

## Abrogating the Rule of Law: The Tai Ji Men Tax Case in Taiwan

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**ABSTRACT:** Tai Ji Men, a spiritual school in Taiwan that teaches Qigong based on ancient Taoist traditions, was one of the movements targeted in a local crackdown against “cults” in 1996. Although the school and its founder, Dr. Hong Tao-tze, were eventually declared innocent of all charges, as a by-product of these events a tax case has continued for the next twenty-four years. The highest jurisdictions in Taiwan concluded that there had been no tax evasion. However, Taiwan’s National Taxation Bureau has maintained its (illegal) tax bill for one year, 1992, and based on this, in 2020, has seized and auctioned properties of Dr Hong. The article surveys the main political and legal institutions in Taiwan and the Tai Ji Men case, concluding that what happened is a serious blow to Taiwan’s image as a Constitutional democracy.

**KEYWORDS:** Tai Ji Men, Hong Tao-tze, Tax Justice, Taxes and Spiritual Schools, Tax Cases in Taiwan.

“The power to tax involves the power to destroy”  
(U.S. Supreme Court 1819, 431)

### *I. Introduction*

United States and Taiwan share a common respect for the Rule of Law. Fundamental to our two systems of justice is freedom from tyranny and oppression from an abusive government. These are principles Americans and Taiwanese hold dearly both in concept and in practice. We must always be vigilant against those who would trample on those fundamental rights for personal, economic, or political gain.

Despite the mandate of the Rule of Law for due process, Tai Ji Men, and its founder, Dr Hong Tao-tze, have been relentlessly pursued, prosecuted and

persecuted for 24 years by rogue government officials seeking to collect taxes on financial gifts made by members of Tai Ji Men to Hong. Although bogus criminal and administrative cases brought by these unscrupulous government officials for tax years 1991, 1993, 1994, 1995, and 1996 have all been resolved in favor of Tai Ji Men and Hong, tax officials have continued to pursue their case for 1992, until land belonging to Hong was seized and auctioned in 2020. The case for 1992 is identical in all respects to the other years for which Tai Ji Men and Hong were exonerated. That 1992 case should have been dismissed as well.

## *II. Taiwan's Constitutional Branches of the Government*

The system of Constitutional democracy in Taiwan, like that of the United States, has three traditional branches of national government: the Executive Branch, the Legislative Branch, and the Judicial Branch. But Taiwan has two additional branches—the Control and Examination Branches (Government of Taiwan 2016).

### *A. The President and Vice President of the Republic and the Executive Yuan*

The Executive branch consists of two Constitutionally distinct entities. Instead of having a single President, there are actually two chief executives: the President of the Republic and the President (called the Premier) of the Executive Yuan. The President and Vice President of Taiwan are jointly elected by popular vote for a term of four years. The President's main tasks are to direct international relations, including the use of the armed forces. Additionally, the President appoints the President (Premier) of the Executive Yuan and nominates members of other branches of government, including members of the Control Yuan, of the Examination Yuan, and the Grand Justices of the Judicial Yuan.

The Executive Yuan has a number of ministers and chairpersons of committees. In addition to supervising the subordinate agencies of the Executive Yuan, the Premier also:

- performs the duties of the President in the event of vacancies in the presidency;
- presents administrative policies and reports to the Legislature; and
- countersigns laws and decrees promulgated by the President (Government of

Taiwan 2016).

## B. The Legislative Yuan

The Legislative Yuan is the highest legislative body of the state, consisting of popularly elected representatives who are eligible to stand for re-election.

As prescribed in the Constitution, the Legislature has broad general legislative powers; confirms emergency decrees issued by the President; receives reports on the state of the nation from the President; receives reports on administration and revision of government policy; examines budgetary bills and audit reports; grants or withholds consent to Presidential nominations to top government posts, including nominees for the Control Yuan and the Examination Yuan; amends the Constitution (subject to a subsequent popular referendum); and hears and settles disputes between the Central and local governments.

In exercising their legislative functions, legislators enjoy broad immunity for opinions expressed or votes cast, and no member of the Legislative Yuan may, except in extreme circumstances, be arrested or detained without the consent of the Legislature (Government of Taiwan 2016).

