

## **Additional Statement to the China Tribunal**

(David Matas, Ethan Gutmann, David Kilgour April 7, 2019)

Rt. Hon. Mark Field Secretary of State for Foreign and Commonwealth Affairs on the 26th of March 2019 said in Parliament:

"There is a growing body of research, much of which is very worrying. As the hon. Member for Strangford mentioned in his speech, one key source is the written analysis by David Kilgour, David Matas and Ethan Gutmann. My officials have studied their latest report carefully and consider it to be an important source of new information about China's organ transplant system. It points out that it is extremely difficult to verify the number of organ transplants conducted in China each year, and to verify the sources of those organs. The report rightly questions the lack of transparency in China's organ transplant system, but acknowledges the lack of incontrovertible evidence of wrongdoing. The authors make it clear that they have no smoking gun, or smoking scalpel, to prove their allegations, so they are forced to rely on assumptions and less than rigorous research techniques. Some of those assumptions, particularly the statistical assumptions, came up in hon. Members' contributions, but they are still assumptions. We have to work on the basis of rigorous evidence - obviously, we are trying to develop as big a body of that as we can. Those research techniques include having to infer the scale of the organ transplant system from hospital promotional material and media reports, rather than properly corroborated data sources."

This statement misrepresents our research. It states that the 2016 updated "acknowledges the lack of incontrovertible evidence of wrongdoing". However, there is no such acknowledgement. The update is word searchable. There is nothing that uses these words, or any other formulation which amounts to the same thing. The Minister attributes to us an acknowledgement we never made.

Moreover, the update, in substance, is the reverse. All of the evidence on which we rely is

incontrovertible. The update has 2,400 endnotes. 2,200 endnotes cite official Chinese sources. Not one piece of evidence, of the thousands on which rely, has been controverted.

The next statement is also inaccurate. The statement is

"The authors make it clear that they have no smoking gun, or smoking scalpel, to prove their allegations, so they are forced to rely on assumptions and less than rigorous research techniques."

While we did say that there is no smoking gun, or smoking scalpel, the point we were making is that our conclusion comes from all the evidence, not just one piece of evidence. That is not something the reader is left to guess. We say that plainly.

The quote from our update is this:

"One reason that the abuse has not received the global attention it deserves is the sheer volume of evidence that needs to be marshalled to show that the abuse exists. If we had one smoking gun or, as David Kilgour has put it, one smoking scalpel, which we could brandish to show that the abuse exists, our efforts to combat the abuse would be comparatively easy. When we have volumes of evidence that have to be considered as a whole to conclude that the abuse exists, then our audience for the abuse is regrettably but also necessarily diminished."

As one can see, we make no linkage between the absence of a single piece of evidence alone to establish our conclusions and the presence of assumptions. That linkage belongs alone to the Minister and his officials.

One would have thought that there should not be an issue when we state that our conclusions come several pieces of evidence and not just one. To extract from that statement a conclusion that our conclusions comes from assumptions is a gross distortion.

It is the Minister and his officials who are using smoke here, a smokescreen. Below we address what is behind the smokescreen the Minister and his officials are throwing up.

As for a less than rigorous research techniques, it is not clear what the Minister means. Which research techniques did we use that the Minister and his officials consider less than rigorous?

Perhaps he means what only what he said just prior, that we rely on assumptions. When it comes to assumptions, that word or its variations are found in our update, on several occasions.

Here is one representative example:

"The People's Liberation Army No. 458 Hospital (The Air Force Hospital of Guangzhou Military Command) Regional level liver and kidney transplant centre  
Its liver transplant centre has 108 beds and can simultaneously carry out two liver transplants and one regular surgery ... This department has one chief surgeon, 3 associate chief surgeons, 2 staff members with PhDs, and 3 with master's degrees.  
Its website states,

'Our hospital is one of the medical units qualified for liver transplants as designated by the Ministry of Health. Guangdong currently has five medical organizations qualified to perform liver transplants. [We] have very rich clinical experience in liver transplantation. Our hospital's liver transplant surgery department has completed around 150 liver transplants; each year, more than 20 liver transplants are completed here.'

