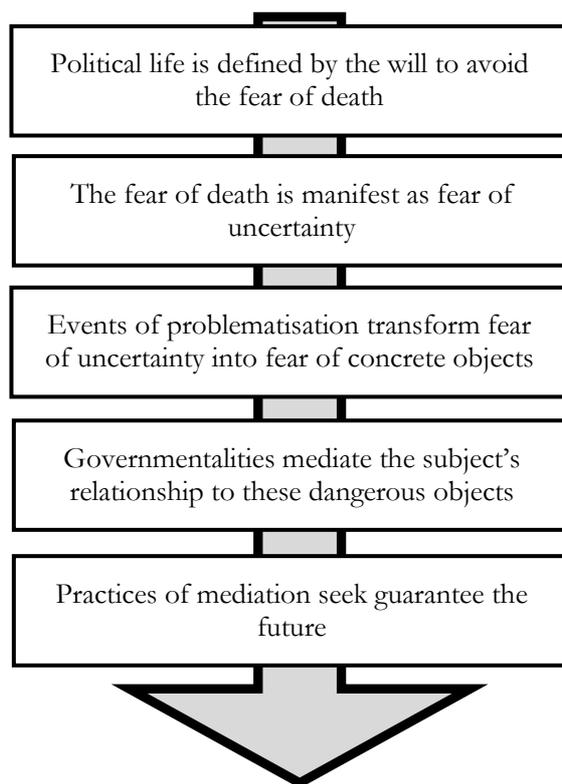


Figure 13. The Function of ‘Security’ in Modernity

We can also summarise the methodological approach for the remainder of the chapter in three steps. Firstly we must examine how objects, practices or behaviour became a problem for governance. Secondly we must identify a series of events whereby a solution emerged. By taking these first two steps, we can expose the emergence of a problem and a solution

as contingent. In this way, it is possible to de-naturalise ways of thinking and governing that we take for granted. It opens up possibilities for thinking and acting otherwise so as to “allow for a reconsideration of one’s world and one’s place within it” (Bonditti, et al., 2014). I will also add a third step. The emergence of a solution in response to a problem of governance is intended to remove uncertainty about the future, but I will suggest in the remainder of the chapter that uncertainty returns in the form of insecurities generated by the governing solution itself. In other words, the technology of governance intended to solve or manage the problem does itself generate new problems to be solved.

The remainder of the chapter is set out as follows. In the next two sections I examine the emergence of *Raison d’État* and Liberalism as respective rationalities of government. In undertaking this task I draw on Foucault’s own genealogical work, supplemented with readings of the political thought of Bacon, Hobbes, Bentham and others. In each section I examine how each rationality produced a specific problem: for *raison d’État* this was the problem of the state and the threat of the public to the state, whilst for liberalism the problem is the potential for abuse and incompetence in secret government. I then examine how a technology of government emerged to manage that problem: for *raison d’État* this technology was political secrecy – or *arcana imperii*, for liberalism it was actual publicity. Finally in each section I show how the exercise of political secrecy and actual publicity sought to secure the political community, but by so doing generated new sources of uncertainty. In so doing I show how both secrecy and publicity can constitute security of the subject: the security of the state or the security of the liberal subject.

Raison d’État* and the *Arcana Imperii

This section is structured in three sections. Firstly, I will describe how *raison d’État* emerged as a political doctrine focused on the preservation of the state. This produced the problem of the ‘public’ in two senses: quelling seditious attitudes required government to shape the interests of public to correspond with the prosperity of the state, but the preservation of the state demanded the collection of factual knowledge that was only valuable if it was kept secret. Secondly, I show how *raison d’État* led to the association of political secrecy with the security of the state and the association of publicness with insecurity. Finally, I explain that whilst political secrecy was intended to secure the state from uncertainty, a new uncertainty appears in the problem of exceptionalism. *Raison d’État* requires matters of government to be shielded from public view, yet this leaves uncertainty in the mind of the governed as to whether the sovereign acts for the common good or personal gain.

The Problem of Preserving the State from the Public

The emergence of *raison d'État* coincides with a decoupling of sovereignty from “pastoral power”, according to which the purpose of rule was “to govern men in their daily life on the grounds of leading them to eternal life in the other world” (Foucault, 2007a:199). Various “counter-conducts” challenged the pastoral authority of the church and shattered the natural order upon which sovereign authority lay (Foucault, 2007a:196, 201-16).⁴⁶ With the focus of the political community no longer directed toward the salvation of the subject in the afterlife, *raison d'État* scholars were concerned that the state would be directed by little more than the capriciousness and impulsiveness of the Machiavellian prince. In order to prevent this fate, the doctrine of *raison d'État* emphasised the preservation of the state as a “specific and discontinuous reality” (Foucault, 2008:4). Rather than focus on the maintenance of territory – whereby “the Prince exists in a relationship of singularity and externality, of transcendence, to his principality” (Foucault, 2007a) – sovereignty ought to be concerned with governing the objects within a territory – such as the behaviour of inhabitants and the use of resources – much like a master governs a household (Viroli, 1992;Foucault, 2007a).

The doctrine of *raison d'État* carried important implications for “common people” (Foucault, 2007a). For Machiavelli, the people were essentially passive instruments of the Prince or the nobles, but according to *raison d'État* “the people must be the object of government” and “one must think about the people and have them constantly in mind” (Foucault, 2007a). Whilst the nobles can be bought or beheaded, a similar strategy cannot work with the entire population. The people, Foucault remarks, “are really difficult and dangerous” (Foucault, 2007a). Drawing from the work of Francis Bacon, Foucault suggests that sedition comes to be seen as a natural phenomenon to be governed. *Raison d'État* “must act on the consciousness of people” so that “their opinion is modified... along with their opinion, their way of doing things, their way of acting” (Foucault, 2007a). By acting on public opinion, government must conduct the conduct of others by producing economic and political subjects. For Bacon this was a matter of breaking up factions adverse to the state, but also allowing a “moderate liberty for griefs and discontentments to evaporate” and “nourishing and entertaining” the hopes of men in order to avoid discontentment (Bacon, 1998a). Quelling sedition also required prudence in policy-making. The remedy to the problem of sedition is found in the domain of the economy – governing

⁴⁶ These counter-conducts included the Reformation, secular revolutions, the establishment of secret societies, and the scientific revolution.

sedition is a matter of removing its material cause, namely “war and poverty in the estate” (Bacon, 1998a). Combating sedition was a matter of maintaining good economic circulation. Governing according to *raison d’État* is a matter of “arrang[ing] things so that the state becomes sturdy and permanent, so that it becomes wealthy, and so that it becomes strong in the face of everything that may destroy it” (Foucault, 2008:4).

The work of Thomas Hobbes can be read as part of the emerging discourse on the importance of *Raison d’État*, further illuminating Foucault’s identification of the public as a problem of government. Hobbes sought to justify political authority and dispel sedition by creating citizens with a material understanding of the self and of self-interest (Williams, 1996). Hobbes presents his ‘state of nature’ as a projection of what life would be like without modern subjectivity (Neal, 2010), and that life is characterised by endless and violent competition over ways to give meaning to and to give order to life. In other words, individuals in the state of nature have no epistemic or moral certainty. *Leviathan* serves as a warning about what life must have been like before modern subjectivity was imposed by a sovereign authority (Hobbes, 1988:89): a first order fear of death and a second-order fear of uncertainty are presented as conditions of pre/exo-modernity that characterise the state of nature (Williams, 1996; Neal, 2010). Thus Hobbes suggests that political order is only possible through the social contract, which provides stable epistemic and moral knowledge through the imposition of a regime of truth and power by a sovereign authority (Spieker, 2011). The sovereign establishes the conditions for the “common rules for all men”, including “what’s just, what’s unjust, what’s honest, what’s dishonest, what good, what evil; that is summarily, what is to be done, what to be avoided in our common course of life” (Hobbes, 1993:244). By constituting citizens as materially self-interested rational individuals, Hobbes sought to marginalize the political significance of religious or spiritual debates concerned with ideas of salvation, faith or conscience (Williams, 2005:33-34).⁴⁷

Teaching the citizens to behave in accordance with material self-interest, however, imposes limits on how the sovereign ought to govern. While the sovereign can act it any

⁴⁷ Hobbes introduces a distinction between knowledge based on perception – passion – with rational knowledge that carries no concrete link to objective reality and is merely a set of formal definitions and relational rules which govern the production of meaning. This rational knowledge provides truth as “not an objective characteristic of things”, which is impossible, but rather “a set of accepted and logically related frameworks of definitions and reference” (Williams, 2005:23). Through a materialist ontology the validity of knowledge claims, and thus sovereign adjudication upon such claims, are limited through a sovereign of material self-interest. Indeed Hobbes argues that the citizenry must be taught that ‘truth’ is relative and there is no means of arbitration without the sovereign, thus that peace and security is only attainable in the Commonwealth. Waldron is concise: subjects “will not be able to understand why bickering about... ‘true meaning’ is a threat to peace unless they grasp that the term has no true meaning except by virtue of a sovereign stipulation” (Waldron, 2001:468). The citizenry have to be taught and persuaded that the rejection of passion and the embrace of the sovereign’s reason was the only way to build a stable political order. Citizens must “have literally learnt to think of themselves and their worlds in terms of objective material calculation” (Williams, 2005:38).

way it chooses, a prudent sovereign is one who acts in the material interest of the state. Once part of the Commonwealth, the citizen still retains their intellect and their capacity to judge the world independently, and should the Commonwealth constitute a greater threat to their material interests in its presence than its absence, the subject's fear of the sovereign may be greater than the fear of pre-modernity (Hobbes, 1990:58). Thus the citizenry retain, and may exercise the right to rebel. The sovereign, as such, must calculate and manage its interests within a "willed (Realist) order" (Williams, 2005:46). Raison d'État is not compatible with abject moral scepticism but, with moral certainty restricted to the inside of the state, sovereigns exist in a "sceptical situation" in relation to each other (Williams, 2005:46). Thus prudent policy making is that which "justif[ies] courses of action with reference to the good of the political community, rather than by aspiring to a more cosmopolitan stance that would grant equal moral weight to all actors, whether friend or foe, ally or adversary" (Erskine, 2004:364). There is no hope, contra Kant as discussed in previous chapter, of universalisable moral principles from which to build pacific relations between states. Thus, for instance, Hobbes argues that:

For the citizens' safety, sovereigns need to get intelligence of enemy plans ... and since princes are obliged by the law of nature to make every effort to secure the citizens' safety; it follows not only that they are permitted to send out spies, maintain troops, build fortifications and to exact money for the purpose, but also that they may not do otherwise. (Hobbes, 1993:146)

Both Bacon and Hobbes can be read as emblematic of an emerging tradition of Raison d'État. Both are concerned with managing the problem of the public and the threat of sedition; the public must be taught about their self-interest as economic and political subjects of, and in, the state. This in turn requires the governors to pursue prudent policies for the protection and strengthening of the state itself. This required practices that mediated "between a state presented as given and a state presented as having to be constructed and built" (Foucault, 2008:4). Having supplanted the authority of the church and the promise of the afterlife, governance according to raison d'État had to preserve the new reality of the state and all those within it in a manner that mediates the fear of uncertainty about the *future*. Guaranteeing the future required a particular kind of knowledge – knowledge of the state itself.

Before the emergence of Raison d'État a good sovereign required prescriptive advice about "what to do (in terms of skill, prudence, wisdom, and virtue)" in supposed situations (Foucault, 2007a: 353). Whilst not rejecting this knowledge entirely, raison d'État required "technical knowledge that describes the reality of the state itself" (Foucault, 2007a:355). Such knowledge, would include

Knowledge of the population, the measure of its quantity, mortality, natality; reckoning of the different categories of individuals in a state and of their wealth; assessments of the potential wealth available to the state, mines and forests, etc; assessments of the wealth in circulation, of the balance of trade, and measure of the effects of taxes and duties, all this data, and more besides, now constitute the essential content of the sovereign's knowledge. (Foucault, 2007a:354)

The collection and codification of this technical knowledge about the reality of the state provided a new way of understanding what could happen in the future on the basis of certainty as to what the reality of the state was and what the state could be. This knowledge provided the sovereign with a means to move beyond “the notion that the future is more than a whim of the gods”; rather than “a mirror of the past or the murky domain of oracles and soothsayers”, the future could be calculated and risks could be weighed (Bernstein, 1996:1). This collection of knowledge represented a step in making uncertainty fungible (Lobo-Guerrero, 2011). *Raison d'État* depends upon “continuous enquiries and reports” that allow for the establishment of a “specific knowledge (Savoir)” that indicated “not what must be done, but what exists (and) what is possible” (Foucault, 2007a).⁴⁸ Government must “cram itself with a factual contemporary knowledge articulated around a reality (the state)” (Burke, 1991:483; Foucault, 2007a). Following Hobbes' remark above, the assemblages that collect and utilize this knowledge also seek knowledge of other states via espionage. Foucault traces a military–diplomatic apparatus that maintains peace through a plurality of states; balance and equilibrium in Europe could only be effectively maintained if each state could maintain and preserve itself. At the same time, however, preserving European equilibrium requires that each state not only know of its *own* strengths and weaknesses but also “know and evaluate the forces of the others, thus permitting a comparison that makes it possible to uphold and maintain the equilibria” (Foucault, 2007a). Good governance, in this context, requires that “each state must limit its objectives, ensure its independence, and ensure that its forces are such that it will never be in an inferior

⁴⁸ In fact we can locate trace of this attitude much earlier in *The Domesday Book*, compiled in the eleventh century, if not only the first recognized instance of a public inquiry but also an instance of explicitly seeking such knowledge of the state's wealth and potential wealth (Wraith and Lamb, 1971). Sending “men all over England to each shire to find out what or how much each landholder had in land and livestock, and what it was worth”, the *Domesday Book* was commissioned by William in the wake of the Norman Conquest in order to determine the material resources of the state for the purpose of taxation. The facts of the population, the ownership and value of estates were all established. By the early fourteenth century and the reign of Edward III, as the administrative, fiscal and juridical functions of the state begin to become distinguished and institutionalised, a wide range of commissions were appointed into juridical and economic matters. During the Tudor and Stuart periods, such inquiries were “an integral part of the formation of monarchical administration.” In the early sixteenth century there were inquiries into the causes and effects of “social problems”. The commission on Enclosures was appointed in 1517, to investigate ‘inclosures’ where open fields, woodlands and commons had been divided and bounded in the interest of farming productivity; at times these closures had been “carried by various methods, often by agreement, sometimes with harshness, seldom with any objective appraisal of conflict of interest.” The breach from the Church of Rome in 1534 enabled, or necessitated, commissions of inquiry on a variety of matters, which had, till now, been the preserve of the papacy, such as the valuation of benefices and the regulation of divorce.

position with respect to the set of other countries, or to its neighbours, or to the strongest of all the other countries” (Foucault, 2008:6). Europe at this time is defined by a self-imposed atmosphere of competition, competition that extends to the possession of knowledge.

Yet collecting this knowledge also created the need for political secrecy in a way that prescriptive knowledge had not.⁴⁹ Factual knowledge formed the basis upon which European states compare and evaluate each other in an atmosphere of competition. Yet the beneficial effects of this knowledge for the sovereign – in terms of its ability to assist the sovereign in the management of the state both now and in the future – would be lost “if everyone were to know what was going on”; from the moment that *raison d’État* demands the collection of such knowledge, “a precise codification of what can be and what must not be published is also necessary” (Foucault, 2007a). Political secrecy became “an essential tool of security” (Horn, 2011:108), precisely because secrecy protects the certainty of the factual knowledge that provides the stable basis from which future planning can take place. Out of this competition, European states established organisations dedicated to the protection and acquisition of secrets. In Elizabethan England, the state began to pay for informants who would adopt the appearance of travellers, envoys or negotiators, but who would furtively “collect information, intercept correspondence, decipher codes, and practice secret diplomacy in the shadow of the throne” (Horn and Ogger, 2003:65). By the seventeenth and eighteenth century, “Black Chambers” discreetly opened the letters of individuals suspected by the state. Those aware of their status as suspicious subjects responded in kind by encrypting their messages with code, to which the black chambers responded by copying messages and employing an army of decipherers (Herman, 1996; Kahn, 2001; Adams and Cox, 2011). Intelligence became part of the body of knowledge upon which *raison d’État* is based.

‘Arcana Imperii’ as Security, Actual Publicity as Insecurity

⁴⁹ Of course, this is not to suggest that deception was not advocated or practiced prior to the emergence of *raison d’état*. It is true, moreover that acts of lying and deception by rulers was advocated by political thinkers writing long before the emergence of *raison d’État* – Machiavelli’s work on simulation and dissimulation is a case in point. . There is, nonetheless, an identifiable historical moment when sovereignty becomes a matter of governing an object – the state – and at that moment it becomes important to maintain a competitive advantage by keeping knowledge of this object secure and hidden. As I will discuss below, however, *raison d’État* scholars often sought to distance themselves from the Machiavellian approach to deception, because of a concern that the Machiavellian Prince sacrificed the common good – conceived as the preservation of the state and its resources – for personal gain. This political secrecy is not a tool for the protection of the individual ruler’s interest; secrecy ought now to be exercised for a common good – the protection of state and the population (Viroli, 1992:273-274; Burke 1991:481).

Whilst it makes sense today to call this protection of knowledge ‘political secrecy’, a more accurate term would be mystery or ‘arcana’. The significance of ‘mystery’ is that it represents a form of knowledge that was forbidden to know. There were many types of arcana: the arcana *naturae*, mysteries of nature; the arcana *dei*, the mysteries of God; and there were the arcana imperii, the mysteries of the state. Knowing the arcana imperii meant occupying a mysterious and privileged position that was held in awe by those outside it (Keller, 1990). For the techniques of governance modelled in accordance with *raison d’État*, publicity – if understood as openness or transparency, in particular – represents a source of insecurity in two ways.

The first source of insecurity can be any universal or quasi-universal principles of public reason. These principles – such as those described as hypothetical publicity in the previous chapter – can signify insecurity if they are, in fact, not universal and if the state subjects itself to a public guided by such principles at the expense of prudence. This line of political thought does not just regard actual publicity as a source of insecurity, but hypothetical publicity as well. The dismissal of principles of universalisable public reason follows from the Hobbesian understanding of the state of nature as a state of epistemic discord, and this dismissal continues in a tradition that includes Morgenthau and Schmitt (Williams, 2005). Today, this position is often implicit in Realist literature (Carr, 1939; Gibbs, 1995; Holsti, 2004; Morgenthau, 2005; Mearsheimer, 2011). The government, according to this approach, should create rather than be a slave to public opinion. E.H. Carr, for instance, memorably referred to Woodrow Wilson’s ‘enlightenment mankind’, cited above, as “a disorderly mob emitting incoherent and unhelpful noises” (Carr, 1939:51). Morgenthau was concerned that public opinion may be “emotional rather than rational”, guided by “simply moralist and legal terms of absolute good and evil” (Holsti, 1992; Morgenthau, 2005:192; Lippmann, 2008). If foreign policy is placed in the “vice of publicity”, statesmen are more likely to sacrifice rational deliberation for rhetoric that will bring popularity with voters at home. Prudent statecraft, according to this view, requires that governments bend the rules, impose official political secrecy and even guide public opinion through propaganda in order to protect the national interest.

This latter approach to official political secrecy is a problem peculiar to liberal democracies where the requirements of democracy place the state at a distinct disadvantage. Yet the justifications for political secrecy is based on the claim that ‘rules of the game’ require decisions to be made on behalf of, and beyond the reach of, the public in a national interest that may not necessarily correspond to the democratic will. The attitude towards publicity is best expressed by the fiction British civil servant Sir Humphrey, “My dear boy, it is a contradiction in terms; you can be open or you can have government” (Jay

and Lynn, 1980b).⁵⁰

The second representation of publicity as a source of insecurity relates only to actual publicity. On this view, governments keep official secrets in order to protect against external threats. This argument is often heard from the intelligence community: that certain sources and methods will only be effective so long as they are kept secret, or the identities of individuals must be kept secret in order to ensure the safety of operational staff, or that secrets shared between governments must be protected in order to save embarrassment to allies and, more importantly, maintain the likelihood that information will be shared in the future (Chesterman, 2011). It is an unfortunate but necessary side effect of this approach that government deceive the masses (Gibbs, 1995:214). The necessity of “stealing secrets” based on the doctrine of *raison d’État* endures today. According to Sir John Sawers, Chief of the Secret Intelligence Service (SIS), secret intelligence helps to control the future, yet that information must be kept secrets to retain its usefulness, and that activity of political secrecy is just. In his words:

Secret intelligence is important information that others wish you not to know; its information that deepens our understanding of a foreign country or grouping, or reveals their very intentions. It’s information that gives us new opportunities for action... We in the intelligence and security agencies have to make sure that our secrets don’t become available to those who are threatening our country... Political secrecy is not a dirty word. Political secrecy is not there as a cover-up. Political secrecy plays a crucial part in keeping Britain safe and secure. (Sawers, 2010)

Former director of the CIA, Michael Hayden, puts the point as follows:

Look, everyone has secrets. Some of the activities that nation states conduct in order to keep their people safe and free need to be secret in order to be successful. If they are broadly known, you cannot accomplish your work. Now, I’m going to be very candid, right? We steal secrets; we steal other nation secrets. One cannot do that above board and be very successful for a very long period of time. (Hayden cited in Wikileaks, 2013)

Drawing on Hayden comments, *raison d’État* not only demands political secrecy but also expects “the probability of being deceived and the necessity to deceive” (Horn and Ogger, 2003:68). Prudence, Burke notes, was often associated with simulation and dissimulation –

⁵⁰ The line is actually spoken by Sir Humphrey’s superior, Sir Arnold. The wider section of dialogue is as follows:

Bernard: What’s wrong with open government? I mean, why shouldn’t the public know more about what’s going on?
 Sir Arnold: Are you serious?
 Bernard: Well, yes, sir. I mean, it is the minister’s policy, after all.
 Sir Arnold: My dear boy, it’s a contradiction in terms. You can be open, or you can have government.
 Bernard: But surely the citizens of a democracy have a right to know.
 Sir Humphrey: No. They have a right to be ignorant. Knowledge only means complicity and guilt. Ignorance has a certain dignity.
 Bernard: But if the minister wants open government...
 Sir Humphrey: You don’t just give people what they want if it’s not good for them. Do you give brandy to an alcoholic?

“the opposite but complimentary arts of appearing to be what you are not and of not appearing to be what you really are” (Burke, 1991:482). Francis Bacon’s essay, *Of Simulation and Dissimulation*, for instance, describes three “degrees” of presenting oneself: political secrecy, dissimulation – that is appearing not to be what one is, and simulation – pretending to be that which one is not (Bacon, 1998b). There are “great advantages” to simulation and dissimulation: the power to surprise opposition, to retreat from danger and to gather information from others. Yes there are also “great disadvantages” such as the tendency to show fearfulness or the risk of losing allies that might otherwise cooperate. The greatest disadvantage, however, is that once a man engages in simulation and dissimulation, that man will also lose “one of the most principle instruments for action... trust and belief” (Bacon, 1998b). Thus Bacon concludes: “the best composition and temperature, is to have openness in fame and opinion; political secrecy in habits; dissimulation in seasonable use; and a power to feign, if there be no remedy” (Bacon, 1998b). Bacon clearly favours behaving openly, but acknowledges that in the exception the ruler must secrete and deceive. A phrase often attributed to King Louis XI of France puts the point in pithy fashion: *Qui nescit dissimulare nescit regnare!* – the one who can’t feign, can’t reign! (Burke, 1991:487)⁵¹

Uncertainty Returns: Exceptionalism and the Common Good

The acts prescribed by *raison d’État* were not always compatible with the civil laws that regulate day-to-day life. At the heart of *raison d’État* was a distinction between civil law and political prudence, the latter of which would provide “stable rule over people... and... the means by which such dominion may be founded, preserved, and extended” (Botero, 1956:3). Thus *raison d’État* refers to “such actions as cannot be considered in the light of *ragione ordinaria* [ordinary law]” (Botero, 1956). Political secrecy, in keeping with this doctrine, protects and maintains the state by suspending civil law; it requires a state of exception (Horn, 2011:106). Francis Bacon’s essay acknowledges simulation and simulation as an *exception* to civil law: the “ablest men that ever were”, Bacon writes, kept a manner of openness and frankness in their dealings, giving to others a sense of “certainty and voracity” (Bacon, 1998b) – and I have discussed the importance of providing an impression of certainty in social relations. Yet Bacon argued that at times these men must

⁵¹ A more accurate translation would be ‘Whoever doesn’t know how to lie, doesn’t know what it takes to rule’. It is a matter of debate as to whether the phrase actually originated with Louis XI, or whether the king even uttered to words at all; nevertheless, the phrase became a motto of *raison d’État*, and Louise XI was widely held as its “most illustrious practitioner” (Bakos, 1991:401).

also veil themselves, when the situation demanded it. In such a circumstance the requirements of ordinary law are exceeded by actions intended to sustain the basis of law itself, that is, the state.

The majority of writers on *raison d'État* were careful to distinguish “true” or “good” and “false” or “devilish” forms of reason (Burke, 1991:481). The distinction could be made in terms of ends (whereby good *raison d'État* served the common good whilst a bad reason states primarily serve the interests of the individual ruler) or the distinction could also be made in terms of means (whereby good *raison d'État* was limited by principles of justice or piety whilst bad *raison d'État* condoned breaching treaties or political assassination) but exactly how this line is drawn was a matter of much debate (Burke, 1991:481). On matters of political secrecy and deception, many *raison d'État* scholars condemned Machiavelli as the archetype of devilish reason as the lies of the Machiavellian Prince served only personal gain at the expense of the preservation of the state. Political secrecy and deception were justifiable when based on the natural constraints and necessities derived from political science, and were reprehensible when serving only the individual ruler at the expense of the common good of the political community (Viroli, 1992:273-74). *Raison d'État*, argued the Marquis of Halifax, is a natural and indefinable thing “grounded upon the common good of mankind”; it is “immortal” and, regardless of changes or revolutions that might take place within the nation, it will “preserveth its Originall right of saving a Nation, when the Letter of the Law perhaps would destroy it” (Halifax cited in Armitage, 2000:622). “Reall Necessety” must therefore never be resisted for the sake of the nation’s survival, and false or “pretend necessity” must never be alleged (Halifax cited in Armitage, 2000:622). Pierre Charron argued that whilst “vicious in private man” deception was “most necessary to Princes”; deception was “part of the rules of wisdom in matters of state” where rulers “ought to follow not what is pretty to say but what needs to be done” (Charron cited in Zagorin, 1996:888).

Yet because the activities of the state were often shrouded in the veil of the Arcana, it was very difficult for anyone outside of the veil of political secrecy to judge whether the resort to *raison d'État* was motivated by the interests and protection of the political community or not. For ordinary subjects, it had to be assumed (or hoped!) that the ruler would act in accordance with the good and not the devilish reason.⁵² This did not stop suspicions of devilish reason. It was a constant tragedy, John Toland lamented in 1701, that politicians would allege necessity where none existed and so *raison d'État* would often be

⁵² This was also a problem that beset Locke’s theory of executive prerogative. On the question of whether the executive would use the prerogative for or against the common good, Locke’s response was that the people could only “appeal to heaven” (Locke, 1988:380). See the discussion in Neocleous, 2007.

distrusted when in reality “Raison d’État is nothing else but the right reason of managing the affairs of the state at home and abroad” (Toland cited in Armitage, 2000:622). This ambivalence was embedded in the tragedies of Shakespeare who “showed a greater consciousness of the power, horror, and pervasive consequences of dissimulation and lying” (Zagorin, 1996:888). Richard III, Claudius, and Edmund all exercise duplicity for personal gain, deeds which ultimately lead to their downfall. Perhaps most obviously, the court of Denmark in *Hamlet* is full of characters wearing ‘inky cloaks’ and who exercise deceit for personal gain before meeting their own bloody comeuppance. This concern about the ever-present possibility of ‘devilish’ deeds in secret laid the foundations for the emergence of liberal governmentality.

Liberal Governmentality and the Public Gaze

I now turn to the emergence of liberal governmentality. This section is made up three parts. Firstly, I will describe how liberal governmentality produces the problem of ‘too much and too little government’ and identifies political secrecy as an object of insecurity for the liberal citizen. Secondly, I show how actual publicity – exemplified in Bentham’s political assembly – serves as a technology of security. Finally, I explain how uncertainty reappears because actual publicity threatens to produce ‘too little’ government. This is important because it shows how both actual publicity and state secrecy can be regarded as both a source of insecurity and a means of mediating insecurity.

The ‘Secrecy Effect’ and the Problem of ‘Too Much Government’

Between the sixteenth and early eighteenth centuries Foucault identifies a slow shift away from *raison d’État*, which also signified a shift away from the privilege and protection of political secrecy. This period of history, indicating the emergence of liberal governmentality,⁵³ was marked by “the dream of a transparent society” in which “there no longer exist any zones of darkness, zones established by privileges of royal power or the prerogatives of some corporation” (Foucault, 1980b:152). This was not just a dream but also a fear of darkened spaces that “prevent the full visibility of things, men and truths.” This period was thus characterised by a will to “eliminate the shadowy areas of society” and “demolish the unlit Chambers where arbitrary power acts, monarchical caprice, religious superstitions, tyrannical and priestly plots, epidemics and the illusions of ignorance were

⁵³ Foucault also uses “governmentality” to describe a particular approach to *liberal* governance whereby the European administrative state that emerged in the fifteenth and sixteenth century is “governmentalised” in the 18th-century (Foucault, 2003:109). It is this liberal governmentality that is often, though not correctly used interchangeably with the concept of ‘biopolitics’.

fermented”(Foucault, 1980b:153). This refusal to tolerate dark spaces can be understood as part of a critique of *raison d’État* that begins to modify the aim of government.

With the emergence of liberal governmentality governing became a matter of utilising the autonomy of individuals and society as a force for progressive social change (Dillon, 2008a:174). The idea of a police apparatus that would directly penetrate, stimulate, and regulate the mechanisms of society is contest and slowly reduced to the negative functions of prevention, prohibition suppression of disorder that we see today (Foucault, 1984a:242). Behind this contestation is the belief that public life should be open and exposed to the “reign of ‘opinion” which “represents a mode of operation through which power will be exercised by virtue of the mere fact of things being known and people seen in a sort of immediate, collective and anonymous gaze (Foucault, 1980b:153). *Raison d’État* depended on gathering detailed knowledge about every aspect of the state and directly intervening to shape objects such as the economy and the population. This liberal critique, emerging for instance from Adam Smith’s ‘invisible hand’, suggests that public authority could *never* possess the kind of detailed knowledge necessary to legislate for every eventuality. Instead governance ought to facilitate a form of political order that supports the self-government of the ‘natural’ processes of society and economy” (Simons, 1995:57).

Burchell provides a pithy summary of the change as a shift in emphasis from “a legal subject of rights [who] says to the sovereign: ‘you must not do this, you do not have the right”” to “the subject of economic interest [who] says: you must not do this because you cannot know what you are doing” (Burchell, 1991:137). The idea of ‘always too much government’ is underpinned by a suspicion that the state will trample on civil society, which is problematic because this trampling would hinder rather than advance security. Liberal governance, in this way, becomes “a practice, that is, a ‘way of doing’ which is directed toward goals and which regulates itself by means of continuing reflection” (Gordon, 1991:23). When asking the question ‘why is it necessary to govern at all?’ liberalism finds its ultimate end in the politics of security understood in a new way. Governance is now a matter are bringing about the self-regulation of civil society, population and so on, through regulating “the open series of events produced by the population in its, apparently, natural environment” (Gudmand-Høyer and Hjorth, 2009:107). The goal is to take into account “that which can happen” and respond to realities which may impair society “in such a way [as to] cancel out... nullify, limit, check will regulate it”; Security is a matter of:

Allowing circulations to take place, controlling them, sifting the good from the bad, ensuring things are always in movements, constantly moving around, continually going from one point to the other, but in such a way that the inherent dangers of this circulation are

cancelled out. (Foucault, 2003:65)

In addition to juridical prohibitions and disciplinary prescriptions, liberal governmentality seeks “to arouse, to facilitate, and to laissez-fair” (Foucault, 2003:353). Rather than a coherent ideological doctrine, rather than a certain number of goals – “a utopia never realised” – liberalism is best conceived as a rationality of critique directed to previous forms of government, with the aim of establishing norms of good government; the most general of these norms being “the changing balance between governing too much and too little” (Dean, 2009:121).

The instrument of this critique of government is society itself,⁵⁴ and in this regard practices of publicity become vital to liberalism’s critique of too little and too much. Somewhat ironically, whilst political secrecy was regarded with suspicion, a right to privacy provided a space from which organizations could meet, deliberate and form the first foundations from which a critique of government could emerge. Indeed Habermas has argued that the right to privacy was instrumental in providing the basis for the public sphere and a critique of the state. The social equality of the public sphere and the development of critical public debate were possible at first only as “an equality outside the state” (Habermas, 1991:35; Dean, 2001:637). Bringing this public reason to bear upon the state depended, as Foucault points out, on the production of the juridical subject of liberalism. In this regard, the production of subjects with civil rights and suffrage was important “not because the supposedly natural legislation of liberalism”, but because “participation of the governed in drawing up the law in a parliamentary system is the most effective system of governmental economy. (Foucault, 2008:321). The introduction of norms of publicity can be understood as part of the same trend; respect for hypothetical publicity in policy-making supports the principle of ‘freedom secured’ – as I discussed in the last chapter – and protects the responsible exercise of autonomy of civil society to maximise economic efficiency. The critique of government according to the norms of publicity comes to support the animating question of public life.

The question of liberalism, understood as a question of ‘too much government’, has been

⁵⁴ Interestingly, personal secrecy, or more strictly hidden places, provides a space from which private organizations could meet and deliberate and form the first foundations from which a critique of government could emerge. Such organisations represented a threat to state sovereignty, occupying a space from which an alternative claim to reason could be made. Habermas recognised the constitutive role of political secrecy in political authority. On the one hand Habermas notes that “historically the polemical claim of this kind of rationality was developed, in conjunction with the critical public debate among private people, against the reliance of princely authority on state secrets ...social equality was possible at first only as an equality *outside the state*. The coming together of private people into a public was therefore anticipated in secrets, as a public sphere still existing largely behind closed doors”; in this context public reason had to be protected from becoming public “because it was a threat to any and all relations of domination” (Habermas, 1991: 35).

one of the constant dimensions of that recent European phenomenon on which seems to have emerged first of all in England, namely: ‘political life’. It is even one of its constituent elements, if it is true that political life exists when the possible excess of governmental practice is limited by the fact that it is the object of public debate regarding its ‘good or bad,’ it’s ‘too much or too little’. (Foucault, 2008:77)

Of course this period did not mark the end of political secrecy, and nor need it have. As I have explained in the previous chapter, hypothetical publicity and the liberal governance that it supports is compatible with political secrecy. But there is always the possibility that such secrecy could be abused. In this regard the rise of liberal governmentality did coincide with a new meaning attached to political secrecy. According to Keller, the shift was momentous: “it came to signal the granting of permission to enquiring minds – permission that was a psychologically necessary precursor for the coming enlightenment” (Keller, 1990:230). In order to ‘dare to know’, a shift had to take place from “the idea of Arcana [as a] privileged entrance into a veiled inner sanctum” toward “an invitation to dissolving, or to ripping open, the veil of political secrecy” (Keller, 1990:229).⁵⁵ Driving this intolerance of secrecy was, in Shklar’s words, a “liberalism of fear” and desire for “freedom from the abuse of power and intimidation of the defenseless” (Shklar, 2004:151). In a manner reminiscent of the understanding of security described at the start of this chapter, Shklar writes that “to be alive is to be afraid” and “what is to be feared is every extralegal, secret, and unauthorized act by public agents” (Shklar, 2004:158).

This shift is discernible in the language of secrecy itself. Replacing ‘Arcana’, another route of ‘secret’ is *secretum*, meaning that which is separated or set apart. In this sense the secret refers to a social relation – a “secrecy effect” – in which those who know something are separated from those who do not know *but* crucially are aware that there is something to know, without knowing anything about what the secret might be (Derrida et al., 1994:246). The secrecy effect is thus the production of suspicion. Whereas the power constituted by the Arcana Imperii arises from the substantive content of the information – such as military resources or methods of espionage – the power constituted by the secrecy effect arises out of the production of a separation of those who know from those who suspect (Horn, 2011). This understanding of political secrecy is embedded in the language of government. The word ‘secretary’ finds its origin in *secretum*. A secretary of the state is, quite literally, one who is entrusted with keeping secrets. Interestingly, the word ‘cabinet’ as

⁵⁵ This was not a changing attitude without resistance; during the eighteenth century, critics of pamphleteering worried that the printing press “undermined the *arcana imperii*, foster[ing] discussion of subjects which ought not to have been publicly debated, and generated a presumption on the part of the public regarding the legitimacy of their commenting upon, and participating in, public and political life” (Peacey, 2007:86).

in ‘cabinet minister’ or ‘cabinet secretary’ is derived from the old French ‘cabane’ referring to a secret storehouse or treasure chamber.

The significance of this alternative conceptualization of political secrecy emerges if the suspected secret considered a source of insecurity. Political secrecy always contains the possibility of threat by creating a space, exempt from law, where violence and corruption may breed. It does not constitute a crime but it does “contain the possibility of criminal acts” (Horn, 2011:108). This leads to a suspicion that the secret is something that could not be legitimized were it to be public; that political secrecy is not being used as part of a prudent strategy of power, but has instead become an opportunity for statesmen to transgress public law. The secrecy effect coupled with possibility of wrongdoing drives a public sphere obsessed with state political secrecy,

Everybody either doubts or knows that ‘there is something’ ... This curiosity revolving around the political secret comes with a considerable degree of moralization: in a political culture that favours publicity and transparency, anything that refuses to be subjected to public scrutiny and debate is a priori unlawful and immoral (Horn, 2011:124)

Liberal governmentality thus challenges *raison d’État* by shifting political secrecy from a technology of security to a source of insecurity. Of course, the suspicion of political secrecy as a source of wrongdoing is not unique to liberal democracies. What is notable, however, is the emergence of institutionalized practices of actual publicity in Britain as a response to the secrecy effect and the suspicion of political secrecy. The problem of political secrecy in Britain emerged not because of the existence of political secrecy, but because of the public awareness of their existence and the possibility for abuse that political secrecy entailed. In 1844, for instance, the Italian exile Joseph Mazzini uncovered the British government’s practice of postal espionage, much to the outrage of British liberals. The government abandoned the practice, becoming the only major power without such a weapon for spying on foreign threats (Vincent, 1999:1-24). British liberals demanded the establishment of measures by which official political secrecy could be unveiled. The masses, or even parliamentarians, could not know whether the executive really is performing in accordance with hypothetical publicity in the public rather than private interest (Neal, 2012b:367). Thus, political secrecy functions like the Foucauldian ‘repressive hypothesis’: what is peculiar to modern society is not that political secrecy exists in the shadows, what is peculiar is that society has dedicated itself to speaking of it *ad infinitum* (Horn, 2011:105). The similarity between the public obsession with political secrecy and sex was noted by a former Chairman of the Joint Intelligence Committee. ‘My theory’, Sir Roderic Braithwaite noted, is that “secrets are like sex. Most of us think that others get more than we do. Some of us cannot have enough of either. Both encourage fantasy” (Braithwaite, 2003). It is the

very mystery of political secrecy, its fantastic possibilities, that drives the secretum: an obsession *ad infinitum* with talking about official political secrecy.

Bentham's Public Gaze as Security, Political Secrecy as Insecurity

By the late eighteenth century political secrecy was increasingly regarded as “an obstacle to progress and a measure of its absence” (Vincent, 1999:3). Measures were sought to challenge its dominance. It is here that Jeremy Bentham’s writings on publicity are worthy of note. Bentham’s project arouses interest, because they provide “a formula applicable to many domains, the formula of ‘power through transparency’, subjection by ‘illumination’” (Foucault, 1980b:154). Indeed Burke suggests that Bentham’s work “could be said to straddle this historical moment where the centrality of *raison d’état* was giving way to a form of liberalism in which the linkages between *raison d’État*, the art of government, and political economy where more problematic, yet no less necessary” (Burke, 2007:42).

Bentham bemoaned political secrecy, suspicious of what activities might lie behind this veil and convinced that political secrecy made both the citizenry and the statesmen ignorant. The former becomes ignorant of their leaders actions much like a parent who pays no attention to their child’s schoolmasters, whilst the latter become removed from the opinion of the public (Bentham, 1843b). The elimination of political secrecy in foreign affairs would, argues Bentham, further the cause of peace.⁵⁶ Bentham’s goal was to ensure that all activity undertaken by politicians was subject to the ‘gaze’ of publicity: “the fittest law for securing the public confidence” (Bentham, 1843f:310). Carl Schmitt later wrote that, for Bentham, “the elimination of secret politics and secret diplomacy becomes a wonder cure for every kind of political disease and corruption, and public opinion becomes a totally effective controlling force” (Schmitt, 1988:38). In the context of the assembly Bentham is mainly concerned with *actual* publicity; indeed ‘publicity’ and ‘transparency’ are used interchangeably.⁵⁷

⁵⁶ Bentham was particularly concerned with the exercise of secrecy in relation to foreign affairs. Bentham was also concerned that Britain would instigate international insecurity. Preceding the wealth of contemporary Liberal scholarship that posited peaceful relations through publicity between nations, Bentham argued that secrecy produces a fear on the part of other nations: “So many as fear you join against you till they think they are too strong for you, and then they are afraid of you no longer. Meantime they all hate you, and jointly and severally they do you as much mischief as they can. You, on your part, are not behindhand with them. Conscious or not of your own bad intentions, you suspect theirs to be still worse. Their notion of your intentions is the same. Measures of mere self-defense are naturally taken for projects of aggression. The same causes produce, on both sides, the same effects; each makes haste to begin for fear of being forestalled” (Bentham, 1843b:559).

⁵⁷ Baume and Papadopoulos make this observation from the following passages. Bentham writes that “Opakeness. Want of *transparency*, disturbance given [to] the transparency of the whole business hence facilities afforded throughout for the secret and successful operation of sinister interest” and that “[i]n the darkness of secrecy, sinister interest and evil in every shape, have full swing ... Where there is no *publicity* there is no justice” (cited in Baume and Papadopoulos, 2012).

Bentham gave several reasons as to why the mechanism of actual publicity was beneficial. First and foremost actual publicity constrained statesmen to “perform their duty” (Bentham, 1843c:310). The good of publicity lay in its status as “a security against improper conduct” on the part of those in public office (Bentham, 1843a:302). By exposing statesmen to the gaze of actual publicity, statesmen are likely to pursue foreign policies in a manner that is publicly defensible. Secondly, and consequently, publicity secures public confidence; publicity motivates citizens to accept the legitimacy of the state and its legislation. In conditions of political secrecy, even men with good character may be swayed by the trappings of power but “the eye of the public makes the statesmen virtuous” (Bentham, 1843d:145). Suspicion, Bentham claims, “always attaches to mystery” but regimes that enact actual publicity are trustworthy and imbued with public confidence: “for why should we hide ourselves if we do not dread being seen?... The best project prepared in darkness, would excite more alarm than the worst, undertaken under the auspices of publicity” (Bentham, 1843c:310). Thirdly, actual publicity enables the governors to know the wishes of those being governed, and enables electors to act from knowledge of the governors – speaking and judging about public affairs with certainty of information. Indeed Bentham remarks that there is no point in having a representative democracy if the executive’s affairs are shrouded in political secrecy. Fourth, actual publicity allows private individuals to interject upon affairs of state. Bentham’s final argument for publicity is that it is beneficial because of “the amusement which results from it” (Bentham, 1843c:312) – I will comment further on this below.

For the moment, I wish to focus on the question of how the gaze of publicity could compel statesmen to act properly. Bentham argued that politicians should be subject to the ‘gaze’ of publicity, achieved through an extensive range of material and procedural regulations practically instituted within political assemblies. Architecturally, for instance, the political assembly ought to approximate a circular design from which a centrally positioned chair could survey against any ‘habitual disorder’ present amongst the assembly members. In a prominent position there should also be a public gallery full of random, irregular, and anonymous strangers, a constant reminder of the imminent public scrutiny in the chamber. The tenor of every motion and speech, along with the details of votes and the documentation used in preparation for debates should all be recorded and published (Bentham, 1843c:314-15). It is assumed, in advance, that there is something that is being hidden: “there is a secret. Someone is guilty” (Dean, 2001:631). Publicity, in the Benthamite sense, is a “system of distrust” (Bentham, 1843c:314). It is a constant suspicion that something is being withheld and must be exposed. There is always the promise of a revelation. Bentham suggests that “every good political institution is founded upon this

base. Whom ought we to distrust, if not those to whom is committed great authority, with great temptations to abuse it?" (Bentham, 1843c:314).

Bentham's conceptualisation has been interpreted in different ways. On the one hand Bentham suggested that through publicity, "a bit of reasoning and discussion will penetrate all classes of society" (Bentham, 1843c:311), leading Habermas to cite Bentham's publicity as an early acknowledgement of the possibilities of the bourgeois public sphere, the public use of reason and even the conditions of communicative action (Habermas, 1991:99; see also the discussion in Gaonkar and McCarthy, 1994:555). We can see how, through encouraging contributions from the public and by compelling statesmen to give publicly justifiable reasons for action, Bentham does show concern for the principles of hypothetical publicity. On the other hand, another interpretation renders Bentham's publicity with a 'double aspect' entrenched in disciplinary power. The resemblance between the assembly and the panopticon is striking.⁵⁸ The purpose of the panopticon was to give the inhabitants of the apparatus the impression that their actions would be under constant, invisible surveillance, making them believe that whatever they do is known, even though that is not actually the case. The statesmen in the public assembly are overseen by a public gallery and constantly aware that every word will be published to the tribunal of public opinion outside the assembly. Public opinion, which might not be objectively perceived, is always an influential presence in the back of the statesman's mind (Splichal, 2006). The political assembly can be understood as part of a formula of power through transparency, "an apparatus of total and circulating mistrust" in which each aspect of the assembly induces self-surveillance from statesmen (Foucault, 1980b:158). The political assembly is a form a "panopticonism", that is,

a type of power that is applied to individuals in the form of continual individual supervision, in the form of control, punishment and compensation, and in the form of correction, that is the moulding and transformation of individuals in terms of certain norms. (Foucault, 2000:70)

By placing them under the constant gaze, statesmen are compelled in act in the public interest, to perform their duty rather than be swayed by the trappings of power. The procedures and material practices of publicity in the assembly grant the citizenry a certain form of political liberty that is itself a branch of security – "security against the injustice of the members of the government" – which is itself the primary object of government in the pursuit of the ultimate end of government: greatest happiness of the greatest number

⁵⁸ Indeed certain sections of *The Essay* bear striking resemblance to Bentham's work in the *Panopticon Papers* advocating "Morals reformed - health preserved - industry invigorated, instruction diffused - public burdens lightened ... all by a simple idea in Architecture!" This particularly visible in those sections that advocate the ocular surveillance of the legislators as a disciplinary technology.

(Bentham, 1843a:302). The political assembly was meant to be a kind of “reversed panopticon”, an instrument of freedom for the citizenry. It was intended by Bentham to be a remedy to avoid the “useless, incompetent or harmful”, and by controlling the actions of government Bentham sought to protect individual liberty upon which the security of liberal governmentality depended (Leroy, 2012:143). The ‘security’ that Bentham refers to here is different to the ‘security’ sought under *raison d’État*. In terms of ‘security for whom?’ we might articulate this as a shift in security for the state to security of the liberal citizen – although this somewhat elides the point that what is being secured is not civil rights or liberties but the most efficient means of fulfilling the circulatory processes of the economy. The security provided by the act of publicity is however no less important for the governance of the liberal state.

Uncertainty Returns: The Insatiable Appetite

Just as political secrecy produces new kinds of uncertainty, publicity produces uncertainty in two ways. Firstly, by seeking to eliminate political secrecy, actual publicity reproduces the kind of uncertainties that the *arcana imperii* sought to mediate. Liberal governmentality does not entirely dissolve the rationality of government based on *raison d’État*; the security of state is still, patently, important in protecting against ‘too little’ government. This protection of the state still depends on government producing information that will be used to preserve the state in its present and future forms. With the privileging of actual publicity, the insecurities identified by *raison d’État* endure. I will deal with this issue in greater depth below.

There is also another sense in which actual publicity can produce uncertainty, which can be found in Jodie Dean’s (2001) critique of Bentham. Simply put, actual publicity produces more, not less, uncertainty about the wrongdoing committed in secrecy. In order to understand Dean’s critique, we need to start from Bentham’s understanding of the public as split between three different classes. Bentham anticipated the criticism that public scrutiny was susceptible to bouts of passion or ignorance, which would appear to preclude public opinion as a reliable critic of the state. If this were true, the disciplinary apparatus of the political assembly would be damaged because its normalising power ultimately lies in the production of those norms of behaviour according to public opinion. In response, Bentham argues that the public were divided into three classes: firstly and the most numerous are those who occupy themselves very little with public affairs and do not have time to engage in the fora of public deliberation; the second class is composed of those

who form a kind of borrowed judgment from the final class; this final class is compromised “those who will judge for themselves, according to the information, whether more or less exact, which they are able to procure” (Bentham, 1843f:313). By splitting the public in this way, Bentham can defend the principle of public scrutiny because the final class of the public – the public who can judge for themselves – will exercise poor judgement with imperfect information but will exercise better judgement “when they are in possession of the true documents.” If this class is incompetent “it is because it is ignorant of the facts – because it does not possess the necessary particulars for forming a good judgment.” If this class is well informed, furthermore, their better judgment will trickle down into the class of the public that borrow opinion (Bentham, 1843f:313).

Understanding the public this way provides reassurance that we don’t have to worry about those who either don’t appear to have an opinion or those whose opinions are not their own. By splitting it in this way, the public can be both “informed and ignorant, knowing and believing” so long as the first and second classes believe that somewhere, someone knows what’s going on (Dean, 2001:20). This relies on “social ties rooted in trust”; while the government is regarded with constant mistrust, the believing public has to trust that the knowing public does know, judges well, and conveys these judgments honestly to everyone else (Dean, 2001:20). This trust is sustained by the promise of the secret yet to be revealed. If the judging public appears to be incompetent, trust in the public is protected by the “reassuring possibility” of a secret the knowledge of which would solve the problems preventing the public from being all that it can be”. We can have confidence in the apparatus of publicity in the political assembly because the judging public would judge correctly if only they were given the right information. In Dean’s words, “it will provide a retroactive interpretation of what has been revealed such that the meaning of whatever is uncovered will be clear” (Dean, 2001:22). Yet this certainty, paradoxically, can only exist alongside overwhelming suspicion and paranoia that we certainly do not know everything, and there is still a secret to be revealed. The certainty of a public imbued with good judgement is materialized and brought into being by practices of revelation and disclosure. There will always be enemies of publicity – malefactors, tyrants and indolents – who will benefit from political secrecy and whose preference for political secrecy is a sign of their guilt. This is why “suspicion always attaches to mystery”, we think we see a crime in whatever “holds an affectation of political secrecy” (Bentham, 1843c:310). The condition for the existence of, and the faith in, the security provided by the political assembly lies in such assumptions. Without the constant threat of publication and there being something to publish, Bentham’s apparatus of publicity cannot be sustained. Publicity always threatens to negate itself by encouraging every individual to mistrust the

opinions of everyone else and to form his or her own opinion (Dean, 2001:16). The liberalism of fear undermines the conditions for the public sphere itself *unless* there is a promise of something more to be revealed, which can engender trust in a small but knowing public who will judge these secrets. And through a never-ending suspicion, the final revelation never actually takes place.

The Norm of Publicity and the Harm of Publicity: a Contest of (In)Securities

The first section of this chapter established how our political identity – and the political order of modernity – is sustained by the objectification of insecurities. Put the other way around, the absence of threats destabilises political identity and order. Huysmans remarks that “our political identity relies on the threatening force of the other; nevertheless security policy aims ideally at eliminating this threat”; yet “if the threat were really eliminated, the political identity would be damaged and, depending on how strongly it relies on the threat, it may well collapse” (Huysmans, 1998b:239). Kant remarks, for instance, that the *Rechtstaat* is only required because mankind is not a race of angels. Hobbes justifies the need for the sovereign through the threat of life outside the Commonwealth. Similarly, governing according to *raison d’État* or liberal governmentality relies on the continued production of governable uncertainties, objects that threaten the security of the political community but which the community has suitable mediating technologies. *Raison d’État* relies on knowledge about itself, but it also produces an atmosphere of inter-state competition and a potentially seditious public which, taken together, constitute a threat to the preservation of the state. Governance according to *raison d’État* endures, however, because it also provides the means to secure itself against these threats through the political secret. Liberal governmentality relies on a societal critique of too much government, but it also produces an intolerance of secrecy and mistrustful public which, taken together, constitute a threat to this societal critique. Governance according to liberal governmentality endures, however, because it also provides the means to secure itself against these threats through an unending suspicion of secrecy and will to expose statecraft to the gaze of actual publicity. In either case, the inability of the state to destroy or repel these threats permanently guarantees the necessity of the state.

Figure 14. Rationalities of Security and their Technologies of Political secrecy and Publicity

	Raison d'État	Liberal Governmentality
Subject of Security	Security of the state	Security of the liberal citizen
Problem of governance	Preservation of the future state based on factual knowledge	Balance of 'too little' and 'too much' government based on societal critique and the norms of hypothetical publicity
Object of Insecurity	Actual Publicity	Political secrecy
Technology of governance	Political Secrecy	Actual Publicity
Reappearance of insecurity	Political secrecy veils iniquity and ineptitude	Actual publicity destroys the protection against 'too little' government

Of course this leads to one final problem, namely how these two rationalities can co-exist. They are both co-constitutive of the liberal state as a balance between too much and too little government. This 'balance', however, is not between actual publicity and security; the balance is between the securities and insecurities of one rationality over another. This interpretation of the relationship between the security of the state and the security of the liberal citizen is recognised by a few scholars today. David Luban, for instance, argues the relationship between civil liberties and security is, rather than a "rights-security trade-off", actually a "security-security trade-off" (Luban, 2005:246). The understanding of actual publicity *qua* security has been articulated by Ann Florini, who argues that:

Secrecy has been justified in the name of national security for so long that we naturally assume that the two ideas are perfect correlates, and that any limitation on secrecy necessarily implies some weakening of security. In many respects this is incorrect. (Florini, 2007:340)

Instead, Florini argues that actual publicity "may actually improve the capacity of societies to preserve security" by supporting "better policy decisions" (Florini, 2007:340). Actual publicity allows the citizens to "to spot bad analysis or contribute data not already collected by public agencies" (Florini, 2007:341). Whilst actual publicity requires the disclosure of information that might otherwise be protected in the name of the security of the state, "disclosure improves security in the long run – by avoiding the tremendous costs that can be associated with poor bureaucratic decision-making". At the heart of Florini argument is precisely the concern that secrecy prevents the liberal critique of too much government. The issue for contemporary liberal governance is thus how much of the security of the liberal citizen are we willing to sacrifice for the security of the state? In response, liberal

governmentality suggests that we sacrifice just enough to achieve a safeguard against ‘too little’ government whilst still guarding against ‘too much’. The task for the researcher is then to examine how the practices of the state constitute the terrain upon which the balance is conducted – this is the task for Chapter Four.

Bentham was well aware that somewhere a trade-off had to be struck between too little and too much government, noting that the public gaze was not suitable for all eventualities of government all the time. Bentham instructs that “publicity will at all times be maximised” *except* where “the evil of publicity would ... be preponderant over the good” (Bentham, 1843e:210). The evils of publicity could arise through harms to the privacy of the liberal citizen,⁵⁹ but the majority of exceptions to publicity, however, arise when publicity concerns foreign relations. Publicity ought to be ‘suspended’ in any case which is calculated to give aid to those “who at any time are liable to become enemies, and who are at all times, in one way or other, rivals” (Bentham, 1843e:210); (Bentham, 1843c:315). Bentham warns against the law of publicity being applied to matters of defence that could result in the publication of information on the strengths and weaknesses of the state, which an enemy could abuse. Thus the law of publicity is not absolute, “because it is impossible to foresee all the circumstances in which an assembly may find itself placed” (Bentham, 1843c:315). Bentham thus claims legitimacy for *temporary* political secrecy on the basis of a utilitarian calculus of the harms, or ‘evils’, of publicity. Exactly how such a balance of harms is calculated is another matter, one that I pick up in Chapter Four.

These comments have led some scholars to co-opt Bentham as a normative realist (Hoogensen, 2005:63). Yet this simplifies Bentham’s intention. Bentham was clear that political secrecy should always end once the *specific* evil that might arise from actual publicity ceases to become producible. Bentham did not support a generalised policy of secrecy like some Realist scholars discussed above. In this way, even in times of political secrecy, the good produced by publicity can never cease to exist because statesmen always know that, once the need for a particular moment of political secrecy has passed, their actions will be under the public gaze. Official political secrecy can never be anything more than a temporary exception. Yet, as Sagar notes, there remains a difficulty as “we cannot predict the length of time after which the disclosure of classified information will prove harmless” (Sagar, 2007:415). Bentham effectively concedes this point when he writes about the defence and foreign relations departments, noting that “the nature of the business seems scarcely to admit of any limitation to the time during which the good of the service

⁵⁹ Bentham suggests that public knowledge of the voting record could bring castigation to those who cast an unpopular vote, and that the publication of health records could bring unhappiness to those persons with an ill that carries ‘disrepute’ (Bentham, 1843e:210).

may require the political secrecy to be observed” (Bentham, 1843e:211). Disclosure cannot proceed without a calculation by the executive of its likely harm, which itself opens up the possibility for the executive to thwart retrospection by inventing likely harms of disclosure (Sagar, 2007:408). The reintroduction of actual publicity can be postponed for as long as a requisite level of the public will trust the executive to calculate whether information can be disclosed without causing harm. Permitting political secrecy in this way is a balance of securities because the very officials that calculate the likely harm of disclosure are the same officials toward whom disclosure is intended as a disciplinary measure against iniquity or ineptitude. Throughout these dilemmas, however, the liberal identity of the state endures under the assumption that, even in secret, the norms of hypothetical publicity are at work.

Concluding Remarks

From the account of security offered in this chapter, modernity is defined by a quest for certainty and a fundamental distrust of certain objects. The quest for certainty is itself directly connected to the aim of securing the future of a given subject of security. The need for political secrecy and the need for actual publicity emerge from out of governmentalities that posit a subject of security, an imperative for governing that subject, and a technology of governance that mediates threats to that subject’s governance.

Firstly, I described the emergence of *raison d’État*, a rationality of governance directed to the governance and security of the state. This endeavour requires the collection of factual knowledge about the contents of the state in order to predict the field of possible action, which itself produces the need for secrecy as a technology of governance. Political secrecy is required to protect the utility of this knowledge, because in an environment of inter-state competition the state cannot and should not trust others states. A defence of political secrecy in the name of security works like this: by keeping secrets (such as the details of critical infrastructure, methods of defence, sources of intelligence and so on) institutions such as the armed forces or security services will be better equipped to defend the territory and the population of the nation-state. By defending territory and population in this way, it is possible to have a foundation for public law and order, and it is from this public law and order that justice and liberties may be realised by the citizenry. This is how political secrecy can be considered foundational to modern political life, and how the democratic principles of openness must occasionally be suspended.

Secondly I described the emergence of liberal governmentality as a rationality of government directed toward the security of the liberal citizen. Securing this subject relies on the minimisation of the state, which is always at risk of trampling upon the liberties and

'natural' economic processes of civil society. The state cannot always know or always pursue the best course of action; instead matters of public policy ought to be exposed to public opinion in accordance with norms of hypothetical publicity, which constitute the conditions for good governance. Actual publicity, as an apparatus of disciplinary power, is required to compel public figures to perform these hypothetical norms, because statesmen cannot be trusted to self-govern themselves. In this way 'security' is just as much about the societal protection against government as it is about the territorial protection of military resources, for instance. Thus the Benthamite relationship between publicity and security is more than semantic – it is a different understanding of security but one that is central to the resilience of liberal democracies.

Each rationality of governance produces objects that could threaten the security of the subject. Yet each technology of enactment also reintroduces the problem of insecurity in a new way. Political secrecy is increasingly distrusted as a source of insecurity because it constitutes a space where the iniquitous and the inept may not self-govern and may not practice the norms of hypothetical publicity. Yet the technology of actual publicity constitutes a new insecurity too. With no place for secrets, actual publicity can threaten the political community; the publication of information about personal information or military planning could threaten both the security of the state and the security of the liberal citizen.