## C. The Control Yuan

The Control Yuan exercises the powers of impeachment, censure, and audit. Members of the Control Yuan (including its President and Vice President) are nominated and appointed by the nation's President with the consent of the Legislative Yuan for a fixed term, which may be renewed. The Constitution empowers the Control Yuan to institute impeachment proceedings against public officials (except for the President and the Vice President of the Republic). The Control Yuan may also file a written censure against offending public officials, after which the case goes to the appropriate authority for action—the Commission on the Discipline of Public Functionaries in the case of a civil servant, or the Ministry of National Defense for military personnel.

The Control Yuan may investigate and propose corrective measures concerning the operations of the Executive Yuan and its subordinate agencies. The Control Yuan also exercises the power of audit through its Ministry of Audit, which oversees the budgets of all government organizations. The head of the ministry, the auditor-general, is nominated by the President and appointed with

the consent of the Legislature, and is responsible for auditing central government expenditures.

It is this unique feature of Taiwan's Constitution that distinguishes it from other democratic Constitutions—the provision for a special branch of the government to watch over wayward politicians and bureaucrats. The Control Yuan has the power, by itself, to direct the Executive Yuan to remove any elected and appointed public official from office. The intent was to create an independently elected watchdog group with real power and authority. The Control Yuan is authorized to review government documents, question governmental officials, and punish offenders if it believes there is neglect of duty or violation of law. If it believes that a law was violated, it has the obligation to turn its findings over to a court of law (Government of Taiwan 2016).

#### D. The Judicial Yuan

The Judicial Yuan is vested with the power of interpretation, adjudication, discipline, and judicial administration. Justices of the Judicial Yuan, including that body's President and Vice President, are nominated and appointed by the President of the Republic with the consent of the Legislative Yuan. The justices interpret the Constitution and unify the interpretation of laws and ordinances. The Constitutional Court is also empowered to review and decide on the impeachment of the President or the Vice President of the Republic after such an action is proposed by the Legislative Yuan.

##### — Commission on the Disciplinary Sanctions of Functionaries

Cases involving public functionaries are heard by the Commission on the Disciplinary Sanctions of Functionaries. The decisions of the Commission are final, but a re-adjudication may be granted when legitimate grounds exist. Cases involving judges and prosecutors are heard by the Judicial Yuan's Court of the Judiciary.

##### — Court System

The Judiciary has three levels: district courts and their branches, which hear

civil and criminal cases in the first instance; high courts and their branches at the intermediate level, which hear appeals against judgments of district courts and their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations.

#### — Supreme and High Administrative Courts

National law mandates use of the “two-level and two-instance system” for administrative litigation. One Supreme Administrative Court and three high administrative courts have been established to adjudicate administrative cases since this law’s promulgation in 2000.

The administrative courts have a separate authority from that of the other courts in the system. Any person who claims that his or her rights or interests have been violated by an administrative action on the part of a government agency may institute administrative proceedings before a high administrative court. The high administrative courts decide questions of both fact and law, while the Supreme Administrative Court decides only questions of law (Government of Taiwan 2016).

#### E. The Examination Yuan

The Examination Yuan is responsible for the nation’s civil service system. It oversees examinations; qualification screenings; security of tenure; monetary assistance in case of death; retirement; and all legal matters relating to the employment, discharge, performance evaluation, scale of salaries, promotion, transfer, commendation and presenting of awards to civil servants. The Examination Yuan has a president, a vice president, and 19 members, all of whom are appointed for six-year terms by the nation’s President with the approval of the Legislative Yuan. At the end of their terms, they may be re-appointed (Government of Taiwan 2016).

It is against this backdrop of Constitutional authority, including a unique branch of government specifically charged with investigating and, if appropriate, punishing bureaucrats and other government officials, that the Tai Ji Men tax case unfolded for more than two decades.

### *III. The Tai Ji Men Tax Case*

Tai Ji Men is a school of martial arts which practices Qigong, a regimen of movements, exercises and mental concentration said to improve not just physical well-being but also emotional and spiritual health. Dr. Hong Tao-tze, the founder of Tai Ji Men, is said to have inherited this ancient art form developed over thousands of years in China from past, great martial arts masters. Tai Ji Men integrates dance, music, drumming, flags and elaborate ceremonies into its study and celebration of traditional Chinese culture, and international advocacy for world peace and love. The organization merges medicine, philosophy, literature, education, and other disciplines into a holistic approach to the martial arts and overall physical, mental, and spiritual improvement through the practice of Qigong (Tai Ji Men Qigong Academy 2000).