In 2006, a Lifeweek report titled 'Medical Stories Behind the Lens' featured a segment regarding liver transplants at this hospital:

'On September 28, 2006, Dr. Sun Ningdong of the People's Liberation Army 458 Hospital's hepatobiliary surgery department hosted his first photography

exhibition. ... The 458 Hospital has now performed over 140 liver transplants'

This report shows that in the two years after its first liver transplant in 2004, this hospital carried out more than 140 liver transplants. Twelve years later, however, its total number of liver transplants has not grown on paper. If this were really the case, the hospital could not have maintained its certification by the Ministry of Health. The hospital also self-reported doing 20 liver transplants each year (the minimum requirement to maintain its Ministry approval). Based on this number, by 2016 it should have performed nearly 400 liver transplants. Using a conservative figure of 70 cases per year from the media report, it would have accumulated nearly 1,000 liver transplants to date. Based on the hospital's ability to carry out two transplants simultaneously, if we assume that each operating room is used only once per day (otherwise, only one operating room for liver transplants would suffice), it would have performed 800 per year, or 10,000 to date. We estimate that the hospital's public numbers represent about 1/70 of its actual liver transplant volume."

This is typical of an example where the word "assumption" or its variants are used. In order to determine volumes, we look, hospital by hospital, at all available sources of information. We look at staff counts, bed counts, media reports, research reports, internal newsletters, minimum capacity, and so on - every data stream we can find.

One data stream we did consider is based an assumption of minimum use of the facilities. A data stream based on minimum use of facilities is going to be an underestimate in light of the many coincident reports of maximum use of facilities. The point of the assumption is to show that, even if we assume that facilities are used at their lowest possible level to achieve and maintain registration, we reach a figure for organ transplants far exceeding official figures. To suggest from the use of that sort of assumption, as one source of calculation of figures among many, that our report is based on assumptions is a

misrepresentation of our work.

One can see the manner of misrepresentation from another quote from the Minister. He states that "we infer the scale of the organ transplant system from hospital promotional material and media reports". Yet, as one can see from the quoted example, while we do refer to hospital promotional material and media reports, we do not rely on them alone.

What we produce is several evidentiary streams to draw our conclusions. What the Minister does is isolate a couple of those evidentiary streams and assert that those evidentiary streams which he isolates do not on their own establish our conclusions. When the Minister refers to less than rigorous research techniques, he may be referring to this, not what our research techniques are, but what he pretends them to be.

We could in turn accuse the Minister and his officials of less than rigorous reading skills. Yet, that would be churlish. No matter how obtuse one might think that the Ministry of Foreign Affairs of the Government of the United Kingdom happens to be, it would be uncharitable to suggest that they do not know the difference between some and all. When the Minister pretends that some is all, there is something more going on than poor reading skills.

But what is that something else? Since it is now almost thirteen years since the first version of the report which David Kilgour and David Matas wrote came out and since Ethan Gutmann began his work on the subject, we are all used to reactions like this. Often, they come from the Communist Party of China.

Here is a Communist Party of China example not that far different in approach from the remarks of Minister Field. David Matas went to Israel to speak on May 30, 2007 at a symposium on organ transplants at Beilinson hospital near Tel Aviv. The Chinese embassy in Israel circulated a statement at the symposium that the report David Kilgour and David

Matas wrote on organ harvesting of Falun Gong practitioners contains:

"verbal evidence without sources, unverifiable witnesses and huge amount of unconvincingly conclusive remarks based on words like 'probably', 'possibly', 'maybe' and 'it is said', etc. All these only call into question the truth of the report."

Yet, all one has to do to is to look at our work to see that every statement the two made in the report is independently verifiable. There is no verbal evidence without sources. Where we rely on witnesses, we identify them and quote what they say. We have searched our report for the words the Chinese embassy put in quotation marks. At no place does the report link the words 'probably', 'possibly', 'maybe' or the phrase 'it is said' to the conclusions. The conclusive remarks which the Chinese embassy said the report made do not exist.