Both political secrecy and actual publicity serve an important and necessary purpose in the governance of the contemporary liberal democratic state. My point, following Foucault, is that neither are bad but both are dangerous. The imperative of liberal security is to balance between 'too much and 'too little' government: just enough government to support the exercise of liberties and economic circulation, not too much government that this circulation is inhibited. This leads to a need to balance the good of actual publicity over the bad, but this is not a trade-off between publicity and security. The importance of hypothetical publicity remains constant. It is a trade-off between two technologies of security both of which constitute liberal security and both of which threaten the subjects of security. I began this chapter by noting how publicity is positioned in a relationship of balance with security in the Iraq inquiries, but also in recent examples from the Snowden leaks or John Sawer's first public speech. When actual publicity and secrecy are understood as co-constitutive technologies of governance, these events become more interesting. Hague's speech at the start of this chapter and Sawer's speech referenced in the main body of this chapter are not simply paying lip-service to lofty liberal ideals. Instead these speeches were attempts to manage these twin demands of liberal security. The remarks of Douglas Alexander – also referenced in the introduction – differ because they position actual publicity as a tool of security, even if Alexander does not use the word 'security'.

The outcome of this mediation between these technologies is not predetermined. Particular material discursive frameworks, or 'dispositifs', shape whether and how actual publicity or political secrecy is applied in a particular moment and to a particular object. These frameworks, accordingly, play with the subject of security; the framework shape how the subjects of security and the need for 'just enough' government is supported or threatened by political secrecy or actual publicity. In the next two chapters, I explore two such elements of the liberal dispositif. In the next chapter, I explore how the British case for war was built upon the technology of actual security writ large at the level of international relations. In the fourth chapter, I explore how the British can continue to resist demands for actual publicity, by position actual publicity as threat to both the aims of too little and too much government.

Chapter Three

Securitising Iraq: The Threat of Uncertainty and the Production of Secrecy

The Prime Minister rightly pointed out that Saddam Hussein has lied to the UN for 12 years. Even now, we do not know the full extent of his arsenal, or of his facilities to develop weapons...the blame for further military action lies squarely in the hands of Saddam Hussein. It is his regime only that has made further military action necessary.

- Iain Duncan Smith, March 2003

What would happen if Iraq did not, in fact, have more documentary evidence... Could denying that you possess documents which you do not in fact have constitute an 'omission'?

- Hans Blix, March 2003

Introduction

In the previous chapter I described how actual publicity and political secrecy function as technologies of security that co-constitute liberal security. That is, both practices secure the concern of the liberal state with too much or too little government, and the exercise of either practice exists to mediate any object that might threaten government according to the norms of hypothetical publicity. In this chapter, I show how this liberal governmentality, writ large at the level of international relations, constitutes the conditions of possibility for a liberal way of war, and specifically the British case for war. Specifically, I show that the case for war was based on the fear that Iraq was *not* conducting itself according to the norms of hypothetical publicity, leading to suspicions that it might or could in the near future possess the capacity to produce weapons of mass destruction. Furthermore, because Iraq would not unveil itself under the gaze of actual publicity, the regime had to be confronted with violent force. The purpose of this chapter is to show how this rationality of government was embedded in the persuasive case for war, and the conditions that made this case possible in the first place.

The chapter comprises four sections. In the first section, I briefly summarise the British case for war and, in particular, its reliance on the series of claims about the urgent threat posed by Iraq. The case for war depended on claims that Iraq was intent on, and capable of developing weapons of mass destruction (WMD) that would pose an existential and incalculable threat to the UK if they were supplied to terrorist organisations. Furthermore, the government claimed, the urgent use of force against Iraq was the least worst option in order to mitigate this threat because Iraq had used chemical weapons in the past, Iraq was committed to covertly developing these weapons in defiance of the United Nations weapons inspectors, and that the United Nations policy of containment and inspection was incapable of overcoming this defiance.

Secondly, I turn to the first of two conceptual frameworks to analyse how this case for war was persuasive and possible: the Copenhagen School (Cos) securitisation framework. The CoS approach shows how Blair and his government persuaded its audience that Iraq was an existential threat over a short period of time, which empowered a small elite in government to take exceptional, emergency action. This move, according to the CoS framework, was assisted by certain ‘felicity’ conditions including the government’s access to information, Iraq’s past behaviour and a liberal public that distrusts secrecy and uncertainty. I describe how the British government constructed the Iraqi threat using these six claims above as part of a securitising speech act. In particular, the British government constructed the Iraqi threat from Iraqi political secrecy rather than the substantive content of secrecy. The government did not provide evidence of hidden weapons stocks but rather pointed to facilities that *could* contain hidden WMD, or to unanswered questions about Iraq’s remaining weapons stocks. These questions, Blair claimed, could not be resolved because Iraq was deliberately obstructing the inspections process.

However, the CoS framework carries important *limitations*: it over-emphasises and re-inscribes assumptions about the role play by elite discourse in a given ‘moment’ securitization. Thus in the third section, In order to provide a full account of how this securitization of Iraq could take place at all, I advocate a break with the CoS framework in favour of one that I develop from Foucault’s concept of the *dispositif*. I argue that that the possibility for this war was dependent on an ensemble of emerging discourses and practices that problematised state secrecy in international relations. I trace, during the course of the twentieth century, the emergence of a norm of hypothetical publicity between states in relation to weapons of mass destruction. Yet in the events preceding the Gulf War, Iraq had shown that it was unwilling to govern itself in relation to this norm and thus, from 1991, actual publicity was imposed upon Iraq through the United Nations’ programmes of inspection. This inspections regime constituted a disciplinary apparatus of power, seeking to compel Iraq to fulfil its disarmament requirements under the impression of constant surveillance. Yet whilst the United Nation’s panopticon sought to increase confidence in Iraq’s behaviour, the inspections had the reverse effect of creating more distrust. I show how the inspections process *produced* the impression of more Iraqi secrecy, not less. Sometimes this impression of secrecy was produced through a deliberate policy of concealment and deception on the part of Iraq, but other times this production was an unanticipated result of the inspections process itself. Coupled with a liberal attitude that perceived political secrecy as a source of insecurity, these secrets constituted the conditions of possibility for the British case for war.

In the final section, I argue why it is important to move beyond the CoS framework in the study of how security problems emerge. Studying the British case for war according to the CoS framework shows how individuals within the British government could use the language of security, coupled with material and ideational circumstances, to persuade an audience susceptible to the argument that political secrecy was potentially threatening. Proponents of the CoS approach argue securitisation is always a choice made in a particular moment, that by holding individuals accountable for their attempts at securitisation the public can choose not to give an elite the power to treat something as a security issue. My analysis based on the methodology of the *dispositif* challenges this understanding. I show how the success of the British case for war cannot be placed solely at the feet of particular individuals responsible in a particular moment for ‘securitisating Iraq’, rather attention must also be paid to an expanded notion of political accountability that includes historically contingent rationalities of government and locally conditioned, sometimes accidental technologies of enactment through which hypothetical publicity is writ large as a norm of self-government in an international governmentality. What this means is that ‘normal’ politics of liberal democracy, before any kind of speech act, already constitute the problem of the state that appears to be unable or unwilling to self-govern according to the norm of publicity and, as such, constitutes the conditions of possibility for a liberal way of war. Examining the case for war according to the CoS framework blinds us to a full account of how and why the liberal state goes to war. Crucially, moreover, by regarding the ‘normal’ politics beyond elites, speech acts and particular moment as somehow benign or free of responsibility for securitisation, the CoS framework silences any critique of these rationalities of government that underpin liberal war.

The British Government’s Case for War

When parliament gave formal support for war against Iraq, the official *casus belli* for war was Iraq’s failure to comply with United Nations Security Council Resolution 1441. This formal justification, however, was only made possible through a complex web of claims that produced Iraq as an urgent threat for which war was the only response. I will briefly review those claims here.

Throughout 2002 and 2003, the British government offered three claims for the use of force against Iraq. There were:

- (i) The threat of Iraq’s weapons of mass destruction;
- (ii) The failure of the existing containment, sanctions and inspections programme

- to disarm Iraqi whilst worsening living conditions for Iraqi citizens;
- (iii) The tyrannical nature of the regime under Saddam Hussein, which had persistently perpetrated human rights violations on a massive scale. (Bluth, 2004; Keohane, 2005)

These claims, particularly the second and third, implied humanitarian rationales for intervention closely linked to the just war tradition within which the Labour Party had been situated and the more recent imperative for an 'ethical foreign policy' that had characterized much of new Labour's first term in government (Wheeler and Dunne, 1998; Little and Wickham-Jones, 2000). As the invasion of Iraq drew nearer, however, these humanitarian rationales gradually became less prominent until they were shed almost entirely in favour of appeals to security (Whitman, 2008). Justificatory claims for war thus shifted toward the construction of Iraq as a security problem and as a threat. This construction depended on three propositions frequently found in the threat assessments of the British government:

- (i) The aggressive intent of the regime;
- (ii) The aggressive capacity of the regime, in terms of weapons of mass destruction that Iraq possessed and/or could produce;
- (iii) The existential threat posed to the United Kingdom by terrorist organisations armed with such weapons. (Bluth, 2004).

The British government argued that Iraq posed a grave risk to its neighbouring states, which would affect the United Kingdom in terms of regional instability. The link between weapons of mass destruction and terrorism, however, represented a much greater threat to the United Kingdom that was littered with uncertainty (Bluth, 2004:884). Iraq might provide terrorist organisations with weapons of mass destruction for any number of reasons and at any time; it was uncertain exactly what weapons Iraqi possessed; and as Blair would suggest on several occasions the murderous intent of terrorism knew no bounds, if armed with weapons of mass destruction the consequences of a terrorist attack could be 100 times greater than those killed on 11 September 2001.⁶⁰ Still, this was not enough to justify war. Selling the threat of Iraq required the British government to argue that it was essential to disarm Iraqi by force because this was the least worst option. Whereas, in the past, the least worst option had been to support a policy of sanctions, containment and inspections, this was no longer the case. The risk of inaction and nonviolence was presented as greater than that of action and state violence (Mythen and Walklate, 2008:235), because there was no other way to mediate the uncertainty of the Iraqi threat.

⁶⁰ See Blair's comments made in HC Deb 18 March 2003, vol 401, col 767. These are discussed in more depth below.

The argument that there was ‘no way out’ and that war was necessary was based on three further claims as to how the aggressive intent and the violent capacity were immutable under the existing state of affairs:

- (i) Iraq had used chemical weapons in the past, demonstrating rogue behaviour in the face international humanitarian law;
- (ii) Iraq was committed to protecting and expanding its weapons of mass destruction capabilities through a complex and purposeful infrastructure of concealment, deception and intimidation designed to impede United Nations weapons inspectors;
- (iii) The international community’s policy of containment and inspection was incapable of overcoming these acts of obstruction (Keohane, 2005:66).

The figure below puts these three sets of claims in diagrammatic form.

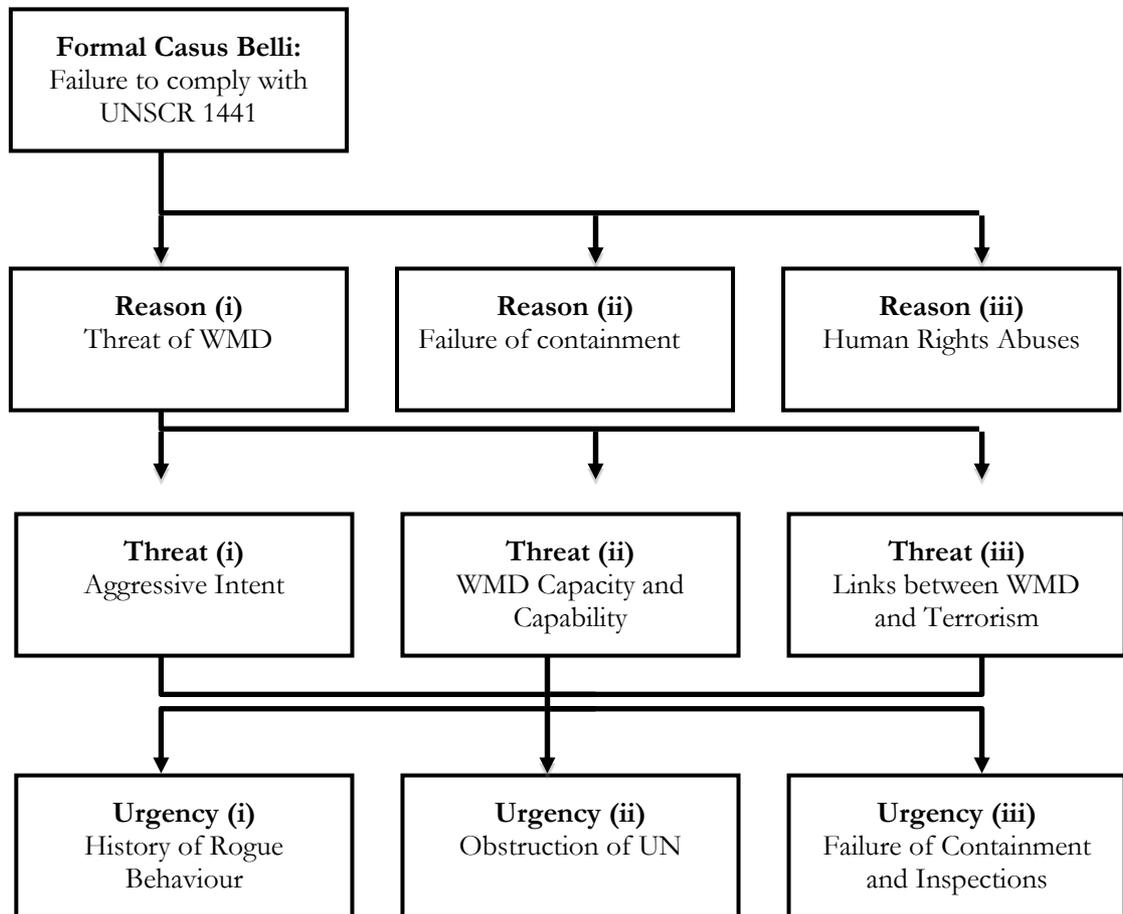


Figure 15. Mapping the construction of the British case for war

In the remainder of this chapter, I will show exactly how this network of claims was made possible through the events leading up to the decision to go to war. I will do so through two different approaches to ‘securitisation’: the dominant CoS approach and an approach influenced by Foucault. In both cases the political rationality of liberal governmentality plays an important role in understanding how Iraq was successfully constructed as a threat,

at least in the “formal” sphere of parliament (Balzacq, 2005; Roe, 2008). The audience had to share a rationality of government in which political secrecy was viewed with suspicion as a source of uncertainty. The approaches differ in important respects too. The CoS re-inscribe the assumptions that individual actors can be held responsible for securitising a given object through speech acts assisted by certain conditions. According to this view there is always a clear and conscious choice to securitise or not. The Foucauldian approach shows how these assumptions are problematic because the conditions of possibility for the problematisation of a security threat are embedded in a political rationalities and governing practices that exceed intentional individuals, speech and moments. Ignoring this underlying dispositif silently re-inscribes the ever-present possibility for liberal war against objects of insecurity.

Securitising Iraq (1): Speech Acts and the Felicity Conditions of Secrecy

In the following section I will offer a sympathetic exegesis of the CoS approach and how it can be applied to the British case for War. I do, as I have clearly stated, hold some reservations about this approach and these will be stated below. For the moment, however, it is important to acknowledge how the CoS approach originated as an attempt to think beyond other so-called radical or progressive approaches of the time, which could be applied to the study of security. These approaches tended to reinforce the assumption that when we talk about security problems or issues we refer to phenomena that exist ‘out there’, independently of our talking about them. The CoS object that “there are no security problems as such, only *constructions* of issues as security problems” (Waever, 2000:225 my emphasis). Under a securitisation framework security concerns are constructed through the act of securitisation, which is “always a choice to treat something as a security issue” (Waever, 2000:251). Securitising an issue as a security issue is understood as a matter of “saying security”.

We can regard “security” as a *speech act*. In this usage, security is not of interest as a sign that refers to something more real; the utterance *itself* is the act. By saying it is, something is done (as in betting, giving a promise, naming a ship). By uttering “security”, a state-representative moves a particular development into a specific area, and thereby claims a specific right to use whatever means are necessary to block it. (Waever, 1995:55)

The CoS suggest that all issues are found on a spectrum. At one end there are *non-politicised* issues that are not parts of public debate. In the middle of the spectrum are *politicised* issues; these are issues that are debated in the public sphere and require some sort of decision or allocation of resources by government according to the normal rules of the political system

in which the issue is debated. At the other end of the spectrum are issues that, if successfully securitised, are “lifted” from the realm of politics bound by the rules that regulate normal decision-making, and into another realm of politics characterized by urgency (Buzan, et al., 1998:26). When we examine how Iraq was securitised, therefore, we are looking at how the issue of what to do about Iraq was moved from a realm governed by normal rules – such as respect for external sovereignty – into a realm where such rules can be broken. The securitising act can be summarized in these five steps:

- (i) A securitising actor
 - (ii) must designate an existential threat
 - (iii) to a referent objects that *must* survive because the political community cannot otherwise continue as an autonomous entity
 - (iv) successfully convincing an audience
 - (v) to tolerate and condone the use of extraordinary measures, that would not otherwise be acceptable, in order to confront the threat.
- (Buzan, et al., 1998; Waever, 2000:251; Waever, 2011)

Not all securitising moves are successful. Following Austin (1962), the CoS suggest that a securitising move is influenced by three “felicity conditions”. Firstly, the act needs to follow the “grammar of security”, as detailed above. The securitising actor must construct a “plot” that includes “[an] existential threat, [a] point of no return, and a possible way out” (Waever, 2000:252). Secondly, success is affected by the position of authority from which the securitising actor speaks. The actor must have sufficient social capital in the relationship between speaker and audience so that the audience is likely to accept the claims contained in the speech act itself. Finally, success is also affected by “conditions historically associated” with the alleged threat. Buzan et al. explain, “it is more likely that one can conjure a security threat if certain objects can be referred to that are generally held to be threatening – be they tanks, hostile sentiments, or polluted waters” (Buzan, et al., 1998:33). Here the CoS hint that historical material conditions can facilitate the securitising process.

These conditions, however, never make for necessary securitization. This ultimately depends on “constructing a shared understanding of what is to be considered and collectively responded to as a threat” (Buzan, et al., 1998:26). This shared understanding is an intersubjective understanding reached between the actor and the audience. Whether an issue has been securitised is decided by the audience, and by whether “the audience accept something is an existential threat to a shared value” (Buzan, et al., 1998:31). Securitisation is a matter of negotiation between the ‘securitiser’ and the audience, and it is the audience who give the securitising actor “permission to override the rules that would otherwise bind” (Buzan, et al., 1998:26). Thus, “even very important conditions for successful

securitisation can never replace the political act as such” (Waeber, 2000:225). The audience to whom a securitising move is directed is constitutive of security politics. In the context and parlance of the liberal democratic state, the public sphere must consent to a securitising move and the exceptional measures that this move entails. The securitising move must make sense in term of the norms of hypothetical publicity. A successful securitising act is not a matter of “breaking rules” but of convincing an audience of the presence of existential threats in order to “*legitimise* the breaking of rules” by using exceptional or extraordinary political measures (Buzan, et al., 1998:25 my emphasis).

Understanding the British Case for War through the Insecurity of Iraqi Secrecy

From the late 1990s Blair had voiced concerns about the threat posed by Iraq,⁶¹ but it was not until early 2002 that the government began to seriously present Iraq as a threat. This threat emerged from the concern that the regime could provide terrorist groups with chemical or biological weapons. In March 2002 the government issued a briefing document to the Parliamentary Labour Party claiming that Iraq could “redevelop offensive chemical and biological weapons within a very short period of time”; the document registered the government’s “belief” that Iraqi was hiding WMD in a range of locations, that “we fear Iraq is taking advantage of the absence of UN weapons inspectors to rebuild its WMD” and posed the question: “if Iraqi poses no threat then why does [Saddam] continue to refuse access to UN inspectors?” (Williams and Nuamah, 2002). During the same month, interdepartmental advice to ministers noted that the government’s objective was a “law-abiding Iraq”; “Implicitly,” the document continued “this cannot occur with Saddam in power” (Butler, 2004b:64-67).⁶² Long-term objectives of the British government could, therefore, only be achieved through regime change (Bluth, 2004:877). By mid-March, the Blair government supported regime change but recognised that it would need to ‘sell the threat’. On 17th March, the British ambassador to the United States met with the Deputy Secretary of Defence. Meyer recalls telling Wolfowitz that,

⁶¹ Then–Liberal Democrat leader Paddy Ashdown recalls that in 1997 Blair told him: “I have now seen some of the stuff on this. It is really is pretty scary. He is close to some appalling weapons of mass destruction... We cannot let him get away with it” (Ashdown, 2001:127). For a time, however, Blair showed little interest in the removal of Saddam Hussein’s regime. In December 1998 during operation Desert Fox, Blair claimed that he could not responsibly commit troops to a ground war or do so without clear international legal imperative; even in the wake of 11 September 2001 – after the Bush administration has quickly come to the decision in favour regime change in Iraq – Blair visited Bush to caution against drawing links between Al Qaeda and Iraq, and against intervention in Iraq (Phythian, 2008b).

⁶² “So”, the document continued, “whilst a policy of containing was the “least worst option”, disarmament would be unlikely under a renewed inspections regime and “the use of overriding force in a ground campaign is the only option that we can be *confident* will remove Saddam and bring Iraq back to the international community”.

We backed regime change, but the plan had to be clever and failure was not an option. It would be a tough sell for us domestically and probably tougher elsewhere in Europe... I said that the UK was giving serious thought to publishing a paper that would make the case against Saddam, we would have to be able to take the critical mass of Parliamentary and public opinion with us. (Meyer, 2002)

Almost immediately, however, officials discussed *how* to sell the threat. The ‘paper’ Mayer referred to was based on intelligence assessments from the JIC, and was originally intended as a public document “setting out the facts on WMD in a number of nations” including Iraq, Iran, Libya and North Korea (Joint Intelligence Committee, 2002) (Miller, 2002). After requests from officials and government advisers, the paper was revised to focus solely on Iraq, which had the effect of “obscur[ing] in the fact that in terms of WMD Iraq is not that exceptional” (Scarlett, 2002). Discussions abound concerning how to present the government’s case to maximize this impression of threat.⁶³ The Political Director for the FCO noted at the time that, whilst “extremely worrying”, the change was not that Iraq’s weapons programs had been “stepped up” but “our tolerance of [these programs] post-11 September” (Ricketts, 2002a). The government had to find a way to convince its audience that the threat was “so serious—imminent that it was worth sending our troops to die for”, and “qualitatively different from the threat posed by other proliferators” (Ricketts, 2002a).

From April 2002, the Prime Minister made a series of statements that drew together claims about the capacity of the Iraqi regime to acquire weapons of mass destruction, the aggressive intent of the regime, and the risk of terrorism armed with such weapons.⁶⁴ Over the summer of 2002, the dossier was slowly redrafted by the JIC, with advice from a small group of communications staff in Downing Street. In August, a decision was taken to publish the dossier. E-mails and memos from the period show that

⁶³ In one example, Peter Ricketts – Political Director for the Foreign and Commonwealth Office – circulated a memo stating that the Defence Intelligence Staff were revising down their estimation of Iraq’s chemical weapons munitions and precursor agents (the material required to make a weapon) (Ricketts, 2002b). In response, a Foreign and Commonwealth Office official suggested the following: “if it appears that we do have to change our public line [by revising down the estimation of precursor chemicals and weapons], I wonder if we might finesse the presentational difficulty by changing the terms? Instead of talking about tonnes of precursor chemicals (which do not mean much to the man in the street anyway), could we focus on munitions and refer to precursors chemicals sufficient to produce X thousand SCUD warheads/aerial bombs/122 mm rockets filled with mustard gas/the deadly nerve agents tabun/sarin/VX? Presumably we know from UNSCOM what types of munitions the Iraqis had prepared or were working on at the time of the Gulf War. I realise that this would not in the end hoodwink a real expert, who would be able to reverse the calculation and workouts that our assessment of precursor quantities had fallen. But the task would not be straightforward, and would be impossible for a layman” (Dowse, 2002).

⁶⁴ Whilst meeting the President in Crawford, Blair claimed in an interview with NBC that “we know that [Saddam] has stockpiles of major amounts of chemical and biological weapons” (cited in Phythian, 2008a:96). Speaking in Texas on 7 April Blair cited several countries that might harbour terrorism or produce weapons of mass destruction, but who might be offered a “route to respectability” by changing their behaviour – Iraq was conspicuous by its absence from the list (cited in Bluth, 2004:879). Speaking to the House of Commons on his return from the US, Blair claimed that “there is no doubt at all that the development of weapons of mass destruction by Saddam poses a severe threat not just to the region but to the wider world” (HC Deb 10 April 2002, Vol. 383, Col.11)

in early September, Blair's advisers were still concerned that there was "[a] very long way to go" and that "we're in a lot of trouble with this as it stands now" (Bassett, 2002). The greatest concern amongst the advisers was how to present the urgency of threat that Iraq posed. In this regard three claims became vital to the government's case for war. As one adviser argued, the government "must ... show that Saddam has the *capacity*, and is *intent* on using it in ways that threaten world stability, and that *our ability to stop him* is increasingly threatened" (Kelly, 2002). Blair's private secretary added, "part of the answer to 'why now?' is that the threat will only get worse if we do not act now – the threat that Saddam will use WMD, but also the threat that Iraq's WMD will somehow get into the hands of terrorists" (Rycroft, 2002). Blair's chief of staff explained that the dossier was not designed to suggest that Iraq was an "imminent threat", but rather that it had continued to breach resolutions, that containment had failed, and that action had to be taken to protect the authority of the UN and because "Iraq would be a threat to the UK in the future if we did not check [Saddam]" (Powell, 2002a)

This three-fold construction of the Iraqi threat depended greatly on making its audience aware that the Iraqi regime was keeping secrets from the UN, and required the audience to share a suspicion that these were an indication of wrongdoing. During the drafting process, a great deal of emphasis was placed on the unanswered questions and areas of uncertainty that arose from the work of the weapons inspectors. In order to claim that Iraq constituted a current and serious threat to the UK national interest, the government did not refer so much to evidence for Iraqi possession of WMD but to the institutional *capacity* to hide it from the view of the international community. Earlier that month the International Institute for Strategic Studies had released their own dossier, *Iraq's Weapons of Mass Destruction: A Net Assessment*, that claimed Iraq was making "every effort to obscure its past, obstruct dismantlement of its present assets, and retain capabilities for the future" (IISS, 2002:1). Following in the footsteps of the IISS, the government published the 'September Dossier' alleging that Iraq was concealing equipment and documentation in advance of inspections. The dossier emphasized "Iraq's history of deception, intimidation and concealment in its dealings with the UN inspectors" (British Government, 2002). One section of the dossier, for instance, was devoted to "The Problem of Dual-Use Facilities", whilst another section highlighted the size of the Presidential Sites to which the inspectors has been denied access.

The Problem of Dual-Use Facilities

Almost all components and supplies used in weapons of mass destruction and ballistic missile programmes are dual-use. For example, any major petrochemical or biotech industry, as well as public health organisations, will have legitimate need for most materials and equipment required to manufacture chemical and biological weapons. Without UN weapons inspectors it is very difficult therefore to be sure about the true nature of many of Iraq's facilities.

For example, Iraq has built a large new chemical complex, Project Baiji, in the desert in north west Iraq at al-Sharqat (see figure 2). This site is a former uranium enrichment facility which was damaged during the Gulf War and rendered harmless under supervision of the IAEA. Part of the site has been rebuilt, with work starting in 1992, as a chemical production complex. Despite the site being far away from populated areas it is surrounded by a high wall with watch towers and guarded by armed guards. Intelligence reports indicate that it will produce nitric acid which can be used in explosives, missile fuel and in the purification of uranium.



FIGURE 2: AL-SHARQAT CHEMICAL PRODUCTION FACILITY

Figure 16. An extract from the September Dossier concerning 'Dual-Use' Facilities.

This passage, and the image, performs the *secretum*, or the secrecy effect. Dual use facilities always provide the possibility of a secret, because there is always the possibility that the facilities could be used for a different purpose. There is always the possibility that we are separated from those in charge of the facility, who can conduct an activity in secret. The effect of this passage in the dossier is to make the reader aware of this ever-present separation between those-who-know and those-who-don't-know-but-suspect.

A photograph of a “presidential site” or what have been called “palaces”.

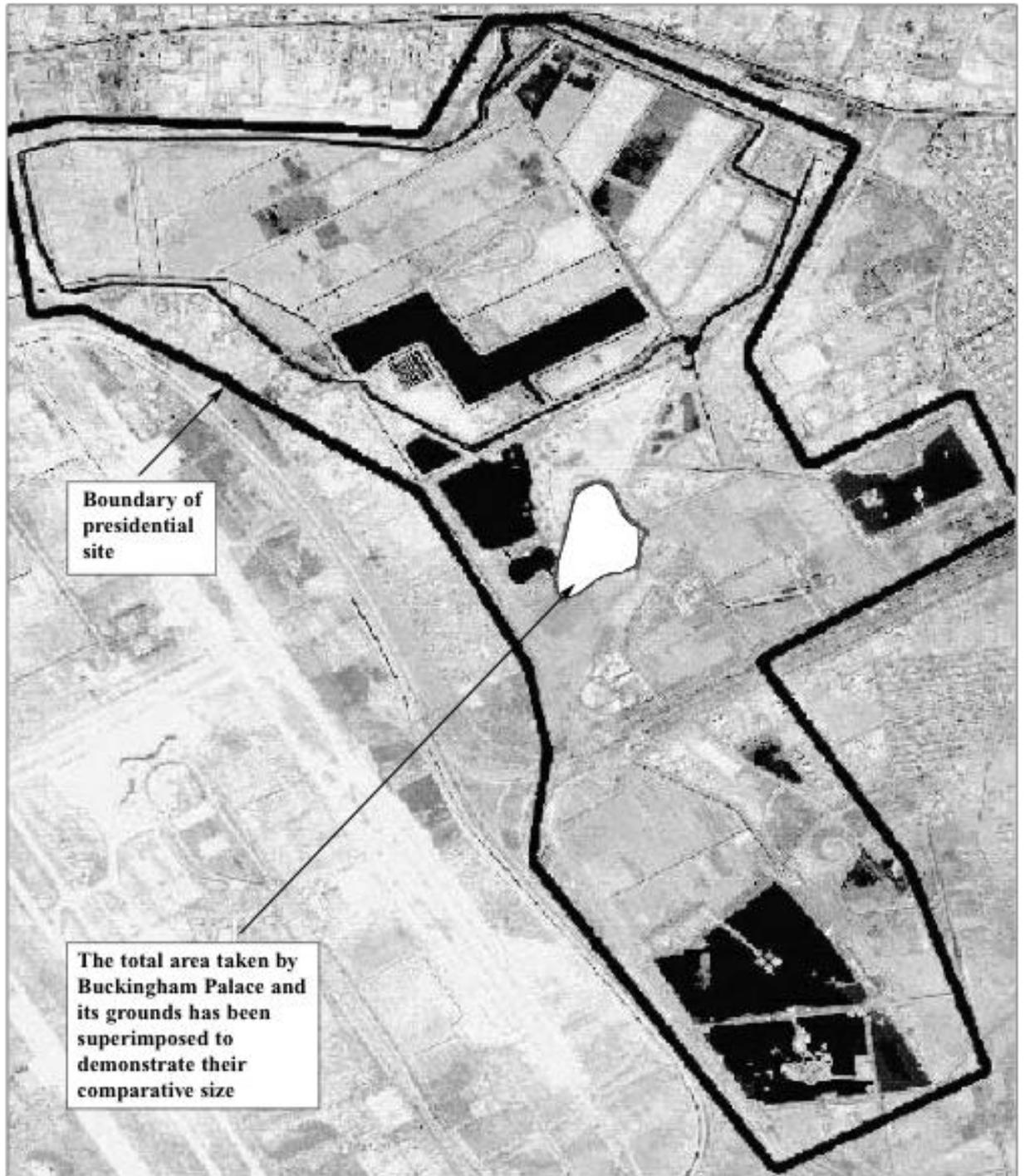


Figure 17. An extract from the September Dossier.

The image is taken by aerial surveillance, and displays a so-called ‘presidential site’, to which the Iraqi authorities refused to grant UNMOVIC access. The image is another performance of the *secretum*, the secrecy effect. We can see that we-who-do-not-know are separated from the those-who-know. We don’t know what is inside the site, but we know there is something to know. This secrecy effect is achieved by the dossier, which then further exploits the secrecy effect by arousing suspicion, uncertainty and fear of what could be found.

During the drafting process, Chief of Staff Jonathan Powell wrote an email to Alistair Campbell, David Manning and John Scarlett with the following question.

If I was Saddam I would take a party of Western journalists to [one of the factories referenced in the dossier] to demonstrate there is nothing there. How do we close off that avenue to him in advance? (Powell, 2002b)

Alistair Campbell replied, “we should in our briefing make clear that we will assume he will sanitise one of them for the media, and pull some stunts, but remain robust re our judgements” (Campbell, 2002). Powell concurred, “we just need to flag up before publication [of the dossier] that of course Saddam can tidy places up and take people there but that does not change what he has been doing there” (Powell, 2002c). Downing Street also prepared a Q&A documents for media briefings following the publication of the dossier. In response to the anticipated question, “how can you be sure that work related to WMD is undertaken in these facilities?” The prescribed answer was: “we do not. The important point is that such facilities could support CW agent production” (British Government, 2003b). Downing Street also prepared for the question that “the press has recently visited a number of sites named in the dossier and found no traces of chemical and biological weapons related activity. How do you explain this?” The prescribed response was: “such visits can easily be orchestrated and stage-managed. Elements of WMD programs can be concealed” (British Government, 2003b).

In his foreword to the dossier, Blair asserted that he believed the intelligence “established beyond doubt ... that Saddam has continued to produce chemical and biological weapons [and] that he continues in his efforts to develop nuclear weapons” (British Government, 2002:3). The policy of containment had failed, Blair believed, to prevent these developments and Saddam would try to conceal his weapons from the inspectors. “Unless we face up to the threat”, Blair warned “not only do we risk undermining the authority of the UN ...but more importantly and in the longer term, we place at risk the lives and prosperity of our own people” (British Government, 2002:4). This last phrase, as Phythian notes, placed the future in doubt. The dossier, and Blair’s foreword, “constructed a threat out of uncertainty” (Phythian, 2012:190). Iraq was “no-longer-but-not-yet – no longer trust/security, not yet destruction/disaster” (Beck cited in Phythian, 2012:190). This uncertainty, crucially, emerged from the awareness of Iraqi secrecy, without an awareness of what those secrets were.

In the same foreword, the Prime Minister also invoked the authority of the JIC, noting that it was “unprecedented” for the government to publish material from secret assessments in this way. Blair hinted that there might be more incriminating evidence that the government could not publish, noting that “we cannot publish everything we know”

but that “I and other Ministers have been briefed in detail on the intelligence and are satisfied as to its authority” (British Government, 2002:3). At the same time, Blair claimed that “gathering intelligence inside Iraq is not easy. Saddam’s is one of the most secretive and dictatorial regimes in the world” (British Government, 2002:3). Implicit in Blair’s foreword was a distinction between a liberal self that was practicing the norms of hypothetical publicity and *could* be trusted, and illiberal other that did not practice such norms and could not be trusted.

In mid-September the Iraq allowed the UN inspectors to return to Iraq without conditions. On 8th November the Security Council passed Resolution 1441, which required that Iraq submit a “currently accurate, full and complete declaration” of all prohibited weapons and delivery programs and other chemical, biological and nuclear programs, including those that were not related to weapons production. On 9th January 2003, Blix reported to the Security Council that there had been no denial of access and no “smoking gun” had been uncovered. In short, UNMOVIC did not and could not say that there were any prohibited weapons or materials in Iraq, “but the absence of any finds at expected sites was no guarantee that such items and activities could not exist elsewhere” (Blix, 2003c). On 3rd February, Number 10 published another dossier. Titled *Iraq: Its Infrastructure of Concealment, Deception And Intimidation*, the document was intended to “show how the Iraqi regime is constructed to have, and to keep, WMD, and is now engaged in a campaign of obstruction of the United Nations weapons inspectors” (British Government, 2003a:1). In the preparation of the dossier, the Secret Intelligence Service (SIS) provided Number 10 with “Intelligence–Derived” material. The material provided a narrative account of the working conditions of a UN weapons inspector, placing great emphasis on the policy of concealment, deception and intimidation that the regime was accused of pursuing.

The best analogy is to Stalin’s Soviet Union in the 1930s with show trials, the terror and the systematic deceit of all foreign visitors by all who meet them, on pain of torture and death...Your arrival has been so long in coming that Saddam has had plenty of time to hide anything he does not want you to find. So you know your task, in a country which does not want you there, is going to be near to impossible before you start ...You are taken to your hotel, where your room is waiting for you ...And your telephone will be monitored. Someone ... will be listening to you round the clock ...Your journeys will be monitored by security officers stationed on your route, of which advance warning will have been given when you left your hotel. Any changes of destination you make will be notified ahead by telephone or radio so that your arrival is helpfully anticipated...Is your vehicle equipped with an eavesdropping device? Does it have a tracking device fitted in case you manage to travel under your own steam? Is your helpful escort wearing a body microphone to record what you and your colleagues say? Very likely...Are your escorts being a bit too helpful to you by engaging in long arguments with other Iraqi officials so that you can get in and do your job – while any incriminating evidence is hastily being hidden behind the scenes? (ISC, 2003:47-48)

The dossier itself may have been discredited almost immediately, but the briefing note is an

important indicator of what material the intelligence services were providing and what arguments the government could make. It was a relational dynamic. Whilst highlighting Iraq's lack of openness with the international community, the British government stressed how its own publication of intelligence led assessments demonstrated a profound degree of openness between the government and the public. By incorporating intelligence material into the writing of the public dossiers, the Prime Minister stressed the integrity of the security services, "they are not publishing this, or giving us this information, and making it up", instead this was a moment of honesty and sincerity in which "the intelligence that they are receiving... We are passing on" to demonstrate that "a vast amounts of concealment and deception is going on".⁶⁵ The British government, according to this narrative, were striving make as much information available as possible in spite of the legitimate need for secrecy; Iraq meanwhile was making no such effort.

On 18th March the government won a Parliamentary vote for war with a majority of 412 to 149. Labour MPs voted with Blair by 254 to 84. Presenting the motion to Parliament, Blair asked what was to be done with a regime that had consistently protected its capacity for official secrecy and intentionally obstructed the attempts of the international community to undercover the truth. Blair's answer was that it was preposterous to believe that Iraq could be trusted.

What is the claim of Saddam today? Why exactly the same as before: that he has no WMD. Indeed we are asked to believe that after seven years of obstruction and non-compliance finally resulting in the inspectors leaving in 1998, seven years in which he hid his program, built it up even whilst inspection teams were in Iraq, that after they left he then voluntarily decided to do what has he had consistently refused to do under coercion... We are now seriously asked to accept then in the last few years, contrary to all history, contrary to all intelligence, he decided unilaterally to destroy the weapons. Such a claim is palpably absurd.⁶⁶

Blair drew on the reports of Hans Blix and the weapons inspectors. Blix's final report of 173 pages, Blair told Parliament, detailed "all the unanswered questions about Iraq's WMD" such as "uncertainty with respect to 6526 aerial bombs" and "the strong presumption... that about 10,000 litres of anthrax was not destroyed and may still exist".⁶⁷ Having described Iraq's capacity, Blair turned to the link between terrorism and WMD, which constituted a "fundamental assault on our way of life".⁶⁸ Blair claimed that the possibility of terrorist groups attaining WMD from the tyrannical regime like Iraq was now "a real and present danger".⁶⁹ What was shocking about 11 September 2001, Blair reminded his colleagues, was "the knowledge that had the terrorist been able to, there

⁶⁵ HC Deb, 3 Feb 2003, vol 399, col 25

⁶⁶ HC Deb 18 March 2003, vol 401, col 762

⁶⁷ HC Deb 18 March 2003, vol 401, col 763

⁶⁸ HC Deb 18 March 2003, vol 401, col 767

⁶⁹ HC Deb 18 March 2003, vol 401, col 768

would not have been 3000 innocent dead, but 30,000 or 300,000”.⁷⁰ The link between terrorism and Iraqi WMD would facilitate this “slaughter of the innocent”.⁷¹ Finally, Blair stated why the threat had to be confronted without delay. The use of force, Blair claimed, was the only way to deal with the regime that had consistently failed to satisfy the world that it could be trusted.

It is dangerous if such regimes disbelieve [our willingness to use force]. Dangerous if they think they can use our weakness, our hesitation, even the natural urges of our democracy towards peace, against us... Iraq he is not the only regime with WMD. But back away now from this confrontation and future conflicts will be infinitely worse and more devastating.⁷²

This attack could be almost limitless in its destructive potential, and could materialise at any time. Almost everything about this threat was uncertain (Bluth, 2004:884). Yet this uncertainty, rather than introduce a moment of hesitation, demanded action against one of the few parts of the threat that could be grasped: namely, the Iraqi regime itself. Iraq, Blair claimed, was “the test of whether we treat the threat seriously by taking action”.⁷³ Exercising the use of force was consistent with, rather than contrary to, the long-term interests of the United Nations.

In support the Conservative Parliamentary opposition repeated the government’s emphasis on Iraq’s deception, the implicit assumption of threat that this entailed, and the use of force as consistent with both the national interest and the interests of the United Nations.

The Prime Minister rightly pointed out that Saddam Hussein has *lied* to the UN for 12 years. Even now, *we do not know* the full extent of his arsenal, or of his facilities to develop weapons. He has the means, and as has already been said, it should be evident to everyone but he remains in breach of the obligations under 1441. He has absolutely *no intention* whatsoever of relinquishing the weapons that he has developed... deadly weapons, viruses and agents identified by Hans Blix in his report... Saddam Hussein has the means and the mentality. He also has the motive... the threat that his arsenal poses to British citizens at home and abroad cannot simply be contained.⁷⁴

Failing to act now, argued Smith, would “strip the UN of its authority, betray our own national interest and to send an unmistakable signal to Saddam Hussein and every rogue states and terrorist group in the world that we lack the will to enforce just demands against those tyrannical regimes”; voting for the government’s motion was necessary “for the sake of our security and that is of the wider world”.⁷⁵ It went unsaid in these debates that Iraqi

⁷⁰ HC Deb 18 March 2003, vol 401, col 769

⁷¹ The British Government has some experience of this, in the 1980s it emerged that Libya had supplied explosive and weapons to the Provisional IRA (Keohane, 2005:66).

⁷² HC Deb 18 March 2003, vol 401, col 767

⁷³ HC Deb 18 March 2003, vol 401, col 769

⁷⁴ HC Deb 18 March 2003, vol 401, col 775

⁷⁵ HC Deb 18 March 2003, vol 401, col 779

secrecy and obstruction was an intentional act by the regime to prevent the inspections from uncovering wrongdoing. Moreover, both leaders were unshakeable in their belief that their latitude and accountability for war was limited. Instead “the blame for further military action” as Smith told the Commons, “lies squarely in the hands of Saddam Hussein. It is *his regime only* that has made further military action necessary”.⁷⁶

Of course, a few parliamentarians voiced their objections. Robin Cook resigned from the Cabinet in protest whilst claiming that Iraq probably had no WMD in the sense of a strategic weapon that posed a threat to the UK. The support of many in Blair’s own party could not be divorced from the pressures of “loyalty, tribalism and also the possibility that bringing down a prime minister might lose you your seat in the next election” (PASC, 2008:28). Many MPs were also convinced that members of Blair’s inner circle and those members with access to secret intelligence knew something that the rest of Parliament did not. Recall from Chapter One that members of the ISC cajoled backbenchers by suggesting that, “if you knew what we know, you would vote for war, but we cannot tell you because it is a secret”.⁷⁷ Taking into account these political pressures, the British Government successfully persuaded parliament and much of the media and public to support the case for war. The CoS framework offers one explanation of how Iraq was constructed as an existential threat.

The Speech Act Securitisation of Iraq and the Felicity Conditions of Secrecy

By winning the vote for war, we can say that the British government successfully gained formal support for the securitisation of Iraq (Roe, 2008). If we view this securitisation through the CoS framework alone, we are drawn to three areas of explanation as to how this securitisation could occur. Firstly, the British case for war was framed in terms of the ‘grammar of security’. The case for war included the construction of an existential threat, a point of no return and a possible way out. The existential threat was posed in relation to the British state and the British public through the black market trade of WMD. The magnitude of the threat – a terrorist attack with WMD – was sufficient to threaten the survival of this referent object but the imminence of threat was unknown. The disarmament of Iraq was a means to manage this risk or, put the other way around, an unscrupulous Iraqi regime armed with these weapons made such an existential threat more likely. The point of no return, the point at which conventional policies were no longer enough, was presented in three steps: Iraq had the capacity to produce WMD, Iraq was intent on doing so, and the existing inspections regime was unable to ensure disarmament

⁷⁶ HC Deb 18 March 2003, vol 401, col 776

⁷⁷ HC Deb 13 June 2013, vol 564, col 568

by peaceful means. The only way out, the least worst option, was the use of military force against the regime for the purpose of disarming Iraq and removing Saddam.

Secondly, the Blair government heavily exploited its position of authority when making the case for war. When producing the dossiers, it emphasised the authorship of the Joint Intelligence Committee rather than the political communications staff of Number 10 – a decision the Butler Committee later described as claiming a “badge of objectivity” (Butler, 2004b:78). Blair’s foreword hinted that more intelligence was available than could be published. In parliament, wavering MPs were told of more, secret incriminating information. These moves mirror the expectations of securitization scholarship, in which successful moves to obtain consent for exceptional measures often rely on manipulating the audience’s asymmetric access to information. The British government held a monopoly on certain information about Iraq derived from the intelligence agencies; the audience, also, could not know the totality of the information from which the government could draw. The government held a great deal of “symbolic power” by virtue of their privileged access (Bourdieu, 1992; Williams, 2007; Neal, 2012a). So long as the government retained a requisite level of trust, so long as there is “the assumption that a given securitising actor knows what is going on, and works for the common interests” (Balzacq, 2005:191). In other words, the government were acting in accordance with the liberal norms of publicity that underpin the needs of liberal governance. This privileged access to information could be exploited to support the successful persuasion of the audience.

Lastly, the threefold justification for war relied on a series of historical conditions. Some of these historical conditions assisted the first two claims that Iraq had both the capacity and the intent to produce and use WMD. The British government made much reference to Iraq’s historic use of chemical weapons against Iran and its own population. Iraq’s poor human rights record was used as part of a strategy to depict Saddam’s regime as cruel, belligerent and unstable (Phythian, 2008b). Yet by far the most important conditions supporting the case for war were the ‘spaces of uncertainty’ and unanswered questions about Iraq’s WMD. The dossiers and Blair’s speeches rarely accused the Iraqi regime of hiding specific WMD material, rather they pointed to unresolved disarmament issues reported by the weapons inspectors. They highlighted locations about which little was known – like the presidential sites – or they pointed to dual-use facilities that could, in the future, be used to produce WMD materials. They pointed to the recorded instances in which the regime had forcibly obstructed and resisted the weapons inspectors. These conditions did not produce the threat itself – the untold and unpredictable threat of a WMD terrorist attack – but they did suggest that the existing policies for managing proliferation were ineffective. The existence of Iraqi secrets constituted uncertainty,

uncertainty that existing policies could not mediate. In relation to both my second and third points, success relied on the audience suspecting that there was more behind the secrecy: for the trusted government, the audience assumed that more evidence of Iraq’s wrongdoing was held by the intelligence services, for the distrusted Iraq, the audience assumed that the unanswered questions veiled wrongdoing.

Table 3. The Role of Publicity and Secrecy in Facilitating the Securitisation of Iraq

The Grammar of Security	A Position of Authority	Historical Conditions
<u>Existential threat:</u> Terrorism and WMD	–JIC ‘Badge of Authority’	–Historic use of WMD
<u>Point of no Return:</u> Threefold combination of Iraqi capacity, intent to develop WMD, and intentional obstruction of UNSCOM and UNMOVIC	–Executive monopoly on access to intelligence	–Spaces of uncertainty (e.g. dual-use facilities, presidential sites)
<u>Possible way out:</u> Military action		–Unanswered disarmament issues from UNMOVIC and UNSCOM

Yet these three lines of explanation are not enough. Whilst the CoS framework is a popular and dominant approach in CSS, whilst it shows us how the politics of publicity and the insecurity of secrecy could be exploited by the Blair government in order to construct Iraq as a source of existential threat, this explanation is incomplete. It is necessary to break with the CoS framework. Whilst the CoS tell us how something can be constructed as a security issue, this framework unnecessarily assumes that this construction is limited to a specific moment in which identifiable actors undertake a speech act governed by linguistic rules and assisted by certain evidentiary conditions. Contrary to the CoS, the securitisation of an object is not a choice made solely by intending actors. The CoS framework cannot tell us, but we must understand, how the construction of the security threat became a reasonable and possible course of action *in the first place*, and it cannot tell us how the facilitating conditions were themselves produced. I will now turn to a Foucauldian approach to the production of security threats. This analysis takes us beyond a moment of decision – and suggests the conditions for security practices are constituted from, rather than in a break with, the conditions of ‘normal’ liberal governance and the historic relationship between actual publicity, political secrecy and security.

Securitisating Iraq (2): The Dispositif of Security and the Production of the Felicity Condition of Iraqi Secrecy

The securitisation framework has been criticized for being problematically narrow with

regard to its focus of the speech of dominant actors.⁷⁸ Here I am specifically interested in the criticism that the “context” of the securitising act is focused too narrowly on the “moment of intervention” at the expense of a range of processes and dynamics that allow us to understand how particular ways of constructing threats are successful within a given community (McDonald, 2008; Gad and Petersen, 2011:318). Whilst the CoS make some reference to facilitating conditions, the importance of structural processes are eclipsed by the framework of the speech act itself (see for instance Balzacq, 2005; Balzacq, 2010a). Others have argued that issues can become security concerns without a perceivable moment of articulation at all (Bigo, 2002; Huysmans, 2006). The research agenda, for a sociological study of securitization, is well summarized by McDonald.

Those interested in the construction of security must pay attention to the social, political and historical context in which particular discourses of security (even those defined narrowly in terms of the designation and articulation of threats) become possible. Why are some political communities more likely to view certain actors and dynamics as threatening? What role do narratives of history, culture and identity have in underpinning or legitimating particular forms of securitization? (McDonald, 2008:573)

Foucault provides a methodological framework to attempt this kind of sociological account of securitisation. Recall from the previous chapter that ‘security’ is a “discursively constituted problematisation” (Dillon, 1996). From a Foucauldian perspective, when we want to research how something becomes a security issue, we must research how an object or behaviour becomes problematised. These problematisations emerge out of particular rationalities of government and create the need for technologies of governance. By studying problematisation, Foucault tried to avoid both an anti-foundationalist approach that denied the reality of phenomena and an epistemic realism that presented self-evident facts about the social world (Aradau et al., forthcoming). On the one hand, Foucault wrote that problematisation does not deny the reality of phenomena, “on the contrary ...it was precisely some real existent in the world which was the target of social regulation at a given moment.” Yet on the other hand:

a problematisation does not mean the representation of pre-existing objects, nor the creation through discourse of an object that does not exist. It is the set of discursive and non-

⁷⁸ Focus on the speech of dominant actors, the speech act privileges linguistic representation and elite actors. Thus scholars have advocated moving “Beyond Speech” and “Beyond the Speech Act”. In the former, scholars have suggested that the meaning of security, and processes of securitisation, can depend on imagery and visual representations (Williams, 2003a)(Williams 2003, Moller 2007, Hansen 2007). So too can routinised practices, professional or technical rationality and the minutia of everyday physical actions shape the work of agencies that practice security (such as the police, government agencies or security industries) in a way that may often deviate from the impression given by official policy and discourse (Bigo, 2002). In the latter, critics suggest that by focusing on securitisation as articulated by elites, the Copenhagen School marginalise the voices of the less powerful. This is problematic because this marginalisation ignores how these less powerful voices are silenced or subjugated, and because it ignores alternative discourses of security that these voices may articulate (McDonald, 2008:573-75).

discursive practices that makes something enter into the play of true and false, and constitutes it as an object of thought (whether under the form of moral reflection, scientific knowledge, political analysis etc.) (Foucault, 2001a:172)

In Foucault's own work, a given problematisation and a given art of government is constituted from a particular set of 'dispositifs', an interplay between a set of practices and a regime of truth, which marks out and legitimizes the problematisations of a given object or behaviour as a reality and a security problem to be governed (Foucault, 2007a:48-49; Foucault, 2008:19). The dispositif provides a methodological alternative to these 'universals', with which Foucault famously refused to deal (and Deleuze, 1992:166; Foucault, 2008:3; see also Agamben, 2009:11). Whilst not rejecting objects like the state or society, sexuality or madness, Foucault denied that these were ready-made objects; instead they are "born precisely from the interplay of relations of power and everything that constantly eludes them, at the interface ... of the governors and the governed" (Foucault, 2008:297). The trick, as Walters notes, is to "shift from the study of objects to the practices that produce them" (Walters, 2012:18). I described in Chapter Two how liberal governance relies on the subject internalising and self-governing according to a set of norms – which include hypothetical publicity, or else face disciplinary or even sovereign forms of coercion; for Foucault this subjectivity and the norms of behaviour are constituted by the 'dispositifs of security' which produce the racial markers that "qualify, measure, and appraise" the conduct of the population (Foucault, 2003:196).⁷⁹

There have been several helpful attempts to elucidate what Foucault meant by the dispositif and how it might serve within the 'toolbox' (Deleuze, 1992; Rabinow, 2003; Agamben, 2009; Bussolini, 2010; Bonditti, 2013). Foucault's most concise explanation of the dispositif is offered in *The Confession of the Flesh* (Foucault, 1980a),⁸⁰ where Foucault describes three methodological prescriptives. As shorthand, I term these prescriptives: *heterogeneity*, *relationality* and *function*. Firstly, the dispositif refers to a set of "discursive and non-discursive" elements.

What I'm trying to pick out with this term is, firstly, a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions ... the said as much as the unsaid
(Foucault, 1980a:194-95)

⁷⁹ Attention to dispositifs is by no means absent (Aradau and Van Munster, 2008; Dillon, 2008b; Dillon and Lobo-Guerrero, 2008; Lobo-Guerrero, 2011)

⁸⁰ The middle chapters of *The History of Sexuality* can also be read as a detailed methodological account of the dispositif (Foucault, 1990). Foucault shows, for instance, how biopower is facilitated by the 'dispositif of sexuality' that includes the 'hysterisation' of women's bodies or the 'pedagogisation' of children's sex (Foucault, 1990a:104-05; see also Rabinow, 2003:50).

These non-discursive elements are “everything which functions in a society as a system of constraint and which isn’t an utterance” (Foucault, 1980a:197). In *Subject and Power*, Foucault notes how ‘relationships of communication’ and ‘objective capacities’ combine as blocks of ‘capacity-communication-power’ in the production of power relations. In a schoolhouse, for example, given disciplinary power relations require both a particular disposal of space and disciplinary regulations. Yet neither the architecture of the schoolhouse or its behavioural rules are defined entirely by the other (Foucault, 2001b:340). This sort of claim jars the boundaries of Cartesian thinking whereby the world is constructed through a neat division between, on the one hand, a “material order” in which things such as the built environment, technological devices and human physiology appear either as ‘given’ constraints on social relations or as empty receptacles that are rendered meaningful by discursive acts, and on the other hand a “separate sphere of meaning or culture” (Mitchell, 1990:546). Instead, as recent interventions have sought to show, a wide range of discursive and non-discursive elements are *co-constitutive* of subjectivities and technologies of government (Aradau, 2010:495;Lundborg and Vaughan-Williams, 2011;Voelkner, 2011;Aradau, et al., forthcoming). When we are studying security as problematisation, therefore, we are studying how a problem – and object of insecurity – emerges from both discursive frameworks and material things.

The second prescriptive emphasizes how shifts in the *relations* between these discursive and non-discursive elements produce diverse strategies of power.

The apparatus itself is the system of relations that can be established between these elements ...A particular discourse can figure at one time as the program of an institution, and at another it can function as a means of justifying or masking a practice which itself remains silent, or as a secondary re-interpretation of this practice, opening out for it a new field of rationality. In short, between these elements, whether discursive or non-discursive, there is a sort of interplay of shifts of position and modifications of function which can also vary very widely. (Foucault, 1980a:194-5)

The arrangement of connections in the ensemble establishes a particular outcome for those caught within it.⁸¹ A problematised object and the technology intended to govern it can operate one way when embedded within one particular arrangement, and in an entirely different way when embedded within another. Put differently, how something becomes a problem and how that problem is dealt with does not depend on a given discursive or non-discursive element, and as a consequence there can be no general political significance of knowledge, political attitudes or material techniques of government. This focus on

⁸¹ Foucault’s use of the *dispositif* echoes its usage by those before him. Baudry, for instance, used the term to describe how the assembly of the cinema and the position of spectators in front of a mirror-like screen encouraged spectators to perceive projections as their own central perspective (Baudry and Williams, 1974). Lyotard also uses the term to describe the perception created through visual arts (cited in Kessler, 2006).

relationality is a fruitful means to avoid both deterministic approaches that tend to assume security practices achieve the same results everywhere. In terms of a method to study how something becomes, and is treated as, a security problem, the researcher could look at the difference between how a rationality of governance is conceived and the practices brought about through the technology of enactment. Put differently, there is a difference between the problems, expectations and anxieties of a rationality of government at the general discursive level and the workings of this rationality when it is put into practice, creates new problems or anxieties (see also Appendix C). In Chapter Two, for instance, I described how a rationality of *raison d'État* emerged as way of governing concerned with the preservation the state. *Raison d'État* does not require political secrecy at a general discursive level, but it becomes a necessity of political secrecy in response to an atmosphere of European competition over the information. In turn, *raison d'État* establishes the conditions for its own demise through political secrecy, as the newly emergent doctrine of liberalism fears the possibilities of iniquity and ineptitude that hide behind the veil of the *arcana imperii*.

When thinking about how security problems emerge and are governed through the *dispositif*, special emphasis is placed on how aggregate level strategies of governance cannot be divorced from the site-specific practices that produce them (Foucault, 2001c:123). Much has been written of Foucault's genealogical method of conducting "a historical ontology of ourselves" (Foucault, 1997d:315). What is less emphasized is the site-specific spatial arrangement invoked by the rule of 'double conditioning' (Foucault, 1990a:99). 'Local centres' of power must be a part of a larger, overall strategy. Yet all strategies must be supported by the 'precise and tenuous relations' of the local, not as a point of outlet, but as a critical point of anchorage. These prescriptives are particularly relevant to those studies dealing with the contemporary, which are most at risk of overstating the evenness of particular strategies of governmentality. Foucault's accounts always emerged ground-up from the study of concrete practices. Studies of governmentality need to include a "certain form of historical materialism" in order to avoid approaches that remain at the level of discursive strategies and ignore or reject a wider context that would "help account for how governmentality works ... [and] also explain how it works differently in different places, or indeed how it might fail or prove irrelevant in certain cases" (Joseph, 2012:53). Again, in the context of security, attention must be paid to the manner in which problems emerge and are treated as such due to locally grounded conditions. The study of variance, between the rationality and actual outcome of governance, becomes a useful tool for the study of international or transnational governmentalities.

This leads on to the final claim for the *dispositif* that emphasizes a strategic *function*, that is, “a sort of—shall we say—formation which has as its major function at a given historical moment that of responding to an urgent need” (Foucault, 1980a:194-95). By urgent need Foucault refers to a response to a problematisation emerging out a particular rationality of government. Thus at the heart of the *dispositifs* of security surrounding the emergence of *raison d’État* was an urgent need for political secrecy, whilst a shift in the *dispositifs* of security meant by the eighteenth century in Britain this urgent need supplemented with the need for actual publicity, and a need to manage these competing needs in the interests of balance too much and too little government. Yet while the logic and aims of strategies of power may be clear, “it is often the case that no one is there to have invented them, and few who can be said to have formulated them: an implicit characteristic of the great anonymous” (Foucault, 1990a:95). Rabinow puts the point in pithy fashion: “although people might well be explicit about what they are doing, they are not capable of grasping what they did, did”; there will always be “feedback loops and counter effects that escaped from all the planning, programs, and paranoia these rational actors had produced and so proudly deployed” (Rabinow, 2003:53).