Tai Ji Men Qigong is passed on from Hong (“Shifu,” a type of father and teacher) to students called “dizi.” The organization places great value on moral principles. Aspiring dizi must follow ancient rituals to show their respect and sincerity before being accepted as members of Tai Ji Men. The ties between the Shifu and his dizi are deep and strong, as are the relationships among the dizi themselves.

Dizi offer honorariums to their master, Hong, in appreciation for the mental, spiritual, and physical growth that they experience after becoming members of Tai Ji Men. There is no tuition or other fees for joining Tai Ji Men or practicing Qigong at one of the many Tai Ji Men locations established in Taiwan. Tai Ji Men also has academies in the United States, largely located in California, which are tax exempt non-profit organizations under Section 501(c)(7) of the U.S. Internal Revenue Code. The honorariums indicate the dizi’s respect for their Shifu, which is customary in Chinese culture.

Since Hong established the Tai Ji Men Qigong Academy in Taiwan in 1966, it has been a member of the Qigong and Martial Arts Associations. There has never been any martial arts or Qigong organization taxed in Taiwan because of honorariums offered by their members to their leaders or to the organization itself. The Taipei Martial Arts Association, the Chinese Martial Arts Association, and the Chinese Qigong Association have all confirmed that their member organizations have never been taxed by the Taiwan National Tax Bureau for receiving honorariums.

Tai Ji Men Qigong Academy is also registered with the Ministry of Interior and the Taoism Association, which means that Tai Ji Men is a legally registered organization (*Global People Daily News* 2015).

#### A. The Government Begins Its Crackdown on Tai Ji Men

##### 1. 1994 through 1996: Prosecutor Hou's Search, Detention of Hong, and Frozen Assets

During 1994, 1995, and 1996, the National Tax Bureau ("NTB") conducted on-site inspections of Tai Ji Men. At that time, the NTB did not issue any tax bills, and Tai Ji Men did not have any tax issue. In 1996, the government began aggressively cracking down on religious "cults." In November, after receiving an anonymous letter about the Academy, the Kaohsiung District Prosecutor's Office searched the Kaohsiung branch of the Tai Ji Men Academy, and the Hsinchu District Prosecutor's Office interrogated Hong, and searched other Tai Ji Men academies. Again, no illegal acts or unlawful activity were found. On November 30, the Kaohsiung District Prosecutors Office concluded the matter, and the Hsinchu Office told the media on December 18th that it would follow suit.

The very next day, on December 19, Prosecutor Hou Kuan-jen searched Tai Ji Men's facilities and dizi's homes based on unspecified complaints about the nature of Tai Ji Men's activities. For the next month, Hou continued to search the residences of Tai Ji Men's members. Investigators even attempted to take away some of the dizi's children from elementary schools during class hours in order to intimidate their parents, but failed when the schools notified the parents. When some of the members proposed to take to the streets to protest this treatment, Hong, through his lawyer, asked his members to remain patient and peaceful, and not to cause any social instability. Tai Ji Men's members followed his instruction, and avoided any altercation or confrontation with the authorities.

On December 19, Hou detained Hong (for this, and subsequent details of the cases until 2016, see Tan, Ding, and Huang 2016; I have also had access to the main legal documents of the cases). Subsequent to his initial incarceration, Hou transferred Hong to six different detention centers. Whenever Hong was transferred, unlike the conventional practice of confinement of those who were alleged to have committed economic crimes, Hou placed Hong in cells with hardened criminals.

Hou asked Hong's cellmates to testify against him by fabricating stories and statements that were never made by the prisoner.

During Hong's detention, he was allowed to meet only his lawyer. The winter incarceration, harsh environment, and mistreatment by prison authorities caused serious injuries to Hong, almost resulting in the amputation of his feet.

During the 118 days from the date of detention to the issuance of an indictment, Hou, interrogated Hong three times, for 29 minutes, asking only 13 questions.

On December 23, Hou froze all of Hong's and his wife's assets, including the wife's dowry and assets unrelated to Tai Ji Men. Hong had nothing to pay for his family's basic living expenses and their children's education. The twelve facilities of Tai Ji Men in Taiwan were immediately impacted. The payment source for rent, utility bills and other miscellaneous expenditures incurred by the facilities was lost. However, no facilities were shut down, and the regular activities of the facilities continued.