The Ministry of Foreign Affairs of the UK, even though they engage in misquotes and misrepresentations of our work not far different from those of the Chinese Communists, may bristle at the comparison. However, they would likely acknowledge that a comparison between their approach and the approach of either the US Department of State or the Australian Ministry of Foreign Affairs is appropriate.

The US Department of State, to their credit, did acknowledge, in their most recent annual Country Reports on Human Rights Practices, the existence of our work, the first time they had done so since 2011, but in an odd way. This is what they wrote on the subject, in its entirety:

"Some activists and organizations continue to accuse the government of involuntarily harvesting organs from prisoners of conscience, especially members of Falun Gong. The government denied the claims, having officially ended the long standing practice of involuntarily harvesting the organs of executed prisoners for use in transplants in 2015."

It would be more accurate to say:

"several researchers, working independently of any government or organization and each other, have concluded that the government of involuntarily harvesting organs from prisoners of conscience, especially members of Falun Gong."

By characterizing this research work as an accusation of activists and organizations, and by placing it at the same level as denials of those the research work concludes to be perpetrators, the research work is bypassed, trivialized and artificially discredited.

Similarly, Graham Fletcher of the Australia Department of Foreign Affairs, when giving testimony in 2017 to the Human Rights Subcommittee of the House of Representatives Joint Standing Committee on Foreign Affairs, Defence and Trade, stated:

"we are aware of the statistics which allege that there are a very large number of transplants occurring in China, but we do not have any basis for accepting that those statistics are accurate ... we have conducted our own investigations both in China and elsewhere to seek to establish whether the claims made about organ harvesting from prisoners of conscience have any basis, and our conclusion is we have not found evidence that supports them ... we have no evidence that prisoners of conscience are being killed in China."

On what are these conclusions based? Mr. Fletcher, in a subsequent letter to the Subcommittee

"advised that the Chinese Government has consistently rejected reports of forced organ harvesting in China, including at our bilateral dialogues."

The Department refers to no other investigation or analysis or query on which it based its conclusions than that. The investigation of the Government of Australia appears to be limited to asking those against whom there is overwhelming evidence of complicity in mass murder whether they are prepared to admit their crimes.

One can see a pattern here. The mass killing in China of innocents for their organs represents for Ministries of Foreign Affairs everywhere is an inconvenient truth. It is impossible to accept the reality of this crime without accepting its consequences. After accepting the reality of this ongoing tragedy, one can not just carry on with the Government of China as if nothing had happened. Once the reality is acknowledged, it must be addressed in some way. It is a lot easier to pretend it does not exist, to turn a blind eye to a horror too awful to contemplate.

Having lived with this form of derisory dismissal now for almost thirteen years, we have become habituated to it. We draw it to the attention of the Tribunal not only for the purpose of presenting a critique but also for the purpose of presenting an alert.

If your final judgment should continue to come to a similar conclusion as ours, as it already has in its interim judgment, that judgment is likely to be faced also with made up quotes, mischaracterizations and misrepresentations. While it is impossible to defend completely against this sort of onslaught, we would encourage this Tribunal to be as crystal clear and unequivocal as possible in its final judgment as it has already been in its interim judgement.

Bringing truth to power is not sufficient, on its own, for truth to prevail against power. In the long run, truth will prevail over power, because power is ephemeral and truth is lasting. However, as John Maynard Keynes was unkind enough to remind us, in the long run, we are all dead.

Even if this truth, the killing of prisoners of conscience for their organs, were to prevail today over the power of the Communist Party of China, it would be too late for all too many victims. The obstacles to the acceptance of this truth are not just those against whom there is compelling evidence of complicity in the crimes; as the remarks of Minister Field have recently illustrated, the obstacles include those for whom acceptance of the

truth is a practical inconvenience.

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