Rather than the achievement of a plan, the history of governing rationalities is “characterized by the permanent ‘failure’ of programs” (Lemke, 2002:57). Yet, as Lundborg and Vaughan-Williams note, “these ‘failures’ are of course ‘successful’ ...as they reproduce the need for better resilience, more investment in technology, and enhanced attempts to securitise facets of life” (Lundborg and Vaughan-Williams, 2011:381). In a well-cited example, Foucault notes how the prison system ‘failed’ in that it produced a delinquent milieu as an unintended effect, yet this milieu became re-utilized for economic and political ends (Foucault, 1980a:194-5). The side effect of delinquency did not destroy the apparatus but, in the end, was used to reinforce it. The apparatus did not achieve the planners’ original goals, but it did “work”; in this way there can be a ‘strategy without a strategist’ (Rabinow, 2003:54). In the context of my own research puzzle, the use of political secrecy ‘failed’ to secure the preservation of the state according to *raison d’État* in that it constituted a space of uncertainty for statesmen to, potentially, abuse their power for personal rather than communal gain. The resilience of the political community was improved through this uncertainty, however, which galvanized civil society in a critique of ‘too much’ government, eventually materialised in the juridical subject.

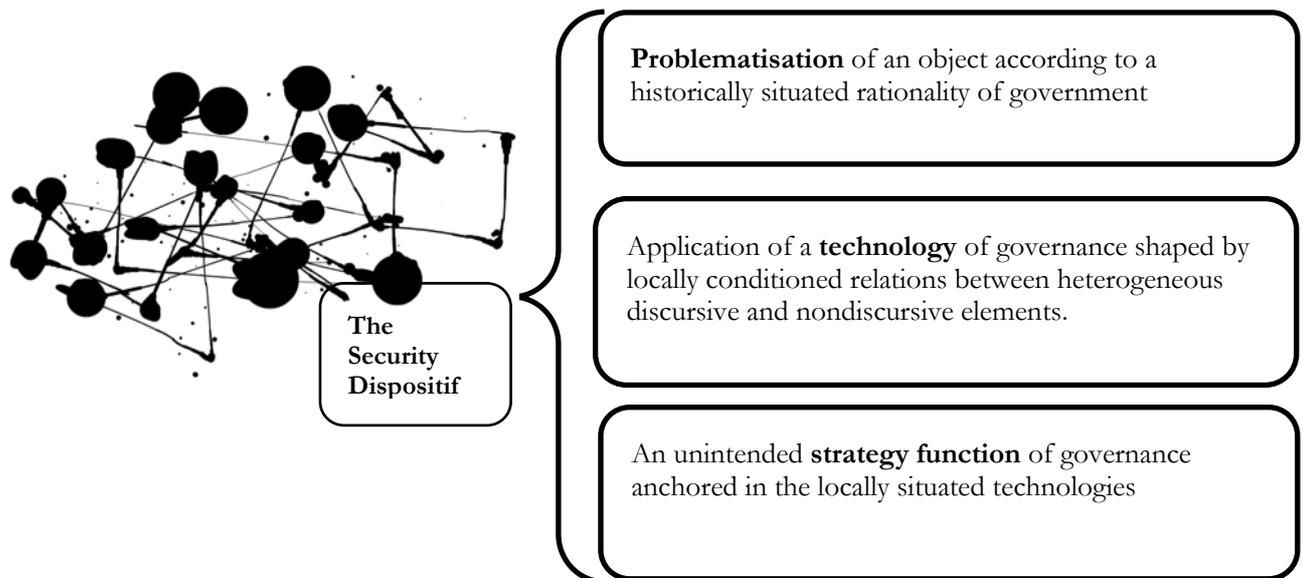


Figure 18. The Security Dispositif in Foucauldian Methodology

My understanding of the dispositif within the wider Foucauldian methodology applied in this thesis is summarised in the diagram above. The first step is the problematisation of an object, such as political secrecy, according to a historically situated rationality of government. I have described this process in depth in Chapter Two. The second step is the application of a technology of governance, such as actual publicity, in a local setting. How this technology of governance behaves is shaped by the particular *relationality* between all of the *heterogeneous* elements that make up this locally situated technology. I will show, for instance, how the technology of weapons inspections is shaped by relations between all the discursive and material elements involved in applying this technology in Iraq. Thirdly, these local conditions produce a deviation between the ideal aim of governing and the actual outcome of the technology. In other words, the ideal aim of weapons inspections is different from the actual outcome of the actual existing practice inspections. Whilst the outcome may be unexpected, this is still considered a coherent strategic *function* of power relations.

Making the Case for War Possible: The Problematisation and Production of the Insecurity of Iraq Secrecy

I now return to the events preceding the British Government's participation in the Iraq. I emphasise three points: first, the emergence of an attitude in international relations that problematised political secrecy and established the need for inspection and verification regimes modelled on the disciplinary ideas of actual publicity; second, that these practices, when put to work as weapons inspection programmes in Iraq, produced more suspicion that secrets were being kept by Iraq, producing more uncertainty and not less; third, this

suspicion of secrecy and uncertainty was interpreted by the British Government as an indication of a hidden threat to regional and international security at the expense of ulterior explanations. This interpretation depended on a liberal fear of secrecy. Each of these three elements draws on the three methodological prescriptives derived from the *dispositif*, as I will make clear at the end.

1919-1991: The Problematisation of the Sovereign Right to Secrecy

Doveryai no proveryai! 'Trust but verify!' This Russian proverb was often repeated by Ronald Reagan media during a summit meeting with Mikhail Gorbachev in 1987. The phrase characterised a relationship of mistrust, held together by a mutual practice of declarations of trust coupled with acts of verification (Abbots, 1993). The phrase itself, however, hints at an important shift in the attitudes and behaviour of national governments and international institutions with regard to the relationship between actual publicity, secrecy and security.

In the aftermath of the First World War, the Treaty of Versailles established the Inter-Allied Commissions of Control. These commissions were charged with the duty of overseeing "the delivery, destruction, demolition and rendering ... useless" of Germany's military and naval air resources (Martin, 2007:114). These commissions were established "at the seat of the central German government" and were entitled "as often as they think desirable" to inspect any location in German territory at any time (Martin, 2007:113). Yet the American and British governments were reluctant to enforce such inspections. The United States government claimed that rebuilding Germany as a sovereign state was incompatible with disclosure and inspection requirements that eroded the principles of sovereignty; the British government, meanwhile, argued that enforcing such an intrusive and provocative inspections regime would increase the likelihood of future conflict rather than promote peace (Florini, 1998; Florini, 2002). Denying Germany the exercise of official secrecy was, in other words, seen as incompatible with the interests of security. By 1927 the commission was disbanded despite Germany's continued non-compliance.

It was not until after the Second World War that greater support emerged for practices to increase transparency and verification between states. These changes stemmed from the security politics of the Cold War. In the nuclear age, the consequences of misplaced trust could be catastrophic. Over the course of the latter half of the twentieth century, a series of treaties established the need for independent verification of military capabilities. The 1959 Antarctic Treaty, for instance, banned the militarisation of the Antarctic, but stipulated the need for regular inspections by observers. This was, Hans Blix

describes, “a modest first step in using international inspections to create confidence” (Blix, 2005:17). The 1967 Non-Proliferation Treaty (NPT) expanded weapons inspections beyond the main protagonists of the Cold War. Signatory states had to submit to inspections by the International Atomic Energy Agency (IAEA), in order to prove that no facilities or materials were being diverted to weapons programs (Blix, 2005:18). For the majority of such states, the best protection against attack was a reliable and trustworthy claim that they did not possess such weapons. The best way to make such a claim trustworthy was to adhere to a system of inspections that could reliably guard against concealment, obstruction or deception.

Such inspections share much with the principles of tax inspection. The process begins with the assumption that the inspector should not need to go and find what you possess; it is for you to declare and for the inspector to verify. Yet the inspector must also look for ways in which items that should have been declared could remain undisclosed: they may examine exports/income records, study satellite imagery for signs of new facilities, and visit sites they suspect could contain undeclared items. Inspections must be “very intrusive” and “go almost anywhere, any time, and demand any kind of documents” (Blix, 2005:101). This requires national governments to unveil their most secret facilities and resources. Ultimately, however, the NPT inspections failed to provide such certainty. When the NPT system was put into practice, signatory states guarded official secrecy and sovereign authority fiercely, and the inspections regime was too weak to unravel “clandestinely installations in a closed society” (Blix, 2005:18).

The events of the Gulf War introduced a new impetus for inspection and verification regimes. By 1991, transparency had become “a contributor rather than a threat to security” and “the right to coerce such disclosures from an aggressor... was broadly taken for granted by the international community” (Florini, 1998:52). UNSCR 687 established the United Nations Special Commission (UNSCOM) to carry out the “destruction, removal or rendering harmless” Iraq’s chemical, biological and ballistic missile weapons and production capabilities (UNSC, 1991). UNSCOM inspectors had the authority to come and go, without visas; they had unimpeded access to any site or facility for the purpose of on-site inspections relevant to the mandates; they had full and free access to personnel and information, and could take aerial photographs and soil samples for analysis. The inspectors had “eyes in the sky, ears in the ether and, perhaps, spies on the ground” (Blix, 2005:12). Iraqi authorities initially rejected the inspection commissions on the grounds that they constituted an unacceptable infringement upon the sovereignty of Iraq, only acquiescing after the threat of military action (Tucker, 1996:2). This was a contestation between the security of the ‘international community’ as perceived by the

supporters of UNSCOM and the security of the Iraqi state as outlined by the doctrine of *raison d'État*. The establishments of UNSCOM marked a complete intolerance for Iraqi political secrecy. Through the extensive conditions of 687, UNSCOM constituted an up-to-date version of the “all-ordering eye” of panopticonism (Debrix, 1999:274).⁸² Much like the dreams of the 18th-century social reformers, the establishment of UNSCOM was precipitated by a belief that through inspection and verification, Iraq would be rendered transparent and proof of its disarmament would be certain.

Yet just as Foucault wrote of Bentham's panopticon, the dream of successful deterrence based in panopticonism and banishing doubt, was itself soon rendered doubtful. The inspections intensified “a mode of suspicion and uncertainty” (Debrix, 1999:282). James Marquardt, who himself has applied the idea of the public gaze to a study of international transparency and inspection programmes, argues that the gaze has its limits: “Everything cannot be illuminated. Indeed much goes unnoticed” (Marquardt, 2011:22). Those under surveillance “cope with transparency, but they also react against it by developing behaviours that are not readily observable” (Marquardt, 2011:22). Crucially though, the very fact that the public gaze cannot notice everything, is itself noticed. Apparent opposition by the observed toward the observer generates a series of ‘offences and counter-offences’ as each side seeks to expose the other and avoid being exposed (Foucault, 1980b:156). The result is resistance, not reform. In the next section, I show how UNSCOM provoked resistance from the Iraqi authorities, which exacerbated a suspicion of secrecy. Yet more so, I show how some of these perceived resistances were generated just as much by the attitudes and technologies used by UNSCOM to surveil Iraq.

1991-1998: The Production of Secrecy

By 1992 UNSCOM became increasingly frustrated by resistance from the Iraqi authorities. The task of UNSCOM was to assess Iraq's WMD capacity, to destroy any existing WMD and related materials or facilities, and to conduct ongoing monitoring and verification (UN, 2013). The inspectors used several techniques to pursue these aims—including aerial surveillance, on-site inspections, disclosures, environmental sampling and so on— but these techniques often led to more questions than answers. In fact, I claim, these practices helped *produce* them.

Some of the unanswered questions emerged from directed resistance by the Iraqi authorities. For instance, former inspector David Kay recalls how inspectors were woken at

⁸² See also a similar analysis of the of the Cold War Open Skies initiative in (Marquardt, 2011)

night with telephoned threats, or found obscene and threatening notes slipped under the hotel door. Hotel rooms were ransacked. Inspectors incurred verbal abuse on the streets and at inspection sites, whilst on several occasions inspectors were physically attacked by “outraged Iraqi ‘civilians’” (Kay, 1995:96). The inspectors also became aware of counterintelligence techniques conducted by the Iraqi authorities. Inspectors were placed under surveillance; offices and hotels were bugged; telephone and radio conversations were monitored (Kay, 1995:97).

When it came to the inspections themselves, inspectors often arrived to find that factory floors had been repainted prior to the arrival of the inspectors, which the team interpreted as an effort to foil attempts at sampling and analysis (Zilinskas, 1995b). Iraqi authorities would pour concrete over the roofs of installations, which the inspectors interpreted as an attempt to conceal characteristic features of weapons production facilities and foil aerial surveillance (Zilinskas, 1995b). Inspectors also claimed that the Iraqi authorities delayed or postponed inspections by blaming traffic jams or demanded 15 hours’ notice to stand down air defences before the inspectors could travel by helicopter. When questioned, Iraqi officials would ask for the services of an interpreter “even though they were capable of speaking fluent English in other situations” (Tucker, 1996:8). The inspection teams would be accompanied by “a crowd of official minders” that would be present in interviews, interrupting to suggest that the witness had misunderstood the question or have remembered information incorrectly (Blix, 2005:122). In some cases Iraqi helicopters would fly underneath the flight path of U-2 planes, which the inspectors interpreted as a reckless attempt to prevent the collection aerial photographs.

In other instances, inspections would be openly delayed by the Iraqi authorities claiming legitimacy for secrecy. On one occasion, an inspector recalls, the authorities tried to prevent the excavation of a field south of Baghdad, which UNSCOM suspected contained buried weapons. “The Iraqi officials brought in Muslim clergyman who spent two hours pleading with the UNSCOM team that the field was a grave site and that digging would be sacrilege” (Tucker, 1996:8). The excavation eventually proceeded, no evidence was found. In other cases, Iraqi authorities resisted the inspectors by claiming a limited right to secrecy on the basis of sovereignty. One of the greatest points of contention concerned access to ‘sensitive sites’ – locations for which inspection, the Iraqi authorities claimed, were a veiled excuse for foreign espionage that endanger Iraq’s national security (Blix, 2005:31).⁸³ These claims were ostensibly based on *raison d’État*. After a period of

⁸³ After the withdrawal of inspectors in 1998, several media reports suggested that, in keeping with the protestations of the Iraqis, some inspectors had been providing their own national intelligence agencies with information about military targets and the locations of Iraqi leadership, which has subsequently been used in the bombing campaign. Collecting this information lastly exceeded the rebate for the inspections, straying

negotiation in 1996, a new set of protocols—called “modalities”—were agreed upon whereby inspectors would be delayed by “a reasonable period of time” whilst Iraqi authorities located a high-ranking official to “coordinate in the inspection of sensitive sites”. Entry would be limited to inspectors who would try to complete their work in as little time as possible. The new modalities caused considerable concern among the inspectors and members of the Security Council. Hans Blix recalls that,

It was sometimes hard... to understand why there had to be the hours of haggling about the number of inspectors who were allowed to enter a building that would then prove to be empty. In none of the many inspections of sites the longing to the Special Republican Guard or security or intelligence organisations does anything significant and weapons—related appear to have been found...UNSCOM and the world interpreted Iraq’s conduct as evidence that it was hiding weapons. The reaction was understandable when inspectors’ videotapes showed how files were removed and documents burned while inspectors were forced to wait. (Blix, 2005:33)

The behaviour of the Iraqi authorities served to intensify suspicion. In the end, even without these disruptions, it was impossible to remove all uncertainty from the inspections. As one former inspection recalls,

There is no shortage of potential hiding places in Iraq, a large country containing many thousands of buildings, warehouses, factories, bunkers, and underground installations, most of which have never been inspected... Only a regime of “saturation” monitoring, far exceeding the U.N.’s human and material resources, could compel Iraqi to move its hidden weapons and equipment, increasing the probability of detection. (Tucker, 1996:9)

Sometimes, however, inspectors’ doubts were not a result of deliberate obstruction by Iraqi authorities. The problem ‘dual use facilities’ illustrates this point well. The problem of these dual-use facilities is well described by a former director of UNSCOM: “we know that it is not difficult to hide chemical weapons production, or even to make limited batches—you can have a production line where, for one or two months or even less, you make chemical warfare agents, and then go back to some permitted activity” (Ekeus cited in Tucker, 1996:11). A suspicious location could, for instance, be either a factory for a biological weapon agents or a factory for the production of a legitimate pest control agent. Similarly the images produced by aerial surveillance created more rather than fewer questions. Whilst an intelligence analyst could tell the difference between the construction site for an office and a military bunker, “the analyst can deduce little or nothing about the function or purpose of the building from an image alone” (Zilinskas, 1995a:257).

Where the inspectors could not find evidence of weapons technologies themselves,

into matters concerning the Iraqi national security apparatus. The reports suggested that the intelligence had been passed on without the knowledge of UNSCOM leadership. Officials in the Iraqi regime felt that their long-standing accusations of espionage by inspectors had been vindicated (Blix, 2005:37).

they would look for evidence of other practices that they assumed, sometimes incorrectly, would naturally accompany WMD research and production. These accompanying materials could be the written records of weapons and associated material. The Iraqi authorities would provide disclosures that the inspectors believed contained incomplete information. In response, the Iraqi authorities often claimed that the required written records relating to the WMD program were destroyed during the bombings and fires caused by Operation Desert Storm, or in the mass riots that followed (Zilinskas, 1995b:232).

These accompanying materials could also include safety equipment. The inspectors assumed that any weapons research facility would include safety measures: such as protective suits, air filters, vaccination programmes (the proof of which can also be found in the body of workers) and containment measures (Zilinskas, 1995b). These measures were not vital to weapons research and production per se, but the inspectors expected that any research facility would contain them for the protection of the workforce. When the inspectors visited a site suspected as a weapons research facility, but found no evidence of these measures, the inspectors had to ask themselves what such a lack of proof meant. The absence of evidence of safety measures could be proof of the impossibility that these facilities were used for WMD research, but the absence could also indicate that the Iraqi regime was so cavalier with regard to worker safety that the facilities simply did not have safety measures.

These uncertainties were compounded after one occasion in which inspectors concluded that the facility could not have been used for the production of biological weapons agents, because to do so would expose the workers and the environments to a seemingly unacceptable risk of contamination. Sometime afterward, however, the Iraqi authorities admitted to producing thousands of litres of anthrax spores and botulinum toxic at the factory. The inspectors were also shocked by the manner in which chemical munitions were routinely handled by soldiers without protective masks or suits; in the words of one former UNSCOM inspector, the events “indicat[ed] that Baghdad was prepared to cut corners on worker safety and environmental protection to an extent unthinkable in the West” (Zilinskas, 1995b:233). The practices of inspection produced more, not less certainty. If the inspectors believed that Iraq could be so reckless with regard to safety then the absence of such measures only intensified their suspicion. In this way, inspections would benefit from a reflexive attitude. Much like intelligence practices (Phythian, 2012), the inspections process is a social construction of reality. Rather than an all seeing eye that observes the truth from an Archimedean point, the assumptions and material practices used by the inspectors play an important role in the creation of political reality.

By the mid-nineties, the inspectors were left with a list of unanswered questions. Some events had revealed information about Iraq's past WMD programme,⁸⁴ but the problems of inadequate disclosure, intimidation, exposure and delays, coupled with the problems inherent in some of UNSCOM's own activities, all *created* doubts and suspicions as to what, if anything, the Iraqi authorities were still hiding. Then-chairman of UNSCOM, Richard Butler, recalls his frustrated when inspecting sensitive sites in 1998.

To my surprise, Iraq decided to let us into places to which we have never been admitted, including the Defence Ministry, a 'sensitive site'. But as our inspectors stepped inside it became clear why the Iraqis had been willing to cooperate. The building had been emptied of its contents. Over the next few months the same charade would be repeated again and again. We visited an Iraqi intelligence building only to find that the room had been stripped. When we asked what the building was used for, we were told that this was where Iraqis came for marriage licenses ...I argued that showing us nothing – literally empty rooms – hardly constituted compliance (Butler, 2003)

In August 1998, the Iraqi authorities refused to cooperate with the inspectors until the Security Council lifted the sanctions regime and reformed UNSCOM. The inspectors left Iraq in December 1998, and Operation Desert Fox was justified by Iraq's continued refusal to cooperate. A year later, the Amorim report set out the problem:

Some uncertainty is inevitable in any country-wide technical verification process which aims to prove the absence of readily conceivable objects or activities... The extent to which such uncertainty is acceptable is a policy judgement. (Amorim, 1999)

How uncertainty would be interpreted, and what techniques could be set in motion as a governing solution, were the questions facing the British government, amongst others. The problem, however, was not simply whether or not the inspectors could or should return to Iraq, but how they should deal with these suspected secrets, the uncertainty of which was exacerbated by the inspections process.

2002-2003: Interpreting Secrecy as Threat

In November 2002, the inspectors returned and, in December, Iraq submitted a new declaration under the threat of UNSCR 1441 – which stipulated that any false statements or omissions would constitute “further material breach” and “serious consequences” (UNSC, 2002). In his report to the Security Council, Blix suggested that the declaration did not solve any of the unresolved questions and that UNMOVIC was “neither in a position

⁸⁴ In August 1995 Hussein Kamel al-Majid, former head of the Military Industrialisation Commission and Iraq's weapons development programs, defected to Jordan. Shortly after the defection, the government—in an apparent attempt to pre-empt Kamel's claims—directed UNSCOM inspectors to a facility outside Baghdad, reported as a chicken farm. The inspectors uncovered 40 tons of paper documentation, audiovisual records, and computer data relating to Iraq's WMD program. The disclosure verified some of the suspicions held by the inspectors, and opened up a new set of questions concerning the location of these materials and facilities.

to confirm Iraq's statements, nor in possession of the evidence to disprove them" (Blix, 2002). The problem lay in the inspectors' demands for *positive* evidence to prove Iraq's claims that it possessed no weapons or relevant materials. (As the Iraq Survey Group would report after the war, all significant stocks of chemical and biological weapons had been destroyed in 1991 without the presence of the inspectors (Kay, 2004). Iraq responded by cooperating by allowing access to sensitive and presidential sites – the acts of deliberate obstruction were over – but it dismissed the 'unresolved disarmament issues' as having no tangible significance. Consequently, the inspections "neither asserted nor excluded that weapons of mass destruction existed in Iraq, but pointed to lack of evidence and question marks". Blix demanded "active" cooperation,

It is not enough to open doors. Inspection is not a game of 'catch as catch can'. Rather... It is a process of verification for the purpose of creating confidence. It is not built upon the premise of trust. Rather, it is designed to lead to trust, if there is both openness to the inspectors and action to present them with items to destroy or credible evidence about the absence of any such items. (Blix, 2003b)

Blix believed that the inspections process could create trust, not destabilise it. Iraq responded that it had no more documentation to show the inspectors, that all documents relating to the biological weapons programs were destroyed together with the weapons. The expectations of the inspectors were, however, that the Iraqi state would have collected and retained the information necessary to prove its innocence.

Iraq has all the archives of the government and its various departments, institutions and mechanisms. It should have budgetary documents, requests for funds and reports on how they have been used. It should also have letters of credit and bills of lading, reports on production and losses of material. (Blix, 2003b)

Iraq, as Steve Bell's cartoon below illustrates, stood accused of not trying hard enough. After all, as the doctrine of *raison d'État* requires, political secrecy exists to protect the knowledge of the state and its resources. If the Iraqi state had now opened all the doors and let the inspectors into the presidential palaces and the sensitive sites then surely, Blix thought, the *arcana imperii* would be there to find.

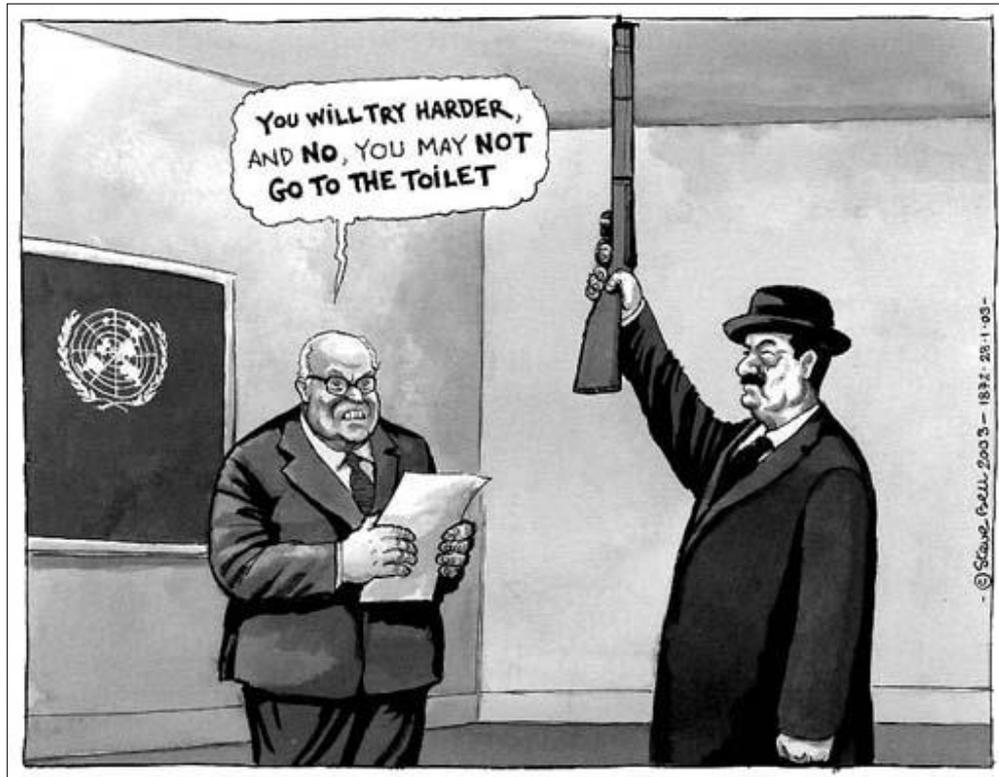


Figure 19. Steve Bell. 'Another Step Towards War'. *The Guardian*. 29th January 2003.

The cartoon was published two days after Hans Blix's report to the Security Council that Iraq had cooperated 'in process' by permitting access to inspection sites, Iraq was not cooperating 'in substance'. The cartoon portrays a teacher-student relationship between Blix and Saddam but, perhaps more importantly, the cartoon suggests that Iraq was always capable of providing evidence to convince UNMOVIC of Iraq's guilt or innocence. This suggestion underpins the expectation by the advocates of the inspection process that the expose of Iraq to the gaze of actual publicity would produce more certainty and knowledge of Iraq's activities, rather than more uncertainty and more possible secrets.

Over the months ahead, there ensued a struggle of credibility over the questions raised by the inspectors. Iraqi officials refuted the allegations of concealment as "misleading and fallacious" (Karlsson, 2005:88). Iraqi state television broadcast images of foreign journalists touring some of the facilities referred to by the inspectors as possible dual-use facilities. On 4th February, during an interview with Tony Benn, Saddam Hussein claimed that Iraq had no weapons of mass destruction: "these weapons do not come in small pills that you can hide in your pocket" (Hussein, 2003:464). On 14th February, Blix reported to the Security Council that many prohibited items were not accounted for, yet "one must not jump to the conclusion that they exist." Without evidence "confidence cannot arise" (Blix, 2003a). This was a veiled remark to both the Iraqis and the United States and United Kingdom: the former having failed to present credible evidence to support their claims that the items had been destroyed; the latter continuing to affirm that Iraq did possess such items (Blix, 2003a:177). The Foreign Secretary, however, responded by claiming that in the twelve years since the original disarmament deadline:

They have lied, they have concealed, they have played... failed to make a full and complete

disclosure... failed to cooperate fully and actively on substance, as well as an process... failed substantively to meet the obligations imposed on them. (Straw cited in Watt, 2003)

Straw warned against backing away from threats and, if necessary, use of force.

The issue is not just about Iraq; it is about how we deal with proliferators elsewhere across the globe. And if we send out the message to proliferators the world over that the defiance of the United Nations pays, then it will not be peace that we will have secured. (Straw cited in Watt, 2003)

Iraq's perceived obstruction of the inspections was, for Straw, evidence of wrongdoing. The road to war was, moreover, solely a result of Saddam's actions. In Straw's words the choice as to what would happen in terms of further inspection or military force "is not ours but Saddam Hussein's" (Straw cited in Watt, 2003). This interpretation was repeated in the parliamentary debate by both Blair and Duncan Smith, as I discussed above, in which the case for war was justified through the claims that Iraq had the capacity to develop weapons, that it was intent on doing so and that the inspections regimes was incapable of prevention. What I have attempted to show here is that the practices of the inspections regime helped to produce the basis for these claims. The inspections produced more, not less uncertainty about Iraq's capacity, whilst the unanswered questions produced by the inspectors were interpreted both a sign of deliberate resistance from Iraq and an indication of UNMOVIC's ineffectiveness. Without the inspections and the shift in attitudes that led to their constitution, the case for war would never have been possible. There are several possible explanations for why Iraq failed to comply with the inspections. One is simply that the failure to comply was part of a coherent plan to avoid any hard evidence of wrongdoing by performing the minimum degree of cooperation with the inspectors whilst protecting as much of Iraq's remaining WMD as possible. On the other hand, the failure could be due to reasons that extend beyond a deliberate attempt to conceal hidden weapons.

Firstly the Iraqi authorities sometimes avoided providing evidence proving the destruction of prohibitive items in order to "save face" (Bluth, 2004). In 1991, for instance, the Iraqi authorities destroyed more than 100 ballistic missiles. The act was significant, Blix recalls, but met with little international attention because Iraq asked the inspectors not to take photographs of the operation, claiming it was "painful" (Blix, 2003a:54). Blix posits that there was a pride attached to the successful design and production of the weapons and that for this reason Iraq destroyed its weaponry in secret in 1991. Yet the inspectors interpreted this unobserved unilateral decision as an act "undertaken to enable Iraq to retain some weapons secretly" (Blix, 2005:189).

Secondly, the Iraqi authorities claimed a right to the legitimate exercise of official

secrecy that was rejected to the Security Council and the inspectors. Put differently, the relationship between actual publicity, official secrecy and security was a matter of contestation (at one point even the inspectors claimed rights to secrecy from *any* other party in the name of security⁸⁵). The Iraqi authorities denied inspectors access to “sensitive” sites by claiming that the locations were occupied by the agencies, and the archives of knowledge, directly connected to the preservation of the state and its resources – for example, the defence ministries or intelligence agencies. The Iraqis claimed that questions asked by the inspectors equated to espionage and that the topics of inspection veered into matters of conventional defence (Blix, 2005:119). Similarly, Iraq objected to inspectors landing helicopters on “presidential sites” or entering the offices and living quarters of the Iraqi leadership on the grounds of concerns over national dignity and sovereignty (Blix, 2005:34). At the heart of these objections were the political discourses of *Raison d’État*: that political secrecy was an essential technology of governance for securing the state itself. The inspectors dismissed these arguments; the need for actual publicity was justified by the apparent fact that Iraq could not be trusted to act in accordance with the norms of good international citizenship. The inspections served, at the least, as a means of validating any claim by the Iraqi state that its declarations were sincere and honest – in other words, proving that it was acting in accordance with hypothetical publicity. Iraq could not prove itself trustworthy or regain the confidence – and thus dispel any impression of insecurity – unless it revealed itself to UNMOVIC’s gaze.

Thirdly, by demanding positive evidence the weapons inspectors assumed that within Iraq there existed a functional bureaucratic apparatus that kept such records. This ignored the possibility that failure was the result of “bureaucratic failures” (Bluth, 2004). The ‘positive’ evidence that the inspectors demanded could include “credible interviews with knowledgeable persons”, but for the most part it was assumed that Iraq would be able to supply documentation such as budgets, letters of credit, and production and destruction records (Blix, 2005:113). Yet, Blix could not help but wonder, “what would happen if Iraq did not, in fact, have more documentary evidence... Could denying that you possess documents which you do not in fact have constitute an ‘omission?’” (Blix, 2005:113) The Iraqi authorities blamed Operation Desert Storm and the ensuing riots for the loss of

⁸⁵ UNMOVIC sought to keep information secret from the Security Council itself. Iraq’s declarations were expected to contain ‘cookbooks’ – information that showed how Iraq had learned to make weapons of mass destruction. According to the terms Resolution 1441, the declaration was to be distributed to all 15 members of the Security Council. This meant that all members would learn how, for instance, to produce the VX chemical weapons. Thus, Blix notes, “the Council, which had assumed the task of preventing the proliferation of weapons of mass destruction, might face the horrible prospect of acting as an international proliferator itself!” Eventually, the Security Council, with the exception of Syria, agreed that the full declaration would only be released to the permanent five members, who would then decide what was “fit for the innocents” to read.

documentation relating to Iraq's weapons programs.

Fourth, non-compliance was sometimes the result of indiscipline at ground level. In late January 2003, the instance, the inspectors found an undeclared crate of warheads designed for chemical weapons. Were these, the inspectors asked themselves, "the tip of the iceberg, or degree from the vast chemical weapons program of the past?" In response the Iraqis established a commission of officials to examine whether any further items had been undeclared. Shortly afterwards, documents relating to the enrichment of uranium and laser guidance were discovered in the home of a nuclear scientist. Interpreting the meaning of these discoveries was a difficult matter. Blix recalls:

Did the new commission signify a genuine effort or was it merely a show? We did not know... Was this storing documents at home part of a general pattern of concealment, as had been suggested to us by intelligence? Or was it, as the Iraqi side claims, simply a scientist taking home papers that he should have kept in his office? (Blix, 2005:118)

If they assumed that events such as the discovery of warheads in a crate or papers in a scientist's desk drawer were part of intentional behaviour on the part of the Iraqi authorities, then such events were patently evidence of wilful non-compliance, and the Iraqi states could be held to account accordingly. If, on the other hand, such events were interpreted as part of the inevitable fallibility of complex programmes of governance, then interpreting such events as evidence of wilful non-compliance would be absurd.

The fervent belief in the existence of Iraqi WMD has been explained as a kind of groupthink: "the positive tendency for tightly knit groups to seek the comfort and confidence that comes from mutual agreement and approval" (Jervis, 2006:20). Attitudes toward Iraqi secrecy were an important constituent of this tendency. There was, as Robert Jervis has argued, a "dominant assumption" that "each new bit of information that could be interpreted as showing that Iraq had active programs *was* interpreted in this way" (Jervis, 2009:203). It was also not considered plausible that Iraq would engage in concealment or deception for any reason other than the protection of hidden WMD material. The intelligence communities simply did not consider that Iraqi scientists would refuse to account for missing chemical materials because they feared punishment from Saddam Hussein if he learned the chemical had been dumped near one of his places, or that the Iraqi authorities wanted to perpetuate the myth of WMD, even under threat of war, in order to deter Iran. Gaps and ambiguities in intelligence analysts understanding of the Iraqi WMD programme was explained away by a programme of Iraqi obstruction, concealment and deception. Ultimately, this was a self-fulfilling prophecy, because the proposition that Iraq had hidden its unaccounted WMD materials did not rest of any evidence. Rather, "the failure to detect concealment merely testified to its success, and any evidence of deception

and denial could – and probably would – have been taken as proof that many activities remained undiscovered” (Jervis, 2009:207). There was, of course, historical basis for this lack of trust. The British and American intelligence analysts had underestimated the Iraqi WMD programme prior to 1991, but once these seeds of doubt were sown the suspicion that there was always one more Iraqi secret to uncover was difficult to dispel. The case for war was built on both the production of Iraqi secrecy and the perception of insecurity attributed to these secrets.

In March 2003, cartoonist Clay Bennett published a sketch in *The Christian Science Monitor* that aptly captured the security imperative at work. Accompanying a caricature mug shot of Saddam Hussein the caption read: “Wanted: for what he possibly is doing, what he could be capable of doing, or what he might be planning on doing” (Bennett, 2003). The government’s case for the urgency of the threat did not, for the most part, emphasize evidence of Iraq’s possession of WMD; instead, the government emphasized that the Iraqi regime’s institutional architecture was designed to deceive and subvert any attempts at scrutiny by the United Nations weapons inspection teams. What I have attempted to show in this section, however, is that this case for war was made possible by the dispositif of security that incorporated the political rationality of liberal governmentality and the technology of actual publicity. The significant and character of this dispositif can be summarised in four points.



Figure 20. Clay Bennett. ‘Wanted Dead or Alive’. *The Christian Science Monitor*. March 2003. The insecurity presented by Iraq was itself made possible by the production of more secrets – and their uncertain content – coupled with claims about Iraq’s intent and historical acts.

Firstly, we need to pay attention to the problematisation of political secrecy at the level of international relations and, specifically, the shift from toleration to intolerance. I have described the emergence of an international inspections regime that operates through enacting publicity at both the hypothetical and actual levels. States are expected to offer sincere and truthful declarations about weapons capabilities, but these claims are checked through periodic inspections by the ‘taxman’. These inspections validate or invalidate the supposedly sincere and honest claims through an application of actual publicity. To some extent the nature of war in an era of weapons of mass destruction drives the necessity of this strategy – misplaced trust endangers the very survival of the political community. Through the course of the twentieth century – from the tolerance of German sovereignty after Versailles to the rejection of Iraqi sovereignty after 1991 – political secrecy itself became problematised; it became a source of uncertainty to be mediated.

Secondly, this problematisation of political secrecy was followed by the application of a technology of governance intended to compel untrustworthy states to conform to the norms of hypothetical publicity. The animating ideas behind the surveillance and inspection practices of UNSCOM shared much with the panopticonism of Bentham’s assembly and the public gaze, as I have discussed it in a previous chapter. The “all-ordering eye” established by resolution 687 was intended to produce trust and certainty in the face of the mistrustful assumption that Iraq would always attempt to cheat and deceive unless it was placed under the impression of its own constant surveillance. An Iraqi regime kept under constant surveillance was a preferable alternative to the forcible removal of the regime (DeBrix, 1999:280). Yet this program of surveillance only revealed an Iraqi ‘web of deception’: new desert hiding places and facilities to which inspectors were denied access. Inspections did not so much provide evidence of concealed weapons as show that Saddam was lying about the existence of locations that plausibly *could* contain prohibited materials (DeBrix, 1999:282). The existence of these locations fuelled the suspicion that there was a guilty secret to be found. Surveillance demonstrated that transparency and trust could not be achieved. UN panopticonism provided evidence “negating the possibility of transparency”, proving that Saddam was up to his “old tricks” and that as a result “every effort would have to be made and maintained to discipline and punish him” (DeBrix, 1999:283). Much like the nineteenth century social reformers then, the designers of UNSCOM and UNMOVIC sought to create trust but actually produced mistrust and contributed to the conditions for war.

Thirdly, we can begin to understand this apparent ‘failure’ of the inspections regime by considering the heterogeneous ensemble of elements at work. The political rationality of achieving discipline through the gaze of publicity was altered when the technology of

enactment was located in the specific field of Iraq. Successful deterrence was rendered doubtful because of the production of secrets. The practices of the weapons inspectors coupled with the local discursive and non-discursive conditions within which this technology was located, produced more and more uncertainty. The inspectors demanded positive evidence to prove Iraq's innocence, but many of the technologies used by the inspectors were imbued with a kind of "ideal user" (Johnson, 1988). Testing dual-use facilities for evidence of the kind of safety measures associated with WMD research assumed that Iraq would practice western-style safety produces. Iraq did not always do so. The testing method was thus stymied by an unexpected relationship between the expectations of the practitioners and the local conditions. Taking another example, the inspectors assumed that the Iraqis would want to present any available evidence to prove that outstanding material had already been destroyed. The inspectors did not consider that the Iraqis might find the public admission of the destruction of these weapons too damaging to their pride. There was an assumption that the Iraqi authorities failed to provide positive evidence out of an intentional strategy of deception, but this overlooked instances in which evidence may have been concealed because of errors and individual mistakes. Aerial surveillance did not locate weapons but produced images of places in which things could be hidden. I have described several instances above in which, through the interrelation between heterogeneous elements, the inspections failed to provide evidence of innocence or guilt. Undertaken in another place, in another culture, the inspections regime may have had very different results. In Iraq, the inspections produced more secrets, and more insecurity. Contrary to their intentions, the inspectors did not create trust, but instead confirmed Iraq's identity as untrustworthy.

Finally inspections 'failed' to increase certainty and trust in the Iraqi regime, but the inspections were part of a strategy of power that fosters a responsible use of publicity and secrecy in international relations. The overarching strategic function of achieving security through publicity is retained in an international liberal governmentality that encourages self-government according to norms of publicity. A vital constituent of the British government's case for war was a shifting attitude against the right to state secrecy in international relations, but the inspections helped to produce a vital constituent of the British government's case for war: a 'secrecy effect', that is, a suspicion created by awareness that secrets were being kept by Iraq from the international community. Of course, the coercive removal of Saddam in response to this secrecy effect would not arise without a suspicion of secrecy as a source of insecurity. For the British Government's strategy to work, the audience to which it appealed for support had to be susceptible to this pathos. They had, in particular, to share a suspicion that the secrets in question *could* be the

possession of, or capacity to produce, WMD. If the audience also accepted the rest of Blair's argument - that an Iraqi regime with WMD that might also trade weapons with terrorists - then the combination of this logos of risk and the pathos of suspicion could be persuasive.

Desecuritisating Iraq

In the previous section, I have highlighted the broader structural context that facilitates the moments of urgency and exceptionalism that occupy the focal point of the securitisation framework. The problem with the CoS approach, however, goes beyond a lack of attention to this wider context. By assuming that the production of a security threat as the result of "strategic actors imbued with intentionality" (Waeber, 1995:63), the CoS wrongly assume that what goes on beyond these actors, their speech and a moment of exceptionalism plays a benign role in securitisation. By contrast, moving "beyond speech" in the securitisation process, involving actors and even non-discursive networks who are less likely to be intentionally engaged in a strategic decision to construct a threat shows that such an assumption is false (McDonald, 2008:569-70; Balzacq, 2010b). Through the account of the inspections process offered above, the political responsibility for decision to go to war begins to spread. In this final section, I will suggest that whilst the CoS framework can direct us to specific individuals who 'said security', we can see how the conditions for liberal war are deeply embedded in the rationalities of 'normal' liberal politics. Thus any attempt to desecuritisate Iraq must take these rationalities into account. I will briefly review the CoS's idea of desecuritisation and how it applies to Iraq, before suggesting how a Foucauldian interpretation begins to expand the political responsibility into the liberal rationality of governance and its reliance on publicity practices.

Turning first to the CoS framework, when an issue is securitised the act of 'saying security' invokes a Schmittian understanding of politics (Williams, 2003a:516).⁸⁶ The act of securitisation posits a sovereign figure that identifies an extreme threat that cannot be dealt

⁸⁶ The act of securitisation lifts issues above normal politics and into the realm of exceptional measures, resembling Schmitt's understanding of the sovereign as he who decides on the exception" (Schmitt, 2005:5). The political community is confronted by an object that embodies the "the most intense and extreme antagonism" between friend and enemy (Schmitt, 2007:29). "Real combat" becomes a possibility (Schmitt, 2007:35). In this instance, the sovereign has the capacity to establish order through an act that is not and cannot be founded on existing legal principles. This claim follows from Schmitt's skepticism of "government by discussion" based on rational principles and a free public sphere (Schmitt, 1988; Gripsrud and Eide, 2010:73). Indeed Huysmans suggests that Schmitt's theory of exceptionalism works as a device to overcome a society dominated by rationalism by "radicalising" irrational subjectivism as the fear of death through the real possibility of war. War, or more specifically the possibility of war, represents "the passage to the limit" of the political whereby in order to escape what we find that this limits - which is "nothing but horror!... nothing in the sense that there are no rules telling [us] how to go on" - there must be "a new truth... created, in which new rules about right and wrong can be decided" (Huysmans, 1998a:581).

with through the tools of normal politics and which must be eliminated because of “the fear that the other party will not let us survive” (Buzan, et al., 1998:26). The difference between the CoS and Schmitt is that the former expects securitisation to involve an intersubjective agreement between the executive and the public sphere. The securitising actor convinces the audience by “retriev[ing] the ordering force of the fear of violent death” (Huysmans, 1998a:571). Understanding security as a speech act implies a moment in which the executive breaks with the ordinary in order to undertake the exceptional (Waever, 2000:286, fn7). As such, I have shown in the first section of this chapter how the British government constructed Iraq as a threat.

This notion of breaking with the ordinary is important because the CoS suggest that, contra Schmitt, there is a choice: “there are no events that in themselves dictate particular political responses” (Neal, 2010:103). In fact, making something a security issues, “should be seen as a negative, as a failure to deal with issues as normal politics... ideally, politics should be able to unfold according to routine procedures without this extraordinary elevation of specific ‘threats’ to a prepolitical immediacy” (Buzan, et al., 1998:29). Whilst the act of saying security has Schmittian overtones, CoS scholars emphasise that securitisation theory should facilitate *desecuritisation* - that is, “shifting of issues out of emergency mode and into the normal bargaining processes of the political sphere” (Buzan, et al., 1998:4). Seeking to *avoid* this Schmittian politics thus requires thinking about what ‘desecuritisation’ might look like.⁸⁷ The formal rules of CoS securitisation serve as a warning of how certain political claims lead to the suspension of politics, placing responsibility upon individuals to consider the ethical implications of their words. Securitisation Theory asks decision-makers, activists and even scholarly analysts to ask themselves “why you call this security issue? What are the indications of doing this – or of not doing it?” (Waever, 1999:334) The theory thus emphasizes the costs of securitisation in terms of its “inevitable negative effects” and holds the individual to account for how his or her words bring these costs and effects to bear on the political community (Waever, 2011:469). By using the rules of securitization as warning, Waever seeks to protect ‘normal politics’ from ‘security politics’ by asking us to consider exactly how our talking about an issue as a security issue brings negative consequences: “the logic of necessity, the narrowing of choice, the empowerment of a smaller elite” (Huysmans, 2004;Waever, 2011:469). The

⁸⁷ Waever argues that whilst securitisation necessarily invokes a form of politics defined by exceptionalism, it is wrong to claim that Securitisation Theory invokes the Schmittian concept of *politics* (Waever, 2011). Rather, Waever suggests that the aim of desecuritisation and the normative imperative against securitization is intended to preserve an Arendtian conception of politics, in which “politics is productive, irreducible and happens among people as an unpredictable chain of actions” (Waever, 2011:468). As a consequence, by focusing on securitisation as the product of this political “happening” between and among people, Waever suggests that the politics of securitisation “serves to insist on responsibility and ultimately to protect politics” (Waever, 2011:468).

implication is that, either at the time or after the event, it is possible to hold the British government to account for the securitisation of Iraq and suggest two points: firstly, that the specific language involved securitisating Iraq during late 2002 and early 2003 has the effect of suspending the normal rules of politics with which Iraq could otherwise be dealt; and secondly that the appearance of Iraq as a security problem is the result of a moment in which these particular linguistic claims were made.

The Foucauldian approach to security problems challenges the CoS's claims that security is a special category distinguished from normal politics in a defined moment of rupture. The opposition between the norm and the exception stands at odds with Foucault's claim that the logic of war continues in peace. The rights, law and norms of liberal democracy – which are ostensibly conditions of 'peaceful governance' – may claim ahistoricity and universality, but the political discourse of the liberal subject erases and conceals an ongoing "historicity of partisan struggles" and replaces it with "a story of ideal origins and universalistic normative aspirations" (Neal, 2008:59). This claim stems from Foucault's historical account in which political order changes from a matter of one group opposing the sovereign and his power to a struggle for control over the institutions of the state and, with these institutions, "a struggle for universality" (Spieker, 2011:187). The institutions of the state are no longer tied to the particular political narrative pursued by the ruler; they are no longer a source of domination but an object to be fought over and protected. Under the façade of a peaceful nation-state lies a constant struggle over the universality of values. Thus, in his inversion of Clausewitz, politics is the continuation of war by other means and war becomes "the ineradicable basis of *all* relations and institutions of power" (Foucault, 2003). This reading challenges the philosophical juridical discourse in which the state emerges out of conflict and politics marks the end of war.

Politics, conceived as war in this way, becomes a matter, literally, of ensuring that 'society' is defended. 'Society', here, refers to the norms and values that comprise "an idealized, unified social whole" (Neal, 2008:55). Implicit within the dispositifs of liberal governmentality are the racial criteria that mark out the kind of behaviours and norms that should be promoted and protected in order to achieve maximum economy. I described in Chapter Two how hypothetical publicity is a norm of behaviour that 'free' subjects of liberal governance are invited to adopt and expect. The constant critique of 'too much government' is facilitated by an assumption that the government is truthful and sincere with the liberal citizen. Hypothetical publicity constitutes security of the liberal subject by guiding a society of free individuals who do not take away each other's freedoms. In the political assembly statesmen are also subject to disciplinary effects of the public gaze – the creation of an impression of constant surveillance for any statesmen

reticent to internalise the norms of hypothetical publicity.

Liberal governmentality, of course, is not limited to the internal dynamics of the state. A wealth of IR scholarship has expanded Foucault's ideas to describe international liberal governmentality, oriented toward the production of 'free' subjects (Dillon, 2004; Lerner and Walters, 2004; Sending and Neumann, 2006; Leira, 2009; Odysseos, 2010; Joseph, 2012; Walters, 2012). Yet the production of these free subjects also produces "unruly movements that need to be prevented" (Aradau and Blanke, 2010:45). Governmentality is concerned with shaping the field of action. Subjects are invited to behave in particular ways, they are not forced. Yet when liberal governmentality invites subjects to behave in accordance with the norms of hypothetical publicity, and open themselves to actual publicity where necessary, there are those subjects who refuse. War is waged as those who, do not necessarily 'hate our freedoms' but, refuse to be produced as liberal subjects (Odysseos, 2010:771). In this instance, it becomes necessary to use illiberal political practices against such actors (Dean, 2009:155-74). By illiberal, I mean that the subject is *not* allowed to 'laissez-fair' because the subject rejects the invited norms of behaviour. Liberal government must be capable of distinguishing between "what can be governed through the promotion of liberty and what must be governed in other ways" (Hindess, 2004:29). This is important because the act of producing the subject of liberal governance also produces the subject that can be treated with illiberal means, and we can see how both are facilitated by the discourses surrounding actual publicity as a technology of liberal security.

The production of the liberal subject and the practice of publicity can be traced back to Kant. Kant's account of the need to embrace the liberal subjectivity and the practice of publicity was described briefly in Chapter One. For Kant, states should embrace the republican constitution and the practice of publicity in order to transcend "the lawless condition of savages" (Kant, 2006c:4). Just as individuals should embrace the laws of the *Rechtstaat*, Kant describes the necessity to "force the states to the same decision ...that savage man also was reluctantly forced to take, namely, to give up their brutish freedom and to seek quiet and security under a lawful constitution" (Kant, 2006c:4). In turn, any state that refuses this liberal subjectivity becomes a threat, and liberal states "may and should for the sake of its own security demand" that other states adopt principles of publicity (Kant, 2006e:17). In this way, from the foundations of liberal thought, the problem is posed of what to do with the state that will not be 'free'.

The response of liberal governmentality is to divide subjects on the basis of those who do or could display the responsibility and maturity of the liberal subject of security, and those who won't or can't. The first of these pathways presents the subject as a 'savage'.

All subjects of liberal governance are “divided inside himself” (Foucault, 2001b:328); liberal governmentality establishes criteria that define how a subject should exercise freedom in a responsible and mature way. Any subject that does not display this responsibility and maturity may be compelled to so (Valverde, 1996; Dean, 2009:156). It is in this way that we can interpret the use of inspection regimes and the application of actual publicity. The impression of constant surveillance serves as a reminder of what ‘civilised’ behaviours the subject ought to pursue. Secondly, there is the ‘barbarian’. The subject, in this sense, can be “divided from others” (Foucault, 2001b:328). The history of liberal governance is littered with categories that described this subjectivity – the degenerate, the dangerous, the delinquent – who “are deemed not to possess to displays the attributes ... required of the juridical and political subject of rights” and who are therefore subject to all sorts of disciplinary and sovereign interventions (Dean, 2009:158). Once again, the practice of governing Iraq through actual publicity illustrates the treatment of the barbarian. Iraq, as a subject of liberal governance, did not display the responsibility or maturity demanded by the international community. I have shown above that the intentionality of Iraq’s barbarity is doubt, that is to say its resistance to demonstrate substantive and procedural compliance with UNSCOM and UNMOVIC was not always the result of a decision to resist. Iraq was, however, a subject that would not self-govern according to the norms of the international community.

The production of actual publicity – the practice of ‘trust but verify’ as a norm of a healthy social collective – when it is writ large at the level of international relations – constitutes the conditions of possibility for violence. In broad strokes, this argument has already been made by Michael Howard, who remarked that far from abolishing war liberalism brought “violent passion” because liberals fail to acknowledge that the world is filled with cultural heterogeneity that opposes the liberal project, and that given the improbability that liberal wars would end in a negotiated peace the only outcome could be endless war or the entire conquest and homogenization of the world under liberal rule (Howard, 1978:77). Again, the point is not that liberal governance fails; rather there is an unanticipated effect. In pursuit of ‘universal’ values, liberalism produces the conditions for war. In Howards words,

This does not mean that the liberal tradition in thinking about war and peace has been totally self-deluding and false ...how can one fail to share the aspirations of those who carried on this tradition, or deny credit to their achievements? It is thanks to the patient work, over nearly two centuries, the men and women who have been inspired by the liberal conscience that so much progress has been made in the creation of a global community of nations; that values are today asserted as universal to which all states virtually without exception pay at least lip service; that is recognised even if only in principle that states have communal obligations and duties within a freely accepted framework of international society. (Howard,

1978:135)

But, Howard continues, “[t]he danger lies in forgetting that each actor in the society states, including those who have not yet reached statehood, embodies distinct cultural perceptions and values” (Howard, 1978:135). This argument was given a Foucauldian twist by Dillon and Reid who argued that liberalism should be “admired for its values but deplored for its idealism”; whilst liberalism claims peace and freedom, “its own allied commitment to war subverts the very peace and freedoms it proclaims” (Dillon and Reid, 2009:7). Increasingly, the authors claim, this imbues liberal governance with a doctrine of pre-emption. Liberal order must not only determine which forms of life are productive and must be aligned within the circulatory infrastructure, but it must also “intervene to pre-empt, prevent and otherwise forestall developments which may on the contrary threaten life” (Dillon and Reid, 2009:43). Within this liberal context “any action or thought that borders on abnormality is likely to be targeted as a potential source of threat” (Dillon and Reid, 2009:141).

This implies within liberalism a certain imperialist tendency and a civilizing mission. Liberalism, as a normative project of international governance, proclaims peace, but retains and universalizes war as instrumental concern for its own “global project of emancipation” (Dillon and Reid, 2009:7). Implicated in this process is the removal of forms of life and living that exceed the racial criteria. It is in this way that, contra Schmitt and the CoS, the conditions for war and violence are constituted *in* and emerge *from* the values of ‘normal’ politics in which we are inviting to participate. In this sense, the distant roar of battle – the racial criteria and universalistic discourses of rights and laws – always reside in liberal governmentality – as logos of war inscribed into politics. War is not a discontinuity from liberal government but emerges from the “enabling conditions that liberal government and the modern state has historically set in place” (Jabri, 2006:55). Exceptional events should be considered “not in terms of their sudden eruption, but in the terms of their historical conditions of possibility” (Neal, 2006:36). Understood in this way, rules of securitization do not tell the whole story because the conditions of possibility depend so greatly on “an assemblage of practices, and already existing archive of statements, an array of competing subject positions, a body of tactics and strategies, a formation of historical conditions of possibility, the limits of which can never be distilled and formalized, only problematised” (Neal, 2006:44).

The problem with the CoS approach, however, goes beyond a simple ignorance of these wider conditions of responsibility. By suggesting, as Buzan et al do, that security threats emerge because of a failure to deal with them as part of “normal politics” (1998:29), the CoS uncritically re-inscribe the idea that day-to-day democratic politics are somehow

devoid of a subject of security. On the contrary, as I have tried to show in the past two chapters, the history of liberal governance has constantly developed as rationality that fears any subject who cannot adhere to the norms of hypothetical publicity. This object of insecurity is reinforced by so-called 'normal' politics of democratic scrutiny and deliberation, which are already part of this liberal rationality of government. Indeed there is an affinity between the CoS's focus on the speech of individual actors and the methods of contemporary public inquiries, as I will argue in Chapter Five. The CoS and public inquiry both re-inscribe the conditions of possibility for liberal war.

From what I have argued in this chapter, the norm of publicity between states – of trust but verify – constitutes one of these liberal values that provides the basis, nay the necessity, for liberal war. Contestation over the legitimacy of official secrecy may be one area of heterogeneity where the liberal suspicion of secrecy opens up an opportunity for a liberal way of war. The critical potential of this kind of analysis is to illustrate how the 'breakdown' of the program, whilst being a strategy without a strategist, is nonetheless a product of politics and power relations. Accountability becomes a matter of being responsible for the consequences of such strategies and understanding how the practice has become possible. It has become possible through the plural and heterogeneous forms of governmentality constituted by dispositifs.

At the start of the previous section I described how one could interpret the British Government's case for war through the Copenhagen School's framework, yet this would ignore how the possibility of producing the Iraqi threat was constituted out of the practice of inspections, the emergence of inspections as a practice at all, and the attitude by the British Government toward the meaning of secrecy as threatening. The Copenhagen School's will to locate agents who are responsible for securitising moves is problematic precisely because it ignores how the threat of Iraq was in part constituted out of historically situated discourses and practices that cannot be laid at the feet of an intending actor.

Concluding Remarks

In this chapter, I have attempted to show that, whilst the presentation of the British case for war is suspected of breaking with the norms of hypothetical publicity, the impetus of the argument itself is commensurate with, and facilitated by the liberal rationality of government that problematises political secrecy as a source of insecurity and by the technology of actual publicity that produces an impression of uncertainty. I conclude with three points. Firstly if the Iraq public inquiries seek to explain and learn lessons from the

British government's participation in the Iraq War – in other words a process of 'desecuritisation' – we need to think carefully about the strategy of security of liberal government, whereby the norm of publicity writ large at the level of international relations constitutes the conditions for war. The unrepentant liberal may happily acknowledge this; a universalist ideology requires a distrust of Blair and Saddam. What may surprise some, however, is that the bellicose consequences of the argument do not stop. Howard remarked that far from abolishing war liberalism brought a 'violent passion' because liberals fail to acknowledge that the world is filled with cultural heterogeneity that opposes the liberal project, and that given the improbability that liberal wars would end in a negotiated peace the only outcome could be endless war or the entire conquest and homogenization of the world under liberal rule. Contestation over the legitimacy of official secrecy may be one such area of heterogeneity where the liberal suspicion of secrecy opens up an opportunity for a liberal way of war.

Secondly moving beyond methodological individualism and into an interrogation of the rationality of liberal governance complicates any attempt to apply the kind of political accountability that Waever wishes to impose on those actors who engage in identifiable acts of securitization. Thinking through the methodology of the *dispositif* it is not necessarily possible to say to designers of weapons inspections technologies, 'you did this, you produced these uncertainties.' Yet on the other hand whilst it may no longer be possible to hold individuals or political organizations responsible for how structures of governance work (as rational actors in full control of the world around them), this does not mean that the methodology of the *dispositif* is depoliticizing or removes the possibility of accountability. We can identify the problematisations that underpin security practices and perhaps unpack *dispositifs* of security with "the aim of rendering visible where desecuritisation is possible and for determining the precise form it should take" (Huysmans, 1998a:574), or in Foucault's original formulation "grasp the points where change is possible and desirable, and to determine the precise form this change should take" (Foucault, 1997d). The critical potential of this analysis becomes a matter of: (i) sketching the *dispositif* and conducting a 'historical ontology of ourselves' so that it becomes possible to identify the wealth of elements that constitute practices of governance, including the intended and unintended effects; and (ii), seeking accountability for the consequences of these intended and unintended effects precisely because, despite their material-discursive constitution, a "historical analysis of the limits that are imposed on us" opens up the possibility for those implicated in a program of governance of engaging in "an experiment with the possibility of going beyond them" (Foucault, 1997d:320; Aradau, et al., forthcoming).

Finally, the claims in this chapter only intensify the question stated at the end of Chapter Two. Namely, how it is that the British Government can do what the Iraqi authorities attempted without success? How can the British Government continue to practice political secrecy when there are serious and widespread doubts that the government behaved in accordance with the norms of hypothetical publicity? How can it legitimately resist calls to expose itself to actual publicity and thus validate or invalidate the claims that it made from behind closed doors? Thus in the next chapter I explore the question of how the British government can continue to practice political secrecy as a good, self-governing state, without appearing as a barbaric or savage subject of liberal governmentality.

Chapter Four

Seeing like a state: Regulating the Right to Know

Jim Hacker: Oh fine. You mean we suppress it?

Sir Humphrey: Certainly not! We just don't publish it.

Jim Hacker: What's the difference?

Sir Humphrey: Oh Minister, all the difference in the world! Suppression is the instrument of totalitarian dictatorship; we don't talk of that sort of thing in a free country. We simply take a democratic decision not to publish it.