On December 25, Prosecutor Hou publicly encouraged those who had been "victimized" by the allegedly unlawful activities of Tai Ji Men to identify themselves on a list of victims maintained by a so-called "self-help" association. This entire organization was a sham, as found by the Control Yuan and three criminal courts. Tsai Chang-pin, the president of the self-help association whom Hou encouraged victims to join, stated that he was defrauded of NT\$30 million. However, at a hearing on July 20, 2001 at the Taipei District Court, Judge Chao Tze-jung found that Tsai had lied. Tsai finally admitted that the NT\$30 million loss was a complete fabrication.

Similarly, on September 19, 2001 at the Taipei District Court, Tseng Pi-yun, the vice president of the self-help association, admitted that she had used the names of her two sons and 19 other individuals, in order to claim that she had sustained damages in the amount of NT\$3 million from Tai Ji Men's activities. Her scheme was exposed during a hearing before Judge Chen Kun-ti of the Taipei District Court. Tseng was referred to the Taipei District Prosecutors Office for investigation for forgery of private documents.

At a court hearing on November 21, 2000, Chu Hui-ying, who claimed to be an attorney for the self-help association, assaulted Tai Ji Men members attending the hearing, and was sentenced to 20-days of detention for the attack. Tsai Chia-lung, another member of this self-help organization, filed numerous complaints and sent a letter to Kung Ling-cheng, the former Director-General of the National Police Agency,



falsely claiming that he was defrauded out of hundreds of thousands of dollars by Tai Ji Men. At a court hearing on June 5, 2002, the Taipei District Court thoroughly discredited and rejected the accusations.

In short, the self-styled “self-help” associations inspired and encouraged by Prosecutor Hou to draw out “victims” of the alleged Tai Ji Men fraud was itself a sham populated with and run by fraudsters themselves.

## 2. 1997: Indictment, and the Case Transferred to Taipei District Court

On April 15, 1997, the prosecution indicted Hong, his wife, and three Tai Ji Men dizi for “raising goblins” as a religious “cult,” committing occupational fraud, and violating the Tax Collection Act. On May 26, 1997, after Hong was granted bail by the court, he stated to reporters and his supporters gathered at the Taipei District Court: “I don’t know how to raise goblins. I do not conduct any fraud or evade taxes. Everything I do is lawful. As long as my disciples wish to learn, I will keep teaching.”

But the indictment filed by Hou against Tai Ji Men had serious flaws. A week before the indictment was issued, Hou asked Shih Yuch-sheng, a tax collector who had never conducted an actual audit or investigation of any Tai Ji Men facility, to provide testimony that Tai Ji Men was a so-called “cram” school, and that it had engaged in tax evasion. Shih’s testimony was the only testimony in Hou’s indictment, which alleged that Tai Ji Men violated the Tax Collection Act.

Hou also inflated the balance in a Tai Ji Men bank account from NT\$610,000 to NT\$3.1 billion. Hou disclosed the information to the media on the day following the searches and raids on Tai Ji Men, before any bank balances could be verified, in order to leverage public opinion against the Academy and its founder, Hong. The money was described by Hou’s indictment as both illegal proceeds from fraudulent activities and as cram school tuition. A “cram” school, as its name suggest, is a school where students engage in intensive study of a subject over a short period of time to master that subject, often for upcoming exams. The NTB referred to Tai Ji Men as a cram school to levy a tax on the “tuition” donated by its members as honorariums—as mentioned above, the first time that any such tax assessment had been levied against a martial arts academy in the country.

The prosecutor referred the case to the NTB. Without verifying the nature, source, amount, or character of any monies received by Tai Ji Men or Hong, and

without giving them any opportunity to explain the payments or assert any defense, the NTB imposed retroactive taxes and heavy fines and penalties, based solely on the strength of Prosecutor Hou's indictment.

On April 25, 1997, while the case was still underway at the Taipei District Court, Hou issued a letter to the Ministry of the Interior requesting the dissolution of Tai Ji Men, which he accused of being an "evil religious cult." On May 21, 1997, Hou issued similar letters to eight county and city governments in Taiwan to "order" the dissolution of Tai Ji Men. On June 18, 1997, Hou issued yet additional letters to the Public Works Department of Taipei City and the Taipei County Government demanding the termination of water and electricity to Tai Ji Men's facilities, and the execution of his "dissolution order." These letters were issued in an obvious attempt to prevent continued operation of Tai Ji Men's facilities. The closedown and dissolution orders from Hou's letters were not vacated until December 1999, when administrative relief was obtained.