(Jay and Lynn, 1981)

Introduction

The dialogue above appears in an episode of the situation comedy *Yes Minister* from 1981. In the episode, Sir Humphrey – a senior civil servant – explains to the government minister that there is a difference between the suppression of information and a refusal to publish information. The former is the act of a totalitarian regime; the latter is a legitimate activity of liberal democracy. In this chapter I examine how the British government justifies the continued application of official secrecy in relation to the Iraq Inquiry. I have already noted how official secrecy can be justified in such a way that the exercise does not appear to violate the foundational principles of liberal democracy. I have skirted this point in previous chapters. In Chapter One, I described how political secrecy could be compatible with the liberal norms of hypothetical publicity. In Chapter Two, I described how Jeremy Bentham – the father of the disciplinary gaze of actual publicity – legitimates the exercise of political secrecy when the ‘evil’ of actual publicity is preponderant over the good. The legitimisation of political secrecy is also addressed by the Copenhagen School, who argue that secret activities could not be conducted without giving a reason for this extraordinary procedure. In a democracy, “it must be argued in the public sphere why a situation constitutes security and therefore can be legitimately handled differently” (Buzan et al., 1998:28). Specifically democracies must “legitimize in public” why information will not be “presented publicly”. Crucially, in all of these instances, the public must be implicated in the legitimisation of the practices that allow the government to keep secrets from them. The public must trust that these secrets are kept in their interests, and in the interest of liberal governance.

Yet, in Chapter One I also described how the government became beset by widespread suspicions that it had not acted in accordance with the principles of hypothetical publicity. Under these circumstances, the legitimacy of liberal state is redeemed through the application of actual publicity, which validates or invalidates the claims that it made from behind closed doors. This chapter, therefore, deals with a different question to those examined so far. How can the British Government *continue* to

practice political secrecy when there are serious and widespread doubts that the government behaved in accordance with the norms of hypothetical publicity? How can it legitimately resist calls to expose itself to actual publicity? How does this practice of political secrecy avoid the impression of savagery or barbarism that applied to the political secrecy practiced by Iraq? How can enduring political secrecy be justified in a way that accords with the liberal rationality of government?

In this chapter, I describe the emergence of a political discourse that legitimates the exercise of official secrecy. I call this discourse, the regulation of the right to know. This discourse does so by framing official secrecy in such a way that it appears to mediate threats to both the security of the state and the security of the liberal citizen. In other words, this discourse legitimates official secrecy as a technology of security that protects against *both* too much and too little government. This discourse is embedded in rules and protocols that govern both the Iraq Inquiry and the Freedom of Information Act.

In order to explore how political secrecy remains a legitimate practice in and around the Iraq Inquiries, this chapter takes inspiration from the framework established in Foucault's *Archaeology of Knowledge* (Foucault, 2002; see also Howarth, 2000; Moon, 2006; Moon, 2009). The aim of conducting an archaeology of political discourse is to show how a political behaviour, the exercise of 'the right to know', is governed by "a particular, describable discursive practice" (Foucault, 2002:214). Studying such a discursive formation is a matter of examining "a body of rules" that governs its production. Put in terms paraphrased from Foucault, my aim is to: (i) explain the formation of a discursive practice and a body of knowledge concerning governance of a 'right to know' that is expressed in behaviours and strategies, giving rise to a particular theory of society, and (ii) show how that knowledge interferes and transforms the behaviours and strategies of the subjects (Foucault, 2002:214). According to this method, a discursive formation is made up of four elements: the *objects* about which statements are made; the *enunciative modalities* that marked the places from which subjects speak about the object; the *concepts* that govern how discourse concerning the objects can be legitimately conducted; and the *strategies* that arise out of this discursive formation (Foucault, 2002:34-78). This chapter is composed of four sections that address these elements.

In the first section, I examine how the 'right to know' emerges as an *object* of discourse in the first place. I show calls for actual publicity became articulated as a 'right to know'. The right to know emerged in response to the manner in which political secrecy became official secrecy in the late nineteenth century. In other words, the right to know was a response to the manner in which political secrecy was given a status in law that had to be challenged before the citizenry could call for actual publicity in regard to certain

matters of state. In the section I turn to the Iraq Inquiry specifically, and examine how struggles over the right to know and official secrecy – legitimate disclosure and legitimate exemption to disclose – are regulated by *enunciative modalities* that marked the places from which subjects can speak. I examine how the structure of the inquiry sets up subjects positions of ‘those who know’ and ‘those who don’t’, and governs the contestation over disclosure between these two positions according to a discursive framework encapsulated in the inquiry protocols and the freedom of information legislation. In the third section I examine the *concepts* of this discursive framework and show how they function in relation to three stories of attempts to exercise the right to know. There are three important concepts – public interest, balance and harm – which combine in the ‘public interest test’. Finally I examine the political *strategy* that emerges from the interrelation between this object, subject positions and concepts.

From this study, I argue that the public interest test allows the government to justify the enduring exercise of official secrecy by presenting actual publicity as a behaviour that threatens the foundations of liberal security. The test legitimates the endurance of official secrecy by framing disclosure as a balancing act between the insecurity of actual publicity and the security of secrecy. The test pre-defines specific public interest that can be threatened by disclosure, whilst the test does not specific how the public interest may be threatened by exemption, or enduring secrecy. Thus, if the state can describe how disclosure would likely harm a public interest, then the ‘balance’ is already biased toward the legitimisation of secrecy because the potential insecurities, or harms, of actual publicity are emphasised while the potential insecurities, or harms, of secrecy are not. So, for instance, the refusal to disclose a record of a telephone conversation between President Bush and Prime Minister Blair was legitimated through a balancing exercise in which the norm of transparency and accountability was positioned against the likely harm to the public interest in international relations. This is a public interest in foreign alliances and information sharing upon which the security of the state is maintained.

The ingenuity of the public interest test, however, goes further. The test is constructed in such a way that exemptions to disclosure can guard against both too much and too little government. I show how the refusal to disclose minutes of Cabinet meetings during 2003 is made possible because the test allows the government to claim that disclosure would damage both the quality of future cabinet deliberation on policy and the prospects of future accountability. The government argued that the ‘fear of publicity’ would likely inhibit ministers from sincerely and truthfully expressing themselves during deliberations – this would inhibit the norms of hypothetical publicity. Yet the government also argued that this ‘fear of publicity’ would stop ministers from discussing policy on the

official record, and thus replace the official record of government, which is declassified after 20 years, with mysterious off-the-record exchanges that could never be revealed. The choice, according to the test, was between the existing secrecy upon which future public scrutiny could be based, or the risk of no such record at all and no possibility of a future societal critique of too much government. This is a public interest in accountability upon which the security of the liberal citizen is maintained. Paradoxically, keeping an official secret, the state argued, would protect the possibilities to conduct actual publicity in the future. Conducting actual publicity now, by contrast, would prevent actual publicity in the future because the present act of disclosure would harm the official record upon which future actual publicity could be based.

‘The Right to Know’ as an Object of Discourse.

In this section, I show how both official secrecy and a right to know emerged as objects of political discourse in Britain. Objects of discourse need to be studied through the “body of rules” that “constitute the conditions of [their] historical appearance” and enable the objects to form (Foucault, 2002:53). Crucially, these objects are constituted *through*, rather than being *prior to*, a discursive formation. Discourse does not reflect and cannot be reduced to a pre-existing reality (Howarth, 2000:51) – a point reiterated in Foucault’s later projects, reviewed in the previous chapters. Tracing the emergence of my objects of enquiry – official secrecy and the right to know – must begin, therefore, with understanding the conditions or rules that enables its historical appearance. There are three types of rules:

Firstly there are “surfaces of emergence” – that is, the social relations through which a particular practice becomes an object of study or concern (Howarth, 2000:52-53; Foucault, 2002:45). We need to examine the historical social relations through which official secrecy and a right to know became possible and useful objects of discourse. In particular, I will show how official secrecy emerged in response to both the expansion of the civil service and the commodification of political secrets. A right to know emerged in response to this legal codification of secrecy and in response to concerns that this secrecy harmed the common good. Secondly there are “authorities of delimitation” – that is, the authorities that determine the particular discursive formation into which an object ought to be situated (Howarth, 2000:52-53; Foucault, 2002:46). I will show, therefore, how political authorities positioned official secrecy and a right to know within a legal discursive framework. Finally, there are “grids of specification” that is the way of classifying a series of practices or behaviours under the heading of one specific category, according to certain

properties exhibited by the practice (Howarth, 2000:53; Foucault, 2002:46-47). We need to examine, therefore, how official secrecy or a right to know were classified as such according to particular concepts. I will show how official secrecy came to encompass any unauthorised disclosure of official information that could plausibly harm the interests of the state.

In order to begin an examination of the emergence of the right to know, it is necessary to start first with the emergence of official secrecy in Britain. This is because the constitution of official secrets within the legislative framework formed a body of secreted knowledge against which the right to know could be mobilised.

For much of the nineteenth century, official secrecy was regarded as anathema to the principles of good government. As I argued in Chapter Two, whilst liberals celebrated transparency as an instrument of political enlightenment and moral progression, this gaze of publicity was also a technology constitutive of a political rationality of security against “too much government”. Bentham’s writings on publicity, accompanied a series of concrete political reforms that reflected the liberal commitment to democratic openness. In 1838, the Public Record Office Act imposed a legal obligation upon the state to collate, preserve and “keep safely the public records”. The act renamed public records from “Muniments of the Kingdom” to “People’s evidence”. This was an important symbolic gesture (Moran, 2012:27). Knowledge collected by state was transformed into an evidentiary resource to be used by society to critique the state. Meanwhile other reforms cultivated a literate population and a free press. In the former, Parliament introduced subsidised elementary education in 1833, and from 1836 imposed compulsory education and funded the construction of thousands of new schools. In the latter, Parliament abolished the Newspaper Stamp Duty and the Excise Duty on Paper. This gave rise to affordable newspapers, mass political reading and political culture (Vincent, 1999:4; Moran, 2012:27). In the same decade, *Hansard* was placed on public sale for the first time, having previously only been printed for members of Parliament. Alongside the installation of a gallery for shorthand writers, the move made Parliamentary business and process accessible to the public like never before. These reforms helped to produce liberal subjects who would take part in public scrutiny as literate and informed juridical subjects.

By contrast, the political scandal surrounding Joseph Mazzini illustrated the extent to which state surveillance and political secrecy could provoke a national anger. In 1844 the Italian exile Mazzini discovered that the Secret Department of the Post Office had been opening his correspondence. Mazzini complained to the radical MP Thomas Duncombe, who protested that postal espionage was “repugnant to every principle of the British constitution, and subversive of the public confidence, which was so essential to a

commercial country” (Duncombe cited in Vincent, 1999:1). The Secret Department Of The Post Office was abolished, making Britain the only great power without this means of spying on foreign enemies; and for a quarter of a century the state largely refrained from surveilling its own citizenry (Vincent, 1999:2). This is not to say, of course, that the British state in the nineteenth century did not have political secrets. The Privy Councillor’s oath – to “keep secrets all matters committed and revealed unto you ...so help you God” – had committed ministers to secrecy since the mid-thirteenth century.⁸⁸ Crucially though, secrecy was exercised on the basis of convention rather than legislation. Secrecy was a defining characteristic of the ‘gentlemanly’ civil servant. Civil servants preferred not to refer to “secrecy” preferring “less morally objectionable garbs such as ‘discretion’, ‘reticence’ and ‘reserve’” (Moran, 2012:29). This discretion was fostered through a system of patronage; progression through the ranks of the service was attained, not through academic merit, but through demonstrating one’s trustworthiness, which was “something only a gentleman possessed, on account of his superior parentage, upbringing and schooling” (Moran, 2012:29).

How then, could the emergence of official secrecy legislation occur in this environment defined by a popular opposition to political secrecy and a subterranean culture of gentlemanly discretion in the civil service? The creation of legislation to define, protect and prosecute violations of official secrecy is often explained through a discrete event: the fear of German espionage (Hennessy, 2003). This explanation is only a partial story however, challenged by those who claim that the criminalisation of disclosure and the legislative protection of political secrecy were responses to a socially heterogeneous state bureaucracy and the commodification of secrecy as memoirs bought by the free press (Ponting, 1990; Vincent, 1991; Vincent, 1999; Wilkinson, 2009).

The expansion of the state during the nineteenth century brought with it an explosion of paperwork. Communication between government departments was increasingly conducted in writing, whilst the state expanded into areas such as education, public health and colonial administration (Moran, 2012:31-32). Advances in the methods of bureaucracy itself – such as the internal memo – increased the stream of correspondence. This growth in paperwork necessitated an equivalent expansion in the civil service. A vast workforce was recruited into secretarial roles to produce and file these reams of paper. These workers were lower class and poorly paid. Many did not identify with the gentlemanly culture of discretion, nor feel a moral duty to comply with it. When coupled with a free press ready and eager to reveal the mysteries of state, *arcana imperii* were frequently disclosed. Moran notes:

⁸⁸ HC Deb, 28 July 1998, Vol 317 Col 182

Not content with taking news from *Hansard*, journalists relentlessly stalked the corridors of government departments, asking questions about policy and seeking ‘off the record’ comments from officials. Journalists began referring to ‘rights of the public’ – a forerunner of what we would consider to be ‘the public interest’. (Moran, 2012:29; see also Ponting, 1990)

Newspapers offered to pay vast sums for eye-catching disclosures – this was the commodification of political secrecy. The story of Charles Marvin illustrates the consequences of an underpaid secretarial workforce immune to the appeal of gentlemanly restraints, and this commodification. One of a multitude of men – in his own words comprising “every degree of broken fortunes” (Marvin cited in Vincent, 1999:78) – Marvin entered the service as a writer, the lowest grade of clerical staff. On 31st May 1878, Marvin was working at the Foreign Office when he decided to leak a draft of a secret treaty concerning the Congress of Berlin, just two and a half hours after it had been signed. The British government was embarrassed; the leak not only pointed to the inept capacity of the state to keep its secrets, but also revealed secretive dealings that had been concealed from Parliament (Vincent, 1999:79).

Marvin was arrested and charged but, at the trial, he could not be convicted of any offence under the law. In the absence of any legal protection of official information, the government’s case could only be based on property rights. Yet by copying the document from memory, Martin had not unlawfully taken the property of the state (Ponting, 1990:4-5). “There was no trial which made the defendant liable to punishment,” counsel complained at the trial; at the root of the act, instead, was “the eagerness to satisfy the public craving for information” (cited in Moran, 2012:35). Marvin was defiant.

I was so disgusted with the Foreign Office for ‘sucking’ the best years of my life for the miserable sum of £90, that I resolved from that moment to place upon the market every piece of information that chance threw in my way. (Marvin cited in Vincent, 1999:79)

Something had to be done to deal with this “cheap and untrustworthy class of people”, wrote the Permanent Secretary of the Foreign Office (Tenterden cited in Vincent, 1991:238). Legislation was the answer. In 1889 the Official Secrets Bill was laid before Parliament. Initially entitled The Breach of Official Trust Bill (Michael, 1982:39), the bill literally sought to justify the insecurity of actual publicity and the necessity of political secrecy in interests of the common good. The bill set out criminal sanctions for breaches of official trust where such acts were contrary to “the interest of the state, or otherwise in the public interest”, thereby offer a defence for disclosures that protected the common good (Maer and Gay, 2008:3). The bill represented a moment in which actual publicity was

constituted as a source of threat in law. The threat of German espionage appeared as a justification for official secrecy. The Lord Chancellor emphasised that the legislation existed to punish “those persons who gave information to the enemies of the country, or who act as spies”.⁸⁹ These fears of foreign espionage were instrumental in quelling opposition to the bill in parliament: official secrecy was codified for the first time in Britain with “virtually no discussion” (Moran, 2012:37).

In 1911, the 1889 act was repealed and replaced. The government took advantage of, and even took steps to foster the hysterical fear of “the German menace” through the commission of fictional accounts of invasion (Moran, 2012:41). These fears provided a favourable atmosphere in which to ease the bill through Parliament. Amidst this fever, the 1911 Act criminalised the unauthorised disclosure of information without discrimination; everything was ‘official’ and thus subject to the act. Discussing the Home Office’s shortage of toilet paper with own spouse would amount of a violation of the act just as much as passing military plans to the Germans (Moran, 2012:23). The act also marked a radical break with English Law by placing the burden of proof on the defendant, who would be required to provide positive proof of innocence. According to Section 1(2) of the act, the prosecution would not be required to show that the accused was guilty of an act resulting in harm to the state, or even “any particular act tending to show a purpose prejudicial to the safety or interests of the State”. Instead the defendant could be convicted if “it *appears* that his purpose was a purpose prejudicial to the safety or interests of the State”. In other words, suspicious behaviour would be sufficient for guilt. By 1912, official secrecy legislation meant that “Britain was set up to protect free speech, but not free enquiry; absolute secrecy prevailed” (Moran, 2012:52). The point of this narrative is to highlight the conditions of possibility in which political secrecy was constituted as *official* secrecy. This official secrecy provided a fixed point against which social and political movements, in the broadest sense, could direct their struggle in pursuit of actual publicity. Actual publicity would have to be contested and fought for on the basis of ‘a right to know’ that could challenge the official secret.

Throughout the late-nineteenth and early twentieth century official political secrecy remained intact, despite vocal challenges from the idealists.⁹⁰ One notable group of opposition emerged out of the Union for Democratic Control (UDC) who, for much of the First World War and the subsequent the inter-war period, argued that wars were the result of secret diplomacy, and that such secrecy should be abolished in favour of greater parliamentary control over foreign policy. The UDC continued the Benthamite tradition by

⁸⁹ HC Deb 20 June 1889, Vol. 338, Col. 52

⁹⁰ see Chapter One, fn1

connecting political secrecy to insecurity. In their own words from a 1914 leaflet, “it is unwise and dangerous in a democratically governed country to exclude any large body of people from having any voice in the control of their most vital interest”, but “frankness and publicity are better securities for peace than secrecy and intrigue” (cited in Swartz, 1971:223).

WHY SHOULD DEMOCRACY CONTROL FOREIGN POLICY? BECAUSE IT IS UNWISE AND DANGEROUS IN A DEMOCRATICALLY GOVERNED COUNTRY TO EXCLUDE ANY LARGE BODY OF PEOPLE FROM HAVING ANY VOICE IN THE CONTROL OF THEIR MOST VITAL INTEREST. Because the tendency of the people is more and more to desire peace and to see in the foreigner not an enemy but a fellow-worker and a fellow-sufferer. Because the people desire to turn their attention to the improvement of conditions at home and to fighting the real enemies—Ignorance and Poverty. Because they would not be influenced by the personal and petty quarrels that disturb the intercourse of ministers and diplomats. **BECAUSE THE FOREIGN SECRETARY, WITH THE FULL SANCTION AND APPROVAL OF THE PEOPLE BEHIND HIM, WOULD BE IN A FAR STRONGER POSITION THAN HE IS NOW.** Because the people would no longer be deluded by the Press, which now trades on their ignorance. **BECAUSE FRANKNESS AND PUBLICITY ARE BETTER SECURITIES FOR PEACE THAN SECRECY AND INTRIGUE. BECAUSE ARISTOCRATIC CONTROL OF FOREIGN AFFAIRS HAS FAILED. BECAUSE THE HIGHEST MORAL SENSE OF A NATION RESIDES IN THE PEOPLE RATHER THAN IN THE GOVERNMENT.** Because by democracy alone can the power of vested interests be counteracted.

HOW CAN DEMOCRACY GAIN CONTROL?
By more frequent discussion of foreign policy in Parliament. **BY THE SANCTION OF PARLIAMENT BEING OBTAINED FOR ALL TREATIES, COMMITMENTS AND ENGAGEMENTS WITH FOREIGN NATIONS.** By the periodic revision of treaties by Parliament. By the establishment of a Foreign Affairs Committee. By the democratisation of the Diplomatic Service and the Foreign Office. **BY THE ABOLITION OF SECRET TREATIES, SECRET CLAUSES TO TREATIES AND SECRET ENGAGEMENTS.**
By the frequent publication in the Press of official news.
MAKE YOUR M.P. PRESS FOR THESE REFORMS.
JOIN THE UNION OF DEMOCRATIC CONTROL.

Figure 21. UDC Leaflet from 1914 (adapted from Swartz, 1971).

The leaflet claims that the exposure of the foreign policy making process to actual publicity is in the public interest. Actual publicity would, according to the UDC, mediate the insecurity of secret policy-making.

The UDC complained that the aristocratic control of foreign affairs has failed, yet the idealist challenge failed to find support for much of the twentieth century because civil society trusted the state, particular Cabinet Ministers, to promote the public good, economic growth and the maintenance of imperial power with the resources of official secrecy. Government were trusted with the “ability to supply growth with integrity, security with efficiency” (Vincent, 1999:316). It was not until after the Suez Crisis – an event to which the Iraq War is so often compared – that significant changes began to occur. In a moment of combined government deception and international humiliation, the state faced

a loss of trust in “the capacity of the official machine to sustain Britain’s economic and strategic position in the world” (Vincent, 1999:317). The event lent wider sympathy to those who argued that official secrecy was a hindrance to the prudent management of the political and economic interests of society. From the mid-twentieth century, government slowly lost the trust of civil society in its ability to produce economic growth and security of the subject behind closed doors. This shift can be understood in context of a changing subject of security – as I described in Chapter Two – from the security of state protected by secrecy and threatened by actual publicity, to the security of the liberal citizen protected by actual publicity and threatened by secrecy.

From the 1960s, ad hoc public inquiries into suspected misdemeanours began to offer an intriguing glimpse into the secret state. The 1963 the Denning Inquiry published the Maxwell Fyfe Directive, giving the public their first glimpse into the workings of MI5 (Phythian, 2010:57). The government also failed to stop the publication of several memoirs, culminating in the bungled attempt to ban *Spycatcher*. The 1966 Salmon Commission – discussed in Chapter One – noted that actual publicity was an essential component of inquiries into matters of public controversy; without publicity, the committee argued, public confidence could not be restored, “and without this confidence no democracy can long survive” (Salmon, 1966:38). During this period, film and literature was dominated by dystopian accounts of British democracy, in which the near future was comprised on “dictatorships, coups and conspiracies” (Fielding, forthcoming). At the extreme, the 1955 film *Quatermass II*, for instance, told the story aliens secretly taking control of government official and ministers before abusing the Official Secrets Act to covertly take over Earth. The film, however, reflected the real-life concerns over secret biological and chemical weapons facilities such as Porton Down, where several soldiers complained of human experimentation shrouded in secrecy (Fielding, forthcoming). At the heart of these concerns was a fear that supposedly liberal governments neglected the principles of hypothetical publicity in conditions of secrecy. In 1968, the Fulton Committee on the Civil Service raised gave official voice to concerns regarding the endurance of the official separation of ‘those who know’ from ‘those who don’t’. Fulton concluded that,

the administrative process is surrounded by too much secrecy ... the public interest would be better served if there was a greater amount of openness...Some restriction of ‘open decisions openly arrived at’ will doubtless remain necessary; but a mature democracy rightly demands that they should be kept to the absolute minimum. The fuller the information, the closer the links between government ... and the community; and the smaller the gap of frustration and misunderstanding between ‘them’ and ‘us’. (Fulton et al., 1968:92)

Whilst the government may have lost public trust in the benevolence of official secrecy, there was not yet any basis for a right to know that could challenge official secrecy. In

1969, the Labour Government published a White Paper, titled *Information and the Public Interest*, advocating a ‘gradual and pragmatic’ increase in task of “explaining the work and organisation of the Government to the public” (cited in Minogue, 1977:253). The successive Conservative Government constituted the Franks Committee, which was critical of the “catch-all” treatment of official documents whereby the unauthorised communication of information – regardless of its kind or content – was treated as the same offence (Franks, 1972). In 1976, the Campaign for Freedom of Information emerged, arguing “secrecy leads to poor policy-making and to injustice to individuals” (Chapman, 1987:25). In 1977, the Croham Directive required permanent secretaries to publish background material relating to policy studies and reports unless a Minister intervened (until Margaret Thatcher rescinded a vital part of the directive in 1979) (Hunt, 1987:178;Nairne, 1987:42). In the same year the Foreign Affairs Select Committee was established after the Procedure Committee had warned of executive dominance “so weighted in favour of the government to a degree which arouses widespread anxiety and is inimical to the proper working of our parliamentary democracy” (Select Committee on Procedure, 1977-78). Despite this Britain retained “one of the most extensive systems to control the flow of official information of any Western democracy” (Ponting, 1990:1).

It was during the 1990s that a tangible thaw in the climate of secrecy began. The Major government publicly acknowledged the existence of the Secret Intelligence Service and promised reforms to “sweep away some of the cobwebs of secrecy which needlessly veil too much of government business”.⁹¹ In 1994 the ISC was established. Between 1992 and 1996 Sir Richard Scott held a landmark inquiry into the ‘arms to Iraq’ controversy, which provided a degree of public openness about the operation of government and the security services that would only be surpassed by the Hutton and Chilcot inquiries (Barker, 1997;McEldowney, 1997;Phythian, 2005). In April 1994 the Conservative government introduced the *Code of Practice on Access to Government Information* (Gay, 1997). The code committed government departments and public bodies to publish information that influenced policy decisions, regulated how departments dealt with the public, or that pertained to the running of public services. Crucially, this code introduced a set of rules to codify what could be made public. The code introduced a norm of actual publicity, except for fifteen categories of exempt information such as “defence”, “security and international relations” and “internal discussion and advice” (Gay, 1997). These exemptions applied when “the harm likely to arise from disclosure would outweigh the public interest in making the information available”; harm was defined as “both actual harm or prejudice and risk or reasonable expectation of harm or prejudice” (cited in Gay, 1997). This concept of

⁹¹ HC Deb, 6 May 1992, Vol. 207, Col. 64

likely harm of the public interest continues today in the regulation of the right to know and I will discuss it in depth below.

Finally in 2000, New Labour introduced the Freedom of Information Act. The act introduced a *statutory* right of access to official records and information, intended to “encourage more open and accountable government” (Cabinet Office, 1998:1). The act allows any person to make a request for information from a public authority, and the authority must confirm whether or not it holds the information specified and, if it does, to disclose the information. The act is subject to certain exemptions that I will discuss below. In the government’s white paper, the bill is presented as a *direct* response to “an entrenched culture of secrecy extending back at least to the nineteenth century and the official secrets act” (Cabinet Office, 1998:34). The act constituted an object, a political practice, a ‘right to know’ in response to another political practice, official secrecy. “The traditional culture of secrecy”, Blair wrote in the preface to the White Paper, “will only be broken down by giving people in the United Kingdom the legal right to know” (Cabinet Office, 1998:6).

In summary, through Foucault’s principles discussed above, the discussion here highlights the conditions that produced official secrecy and a right to know as objects of discourse. Firstly, official secrecy might have been rushed through parliament with reference to the German threat, but the problematisation of unauthorised disclosure, to which official secrecy was the response, was made necessary by factors internal to the state. The ‘surface of emergence’ for official secrecy was the generation of a need for a large workforce of bureaucrats, recruited from a class of individuals who had little respect for the social norms of discretion inside the civil service. The new class of bureaucrats were amenable to the commodification of political secrets, selling information for personal gain whilst embarrassing the government for which they had little respect. Official secrecy was a necessary response to protect the security of the state in accordance with the doctrine of *raison d’état*. By contrast, a right to know emerged as a form of resistance to the criminalisation and extension of official secrecy into every area of official information. Coupled with a lack of trust in government to adequately provide public goods through governing behind closed doors, the erosion of secrecy facilitated a renewed critique of the state in the interests of the security of the liberal citizen – resisting too much government in the interests of ‘maximum economy’(Odysseos, 2010).

Secondly, political authorities determined how the problem of disclosure should be constituted in terms of official secrecy or a right to know. The Official Secrets Act classified a wide variety of practices under a single heading. Leaking military plans to a foreign power, selling amusing information to the press and casual conversation between

friends all became classified as unauthorised disclosure. Whereas the gentlemanly civil servant could exercise discretion – a kind of self-government – over what information should or should not be secreted, the official secrets act treated every individual as a ‘savage’ – to borrow a term from the previous chapter – who needed to be told what could be disclosed. A right to know emerged in relation to this blanket ban on unauthorised disclosure. The very idea of a right to know can only exist in relation to a body of knowledge that is secreted by law. The slow erosion of official secrecy emerged through a series of tribunals, inquiries and policy papers which acknowledged the importance an informed public that could understand how public policies were designed, be convinced of the righteousness of such policies, and could make suggestions for improvement.

Third, through the course of the emergence of official secrecy and a right to know, the body of rules contained in the discourse developed a grid of specification for the classification of secrecy and disclosure. Of utmost importance is the concept of harm. Official secrecy was justified on the basis that disclosure posed likely harm to the interests of the state and the public interest. In response, calls for a right to know emerged from concerns that practices of publicity – including sincerity, honesty and pluralism – served the interests of good economic and political governance, and that the best way to check these standards was through actual publicity. The distinction between just and unjust disclosure has now become a matter of contestation inside these rules; a justified secret or a legitimate disclosure is determined by contesting whether or not disclosure poses likely harm to specific objects of protection – such as the defence, national security and so on.

Subject Positions: Shaping struggle through Protocol and Balance

Having traced the emergence of a right to know in relation to official secrecy, the next task to examine how subjects can speak about having a right to know or not. Returning to the four elements of the archaeological approach borrowed from Foucault, the second element is refers to *enunciative modalities* (Foucault, 2002:55-61): how one can speak about an object of enquiry is governed by the subject position in which one is located. A given position of the subject is an “empty place” (Howarth, 2000:53), in the sense that different individuals can occupy the position so long as they meet certain criteria. To use a simple but appropriate example, during a criminal trial there a several important subject positions: the judge, the defence advocate, the defendant and so on. Each subject position allows the individual to speak about and influence the trial in different ways. The judge can decide on the outcome of the trial, the advocate can present evidence and only the defendant can enter a plea. The authority of claims in the courtroom are conditioned by the subject

position from which individual declare themselves. If I declare myself as the judge, I cannot enter a plea for the defendant. If I am the defendant, I cannot give myself a custodial sentence. Of course, I cannot easily choose my position. These positions are constituted by the existence of “institutional sites”, such as a courthouse, but also recognised expertise and training (Howarth, 2000:53). As such I can talk like a judge, but unless I wear the wig and sit on the bench then my talk will not function as part of a discursive formation of power.

Crucially, whilst an enunciative modality is constituted through a discursive formation, the subject will in turn reproduce aspects of the discursive formation into which they are implicate, thus ensuring “hegemony, continuity and also, crucially, the invisibility of its reproduction” (Moon, 2009:50). Individuals are implicated in their own subjection as subjects situated within enunciative modalities. In other words individuals can voluntarily and even wilfully occupy a subject position, which then entangles them within relations of power and governance that are otherwise indiscernible. By choosing to talk as a judge, I reproduce the discursive limits of ‘judicial talk’. Equally we can locate a series of enunciative modalities around the Iraq Inquiry that subjects choose to adopt, and these subject positions shape how these individuals can engage with the inquiry and talk about official secrecy and the right to know.

In the Iraq Inquiry, we can locate three distinct enunciative modalities. These different subject positions condition the authority of individuals to speak about whether or not there is a public right to know, whether or not a disclosure is legitimate or whether or not an exemption to the public right to know is legitimate. The diagram below captures and maps the different subject positions around the inquiry. The inquiry is split into those who have access to all the information – ‘those-who-know’ – and those outside the inquiry – ‘those-who-don’t-know’. This distinction between the state-sponsored inquiry and the executive, on one side, and the individuals and organisation of the public sphere on the other, produces the *secretum* – discussed in Chapter Two – a separation between those who know and those who don’t know but suspect that there are secrets to learn. Those-that-know include two subject positions. Firstly there are those who are formally part of the Iraq Inquiry. Secondly, there are those who are part of the Cabinet Office. Those-who-don’t-know comprise the third and final subject position, which I call here simply the Public Sphere. The Public Sphere is of course made up of all sorts of different organisations, but the point is that they can all engage with the inquiry and they can all speak about a legitimate right to know in the same way. Through the interrelation of these positions, the legitimate right to know can be spoken about in three ways.

Firstly, any individual or organisation from the Public Sphere can engage with the

Iraq Inquiry through a series of legitimate behaviours – as shown below. They may watch or attend hearings as a member of the public gallery, or download declassified evidence; if they possess recognised training or expertise, they may be invited to a private expert seminar in which they can discuss specialist subjects with members of the inquiry; they may also be invited to attend as a witness; they may submit evidence to the inquiry. These behaviours, however, do not allow individuals from the Public Sphere to legitimately talk about a right to know. Instead, the Iraq Inquiry can only provide information to the Public Sphere that has already been declassified. The Inquiry can publish transcripts of evidence, written evidence, correspondence and statements that have already been declassified. The second interaction is between the Iraq Inquiry and the Cabinet Office. Through a series of protocols – shown below – the Iraq Inquiry and the Cabinet Office can talk about and negotiate whether or not there is a legitimate right to know. I will discuss these protocols in depth below, but for the moment it is enough to recognise that these protocols shape the ‘rules’ of negotiations about the right to know. On the basis of this negotiation, information can be released from the Iraq Inquiry to the Public Sphere through the behaviours above. Finally, the Public Sphere and the Cabinet Office can interact directly if a member of the Public Sphere bypasses the inquiry process altogether and makes a freedom of information request.

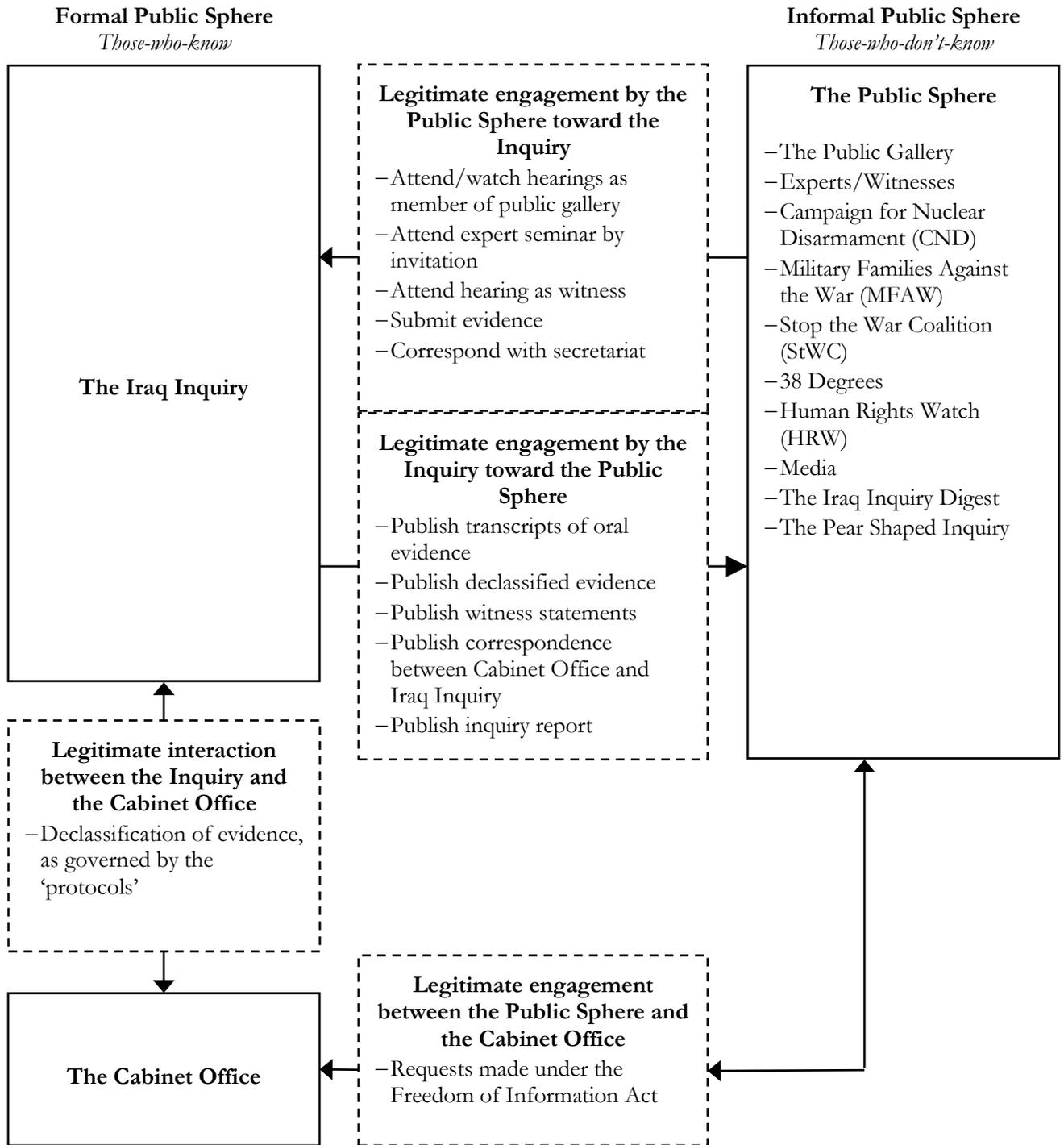


Figure 22. Subject Positions of the Iraq Inquiry

In this section and the next, I will examine four instances of this interaction in order to show how these subject positions shape the possible ways of talking about a legitimate right to know. The diagram below helps to explain where these four instances are located. Firstly I will examine the correspondence between one organisation outside of the formal inquiry – the Campaign for Nuclear Disarmament (CND) – and the inquiry. In the next section I examine the engagement between the inquiry and the Cabinet Office in relation to the declassification of official secrets. Third and fourth, I will examine two FOI requests

that were conducted in relation to the inquiry's activities – one by Stephen Plowden concerning diplomatic exchanges between Blair and Bush, and one by Chris Lamb concerning Cabinet Minutes.

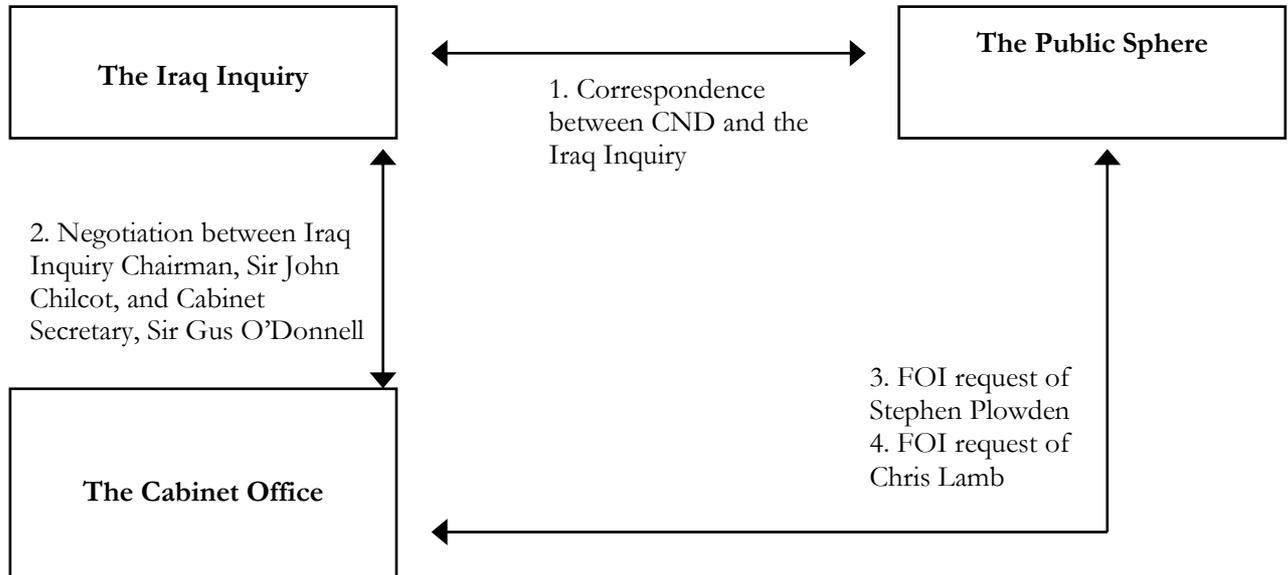


Figure 23. Four contestations of the right to know

The first interaction between CND and the Iraq Inquiry illustrates how these subject positions constrain how individuals can contest the right to know. From the announcement of the inquiry, CND corresponded with the inquiry secretariat (Chilcot, 2009b; CND, 2009a). Upon learning that public hearings and the declassification of evidence by the inquiry would be governed by the protocols, CND asked Chilcot “how does the Inquiry intend to police ... the disclosure protocol?” (CND, 2009b). The inquiry secretariat replied only to confirm that the inquiry committee were “satisfied that it continued to receive the information and documentation that it requires in order to carry out its objectives, and has not been refused access to any document it has requested” (Inquiry, 2009). In reply, CND noted an exchange between Lord Goldsmith - then Attorney General - and the Inquiry committee in which both were frustrated by a decision not to declassify evidence for discussion during the hearings.⁹² CND asked, given the

⁹² The CND referred to the following passage from the public hearing of the former Attorney General Lord Goldsmith. Goldsmith found he was unable to publicly reference a restricted document relating to his opinion on the legality of the war.

Rt Hon Lord Goldsmith QC: We have it, I think. I have seen it again. His response was -- if I may just remind myself of it. His response was -- he said that, if I'm allowed to refer to this. It has been -- I know there is --
The Chairman: It has.

Rt Hon Lord Goldsmith QC: I know there is a bit of an issue, which is frustrating, about what has and has not been declassified.

The Chairman: Can I just say, since you say that, the frustration is shared.

Rt Hon Lord Goldsmith QC: I want to make it very clear that I don't agree with the decision that has been apparently made that certain documents are not to be declassified.

frustration, “what steps the Inquiry is taking to procure de-classification of the documents concerned” (CND, 2010a). In reply, the Iraq Secretariat directed CND to a public statement by Chilcot in which he noted that “public hearings are perhaps the most obvious aspect of our work. They are only one element of our inquiry although an essential one ... our access to documents is unrestricted. Publishing a limited number is a separate matter” (Inquiry, 2010). It was, however, precisely this lack of public access that irked CND, who complained that the lack of declassification inhibited the quality of public accountability: “the failure to de-classify documents [has a] consequential impact upon the effectiveness of public questions ... if a document isn’t declassified, its content cannot be referred to in public questioning.” The inquiry, CND claimed, were obligated to “transparency and the participation of the public and victims ... under the ECHR [European Convention of Human Rights], yet these are significantly impaired by the lack of public access to key documentation” (CND, 2010b). The Inquiry Secretariat responded by repeating that the inquiry can “take informed decisions about the most appropriate mechanisms should it wish to pursue issues further. That could include seeking declassification of material - in the accordance with the Protocol” (Inquiry, 2010). In the end CND were advised by their lawyers not to pursue the issue further, having taken the issue as far possible without embarking on an expensive judicial review. Fundamentally, CND sought assurances that the inquiry would fulfil its stated intention to ‘hold as much of the proceedings of the Inquiry as possible in public’, in order to restore public trust in government. The inquiry’s responses point CND to the protocols that govern the disclosure of information between those-who-know and those-that-suspect. Legitimate disclosure entails acting through the protocols, but in order to retain the ‘requisite level of mass loyalty’ these protocols must work in accordance with concepts and rules that can be publicly justifiable. Against the spectre of the show trial, the Inquiry’s response to CND was: trust the protocol. But why should the protocol be trusted? It is to the concepts of the protocol that I now turn.

Concepts of The Right to Know: Public Interest, Balance and Harm

Foucault’s third element of a discursive formation refers to *concepts*. As a simple example, the different elements of ‘noun’, ‘predicate’ and ‘verb’ comprise a taxonomy of concepts that operate as a set of rules constitute the discursive formation of grammar (Foucault, 2002:62-70). These concepts constituting a “field of statements”, in which relations between concepts are governed by rules. A meaningful sentence must, for instance, must include a subject and a predicate (Foucault, 2002:161). These rules also govern whether or not a statement is legitimately acceptable within a discourse (Howarth, 2000:53) - a

sentence that does not include a subject and a predicate is not, legitimately, a sentence (for an exemplary application see Moon, 2009:51-54). In this section, I examine the concepts that govern a legitimate exercise of the right to know. I show how, in the three stories described above, requests to disclose information about government was shaped through a single discursive formation, which determines legitimacy or illegitimacy of disclosure. This discursive formation is composed of a specific relationship between three concepts: ‘public interest’, ‘harm’ and ‘balance’. This discursive formation is found in both the protocols of the Iraq Inquiry and the Freedom of Information Act.⁹³ Before I examine the three stories in details, I will give a brief overview of how the formation appears in both cases.

Turning first to the Iraq Inquiry, the Cabinet Office and the inquiry committee agree that no information has been withheld from the inquiry itself. However, Sir John Chilcot also wishes to disclose as much of the inquiry’s proceedings and evidence as possible, because “it is one of the ways in which the public can have confidence in the integrity and independence of the inquiry process” (Chilcot, 2009c). In his regard, the inquiry can only disclose evidence after a successful negotiation between the inquiry committee and the Cabinet Office. The terms of this negotiation are governed by a series of protocols. For brevity I will focus on one, pertaining to the release of documents and other written information into the public domain (the remaining three contain very similar wording). Under the protocol, the inquiry may request the declassification of any official information. The Cabinet Office has the final say on declassification, but any refusal of the inquiry’s requests must be based on a judgment that disclosure would or would likely to “cause *harm* or damage to the public interest, guided by the normal and established principles under which the *balance of public interest* is determined on grounds of Public Interest Immunity”; these public interests include areas such as “national security, defence interests or international relations” (Cabinet Office, 2009). It is these protocols that concern my first example below.

Turning secondly to the Freedom of Information Act, a similar, albeit more complex discursive framework is found. Section 1 of the act entitles any person to make a request for information from a public authority, to be informed in writing whether or not the public authority holds the information specified, and to have that information communicated to them. There are, however, exemptions from the duty to disclose that are written into the act. Two particular types of exemption are important here: *absolute* and *qualified exemptions*. Absolute exemptions are types of information that are always immune from the act, and for that reason that is no public interest test. In fact there is no obligation on the part of the state to even confirm or deny whether or not the information exists at

⁹³ Similar exemptions are also found in the Inquiries Act 2005.

all, if doing so would amount to the disclosure of information to which the exemptions apply (see discussion in Sagar, 2007:409-10). An absolute exemption applies, for instance, to “information directly or indirectly supplied by, or relating to bodies dealing with security matters” and to any information “required for the purpose of safeguarding national security”. Qualified exemptions, by contrast, only apply after a balance of public interest. There are two types of qualified exemptions, prejudice-based and class-based

A prejudiced-based exemption refers to a type of information that can only be exempt from the duty to disclose where the relevant authority is satisfied that disclosure would, or would be likely to result in a specific prejudice or harm. For example ‘International Relations’ is a prejudiced-based, qualified exemption that can only be applied where disclosure

would, or would be likely to, prejudice...relations between the United Kingdom and any other State, relations between the United Kingdom and any international organisation or international court, the interests of the United Kingdom abroad, or the promotion or protection by the United Kingdom of its interests abroad.⁹⁴

In order to apply this exemption, the authority must identify the “nature of the prejudice” and decide on the “likelihood of the occurrence of prejudice” (ICO, 2013). Thus in the example above, the authority must identify how a requested disclosure would be capable of damaging, or having a detrimental effect on the international relations of the United Kingdom. This prejudice must “be more than a mere assertion of belief”. Instead there must be a “causal link” or “logical connection between the disclosure and the prejudice” (ICO, 2013). However because the disclosure has not yet happened, the supposed prejudice “relates to something that may happen in the future” and therefore “it is not usually possible to provide concrete proof that the prejudice would or would be likely to result” (ICO, 2013). The authority, furthermore, would have to decide that the likelihood of the prejudice occurring is, at the very least, “a real possibility” rather than a “remote” or “hypothetical” possibility (ICO, 2013). It is the qualified, prejudiced based exemptions of ‘International Relations’ that applies to my second example below.

Finally, a qualified, class-based exemption applies to a specific type of information. For instance, section 35 of the act provides a qualified, class-based exemption for information relating to “Formulation of Government Policy”.

Information held by a government department or by the National Assembly for Wales is exempt information if it relates to—
(a) the formulation or development of government policy,
(b) Ministerial communications⁹⁵

⁹⁴ Freedom of Information Act 2000 ss.27(1) and (2)

⁹⁵ Freedom of Information Act 2000 ss.35

In this case, in order for a request to be exempt, the authority does not have to demonstrate that any particular harm would be caused by disclosure. The authority does, however, have to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosure. In either case, a qualified exemption can only be applied where “in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information” (ICO, 2013). Those who request disclosure must show how that prejudice is mitigated, or how a public interest in official secrecy is outweighed by the public interest in disclosure. The qualified, class-based exemption of “Formulation of Government Policy” applies to my third example below.

Before progressing to the example let me summarise these three concepts as follows. Firstly, there is the *public interest*. When New Labour introduced the Freedom of Information Act, the government noted that “no single factor can be said to constitute the public interest” (Cabinet Office, 1998:15). Scholarship has described the terms as “hopelessly ambiguous” (Beatson in Pleasence and Maclean, 1998:2), and one that has “been used throughout history to justify everything from democracy to totalitarianism” (Weisbrod, 1978). At its broadest, the term implies translating the many interests of the masses into some notion of a common good. In public guidance issued by the Information Commissioner, “public interest” can cover “a wide range of values and principles relating to the public good or what is in the best interests of society” (ICO, 2013 #1493}. On the one hand this broad understanding allows for competing and contradictory understandings of the public good. Both the Iraq Inquiry protocols and the Freedom of Information Act included specific interpretations of the public interest that are written into the process. Thus the first two examples deal with supposedly contradictory public interests – international relations and public accountability. On the other hand we can also see competing approaches to how a single public interest is best served. The third example below, for instance, deals with the question of how the quality of cabinet decision-making is best preserved – through actual publicity or official secrecy. Writing into law specific understandings of “public interest” does not necessitate that information should be automatically disclosed or kept secret; rather the public interest test involves a competition over the extent to which they are served by disclosure or by maintaining an exemption. Crucial to this test is the location of harm.

The second key concept is *harm*. For both the inquiry protocols and the Freedom of Information Act it is assumed that the normal, default situation is an assumption of disclosure (Cabinet Office, 1998:1). New Labour argued that this was because “unnecessary

secrecy in government leads to arrogance in governance... defective decision-making... [and] the perception of excessive secrecy has become a corrosive influence in the decline of public confidence” (Cabinet Office, 1998:1). This kind of thinking, as I noted above, is typical of the Liberal attitude in which political secrecy is a source of insecurity and actual publicity is technology of government for the mediation of these uncertainties. Both sets of documents start with a default position that assumes openness unless the public interest in disclosure is outweighed by harms that could damage the public interest. This is a continuation of a shift in the law of Public Interest Immunity (PII) – previously called Crown Privilege – whereby exemptions can only be claimed where a specific and identifiable harm can be identified. Previously, PII could be claimed in relation to class of documents, just like the absolute exemptions in the Freedom of Information Act. From 1996, however, the Attorney General announced that ministers must claim PII only when they believed that disclosure of a document would cause real damage to the public interest.

It is impossible in advance to describe such damage exhaustively. It may relate to the safety of an individual such as an informant, or to a regulatory process; or it may be damage to international relations caused by the disclosure of confidential diplomatic communications. Normally it will be in the form of direct and immediate harm to, for example, the nation’s economic interests or our relations with a foreign state; in some cases it may be indirect or longer-term damage, to which the disclosure of the material would contribute, as in the case of damage to a regulatory process. In any event, the nature of the harm will be clearly explained.⁹⁶

In *both* cases of qualified prejudice-based and class-based exemptions, arguments in favour of exemption have to act against the presumed norm of openness. Even in the case of qualified class-based norms, this means that the concept of harm is still at work. Whilst there is no inherent harm identified with reference to class-based exemptions (in contrast to specific prejudice-based exemptions), arguments in favour of exemption have to show how the public interest in, say, the formulation of government policy, would be damaged by disclosure. Thus the question for any court, tribunal or inquiry is: “will disclosure bring about a real risk of serious harm to an important public interest, and if so, which interest?” (Beer, 2011:198).

This leads to the final key concept: *balance*. The metaphor of balance carries ideas about quantity and precision (Waldron, 2003). The metaphor implies that we use it to describe two objects that can be quantified in the same terms and can be described precisely, as one could a financial balance sheet or the relative weight of two substances on a set of scales. The idea of balancing assumes that we can quantify, more or less, the public

⁹⁶ HC Deb. 18 December 1996, Vol. 287, Col. 949. The Attorney General added that, “the categories of public interest are not closed, and must alter from time to time whether by restriction or extension as social conditions and social legislation develop”.

interest in disclosure versus the public interest in exemption. When weighing that balance, the authority must decide which set of interests are “heavier” or “weightier” and take into account any harm to that interest which is posed by disclosure. If the public interest in maintaining the exemption outweighs the public interest in disclosure, the information will be withheld.

In what follows, I show how this particular balance of interests and harms allows the British Government to offer a justification for exemptions to the right to know. I examine the three instances described in the diagram above. Each case was ultimately refused. What is interesting is how this refusal was presented as a legitimate decision. As such, the decisions tell us how the concepts of the discursive formation governing the right to know permit struggle to take place upon a certain terrain, and how a decision can be legitimated within this framework. Firstly, I will examine how the Inquiry tried unsuccessfully to gain disclosure of diplomatic exchanges between Bush and Blair during 2003. The request was refused on the grounds that disclosure would endanger international relations to an unacceptable degree. Secondly, I examine an FOI request to attain disclosure of similar exchanges. This request was ultimately unsuccessful because the argument for the benefits of disclosure is under developed in the eyes of the law. Finally I examine an FOI request for the disclosure of Cabinet Minutes. This request, grounded in a will to hold the government to account, was refused on the grounds that the disclosure would itself damage the possibility for future political accountability. I will show how all these justifications for the endurance of official secrecy meet with the liberal aim of balancing between too much and too little government.

Chilcot versus O'Donnell: The (in)Ability of Mitigating the Harm of Disclosure

Originally intending to report in 2011, the inquiry has been delayed into 2014 largely because of disagreements over the declassification of official documentation that the committee wish to publish in support of their conclusions (Chilcot, 2012). In November 2013, Sir John Chilcot announced that agreement could not be reached between the Inquiry and the Cabinet Office on the disclosure of “difficult documents” including some 200 records of Cabinet-level discussions, 25 notes from Tony Blair to George Bush and 130 records on conversations between either Tony Blair or Gordon Brown and George Bush (Chilcot, 2013).

In many cases requests for declassification have been successful. The inquiry, for instance, successfully negotiated the declassification of documents between the Attorney General and the Prime Minister concerning the legality of the Iraq war. The convention of

maintaining the confidentiality of legal advice is a qualified exemption covered by Legal Professional Privilege (LPP).⁹⁷ Sir Gus O'Donnell, then-Cabinet Secretary, considered that disclosing the advice could erode the "full, frank and candid nature" of legal advice if Law Officers suspected their advice might later be published. As a consequence, government may be less likely to request such advice, "with a highly damaging impact on the conduct of good government" (O'Donnell, 2010b). O'Donnell, however, determined that because the Blair government emphasised the legal basis for military action, the government "contributed to a widely held view that the public and parliament are entitled to some explanation for the legal basis of that decision (O'Donnell, 2010b). Crucially, however, O'Donnell was only content to declassify the documentation because "this particular material can be declassified *without prejudice* to the general principles of LPP" and "*without any significant detrimental impacts* on the ability of the Law Officers to perform their duty" (O'Donnell, 2010b). In other words, O'Donnell was satisfied that the risk of harm to the public interest brought about through waiving the convention of LPP could be mitigated.

In other cases, however, the Cabinet Office has refused disclosure because the public interest in declassification would not outweigh the risk of harm to the UK's international relations. In December 2010 Chilcot wrote to O'Donnell requesting declassification of extracts of notes sent by Blair to Bush, along with records of discussions between Blair and Bush. Chilcot wrote that the views expressed by Blair "provides important, and often unique, insights into Mr Blair's thinking and the commitments he made to President Bush, which are not reflect in other papers." Chilcot noted that both Blair and Bush had given details of these exchanges in their memoirs but that "this gives only a personal account" and "without disclosure of the contemporaneous official records, it is impossible for the public to know how fair or accurate the accounts in the memoirs are." Without declassification the inquiry could not offer a "reliable account" (Chilcot, 2010).

O'Donnell replied to Chilcot on 22nd December, responding that, in his view, "the public interest is not best served by their release" because "their release would, or would likely, damage the UK's international relations" and "we have attached particular importance to protecting the privacy of the channel between the Prime Minister and the President. (O'Donnell, 2010a). The decision was "generic" in the sense that O'Donnell determined that *any* disclosure of extracts from the exchanges, no matter how innocuous, would incur "severe" damage to the public interest. Chilcot replied on 6th January 2011, registering the committee's disappointment.

⁹⁷ Under LPP, advice provide to a client by a legal profession should remain confidential, unless the client choose to disclose its content.

From the inquiry's perspective, the question of when and how the Prime Minister made commitments to the US, about the UK's involvement in military action in Iraq ...is central to its considerations. The Inquiry has access to the written records and can, and will, draw conclusions from those in its reports. But, without agreement to limited disclosure, the basis for those conclusions would not always be apparent. That is contrary to the Inquiry's declared undertaking to be as open and transparent as possible. (Chilcot, 2011)

In particular, Chilcot asked why, if O'Donnell had consented to publication of the Attorney General's legal advice, the same could not be said for the Bush/Blair exchanges.

You concluded that, given both the very exceptional nature of the Iraq Inquiry, and the fact that the legal basis for military action and the way in which this developed was a central part of the Inquiry's work, the right course of action was for the relevant documents to be disclosed. The inquiry finds it difficult to understand why the same considerations do not apply. (Chilcot, 2011)

On 11th January 2011, O'Donnell replied for the final time.

Exchanges between the UK Prime Minister and the US President represent particularly privileged channels of communication, the preservation of which is strongly in the public interest. Even where immediate sensitivity may have passed, disclosure of the material could still prejudice relations by inhibiting future exchanges. A UK Prime Minister may be less likely to have these exchanges (or allow them to be recorded) if he is concerned that this information would be disclosed at a later time against his wishes. Inhibiting this type of free and frank exchange would represent real prejudice to the UK's relations with the US (O'Donnell, 2011b)

O'Donnell refused declassification because the public interest in publishing the exchanges was outweighed by the harm to the UK's international relations that would likely be caused by the Cabinet Office authorising their disclosure. More importantly, the balance of public interest was weighed as such because O'Donnell saw no way in which this likely harm to the future realisation of that public interest could be mitigated. O'Donnell agreed to the exceptional publication of legal advice because doing so was unlikely to discourage future government from seeking legal advice. In the case of the Bush/Blair exchanges, however, O'Donnell argued that publication might lead to fewer diplomatic exchanges or publication might encourage future Prime Ministers to refuse such exchanges to be recorded. In either sense, future public interests are rendered insecure: the UK may have less diplomatic contact with an ally or, in the latter, the basis of long-term accountability, namely official minutes and records, could be lost. (This is a point I will pursue in greater depth below). The crucial point is that the threat of future insecurity to a public interest outweighed the norm of a public interest in open government.

Stephen Plowden versus the FCO: What is the Benefit of Disclosure?

On 8th February 2010, Stephen Plowden watched the broadcast of the former Foreign

Secretary Jack Straw giving evidence to the Chilcot inquiry. During the course of the hearing, Straw referred to a phone conversation between himself and the French Foreign Minister. Three days later Stephen Plowden contacted the Foreign & Commonwealth Office with an FOI request for documents pertaining to Straw's evidence: records of discussions between the French and British Foreign Ministers, between Blair and the French President and between Blair and the US President.

Before analysing the decision process, it is worth describing the FOI request process in a little more detail. The events described in this chapter are exceptional. In totality, FOI requests are more successful than not. In 2005, departments of state received 15,725 resolvable FOI requests; by 2012, the figure increased to 24,590. Of these requests, 58 per cent are granted in full, 12 per cent are partially refused and 24 per cent are fully refused. Of these refusals, 51 per cent are refused under exemptions⁹⁸. If an FOI request is refused, the author of the request can use four stages of appeal:

- (i) First, the author of the request may ask the relevant public authority or government department to conduct an *internal review* (9 percent of refusals are overturned at this stage whilst 15 percent are upheld only in part).⁹⁹
- (ii) Second, the author can appeal to the *Information Commissioner* who can review the case and order the public authority to disclose the requested information through a Decision Notice (17 percent are overturned at this stage whilst 14 percent are upheld only in part).¹⁰⁰
- (iii) Third, either party can appeal against the Information Commissioner to the *Information Tribunal*.
- (iv) Finally, the Information Tribunal's decision can be appealed to the *Upper Tribunal in the High Court*. Should the Information Commissioner, the Information Tribunal or the Upper Tribunal order the public authority to disclose the information, the government retains the power to *veto* disclosure by issuing a statement of reasons. Only a handful of cases reach the Information Tribunal or the Upper Tribunal.

Returning to Plowden, the FCO confirmed that it held five documents relating to the request but refused to disclose any, claiming that the documents were exempt under ss.27(1) and (2) – the qualified, prejudice based exemption relating to 'International Relations', which I outlined above. After an internal review confirmed the refusal, Plowden complained to the Information Commissioner. During the course of the Information Commissioner's investigation, the FCO decided to disclose all of the documents except a note of a telephone conversation between Blair and Bush from 12th March 2003. In the stages of each appeal that follows, the important point is that attempts were made to mitigate the harm to the public interest in international relations. Yet each attempt

⁹⁸ see Appendix A for data

⁹⁹ see Appendix A for data

¹⁰⁰ see Appendix A for data

ultimately failed.

First, the Information Commissioner's solution was to distinguish between parts of the note that contained or reflected information provided by Bush and those parts that did not. In the former, the Information Commissioner concluded that the public interest in maintaining the exemption of the Bush information outweighed "by a significant, but by no means overwhelming margin" the public interest in favour of disclosure (ICO, 2011:21). On the other hand, the Commissioner concluded that the public interest in disclosure of the Blair information "appreciably exceeded" the public interest in maintaining the exemptions; the public interest in accountability for the decision to go to war in Iraq was "paramount" (ICO, 2011:17-21). Thus, the Commissioner ordered disclosure of the notes with the Bush information redacted.

Second, both Plowden and the Foreign & Commonwealth Office appealed to the Information Tribunal against the commission's decision – each claiming that the Information Commissioner had weighed the public interest incorrectly. The tribunal dismissed the Information Commissioner's solution of redacting the Bush information. The tribunal noted moments in the conversation in which Bush and Blair discussed and agreed points together without identifying who originated the subject of the discussion. Here, the tribunal noted, "it is impossible to distinguish what President Bush actually said" (Angel et al., 2012:14). Simply redacting the 'Bush information', the tribunal concluded, would not suffice as a solution. The tribunal, however, did not dismiss the public interest in disclosure. On the one hand, the tribunal identified factors in favour of maintaining the exemption. These included the "very high" likelihood of relations with the United States being prejudiced by disclosure of confidential information, and the possibility that disclosure "could lead to a reduction in information sharing generally which would in turn lead to the severe prejudice of the UK on security and diplomatic levels" (Angel, et al., 2012:20). On the other hand, the tribunal identified a "very weighty public interest" in favour of disclosure based on the need for "transparency about, and accountability for, the UK government's decision to commence war against Iraq" (Angel, et al., 2012:20). The tribunal placed emphasis on Plowden's own testimony in support of disclosure,

Going to war is the most important decision a country can take. The invasion of Iraq was and is widely believed both in Britain and abroad to be illegal and immoral. It led to thousands of British casualties, the deaths of thousands of innocent Iraqi civilians and untold other sufferings. The invasion increased the threats to our national security: the attacks on London on 7 July 2005 were made by people angered by this action and so too, apparently, were other planned attacks, which the security forces have thwarted... The question which is still to some extent obscure, and on which documents whose disclosure I have requested might throw light, is whether the British prime Minister and Foreign Secretary deliberately misrepresented the French position in order to justify the invasion. (Plowden cited in Angel, et al., 2012:19-20)

Note here the similarities between Plowden's words and the diagnosis of the 'pathologies of the public sphere' that I offered in Chapter One. Plowden noted that the government may have been either mad, bad or had in its decision to go to war, and that the gaze of publicity is necessary to determine which pathology, if any, were at work. The tribunal's solution was to publish the information through a "sentence by sentence approach" (Angel, et al., 2012:22). With respect to each sentence, the tribunal examined how each particular piece of information would or would not prejudice international relations such that the public interest in disclosure is outweighed. Where there is such exceptionally strong public interest in disclosure, the tribunal noted, "it will not do simply to say that *nothing* from a record of a conversation between a UK prime minister and a US president should be disclosed" (Angel, et al., 2012:21).

Thirdly, and finally, the FCO appealed the Tribunal's decision to the Upper Tribunal. On the 16th June 2013, the Upper Tribunal Judge, reject the tribunal's sentence-by-sentence approach. Instead the information had to be taken as "a package".

The information may be innocuous if read in isolation and without knowing that it came from a letter containing other information. But if released, it would be known that this was but one side of what was recorded. That could lead to attempts to infer what might be missing. In some cases, that might be possible. In other cases, it would not. In either case, the results of the speculation could cause problems that need to be taken into account when balancing the public interest. (Jacobs, 2013:4)

Jacobs, in this way, introduced a new possible harm of disclosure. By disclosing only part of the information, public speculation on what had been redacted could cause harms that had not been considered. Jacobs also judged that the tribunal had failed to adequately describe "what the benefits of disclosure might be"; the tribunal "needed to explain what the public interest was in disclosure that, could be set up against the interest in maintaining the exemptions, which it described as 'very high indeed'" (Jacobs, 2013:4). What was it about transparency about, and accountability for, the UK government's decision to commence war against Iraq that constituted a public interest that outweighed the public interest in exemption? Two points are important here. Firstly, through the appeals process the argument in favour of exemption was articulated in terms of future harms to the public interest that could not be mediated. Secondly, Jacobs raises the question as to how transparency and accountability constituted a public interest in disclosure that could outweigh the public interests in preserving foreign alliances through diplomatic confidentiality.

Jacobs thus ordered the first-tier Tribunal to consider the appeal afresh. This rehearing took place in January 2014. With no option but to consider the Bush/Blair

exchange as a package, the tribunal determined that “in considering foreign policy matters the Tribunal must give due respect to the evidence and opinions of the Government and its Ministers and officials who have special experience and expertise in the field” (Shanks et al., 2014:13). The tribunal concluded that “the public interest in maintaining the exemptions outweighed that in disclosing the disputed information” (Shanks, et al., 2014:16). Plowden’s request was over. The tribunal accepted the FCO’s claims that “the US would have been upset and somewhat shocked by the disclosure of the disputed information and, to that extent at least, relations between the two countries would have been prejudiced” and that “it is quite hard to think of something more confidential in the field of government than a record of a telephone conversation between a UK Prime Minister and the US President about an imminent war” (Shanks, et al., 2014:14). By contrast, the tribunal concluded that the very existence of the Iraq Inquiry reduced the public interest in Plowden’s own request.

Chris Lamb versus the Cabinet Office: Protecting Future Accountability

The final story relates to Christopher Lamb, a well-known FOI campaigner. Lamb made two FOI requests for the minutes of Cabinet meetings held in March 2003, in which military action in Iraq was deliberated. The first request was made in December 2006. Following a refusal from the Cabinet Office, in February 2008 the Information Commissioner issued a decision notice to disclose the majority of the information (ICO, 2008). The Cabinet Office appealed to the Information Tribunal, which in January 2009 upheld the Commissioner’s decision by a 2:1 margin. In February 2009, the Foreign Secretary exercised the Ministerial Veto (Straw, 2009). Under the Freedom of Information act, a Minister of the Crown can veto a decision by the Information Commissioner to order disclosure. If the veto is exercised, the responsible minister must place a certificate – containing a statement of reasons for exercising the veto – before parliament. The veto has only been exercised on a handful of occasions (Potton, 2014), but when it is exercised the statement of reasons must offer justifications that are compatible with the rules of the FOI framework.

In the midst of the Iraq Inquiry’s hearings, Lamb made a second request in March 2011. Lamb’s request was once again refused by the Cabinet Office citing ss.35(1) (a) and (b) – the qualified, class-based exemption referring to the “Formulation of Government Policy” discussed above. Lamb once again complained to the Information Commissioner. The Commissioner judged that disclosure would “enhance the public’s ability to scrutinise the way in which important decisions are taken” (ICO, 2012:7). The Cabinet Office

complained that disclosure would compromise the “safe space” of Cabinet meetings in which could freely exchange views. However, the Commissioner was not satisfied that disclosure would have such an effect, (ICO, 2012:14). In July 2012 the commissioner issued a decision notice ordering the Cabinet office to disclose parts of the minutes.

In reaching his decision the Information Commissioner referred to the decision of the Information Tribunal that had ruled in Lamb’s favour by 2:1 in 2009. The majority view had concluded that the value of disclosure lay “in the opportunity it provides for the public to make up its own mind on the effectiveness of the decision-making process in context” (Ryan et al., 2009:35). By contrast, the minority view drew on the witness statement of Lord Hurd to argue that disclosure would encourage “informality and circumscribed procedures” which would damage the principles of good government.

The record of [Cabinet] discussion is an essential tool in enabling the decisions of ministers to be accurately implemented. If in future it seemed likely or even possible that Cabinet minutes would be released this tradition would be at risk. Either ministers would feel inhibited from expressing their real opinions or officials preparing the minutes would water down their accounts of what took place in order to avoid controversy. In either event, the result would not be better information, but worse government. (Hurd cited in Ryan, et al., 2009:37)

Thus the minority view concluded that,

Publication would... be more likely than not to drive substantive collective discussion or airing of disagreements into informal channels and away from the record. This would over time damage the ability of historians and any inquiries, if constituted, to reconstruct and understand the process Cabinet followed in any particular instance. And it would not be conducive to good government. (Ryan, et al., 2009:38)

On 31st July 2012 the Attorney General, Dominic Grieve, issued a certificate overruling the Commissioner’s new decision notice. Grieve followed the same line as the Tribunal minority view and the original veto by Straw, namely that

Serious and controversial decisions must be taken with free, frank – even blunt – deliberation between colleagues. Dialogue must be fearless. Ministers must have the confidence to challenge each other in private. They must ensure that decisions have been properly thought through, sounding out all possibilities before committing themselves to a course of action. They must not feel inhibited from advancing opinions that may be unpopular or controversial. They must not be deflected from expressing dissent by the fear that they may be held personally to account for views that are later cast aside

Decisions of this nature will not however take place without a private space in which thoughts can be voiced without *fear of reprisal, or publicity*. Cabinet provides this space. If there cannot be frank discussion of the most important matters of government policy at Cabinet, it may not occur at all. Cabinet decision-making could increasingly be driven into more informal channels, *with attendant dangers of a lack of rigour, lack of proper accountability, and lack of proper recording of decisions*.

Disclosure of Cabinet minutes – particularly Cabinet minutes on a matter of such gravity and

controversy – has the *potential to create these dangers*, to undermine frankness of deliberation, and compromise the integrity of this thinking space where it is most needed. It therefore *jeopardises a key principle of British government where it has the greatest utility*. (Straw cited in Grieve, 2012:3-4 my emphasis)

In this way, Grieve makes two arguments. Firstly, Grieve follows the argument – explored in Chapter One – that the gaze of actual publicity harms the quality of deliberation and public reason. This line of argument recognises the importance of the norms of *hypothetical* publicity, but argues that such norms are less likely to be followed if participants worry about how the public will perceive their remarks. Secondly, Grieve points to a harm that will likely be caused by disclosure. The public interest in a historical record of cabinet discussion upon which democratic scrutiny depends, Grieve claims, may be damaged by actual publicity. Both sides relied on the conclusions of the Butler Report, which had criticised the lack of proper record keeping and accountability in government (a point I will discuss at length in Chapter Five). On the one hand, the majority view determined that the public interest in holding government to account was best served by through publication, thereby allowing the public to make their minds up about a controversial issue. On the other hand, Grieve, Straw and the minority view judged that the very act of publishing the minutes would damage the possibilities for accountability in the future by encouraging ministers to deliberate in quiet corners. Publication, in other words, would lead to more secrecy, secrets that were not ‘official’ records but hidden mysteries that could never be recovered. Paradoxically, actual publicity based on the liberal fear of secrecy might create more insecurity, more dark spaces that could hide iniquity and ineptitude. The act of validating the assumption of hypothetical publicity could itself constitute insecurity.

Grieve, like O’Donnell in the first example and the FCO in the second example justify official secrecy in terms of harms and insecurities constituted by publicity. Chris Lamb, like Chilcot or Plowden do not, they also do not explicitly state the kind of harms or insecurities constituted by official secrecy. Liberal Democratic David Howarth came close to doing so when, in 2006, he spoke in parliament to object to Straw’s veto.

Does the Secretary of State accept that the much greater threat to Cabinet government is not the release of the minutes, but any repeat of the collapse of Cabinet decision making in the Government of Mr. Blair? The argument against disclosure is that it might undermine full and frank discussion in Cabinet and mean that discussion will take place informally, outside the meeting. However, is not that precisely what happened under Mr. Blair, with the rise of sofa government?¹⁰¹

In one sense, Howarth tentatively articulates the relationship between actual publicity and liberal security that is missing from Chilcot or Lamb’s attempts above. Associating Blair’s premiership with a decline in proper Cabinet deliberation, Howarth suggests that actual

¹⁰¹ HC Deb. 24 Feb 2009. Vol. 488 Col. 160

publicity is required to guard against the threat of poor deliberation and, thus, poor government. Yet the counter-argument, to which Howarth's argument is speechless, is that 'the rise of sofa government' is a likely harm to the public interest caused by publicity. The justification for the veto is one that lies on fundamentally liberal ground: the preservation of public accountability and, as a consequence, the protection of society from gratuitous government.

This seeming paradox, in which the desire for actual publicity could create more 'unofficial secrecy', raises the question as to when Cabinet discussions could ever be disclosed early, before the 20 year rule. The Information Commissioner, Christopher Graham, made this point on his official blog and in a report to parliament. Graham agreed that Cabinet minutes should, as a norm, remain confidential, but

if the veto continues to be routinely exercised whenever the ICO does order the disclosure of Cabinet minutes, particularly when significant time has passed since the decision was made, then it is hard to imagine how freedom of information can ever be used to secure the release of even the most significant proceedings of the cabinets. (Graham, 2012a; Graham, 2012b)

There was, Graham complained, the troubling inconsistency between the assumption of open government with the Freedom of Information Act and its application. According to government policy during the passage of the act through parliament, "the veto should only be used in exceptional circumstances".¹⁰² Yet a Ministry of Justice statement on the use of the ministerial veto notes that government will consider use of the veto if disclosure "would damage cabinet government" or if the public interest in disclosure is "outweighed by the public interest in good Cabinet Government" (MoJ, 2012b). Graham pointed to the absurdity that will ensue if the right to know is framed on paper and in theory as an assumption of openness in which exemptions to duty to disclose may exceptionally appear, but in practice the government routinely finds that the balance of public interest weighs in favour of veto.

Strategy: Thinking of the Security of the State

The fourth and final element of a discursive formation is a *strategy*, by which Foucault refers to a theme or theory that arises out of the constitution of objects, the enunciative modalities of subjects and concepts (Howarth, 2000:53; Foucault, 2002:71-78). In this section make four points about how this strategy emerges and functions. Firstly, the balance of public interest between disclosure and exemption is organised as a balance

¹⁰² Jack Straw. HC Deb. 4 April 2000. Col. 791 Col. 918

between publicity and insecurity; secondly, this representation implies a particular understanding of security whereby secrecy mediates the insecurity of publicity; thus, thirdly, what is occluded is an articulation of how publicity supports security, or reversely how secrecy constitutes insecurity; finally, this discursive formation allows secrecy to function as a technology of security against the threat of ‘too much’ and ‘too little’ government. Taken together, these points provide an answer the question animating this chapter: namely, how the British state, as a self-identifying liberal democracy, can justify the endurance of official secrecy and refuse calls for actual publicity.

Firstly then, the three stories show how the authorities decided on the balance of public interest in such a way that the public interest in maintaining the exemption outweighed the public interest in disclosure. Yet ‘balance’, Ashworth tells us, is a rhetorical device of which we ought to be very wary. At its worst, the metaphor is a poor substitute for proper argument.

Achieving a balance is put forward as if it were self-evidently a worthy and respectable goal [yet] many of those who employ this terminology fail to stipulate exactly what is being balanced, what factors and interests are to be included or excluded, what weight is being assigned to particular values or interests, and so on. (Ashworth, 1998:30)

I argue that through the discursive formation of balance, public interest and harm, the balance between disclosure and exemption is not, as might be supposed, a balance between two equally quantifiable objects. Instead the balance is between a norm of disclosure and the risk of harm to specific public interests. This relationship is expressed in the figure below. The balance of public interests in the case of the Cabinet Minutes was between a norm of transparency and accountability versus the likely harm to a predefined public interest – formulation of government policy – brought about by the ‘fear of publicity’. This harm was the likely damage to either full and frank cabinet discussion or the extent to which these discussions would be officially recorded. In the case of the Blair/Bush exchanges, a norm of transparency and accountability was balanced against the likely harm to a predefined public interest “International Relations” whereby publicity would inhibit diplomatic exchanges, and damage foreign alliances and information sharing.

Cabinet Minutes	<p>Public Interest in disclosure</p> <ul style="list-style-type: none"> – Chilcot’s claim for public confidence in the inquiry report. – Plowden’s claims for a public interest in ‘transparency and accountability’. 	Vs.	<p>Public Interest in exemption</p> <ul style="list-style-type: none"> – Predefined public interest in “Formulation of Government Policy” <i>threatened by a likely harm</i> of the “fear of publicity” inhibiting official record of ‘full and frank’ cabinet discussions
Blair/Bush exchanges	<p>Public Interest in disclosure</p> <ul style="list-style-type: none"> – Lamb’s claim for a public interest in ‘transparency about, and accountability for, the UK government’s decision to commence war against Iraq’. 		<p>Public Interest in exemption</p> <ul style="list-style-type: none"> – Predefined public interest in “International Relations” <i>threatened by a likely harm</i> of “inhibiting future exchanges” leading to a reduction in information sharing.

This framing of the relationship has two notable features. Firstly, disclosure is the norm and continued secrecy is an exception to the rule. Secondly, the public interest in disclosure – accountability and transparency – is articulated as desirable positive ends for the political community, whilst the public interest in exemption is articulated in terms of the mitigation of *negative* harms to the political community that result from disclosure. We can express the relationship in the illustration below, whereby a higher degree of disclosure equals a higher risk of possible harm, or a lower degree of disclosure equals a lower risk of possible harm resulting from that disclosure. In other words, the argument against disclosure – the norm – is that the application these normal political principles would damage the political community. Nowhere in any of the three stories, or anywhere in the protocols or the Freedom of Information Act, is an articulation of how exceptional secrecy could pose harm to the norm of disclosure. The public interest test is thus a balance between the norm and the harm of the norm, as expressed below.

Table 5. The Public Interest Test as a Balance between Political Norms and the Harm of Norms

<p>Higher degree of disclosure Disclosure of Blair/Bush Exchanges and Cabinet Minutes</p>	=	<p>Higher risk of possible harm Higher risk of possible harm to international relations/formulation of government policy</p>
<p>Lower degree of disclosure Exemptions of exchanges to disclosure</p>		<p>Lower risk of possible harm Lower risk of possible harm to international relations/formulation of government policy</p>

On only one side of this ‘balance’ is there an articulation of insecurity: the insecurity of disclosure. This insecurity, moreover, is not measurable or quantifiable. The harm of disclosing the Cabinet Minutes or the Bush/Blair exchanges was a likely, but incalculable harm to the future. The risk of disclosure is the risk of a radical openness or horror – to borrow Huysmans words discussed in the previous chapter – that threatened to undo the basis upon which the political community survives (Huysmans, 1998a). But what reason is there to think that such a horror is mitigated by the endurance of secrecy or produced by the right to know? In order for this balancing argument to be plausible, diminishing the

right to know must diminish the prospects of the threat. In each case there is “a well-informed belief that the modification will actually make a difference to the prospect that we fear” (Waldron, 2003:209). This belief is evident in, and constituted through the list of exemptions included in the inquiry protocol and the Freedom of Information Act. These exemptions relate to specific public interests such as “defence”, “national security”, “the economy”, “commercial interests” and so on (see Appendix A for a full list). By linking these interests to exemptions, there is an implicit assumption that disclosure *could* pose harm to these interests, a harm that can *only* be mitigated by official secrecy. What I will show is that the ‘well-informed belief’ in exemptions to the right to know is grounded in the rationality of *raison d’État* whereby disclosure both threatens the capacity to guard against too little government *and* the rationality of liberal governmentality whereby disclosure threatens the capacity to guard against too much government.

I argued in Chapter Two that actual publicity – the actualisation of a right to know – was constitutive of the security of the liberal citizen. Actual publicity, understood this way, is a technology of governance that guards against the ineptitudes and iniquities of government by giving an impression of surveillance, and by redeeming the validity of any claims made in secret. Excluding certain aspects of the state from publicity, when viewed from this perspective of liberal governmentality, constitutes insecurity. This insecurity arises from “the liberalism of fear”, the fear of “every extralegal, secret, and unauthorized act by public agents” (Shklar, 2004:151). The fear that grips this liberal conscience is that reducing the right to know necessarily increases the power of the state and “a corresponding risk that this enhanced power may also be used to *cause* harm”; The right to know is linked to “a matter of suspicion of power, and apprehension that power given to the state is seldom ever used only for the purposes for which it is given, but is always and endemically liable to abuse” (Waldron, 2003:205). Indeed the insecurity made possible in this way does not need to be exercised intentionally. The assumption in the balance metaphor is that we must accept the sacrifice of a certain degree of the right to know in order to mitigate the objects of insecurity that themselves signify the inherent uncertainties that threaten our lives. Yet the means of mitigating such insecurities – whether the confidentiality of cabinet discussions that facilitate full and frank deliberations, or the secrecy of diplomatic channels that preserve information sharing – can themselves constitute the space for abuse. When the gaze of publicity comes to be adopted as parts of the democratic rights and civil liberties of the citizen, the aim of security is to facilitate the expression of liberty but the expression of liberty also facilitates security (Neocleous, 2007). Thus openness and security, liberty and security, are not necessarily in opposition. So how does the public interest test appear to make them so?

The public interest test legitimates the endurance of official secrecy because, firstly, the possible harm caused by the maintenance of official secrecy is *not* specified in the balance metaphor; the possible harm caused by disclosure *is* specified. But the success of the public interest test is not just that it ignores the manner in which actual publicity could constitute security from the insecurity of secrecy. The public interest test does something else. It manages to frame the exercise of official secrecy as a technology of security for *both* the security of the state and the security of the liberal citizen. What would otherwise appear as a sort of authoritarian security measure can be justified by appeals to liberal grounds.

In order to understand how, we must consider the aim of liberal governmentality. In his analysis, Neocleous argues, “liberalism’s central thematic is not liberty, but security”; the aim of liberal governmentality is not to resist security in the name of liberty but to “enact another form of political rationality that sets in place mechanisms for a ‘Society of security’” (Neocleous, 2007:133). I discussed the imperative of this society of security at length in Chapter Two – guarding against ‘too little or too much government’. The liberal mind comes to associate security with the freedom to pursue one’s own self-interest, and this leads back to the problem of governing too much or too little. Security refers to the proper limits within which liberty can be exercised (Burchell, 1991; Neocleous, 2007:142). The public interest test is silent on how actual publicity could serve these ends by guarding against too much government, but it can also show how official secrecy could guard against both too little *and* too much government.

Secrecy as mitigating the threat of ‘too little’ and ‘too much’ government

I will turn first to the more familiar manner of how official secrecy protects the aim of liberal governmentality in too little government. Neocleous has shown how, across a whole range of liberal thinkers “liberty is in some sense subsumed under the idea of security” so that “‘liberty’ and ‘security’ are by no means in opposition or in need of balance” (Neocleous, 2007:141). Crucially, these liberal thinkers recognised that in certain cases, state intervention upon the free exercise of liberty would be necessary in order to protect the political community in which such liberties could be exercised at all. Adam Smith, for instance, acknowledged intervention in the marketplace “in cases of the most urgent necessity”, where ordinary laws of justice ought to be sacrificed to “a sort of reasons of state” (Smith cited in Neocleous, 2007:139). In Chapter Two, I described how the champion of the gaze of publicity, Jeremy Bentham argued for exemptions where the evil of publicity would be preponderant over the good – because actual publicity created possible harms that could destroy the political community. We can see that this line of

argument deployed in the deliberations between Chilcot and O'Donnell and the FCO and Plowden.

If publicity could be understood as an apparatus of security of the liberal subject (as well as insecurity of the state), it might seem at first that the balance metaphor put forth by O'Donnell or the FCO is false and a misreading of the relationship between publicity practices and security. I would argue, alternatively, that the metaphor of balancing public interest between publicity and national security could be interpreted as a creative device through which the state can contest demands for openness and reassert the value of the *arcana imperii*. The balance metaphor does not acknowledge the manner in which actual publicity could support security of the liberal citizen over the security of the state. The balance metaphor encourages the citizenry to think like a state, to think in terms of *raison d'état* and the way in which publicity itself could render the future of the state, along with the lives of the citizenry, as fearfully uncertain. In the context of the protocol above, any exception to openness that can be justified in the name of security – such as “harm or damage to the public interest” by endangering economic interests or the defence of the realm – cannot be resisted because the counter-argument is occluded - namely that actual publicity *in itself* functions as an apparatus of security of individual agents against the iniquities or ineptitudes of the state.

Secondly though, and more interesting still is the way in which the government can argue that secrecy helps to guard against too little government. In the case of the Cabinet Minutes, the government's case for the exemption to disclose did not dismiss the importance of political accountability. Instead the government argued that political accountability would be protected through the maintenance of Cabinet confidentiality. Arguing for disclosure effectively meant proving beyond reasonable doubt that actual publicity would not inspire a ‘fear of publicity’, which in turn might discourage full and frank discussion, or drive deliberation ‘onto the sofas’. Arguing for disclosure meant arguing for uncertainty about what people might do, whereas arguing for the exemption meant maintaining the status quo in which, those-who-know argue, discussion is largely full, frank and on the record. These existing records provide opportunities for accountability and learning after 20 years. These records provide the opportunity for a societal critique of government policy, a critique of ‘too much government’. Disclosing the minutes, however, opens up a void of uncertainty as to what might happen. Trust in the legitimization of official secrecy hinged on the threat of what distrust (as actual publicity) would constitute. In both cases, arguing for exemption entails arguing for a known strategy of mediating the risk of harm to the political community and protecting the basis upon which the aim of *liberal* governance – too little or too much government – can be pursued.

Interestingly, the list of exemptions to disclosure in the inquiry protocols and the Freedom of Information Act include a number of public interests that relate specifically to the security of the liberal citizen. The most common exemption applied to FOI requests is “personal information”; another common exemption is “commercial interests” (see Appendix A). These are interests that directly relate to the security of the liberal citizen and the protection of certain liberties from which the individual can contribute to the liberal governmental goals of maximum economy and circulation. Indeed, we might call these political secrets, ‘privacy’; I noted briefly in Chapter Two that privacy from the surveillance of state constituted the basis for an alternative civil critique of too much government could emerge.

But could the relationship between disclosure and exemption be governed differently? Moon argues that disciplinary effects of a discourse formation become clear if we play with “an imaginative inversion” (Moon, 2009:54). In other words, by inverting the discursive formation that governs the right to know, the manner in which it shapes possible political practices becomes clearer. The Freedom of Information Act currently states that,

- 1.—(1) Any person making a request for information to a public authority is entitled—
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.

In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that...

- (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

27.—(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) relations between the United Kingdom and any other State,

Now, consider how the right to know might function if the Freedom of Information Act was phrased accordingly through an inversion (the changes are bold underlined):

- 1.—(1) Any **public authority** receiving a request for information by a **person** is entitled—
 - (a) to **refuse** to inform the person in writing whether it holds information of the description specified in the request, and
 - (b) if that is the case, to **refuse** to communicate that information to him.

In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that...

- (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in **not** disclosing the information

27.—(1) Information is exempt information if its **non-**disclosure under this Act would, or would be likely to, prejudice—

- (a) relations between the United Kingdom and any other State,

The inverted text reads strangely. It appears authoritarian or illiberal. The point of the inversion is to show how the public interest test might look if the norm of secrecy had to be weighed against specific public interest that might be harmed by secrecy, rather than the existing test in which the norm in disclosure is weighed against specific public interests that might be harmed by disclosure. Gaining publicity in this case would be a matter of arguing how secrecy would cause harm to the UK's international relations. In this instance, actual publicity is directly linked to security, and making the counter-argument that secrecy would not cause likely harm would be more difficult. It would be more difficult precisely because, on this inverted version, the lack of publicity opens up insecurity and uncertainty that is difficult to convincingly allay. A similar inversion could be applied to rules governing the formulation of government policy. In either case, the balance is not equal because uncertainty about the future resides only on one side.

Concluding Remarks

It is often pointed out by the executive that the exercise of secrecy is not directed *against* the legislature or the public, instead it is intended to achieve security needs that benefit everyone (Franck and Weisband, 1972:414). In this chapter I have shown exactly how that argument can be made in such a way that the British government can continue to practice official secrecy even amidst public distrust. The discursive framework of the public interest test has the effect of framing the relationship between actual publicity and secrecy so that disclosure both threatens the capacity to guard against too little government (by endangering the capacity of the state to protect itself in accordance with the doctrine *raison d'État*) *and* threatens the capacity to guard against too much government (by introducing conditions that destroy the formal record upon which retrospective accountability depends). This balance is a particular political solution to the question of how to govern. The refusals of disclosure in the inquiry are not a shift away from the right to know and toward security, inasmuch as it is the security of secrecy rather than the security of actual publicity that is being given priority. The difference between a liberal and nonliberal political community is not that one stresses the importance of the right to know while the other stresses security as the foundation of governance. The difference lies in how exemptions can be justified as measures to protect the artificial platform in which the liberal aims of maximum economy and minimum government can be attained. When the relationship between openness and secrecy is framed as one of the right to know versus security, the possibility that openness can be constitutive of security through a critique of

too much government is silenced. This means that there can be no defence against the imposition of official secrecy or the refusal of openness so long as these moves are justified in the name of security against too much and too little government.

In the previous chapter I showed how the technology of the public gaze and the liberal fear of secrecy were embedded in the government's case for war against Iraq. In that circumstance the political rationality of liberal governmentality directed the pursuit of security through a war of choice against a rogue state. The problem is that the suspicion of secrecy can never be quelled – following Dean (1999), it is always assumed that there is one more secret to be found, one more guilty party to uncover, one more wrongdoing that will unite the public. Such a thirst for secrecy can, as the previous chapter sought to show, legitimate a pre-emptive war.

In this context the public interest test is a highly sophisticated discursive strategy to protect the political community from the destructive potential of the gaze of publicity. The suspension the gaze of publicity is justified on security grounds, and as Neocleous has argued, the liberal mind accepts this because it acknowledges the dangers of too little or too much government. The exception is quite literally “written into the logic of the rule of law”, whilst the reverse is not (Neocleous, 2007:144). This difference between the practice that governs the Protocol and Freedom of Information Act, and the practices through which Iraq sought to justify its own right to secrets, is that the former was legitimate and the latter was not. That legitimacy lies in the discursive body of rules that renders official secrecy in the service of the aim of liberal security. Crucially, the actors involved wilfully emerge themselves within this body of rules. The inquiry committee, the information commissioner and the authors of FOI requests “collude in their subjection” by wilfully performing from within these enunciative modalities and through the concepts in the public interest (Moon, 2006:261). By doing so, these individuals shape their own conduct.

Chapter Five

The Lessons of the Iraq Inquiries: Re-establishing Publicity and Re-inscribing Liberal War

What is really important is Chilcot does what it was supposed to do, which is make sure everyone understands how the decision was reached so that we can learn lessons and make sure we never again have a government hell-bent on going to war and able to bamboozle Parliament and the British people...that must never happen again.

- Nick Clegg, June 2010 (cited in Bingham, 2010)

Introduction

In this final chapter I return to the Iraq inquiries themselves. Through this thesis, I have shown how publicity facilitates the strategic aims of liberal governance, and how it is constitutive of liberal security practices. In this chapter I examine the role that the inquiries play in the maintenance of this rationality of governance and the security practices upon which it depends. Specifically, I examine how the ‘official discourse’ of the inquiries re-inscribes the rationality of liberal security. The official discourse of the inquiries can be used for this purpose because, as I have shown in this thesis already, the inquiries are attempts to expose the decision to go to war to actual publicity, and in so doing examine whether the case for war was compatible with the norms of hypothetical publicity. Of course, as I described in the previous chapter, the British state has managed to legitimise the endurance of official secrecy in relation to certain documentary evidence but despite this official secrecy, indeed because of its legitimisation, the inquiries have produced official reports that explain and judge how the British state went to war.

The puzzle for this chapter is how the inquiries hold the British state to account in relation to the rationality of liberal governance. I described in Chapter Three that the British government’s case for war was compatible with the rationality of liberal governance. Iraq was constructed as a subject that refused to conform to norms of publicity and thus constituted a threat to the international community. Liberal governance, as I described in Chapter Two, is concerned with maintaining a balance between too little and too much government in the pursuit of a good economic circulation and a society of ‘freedom secured’. This society is guided by norms of publicity, and the threats to this society – of too much or too little government – are mediated by actual publicity and political secrecy. These are techniques of governmentality – invitations for subjects to shape their own conduct – but Iraq apparently proved itself an intractable subject. Yet, the need for the inquiries was generated by a concern that, in making this case for war, the state had itself failed to conform to these norms of hypothetical publicity, norms of self-government. The need for the inquiries was generated by a concern that the Blair government had been

made 'mad, bad or had'. In this chapter, accordingly, I ask how the official discourse deals with these doubts. I examine where the inquiries criticise government policy-making in relation to the Iraq War, where it supports it and where it remains silent. I uncover the norms of liberal governance that are re-inscribed through the inquiries.

In this way, I understand the 'official discourse' to refer a particular kind of knowledge produced by, and instrumental for the governance of, the liberal state. Official discourse must do two things. On the one hand, in order to be successful a public inquiry must acknowledge a wide and varied set of concerns from participants in the public sphere. On the other hand, the inquiry must distil these criticisms into a set of reforms that allow the formal institutions and rationalities of the political community to continue. Thus I show how the inquiry acknowledges and, in some cases, confirms the concerns of those who suspected the British government of acting inappropriately, but provides a set of 'lessons learnt' that can prevent such failures from occurring again.

This chapter is made up of five sections. In the first section, I draw on public inquiry scholarship to show, at a broad level, how the official discourse of inquiries achieves this function of rendering failure as temporary or no failure at all. The middle sections of the chapter comprise a documentary analysis of the four completed public inquiries on Iraq, in which I show how the official discourse of the inquiries contains three 'lessons' for reform. The second section of the chapter shows how the inquiries establish norms of good democratic government. The inquiries have identified failures by the government to adhere to the standards of hypothetical publicity through the three types of 'spin' – deception, the creation of false impressions, and the suppression of information – that violated these standards. The third section shows how the inquiries challenge the tradition of a government monopoly on information held by the intelligence services by arguing for the separation of the information that underpins the government's claims from the claims themselves. In other words the inquiries argued for a split between government advocacy and the information upon which such advocacy was based. The fourth section shows how the inquiries have increased the visibility of government through attempts to protect the historical record upon which accountability practices depend by encouraging the practice of note taking and minute-making, and by constituting the public gaze through public hearings. The inquiries have attempted to expose statesmen and the policy-making process to the gaze of actual publicity.

Taking all three lessons together, the inquiries foster a technology of governance based around the 'double-aspect' of publicity: its standards derived from hypothetical publicity and the policing of those standards through actual publicity surveillance. This technology of governance anchors a rationality of governance based on the liberal fear of

too much government; the technology subjects the practices of government to liberal democratic scrutiny, guarding against iniquity or ineptitude by weeding out, through standards of public reason, the mad, the bad and the prospect of being had.

In the final section of the chapter I suggest that these three lessons, the official discourse of the inquiries constitutes a coherent re-inscription of the liberal security dispositif, and a legitimisation of war by liberal states that adhere to the norms and practices of publicity against illiberal states that do not. The inquiries thus incorporate criticism of the Blair government as moments where these norms were violated, but the fundamental legitimacy of British Government's broader justification of war remains untouched and intact.

The significance of this point is that the lessons learnt do not challenge the basis of liberal war. Implicit in the words of Nick Clegg, cited above, is the claim that the British decision to go to war was facilitated by the government 'bamboozling' – or cheating – the public into supporting war, and the inquiries should recommend lessons so this cannot happen again. In so far as the government broke specific norms of hypothetical publicity, then the inquiries meet Clegg's demands. According to this liberal security dispositif, actors are encouraged internalize the norms of hypothetical publicity, but this encouragement is backed up with the disciplinary power of the gaze of actual publicity. Had the government acted in accordance with these norms, the events leading up the Iraq war may have been different: the government would not have made the infamous '45 minutes claim', and it would have described intelligence on Iraq as 'sporadic and patchy' rather than 'detailed and authoritative'. Yet the British case for war did not depend on such claims.

But the inquiries also share and reinforce norms of good government that support the broader rationality of international governance expressed by before the Iraq war. Blair justified war on the basis of the threat of Iraqi WMD: the regime's intent to develop WMD, the regime's capacity to do so and the incalculable risk of Iraq provided such weapons to terrorists. The claimed urgency of the threat lay in Iraq's past use of WMD, its obstruction of the United Nations inspection process and the failure of this sanctions and inspections regime to prevent Iraq from continuing this noncompliance. None of these claims required Blair to break the normative standards of hypothetical publicity; the claims were all based on a particular interpretation of facts produced beyond Number 10. The Iraq inquiries re-inscribe the conditions of possibility for a liberal way of war. If the ongoing Iraq Inquiry is to challenge the underlying political imperative for war, it has to challenge the notion of the political imperative to pursue publicity abroad. Specifically, it has to provide an alternative answer the question of what can be done with a state that

appears to refuse to adopt the norms of hypothetical publicity then refuses to expose itself to the gaze of actual publicity.

The Official Discourse of Publicity and Security

I will begin by describing what is meant by ‘official discourse’. Contemporary ‘post-mortem’ inquiries are, in the words of an experienced practitioner, “born of some sort of major disaster or matter of real controversy where there is suspicion in part of the community involved” (Lissack cited in Levinson, 2008). The subjects of an inquiry are “alleged irregularities or failures in the administration of justice or in the aftermath of major incidents, such as disasters or tragedies, which have far-reaching consequences” (Scraton, 2004:48). When these suspicions concern the government, inquiries are increasingly demanded that are independent from both the executive and the legislature (Cabinet Office, 2002; Burgess, 2009:36). This is not surprising: I described in Chapter One how inquiries represent a moment of distrust in government, whereby the legitimacy of the government’s actions performed behind closed doors must be retrospectively redeemed. By appointing an inquiry that is independent from the usual mechanisms of government or parliament, the inquiries borrow authority from elsewhere in the state. The trend of inquiries since the early twentieth century has been to borrow the authority and the structure either of the judiciary or a panel of experts. Inquiries conducted on this basis often hold a status and credibility not attributed to parliamentary bodies, and can “defuse matters which ... politicians feel they can neither safely ignore or tackle by normal political and parliamentary tactics” (Drewry, 1996;PASC, 2005:22;Holbrook, 2012).

I noted in chapter one that if an inquiry is to be successful in reconstituting public trust in the state it must register failure as temporary or no failure at all. At the same time, the practitioners of inquiries have argued time and time again that in order to quell public suspicion, inquiry proceedings must allow participants to make claims to truth, and to do so publicly. These two goals of an inquiry, however, can create a tension. On the one hand, in order to increase public confidence in the inquiry process, proceedings need to visibly invite and consider the contributions of a wide range of participants. This function of an inquiry is closely related to the aim of actual publicity; as the Salmon Committee noted, “publicity enables the public to see for itself how the investigation is being carried out” (Salmon, 1966:38). Yet the inquiry must also do more than this. In response to a public controversy, different participants will have distinct claims to truth about what happened,

and why it happened. Sir Ian Kennedy, who chaired the Bristol Royal Infirmary Inquiry, explains that

I wanted to let all of the views come out because I had this distinct view that there were many truths, there wasn't one single truth, and I find cross-examination proceeds from the assumption that there is a truth and through questioning we'll arrive at it's black or it's white. (Kennedy in Levinson, 2008)

Similarly, during the proceedings of The Iraq Inquiry, Sir John Chilcot held meetings with 'experts' on many of the issues under focus; according to Chilcot the committee "come to our work with open minds. We are keen to hear a broad spectrum of opinions on the UK's involvement in Iraq" (Chilcot, 2009a). The committee also held meetings with veterans and families of those who lost their lives through the course of the Iraq War; "It's an important part of our preparations", said Chilcot, "we want to know what they think the Inquiry's priorities should be and hear about any concerns they may have" (Chilcot, 2009d). The inquiry has also invited open submissions from anyone from the public sphere around the inquiry. Through their 'investigative and inquisitorial' character, supporters of public inquiries suggest that through such practices they can comprise "democratic pluralism at work", "standing apart from politics" as an "expert, public and advisory" body that signifies "the neutral state operating by popular consent" (Thomas, 1982:40). When inquiries publish their final reports this broad range of views can be influential. Even the most critical analysts argue that public inquiries can and do identify and castigate the institutions of society for their failings; "inquiries can ...open up to public scrutiny previously closed off areas of public affairs; conducted in a liberal, open manner, it revealed successive layers of incompetence, inefficiency and corruption" (Gilligan and Pratt, 2004:15).

Yet, on the other hand, inquiries must produce "official discourse" (Burton and Carlen, 1979). Official discourse refers to a single narrative produced and authorised from amongst the wide variety of available interpretations favoured by different individuals and social groups; official discourse is "an objective truth – *the truth* – on the matters they are reflecting or adjudicating on" (Gilligan and Pratt, 2004:2). The Iraq Inquiry must invite the views of those who thought that Blair and the government had performed rightly or wrongly in relation to Iraq, but the inquiry must also express a clear and decisive interpretation based on good sense. An inquiry cannot hope to quell public suspicion by validating the existence of wide range of perspectives of what and how something happened. Inquiries must produce a discourse that brings an end to the controversy whilst not sacrificing the independent character of the investigation. Inquiries, as one scholar puts it, must "investigate those problems that threaten the state with legitimation deficit, to re-

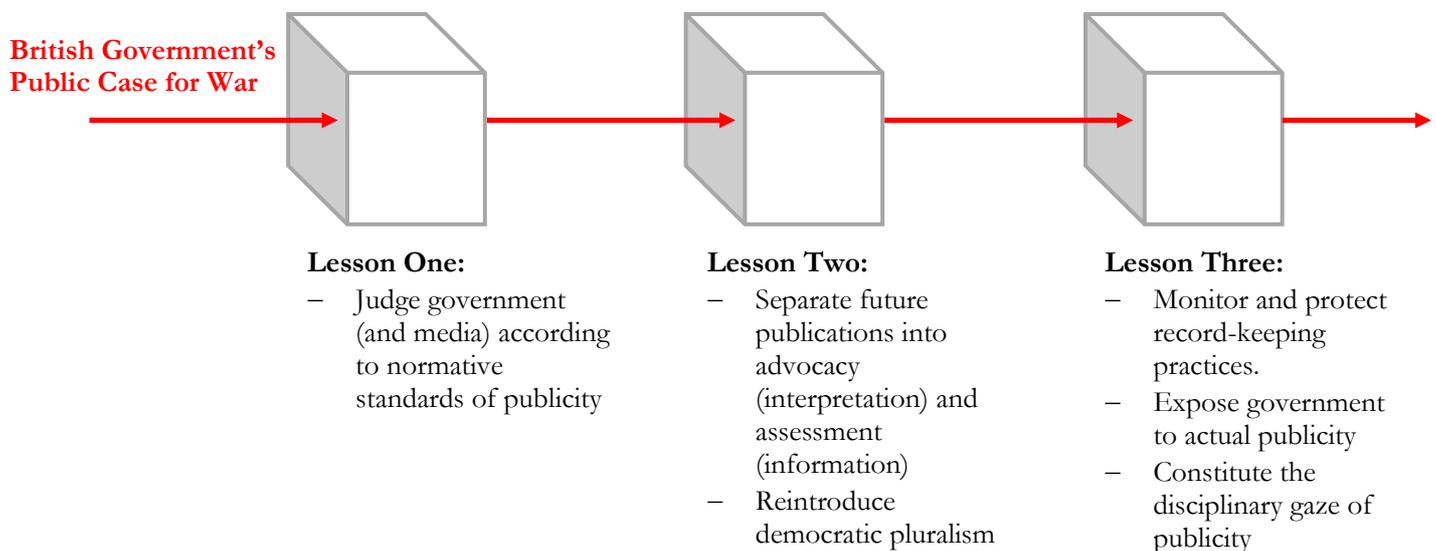
establish and justify state authority” (Brown, 2004a:108); doing so maintains “the requisite level of mass loyalty” (Habermas, 1975:46). Inquiries must manage the conflicting narratives that surround a controversy by producing an official discourse that will become “the formal way of giving definition to the issue in hand” (Gilligan and Pratt, 2004:2).

Taken together, these twin demands require that inquiries open up a controversy in such a way that participants feel that their interpretation of events is recognised, but at the same time the inquiry’s conclusions must condense this array of truth claims into a narrative that allows the formal institutions and rationalities of the political community to carry on. In the words of the Salmon Committee, “the evil, if it exists, shall be exposed so that it may be rooted out” (Salmon, 1966:16). The objectives of inquiries must be “the identifications of problems, the distribution of responsibilities, the proposal of remedies and recommendations for change and reform” (Scruton, 2004:48), and thus identification of problems, responsibilities, remedies and reforms occurs in such a way that manages and quells suspicion whilst ensuring that the core institutions and rationalities of the state can endure (Rolston and Scruton, 2005:550). The contribution of the literature on public inquiries has been to call into question the objectivity, or highlight the contingency, of this official discourse. Through the “impartial, expert and representative” qualities of the inquiry, the investigation must constitute *the* truth. This truth must reject some claims and silence others. Inquiries are “plumbed into the ideological ‘ways of seeing’ and political ‘ways of doing’” (Scruton, 2004:49). Official discourse contains the “systematisation of modes of argument that proclaim the state’s legal and administrative rationality” (Burton and Carlen, 1979:1-14; Scruton, 2004:48). The task of this chapter is to examine the ‘societal regime of truth’ contained in the official discourse of the Iraq inquiries (Foucault, 1980c). Through the problems and reforms identified by the inquiry, I examine how this official discourse anchors and reflects the dominant governmentalities of the liberal political community.

In the section that follows I review the recommendations of the four completed Iraq inquiries and the ongoing Chilcot Inquiry. From the outset, the purpose of the inquiries has been to provide a convincing account of how the state went to war and if the state committed acts of wrongdoing. Wrongdoing, in this sense, refers to acts that violate of the normative principles of publicity. If the inquiry finds acts of wrongdoing, it must seek to address them in such a way that the source of wrongdoing is separated from the fundamental rationalities and institutions of the political community. In other words, the failure must be made temporary and the inquiry must find a way to restore public faith in the state. The puzzle for the chapter is, therefore, this: how do the inquiries identify failure in relation to the controversies of participation in Iraq War? What kinds of behaviours are

legitimated, what kinds are condemned? What common purpose, rationality of governance or ‘way of doing things’ is relied upon by the inquiry as a route to the restoration of faith in the state? I claim that the question of how the state went to war, and whether wrongs were committed, is answered by reference to the normative standards of publicity. The inquiries constitute the technology of the public gaze by establishing norms of behaviour and then publicly exposing the state’s behaviour to a comparison against adherence to those norms. The inquiries have called for reforms that, in some cases, radically challenge the traditions of British foreign policy making – particularly with regard to the executive monopoly on intelligence material.

Figure 24. Three lessons from scrutinising the decision to go to war



The first lesson establishes norms of good democratic government. These norms provide a basis to judge the behaviour of government but, with the possible exception of accuracy, they must be exercised in the public sphere. The second lesson, thus, challenges the established tradition of a government monopoly on information held by the intelligence services. The lesson advocates the separation of the information that underpins the government’s claims from the claims themselves. So doing guards against future instances of advocacy facilitated by the production of misleading impressions or the suppression of convenient material, and also facilitate a public discussion whether the government past behaviour was compatible or incompatible with the norms established in lesson one. Finally the third lesson seeks to protect the historical record upon which accountability practices depend, by encouraging the practice of note taking and minute making. The third lesson, furthermore, establishes the practice of constituting the public gaze through public hearings in which every facet of witnesses to the controversy is open to scrutiny. Taking all

three together, the inquiries foster a technology of governance based around the ‘double-aspect’ of publicity: its normative standards and the policing of those standards through mistrustful surveillance. This technology of governance anchors a rationality of governance based on the liberal fear of too much or too little government; the technology subjects the practices of government to liberal democratic scrutiny, guarding against iniquity or ineptitude by weeding out, through standards of public reason, the mad, the bad and the prospect of being had.

Lesson No.1: The Legitimate Bounds of ‘Spin’

The controversy surrounding British’s participation in the Iraq War was often articulated in terms of a concern that the British Government tricked parliament, the media and the citizenry into supporting war by ‘spin’ – see, for instance, the comments of Clare Short in Chapter One. The problem is that ‘Spin’ is an obscure and imprecise term that can include a number of meanings and behaviours. It is, as one scholar has suggested, “part of a continuum of presentation that stretches between truth and the lie” (Humphreys, 2005:169). Here I understand the term broadly as *advocacy*, that is, communicating or arguing in order to convince others and build support for a particular point of view or course of action; we might even call this behaviour ‘propaganda’, in the sense of propagating a particular ideology or practice. In this section I distinguish between four different types of spin: making factually inaccurate claims, leading the audience to inaccurate conclusions, suppression of inconvenient truths and sincere belief. Across the inquiries, we can see examples of these forms of communication. The first ‘lesson’ of the inquiries has been to judge these different types of claims and, where the type of claim is judged to be unacceptable in government communication, the inquiries call for reforms to prevent such claims from being made again. Implicit in these reforms are the normative principles of hypothetical publicity. The four claims, and their interpretation by the inquiries, are summarised in the table below. The inquiries have expressed concerns about the first three types of spin: deception (which violates the norms of Kantian publicity and deliberative democratic theory), creating false impression (which violates the Habermasian norm of truthfulness), and suppression (which violate the Habermasian norm of truthfulness which in turn violates the overarching aim of deliberative democracy as mutual understanding). There are three types of behaviour that should be avoided because of the way that they harm publicity practices. The last type of ‘spin’ – expression of sincere belief – is compatible with these norms and is not criticised by the inquiries.

Table 6. Lesson One: Judging Four Types of ‘Spin’

Type of Claim	Example	Judgment of Inquiry Reports	Judgement of Hypothetical Publicity
Spin as deception An actor explicitly and intentionally making a claim that was known to be a false representation of the facts, as they were understood by the actor	Gilligan’s allegation of ‘sexing up’	Criticised by Hutton	– Violates Kantian Publicity Test – Violates Habermasian
Spin as creating false impression An actor makes a claim in such a way that gives the audience an impression known to be inaccurate by the actor	The September Dossier 45-minute claim and lack of clarification	Criticised by ISC	– Violates the norm of deliberative democracy as ‘mutual understanding’
Spin as suppression An actor advocating a particular interpretation and suppresses information that could lead to a different interpretation	Removal of Caveats from September Dossier	Criticised by FAC, ISC and Butler	– Violates Habermasian standard of truthfulness
Spin as expression of sincere belief Advocating a particular interpretation of the facts, which is sincerely believed in	The urgent threat of Iraq based on concealment and deception	Not criticised	– Compatible with hypothetical publicity

Spin as deception

The first type of ‘spin’ – deception – has not been identified by the inquiries in the actions of *government*, despite considerable suspicion. Instead the Hutton Inquiry, in particular, identified deception in the behaviour committed by the BBC when it accused the government of manipulating the September Dossier. In this regard, part of the first lesson of the inquiries was to encourage reforms and standards of communication that applied across the state *and* civil society. Recall from chapter one that Hutton investigated the death of Dr Kelly by examining what he regarded as the ‘major controversy’ influencing the thoughts and actions of Kelly and others. Specifically, Hutton was concerned with claims made by Gilligan:

I’ve spoken to a British official who was involved in the preparation of the dossier...he said: ‘It was transformed in the week before it was published to make it sexier. The classic example was [the 45 minutes claim] it was included in the dossier against our wishes, because it wasn’t reliable. (Hutton, 2004b:13)

I noted in chapter one that Hutton dismissed both the claims that the government ‘probably knew’ the 45 minutes claim was wrong and that the government sexed-up the dossier. Here I want to focus specifically on *how* Hutton dismissed the ‘sexing up’ and found the BBC to be at fault.

In the furore that followed Gilligan’s broadcast, the BBC maintained that it was in the public interest to broadcast Gilligan’s report, having taken Gilligan’s assurances that the report was accurate. Despite persistent complaints from Downing Street, the BBC continued to defend the broadcast because in the words of the chairman of the BBC, “if the BBC allows itself to be bullied by this sort of behaviour from No. 10... This could fatally damage the trust that the public places in us... [We] must not give any ground which threatens the fundamental independence of our news output, or suggests [we] have buckled to government pressure” (Davies cited in Hutton, 2004b:180). Yet during the course of the Hutton Inquiry, Gilligan accepted that he had not reported his meeting with Kelly accurately. It was established that Gilligan had kept two different versions of his notes of his meeting with Kelly, neither of which fully supported the claim in the 6.07 broadcast. During the course of giving evidence, furthermore, Gilligan conceded that it might have been *he* that suggested to Dr Kelly that the dossier was transformed to make it “sexier”, to which Kelly agreed (Hutton, 2004b:166). Hutton recommended that:

where a reporter is intending to broadcast or publish information impugning the integrity of others the management of his broadcasting company or newspaper should ensure that the system is in place whereby his editor or editors give careful consideration to the wording of the report and to whether it is right in all the circumstances to broadcast or publish it. (Hutton, 2004b:194)

In this case, Hutton claimed, the BBC’s editorial system was defective; editors should never have allowed Gilligan to broadcast without seeing his script, knowing what he wanted to say and judging whether or not it was appropriate. (Hutton, 2004b:213). Hutton judged that the Governors of the BBC “were right to take the view that it was their duty to protect the independence of the BBC against attacks by the government”, yet “the Governors should have recognised more fully than they did that their duty to protect the independence of the BBC was not incompatible with giving proper consideration to whether there was validity in the government’s complaints”; the governors failed to establish “that the allegations against [the government’s] integrity reported in Mr Gilligan’s broadcasts were unfounded and the governors failed to give this issue proper consideration” (Hutton, 2004b:213-14). The governors should, Hutton recommended, have conducted a more detailed investigation, through which they would have likely discovered that Gilligan’s notes did not support the allegations. The BBC, Hutton judged,

had failed in one important duty:

The communication by the media of information... On matters of public interest and importance is a vital part of life in a democratic society. However the right to communicate such information is subject to the qualification (which itself exists for the benefit of a democratic society) that false accusations of fact impugning the integrity of others, including politicians, should not be made by the media. (Hutton, 2004b:322)

O'Neill has unpacked this aspect of Hutton judgement in detail, and through her analysis we can see how the judgement applies particular normative standards of hypothetical publicity. According to O'Neill the BBC failed to respect a duty to accuracy, adopting a position in which the demands of independence and accuracy were thought of as opposed (O'Neill, 2004). The BBC took independence to include an unconditional right of freedom of expression. This radical interpretation of freedom of expression has troubling political implications for hypothetical publicity, particularly when it extends to institutions such as government or the media, both of whom have an obligation to accuracy. Accuracy, conceived as seeking to avoid false claims, is not synonymous with freedom of expression, and institutions require a commitment to accuracy in order to protect the hypothetical norms of publicity, upon which liberal governance relies.

Powerful institutions – whether governments or the media – would no doubt often find the radical independence that is implied by a more or less unconditional view of freedom of expression convenient, and might be tempted to claim it. But if they enjoyed the same more or less unconditional rights to freedom of expression that the charters accord to individuals, they would not be bound by any obligation to aim for accuracy, let alone for more demanding standards. They would be as free to misinform as to inform citizens, to subvert as to support public debate and democracy. A conception of media freedom or independence that floats free of any obligation to aim for accuracy is therefore quite implausible. Such radical independence would undermine any basis for members of the public to judge where to place and where to refuse trust. (O'Neill, 2004:105)

People cannot come in from outside, speak when they feel like, make endless irrelevance, or insulting, interventions, and so on; they cannot invoke a rights to do so, and no one thinks that things would go better in the direction of truth if they could. (Williams cited in O'Neill, 2004:95)

Indeed building on the analysis on the normative standards of publicity explored in Chapter One, we can say that *all* participants – whether they are institutions or individuals – who participate in the public sphere have a responsibility to make claims accurately. From a Kantian perspective, any maxim that is not compatible with being made public is unjust – thus inaccuracy is an unjust maxim. An actor that is intentionally inaccurate in public communication is pursuing a maxim that is incompatible with public reason and universalisability because if we accepted freedom of speech among public institutions without a commitment to accuracy, there is no reason to trust, and every reason to distrust anything that the media, or indeed the government, have to say. A political community

cannot exist solely on basis of a constant mistrust. Similarly, inaccuracy violates the normative standards of deliberative democracy as described in Chapter One – such as the Habermasian criteria of sincerity and truthfulness.

In this sense, Hutton's inquiry was deeply concerned with policing the normative standards of publicity – but his inquiry was just directed at the BBC rather than government. Hutton recognised that the words of public institutions, so long as those institutions claim to seek truth, can never be unregulated in a liberal democracy. In particular, the Hutton Inquiry was an exercise in “securing accuracy” (O'Neill, 2004:107): ensuring that public institutions provide others with a means of assessing the truth of an institution's claims when that institution is held with distrust.

Gilligan had not intended to accuse the government of lying. During the course of giving evidence, Gilligan was asked “when you said that the government probably knew that it [the 45 min claim] was wrong, you are actually saying, whether you intended to or not, that they were dishonest, weren't you?”. Gilligan replied, “the allegation that I *intended* to make was of *spin*, but as I say, I do regard those words as imperfect and should not have said them” (Hutton, 2004b:164). Hutton interpreted his remit to focus solely on how Gilligan's actual allegation was interpreted rather than Gilligan's intended accusation, but the situation could have been very different had Gilligan made a different claim, for instance that:

There were senior figures within the intelligence machinery, with responsibility for assessing Iraq's WMD capabilities and programmes, who were concerned that Government was over reliant upon, and had given unwarranted emphasis to disputable intelligence claims.

This would have been a more accurate report of the concerns held by certain members of the MoD staff. Here it is worth returning to Hutton's conclusions on the sexed-up claim. Hutton judged that it was quite proper for the JIC to take on board suggestions from Downing Street when drafting the dossier. The dossier was “one to be presented to, and read by, Parliament and the public, and was not an intelligence assessment to be considered only by the Government” (Hutton, 2003a:320). As such, so long as the drafting suggestions from Alastair Campbell and Downing Street were consistent with the intelligence held by the JIC, there was no impropriety. Hutton was satisfied in this regard that the JIC were properly concerned to ensure the contents of the dossier were consistent with the available intelligence. Reflecting the earlier concerns of the FAC and ISC however, Hutton considered that:

The term “sexed-up” is a slang expression, the meaning of which lacks clarity in the context of the discussion of the dossier. It is capable of two different meanings. It could mean that the dossier was embellished with items of intelligence known or believed to be

false or unreliable to make the case against Saddam Hussein stronger, or it could mean that whilst the intelligence contained in the dossier was believed to be reliable, the dossier was drafted in such a way as to make the case against Saddam Hussein as strong as the intelligence contained in it permitted. If the term is used in this latter sense, then *because of the drafting suggestions made by 10 Downing Street for the purpose of making a strong case against Saddam Hussein, it could be said that the Government “sexed-up” the dossier.* (Hutton, 2004b:320, my emphasis)

For some critics of the Hutton Inquiry, this paragraph demonstrates an “establishment” tendency to consider truth telling as a black or white activity (Coole, 2005:474-79). This criticism can be nuanced by emphasising, as I have above, that Hutton only judged the sexing-up claim in relation to the norm of accuracy. Hutton distinguishes between two different types of ‘sexing-up’: embellishment with information ‘known or believed to be false or unreliable’ or drafting ‘in such a way as to make the case against Saddam Hussein as strong as the intelligence... permitted’. Diana Coole has fiercely criticised Hutton’s words here for presenting a dichotomy in which either the government lied, or the government had used the available information to make the best arguments it could against Saddam; thus “since the government had not blatantly lied, it must have been telling the truth” (Coole, 2005:475). The effect of Hutton’s strategy, Coole claims, was “to eliminate by fiat a grey area where words, meanings and representations remain ambiguous and open to a variety of interpretations, such that the distinctions between representation, presentation and misrepresentation defy definitive judgements of truth versus falsity” (Coole, 2005:475). I, however, am not so convinced that Hutton makes such a pure distinction between truth-telling and deception.¹⁰³ Specifically, it is not clear that Hutton associates truth telling with ‘drafting in such a way as to make the case against Saddam Hussein as strong as the intelligence contained in it permitted’. In the previous paragraph, Hutton seems to explain what he means by this activity.