As noted above, in December 1997, the NTB issued tax bills for 1991 through 1996 to Hong and his wife, imposing taxes, fines and penalties based solely on Hou's indictment, without waiting for a final court decision and without conducting its own audit. Critical of the NTB's failure to fulfill its mandated duty to conduct independent investigations before imposing such draconian punishment, the Ministry of Finance stated that taxes and penalties should not be assessed based solely on information provided by agencies with investigation authority or from indictments, and that the NTB should conduct its own independent investigation of the facts and make tax determinations based on the evidence produced during that process (Ministry of Finance [Taiwan] 2004).

The Ministry of Education, the agency with direct regulatory authority over cram schools, declared three times, from 1997 through 2000, that Tai Ji Men is not a cram school (Ministry of Education [Taiwan] 1997, 1999). The most recent was on December 21, 2000, during a Legislative Yuan public hearing hosted by Legislator Ting Shou-chung, when Tseng Wen-chang, a director from the Ministry of Education stated unequivocally that Tai Ji Men is not a cram school. Although Chang Sheng-ford, the Director-General of the NTB at that time, was present at the hearing, the NTB continued to issue tax bills and levy taxes on Tai Ji Men, on the grounds that the school is a cram school and that the honorariums are disguised cram school tuitions.

Liu Li-hsia, an attorney representing the National Taxation Bureau of Taipei,

stated during a hearing on November 17, 2004 before the Taipei High Administrative Court that her agency did not consider Tai Ji Men to be a cram school. It was not until August 3, 2012 that the NTB of Taipei admitted in official documents that Tai Ji Men is not a cram school. But the illegal tax bills continued.

### 3. 1998 to 2000: Administrative and Legislative Efforts to Resolve the Tax Issue

Since 1998, Tai Ji Men and Hong have also pursued administrative relief under the designated laws and procedures to lift the crushing burden of the tax bills and penalties. From 1998 through 2002, Tai Ji Men members submitted tens of thousands of documents attesting that the payments made were gifts and honorariums, not tuition to any school—cram or otherwise. The NTB unilaterally rejected all of these thousands of submissions but ten, recognizing only those ten honorariums as gifts.

During 1998 through 2002, the Petition and Appeals Committee of the Ministry of Finance set aside the tax assessments multiple times, requesting that the NTB investigate (as was its mandated duty) the nature of the honorariums, to ascertain if they were gifts or cram school tuitions. However, the NTB still did not conduct this inquiry, even after the tax dispositions were set aside by that Committee. On August 18, 2010, the Petition and Appeals Committee once again set aside the NTB's tax disposition. However, the NTB continued to treat the honorariums as cram school tuitions, and continued to issue tax bills for those gifts from Tai Ji Men members.

On September 1, 1999, 82 fourth-term legislators signed a joint petition, demanding that the NTB cancel the tax dispositions on the grounds that the NTB had issued tax bills in violation of due process. The Legislative Yuan has conducted extensive public hearings and meetings about the Tai Ji Men tax case for two decades. Some 296 legislators have signed petitions, introduced proposals, and requested the tax agency to cancel the tax bills to Tai Ji Men and Hong, all without success.

In 1999 and 2000, Finance Minister Yen Ching-chang and Deputy Finance Ministers Wang Teh-shan and Wang Jung-chou jointly stated that, since the Tai Ji Men tax case was derived from a criminal case, if the defendants were acquitted in the criminal case, the tax disposition would be cancelled. Although Tai Ji Men and Hong were fully exonerated of all criminal charges, the tax assessments and penalties remained and continued.

#### 4. 2001 to 2010: Prosecutor Hou's Violations of Law and Control Yuan's Request of Disciplinary Action

##### a. 2002: The Control Yuan's Report—Hou's Eight Violations of Law

On March 4, 2002, the Control Yuan issued a report finding that Prosecutor Hou had committed eight major violations of law while investigating Tai Ji Men. According to the Control Yuan's report, Hou violated the principle of confidentiality in the investigation; engaged in illegal searches; unlawfully froze personal assets; evaluated the case not in accordance with evidence; illegally demanded that the city and county governments shut down the facilities of the Tai Ji Men Academies; failed to allow defendants' counsel to be present during interrogations and other investigation; and questioned the defendant in an unlawful manner. As a result of finding of Hou's violations, the Control Yuan sent notice to the Ministry of Justice seeking disciplinary actions against Hou.