I consider that the possibility cannot be completely ruled out that the desire of the Prime Minister to have a dossier which, whilst consistent with the available intelligence, was as strong as possible in relation to the threat posed by Saddam Hussein’s WMD, may have *subconsciously influenced Mr Scarlett and the other members of the JIC to make the wording of the dossier somewhat stronger than it would have been if it had been contained in a normal JIC assessment.* (Hutton, 2004b:320, my emphasis)

We can explain Hutton’s verdict, therefore, on the basis that the inquiry did not find evidence of a similar act of inaccuracy on the part of the government sufficient to suggest that the government ‘sexed-up’ the dossier. That is to say, Hutton did not find evidence of the government explicitly and intentionally making a claim that was known to be a false

¹⁰³ It would appear, however, that the FAC *did* make such a black and white distinction. The FAC report argued that “If the dossier did misrepresent the true situation on Iraq’s WMD, there are two possible explanations: either the intelligence was faulty (or misinterpreted in good faith); or it was deliberately exaggerated.” (FAC, 2003a:30)

representation of the facts, as they were understood. From Hutton's perspective, Gilligan did sex-up the BBC broadcast in precisely this way. Nonetheless, from the quote above, Hutton begins to consider the way in which the government's case for war could have been produced in a way that did not constitute lying, but did constitute a form of expression that, at the very least, produced "meanings and representations ... open to a variety of interpretations" (Coole, 2005:475). The four completed inquiry reports highlight forms of expression by the government that, as I show, violate the normative standards of publicity in other ways; we can other see forms of 'spin' or 'advocacy' "that stretches between truth and the lie" (Humphreys, 2005:169).

Spin as creating misunderstanding

We can understand 'spin' in a second sense as a kind of advocacy in which an actor "play[s] with words to evade the real meaning of a question or to produce a misleading impression" (Humphreys, 2005:169). Put differently, the actor does not make a claim that includes explicitly and intentionally making a claim that was known to be a false representation of the facts, as they were understood. Rather, this second kind of advocacy entails making a claim in such a way as to lead the audience to a factual conclusion that is known to be inaccurate, but without explicitly stating that false conclusion. This kind of behaviour is demonstrated in the way the government expressed the 45-minutes claim. The September Dossier included the claim that Saddam Hussein's "military planning allows for some of the WMD to be ready within 45 minutes of an order to use them" (British Government, 2002:4). The next morning *The Sun* carried 'Brits 45Mins from Doom', claiming that "British serviceman and tourists in Cyprus could be annihilated by germ warfare missiles by Iraq, it was revealed yesterday" (Pascoe-Watson, 2002). In fact, the 45-minute claim referred only to battlefield munitions and *not* long-range strategic missiles – a distinction not made clear in the dossier. The government did not attempt to rectify the misunderstanding.

The ISC were the first to point out this kind of behaviour. The committee noted that "the fact that [the claim] was assessed to refer to battlefield chemical and biological munitions and their movements on the battlefields, not any other form of chemical or biological attack, should have been highlighted in the dossier. The omission of the context and assessment allowed speculation as to its exact meaning. This was unhelpful to an understanding of the issue" (ISC, 2003:27). During the course of the Hutton Inquiry, this act was explored in greater depth. The report includes a telling extract in which the

Defence Secretary Geoff Hoon admitted to the wilful non-correction of the error made by several newspapers to interpret the 45 min claim as referring to strategic ranged weapons. During the course of giving evidence, Hoon agreed that he knew, prior to the dossier's publication, that the 45 minute claim referred to battlefield munitions rather than strategic munitions.

Q. But, Mr Hoon, you must have been horrified that the dossier had be misrepresented in this way; it was a complete distortion of what it actually was intended to convey, was it not?

A. Well, I was not horrified. I recognised that journalists occasionally write things that are more dramatic than the material upon which it is based.

Q. Can we forget journalists for the moment and concentrate on the members of the public who are reading it? Will they not be entitled to be given the true picture of the intelligence, not a vastly inflated one?

A. I think that is a question you would have to put to the journalists and the editors responsible.

Q. But you had the means to correct it, not them. They could not correct it until they were told, could they?

A. Well, as I say, my experience of trying to persuade newspapers to correct false impressions is one that is not full of success.

Q. Do you accept that on this topic at least you had an absolute duty to try and correct it?

A. No, I do not.

Q. Do you accept that you had any duty to correct it?

A. Well, I apologise for repeating the same answer, but you are putting the question another way. I have tried on many many occasions to persuade journalists and newspapers to correct stories. They do not like to do so.

Q. Can I suggest to you a reason why this was not done? It would have been politically highly embarrassing because it would have revealed the dossier as published was at least highly capable of being misleading.

A. Well I do not accept that.

Q. So your suggestion is that it was a disgraceful exaggeration by the press of what was clear in the dossier as a reference to battlefield munitions?

A. I am certainly suggesting that it was an exaggeration, but it is not unusual for newspapers to exaggerate. (Hutton, 2004b:148-50)

Hutton did not comment on the issue because it did not fall within his remit (the circumstances leading up to Kelly's death as Hutton saw them). Yet the episode does hint toward certain hypocrisy on the part of government. As Runciman pointed out, Alistair Campbell it was all too willing to seek the correction to Gilligan's broadcast several months later (Runciman, 2004:12). Both Hoon and Gilligan, however, are guilty of a lack of

accuracy. This crucial difference is this: Gilligan explicitly made a claim that was factually untrue, and refused to correct himself when questioned; the September Dossier did not include a claim that was untrue and no one challenged the claim until much later, but the use of language in the dossier did lead part of the audience to a false conclusion, which was not corrected. Of course, with the exception of a small number of government staff, no one would have known the claim was unreliable. The lesson of the Hutton inquiry here was to reassert the importance of mutual understanding as an aim of deliberation and communication. Implicit within this passage of the Hutton report is an understanding of public communication closely related to the deliberative democratic theory's emphasis on intersubjective agreement and understanding (Habermas, 1984; Luban, 1996; Chambers, 2003). The government did not make a claim that was inaccurate, rather they knew their claim had been inaccurately interpreted but made no effort to rescue this understanding.

Spin as suppression

We can also identify a third kind of 'spin' or 'advocacy'. Advocacy could theoretically be conducted on the basis of presenting your claim but also presenting all the opposing information or lines of argument, "warts and all" (Humphreys, 2005:169). Instead, however, advocacy often includes a form of argumentation in which you suppress information or lines of argument that could weaken your claim – whilst not lying or deliberately misrepresenting the basis of your claims. This kind of advocacy is endemic to the kind of examination and cross-examination of witnesses that occurs in a quasi-judicial inquisitorial style of inquiry conducted by Hutton. This point was made by Runciman.

Lord Hutton knows as well as any barrister who has appeared before him that advocacy is all about deciding what evidence to include or exclude, particularly making sure not to include anything *known* to be false or unreliable. (Runciman, 2004:15)

An actor might not mentioned alternative lines of argument or interpretations of fact to avoid potential (and in the eyes of the actor unjust) criticism; as Humphrey's argues, "this might be described as shaping one's case to anticipate the likely actions and statements of others, in the belief that you are not misleading the public yourself but are avoiding helping others to do so – just as an archer might aim away from a target, assuming the wind will guide the arrow to the bulls-eye of truth" (Humphreys, 2005:168). We can find examples of this behaviour in the reports of the Hutton, FAC and Butler inquiries.

During the course of the inquiries it has been established that the September Dossier had developed through several different drafts. A press officer from the FCO named John Williams produced one of these drafts. In early September, Williams had met with Alastair

Campbell, John Scarlett and others to discuss the draft dossier. Scarlett asked Williams to take responsibility for producing a new draft because “intelligence had no experience of writing documents for publication” (Williams, 2011). By mid-September, Downing Street had decided that Scarlett and the JIC should take control of drafting the dossier, but commentators have pointed to similarities between Williams’ version and the JIC final version. Williams described his approach to writing the dossier as follows,

I asked John Scarlett ...if he would like to give me the material he intended to use, so that I could show him how to produce it in publishable form.... It was a routine job of taking the strongest points and putting them in an executive summary, while taking care to reflect their content accurately, and introducing them with the sort of language that was familiar from speeches and interviews given by the PM and Foreign Secretary. (Williams, 2011)

The FAC report includes one example of how this practice of ‘taking the strongest points’ could cause concern. The FAC noted that in some cases the Government used stronger language in the executive summary of the intelligence dossier than it did in the main body of the report (FAC, 2003a:18). For instance, the FAC pointed to the phrase in the executive summary that “As a result of the intelligence we judge that Iraq has ... continued to produce chemical and biological agents” (British Government, 2002:5). In the main text, the reader would find that this ‘judgement’ comes from two conclusions made in JIC assessments: firstly that “the JIC concluded that Iraq had sufficient expertise, equipment and material to produce biological warfare agents within weeks”, and secondly that “... the JIC assessed that Iraq retained some chemical warfare [material] from before the Gulf War [and] these stocks would enable Iraq to produce significant quantities of mustard gas within weeks and nerve agent within months” (British Government, 2002:18). The executive summary thus presents a reasoned judgement that Iraq continues to produce WMD, but the judgement was one *available, plausible and valid interpretation* based on two further judgements that Iraq has the ability to produce the weapons and retains the stock material to do so.

Another example is found in the Butler Committee’s report. The September Dossier, as Williams described above, was based on a series of intelligence assessments provided by the JIC. One of these assessments from 9th September 2002, which heavily influenced the dossier, included the following disclaimer:

Recent intelligence casts light on Iraq’s holdings of weapons of mass destruction and on its doctrine for using them. Intelligence remains limited and Saddam’s own unpredictability complicates judgements about Iraqi use of these weapons. Much of this paper is necessarily based on judgement and assessment. (Butler, 2004b:81)

In the September Dossier, this paragraph was nowhere to be found. Instead, the Butler Committee highlighted the following statement.

As well as the public evidence, however, significant additional information is available to the Government from secret intelligence sources, described in more detail in this paper. This intelligence cannot tell us about everything. However, it provides a fuller picture of Iraqi plans and capabilities. (Butler, 2004b:81)

From an original document highlighting the ‘limited’ nature of intelligence and the ‘unpredictability’ of Saddam Hussein, the final dossier simply suggested that “intelligence cannot tell us everything” (British Government, 2002:5). The Butler Committee were displeased, claiming that the public could not have known about the caveats regarding the limitations of intelligence:

Rather than illuminating the limitations of intelligence either in the case of Iraq or more generally, the language in that Chapter may have had the opposite effect on readers. Readers may, for example, have read language in the dossier about the impossibility for security reasons of putting all the detail of the intelligence into the public domain as implying that there was fuller and firmer intelligence behind the judgements than was the case. (Butler, 2004b:82)

The Butler Committee are not suggesting that the government’s use of language created an impression amongst the audience that was clearly factually untrue. The committee are suggesting, however, that through suppressing the caveats concerning the limitations of intelligence, the audience were prevented from forming alternative, and equally valid, interpretations. Once again the inquiries do not identify acts of deception, but they do identify, criticise and seek to reform behaviours that inhibit public understanding and deliberation, upon which good liberal governance depends.

Spin as sincere belief

The four completed inquiries into Iraq suggest that the government did not intentionally lie to the public about the case of war – that is to say making a claim known to be factually untrue. Yet, as Humphreys’ reminds us, politicians rarely lie because advocacy – suppressing information or presenting a case in such a way that leads to one conclusion at the expense of another – is so effective. In the sections above I have suggested that all three behaviours violate the normative principles of publicity. Yet there is a fourth kind of ‘spin’ or ‘advocacy’ that does not necessarily violate the normative principles of publicity. We can also understand advocacy as the sincere claim to one particular interpretation of the available facts. Humphrey’s notes, “many of what are labelled ‘lies’ constitute beliefs, judgment and interpretation of complex facts, or the desire to build support for an honestly-held point of view” (Humphreys, 2005:169). During an interview with the BBC, quoted in the Hutton Report, David Kelly suggested that

You know the word-smithing is actually quite important and the intelligence community are a pretty cautious lot on the whole but once you get people putting it/presenting it for public consumption then of course they use different words. I don't think they're being wilfully dishonest I think they just think that that's the way the public will appreciate it best. (Kelly cited in Hutton, 2003a:17)

In principle, this kind of spin does not violate the normative principles of publicity. Presenting your argument in the most favourable way is compatible with the norms of deliberative democracy so long as you do not mislead or suppress information that could be used to form counter-arguments. This possibility cannot be ruled out, however, because of the executive monopoly on intelligence material. The government both published material on Iraq and simultaneously offered an interpretation of the material's meaning. The government, in these circumstances, could have been offering sincere argument but even then these argument may have been defeated through critical debate. This executive monopoly and the government's simultaneous presentation and interpretation would be the subject of the next lesson.

Lesson No.2: Separating Assessment and Advocacy

All four completed inquiries searched for, and failed to find, evidence that the government had engaged in spin as deception. Instead they identified many instances of the third type of advocacy which inhibited the capacity of actors within the public sphere – parliament, the media, campaign groups and so on – to challenge the government's interpretation because the material behind the government's claims was kept secret. Whilst, as the inquiries agreed, the government's claims were founded on the available intelligence, the question was whether the government's claims constituted too narrow an interpretation based on that intelligence. In other words, had the government represented that intelligence to the public in such a way that alternative lines of interpretation were suppressed? The Butler Inquiry committee devoted part of their report to this problem through the language of the September Dossier. They pointed to a fundamental tension between the purpose of JIC assessments produced by the intelligence agencies, and the purpose of the government's publications.

On the one hand the government asked the JIC to produce the final document, whilst incorporating drafting suggestions from Downing Street. In so doing the government borrowed the name and authority of the JIC a badge of objectivity and credibility (Butler, 2004b:78). JIC assessments were generally cautious, emphasised the limitations of intelligence and did not suggest policy. On the other hand, the Butler Committee noted that the September Dossier "did not follow the format of JIC

assessments” but “nor should it have done so. It was written for a different purpose and a different audience” (Butler, 2004b:79). The committee had heard from the Chair of the JIC that the dossier was not intended to make the case for a *particular* course of action.¹⁰⁴ Yet the committee nonetheless concluded “it *was* intended by the Government to inform domestic and international understanding of the need for stronger action (though not necessarily military action)” (Butler, 2004b:113). In the words of the sociologist W.G. Runciman, the dossier was always designed to make a case for some kind of renewed and forceful action toward disarmament and compliance,

Nobody can seriously suppose that [the dossier] was designed to make a case for nothing...to suggest that Government made the unprecedented use of the JIC for no other purpose than the disinterested disclosure to the public of information which might help them to make up their mind about Iraq is a little like saying that, when a sign is put up at a ski resort saying ‘Danger of Avalanches’, it is merely disclosing information which might skiers to make up their minds about the weather, rather than warning them to keep off the slopes. (Runciman, 2004:23)

The British Government sought to present the available intelligence on Iraq in a publishable format. This required bringing together material from a number of past JIC assessments and incorporating this with intelligence from elsewhere, such as open source intelligence and UN reports. Crucially, in representing this material the government took a decision on what material was important, and what could be concluded from that information to suggest that Iraq posed a ‘serious and sober’ threat. The government took information from a variety of sources and presented conclusions about the Iraqi regime on the basis of the government’s own interpretation of the evidence. The committee sympathised with the government’s will “to meet the mounting public and Parliamentary demand for information”, but publicising the JIC as the author of the dossier, and thus borrowing an authoritative label, was “a mistaken judgement”; it “had the result that more weight was placed on the intelligence than it could bear” (Butler, 2004b:114). Speaking after his inquiry, Lord Butler expressed the problem as follows.

One has got to remember what the purpose of the dossier was. The purpose of the dossier was to persuade the British people why the government thought Iraq was a very serious threat...I think [warnings about the limitations of intelligence] would have weakened it. What the government was saying is, we really think this guy is a threat, because he’s got this terrible stuff, he’s a very bad man, nobody’s got any idea what he may do with it, and then if you say that we’re only drawing this conclusion on the evidence we’ve got, and the direct evidence we’ve got is thin because Iraq is a very difficult country to penetrate — that would have weakened it. (Johnson and Butler, 2004)

¹⁰⁴ The Foreign Secretary told the committee that the purpose of the dossier, aimed at a global audience, was “to galvanise the international community into take [the issue] seriously”; the Defence Secretary was less ambiguous: “if we were going to be able to make out a case for war against Iraq, we were going to have to publish the material” (Butler, 2004b:77).

The Butler committee were, accordingly, disturbed by the manner in which the government's dossier seemed to blur the lines usually occupied by politicians on the one hand and civil servants on the other: to inform and to advocate. The committee were faced with the question as to where and how the government may have sacrificed the act of informing the public in order to advocate a particular interpretation of the combined intelligence material.

In some cases the committee concluded that the JIC's intelligence assessments were "reflected fairly in the dossier" (Butler, 2004b:86), in other cases the committee were critical of the language used by the government – as the example from the previous section illustrates. The committee, however, were reluctant to provide a line by line definitive judgement on whether and where the government had made claims that had or had not adequately presented the variety of interpretations permitted by the original intelligence material. Instead the committee published extracts from the JIC assessments and the dossier drafts, side by side so that "readers can check our judgements and reach their own conclusions" (Butler, 2004b:80).

At times the Butler Committee saw the content of the dossiers as "raw data whose proper sense had to be spoken for" (Rappert, 2011:197). But instead of offering a revised or alternative interpretation of the JIC data, the Butler Report allowed the public to compare the JIC assessments and the government's dossier side by side, as shown below; actors within the public sphere could then explore the various interpretations and use the comparison for their own lines of argument.

INTELLIGENCE ASSESSMENT AND PRESENTATION: FROM MARCH TO SEPTEMBER 2002

ANNEX B

15 March 2002	21 August 2002	9 September 2002	24 September 2002	24 September 2002
JIC(02)059: THE STATUS OF IRAQI WMD PROGRAMMES (15 March 2002) (substantial extracts)	JIC(02)181: IRAQ: SADDAM'S DIPLOMATIC AND MILITARY OPTIONS (21 August 2002) (relevant extracts)	JIC(02)202: IRAQI USE OF CHEMICAL AND BIOLOGICAL WEAPONS – POSSIBLE SCENARIOS (9 September 2002) (substantial extracts)	EXTRACTS FROM THE GOVERNMENT DOSSIER (24 September 2002)	FOREWORD TO THE GOVERNMENT DOSSIER (signed by the Prime Minister)
Key Judgements i. Iraq retains up to 20 Al Hussein ballistic missiles, produced prior to the Gulf War, with a range of 650km and capable of hitting Israel. The location and condition of these is unknown, but there is sufficient engineering expertise to make them operational. ii. Iraq has begun development of medium range ballistic missiles over 1000km that could target countries throughout the Middle East and Gulf Region, but will not be able to produce such a missile before 2007 provided sanctions remain effective.	Key Judgements v. Early on in any conflict Saddam would order missile attacks on Israel, coalition forces and regional States providing the US with bases. vi. Saddam would order the use of CBW against	Key Judgements i. Iraq has a chemical and biological weapons capability and Saddam is prepared to use it. ii. Faced with the likelihood of military defeat and being removed from power, Saddam is unlikely to be deterred from using chemical and biological weapons by any diplomatic or military means. iii. The use of chemical and biological weapons prior to any military attack would	Executive Summary 1. Under Saddam Hussein Iraq developed chemical and biological weapons, acquired missiles allowing it to attack neighbouring countries with these weapons and persistently tried to develop a nuclear bomb. Saddam has used chemical weapons, both against Iran and against his own people. Following the Gulf War, Iraq had to admit to all this. And in the ceasefire of 1991 Saddam agreed unconditionally to give up his weapons of mass destruction. 2. Much information about Iraq's weapons of mass destruction is already in the public domain from UN reports and from Iraqi defectors. This points clearly to Iraq's continuing possession, after 1991, of chemical and biological agents and weapons produced before the Gulf War. It shows that Iraq has refurbished sites formerly associated with the production of chemical and biological agents. And it indicates that Iraq remains able to manufacture these agents, and to use bombs, shells, artillery rockets and ballistic missiles to deliver them. 3. An independent and well-researched overview of this public evidence was provided by the International Institute for Strategic Studies (IISS) on 9 September. The IISS report also suggested that Iraq could assemble	The document published today is based, in large part, on the work of the Joint Intelligence Committee (JIC). The JIC is at the heart of the British intelligence machinery. It is chaired by the Cabinet Office and made up of the heads of the UK's three Intelligence and Security Agencies, the Chief of Defence Intelligence, and senior officials from key government departments. For over 60 years the JIC has provided regular assessments to successive Prime Ministers and senior colleagues on a wide range of foreign policy and international security issues. Its work, like the material it analyses, is largely secret. It is unprecedented

Figure 25. An extract for the Butler Report's comparison of intelligence assessments

The Butler Report did not explicitly provide a basis for determination of the likeness between JIC material and the dossier, instead producing the dossier in such a way as to "acknowledge the potential for other to draw their own conclusions" (Rappert, 2012:30-31). The Butler Report was, consequently, far less controversial than the Hutton Report, largely because while the latter had deployed a strict normative framework to decide what

did and did not constitute misrepresentation (the duty to accuracy as a I explored above), the former did not. Commenting after the report, Lord Butler explained this decision:

I feel strongly that this is something that is part of a much bigger issue on which people are entitled to reach their own conclusions, and I think we have given them the material to reach that conclusion. We have told them all they need to know, and that's what I get satisfaction from. (Johnson and Butler, 2004)

The Butler Committee pushed the struggle over the 'meaning of spin' into secondary areas of public debate such as parliamentary select committees and newspapers in which the 'real' meaning behind Butler Report and the legitimacy of the dossier was open to debate. On the one hand, the official discourse of the inquiry did not provide a basis from which to judge all of the government's translation of the JIC material into the dossier, but on the other hand, from Butler's comments above, the decision can be understood as an intentional move by the committee to reintroduce a form of democratic pluralism which, for Butler, was sorely missing before the war.

Butler's commitment to pluralism is clearer still in one of the report's core recommendations to separate 'advocacy' from 'assessment' or, as one member of the committee said in more informal terms, "intelligence and public relations must be kept separate" (cited in O'Halpin, 2005:101). The recommendation was a response to the tension, discussed above, about the 'purpose' of the September Dossier.

The Government wanted an unclassified document on which it could draw in its advocacy of its policy. The JIC sought to offer a dispassionate assessment of intelligence and other material on Iraqi nuclear, biological, chemical and ballistic missile programmes. The JIC, with commendable motives, took responsibility for the dossier, in order that its content should properly reflect the judgements of the intelligence community. They did their utmost to ensure this standard was met. But this will have put a strain on them in seeking to maintain their normal standards of neutral and objective assessment. (Butler, 2004b:79)

The committee heard from many of its witnesses that, due to both the security challenges faced by the UK in the 21st century and public expectations of open government, there was now a public expectation for government to publish intelligence when arguing for a particular course of action. The September Dossier had "set a precedent for openness" in this regard (Butler, 2004b:87).¹⁰⁵ In future however, the committee remarked, "if intelligence is to be used more widely by governments in public debate in future, those doing so must be careful to explain its uses and limitations. It will be essential, too, that *clearer and more effective dividing lines between assessment and advocacy* are established when doing

¹⁰⁵ Indeed when responding to the Hutton report in parliament, Tony Blair insinuated that the public appetite for information was partly responsible for the September Dossier. Blair claimed, "we [published intelligence], let me remind the House, because of the clamour for it— it was a unique exercise never done before, and difficult for all our agencies. But in the interests of openly sharing intelligence with people, they worked hard in good faith to release it properly". HC Deb 28 Jan 2004, vol 417, col 340

so” (Butler, 2004b:87).¹⁰⁶ The lessons from all four inquiries in this regard were quite similar. O’Neill makes this point, arguing that institutions should not make claims “without indicating what is known and what is rumour, what is derived from a reputable source and what is invented, what is standard analysis and what is speculation, which sources may be knowledgeable and which are probably not”; if institutions do not do so, “they damage our public culture and all our lives” (O’Neill, 2004:83). If we extrapolate from the committee’s recommendation, an ideal scenario would be one in which the intelligence assessments, which were phrased in more cautious language, were published separately from any government advocacy.¹⁰⁷ For instance, as one scholar suggests, the British Government could have published redacted versions of the JIC assessments, to which the Downing Street could have published its own interpretation and advocated policy (Aldrich, 2005:79). This kind of measure would have brought the benefits of democratic pluralism and helped to prevent any government decisions that were ‘mad’ – that is, not based on public reason – or ‘had’ – that is, based on a narrow interpretation of the facts, both of which I described in Chapter One. However, as I will argue at the end of this chapter, this separation between assessment and advocacy, thus showing the caveats and uncertainties about the Iraqi regime, would not necessarily have weakened the case for war.

Lesson No.3: Exposing the state to the public gaze

So far, the inquiries had identified two kinds of problems whereby the manner in which the government’s case for war was presented and debated prior to war violated the normative standards of hypothetical publicity. Firstly the inquiries had identified moments in which the government or the media had clearly violated normative standards for public debate. Secondly, the inquiries identified moments in which the government made claims on the basis of information that was not publicly available, and the government’s claims, whilst not instances of inaccuracy, were only one plausible interpretation of the information.

The remedies and reforms tentatively suggested by the inquiries have, accordingly, focussed on preventing these violations or possible violations from occurring in the future. Firstly, the inquiries have implicitly or explicitly suggested norms of good communication that ought to be followed. Secondly, the inquiries have sought to challenge the

¹⁰⁶ The ISC has made a similar claim. The report contained a section concerning the relationship between the intelligence agencies, the media and the public. The committee suggested that “it is highly likely that Governments in future will feel that they have to brief the public using intelligence-derived material” and consequently “the public’s perception of the reliability [of assessment and intelligence] is therefore very important. The committee then went on to argue how intelligence material is used to inform the public must not “diminish or degrade” the “credibility and effectiveness” of the agencies” (ISC, 2003:39).

¹⁰⁷ The Butler Committee noted as a precedent the manner in which the US Government published National Intelligence Estimates, and will occasionally publish accompany documents that note confidence or dissent in response (Butler, 2004b:145).

government's monopoly on the intelligence assessments used in public debate. The Butler Report in particular shows how the very nature of government advocacy was problematic when the government has a monopoly on access to information. The inquiries also recognised a widespread expectation that the government must continue to publish information necessary to justify its claims in relation to foreign and security policy. Thus, the inquiries sought to remedy and reform this problem by encouraging the publication of two different types of documentation, separated by a distinction between, firstly, what knowledge the state possesses, and secondly, how the government understands that knowledge to explain the nature of threats in international relations and the sort of policies that ought to be pursued in response. Yielding to this expectation of open government, the inquiries are re-introducing the kind of liberal public scrutiny explored in Chapter Two. Encouraging the government to publish its claims and the original basis of those claims, the inquiries recognise a public expectation that government cannot obtain a perfect knowledge of the world and that governance is improved when subjected to a liberal critique in which the policies of government are subjected to the scrutiny of democratic pluralism.

The inquiries identified a third 'lesson': to find ways open up the state to actual, transparent scrutiny. In so doing, I argue that the public inquiries subject government to the technology of the public gaze, providing opportunities for actual publicity in which the government's claims to legitimacy could be retroactively scrutinised in accordance the norms of communication established thus far.

Chapter One showed how the first attempts to subject the government to actual publicity were stymied by the government lack of cooperation with the FAC. "We have attempted, so far in vain," the FAC report strained, "to explain to Ministers that for the FAC to discharge effectively its role of scrutinising the policies of the FCO, it will on occasion require access to intelligence material and, on rare occasions, to the agencies themselves" (FAC, 2003a:48). Yet ministers refused to grant the FAC access to material because of the existence of the ISC.

We regard the Government's refusal to grant us access to evidence essential to our inquiries as a failure of accountability to Parliament ... in order to understand the foreign policy-making process this committee needs to have access to all stages of that process. (FAC, 2003a:49)

The FAC accordingly recommended the ISC be reconstituted as select committee of the House of Commons - a suggestion the Government dismissed. Given the nature of the committee's work, the government claimed, a select committee with the ISC's remit would have to operate under similar conditions (Secretary of State for Foreign and

Commonwealth Affairs, 2003:7). In 2013 the ISC was reformed under the Justice and Security Act, which the ISC chair suggested would “significantly enhance oversight of the United Kingdom intelligence community in a manner in which Parliament and the public can have full confidence” (Rifkind, 2011). Under the act, the ISC can ask the chiefs of the intelligence agencies to disclose information to the committee. The chiefs must do so, unless the Secretary of State votes disclosure. Such a vote can only be exercised when the Secretary of State considers that the information should not be disclosed in the interests of national security or that the production of the information would be “proper not to do so” – which requires the minister to use similar reasons as those included in the Freedom of Information Act (Dawson, 2013:5). The ISC is thus now subject to the same metaphor of balance that I analysed in depth in Chapter Four: a norm of publicity is balanced against the likely harm of publicity, which predisposes contestations between actual publicity and official secrecy toward the endurance of official secrecy.

The Butler Inquiry addressed the question of transparency in government from a different direction. As an *in camera* inquiry of Privy Counsellors – sworn by oath to “keep secret all Matters committed and revealed unto you” (Moran, 2012:28) – the Butler Committee had already acquiesced to the principle of official secrecy. Yet the inquiry could subject the government to the norms of publicity in other ways. The very nature of the Butler Inquiry depended upon a good paper trail through which the committee could trace the actions of government (PASC, 2005:39): who had said what to whom, what decisions had been agreed, who had been involved in making them, and what reasons were considered during the process. The Butler Committee’s pursuits were frustrated, however, by ‘the informality and circumscribed character’ of the government’s decision-making – which I discussed in chapter one with specific reference to a lack of democratic pluralism within Cabinet. (Powell, 2003). Blair’s ‘sofa government’ approach meant that important discussions and decisions about policy toward Iraq were conducted through and informal meetings amongst a select few ministers, officials and military officers close to the Prime Minister, without official note taking. The Butler Report noted with displeasure the absence of an important technique of democratic governance, namely “the careful taking of notes and writing of minutes” which provide a proper record of what was said and what actions were agreed (Hennessy, 2004:72). In a democratic society, one academic critic argued, practices of good record keeping are “crucial responsibilities in the process of holding government to account or responsible, even if that cannot happen for a long time after the event on the grounds of national security”. Whilst “demanding and boring”, the provision of quality records “requires an attention to detail which the events surrounding the war in Iraq suggest is sadly lacking” (Michael, 2005:592).

Butler's conclusions were reflected in calls for greater accountability elsewhere. The Democracy Task Force – a conservative think tank – published a report calling for an end to 'sofa government'. "The first and most obvious requirement" of political reform, the report's authors argued, "is that there must be adequate documentation". The report called for "an absolutely basic feature of government that all significant matters put toward its committees must be the subject of a Cabinet paper, except in the greatest emergency" (Gough, 2007:5). One former civil servant, Sir Christopher Foster, lamented the poor record-keeping practices of Blair's government. During his days in the civil service, every decision had been written down. Every meeting referred to a paper based on the comments of civil servants and advisors: "there was no problem with identifying who suggested, and who authorised, every change to a paper, as there was to the 2002 Iraq dossier" (Foster, 2005:26). By rescuing practices of note-taking and minute-making, future practices of accountability would be improved. Whilst the constraints of the committee's remit – as an *in camera* inquiry – prevent actual publicity, future investigations could still hold the government to account against the norms of democratic pluralism.

The Hutton Inquiry did succeed in exposing government to the public gaze in a way that had not been seen before in a public inquiry. Each day, the inquiry published full transcripts of each day's proceedings. The Hutton Inquiry website contained over 6,000 pages of evidence and received upward of 80,000 visits per day (Gibson, 2003). Material that would normally be protected under the Thirty Year Rule was set under the public gaze within weeks of its creation. As one witness told the Public Administration Select Committee, Hutton "showed you can publish more than you think you can without bringing down government" (PASC, 2009:7).

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Spoke to Hoon who said that a man had come forward who felt he was possibly Gilligan's source, had come forward and was being interviewed today. GH said his initial instinct was to throw the book at him, but in fact there was a case for trying to get some kind of plea bargain. Says that he'd come forward and he was saying yes to speak to AG, yes he said intel went in late, but he never said the other stuff. It was double-edged but GH and I agreed it would fuck Gilligan if that was his source. He said he was an expert rather than a spy or full-time MOD official. GH and I agreed to talk tomorrow.

Figure 26. An extract for Alastair Campbell's personal diary.

This is an example of the kind of radical public gaze performed by the Hutton Inquiry, publishing an extract from the personal diaries of Alastair Campbell. The entry refers to the day on which David Kelly suggested to colleagues that he could be the source of BBC journalist Andrew Gilligan's claims that the government 'sexed-up' the dossier.

Hutton not only published official policy papers or memos but hastily written emails, hand written scrawls and even personal diaries. Hutton exposed the everyday workings of

government bereft of formality; as one commentator noted, “all coffee cups, sofas, shirtsleeves and malice” (Watkins, 2004). This trend has continued with The Iraq Inquiry website. The Iraq Inquiry Committee has published over 300 items of written evidence and has declassified 229 documents.¹⁰⁸

The Iraq inquiry committee have extended the exposure of government beyond the Hutton Inquiry in one important respect: of the 150 witnesses called to give evidence by the inquiry, the majority have given evidence in public and the evidence has been broadcast live to media outlets. The recordings are also publicly available on the website. In the old kitchens of the QE2 conference centre, a purpose built room was constructed for the inquiry. Twice a day any individual able to provide a drivers license or a passport can enter the hearings as a member of the public gallery. Ushers seat the public gallery in chairs separated from the rest of the inquiry by a rope and stanchions. The hearing then proceeds like theatrical performance. The layout of the room is represented in the figure below. The public’s view is of the committee. One of the “regulars” of the public gallery, who attended almost every public hearing created the sculpture in figure 27 that depicts the gallery’s view. Yet whilst the gallery might not be facing the witness directly, every facet of the witnesses’ behaviour is related back to the gallery through two large flat screen televisions. The first, situated on the left-hand side of the room, displays an instantaneous transcript of the hearing from the stenographer, sat in between the committee and the witness. The second, situated on the right-hand side of the room, displays the video feed from the television camera trained at the witness. Regulars to the public hearings know that ‘the best seats in the house’ are found in the front seats immediately behind the right-hand television screen. From this position members of the gallery can see all the committee members, both television screens, and a side on view of the witness. In this way the gallery members can see all these things without appearing on the television feed.

¹⁰⁸ These figures are based on the content of The Iraq Inquiry website on 10th December 2013

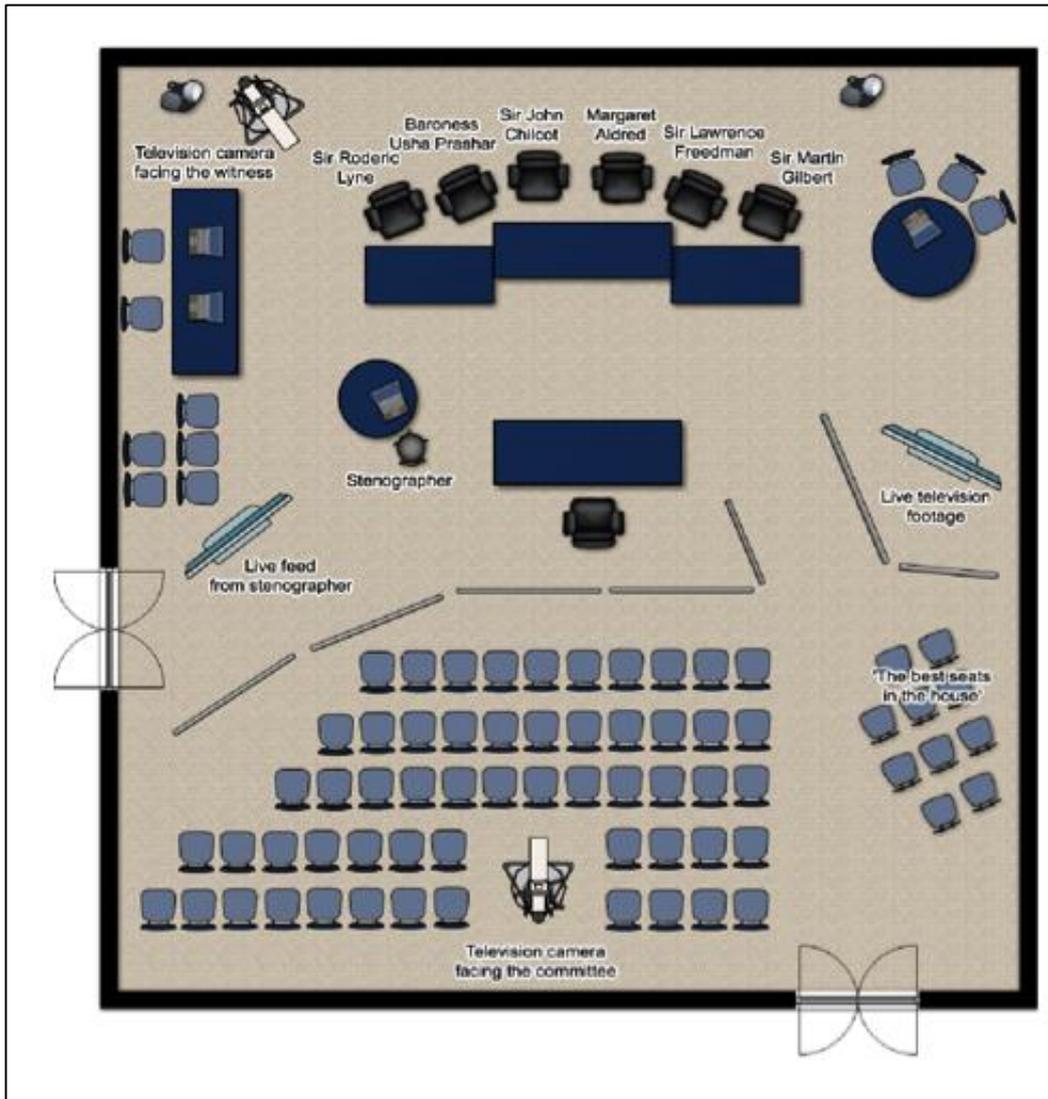


Figure 27. Diagram of the Iraq Inquiry's public hearings. The room and the equipment are set up in such a way that the public gallery can watch proceedings in several ways. They can watch the committee directly, watch the live feed from the stenographer on the left-hand television screen or watch the face of the witness displayed on the right-hand screen. Those who could get seats in the top-right section of the public gallery could also watch the witness directly too. The witness would also be acutely aware of this gallery; during the hearings, the witness enters last and walks from the left-hand door past the gallery to the seat.



Figure 28. A view of The Iraq Inquiry committee from the public gallery. This sculpture was made by an individual who chose to watch almost every public hearing of the inquiry. The sculpture gives an accurate depiction of the view from the center of the public gallery.



Figure 29. Sir Gus O'Donnell's hearing broadcast live at The Iraq Inquiry. I sit behind O'Donnell's left shoulder. Another member of the gallery takes notes from the stenographer's television screen. This is the image that is feed back to the public inquiry via the right-hand television screen.

The significance of these televised hearings becomes more apparent if we consider why Lord Hutton refused permission to broadcast the entirety of the public hearings, only allowing recording of the opening and closing statements of counsel.¹⁰⁹ Hutton's reasoning is worth quoting at length,

The Inquiry relates to matters of very great public interest and will be attended with very widespread publicity and comment. Those who give evidence will be placed under strain

¹⁰⁹ Lord Scott made a similar decision during the Arms to Iraq Inquiry in 1992, stating that: "There seemed to be a danger that the presence of television cameras might unfairly increase the inevitable pressure on witnesses resulting from the public character of the hearings." (Hutton, 2003b)

even if their evidence is not filmed and broadcast on television. But the strain will be all the greater if they know that their evidence is being filmed and broadcast and that *every answer, every qualification or correction of an answer, every hesitation, every facial expression and every alteration of their posture will be watched by hundreds of thousands of people on their television screens and will be liable to be replayed on television on a number of occasions*. That this is a very real consideration is demonstrated by Mr Robertson's submission that it is desirable that members of the public should be able *to see the demeanour and body language of witnesses to make their own assessment if they are being truthful*. (Hutton, 2003b)

Hutton's words are strikingly reminiscent of Bentham's description of the public gaze at work in the political assembly – discussed in Chapter Two – in which “objects to which publicity ought to extend to include: the tenor of every motion; the tenor of the speeches or the arguments for and against each motion; the issue of each motion; the number of votes on each side; the names of the voters” and so on (Bentham, 1843c:314-15). In Chilcot's inquiry this gaze is at work. Through the arrangements of studio lighting, television cameras, stenography and the public gallery, the hearings perform the function of the public gaze. Like Bentham's panopticon-esque political assembly, the inquiry's public hearings can be understood as part of a formula of power through transparency, “an apparatus of total and circulating mistrust” (Foucault, 1980b:158). The architectural features of the assembly stem from a centrally positioned committee who conduct a confession from the witness; in a prominent position, the public gallery is full of random, irregular, and anonymous strangers, a constant reminder of the imminent public scrutiny in the hearing; the tenor of every word is recorded. Meanwhile the paper trail, guarded by Butler and revealed by Hutton and Chilcot, provides a basis against which the audience could judge what the witness is saying in the present against what had been said in the past.

The Butler Committee wanted to ‘separate assessment from advocacy’ so that, in the future, the actors within the public sphere could test and contest the government's interpretation of the behaviour of the Iraqi regime and the threat it presented. In contrast, this third lesson of the inquiries provided a basis against which those same actors could judge the behaviour of statesmen in the past against normative standards. One important set of standards are those norms of publicity re-established by the inquiries, discussed above. The audience could, through examining every available facet of a statesman's performance afforded by the technologies of the inquiry¹¹⁰, ask whether the government were intentionally inaccurate, played within language to create misunderstandings, suppressed inconvenient facts or sincerely believed in a policy, whether the statesmen was mad, bad or had.

¹¹⁰ Not all the gallery members trust the view that the inquiry technologies provide. During one hearing, a member of the public gallery insisted on sitting in the seat directly behind the witness. Whether the witness was telling the truth, according to this gallery member, could be determined from the witnesses of body language – specifically how and if the witness moved his feet. Another regular member of the gallery insisted on taking her own transcript of the inquiry, believing that the stenographer missed crucial points.

Taken together, the exposure facilitated by Hutton and Chilcot coupled with the protection of official record-keeping by Butler, constitutes the public gaze as an apparatus of disciplinary power. Like Bentham's panopticonic assembly, the Iraq inquiries ingrain an impression in the minds of statesmen that their actions may be under constant surveillance. Words uttered in an official meeting, recorded in minutes, even scrawled in a diary or typed in an email or text message may one day be made visible, and the statesmen will have to defend their words whilst every aspect of their behaviour is observed. At stake in their performance are their future career, political legacy and freedom. The combination of recordkeeping and the ad-hoc gaze constitute an apparatus of mistrust that can be constituted at any time. The public gaze helps actors in the public sphere to come to an understanding about what happened – about “who, by their behaviour, made how much difference to what did and didn't happen” (Runciman, 2004:3) – but the gaze also contributes to the governance of the political community by disciplining statesmen toward self-government in accordance with hypothetical publicity in the future.

These three ‘lessons’ of the inquiries – normative standards of publicity, the separation of advocacy and assessment, and enactment of the public gaze – combine to constitute the official discourse and governmental rationality of the Iraq inquiries. At this point, the contestation reappears between *raison d'état* and liberal governmentality, and between actual publicity and political secrecy as the appropriate rationalities and technologies of securing the political community. Chapter Four showed how official secrecy endures despite the pressures to open up the state in the inquiries. This secrecy is often justified for two reasons. The first reason is to protect the security of the state against future harms – examples included intelligence sources or diplomatic channels. The second reason is to protect the security of the liberal citizen against future harms – in this sense secrecy protects the note-keeping and minute-making practices that inquiries depend upon; publishing the minutes of a meeting in Number 10 might harm future acts of publicity by encouraging statesmen to conduct their meetings off-the-record and in dark corners. The legitimacy of secrecy endures by rendering actual publicity as the greater source of insecurity to *liberal* aims of governance, an insecurity that can only be mediated by secrecy.

Yet this legitimate enactment of enduring official secrecy is in decline throughout Britain's season of inquiry. With secrecy comes the need to trust; there is a secrecy effect whereby those who know are separating from those who don't know *but* know that there is a secret. With the need to trust comes suspicion amongst those actors in the public sphere of iniquity and ineptitude. From the initial refusal to provide documentation to the FAC, to the declassification of hundreds of documents in the Iraq Inquiry, justifications for continued official secrecy constitute a small number of cases. The disagreement between

the inquiry and government over the declassification of the documents described in the previous chapter only serves to heighten the suspicion of wrongdoing. If the inquiry and the government can't agree about what needs to be secret, claim critics, how can those outside the inquiry have confidence in it? (Ames, 2010a) Critics contend that official secrecy is being used to hide wrongdoings that would not be defensible in public. Lord Owen, a former foreign secretary and privy councillor, regarded the Cabinet Office refusal to declassify the Blair/Bush exchanges as an indication of an attempt by the “culprits” Blair and Cameron to “hid[e] behind convention that are totally inappropriate given the nature of the inquiry” (Owen, 2013). Critics argue that an act of transparency is a necessary response to culture of secrecy and the loss of trust. Whilst the Cabinet Office's metaphor of balance is always predisposed toward secrecy as the ultimate guarantor of security, critics locate the ultimate guarantor of security in the gaze of publicity, especially in those circumstances where a secret is suspected and that secret is a suspected wrongdoing. Critics assume that taking away the right to official secrecy will have a substantive impact upon UK foreign policy. Revealing what one leader had said to another might be damaging but, given the suspicion of wrongdoing that surrounds these exchanges, keeping these exchanges secret might be more damaging because the executive are not being held to account according to the norms and liberal democratic values of the UK (Ames, 2010b). In the final section of this chapter, I will argue that the inquiry reform, and this desire for actual publicity, protects the legitimacy of the liberal way of war.

The Hidden Lesson: Re-inscribing the Political Imperative for War

The lessons of the Iraq Inquiries seek to protect the normative standards and practices of public deliberation that generate the conditions for a liberal way of war. The question remains, however, as to whether such lessons would have rendered British participation in the Iraq War as illegitimate. Leader of the Liberal Democrats Nick Clegg has argued that openness in The Iraq Inquiry is required so that “everyone understands how the decision was reached so that we can learn lessons and make sure we never again have a government hell-bent on going to war and able to bamboozle Parliament and the British people” (cited in Bingham, 2010). Based on the research in this thesis, and based on the different understanding of the relationship between publicity, secrecy and security that I have claimed, I will now argue that the legitimacy of Blair's case for war remains unchallenged. This is despite the three lessons of the inquiries, which in fact support the case for war.

Much of the inquiries' focus has been on aspects of the case to go to war that were not instrumental to the government's decision or to the support it received, such as the 45 minute claim, the February dossier, and so on. At the time, these dossiers and claims contributed very little to the debate, instead the struggle over the case for war took place on the basis of normative questions like 'what is the standard of proof for threat?' and 'how is the urgency of threat to be judged?' In this regard, the Labour Government, and Blair in particular, consistently put forward a specific understanding of 'threat' and a particular meaning of 'security'. This understanding of what constitutes a threat, and what constitutes security practices from that threat, has remained fairly stable without being challenged. On 18th March 2003, Blair outlined the British Government's case for waging war against Iraq, and for why the threat posed by Iraq was serious and urgent.

What is the claim of Saddam today? Why exactly the same as before: that he has no WMD. Indeed we are asked to believe that after seven years of obstruction and non-compliance finally resulting in the inspectors leaving in 1998, seven years in which he hid his program, built it up even whilst inspection teams were in Iraq, that after they left he then voluntarily decided to do what he had consistently refused to do under coercion... We are now seriously asked to accept then in the last few years, contrary to all history, contrary to all intelligence, he decided unilaterally to destroy the weapons. Such a claim is palpably absurd...Saddam is playing the same old games in the same old way. Yes there are concessions. But no fundamental change of heart or mind...It is dangerous if such regimes disbelieve [our willingness to use force]. Dangerous if they think they can use our weakness, our hesitation, even the natural urges of our democracy towards peace, against us... Iraq he is not the only regime with WMD. But back away now from this confrontation and future conflicts will be infinitely worse and more devastating.¹¹¹

In this passage Blair makes a series of claims, which I discussed in Chapter Three. The threat of Iraq is constructed from three claims about the regime: its aggressive intent, its capacity and capability to produce WMD and the incalculable destruction that could result from terrorist organisations armed with such WMD. The urgency of the Iraqi threat is justified by three further claims: a history of rogue behaviour including the past use of WMD, obstruction of the UN weapons inspectors through concealment and deception and the failure of existing containment and inspection programmes to prevent such behaviour. After Lord Hutton published his report, Blair spoke again in parliament.

Let me make one thing plain: it is absolutely right that people can question whether the intelligence received was right, and why we have not yet found weapons of mass destruction. There is an entirely legitimate argument about the wisdom of the conflict. I happen to believe now, as I did in March, that removing Saddam has made the world a safer and better place.¹¹²

¹¹¹ HC Deb 18 March 2003, vol 401, col 767

¹¹² HC Deb 28 March 2003, vol 417, col 339

Through his review of the circumstances leading up to the death of David Kelly, Hutton did not challenge any of the six claims about the nature and urgency of the Iraqi threat. Instead Blair reiterated his argument that the removal of Saddam had made the world safer. Six months later, responding to the Butler Report in parliament, the Prime Minister told the House “I have to accept ...it seems increasingly clear that at the time of invasion Saddam did not have stockpiles of chemical or biological weapons ready to deploy.” Yet Blair still defended his decision,

Is it now the case that in the absence of stockpiles of weapons ready to deploy the threat was misconceived and therefore the war was unjustified? I have searched my conscience - not in a spirit of obstinacy but in genuine reconsideration in the light of what we now know - in answer to that question. And my answer would be that the evidence of Saddam’s WMD was indeed less certain, less well founded than was stated at the time. But I cannot go from there to the opposite extreme. On any basis he retained complete strategic intent on WMD and significant capability. The only reason he ever let the inspectors back into Iraq was that he had 180,000 US and British troops on his doorstep. He had no intention of ever cooperating fully with the inspectors and he was going to start up again the moment the troops and the inspectors departed or the sanctions eroded. And I say further that had we backed down in respect of Saddam we would never have taken the stand we needed to take on WMD, never have got the progress - for example on Libya - that we achieved, and we would have left Saddam in charge of Iraq with every malign intent and capability still in place and every dictator with the same intent everywhere immeasurably emboldened.¹¹³

There was no conspiracy. There was no impropriety. The essential judgement and truth, as usual, does not lie in extremes. We all acknowledge Saddam was evil and his regime depraved. Whether or not actual stockpiles of weapons are found, there wasn’t and isn’t any doubt Saddam used WMD and retained every strategic intent to carry on developing them. The judgement is this: would it have been better or more practical to have contained him through continuing sanctions and weapons inspections; or was this inevitably going to be at some point a policy that failed? And was removing Saddam a diversion from pursuing the global terrorist threat; or part of it?¹¹⁴

Once again Blair makes the same six claims: claims about the Iraq threat – intent, capability and the threat of terrorist WMD – and claims about urgency – historic behaviour, obstruction of the UN, and the failure of containment and inspection. Again, the Butler Report does not challenge any of these claims. Indeed the committee concluded that the government’s decision in 2002 to pursue the enforcement of Iraqi disarmament “was not based on any new development in the current intelligence picture on Iraq” (Butler, 2004b:105). There was a “clear view” in government that any successful action to enforce Iraqi disarmament and compliance with the UN would require “the credible threat of force”. Whilst the committee recognised “many grounds for concern”, largely based on Iraq’s past record and behaviour, “there was no recent intelligence that would itself have given rise to a conclusion that Iraq was of more immediate concern than the activities of

¹¹³ HC Deb 14 July 2004, vol 663, col 1255

¹¹⁴

some other countries.” Instead, the government was influenced both by “concerns of the US Government” and “the wider historical and international context, especially Iraq’s perceived continuing challenge to the authority of the United Nations” (Butler, 2004b:105). Both Butler and Hutton showed that “the road to Baghdad was not paved with intelligence product” (Hennessy, 2004:77). In his appearance at The Iraq Inquiry in 2011, Blair reiterated the claims once again

Here is the judgement you have to make ...Saddam Hussein had known for many years that he should be letting inspectors back in ... He had been in breach of UN resolutions going back over ten years ... There was a history of concealment and deception ... let’s suppose in March 2003 we had said “Okay. He is doing enough. We will stand down the troops... The question is ...if he had not changed his mind about his essential belief in the importance of these weapons, and ...he continued to harbour both nuclear and chemical ambitions. ... Would he have carried on cooperating when all that military pressure was off him ... Is that a risk that even knowing what we know now we should run? (Blair, 2011)

The Iraq Inquiry has yet to report, but how the inquiry treats this claim will be important. The claim is Blair’s sincere belief about the threat and urgency of Iraqi threat. The report may support it, it may criticise it, but if it follows the trend thus far, it will be silent.

Existing scholarship provides a couple of explanations as to why Blair’s line of argument has been subject to little direct criticism from the formal public spheres of parliament and the inquiries. One line of argument points to the constitutional architecture of the UK which allows ‘presidential’ Prime Ministers to take the country to war for reasons of national interest – particular where that perception of national interest does not marry with a clearly defined public interest (Beetham and Weir, 1999; Doig and Phythian, 2005). Blair’s success in gaining parliament’s assent for the case for war was assisted by a tendency for the legislature to be “inhibited by a view that it is damaging to the national interest to be critical” (Hill, 1997:146). Furthermore, as I argued in Chapter One, the government could use its monopoly on access to intelligence to cajole wavering Labour MPs to join the government, whilst the whips pressured backbenchers with the threat of an impoverished Labour party should the vote be lost. Despite these factors, however, parliament had to accept an argument that was justifiable within the limits of public reason. Labour MPs, and crucially the Conservatives, support the Blair Government’s argument for war based on the six claims of threat and urgency.

The second line of argument concerns the inquiries themselves. Doig suggests that Hutton and Butler were ‘barking up the wrong tree’ by looking at the intelligence available and how accurately it was used, rather than examining “the policy imperative” that the dossiers – and Britain’s wider case for war – was meant support (Doig, 2005:122). The policy imperative, I take it, is precisely the six-fold claim of threat and urgency. This reticence may be explained by a reluctance on the part of Hutton and Butler to challenge

the executive's definition of the national interest, as doing so would break with the fundamental purpose of an inquiry to find an official narrative or discourse that renews public trust and faith in the state whilst identifying temporary problems to be solved. Doig remarks that the Hutton and Butler reports were silent on the validity and implications of policy imperative, instead focussing on "while mistakes are made and over-enthusiasm occurs, both occur in pursuit of the interests of the state, or the nation interest, and therefore with justifiable intent" (Doig, 2005:122). I have shown that the blame, where it was attributed, was for failing to act in accordance with norms of publicity rather than a problem with the policy itself. Understanding British participation in the Iraq War, Doig claims, is less about evidential proof of threat and more about understanding how "action is not just desirable but essential at a particular point in time when circumstances or information dictated it" (Doig, 2005:122). Governments have always acted in circumstances of weak public and legal support, Doig claims, when to act "satisf[ies] *their perceptions* of the national interest" (Doig, 2005:122 emphasis added). Doig's explanation, however, is still a partial explanation. We need to understand what that policy imperative is, and why challenging the imperative would challenge the authority of the state in a way that would destroy the basis of public faith.

I argue that Blair's case for war is of the fourth kind of 'spin' discussed above. The advocated course of action is based on claims that originated beyond the government's own intelligence, and the claims were legitimated by a large proportion of actors in the domestic and internal public spheres. The advocated course, furthermore, was one that used the rationality of governance through which actual publicity is deployed as a technology of security. In keeping with my claims in Chapter Three, this suggests that the British case for war against Iraq was one that is fundamentally compatible with the terms of liberal governmentality and the liberal way of war.

Concluding Remarks

The lessons of the Iraq inquiries have been three-fold: to re-establish normative standards of publicity; to ensure that a record of the state was kept, against which the actions of the state could be judged against these norms; and to periodically check the trust invested in the state to act in accordance with hypothetical publicity by exposing the state to the mistrustful gaze of actual publicity. These lessons share fundamental similarities with rationality of governance expressed by the international community leading up to the Iraq war – as I argued at length in Chapter Three.

Firstly, the norm of verifiable weapons control between states emerged in the latter half of the twentieth century. This norm required states to provide sincere and accurate declarations concerning weapons stockpiles. Secondly though, weapons control does not rest on trust; in Han's Blix words it is a system of distrust. States must submit themselves to weapons inspections. This submission requires that the state holds reliable records of the weapons, weapons related materials and production facilities. This submission also requires the state to wilfully engage in actual publicity with the verifying actor – in this case the United Nations. The combination of norms of behaviour coupled with the ever-present possibility of an inspection constitutes a panopticonic apparatus of security for the international community. I argued that a liberal rationality of government, in which hypothetical publicity is a norm of self-government, is writ large as an international governmentality. This in turn constitutes the problem of the state that appears to be unable or unwilling to self-govern according to these norms and, as such, constitutes the conditions of possibility for a liberal way of war. Good liberal states ought to self-govern according to these norms, but disciplinary gaze serves to compel subjects in this way.

Liberal IR scholarship incorporates these expectations into the democratic peace thesis, suggesting that liberal democratic states will act openly with each other and thus avoid conflict; non-liberal states may not act openly, refuse to allow verification of claims of disarmament, and thus produce the possibility of conflict. In the case of Iraq, after the Gulf War the United Nations sought to subject Iraq to intensive inspection and verification programmes in order to confirm that the disarmament requirements of UNSC 687 were being obeyed. Both UNSCOM and UNMOVIC, however, complained that Iraq was not wilfully engaging in acts of publicity sufficient to demonstrate compliance. Conversely the inspectors claimed that Iraq engaged in acts of obstruction, deception and concealment. The British Government emphasised these events, positing that the urgency of Iraqi threat was determined by the inability of existing programmes to successfully unveil a state with a history of rogue behaviour, intent, and capacity. Blair thus emphasised the uncertainty posed by the existence of the Iraqi regime under Saddam Hussein. Uncertainty, as I noted in Chapter Two, is objectified as insecurity and mediated by rationalities of security. Secrecy was the object of insecurity; actual publicity was the mediation. By justifying the war on the grounds of continued Iraqi obstruction and secrecy, Blair manipulated the deeply rooted rationality of governance found in liberal governmentality.

The Iraq inquiries and the British Government's case for war are both bound up in this rationality of governance anchored in a specific relation of publicity with security. If the inquiries validated the continuation of official secrecy by the British Government, this would acknowledge that exceptional acts of secrecy for the sake of security had become the

norm; this would destroy the distinction between liberal self and illiberal other upon which the identity and legitimacy of the British state relies. Instead the inquiries push for actual publicity in order to verify the government's claims that it obeys the normative standards of publicity.

The British Government, however, manages to protect the justification for British official secrecy in a way that the Iraqi regime could not. The British Government's use of the public interest test in the Iraq inquiries and elsewhere allows official secrecy to be justifiable, because the norm of publicity is set against the harms, or insecurities, of publicity to liberal interests. In this instance acts of secrecy protect against the possible harms of an act of publicity. In the context of the build-up to the Iraq War, there was no way that Iraq could defend the exercise of secrecy in a similar way. The international community had already constructed Iraqi secrecy as a source of insecurity to liberal international governance.

For the Iraq inquiries to contest the British Government's case for war, they would have to argue that an actor, suspected of wrong doing, could be trusted to keep secrets and that this trust would be sufficient to stave off conflict. This argument may be possible but public inquiries are ill suited to make it. Contesting Blair's narrative meant contesting the uncertainty of the secrecy effect, contesting the fear of liberalism about the iniquity and ineptitude hidden by official secrecy. Prior to war, a few MPs did make the argument that Britain should 'wait and see'; it should trust in the inspectors and give Iraq a chance to provide an acceptable and verifiable declaration. But this is not an argument easily made by an inquiry designed to dispel controversy through acts of publicity. Lord Butler noted that the purpose of the September Dossier was to say "we really think this guy is a threat, because he's got this terrible stuff, he's a very bad man, nobody's got any idea what he may do with it." Butler then said: "if you say that we're only drawing this conclusion on the evidence we've got, and the direct evidence we've got is thin because Iraq is a very difficult country to penetrate — that would have weakened [the government's case]" (Johnson and Butler, 2004). I disagree. I disagree because by the time Blair made his speech to parliament on 18th March 2003, the absence of clear evidence for or against the Iraqi threat did not seriously hamper the thrust of the argument. Indeed the government sometimes made use of the uncertainty of the true nature of the Iraq regime as part of the call for action – the emphasis on Dual Use facilities from Chapter Three is an example.

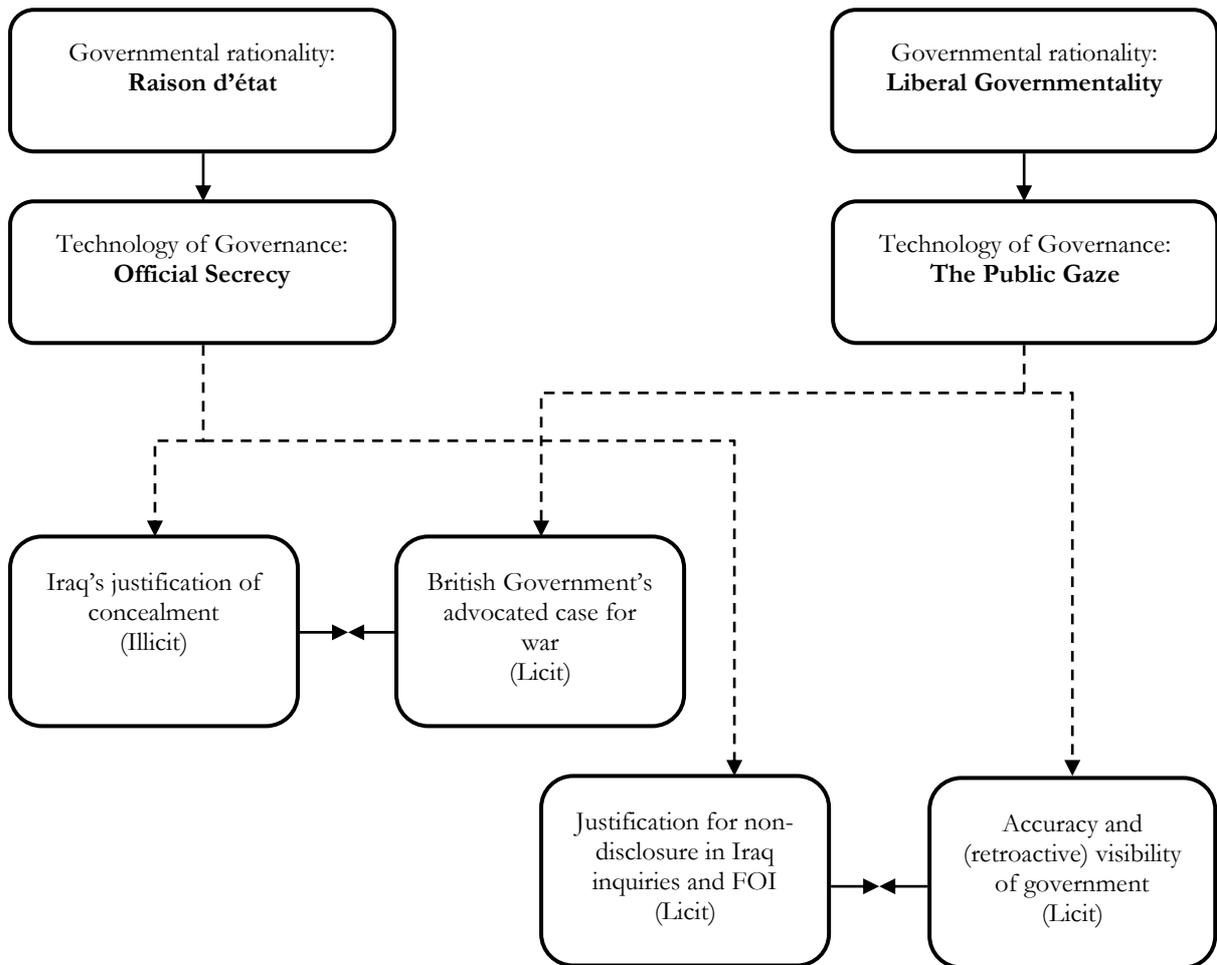


Figure 30. Publicity and Secrecy as Jointly Constitutive of Liberal Security

I express my argument in diagrammatic form above. I started with the question of how the government could practice official secrecy under suspicion of wrongdoing and still claim a liberal identity. In this thesis I have shown how both *raison d'état* and liberal governmentality are important rationalities of governance for the liberal state. Each rationality is anchored in local technologies of governance: *raison d'état* is supported by the keeping state secrets – *arcana imperii* – whilst liberal governmentality is supported by a concept of publicity. The concept is double-edged: on the one hand it includes norms of behaviour and on the other had it includes acts of publicity that discipline actors toward, and verify adherence to, those norms. One technology provides security of the state; the other provides security of the liberal subject. *Both* technologies support the *liberal* 'security dispositif': the exercise of freedom without too little or too much government. Each technology secures the dispositif in a different but mutually supportive way depending on how either secrecy or publicity is constituted as a source of security and insecurity.

During the course of the events surrounding British participation in the Iraq War acts of both publicity and secrecy were legitimated. On the one hand, both the British case for war and the subsequent lessons of the Iraq inquiries are practices of the public gaze legitimated as part of the discourses of liberal governmentality: when an actor is suspected

of wrong-doing, secrecy constitutes a form of insecurity to be mediated by exposure to the public gaze. On the other hand, discursive framework of the balance metaphor ensures that the British state can legitimately maintain a minimum level of official secrecy in the interests of guarding against too little government. Ensuing from the rationality of *raison d'état*, publicity is rendered as a source of insecurity to be mediated by acts of secrecy, which protects the value of privileged information to secure the state in international relations or protect the official record of government conducted behind closed doors, a protection that serves the needs of liberal governance.

In this way, British official secrecy, the inquiry lessons and the British case for war are made compatible under the of contemporary material-discursive security dispositif. The exercise of Iraqi secrecy, however, is not. Appeals by Iraqi officials for the international community to trust Iraq and to respect its sovereign right to state secrecy were rejected by the British Government who represented secrecy as shrouding the unknown nature of the Iraqi state – which subsequently turned out to be devoid of WMD – as an urgent threat. The affinity between the lessons of the Iraq inquiries and the political imperative behind the government's case for war should not be surprising. Both seek to promote the self-governing subject of liberalism, who exercises their 'freedom' within certain responsible limits. Hypothetical publicity sets those limits; actual publicity and political secrecy are legitimate when they facilitate the keeping of those limits. For liberal political theory, the problem is always what to do with the state that will not be 'free'. The legitimacy of war is gauged on the perception of publicity norms. In Lipson's words, "in a dangerous world, where there are often gaps between promises and performance, secrecy fosters suspicion"; Other than through acts of publicity there are few ways to confidently rule out bad faith" (Lipson, 2003:106). Especially in matters of security, democracies demand a right to verify compliance – this applies to governments at home and abroad; liberal governmentality does not depend on blind trust. Where secrecy cannot be justified on liberal grounds, the barbaric or savage subject is always a threat. Contesting this rationality of governance does not simply mean mediating the uncertainty constituted by secrecy in other ways; it would require an abandonment of the objectification of secrecy as uncertainty, and a toleration of the nonliberal subject.

Conclusion

Publicity is not balanced against security. This thesis rejects this trope and instead recovers the frame in which publicity and secrecy co-constitute liberal security. Rejecting this trope is important. I began this thesis with an anecdote from the Iraq Inquiry, in which Tony Blair tried to refer to a document that, although anyone could download it from the Internet, could not be publicly acknowledged. The resulting laughter pointed to an apparent contradiction between the state-sponsored inquiry's self-proclaimed adherence to the 'ideal' liberal democratic principles of openness and the 'realistic' endurance of official secrecy in the interests of national security; the resulting protests suggested that the UK had reneged on its duties as a liberal democracy. Rejecting the balance trope and recovering the co-constitutive claim dissolves such dilemmas and allows us to grasp a far richer account of the security practices and ways of war that are distinctive to liberal democracy, and which emerge from the problematisation and governance of publicity and secrecy. Recovering this co-constitutive claims enriches our understanding of liberal governmentality (Chapter One); it furthers our understanding of how the liberal state and the concern with too much and too little government is maintained through norms of hypothetical publicity *and* practice of either actual publicity or political secrecy (Chapter Two); it shows how the day-to-day ordinary politics of liberal democracy always already problematise an object of insecurity – the subject that won't or can't act according to hypothetical publicity (Chapter Three); it allows us to understand how the endurance of official secrecy can be justified as commensurate with the concerns of liberal governance (Chapter Four); and it reveals the manner in which instruments of public accountability like public inquiries are internal to, and silently supportive of, this strategy of liberal security and the violence committed in its name.

In this conclusion, I address four matters. Firstly, I will briefly review the key points of the argument. Secondly, I show how these points apply today by reflecting upon a recent engagement with a political event concerning the Iraq inquires. Thirdly, I will make some remarks about the kind of political critique that can be pursued given the claims in this thesis. Finally, I will describe some areas for future research that emerge from this thesis.

Securing Liberal Governance, Securing Hypothetical Publicity.

The argument in this thesis was summarised at length in the introduction, and in the course of Chapter Five. In this conclusion I will emphasise three key elements of the argument. Firstly, *the aim of liberal governance is facilitated by hypothetical publicity*. Regardless of whether the state is practicing actual publicity or political secrecy in a given moment, what makes the liberal state liberal is whether these practices are conducted in accordance with hypothetical publicity. The aim of liberal governance, building on Foucault's diagnosis, is the achievement and protection of good economic circulation among a set of 'free' liberal subjects who exercise their autonomy responsibly. The liberal subject requires, and is secured through, the norms of hypothetical publicity. The goal of liberal governance, maximum economy, depends on a balance between too little and too much government. On the one hand, too much government, too much regulation, tramples upon the 'natural' properties of the liberal citizen and civil society. On the other hand, liberal governance must be concerned with protecting against too little government, with ensuring that subjects really are self-governing according to the norms of hypothetical publicity. This means that liberal governance must protect the political community *including* the state, but only insofar as this intervention facilitates liberal governance, and only insofar as this intervention protects liberal subjects and their practices of economic circulation from those barbarians and savages beyond.

If the aim of liberal governance is facilitated by hypothetical publicity, the exercise of either actual publicity or political secrecy is legitimate only when it serves to ensure the subject's exercise of those norms. Liberal governance does not require actual publicity on a day to day basis, because when the subject behaves beyond the eyes of society, these behaviours are assumed and trusted to be legitimate. *Actual publicity is a disciplinary apparatus of power directed toward the problem of the subject that will not internalise those norms*. The subject of liberal governance is always a divided subject. As a subject divided from within, liberal governmentality invites the subject to conduct him or herself in accordance with the norms of hypothetical publicity. Actual publicity serves as a disciplinary apparatus of power that compels the subject to act in accordance with the norms of hypothetical publicity, through the impression of surveillance. When subjects are exposed to the gaze of publicity, the legitimacy of the subject's action is redeemed or denied through the actual exposure and comparison of these behaviours against expected norms of behaviour. This panopticonic gaze of publicity is found in domestic and international politics. I have shown how the Iraq public inquiries attempted to expose the government to the gaze of publicity when the government's legitimacy as a trusted, self-governing institution was placed in doubt. I have

shown how the same gaze of actual publicity and the same ideas of disciplinary power underpinned the UN inspections programme in Iraq. In the latter, the apparent failure of the gaze of publicity to compel the subject toward self-government laid the conditions of possibility for liberal war. The liberal subject is not just divided from within but also divided from others, that other is the subject that rejects life as a 'free' subject of liberal governance. Through the apparent failure of UNSCOM and UNMOVIC to prevent Iraq's rogue behaviour, Iraq appeared as this other, a subject that refused to conform to the norms of hypothetical publicity and, so it seemed, refused to adjust its behaviour under the gaze of publicity. Whilst the production of greater uncertainty was not the aim of the inspections, the practices had the effect of resolving Iraq's subjectivity as a barbarian regime that could not be trusted, even under the gaze.

In this way, the norms of hypothetical publicity that facilitate liberal governance are policed by actual publicity. I have shown in this thesis, however, that it is possible for the British government to continue to practice official secrecy because *the endurance of political secrecy can be legitimate when it is justified on liberal grounds*. The right to know, when it is denied, must be denied in such a way that such a denial appears to be in the interests of the liberal citizen and not only the security of the state for its own sake. Those interests are, in the context of the Iraq inquiries, contained in the list of public interests that a liberal state requires – diplomatic back channels for international relations, a safe space for deliberation, and so on. These places could constitute the insecurity of secrecy, but due to the ingenious manner in which the 'public interest test' positions the norm of actual publicity against future harms caused to the liberal state by publicity, official secrecy endures because it secures the basis for liberal governance from uncertainty.

Taken together, these three points suggest that in order to understand the activities of the Iraq inquiries, we have to move beyond 'Bliar'. The political responsibility for the Iraq War does lie with the Blair government insofar as Blair presented the case for war and created a sense of urgency. But at least in part, these conditions of urgency and this case for war was only possible because of the historically contingent rationality of liberalism, the objects of insecurity created by this rationality, and the production of Iraq as such an object through the material-discursive dispositif at work in the inspections. Equally, the political responsibility for the enduring secrecy over the Cabinet Minutes or the telephone conversation between Bush and Blair may lie with crooked statesmen and members of the Cabinet Office that wish to avoid embarrassment. But at least in part, the justifications for this secrecy are only possible because of the particular discursive framework of the public interest test.

The Limits of a Liberal Critique of the Iraq War

In February 2014, I participated in a conference organised by the Nonviolent Radical Party, Transnational and Transparty – an international non-governmental organisation – at the European Parliament in Brussels. The Nonviolent Radical Party is dedicated to pursuing nonviolent action to induce national and international institutions to comply with laws and principles. This particular conference was dedicated to the “right to know”, with specific reference to the difficulties encountered by the Iraq Inquiry in publishing official documentation regarding the decision to go to war. A section from the conference programme reads as follows.

The systemic use of the filthy “Raison d’état” has turned about 150 out of 193 Nation States into “real democracies”. This ...threat to “Democracies” – transformed almost everywhere into “Real Democracies” – is directed against the formal Positive Legal Norms and thus against the Rule of Law and Human Rights, and against the ...”Human Right to Know” what the State does in the name of Law and legality, and on behalf of the citizens in whose name it rules. (NRPTT, 2014)

The conceptual basis for the conference was that of a contest between “the rule of law” and “reason of state” – as the conference poster below illustrates. By framing the issue in terms of this contest rather than a balance between publicity and security, the conference advances the public discussion in one important point. By thinking about the problems of the Iraq Inquiry in terms of the rule of law versus reason of state, the terms of the debate no longer privilege only one subject of security – the security of the state. Resisting claims to reason of state through the superiority of the rule of law replays the historical emergence of the juridical subject of liberalism that was discussed in Chapter Two. This juridical subject emerges from the rule of law. The subject participates in liberal governance through parliamentary democracy, which is important because this facilitates the most effective system of governmental economy through a societal critique of ‘too much government’. This critique demands public access to information and it views official secrecy with suspicion because government behind closed doors cannot know the best course of action for every eventuality. Transparency and pluralism facilitates this societal critique. Actual publicity becomes a technology through which the liberal subject is secured, whilst secrecy represents source insecurity.



Figure 31. Poster from the NRPTT conference on the right to know: “Rule of Law versus Reason of State”.

At the top of the poster are three names. The NRPTT present Eisenhower, Spinelli and Rossi as symbols of the rule of law. Eisenhower warned of the military-industrial complex and likened military spending to theft from the public. Spinelli and Rossi authored the Ventotene Manifesto, calling for the democratisation and federalisation of Europe after World War Two.¹¹⁵ At the bottom of the poster, the NRPTT present Blair and Bush as symbolic of reason of state. Just as the Ventotene Manifesto drew a distinction between an old Europe based on sovereign states concerned with national power and a new Europe interested in unity, the NRPTT distinguish a concern for democratic institutions against a narrow interest in sovereign state at the expense of the public interest.

By seeking to reassert ‘rule of law’ over ‘reason of state’, the Nonviolent Radical Party are attempting to secure this liberal subject of security and the critique of too much

¹¹⁵ The completion of this manifesto depended on clandestine activities in much the same way as early social critiques of the British state emerged amongst the Freemasons (see Dean 2001 in Chapter Two). Spinelli and Rossi – whilst political prisoners – could not have developed the manifesto without their own form of political secrecy, which bears some resemblance to Grieve’s defence of cabinet secrecy discussed in Chapter Four.

government that this subject provides. The notion that the rule of law, and the right to know, facilitates this critique of government is encapsulated in the passage below.

The events following the invasion of Iraq persuaded us of the need to uncover the truth over the objectives, mode and circumstances under which military action was decided upon by Bush and Blair ...The top leaders and high officials, who fraudulently imposed the military invasion of Iraq in 2003, inflicted serious damage to more than just the American and British democracies...it is fundamental to act in order to allow the British Iraq Inquiry ... to publish its much awaited final Report. *By unveiling the concrete responsibilities and decisions made on the basis of Reason of State rather than the Sense of State, it will be possible to establish certain prerequisites for the restoration of authority and trust in democratic institutions and in the Rule of Law.* The meeting should thus create greater awareness on the institutional mechanisms that were overlooked or abused. (NRPTT, 2014)

In this passage, the Nonviolent Radical Party argues that going to war was a poor decision in terms of the principles of good governance. The passage argues that uncovering the truth about how decisions were made is a matter of *rejecting* the political doctrine of reason of state, which validates official secrecy as a means of securing the state; uncovering these truths would allow responsibility for the war to be laid at the feet of particular individuals who acted in accordance with reason of state; uncovering the truth would allow the rule of law to be re-established.

In one important sense, therefore, the work of the Nonviolent Radical Party exemplifies a richer and historically aware understanding of the relationship between publicity, secrecy and security because it rejects the necessity of the balance metaphor in which publicity and security are opposed. The Nonviolent Radical Party's account also acknowledges the intertwined relationship between *raison d'État* and liberal governmentality. But I disagree with the diagnosis that the Iraq War was brought about through the doctrine of reason of state. To some extent, it can be argued that the British government neglected the norms of hypothetical publicity in their presentation of the case for war. The government, in other words, fell victim to a kind of devilish reason of state. I have, in Chapter Five, shown how the inquiries have identified such failure. Yet this diagnosis ignores how Iraq became a problem subject of liberalism because it could not conform to international rule of law. Securing the liberal subject produced the divided subject, as I have described above. The conditions of possibility for the Iraq War preceded the action of the Blair government, and those conditions of possibility did not flow from reason of state, but from liberal governmentality. Liberal governmentality depends on actors internalising the liberal subjectivity. Individuals must internalise the norms of liberal governance so that they are produced themselves as liberal subjects. Yet there are those who are either incapable or unwilling to perform this subjectivity, and these individuals are at once excluded from but integral to liberal governmentality – they have an important

place in liberal governmentality in so far as liberal security is defined by its attempts to mediate such individuals. Chapter Three showed how, when writ large at the level of international relations, the norms of liberal governmentality pave the way to a liberal way of war against those subjects.

The Nonviolent Radical Party – alongside, perhaps, other figures discussed in this thesis, including FOI campaigners and critics of the Cabinet Office’s continued imposition of secrecy – may regard themselves as fighting against domination and repression, fighting against the doctrine of *raison d’État* and political secrecy because of the manner in which secrecy allows statesmen to abuse their powers. Through this thesis, I have tried to insert a note of caution. Foucault warns against any conception of power as a repressive device wielded by particular actors and institutions, because this narrow and incomplete understanding of power allows important mechanisms of governance to remain hidden (Foucault, 1990a). In particular, those individuals who regard themselves as ‘dominated’ by repressive power – such as those who consider their sexuality to be suppressed by law or, in the context of my own work, those who regard their ideal of transparency to be suppressed by state secrecy – have an interest in maintaining the visage of the juridico–discursive understanding the power. If, as Foucault advocates, power is conceived as creative and not just repressive, then these individuals would not be able to see themselves as simply resisting power. Put differently, positing power as prohibitive provides a space for those who are the subjects of interdiction to claim freedom through resistance. Yet by doing so, these individuals ignore the concealed and multifaceted dimensions of power in which practices of ‘resistance to repression’ are actually part of power relations and part of government. The will for a right to know is not simply a means of contesting the doctrines, security practices and power relations of *raison d’État*, the practice of actual publicity introduces a new set of power relations, a new subject of insecurity and a new justification for violence. Seeking to replace reason of state with the rule of law raises the question of what law? If we resort to the lawful reason of liberal governmentality, then we also pose the problem of what to do with the subject that won’t be ‘free’ and won’t act in accordance with the principles of publicity.

The Direction of Critique

We are, as liberal subjects, very familiar with how official secrecy and the doctrine of *raison d’État* impose a particular way of ordering social relations. The danger lies in thinking that norms of liberal governance are any more natural, or any less exclusionary. When security

is no longer considered as a natural state of affairs, “*every* ordering of social relations, and *every* ordering of social selves ... bears some cost in the form of violence” (Hayward, 2000:6). With the norms of publicity facilitating liberal governance, we need to consider how these practices of publicity, in both their hypothetical and actual forms, constitutes “a particular form of political power carrying a particular image of justice” that “displaces, competes with, refuses, or rejects other political projects, including those also aimed at producing justice” (Brown, 2004b:453;Odysseos, 2010).

I noted in the introduction that, if we only think in terms of a balance between publicity and security, we are caught in a kind of blackmail in which one either acknowledges the necessity of trading-off the democratic good of publicity against the needs for security, or one objects to this sacrifice and in so doing rejects security entirely. The former (those who defend security) claim the terrain of realism whilst the latter (who fight for publicity) are labelled as feeble idealists who are unwilling to acknowledge what needs to be done to protect the political community from harm. The same effect occurs if the norms of publicity are considered to be constituted through the natural telos of history and are universally constitutive of liberal government and security. This has the effect of constituting a “blackmail of the Enlightenment” whereby one is forced to be either for or against ‘reason’, when this ‘reason’ is actually a particular contingent knowledge (Foucault, 1984b). This critique does not mean that we have to reject any and all rationalities of government. It’s not a case that were are ‘damned if we do and damned if we don’t’, rather it’s a question of acknowledging how we are governed and govern ourselves. It’s a matter of acknowledging how the demands for publicity *produce* objects of uncertainty and threat, and how these demands constitute the struggle to tolerate homogeneity. In Foucault’s words, everything is not bad, but it is dangerous (Foucault, 1997b:256).

At the heart of this problem, and at the heart of what kind of critique is possible, is the critical attitude of enlightenment. On the one hand, the ideas of the enlightenment necessarily include the norms of publicity. The Kantian and neo-Kantian ideals of publicity and moral politics provide frameworks for the discovery of the universal and lawful use of reason. The Kantian framework exemplifies the critical attitude of Enlightenment that challenged the rule of the church and *raison d’État* by establishing a discourse of natural law constituting universal and infeasible rights that ought to be accepted by the state, and from which individuals could question any claim to truth by subjecting it to public reason (Foucault, 1997d). This shift is embodied in the phrase: “not wanting to be governed *like that*, by that, in the name of those principles, with such an objective in mind and by means of such procedures, not like that, not for that, not by them” (Foucault, 2007b:44). Enlightenment is thus closely aligned to the emergence of liberal governmentality, as I

described it in Chapter Two. Yet though liberal governmentality posits supposedly ‘universal’ norms of publicity, these are in fact limited and conditioned by particular and contingent ideas about human subjectivity, conditioned by historical and cultural circumstances (Simons, 1995:51-67). In turn, by claiming a quasi-transcendental status for the principles of communicative action, Habermas too re-inscribes the “episteme” of governmentality (Dean, 1999). It is in this way that liberal governmentality and the norms of hypothetical publicity posit the divided subject and the possibility of liberal war against the savage and barbarian figures.

Foucault, however, offers another interpretation of the critique at the heart of the Enlightenment project. Foucault argues that “the thread that may connect us with the Enlightenment is not faithfulness to doctrinal elements, but rather the permanent reactivation of an attitude – that is, of a philosophical ethos that could be described as a permanent critique of our historical era” (Foucault, 1984b:42). Critique, as I described in Chapter Two, has to be considered “not as a theory, a doctrine nor even as a permanent body of knowledge”, instead “it has to be conceived as attitude, and ethos, a philosophical life in which the critique of what we are is at one and the same time the historical analysis of the limits that are imposed on us and an experiment with the possibility of going beyond them” (Foucault, 1984b:50). Rather than seek a utopian rationality of government, we ought to study practical systems – what people do through the practice of publicity and how these practices lead to violence and domination. The critique is conducted in this thesis through the genealogical, archaeological and dispositif investigations in the central chapters. In the second chapter I described how the doctrines of *raison d’État* and liberalism constitute us as subjects who think about the insecurity of political life in particular ways and thus contribute to the constitution and reproduction of certain power relations. In the third chapter I illustrated how the performance of this subjectivity in the practical systems of international governance and inspections programmes constitute certain objects of insecurity and possibilities for war. In the fourth chapter I explained how a discursive formation of conception in FOI law makes the suspension of this technology of governance seem rational and calculated.

The difference between the first kind of enlightenment critique and the second kind of enlightenment critique is that the former is concerned with how to develop a lawful framework of reason and justice whilst the latter is concerned with how any framework of reason and justice comes to be accepted as lawful (Mills, 2010). In this second line of enlightenment critique, the aim is not to understand what forms of political behaviour are legitimate or illegitimate, but rather to understand how any given rationality of governance and technology of enactment *may* lead to mechanisms of coercion and domination. In this

thesis I have tried to show how the rationalities of *raison d'État* and liberalism become connected to security practices, come to be seen as “true” and how, in so doing, “a procedure of coercion acquires the very form and justifications of a rational, calculated, technically efficient element” (Foucault, 2007b:57). In so doing, perhaps we can begin to think about how the government of the self does not obviously have to be tied to the liberal ideals of publicity, with the exclusions and violence that this makes possible. We might ask whether it is given or obvious that the critical attitude toward enlightenment must be pursued through the technologies of publicity. This is of course an area for further research.

Areas of Further Research

Finally, I will briefly point out a few areas for further empirical research that emerge from this thesis. The first and most obvious direction for future research is an analysis of the Iraq Inquiry's delayed report and the reception that the report is given. In Chapter Five I suggested that the inquiries have thus far produced a coherent set of three ‘lessons’ that shape the communicative relations of the state and society in the direction of the norms of publicity, without fundamentally challenging the ‘national interest’ behind the case for war. When Chilcot's report is released, these questions can be put again: how do the inquiries identify failure in relation to the controversies of participation in Iraq War? What kinds of behaviours are legitimated, what kinds are condemned? What common purpose, rationality of governance or ‘way of doing things’ is relied upon by the inquiry as a route to the restoration of faith in the state?

The second area of research concerns the discursive frameworks through which official secrecy is contested. I have examined the peculiarly British discursive framework of the ‘public interest test’. Yet many liberal states have similar legislative frameworks relating to the regulation of a ‘right to know’. There is a potentially productive research project to be undertaken by applying the same archaeological methods to a comparative study of FOI frameworks and official secrecy legislation in liberal and nonliberal settings, in order to understand in greater depth how liberal states legitimise the endurance of official secrecy, even under suspicion of wrongdoing. What, on a comparative or global level, are the discursive rules that govern the right to know? And how did these emerge?

The third area concerns public inquiries themselves. There is a small literature that deals with the official discourse of public inquiries, particularly in Britain and the Commonwealth. Inquiries, as I have noted, are events where the legitimacy of the state is

thrown into doubt by apparent violations of the existential values of the liberal state. By examining the inquiry practices, we can see how the state seeks to explain failures and justify exceptions to supposedly foundational liberal values. In recent years there have been several public inquiries in areas of security and foreign policy – including the Baha Mousa inquiry and the ongoing Al-Sweady Inquiry. There is potential to take the methods and insights from this thesis and apply them to a study of these inquiries. By doing so, we can understand if, and how liberal governmentality can break down in one sense, whilst a broader, perhaps unintentional strategy of power continues. I have shown how the Iraq inquiries identify failures by agents to conform to the norms of hypothetical publicity (Chapter Five) whilst reinforcing broader, structural logic for a liberal way of war. From the wealth of public inquiries that continue today we can similarly examine how, for instance, liberal governance explains failures in individual official actors or agencies to observe human rights and freedoms, which kind of behaviours are regarded as wrong and which are accepted, and how these conclusions produce and reproduce ways of living and thinking that support the goals of liberal governance. Alternatively, perhaps we might find clues to forms of critique, public methods of scrutinising these controversies and lines enquiry that contest such governance.

Appendices

Appendix A: Freedom of Information Requests, 2005-2012

These statistics are based on data from the Ministry of Justice (MoJ), 2007; 2008; 2009; 2010; 2011; 2012a; 2013). This data applies only to requests received by departments of state.

Table 7. Resolvable requests received between 2005 and 2012

	2005	2006	2007	2008	2009	2010	2011	2012	%
Resolvable Requests	15,725	13,504	12,849	14,324	17,822	20,484	22,927	24,590	-
Granted in full	9,441	8,515	7,951	8,644	10,436	11,985	12,904	13,481	58.61%
Partially Withheld	2,319	1,707	1,440	1,592	2,125	2,731	3,172	3,261	12.90%
Fully withheld	3,343	2,585	2,864	3,040	4,112	4,857	6,217	7,326	24.15%

Table 8. Reason for fully withholding information

	2005	2006	2007	2008	2009	2010	2011	2012	%
Fully withheld requests	3,343	2,585	2,864	3,040	4,112	4,857	6,217	7,326	-
Vexatious FOI request	36	26	40	31	84	63	143	92	1.50%
Repeated FOI request	12	47	57	30	42	98	121	130	1.56%
Cost of response would exceed cost limit	816	1,100	1,294	1,504	2,030	2,225	3182	3,287	44.95%
Information is exempt /excepted	2,479	1,412	1,473	1,475	1,956	2,471	2771	3,817	51.99%

Table 9 Outcome of Internal Reviews

	2005	2006	2007	2008	2009	2010	2011	2012	%
Internal Reviews (with known outcome)	991 (817)	828 (634)	659 (475)	712 (588)	1,204 (972)	1,349 (1,259)	1,709 (1,609)	2,274 (2,134)	-
Upheld in full	633	496	351	440	735	964	1,224	1,559	75.42%
Upheld in part	128	99	71	91	150	195	244	307	15.14%
Overtured	56	39	53	57	87	100	141	268	9.44%

Table 10. Outcome of Appeals to Information Commissioner

	2005	2006	2007	2008	2009	2010	2011	2012	%
Appeals to ICO (with known outcome)	101 (15)	301 (68)	186 (51)	117 (25)	160 (61)	176 (89)	286 (173)	285 (143)	-
Upheld in full	10	46	31	9	42	64	133	95	68.80%
Upheld in part	1	10	10	7	7	17	18	19	14.24%
Overtured	4	12	10	9	12	8	22	29	16.96%

Table 11. Requests refused under applied exemptions

	2005	2006	2007	2008	2009	2010	2011	2012	%
Total requests exemption(s) applied	4,794	3,118	2,913	3,067	4,081	5,202	5,943	7,078	-
S.22 Information intended for future publication	246	246	317	291	478	673	618	772	10.06%
S.23 Information supplied by, or relating to, bodies dealing with security matters	219	153	142	148	150	246	271	293	4.48%
S.24 National security	167	133	122	123	96	168	286	264	3.75%
S.26 Defence	130	72	69	64	81	73	102	121	1.97%
S.27 International relations	479	312	230	261	287	324	454	357	7.47%
S.28 Relations within the United Kingdom	30	16	9	4	9	14	9	31	0.34%
S.29 The economy	35	17	20	26	69	19	57	76	0.88%
S.30 Investigations and proceedings conducted by public authorities	74	39	42	38	46	100	85	60	1.34%
S.31 Law enforcement	237	223	207	219	235	369	471	424	6.59%
S.32 Court records, etc.	33	70	62	63	153	241	179	173	2.69%
S.33 Audit functions	19	6	7	4	2	1	6	15	0.17%
S.34 Parliamentary privilege	8	8	0	0	1	1	2	5	0.07%
S.35 Formulation of Government policy, etc.	1,168	609	572	452	524	733	824	1,457	17.51%
S.36 Prejudice to effective conduct of public affairs	512	325	290	208	267	220	320	393	7.00%
S.37 Communications with Her Majesty, etc. and honours	87	83	36	53	46	38	63	56	1.28%
S.38 Health and Safety	113	102	83	108	112	96	141	125	2.43%
S.40 Personal information	989	848	695	1,021	1,622	1,916	2,347	2,614	33.30%
S.41 Information provided in confidence	345	218	232	226	217	219	286	272	5.57%
S.42 Legal professional privilege	295	141	133	141	174	145	190	170	3.84%
S.43 Commercial interests	576	470	342	385	542	616	786	866	12.66%
S.44 Prohibitions on disclosure	91	61	73	52	77	68	110	110	1.77%
Other exemptions	262	141	167	271	239	355	384	574	6.61%

Appendix B: The Iraq Inquiries: Publicity, Secrecy and Liberal War.¹¹⁶

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Since 2003 Britain has embarked on a series of public inquiries into the UK's participation in the Iraq War. These inquiries became necessary, in part, because of suspicions that the government had not been open and honest about the case for war. Yet the openness of these inquiries has been obstructed by the imposition of official secrecy. Britain identifies itself as a liberal democracy and as such is expected to act in accordance with publicity, but the persistence of official secrecy calls into question the neat dichotomy between liberal and illiberal states. The government defends official secrecy on the grounds of national security whilst critics claim that this defence is abused to protect individuals from embarrassment. I argue that there is not necessarily a dilemma between publicity and security, rather practices of publicity and practices of official secrecy are *both* apparatuses of security. The Iraq public inquiries represent a site of contestation between two 'techniques' of governing. Crucially I suggest that the suspicion of official secrecy and the act of 'making public' is constitutive of a distinctively liberal way of war. Those who demand 'open government' may re-inscribe a technique of governing that, when writ large at the level of international relations, supports a central aspect of the British government's case for war against Iraq.

¹¹⁶ A previous version of this paper was delivered at the Liberal Wars Conference at the University of Reading in July 2012. I thank Alan Cromartie, Andrew Schaap, John Heathershaw and Tarak Barkawi for their careful and insightful comments on previous versions of the paper. This research is supported by the Economic and Social Research Council.

Introduction

RT HON TONY BLAIR: It is worth just going to the -- and I think -- but forgive me if I mention a document and if you haven't -- but I think you have got the options paper we got before...

SIR RODERIC LYNE: The March options paper is in the public domain. You can get it on the Internet. I'm not certain offhand whether or not it has been declassified...

RT HON TONY BLAIR: Right. Maybe I will just say what it told me.

SIR RODERIC LYNE: ...by the government which was elected under your leadership.¹¹⁷

This exchange took place during a public hearing of The Iraq Inquiry in January 2010. While describing how his government's policy toward Iraq shifted after 11th September 2001, Blair referred to an 'options paper' that had guided discussions in Number 10. The paper had been leaked on the Internet months before. Yet the Labour government now refused to declassify the document – so whilst the inquiry committee had full access, it could not be shared or discussed in public hearings. The ex-prime minister attempted to offer a justification for his government's policy only to find that the government, which he had formerly led, refused to lift a veil of official secrecy. The public who watched the hearing had to trust Blair and the inquiry committee in their discussion of the document. Yet one of the reasons for having The Iraq Inquiry, and the reason for having open hearings, was a profound sense of public suspicion and distrust of government. A sense of the ridiculous hung in the air; the public gallery guffawed at the farce. Sir Roderic's smile betrayed a note of frustration, while Blair's wore a sheepish unease.

Behind the discomfiture of both men was the incongruity of official secrecy with UK's self-proclaimed understanding of itself as a liberal democracy. Liberal International Relations (IR) scholars have long claimed that 'publicity' is constitutive of a distinctive way of war and peace. According to Doyle, for instance, one of the "pillars" of the liberal democratic peace is a "republican representative democratic government" in which legislators and public opinion restrain the executive from acts that contravene the interests of the electors (Doyle, 2005:464). However this restraint can only be effective if the government also practices "publicity" – a term Doyle borrows from Kant and equates with "transparency" (although, as I will note below, the Kantian position does not necessarily support this equation). By practicing publicity liberal republics "signal" to each other that their stated intentions are "credible" because insincere declarations will soon be exposed as "rash acts and exposed bluffs", whilst regimes that fail to enact these principles of democratic openness are "perceived to be in a state of aggression with their own people" and thus "their foreign relations become, for liberal governments, deeply suspect" (2005:464). Practices of publicity thus help to constitute distinctive relations between liberal and illiberal regimes. Liberal regimes treat fellow liberals with "trust and accommodation" and "a presumption of amity", whilst non-liberals "suffer from a presumption of enmity" and are met with "distrust and opposition" (2005:464). The moral defensibility of war is partly founded in the knowledge that the liberal state operates in accordance with publicity whilst the enemy does not. (See also Gaubatz 1996; Kydd, 1997; Lipson, 2003)

Participation in the Iraq War both confirmed and challenged the UK's place in the liberal peace thesis. On the one hand, the British government's justification for war depended on the claim that the Iraqi regime practiced deception not publicity. On the other hand, the UK's identity as a liberal democracy was called in question when the

¹¹⁷ For an audio/visual record or written transcript of this hearing see (Blair, 2010)

government was accused of misleading the electorate and Parliament. Since 2003 several public inquiries have been appointed to scrutinize how the decision to go to war was made. (The most prominent have been those by the Foreign Affairs Committee; the Intelligence and Security Committee; and the Hutton, Butler and ongoing Chilcot public inquiries.) Many of the questions animating the inquiries have focused on whether the government deceived the citizenry about the factual basis and motive for war. The purpose of such inquiries is to provide an authoritative and convincing account that represents any failure as temporary in order to restore public trust (Burton and Carlen, 1979:48). In the context of the Iraq public inquiries, a convincing account has been difficult to produce because the government has kept certain evidence, such as the March Options Paper, secret. Whilst critics claim that individual statesmen have abused official secrecy to cover up embarrassing mistakes or private interests that could not be reasonably defended in public, the government claim that unrestricted openness would not be in the public interest because of the risk of harm to national security. In the language of the British government, publicity is balanced against national security. This calls into question the neat dichotomy between liberal and illiberal ways of war and peace; there appears to be an inconsistency between the liberal identity to which Britain ascribes and the constraints imposed by to security.

In this paper I offer a different understanding of the British practice of publicity and secrecy, and the relationship with security. I argue that practices of publicity and practices of official secrecy are both apparatuses of security. What is meant by 'security' depends on questions such as: security for whom? From what threat? By what means? And so on (Baldwin, 1997). By providing answers to these questions, the meaning of security is fixed within a particular field of knowledge, practice and expertise (Huysmans, 1998:231). One aim of this paper is to show how different answers to these questions emerge out of the history liberal governance, and how practices of publicity and secrecy emerge as solutions to problems that are discovered in the course of this history. On the one hand, official secrecy – *arcana imperii* – is a technique of governing that constitutes security *of the state* by protecting sensitive knowledge about the state's strengths, weaknesses. On the other hand, practices of publicity emerge as a technique of governing that constitutes security *of the individual*. This practice begins from a critique that the state, and the security of the state achieved through official secrecy, cannot protect the individual from the iniquities and ineptitudes of statesmen. By contrast, the act of making statecraft public – that is open and transparent – is a form of disciplinary power in the hands of citizens. Through a mistrust of government and a suspicion that official secrecy breeds abuses of power, the act of placing statesmen under the gaze of publicity provides an impression of constant surveillance. This impression compels statesmen to conform to wider societal norms. But both approaches, despite offering different answers to the questions of 'security for whom?' and so on, share the same underlying dynamic of security in modernity: to mediate a fear of uncertainty (Huysmans, 1998).

So rather than consider the tension between openness and secrecy in the public inquiries as balance between publicity and security, the inquiries are a site of contestation between two different apparatus of security. This understanding has two implications. The first is an alternative understanding of the British government's maintenance of official secrecy. The metaphor of balance functions as a sophisticated tool of governance whereby the British government links secrecy with security and publicity with insecurity. This does not necessarily mean that secrecy is being used to hide the wrongdoings. Instead the balance metaphor encourages the population to think *like a state*, and so think about the ways in which publicity could endanger the capacity of the state to protect the political community thereby rendering the future, along with the lives of the citizenry as fearfully uncertain. The second implication arises from understanding publicity an apparatus of security, and is directed toward those who demand the *act* of making inquiries transparent. There is an affinity between the demands for openness in the inquiry and the British

government's case for war. Legitimacy for war was claimed on the basis that the Iraqi regime concealed secrets about its weapons of mass destruction, which constituted a threat to the UK. The urgency of war was based on the existence of secrets, and the risk that might be posed by these secrets. Similarly, the demands for openness in the inquiry are motivated by the knowledge that official secrets exist, and the suspicion that these official secrets might include wrongdoings that violate societal norms. Obsessing, as we so often do, with making inquiries open intensifies a technique of governing based on the surveillance and, if necessary, coercion of those that continue to defy the gaze of publicity. The act of publicity is not opposed to security practices; it can be constitutive of them.

The remainder of the paper is set out in three sections. Firstly, I explore how the acts both of secrecy and publicity can be a source of security or insecurity for liberal democracies. Secondly, I describe how the act of publicity as a technique of security and the act of secrecy as a source of insecurity was embedded in the practices and discourses surrounding the British government's case for war. Finally, I note how advocacy for both official secrecy and the act of publicity creates a tension in the British public inquires. In this situation, the government's appeal to the need for a 'balance' between publicity and security is an effective means of resistance against calls for openness. On the other side, critics continue to demand openness to prevent abuses of secrecy by statesmen. Yet whilst openness is facilitates resistance against the state, it nonetheless constitutes a different strategy of security in its own right. This distinctively liberal strategy of security reinforces a central aspect of the government's case for war.

Official Secrecy and the Gaze of Publicity

In order to begin a differentiation between these different attitudes to secrecy, it is helpful to consider two ways of describing hidden knowledge. Calling the hidden knowledge of the state a 'secret' is a relative recent turn. Instead one could describe hidden knowledge as *arcana*, or 'mysteries'. One type of arcanum is the *arcana imperii*, the mysteries of state power. Throughout the sixteenth and seventeenth, a wealth of political treatises outlined an art of government based on *raison d'état*. Governing according to *raison d'état* required continuous inquiries and reports to collect technical knowledge about the reality of the state – its population assets, its wealth, areas of strength and weakness and so on (Foucault, 2007:236). This knowledge provided a new way of understanding what could happen in the future on the basis of the knowledge possessed in the present, knowledge that provided the sovereign with certainty as to what is the reality of the state was and what the state could be. With this knowledge the sovereign could move beyond an understanding of the future as "a whim of the gods"; the future could be calculated and risks could be weighed (Bernstein, 1996:1).

This new form of political knowledge also created the problem of the official secret because the beneficial effects of this knowledge would be lost "if everyone were to know what was going on" (Foucault, 2007:236). Official secrecy became "an essential tool of security" (Horn, 2011:108), precisely because secrecy protects the utility of this factual knowledge. From the moment that the knowledge of *raison d'état* is collected, "a precise codification of what can be and what must not be published is also necessary" (Foucault, 2007:236). The *arcana* represented a form of knowledge that was forbidden to most people (Keller 1990). In order to provide foundations for a political community – the state – *raison d'état* required the sovereign to act beyond the ordinary law by keeping mysteries hidden (Horn, 2011:106). Of course, this is not to suggest that deception was not advocated or practiced prior to the emergence of *raison d'état*. There is, nonetheless, an identifiable historical moment when sovereignty becomes a matter of governing an object – the state – and at that moment it becomes important to maintain a competitive advantage by keeping knowledge of this object secure and hidden. This official secrecy is not a tool for the protection of the individual ruler's interest; secrecy ought now to be exercised for a

common good – the protection of state and the population (Viroli, 1992:273-274; Burke 1991:481).

For this technique of governance, publicity is a source of insecurity. Governments keep official secrets in order to protect themselves and their subjects against external threats. This argument is often still heard from the intelligence community: for instance, it is argued that certain sources and methods will only be effective so long as they are kept secret, or that the identities of individuals must be kept secret in order to ensure the safety of operational staff, or that secrets shared between governments must be protected in order to save embarrassment to allies and, more importantly, maintain the likelihood that information will be shared in the future (Chesterman, 2011). It is an unfortunate but necessary side effect of this approach that government deceive the masses (Gibbs, 1995:214). But it can also be maintained that a further source of insecurity is public opinion itself. This is a position often implicit in Realist literature (see the reviews in Gibbs, 1995 and Holsti, 2004; and the work of Carr, 1939; Morgenthau, 2005; and Mearsheimer, 2011). The government, according to such writers, should create rather than be a slave to public opinion because the requirements of prudent foreign policy may not match the will of the citizenry. In either case the attitude towards publicity is best expressed by the fictional Sir Humphrey Appleby, “My dear boy, it is a contradiction in terms; you can be open or you can have government” (Jay and Lynn, 1980).

Yet secrecy can also be understood as source of insecurity, and publicity understood as a technique of security. Another way of describing hidden knowledge is as a “secret”. The root of word concept is *secretum*, meaning that which is separated or set apart. In this sense the secret refers to a social relation – a “secrecy effect” – separating those who know something from those who do not know but crucially *suspect* that there is something to know, without knowing anything about what the secret might be (Derrida et al.:246). Whereas the relationships of power constituted by the *arcana imperii* emerge from the value of a substantive piece of information that is forbidden to most people, the power relations constituted by the secrecy effect arise from the production of separating those who know from those who suspect (Derrida, et al.:246; see also Horn, 2011). This understanding of secrecy is embedded in the language of government today. A Secretary of State is, quite literally, one who is entrusted with keeping secrets. Interestingly, the word ‘cabinet’ as in cabinet minister or cabinet secretary – is derived from the Old French ‘cabane’ for a secret storehouse or treasure chamber.

This alternative conceptualisation of secrecy becomes more significant if the suspected secret is considered a source of insecurity. Official secrecy always contains the possibility of threat by creating a space, exempt from law, where violence and corruption may breed. It does not constitute a crime but it does “contain the *possibility* of criminal acts” (Horn, 2011:108). This leads to a suspicion that the secret is something that could not be legitimized were it to be public; that secrecy is not being used as part of a prudent strategy of power, but has instead become an opportunity for statesmen to transgress public law. The secrecy effect coupled with possibility of wrongdoing drives a public sphere obsessed with state secrecy,

Everybody either doubts or knows that ‘there is something’ ... This curiosity revolving around the political secret comes with a considerable degree of moralization: in a political culture that favours publicity and transparency, anything that refuses to be subjected to public scrutiny and debate is a priori unlawful and immoral (Horn, 2011:124)

State secrecy, accordingly, can be a source of insecurity as well as an apparatus of security. Of course, the suspicion of secrecy as a source of wrongdoing is not unique to liberal democracies. What is notable, however, is the emergence of institutionalised practices of publicity in Britain as a *response* to the secrecy effect and the suspicion of secrecy. The

problem of official secrecy in Britain emerged not because of the existence of state secrecy, but because of the public awareness of its existence and the possibility for abuse that secrecy entailed. In 1844, for instance, the Italian exile Joseph Mazzini uncovered the British government's practice of postal espionage. (Vincent, 1999:1-24). British liberals responded by demanding the unveiling of official secrecy. For the purposes of this essay, Bentham's writings on publicity serve as a helpful illustration. Bentham bemoaned the secrecy with which statesmen conducted foreign affairs (Bentham, 1843b). In conditions of secrecy, even men with good character may be swayed by the trappings of power but "the eye of the public makes the statesmen virtuous" (Bentham, 1843d:145). Suspicion, Bentham claims, "always attaches to mystery" (Bentham, 1843c:310), whereas regimes that enact publicity are trustworthy and imbued with public confidence. Bentham, accordingly, argued that politicians should be subject to the 'gaze' of publicity, achieved through an extensive range of material and procedural regulations practically instituted within political assemblies: Architecturally, for instance, the political assembly ought to approximate a circular design from which a centrally positioned chair could survey against any 'habitual disorder' present amongst the assembly members; in a prominent position there should also be a public gallery full of random, irregular, and anonymous strangers, a constant reminder of the imminent public scrutiny in the chamber; the tenor of every motion and speech, along with the details of votes and the documentation used in preparation for debates should all be recorded and published (Bentham, 1843c:314-15). It is assumed, in advance, that there is something that is being hidden: "there is a secret. Someone is guiltily" (Dean, 2001:631). Publicity, in the Benthamite sense, is a "system of distrust" (Bentham, 1843c:314); it is a constant suspicion that something is being withheld and must be exposed; there is always the promise of a revelation. Yet this suspicion of the secret in insatiable; we can never know if we have all the information and so the public gaze is unyielding (Dean, 2001:645). Bentham gave several reasons as to why the mechanism of publicity was beneficial, but first and foremost publicity constrained statesmen to "perform their duty" (Bentham, 1843c:310). The good of publicity lay in its status as "a security against improper conduct" on the part of those in public office (Bentham, 1843a:302). By exposing statesmen to the gaze of publicity, it ensured that statesmen are likely to pursue foreign policies in a manner that is publicly defensible.

As an aside, Bentham's approach to publicity differs from that of Kant. Contrary to the apparent interpretation by some Liberal IR scholars, Kantian "publicity" does not *necessarily* require actual transparency. Kant's maxim is that "all actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public" (Kant, 2006:104). The test is hypothetical. Officials could conduct the test by asking themselves "Could I still get away with this if my action and my reason for doing it were publicly known?" If the answer is no then the action is wrong but "Kant's test does not imply a moral requirement that every political action actually be published". Policies of secrecy, moreover, may pass the publicity test if the maxim is morally acceptable (Luban, 1996:191). Bentham's public gaze *only* works an act in reality. It cannot be a thought experiment. One consequence for my argument in this paper is that, by describing publicity as it understood as the Benthamite gaze of publicity, I am not suggesting that publicity, in all its forms, necessarily entails this disciplinary potential.

This leads us to ask how the gaze of publicity could compel statesmen to act properly. Bentham's conceptualisation has been interpreted in different ways. On the one hand Bentham suggested that through publicity, "a bit of reasoning and discussion will penetrate all classes of society" (Bentham, 1843c:311), leading Habermas to cite Bentham's publicity as an early acknowledgement of the possibilities of the bourgeois public sphere, the public use of reason and even the conditions of communicative action (Habermas, 1991:99; see also the discussion in Gaonkar and McCarthy, 1994:555). On the other hand, another interpretation renders Bentham's publicity with a 'double aspect' rooted in disciplinary power. The resemblance between the assembly and the panopticon is striking.

The purpose of the panopticon was to give the inhabitants of the apparatus the impression that their actions would be under constant, invisible surveillance. The overseer always sits in the back of the prisoner's mind – even if he is invisible in the real world. The statesmen in the public assembly are overseen by a public gallery and constantly aware that every word will be published to the tribunal of public opinion outside the assembly. Public opinion, which might not be objectively perceived, is always an influential presence in the back of the statesman's mind (Splichal, 2006). Like the panopticon, the political assembly can be understood as part of a formula of power through transparency, “an apparatus of total and circulating mistrust” in which each aspect of the assembly induces self-surveillance from statesmen (Foucault, 1980:158). By placing them under the constant gaze, statesmen are compelled in act in the public interest, to perform their duty rather than be swayed by the trappings of power. The procedures and material practices of publicity in the assembly grant the citizenry a certain form of political liberty that is itself a branch of security – “security against the injustice of the members of the government” – which is itself the primary object of government in the pursuit of the ultimate end of government: greatest happiness of the greatest number (Bentham, 1843a:302).

The ‘security’ that Bentham refers to here is different from what we usually understand by ‘national security’. The security provided by the act of publicity is, however, no less important for the governance of the liberal state. A defence of secrecy in the name of security *of the state* works like this: by keeping secrets (such as the details of critical infrastructure, methods of defence, sources of intelligence and so on) institutions such as the armed forces or security services will be better equipped to defend the territory and the population of the nation-state. By defending territory and population in this way, it is possible to have a foundation for public law and order, and it is from this public law and order that justice and liberties may be realised by the citizenry. This is how secrecy can be considered foundational to modern political life, and how the democratic principles of openness must occasionally be suspended. On the other hand, a defence of publicity in the name of security *of the individual and of civil society* works differently. From the eighteenth century, there emerged in liberal societies like Britain a societal demand to limit government. This liberal critique suggests that public authority could never possess the kind of detailed knowledge to legislate and plan for every eventuality. Instead the involvement of the citizenry in parliamentary democracy was the most effective way of supplying just enough government to protect society (including the protection of society against its own excesses and misjudgement) whilst preventing too much government which might otherwise intentionally or unintentionally stifle or mismanage the economic and social practices that maximise the health and productivity of the population (see for instance the account in Burchell, 1991; based on Foucault, 2007). In this way ‘security’ always a contested concept and the differing approaches to governance that ensue are not always compatible.

It is this Benthamite *act* of publicity that characterised the moves to ‘democratise’ foreign policy in Britain. Throughout the late-nineteenth and early twentieth century official secrecy remained intact, largely because society trusted the state, acting in secret, to maintain economic growth and imperial power (Vincent, 1999:316). It was not until the latter half of the twentieth century that a broad section of society became sympathetic to those who argued that official secrecy was a hindrance to the prudent management of public policy (Vincent, 1999:317). From the 1960s, ad hoc public inquiries into suspected misdemeanours – such as those by Denning, Franks, Scott, and now Hutton, Butler and Chilcot – have offered an intriguing glimpse into the secret state. Occurring alongside these ad-hoc inquiries, standing committees of inquiry such as the Foreign Affairs Select Committee and the Intelligence and Security Committee have been granted powers to “sweep away some of the cobwebs of secrecy which needlessly veil too much of government business”¹¹⁸. The Freedom of Information Act (2000) allows private citizens a

¹¹⁸ Hansard HC vol 224, col 64 (6 May 1992), John Major

“general right of access” to information held by public authorities. These reforms are striking examples of the existence of a liberal attitude in favour of transparency and can be understood, as I have outlined, as constitutive of a particular approach to the security of the liberal democracies.

Iraqi Secrecy and the British Case for War

There is no reason to confine this technique of security to domestic politics. In this section I describe how the British case for war, that is the effort of the British government to persuade the legislators, the media and public opinion to support the war, relied on the legitimacy of act of publicity writ large at the level of international relations.

The Blair Government had to persuade its own party, Parliament, the public and media that going to war was a necessity, not a choice. In the words of a current committee member of The Iraq Inquiry it was a case of “selling the threat” (Freedman, 2004). In this task the government was broadly successful in attaining the formal support of the legislature (Roe, 2008). Britain’s *casus belli* for war was Iraq’s failure to comply with United Nations Security Council Resolution 1441, but behind the formal justification, the necessity and urgency of force depended on a complex set of claims. In order to construct Iraq as a security threat, three propositions were frequently set out: the aggressive intent of the regime, the aggressive capacity of the regime (in terms of weapons of mass destruction that Iraq possessed and/or could produce), and the existential threat posed to the United Kingdom by terrorist organisations armed with such weapons (Bluth, 2004). The urgency of taking military action was justified via three further claims: Iraq had demonstrated ‘rogue behaviour’ in the past by using chemical weapons, Iraq was committed to protecting and expanding its weapons of mass destruction capabilities through a purposeful programme of concealment, deception and intimidation, and finally the international community’s policy of containment and inspection was unable to overcome these acts of obstruction (Keohane, 2005; Bluth, 2004). This was, if you like, the *logos* of war – the rational substance of the government’s argument concerning the risk of inaction and nonviolence compared to action and state violence (Mythen and Walklate, 2008:235). Yet this argument for war also included a necessary *pathos* – an appeal to the audiences’ emotions. Specifically, the emotional appeal was to the same suspicion that underpins the gaze of publicity: a suspicion created by awareness that Iraq held secrets and a suspicion that those secrets veiled a threat to the political community. The government’s argument depended greatly on emphasising the capacity of the Iraqi regime to keep secrets, rather than factual claims about the substantive content of those secrets.

The British government’s case for war first needs to be situated in relation to the longstanding mistrust and surveillance of Iraq by the international community since 1990, which itself signifies a shift in attitudes away from a sovereign right to state secrecy in international relations. After World War 1, American and British officials believed they had no right to enforce weapons inspections against post-empire Germany (Florini, 2002). Eighty years later though, American and British officials threatened war to enforce such inspections against Iraq; by the 1990s, “the right to coerce such disclosures from an aggressor ...was broadly taken for granted by the international community” (Florini, 1998:52). The suspension of Iraq’s right to state secrecy began following Operation Desert Storm. In April 1991, UN Resolution 687 marked the introduction of an apparatus through which the United Nations could oversee the removal and destruction of Iraq’s weapons of mass destruction and production capacity. UNSCOM inspectors were given the authority to come and go, without visas, to inspect any facility at any time with full and free access to all locations, personnel and information (UN, 2013). The animating ideas behind the surveillance and inspection practices shared much with Bentham’s assembly as I have discussed it. The programme of inspection was the most up-to-date version of the “all-ordering eye” of panopticonism (Debrix, 1999:274). These procedures were designed to

produce trust and certainty in the face of the mistrustful assumption that Iraq would always attempt to cheat and deceive unless placed under the impression of its own constant surveillance. The inspection process was, in the words of Hans Blix, “a process of verification for the purpose of creating confidence. It is not built upon the premise of trust. Rather, it is designed to lead to trust” (Blix, 2003). An Iraqi regime kept under constant surveillance was a preferable alternative to the forcible removal of the regime (Debrix, 1999:280).

Yet this dream of successful deterrence based in panopticonism that banished doubt was itself soon rendered doubtful. Iraq mounted its own policy of surveillance against the UN inspectors that intensified a “mode of suspicion and uncertainty” (Debrix, 1999:282). The programme of inspections set out in resolution 687 “too often turned into a game of ‘hide and seek’” (Blix, 2003). Inspections, often facilitated by UNSCOM’s right to aerial photography, revealed an Iraqi ‘web of deception’: new desert hiding places and facilities to which inspectors were denied access. Inspections did not so much provide evidence of concealed weapons as show that Saddam was lying about the existence of locations that plausibly could contain prohibited materials (Debrix, 1999:282). The existence of these locations fuelled a suspicion that there was a guilty secret to be found. Surveillance demonstrated that transparency and trust could *not* be achieved. UN panopticonism provided evidence “negating the possibility of transparency”, proving that Saddam was up to his “old tricks” and that as a result “every effort would have to be made and maintained to discipline and punish him” (Debrix, 1999:283). In 1998, Operation Desert Fox was justified by Iraq’s continued refusal to cooperate with UN weapons inspectors and intended “to prod Saddam into resuming cooperation” (Roe, 2008:623).

By September 2002 the British Government had resolved to persuade the public, the media and parliament of the Iraqi threat and the necessity of military action. In order to claim that Iraq constituted a “current and serious threat” to the UK’s national interest (British Government, 2002:3), the Government did not refer so much to evidence of Iraqi WMD but to the institutional *capacity* to hide it from view. Following in the footsteps of the International Institute for Strategic Studies (IISS, 2002), the government published the ‘September Dossier’ alleging that Iraq was concealing equipment and documentation in advance of inspections; it emphasized “Iraq’s history of deception, intimidation and concealment in its dealings with the UN inspectors” (British Government, 2002). Highlighting Iraqi deception was important to the government’s attempts to de-legitimize the regime. During the drafting process of the September dossier, Jonathan Powell, then Chief of Staff to the Blair Government, wrote an email to Alastair Campbell, David Manning and John Scarlett with the following advice:

If I was Saddam I would take a party of western journalists to [one of the factories referenced in the dossier] to demonstrate there is nothing there. How do we close off that avenue to him in advance? (Powell, 2002)

Whilst highlighting Iraq’s lack of openness with the international community, the British government stressed how its own publication of intelligence-led assessments demonstrated a profound degree of openness between the government and the governed. In the Foreword to the dossier, the Prime Minister wrote that he “wanted to share with the British public the reasons why I believe this issue to be a current and serious threat to the UK national interest” (British Government, 2002). Implicit in Blair’s speech was the assumption that British publicity and Iraqi deception constituted a distinction between liberal self and illiberal other.

In January 2003, Blix reported in a statement to the Security Council that UNMOVIC had identified a series of “unresolved disarmament issues”; UNMOVIC “[did] not contend that weapons of mass destruction remain in Iraq, but nor do they exclude that possibility” (Blix, 2003). This was evidence, claimed foreign secretary Jack Straw, that

“Saddam has made this a charade of an inspection” (Straw cited in BBC, 2003). Days later, Number 10 published another dossier: *Iraq: Its Infrastructure of Concealment, Deception and Intimidation*. The document again emphasized the Iraqi regime’s capacity to hide information and materials, and to obstruct the United Nations (British Government, 2003). In the preparation of the dossier the Secret Intelligence Service (SIS) provided Number 10 with “intelligence-derived” material, which was published by the Intelligence and Security Committee several months later. The material provided a narrative account of the working conditions of a UN weapons inspector. The text evokes suspicion of secrecy, an insatiable appetite for something to know – the pathos of publicity.

The best analogy is to Stalin’s Soviet Union in the 1930s with show trials, the terror and the systematic deceit of all foreign visitors by all who meet them...

Your arrival has been so long in coming that Saddam has had plenty of time to hide anything he does not want you to find. So you know your task ... is going to be near to impossible before you start...

Are your escorts being a bit too helpful to you by engaging in long arguments with other Iraqi officials so that you can get in and do your job – while any incriminating evidence is hastily being hidden behind the scenes?
(ISC, 2003:47-48)

On 18 March, the House of Commons voted with the Government for military action by a majority of 412 to 149. Labour MPs voted with Blair 254 to 84. The suspicion of secrecy and the equation of secrecy with threat were not accepted by all. Parliamentary Labour Party support cannot be divorced from the pressures of the whip as well as “loyalty, tribalism, and also the possibility that bringing down a Prime Minister might lose you your seat in an election” (Hopkins, 2008). Robin Cook, who resigned from the cabinet on 17 March and who had been heavily involved in the formulation of policy toward Iraq until 2001, claimed that Iraq probably had no WMD in the conventional sense and posed little threat to Britain (Cook, 2003:361-66). In support, however, the Conservative parliamentary opposition repeated the Government’s emphasis on Iraq’s deception, the implicit assumption of threat that this entailed, and that the use of force would be in the national interest. “The Prime Minister rightly pointed out”, leader of the opposition Iain Duncan Smith noted, “that Saddam Hussein has lied to the UN for 12 years. Even now, we do not know the full extent of his arsenal, or of his facilities to develop weapons”; the onus was on Iraq to prove that this deception was not a cover for material threat, rather than for the government to prove the opposite: “the blame for further military action”, Smith noted, “lies squarely in the hands of Saddam Hussein. It is his regime only that has made further military action necessary.”¹¹⁹

In the days before war, cartoonist Clay Bennett published a sketch in *The Christian Science Monitor* that aptly captured the security imperative at work. Accompanying a caricature mug shot of Saddam Hussein the caption read: WANTED: FOR WHAT HE POSSIBLY IS DOING, WHAT HE COULD BE CAPABLE OF DOING, OR WHAT HE MIGHT BE PLANNING ON DOING (Bennett, 2003). The government’s case for the urgency of the threat did not, for the most part, emphasize evidence of Iraq’s possession or capability to produce WMD; instead, the government emphasized that the Iraqi regime’s institutional architecture was designed to deceive and subvert any efforts to expose itself to scrutiny by the United Nations weapons inspection teams. The success of this argument in mobilising formal support for war depended a multitude factors but I have tried to illustrate that an important contributory factor was the acceptance of publicity as an apparatus of security.

¹¹⁹ Hansard HC vol. 401 col. 776 (18 March 2003), Iain Duncan Smith

The government's audience had to be sensitive to a 'secrecy effect', that is, a suspicion created by an *awareness* that secrets were being kept by Iraq from the international community. A vital constituent of the British government's case for war was a shifting attitude against the right to state secrecy in international relations. The establishment of the UN apparatus of surveillance upon Iraq – and more broadly the establishment of international inspection regimes generally – attempted to expose the regime to publicity but were rendered ineffectual by an Iraqi 'web of deception'. The goal of inspections was to ensure compliance. The Britain case for war was based, in part, on the claim that this apparatus of publicity was no longer effective. The coercive removal of Hussein in response to this secrecy effect would not arise without a suspicion of secrecy as a source of insecurity. For the British Government's strategy to work, the audience, to which it appealed for support had to be susceptible to this pathos; they had, in particular, to share a suspicion that the secrets in question *could* be the possession of or capacity to produce WMD. If the audience also accepted the rest of Blair's argument - that an Iraqi regime with WMD that might also trade weapons with terrorists posed an unacceptable risk -then the combination of this *logos* of risk and the *pathos* of suspicion could be persuasive.

Upsetting the balance of openness and secrecy

The shift in attitudes against a sovereign right to secrecy, and the British government's mobilisation of the suspicion of secrecy as a source of threat, consolidated the distinction between liberal and illiberal regimes. Yet this shift in attitudes also created an existential crisis for Britain when the government itself was accused of deception. The events are well documented, a few influential moments are worth recalling. Three days after the publication of the so-called February dossier, a Cambridge academic noticed that much of the document was plagiarised from an article in *Middle East Review of International Affairs*. Suspicions were raised further when, on 12 May, Clare Short, Secretary for International Development, resigned claiming that the Prime Minister had 'duped' the country into war (Short, 2003). On 29 May, Andrew Gilligan made the infamous claim that, according to an intelligence source, the September Dossier had been 'sexed-up' to include the '45-minute claim'. These concerns may have been less influential had the government's suspicions of retained WMD, been proved correct. In January 2004, however, the Iraq Survey Group's chief, David Kay, stated that "we were almost all wrong" and that no significant evidence of research or development of WMD after 1991 had been found (Kay, 2004).

The British government was now, ironically, suspected of a similar wrongdoing of its own. Any attempt to relieve this concern would require an unveiling of the state, and Britain accordingly has engaged in a season of public inquiries. The task of such public inquiries is to restore credibility; they must "represent failure as temporary, or no failure at all" (Burton and Carlen, 1979:48); they must "receive and effectively incorporate criticism whilst guaranteeing legitimacy and renewing authority" (Gilligan and Pratt, 2004). A successful inquiry can reintroduce public trust and reintroduce the self-understanding of a distinctive liberal legitimacy. Much of this success depends on the presumption of openness in proceedings. There is no better illustration of this self-understanding than the words uttered by then-Secretary of State for Defence, Liam Fox, presenting the Baha Mousa public inquiry report to parliament.

In any conflict ...what separates us from our adversaries are the values with which we prosecute it ...To represent Britain, in war as well as in peace, is to represent our inherent democratic values ... When those values are transgressed, it is vital that we get to the bottom of what has happened, are open about the issues and their causes, ...and do all that we can to prevent it from happening again. Only in that way can we ensure that those values hold firm in how we think of ourselves and in how others perceive us (Fox, 2011).

Yet the problem is that the inquiries have thus far failed to enact a sufficient degree of openness. For the sake of space I will focus here on the most recent ‘Chilcot’ Inquiry. (For analyses of the previous inquiries see for instance Danchev, 2004; Runciman, 2004; Aldrich, 2005). Originally intending to report in 2011, the inquiry has been delayed into 2014 largely because of the declassification process whereby the Inquiry and the Cabinet Office must negotiate requests for publication of official documentation that the committee wish to include in support of their conclusions (Chilcot, 2012). From the beginning of the inquiry, Sir John Chilcot emphasised the importance of “ensuring that our proceedings are as open as possible because we recognise that it is one of the ways in which the public can have confidence in the integrity and independence of the inquiry process” (Chilcot, 2009). The Cabinet Office, however, has the final say on declassification on the basis of a special protocol (Cabinet Office, 2009). The protocol warns against the release of any information which would, or would be likely to: endanger life; breach the principle of legal professional privilege (LLP); prejudice ongoing legal, investigative, civil or criminal proceedings elsewhere; or breach the Data Protection Act. For my purposes, the most important exception to the public right to know concerns those circumstances where disclosure would or would likely:

cause harm or damage to the public interest, guided by the normal and established principles under which the balance of *public interest* is determined on grounds of Public Interest Immunity...including, but not limited to ... national security, defence interests or international relations. (Cabinet Office, 2009)

Testing this likelihood, and the final decision, rests with Cabinet Office and on several occasions the Cabinet Secretary found that the balance of public interest was not in declassification. For instance, amidst requests by the Inquiry for the declassification of official communication between the Prime Minister and the US President, the Cabinet Office decided that the public interest in publishing particular exchanges between state leaders would not outweigh the risk of harm to the UK's international relations that would likely be caused by the Cabinet Office authorising their disclosure.

Exchanges between the UK Prime Minister and the US President represent particularly privileged channels of communication, the preservation of which is strongly in the public interest. Even where immediate sensitivity may have passed, disclosure of the material could still prejudice relations by inhibiting future exchanges. A UK Prime Minister may be less likely to have these exchanges (or allow them to be recorded) if he is concerned that this information would be disclosed at a later time against his wishes. Inhibiting this type of free and frank exchange would represent real prejudice to the UK's relations with the US. (O'Donnell, 2011)

The relationship between publicity and security is framed as one of balance: balancing the public interest in knowing against the risk of harm to the wellbeing of the UK as a result of that knowing. O'Donnell justifies secrecy on the basis that there is a greater public interest in maintaining a healthy diplomatic relationship between state leaders than there is in the public knowing the content of particular exchanges. These diplomatic channels are seen as vital to the stability and security of the UK.

The metaphor of balancing public interest between publicity and national security can be interpreted as a creative device through which the state can contest demands for openness and reassert the value of the *arcana imperii*. The balance metaphor does not acknowledge the manner in which publicity could constitute security of the liberal individual. This is not surprising; to do so would require the state to recognise itself as a

potential threat to the political community. Instead the balance metaphor encourages the citizenry to think like a state, to think in terms of *raison d'état* and the *arcana imperii*. In the context of the protocol above, any exception to openness that can be justified in the name of security – such as “harm or damage to the public interest” by endangering economic interests or the defence of the realm – cannot be resisted because the counter-argument is occluded - namely that publicity *in itself* functions as an apparatus of security of individual agents against the iniquities or ineptitudes of the state. In fact, the protocol allows the executive to show how publicity itself could damage the public interest through loss of life, damaged international relations and so on, thereby rendering the future, along with the lives of the citizenry as fearfully uncertain

Of course, the actual disagreement between the inquiry and government over the declassification of these exchanges only serves to heighten the suspicion of wrongdoing. If the inquiry and the government can't agree about what needs to be secret, claim critics, how can those outside the inquiry have confidence in it? (Ames, 2010) These critics of official secrecy have tended to base their objections to secrecy on three assumptions. Firstly, critics contend that official secrecy is being used to hide wrongdoings that would not be defensible in public. Lord Owen, a former foreign secretary and privy councillor, regarded the Cabinet Office refusal to declassify the Blair/Bush exchanges as an indication of an attempt by the “culprits” Blair and Cameron to “hid[e] behind convention that are totally inappropriate given the nature of the inquiry” (Owen, 2013). Secondly, therefore, critics argue that an act of transparency is a necessary response to culture of secrecy and the loss of trust. Whilst the Cabinet Office's metaphor of balance is always predisposed toward secrecy as the ultimate guarantor of security, critics locate the ultimate guarantor of security in the gaze of publicity, especially in those circumstances where a secret is suspected and that secret is a suspected wrongdoing. Declassification is necessary, Owen claims, so that the inquiry can prove whether “black lies” were told to parliamentary prior to war. Finally, it is assumed that taking away the right to official secrecy will have a substantive impact upon UK foreign policy. Critics point to a cruel irony of maintaining official secrecy in the interests of international relations; Revealing what one leader had said to another might be damaging but, given the suspicion of wrongdoing that surrounds these exchanges, keeping these exchanges secret might be more damaging because the executive are not being held to account according to the norms and liberal democratic values of the UK (Ames, 2010). By railing against official secrecy, critics seek to hold to account and reform the executive in line with a liberal self-understanding, and in so doing reintroduce a distinction between liberal and illiberal regimes. Openness is required so that “everyone understands how the decision was reached so that we can learn lessons and make sure we never again have a government hell-bent on going to war and able to bamboozle Parliament and the British people” (Clegg cited in Bingham, 2010).

Whilst critics may claim that the veil of official secrecy remains intact, the advocates of open government can claim some victories. There can be little doubt that the content of public deliberation, whether in formal or informal spheres, has been enriched by the report and declassified evidence released by the inquiries. Despite the disagreements between The Iraq Inquiry and Cabinet Office over declassification, independent public inquiries into matters of foreign policy have opened up the machinery of government to the public gaze in radical fashion. The Hutton and Chilcot inquiry websites have published hundreds of official documents that would otherwise have disappeared into the National Archives for thirty years. These inquiries have shown “you can publish more than you think you can without bringing down government” (PASC, 2009:7). The conclusions of inquiries have also identified areas of reform for government particularly with regard to transparency and accuracy in government. The Butler Inquiry, for instance, identified causes for concern such as the informality of Blair's Number 10, the lack of appropriate record keeping, and the degradation of clear lines of political accountability that are essential for continued public scrutiny (Lord Butler, 2004).

Yet in the light of the analysis in this paper, perhaps the advocates of open government should also consider the implications of their demands in the wider context of security politics. Both those who argued that the concealment by the Iraqi regime constituted a threat and those that argued against the continuation of official secrecy by the British government during the inquiries share the same *pathos* of liberal war: a suspicion of secrecy as a source of wrongdoing. Both the British inquiries and the UN inspections regime perform the act of publicity: placing the subject under surveillance, giving the impression of constant surveillance, and compelling the subject to perform according to wider societal norms. In the context of the inquiries, the government has enacted a strategy of contestation through the metaphor of balancing publicity and security. By contrast, the international community did not accept Iraq's sovereign right to secrecy and the pathos of suspicion functioned as part of persuasive argument for war. If the aim of exposing government to scrutiny is to ensure, in Clegg's words, that a government hell-bent on war can never bamboozle us, we ought to be concerned by this affinity between the inquiries and the case for war. Reforms suggested by the Butler inquiry, for instance, have encouraged greater accuracy and transparency in government, but this does not challenge the wider imperative of liberal war, namely to confront those untrustworthy subjects that resist publicity because of the threat that their resistance may conceal. Instead the inquiry can perfect this strategy by requiring that the public debate as to the deception and concealment of the actor is as accurate as possible. Put simply, it is difficult for the inquiry to call into question whether there is a national interest in coercively confronting subjects that resist publicity when the inquiry itself is performing the same move.

Conclusion

I started this paper with an anecdote from The Iraq Inquiry, in which Blair tried to refer to a document that, although anyone could download it from the Internet, could not be publicly acknowledged. The resulting laughter pointed to an absurd contradiction between a self-proclaimed adherence to the democratic principle of open government – of which the public inquiry is an acknowledgment – and inability of government practice to conform. From the claims in this paper I have attempted to unravel this apparent divergence between the claims of the British state to its liberal identity and commitment to publicity, and its practice of entrenched official secrecy.

My argument can be summarised in three claims. Firstly, publicity and secrecy can both be understood as techniques of governing, or apparatus of security, of the state. On the one hand, the keeping of *arcana imperii* became necessary from the moment that state began to collect technical knowledge about its strength, weaknesses and capacities. According to this strategy of security, which is embedded in the post-Westphalian system of states, this knowledge would only retain its value as long as it remains secret. On the other hand, the act of publicity functions as an apparatus of security of the individual and civil society against the wrongdoings kept hidden by secrecy. This approach to secrecy depends on a suspicion of wrongdoing created by the awareness that secrets are being kept – the 'secrecy effect'. This latter approach to security arose out of liberal political discourse in mid-nineteenth century Britain, and must be distinguished from the use of publicity as a Kantian thought experiment for political morality. The act of publicity disciplines the subject through the impression of constant surveillance and the knowledge that deviant behaviour would be punished.

The second section of the paper described how this approach to security through the act of publicity was embedded in the British government's case for war. The shift in attitudes in the twentieth century away from a sovereign right to state secrecy, and the United Nation's programme of surveillance and inspections in Iraq produced the 'secrecy effect': a suspicion created by an awareness that secrets were being kept by Iraq. The British government argued that Iraq posed an urgent threat because of its historical use of

WMD, its obstruction of the UN and the risk posed by Iraqi WMD in a post-9/11 age. But this argument also requires a suspicion, a pathos if you like, that the secrets kept by Iraq were a likely indication of wrongdoing. The argument that military action was an appropriate course of action required the audience to accept that the use of force against the Iraqi regime to dismantle the means of concealment was preferable to allowing Iraqi concealment to continue.

In the third section of the essay, I noted how the simultaneous demands for both state secrecy and the act of publicity created a tension in the British public inquires. Suspicions arose that the government may have committed wrongdoings during the course of making the public case for war. Yet the inquiries appointed to provide an authoritative account of the government's actions were stymied by the maintenance of official secrecy. The inquiries, consequently, have become a site of fierce contestation between two different and opposing techniques – secrecy and openness. The decision by the Cabinet Office to judge requests for openness according to a balance of public interest between publicity and national security is an effective means of resistance against openness. The balance metaphor renders publicity as a threat to security. In response, however, critics have continued to allege that secrecy is an indication of wrongdoing. Partly because of this contestation the most recent Iraq Inquiry is now long overdue to make its report.

Blair's discomfiture at The Iraq Inquiry was taken by some as an indication of political secrecy for private gain by crooked statesmen who wished to prevent the inquiry from releasing a public account of how the state went to war. I have attempted to show that this picture is far more complicated. The pursuit of security through secrecy is embedded in the British state, but another approach to security that functions through the gaze of publicity has emerged out of British civil society. If we wish to understand how the state went to war, we must appreciate that the suspicion of secrecy was central to the government's persuasive argument. It follows therefore that calls for a public inquiry that carry the same suspicion of state secrecy and call for the same act of publicity actually reinscribe this potentially aggressive commitment.

We should think more carefully about the implications of this strategy of security, through the act of publicity, when it is writ large at the level of international relations. The unrepentant liberal may happily acknowledge the implications; a Universalist ideology requires a distrust of Blair and Saddam. What may surprise some, however, is that the bellicose consequences of the argument do not stop. Howard remarked that far from abolishing war liberalism brought "violent passion" because liberals fail to acknowledge that the world is filled with cultural heterogeneity that opposes the liberal project, and that given the improbability that liberal wars would end in a negotiated peace the only outcome could be endless war or the entire conquest and homogenization of the world under liberal rule (Howard, 1978:77). Contestation over the legitimacy of official secrecy may be one such area of heterogeneity where the liberal suspicion of secrecy opens up an opportunity for such a liberal way of war.

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Appendix C: Foucaultian *Dispositifs* as Methodology: The Case of Anonymous Exclusions by Unique Identification (UID) in India¹²⁰

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This paper examines the Indian government's Unique Identification (UID) program, the largest digital biometric program in history. UID is intended to provide a new model of security based on a complex interrelation between welfare, identity and rights. The program bears resemblance to the kind of liberal governmentality and biopolitical imperative described by Foucault, yet the program is also inseparable from the specific socio-historic conditions in India that constitute the strategic need for UID. This paper contributes to an ongoing debate as to the suitability of Foucault's thought for international studies by suggesting a productive line of enquiry in tracing the variance between the rationality of government programs and the technologies of enactment. The paper utilizes three methodological 'prescriptives' from Foucault's concept of the *dispositif*, which are applied to the case study. This paper argues that the concrete application of the program challenges the perception that biometric technologies can guarantee the identity and inclusion of the political subject when applied across different geographies with different socio-historical conditions. The specific discursive and non-discursive conditions present in the application of UID lead to unexpected political strategies. Whilst India's UID program seeks to augment the population with the biometric identity necessary for consumer citizenship, frugal government and expanded surveillance, those whose bodies are not 'readable' by the biometric technology are excluded. Exactly those subjects that the program aims to help are those that are most likely to be excluded.

Keywords: India, Biometrics Foucault, Methodology, Dispositif

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Introduction

On 29th September 2010 Ranjana Sadashiv Sonawane became 782474317884. Sonawane was the first registered user of a government program to provide all 1.2 billion residents of India with a unique identification number (UID) or 'Aadhaar'¹²¹ based on biometric technology. As of June 2013, 366,936,720 numbers have been issued (UIDAI, 2013). The project is managed by the Unique Identification Authority of India (UIDAI), which is a sub-agency of the Planning Commission, which is itself responsible for assessing the resources of the country and determining how to "augment" those resources that "are found to be deficient in relation to the nation's requirement" (Planning Commission, 2013). At the same time, the Home Ministry is simultaneously enrolling residents into a biometric National Population Register. The program is the largest application of biometric technology in the world.

This paper argues that the practical, grounded application of India's UID program challenges the assumption that biometric technologies can guarantee the identity of all political subjects, in the same way, when applied across different geographies with different socio-historical and discursive-material conditions. India's UID program is intended to provide a model of security based on a complex interrelation of welfare, identity and rights. The program bears resemblance to the kind of neoliberal governmentality and biopolitical imperative described by Foucault, but it is inseparable from the specific conditions that constituted the strategic need for UID. Furthermore the specific discursive and non-discursive conditions at work in the application of UID lead to unexpected political strategies. The program seeks to augment the population, without exception, with a guaranteed identity with which to strengthen institutions of surveillance and welfare, and to provide a new model of consumer citizenship. Yet those who cannot be augmented are subject to an anonymous strategy of exclusion, targeted at those that the project designers ostensibly intended to help the most.

This paper's analysis is informed by Foucault's analytic of power, and engages with an ongoing debate as to the suitability of this analytic for studies of governance that exceed the predominantly European settings of Foucault's own work. Critics suggest that contemporary accounts influenced by notions of 'governmentality' and 'biopolitics' risk replacing the fine-grained, contextual and historical analysis that defined Foucault's work with 'scaled-up', grand theories that underestimate the unevenness and complexity of global politics. In order to avoid such pitfalls, a productive line of enquiry is to understand how the variance between the rationalities of government programs and the technologies of enactment lead to heterogeneous forms of governmentality; this is exemplified by the unexpected strategies of governance that emerge from India's UID program.

In order to support this approach, this paper draws on Foucault's concept of the 'dispositif', generating three methodological 'prescriptives': (i) *heterogeneity*, discursive and non-discursive elements are co-constitutive of technologies of governance; (ii) *relationality*, immanent relations between these elements, rather than freestanding ontologies, establish relations of power; (iii) *function*, these relationalities can produce unexpected and anonymous practices that are nonetheless commensurate with aggregate level responses to a strategic need.

The paper is structured in three sections. Firstly the paper reviews the debate on Foucault's influence in contemporary scholarship, suggesting that there is some agreement on a productive line of enquiry in identifying variance between the rationality of the program and the technology of enactment. Secondly, the paper suggests that the 'dispositif' may serve as a helpful tool to frame contemporary empirical studies, and reviews the core methodological prescriptives implied in the term. Finally, the paper provides an empirical study of India's UID program using these prescriptives.

¹²¹ 'Aadhaar' is a Hindi word meaning 'foundation' or 'base'

Foucault in Contemporary International Studies

There is much debate about the suitability of Foucault's thought for international studies, particularly concerning the concepts of 'biopolitics' and 'governmentality'. The two concepts are not interchangeable¹²²: during a particular period in the history of the 'conduct of conduct' Foucault identified a particular art of government – or governmentality – that had the population as its target and which governed these populations through “an explosion of new and diverse techniques” (1990:140). Rationalities of sovereignty and discipline were supplemented with the practice of 'making live' and 'letting die' (2003:65). A specific configuration of state and society emerged, oriented toward “allowing circulations to take place ...sifting the good and the bad (2003:241). Thus biopolitics is not removed from death, making live also entails letting die through “every indirect form of murder” (2003:241). In later works, Foucault emphasized the emergence of liberal and neoliberal features of governance: a self-limiting critique of 'too much government' (2008:13), the idea of frugal government (2008:29), and modeling political power on the market economy (2008:268). Much scholarship has drawn on Foucault's thought to study international or transnational issues of governance. These works have been the subject of an immanent line of criticism, that is, a criticism of the uptake of Foucault rather than of Foucault's own work.

Joseph (2010b; 2010a; 2012) and Selby (2007) provide two examples of this sympathetic critique. Joseph suggests that 'governmentality' risks becoming “a catch-all category that can be applied far too generally” (2010a:226). The term emerged from Foucault's account of predominantly European arts of government where specific conditions facilitated the creation of free subjects, individualization and self-responsibilization. Thus when the practices and projects of governmentality, or the scholarly diagnoses of power based on governmentality, are applied outside the bounds of Foucault's original empirical work where these facilitating conditions will differ, these projects and analyses will fail. This failure occurs because these “other parts of the world”, such as developing countries, contain different conditions that may not support the creation of individualization, for instance, and instead reinforce “something more basic, or else ...closer to what Foucaultians would call 'disciplinary power'” (Joseph, 2010a:225). Instead scholars ought to adopt “a sociological approach” that recognizes “big differences between the neoliberal centers of governmentality, and the very different social conditions in the rest of the world” (Joseph, 2010b:203). Ignoring this wider context risks fixing a generalized notion of governmentality as social ontology, which “may delude us into thinking that governmentality is now universal and irreversible” (Joseph, 2012:43).

A similar line of criticism is articulated by Selby, who laments a forgotten Foucaultian methodology of empirically grounded study of historical shifts in the relations between knowledge, institutions and the constitution of subjects (2007:330). Selby claims that contemporary accounts are 'scaling up' and overstating the unity and evenness of concepts such as biopower or liberal governmentality. This is problematic for Selby because such 'scaling up' can ignore the various administrative regimes across the globe that are based on totalitarian or coercive forms of control (2007:331).¹²³ By applying an

¹²² Larner and Walters suggest that governmentality can be interpreted in two ways, only one of which implies liberalism or biopower (Larner and Walters, 2004:2). Walters subsequently describes three different interpretations of governmentality: (i) any framework in which one seeks to regulate one's own conduct or that of others; (ii) governance of and by states; and (iii) the liberal approach to government that arose in Europe during the eighteenth century (Walters, 2012:10-13).

¹²³ Selby goes further to suggest that the international is ontologically distinct from the domestic and thus as a “historian/theorist of the domestic realm”, Foucault's work is less relevant for the study of international politics where power is concentrated and centralized within large actors (2007:339). I do not have space to discuss this particular debate, which has been explored elsewhere (Calkivik, 2010;Pasha, 2010;Walters, 2012:97).

analytic of power that was honed at the level of European domestic governance, studies that employ concepts like biopolitics or governmentality reflect only liberal accounts of the international arena.

These lines of criticism have spawned much debate (see, for instance, the forum in *IPS*: Shani, 2010). Walters' response is noteworthy, suggesting that Selby and Joseph share a tendency to conflate liberalism and governmentality, writing as if the liberal art of government is the limit of what can be understood as governmentality (Walters 2012:94). (Although Joseph rejects this conflation [2012:26].) If we take governmentality to refer to techniques that regulate the conduct of others, governmentality does not necessarily assume the substantive presence of (neo)liberal practices of government. Foucault's account explored multiple governmentalities including practices derived from *raison d'état* or sovereignty. Foucault's accounts, moreover, always emerged ground-up from the study of concrete practices. Thus Walters argues that,

The mistake arises if we take some of these terms – biopolitics, neoliberals, etc. – and treat them like universals, finding their 'expression' in all sorts of places. Allowing for much more scope for mid-range concepts and qualifiers, while in turn treating key terms like biopolitics and liberalism as names that denote 'family resemblances' amongst a set of practices rather than an essence, is a productive way to proceed. (Walters, 2012:105)

Instead of starting research with a fixed idea of what governmentality entails, scholarship should begin from the analysis of local practice; these practices may share overarching effects with familiar overtones to Foucault's own studies. What this paper takes from the debate is, therefore, that Foucault's work is relevant beyond the study of largely European forms of government with the proviso that: (i) biopolitics and the liberal art of governing are not coterminous with governmentality; other forms, including mixed or hybridized techniques of rule, can be located; (ii) scholarship must be guided by methodological principles – 'mid-range concepts and qualifiers' – that underpin Foucault's analytic of power and governmentality, which can be applied beyond the locales in which these terms emerged, in other times and other places. Only in this way can research uncover heterogeneous accounts of governance that are "analytical, contextual and decidedly empirical" (Walters, 2012:94-95).

The next step is to uncover this methodological framework. Walters suggests that one way of 'qualifying' such studies is to look for forms of life that "refuse to be connected" in the way intended by the rationality of the program, where "bits fly off" the assemblage of power relations in an unexpected way (2012:149). This is a point of concurrence between Joseph and Walters. Drawing on Rose and Miller (2008), Joseph suggests distinguishing "between the rationalities or programs of government and the technologies of enactment" in order to "distinguish between the process that leads to the imposition of neoliberal programs that reflect the dominant rationality of advanced liberal societies, and the inappropriateness of these technologies at a local level due to very different social conditions" (Joseph, 2010b:204). Studies of governmentality need to include a "certain form of historical materialism" in order to avoid approaches that remain at the level of discursive strategies and ignore or reject a wider context that would "help account for how governmentality works ... [and] also explain how it works differently in different places, or indeed how it might fail or prove irrelevant in certain cases" (Joseph, 2012:53). Here Walters and Joseph are joined by Lundborg and Vaughan-Williams, who have noted how some contemporary accounts of liberal order "share a tendency to present the biopolitical system they diagnose as a closed, totalizing, and deterministic machine"; what is absent are "illustrations of where the power relations instantiated by liberal biopolitical rule breakdown" (Lundborg and Vaughan-Williams, 2011:375).

These scholars share the idea that the study of variance, between the rationality and

actual outcome of governance, is a useful tool for the study of international or transnational governmentalities. In the next section I suggest that Foucault's notion of the 'dispositif' provides methodological resources to serve as a kind of 'mid-range concept or qualifier' for this purpose. The dispositif provides a framework enabling the researcher to sketch how contemporary strategies of power emerge from the ground up.

Methodological Prescriptives of the Dispositif

In Foucault's own work, a given art of government is constituted from a particular set of 'dispositifs'. Foucault shows, for instance, how biopower is facilitated by the 'dispositif of sexuality' that includes the hysterization of women's bodies or the pedagogization of children's sex (Foucault, 1990:104-105; see also Rabinow, 2003:50). Foucault similarly describes 'dispositifs of security' that constitute the racial markers that "qualify, measure, and appraise" the criteria of the life to be produced (2003:196), and that produce the individual freedoms behind the exercise of liberal governmentality. In all these investigations an interplay between a set of practices and a regime of truth – an "apparatus (dispositif) of knowledge-power" – marks out and legitimizes the problematizations of madness, disease or sexuality as reality (Foucault, 2007:48-49; Foucault, 2008:19). Attention to dispositifs is by no means absent (Aradau and Van Munster, 2008; Lobo-Guerrero, 2011; Dillon, 2008; Dillon and Lobo-Guerrero, 2008). Indeed Dillon and Lobo-Guerrero argue, astutely, that biopolitics is simply a 'dispositif de sécurité'; however generalized it may become, biopolitics is not a universal phenomenon but an actualization of a specific historical and evolving economy of power relations "detailing the operational logics, forces and dynamics at play in a specific configuration of power relations" (2008:272).

There have been several helpful attempts to elucidate what Foucault meant by the dispositif and how it might serve within the 'toolbox' (Deleuze, 1992; Rabinow, 2003; Agamben, 2009; Bussolini, 2010). These accounts emphasize how the dispositif provides a methodological alternative to those 'universals', with which Foucault famously refused to deal (Foucault, 2008:3; see also Agamben, 2009:11 and Deleuze 1992:166). Whilst not rejecting objects like the state or society, sexuality or madness, Foucault denied that these were ready-made objects; instead they are "born precisely from the interplay of relations of power and everything that constantly eludes them, at the interface ... of the governors and the governed" (2008:297). The trick, as Walters notes, is to "shift from the study of objects to the practices that produce them" (2012:18).

Foucault's most concise explanation of the dispositif is offered in 'The Confession of the Flesh' (1980),¹²⁴ where Foucault describes three methodological prescriptives. As shorthand, I term these prescriptives: *heterogeneity*, *relationality* and *function*. Firstly, the dispositif refers to a set of "discursive and non-discursive" elements.

What I'm trying to pick out with this term is, firstly, a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions ... the said as much as the unsaid ... The apparatus itself is the system of relations that can be established between these elements. (Foucault, 1980:194-5)

Foucault describes these non-discursive elements as "everything which functions in a society as a system of constraint and which isn't an utterance" (1980:197). Foucault regards the social and the material as equally and inseparably constitutive of subjects and subjectivities (Bradiotti, 1994:126). In 'Subject and Power', for instance, Foucault notes how 'relationships of communication' and 'objective capacities' combine as blocks of

¹²⁴ The middle chapters of *The History of Sexuality* can also be read as a detailed methodological account of the dispositif (Foucault, 1990).

‘capacity-communication-power’ in the production of power relations. In a schoolhouse, for example, given disciplinary power relations require both a particular disposal of space and disciplinary regulations. Yet neither the architecture of the schoolhouse or its behavioral rules are defined entirely by the other (Foucault, 2001a:340). This sort of claim jars the boundaries of Cartesian thinking whereby the world is constructed through a neat division between, on the one hand, a “material order” in which things such as the built environment, technological devices and human physiology appear either as ‘given’ constraints on social relations or as empty receptacles that are rendered meaningful by discursive acts, and on the other hand a “separate sphere of meaning or culture” (Mitchell, 1990:546). Instead, as recent interventions have sought to show, a wide range discursive and non-discursive elements are *co-constitutive* of subjectivities and technologies of government (Aradau, 2010:495; Aradau et al., forthcoming; Lundborg and Vaughan-Williams, 2011; Voelkner, 2011).

The second prescriptive emphasizes how shifts in the *relations* between these discursive and non-discursive elements produce diverse strategies of power.

A particular discourse can figure at one time as the program of an institution, and at another it can function as a means of justifying or masking a practice which itself remains silent, or as a secondary re-interpretation of this practice, opening out for it a new field of rationality. In short, between these elements, whether discursive or non-discursive, there is a sort of interplay of shifts of position and modifications of function which can also vary very widely. (Foucault, 1980:194-5)

Foucault suggests that the arrangement of connections in the ensemble establishes a particular outcome for those caught within it.¹²⁵ A given technology of government can operate one way when embedded within one particular arrangement, and in an entirely different way when embedded within another. It is not the presence of a given element that leads to the constitution of a technology of governance. As a consequence there can be no general political significance of any discursive or non-discursive element. Discourses or material objects constitute political practices differently depending on what elements are present and how they are related in a particular moment. This focus on relationality is a fruitful means to avoid both deterministic approaches to technologies of governance and accounts that tend to assume security practices achieve the same results everywhere.

The relations between elements in a *dispositif* are under continual variation; the arrangement of elements and the ensuing power relations change over time. Scholars must “seek rather the pattern of the modifications which the relationships of force imply by the very nature of their process” (Foucault, 1990:99); scholars must, that is, examine how changing relations between elements constitute shifts in how technologies of governance perform. Deleuze describes the *dispositif* as a tangle of lines that split, break and fracture, and thus one can begin an investigation by locating in each *dispositif* these lines of breakage (1992:167). This may be achieved by looking at the difference between how the rationality of a government program is conceived and the practices brought about through the technology of enactment. This leads on to the final claim for the *dispositif* that emphasizes a strategic *function*, that is,

... a sort of—shall we say—formation which has as its major function at a given historical moment that of responding to an urgent need ... This may have been, for example, the assimilation of a floating population found to be burdensome for an essentially mercantilist economy: there was a strategic imperative acting here as the

¹²⁵ Foucault’s use of the *dispositif* echoes its usage by those before him. Baudry, for instance, used the term to describe how the assembly of the cinema and the position of spectators in front of a mirror-like screen encouraged spectators to perceive projections as their own central perspective (Baudry and Williams, 1974). Lyotard also uses the term to describe the perception created through visual arts (cited in Kessler, 2006).

matrix for an apparatus which gradually undertook the control or subjection of madness, sexual illness and neurosis. (Foucault, 1980:194-5)

By urgent need Foucault refers to a historical problematization, such as the need to govern sexuality or a population that emerges from medical or stochastic knowledge. Yet while the logic and aims of strategies of power may be clear, “it is often the case that no one is there to have invented them, and few who can be said to have formulated them: an implicit characteristic of the great anonymous” (Foucault, 1990:95). Rabinow puts the point in pithy fashion: “although people might well be explicit about what they are doing, they are not capable of grasping what they did, did”; there will always be “feedback loops and counter effects that escaped from all the planning, programs, and paranoia these rational actors had produced and so proudly deployed” (2003:53). Here, Joseph’s distinction between program rationality and technology echoes Foucault’s own identification of rationalization as “on the one hand positing an absolute value inherent in reason, and on the other taking the risk of applying the term empirically in a completely arbitrary way” (1991:79). Rather than the achievement of a plan, the history of governing rationalities is “characterized by the permanent ‘failure’ of programs” (Lemke, 2002:57). Yet, as Lundborg and Vaughan-Williams note, “these ‘failures’ are of course ‘successful’ ...as they reproduce the need for better resilience, more investment in technology, and enhanced attempts to securitize facets of life” (2011: 381). In a well-cited example, Foucault notes how the prison system ‘failed’ in that it produced a delinquent milieu as an unintended effect, yet this milieu became re-utilized for economic and political ends (Foucault, 1980:194-5). The side effect of delinquency did not destroy the apparatus but, in the end, was used to reinforce it. The apparatus did not achieve the planners’ original goals, but it did “work”; in this way there can be a ‘strategy without a strategist’ (Rabinow, 2003:54).

An implication of these three principles is that aggregate level strategies such as biopower cannot be divorced from the site-specific practices that produce them (Foucault, 2001b:123). Much has been written of Foucault’s genealogical method of conducting “a historical ontology of ourselves” (Foucault, 1997:315). What is less emphasized is the site-specific spatial arrangement invoked by the rule of ‘double conditioning’ (Foucault, 1990:99). ‘Local centres’ of power must be a part of a larger, overall strategy. Yet all strategies must be supported by the ‘precise and tenuous relations’ of the local, not as a point of outlet, but as a critical point of anchorage. These prescriptives are particularly relevant to those studies dealing with the contemporary, which are most at risk of overstating the evenness of particular strategies of governmentality.

A second implication relates to political accountability, brought about by implicating non-discursive elements in the production of power relations, and by suggesting that certain strategies of power exceed the intention of program designers.¹²⁶ It is not necessarily possible to say to designers of governing technologies, ‘you did this, you made these inclusions and exclusions possible.’ Yet whilst it may no longer be possible to hold individuals or political organizations responsible, as rational actors in full control of the world around them, for how structures of governance work, this does not mean that the methodology of the *dispositif* is depoliticizing or removes the possibility of accountability. The critical potential of this analysis becomes a matter of: (i) sketching the *dispositif* and conducting a ‘historical ontology of ourselves’ so that it becomes possible to identify the wealth of elements that constitute practices of governance, including the intended and unintended effects; and (ii), seeking accountability for the consequences of these intended and unintended effects precisely because, despite their material-discursive constitution, a “historical analysis of the limits that are imposed on us” opens up the possibility for those implicated in a program of governance of engaging in “an experiment with the possibility of going beyond them” (Foucault, 1997:320; Aradau et al., forthcoming).

¹²⁶ Thanks to an anonymous reviewer for raising this point.

Finally, before progressing to the case study, Rabinow has suggested drawing an analytical distinction between ‘apparatus’ (dispositif) and ‘assemblage’. Apparatuses (or dispositifs) “have been stabilized and set to work in multiple domains” whilst assemblages are a “type of experimental matrix” which disappear within a period of years (Rabinow, 2003:55-56). This leads Walters to argue that the deployment of digital biometrics might be better described as an assemblage than as an apparatus, because the technology may not last or, if it does, it may rely upon forms of power that are already familiar (Walters, 2012:77). This is an important point. Foucault did not write of a dispositif of medical knowledge, he wrote of a dispositif of sexuality in which the emergence of such knowledge was vital element; instead of writing of a dispositif of city walls, Foucault wrote of a dispositif of security. In this way we might regard biometrics as one smaller ‘assemblage’ within the contemporary dispositif of security.

The Anonymous Exclusions of UID

Governing through biometric technologies is widespread and has long been a feature of government in some places – in South Africa, Malaysia, Hong Kong and Macao, for instance – where the technology has acted as part of a “fantasy of administrative panopticism - the urgent desire to complete and centralize the state's knowledge of its citizens” (Breckenridge, 2005:271). With the introduction of *digital* biometrics, national programs are underway across South Asia, Africa and South America (Jacobsen, 2012: 458); programs are in use for checkpoint security within peacebuilding settings (Pugliese, 2010:87); much has also been written of biometric border controls in the United States and Europe (Amoore 2006; Vaughan-Williams 2010; Pugliese, 2010). The proliferation of biometric programs is facilitated by technology firms like M2SYS (2013) and Accenture (2009) who market biometric technology products that are transferable across terrains ranging from Nigerian voter registration to European visa management to Iraqi border security. In fact this transnational adoption of biometric technology masks the varied circumstances in which the strategic need for reliable identity verification emerges and how, in particular, the Indian government seeks to enact a biometric program that encompasses not just borders, visas or voters, but “the identity management of an entire population in a diverse social, political and geographical landscape” (Jacobsen, 2012; 458).

The UID program in India is twofold: the National Population Register and the Unique Identification Authority of India (UIDAI). The Home Ministry’s sponsorship of the NPR is driven by the imperative to increase national security by extending surveillance from the physical border regions to the entirety of India’s internal population movements (Jacobsen, 2012:462) – in this sense the uptake of UID reflects similar security imperatives to those identified by other governments who have employed biometric technology at the border, such as the United States ESTA or U.K. eBorders programs (Vaughan-Williams, 2010).

The UIDAI, however, aims to confront quite different issues of governance where the lack of reliable identity verification impedes the provision of state-sponsored public welfare and access to economic opportunity. Lack of identification often begins at birth; of the 27 million children born each year in India, approximately 8 million go unregistered and are denied the official identity that offers protection against early marriage, child labor or detention and prosecution as an adult (UNICEF, 2011:28). Proof of identification is required for participation in the National Rural Employment Guarantee Scheme (NREGA) that provides manual work to adults in rural households, the National Health Insurance Program (RSBY) for families below the poverty line (BPL), and the Public Distribution System (PDS) that provides state-subsidized food to BPL families. BPL families who cannot prove their identity thus face exclusion (UIDAI, 2010c). The problem is compounded for India’s 90 million strong nomadic tribal population, who often only reside in one place for a few months at a time and often lack any proof of their legal

residency in India (UIDAI, 2010d:19). They are often excluded from food subsidies, healthcare, education, and have no rights to the land on which they live (Kulkarni, 2011). The absence of proof for these claimed identities contributes to a cycle of poverty and societal exclusion (Zelazny, 2012:2).

The problem extends into private finance. Economic opportunity, the UIDAI notes, is tied to security. Banking “offers a cushion” to those with volatile or small incomes, providing opportunities to securely save funds or acquire insurance that could protect against “potentially ruinous events” such as loss of work, illness or crop failures. Yet approximately 40% of Indian residents have no bank account (UIDAI, 2010c:ii). On the one hand, this exclusion is the result of stringent ‘Know Your Customer (KYC) standards that must be met before a new account may be opened. The KYC standards are intended to prevent money laundering and terrorist financing activities; the standards also enable banks to attain knowledge necessary to manage customer risk. Much of the so-called “poor and underserved population” lack the sufficient documentation for KYC standards, and Indian poor “remain at the periphery when it comes to effective access to finance” (UIDAI, 2010d:42). On the other hand, the actual financial behavior of the poor is cause for exclusion. The poor, the UIDAI note, have “unique preferences” when it comes to withdrawals and deposits. “They prefer to do large numbers of small transactions, in 'micropayments' of say, Rs.10 rather than Rs.100” (UIDAI, 2010d:40). On average it costs a bank roughly Rs.40 for each teller transaction, and Rs.10 for each ATM transaction (UIDAI, 2010c:11). These low value micro-transactions are thus prohibitively costly and banks discourage them. Consequently a worker who wishes to send remittances to family members must use other, more expensive or unreliable methods like Post Office transfers or money couriers (UIDAI, 2012b:23). With limited access to financial services individuals are unable to make the regular payments necessary for loans, micro-insurance policies or micro-pensions.

The problematization of identity and the strategic need for identity verification is thus peculiar to a constellation of conditions that constitute a population whose widespread lack of reliable identification and norms of fiscal behavior prevent inclusion within existing welfare and financial institutions – which are in part, such as KYC, themselves responses to globalized security problems like money laundering and illegal financing.

The Rationale of UID: X is Indisputably X

Biometric identification in India emerged through the colonial practices of surveillance and identification under the British Raj. Developed during the mid nineteenth century in India to constitute a new classificatory knowledge (Pugliese, 2010:18; Jacobsen, 2012:460), the technology of biometric surveillance was subsequently integrated into policing within Britain before being transported across the world (Sengoopta, 2003:6). Whilst the habitual identification of residents may have been unthinkable in Europe, the British Raj considered the Indian population to be “another matter” where “unquestioned authority went hand in hand with pervasive fears of being deceived by the populace” (Sengoopta, 2003:204). In response to revolts against British rule; fingerprint identification was introduced to enforce law and order upon an unruly population in an environment where administrators “could not tell one Indian from another” (Cole, 2002:64). Technologies of welfare and national security were connected at this time too, as the fingerprint served as a proof of identity in the pension system (Cole, 2002:65). The roots of UID thus lie in an extensive postcolonial historical narrative that largely lies beyond the scope of this paper.

What excites the proponents of UID is that biometric attributes allow the body to become an indisputable anchor of identity, a machine-readable witness against the subject (Van der Ploeg, 2005:113). UID is imagined to prove that “x is x” (Shukla, 2010:33). Digital biometric technology works by scanning a biometric attribute, such as a fingerprint,

and producing a digital ‘template’ – a string of alphanumeric characters – which is stored in a database. Crucially, the ‘raw’ attribute – the real fingerprint – is not what is stored (Magnet, 2011:21). When UID applicants enroll for an Aadhaar number, the applicant supplies demographic information (such as name, date of birth and address) and biometric information (a scan of all ten fingerprints and both irises, and photograph). These demographic and biometric templates are sent and stored in the Central Identities Data Repository (CIDR), which issues a UID number to the applicant. The number can be used to register for financial services or state-sponsored programs such as PDS, NREGA or RBS. The service provider can authenticate the UID by sending the subject’s claimed UID number, along with new demographic and biometric templates captured from the subject at the time, to CIDR. CIDR compares the demographic/biometric templates sent by the service provider with those held on the CIDR database (UIDAI, 2012b:10-13;UIDAI, 2012d). If the templates match, the subject’s identity is validated. Upon enrolment, the applicant’s templates will also be shared with the NPR, which holds the data within a combined national intelligence database (NATGRID) that will identify and monitor illegal residents and criminals (Vishnoi, 2012).

The UIDAI regard UID as “an enabler” (Sharma, 2010;UIDAI, 2012b). Firstly, UID improves the efficiency of welfare programs by validating eligible recipients who previously lacked identification documentation (UIDAI, 2010b). Secondly, possession of UID mitigates financial exclusion. UID holders can obtain a KYC-compliant UID-enabled Bank Account (UEBA) that can be accessed from any bank or mobile device, providing “a convenience that has long been available to the middle class ...to the rural and urban poor” (UIDAI, 2010d:41;UIDAI, 2012a). Banking institutions also solve the prohibitively costly banking behavior of India’s poor. UEBA customers can transfer funds as direct electronic transfers, which drastically reduce the cost to the bank. In fact these high volume, low cost transfers provide “an important source of revenue” for banks (UIDAI, 2010d:41). The UID also enables the provision of credit facilities, allowing the subject to become *debt-legible*. The Basic Services for Urban Poor (BSUP) program, for instance, links home-ownership micro-loans to biometric smart cards held by the loan recipient. The smartcard allows the loan-provider to track the family and ensure that the loan is repaid (Ministry of Urban Development, 2011). Thirdly, the UID alters the issuance and consumption of welfare subsidies. Subsidized foodstuffs can be replaced with a direct cash transfer to the UEBA (UIDAI, 2012e). Direct cash transfers reduce opportunities for ‘leakages’ and fraud, increase transparency, but also transform the subject from a recipient of subsidized food into a *consumer* with purchasing power who chooses how spend welfare provision. UID thus brings the possibility of “an altogether different type of citizenship” marking an augmentation of identity from “a political subject ... to one that is more explicitly intended to be crafted as a consumer citizen, defined predominantly by debt legibility” (Shukla, 2010:31). Another commentator notes “an India that is hoping to maintain high rates of growth must of necessity look for ways to expand domestic markets”, thus “populations hitherto considered the ‘poor’ are indeed emerging as potential target markets” (Maringanti, 2009:37). Taking the titular phrase from the best-selling book by C. K. Prahalad, the fortune is at the bottom of the pyramid (2005).

The UIDAI emphasize that participation in the UID program is not mandatory but a choice to opt-in to a new model of security through the interrelation of identity, welfare and economic rights (UIDAI, 2010d:3). The liberalizing economic policies pursued in India and the rise of new consumer middle class during 1990s have been well documented (Fernandes, 2000), inclusion is now being extended to the urban and rural poor. The deployment of UID is also commensurate with longstanding agendas from the World Bank and other international institutions where the construction of technical infrastructure is a vital component of development discourses (Jacobsen, 2012). Yet as I intend to show below, we can also uncover a more repressive or violent side to the program, what Richmond calls “a ‘moment of exclusion’” exactly when inclusion is being offered

(2010:200). This exclusion emerges when the rationality of the program meets the technology of enactment, constituting a technological racism bearing much ‘family resemblance’, in Walter’s words, to the sifting logic of biopolitics.

The Technology of Enactment: Anonymous Strategies of Exclusion

Scholarly analyses have emphasized how biometric technologies facilitate a temporally and spatially expanded strategy of biopolitical governance, a scientific solution to simultaneously quicken the flows of global capital whilst protecting populations from threats of terrorism, crime, and illegal immigration (Van der Ploeg, 2005;Amoore, 2006;Bennett and Lyon, 2008;Vaughan-Williams, 2010). The Home Ministry’s implementation of the NPR can be read in similar fashion (Jacobsen, 2012:461). Recent scholarship has also explored how digital biometrics and, specifically, India’s use of UID supports a tremendous panoptical capacity and a mobilization of the ‘clinical gaze’ (Pugliese, 2010; Jacobsen, 2012). Popular criticism of the UID program has also taken place on the terrain of civil liberties: critics claim that the program is prohibitively costly, has not been consultative enough, that the sharing of personal data between government agencies violates rights to privacy, and that the use of UIDs in the National Intelligence Grid (NATGRID) may facilitate “intrusive bullying’ by the State” (Iyer et al., 2010;Khera, 2011).

There is, therefore, a varied and rich debate on UID to be explored,¹²⁷ most of which lies beyond the reach of this paper. Here I am interested in how the heterogeneity, relationality and an anonymous function at work in UID can take existing critiques further, to challenge this imagined ‘inclusivity’. This critique operates by deconstructing the “epistemological hubris” – to borrow from Dillon and Reid (2009:114) – that the dynamism and variability of the human subject can be simplified into a stable entity. Scholars have shown how the incompatibility of technical standards can limit the expansion of biometric technology (Breckenridge, 2008;Walters, 2011), or how subjects can subvert the program by mutilating the body (Breckenridge, 2005). My discussion relates to two lines of criticism: error rates based on probability, and the manner in the subject’s own body can be rejected by the technology (Pugliese, 2010;Magnet, 2011).

Firstly, digital biometric identification is probabilistic. The computer must judge the likelihood that two alphanumeric templates come from the same attribute. This requires trading-off error rates of false acceptance (FAR) and false rejection (FRR). As one rate increases the other decreases, thus system designers must choose between a wide or narrow range of accepted variability between templates (Pato and Millet, 2010:32). This problem was insignificant when Ranjana Sonawane’s template was the only one in the database. With 1.2 billion entries, however, the system will be required to make several million billion comparisons. The magnitude of error increases and the trade-off between false acceptance and false rejection becomes more significant. One way in which to reduce these error rates is through a ‘multimodal’ approach - capturing templates from more than one biometric attribute in order to provide the system with more data to make comparisons. Capturing ten fingerprints and both irises can do this. This leads to the second interrelated fallibility of the technology.

In a cruel expression of the difference between the rationality of the program and the technology of enactment, millions of Indian residents who spend their working lives in agriculture or construction have worn away their fingerprints in the act of labor, resulting in ‘low-quality’ attributes’ that are unreadable to the biometric scanner (UIDAI, 2010a). Cataracts also often adversely affect biometric enrollment (Ramanathan, 2010). Elsewhere, Magnet calls such events “high-tech racism”, noting how certain racial or gendered skin or iris types are more likely to be rejected by scanners (2011:28). The ensuing encounter

¹²⁷ I am indebted to an anonymous reviewer for emphasizing this point.

between the subject with low-quality biometrics and the UID technology plays out in tragedy.

Batuli, 72, arrived at around noon ... to get herself a 'smart card' everyone has been talking about. (The 'Aadhaar' brand name hasn't caught on in these parts of Delhi, with everyone insisting on calling it the 'smart card'.) The helpful operator with the fancy gadgets helps Batuli to her seat. After her photo is taken, Batuli is asked to place four fingers – one hand at a time – on a green-lit device. Right hand, then left hand. She is, however, asked to repeat the exercise a second time for the left hand. The operator explains, "In some cases, we have to scan the fingerprints and iris multiple times. If it doesn't pass the required quality percentage of 70 percent ... we repeat the exercise up to four times." Batuli's hands are then wiped using a cloth and placed back on the device. The exercise is repeated a fourth and final time. But still the same result. 'Fail', declares the reading on the operator's computer. (Polanki, 2011)

The subject's body interferes with the technology, challenging assumptions of technological infallibility and objectivity. There is an "excess of life" that surpasses the grasp of the governing technology (Lundborg and Vaughan-Williams, 2011). Following some scholars of the so-called materialist-turn, one could suggest that this is a form of material agency (Bennett, 2009), yet Foucault was unwilling to deal in this kind of universal ontology. Instead a more suitable understanding is Latour's suggestion that 'anthropomorphic objects', such as a door-closer with heavy springs, can influence our behavior by prescribing the sort of 'ideal user' that can interact with the object successfully, and in a manner not anticipated by those that engineered the object (Johnson, 1988). This seems more in keeping with Foucault's focus on relationality - indeed Latour expressed some admiration of Foucault's *dispositif* (Latour and Crawford, 1993). We can certainly see how biometric technologies prescribe an 'ideal user' – with strong fraction ridges on the tips of fingers – and reject others. Indeed we can identify previously overlooked aspects of the heterogeneous ensemble that reshape, through an interplay of relations at the local level, how the governing strategy behind UID can unfold: environmental conditions of heat and humidity in which the body resides, differing discourses of labor, class and capital. An office worker employed in a dry, air-conditioned environment and who receives regular healthcare is more likely to possess strong fraction ridges in fingers and an unclouded iris texture that is prescribed by the biometric assemblage than a manual laborer who works in hot, humid conditions without access to regular care. These conditions shape these contours of the human body that are probed by the biometric sensor.

Yet, paradoxically, the office worker is more likely to possess identification documents, to conduct the kind of financial behavior that banks find attractive, and to not require welfare subsidies. The manual laborer is the opposite. Members of precisely the demographic that UID is intended to help carry a biometric identity that confuses the system and disrupts the reading. The UIDIA argues that it can collect biometrics with "quality as good as seen in developed countries" (UIDAI, 2009:4), but this assumes that any biometric template, in India or elsewhere, is a perfect reproduction of the attribute; it assumes that templates are brought into being independently of the particular context in which they are captured. The political significance of biometric technology is immanent to, and will vary according to, the particular relations between the discursive and the non-discursive.

This question of fallibility was given official voice by the Parliamentary Standing Committee on Finance, who raised concerns that full coverage of marginalized sections of the population could not be achieved due to "failure of biometrics" (Standing Committee on Finance, 2011:30). In response, the UIDAI reported that the percentage of individuals without usable biometric data is 0.14% (UIDAI, 2012c). Whilst 0.14% seems low, one

percentage in the context of the Indian population is 12 million people. In a population of 1.2 billion, there are 1.68 million biometric exceptions. In addition the report suggested that even in a database of 84 million entries, the False Rejection Rate is 0.057% (UIDAI, 2012c). If one million cases passed through the system every day, 570 cases would be falsely rejected.

Breckenridge has noted that where an identity is denied, “the authority of computers is already difficult to contradict” (2005:280). Those without usable biometrics will, at the very least, be subjected to protracted bureaucratic procedures. They may be denied entry at the border. They may have to return to the old ways of money couriers or travel some distance for financial access. This exclusion is intensified as, despite the UIDAI’s original claim that UID is not mandatory, a UID number is required to access government services in Delhi (Times of India, 2012). Meanwhile the security measures required for the enrollment of a subject without sufficient biometrics will become more stringent after an incident in April 2012 when a UID was successfully issued to a coriander plant.¹²⁸ A consequence of being ‘unreadable’ by UID, in a time where UID is *the* method of identity verification as old methods have been supplanted, is that such an individual will be *more* excluded than they were before the advent of UID.

Here the intricacies of the biometric ‘assemblage’ influence how strategy of power performs at an aggregate level. Whilst the exclusion of millions of Indian residents from the UID program through invalid biometric attributes appears to be a ‘failure’, when viewed as part of the contemporary Indian dispositif of security the exclusions are necessary. The Planning Commission seeks to fulfill the overarching aim of augmenting those resources that are deficient in relation to the nation’s requirement. UID augments the population by using biometric attributes as a global and supposedly indisputable anchor of identity. It allows the Indian border to be projected within the state to surveil the population; it facilitates a new frugality of welfare programs by reducing waste and fraud; it increases the proportion of the population that can access welfare and contribute to economic prosperity by investing capital and consuming debt. Yet when UID is the preferred form of interaction and access is denied to those who cannot be augmented by the existing technology, the exclusion is intensified.

According to its intended goals, the UID program falters; UID is designed to “ensure uniqueness” (UIDAI, 2010a) and to be “universal” (Accenture, 2011). This exclusion is a ‘strategy without a strategist’, yet the exclusion is commensurate with a logic to sift the population into those who can, and cannot, play a part in this new model of governance; it is the intensification, rather than the failure, of an overarching strategy to enhance the population to adopt new productive behaviors whilst casting aside inefficient programs of governance alongside those persons that no longer fit in. Yet whilst these exclusions may be willed by no one in particular, by understanding these exclusions as generated through the dispositif – through the ensemble of interrelated elements – it is still possible to insist upon a form of critical accountability. The production of these exclusions are not beyond our understanding, we can see how they are an integral part of the dispositif. Even if the designers of UID could not have foreseen how this could happen, India’s UID program is nonetheless accountable for the consequences.

All of this is reminiscent of the biopolitical logic of making live and letting die. But this ‘family resemblance’ emerges from the ground up and from the local ensemble of elements that constitute the practice of UID in India. Foucault’s influence can be applied beyond the realms in which his studies were situated – indeed there is nothing specially Western about governmentality – so long as we differentiate the principles of Foucault’s analytic of power from the particular narrative in his studies.

¹²⁸ Specifically, number 499118665246 was issued to Mr. Coriander (Kothimeer), the son of Mr Pilaf Rice (Pulao), as a resident of Raw Mango Village (Mamidkaya). It thought the UID was issued to Mr. Coriander by a UIDAI engineer attempting to point out the weaknesses in the enrolment process provided for those with low-quality biometrics (Yadav, 2012).

Conclusion

This paper argues that Foucault's work is a useful resource in International Relations. Specifically, Foucault's methodological principles can highlight heterogeneous forms of governmentality through the study of the variance between intended rationalities and concrete technologies of governance. This approach is illustrated in the paper through the application of these principles to the case of the Indian government's UID program, which has at its core an unexpected variance between rationality and technology brought about through the presence of subjects with invalid biometric attributes. Expressed through the methodological principles of the *dispositif*, the analysis provided by the paper can be summarized as follows.

'Heterogeneity' suggests that discursive and non-discursive elements co-constitute objects and practices of government. The use of UID in India is possible only because of the intersection of a post-colonial familiarity with biometrics, globalized security problematiques and strategic need for reliable identification verification. This prescriptive, in particular, re-emphasizes the analytical weight of non-discursive elements: the concrete application of UID, for instance, is shaped by the physical attributes proscribed by the biometric machine whilst the attributes of the subject are constituted by a wealth of socio-political, material-discursive conditions.

'Relationality' suggests that the political significance of these elements shift as relations change. Biometric technology can function as an 'enabling' tool of government in one moment, and an exclusionary practice in another; physical attributes can make the subject visible to government, or invisible. Governing objects like biometric attributes is no more objective than governing socio-political behaviors and norms – both are the product of relations between elements, both practices will behave differently across varied terrain.

'Function' suggests that there is a unifying significance to the vast constellation of elements interrelated in a *dispositif*: these interrelations constitute some kind of governing response to a strategic need. This response is not necessarily what the designers had in mind. Governing by UID in India 'fails' because of the interaction between the technology and the subject, both of which are constituted by the ensemble of elements. Those who are excluded are abandoned, a case of letting die those who can't be made to live in the new society of UID. This 'failure' challenges the inclusive and universal sentiments of the program *but* contributes to a successful practice of governance connected to a strategic need to augment the population. The designers of India's UID program produced the norms of a new responsible subject for the Indian state rather than, as the designers may believe, utilized the brute, physical characteristics that we all, naturally possess. This subject is also constituted by the need to conform to the demands global finance regulation, a frugal welfare system, debt legibility and so on. The critical potential is this kind of analysis is to illustrate how this 'breakdown' of the program, whilst being a strategy without a strategist, is nonetheless a product of politics and power relations; accountability becomes a matter of being responsible for the consequences of such strategies and understanding how the practice has become possible. It has become possible through the plural and heterogeneous forms of governmentality constituted by *dispositifs*.

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