The Control Yuan also found that there were contradictions between the charges in the indictment and evidence produced as part of the investigation and thereafter. In response to the Control Yuan's finding of those contradictions, Hou admitted that he had not investigated the case properly. The Control Yuan would subsequently include the Tai Ji Men case as one of the major human rights protection cases in the Consolidated Report of the 3<sup>rd</sup> Term Control Yuan on Human Rights Protection released on January 7, 2005.

After receiving the official sanction letter from Control Yuan in 2002, the Ministry of Justice did not sanction Hou immediately. Instead, the Ministry of Justice responded that the matter of Hou's conduct would be deferred until after a final decision on the Tai Ji Men case was ultimately taken. The Ministry passed the issue of Hou's violations to the Taiwan High Prosecutors Office to conduct its own investigation. The Taiwan High Prosecutors Office put the matter on hold until 2007, when it belatedly announced that its investigation showed no legal violations by Hou. The Prosecutor's office also stated, as did the Ministry of Justice, that the statute of limitations for any disciplinary action against Hou began in June 1997 and lapsed on June 18, 2007, so no disciplinary action could be taken against Hou in any event.

In fact, the Control Yuan had completed its investigation report on March 4, 2002 and requested *ex officio* that the Ministry of Justice take strict disciplinary action against Hou. Moreover, Hou had admitted during the Control Yuan investigation that he sent letters to the Ministry of the Interior and county and city governments to order the

dissolution of Tai Ji Men or to cut off the water and electricity supply. He admitted that he had done so without the required approval of his supervisor. In addition, he seized all of the property registered under the names of Hong and his wife based on unilateral, unsubstantiated allegations of a few witnesses. He also admitted that he had not verified that the “list of victims” was true and accurate.

On December 15, 2010, the Control Yuan issued a correction against the Ministry of Justice for failing to sanction Hou. The Ministry was accused of delaying any action before the expiration of the statute of limitations for the sanction, and the Control Yuan urged that the clash of the Constitutional system of separation of government powers gravely undermined the public credibility of the prosecutors’ offices.

On October 30, 2007, December 17, 2007, February 22, 2008 and March 6, 2007, the Taiwan High Prosecutors Office summoned Hong, his wife, and various Tai Ji Men members, including Chen Tiao-hsin, for interrogation. According to the Ministry of Justice in a letter dated March 11, 2008, the interrogations were ostensibly to investigate the conduct and activities of Hou. That move enraged Yeh Yao-peng, a member of the Control Yuan, who believed that this was further harassment of Hong and his devotees, and that disciplinary action against Hou was still necessary. According to Yeh, although the Attorney General could ignore this matter, members of the Control Yuan would not turn deaf ears to this issue, since maintaining the integrity of the judiciary and the Constitution are its most important functions. On December 15, 2010, the Control Yuan issued a correction to the Ministry of Justice for the likelihood of violating the current Constitutional system of five powers, when it failed to directly sanction Hou according to the investigation of the Control Yuan, and referred the matter to the Taiwan High Prosecutors Office to carry out a new investigation.

b. 2002: The NTB’s Concealment of Evidence—The 206 Member Survey

From 2002 to 2003, the case entered another phase of administrative action. Five years after the tax bills were issued, on August 15, 2002, the NTB designed its own survey forms and conducted a survey on the nature of the honorariums. The NTB conducted the survey to comply with decisions of the Petition and Appeals Committee of the Ministry of Finance. Chang Sheng-ford, the Director-General of the NTB of Taipei at that time, ordered the survey forms distributed to

select members of Tai Ji Men. 206 Tai Ji Men dizi returned the survey forms.

*All* of the 206 responding Tai Ji Men members indicated that their honorariums to Hong were gifts. Despite the results of its own survey, the NTB re-assessed the taxes and issued tax bills again on the grounds that the honorariums were not gifts but cram school tuitions. At the administrative appeal, the NTB represented that only nine respondents had indicated that the honorariums were gifts—a number known to Tai Ji Men lawyers to be untrue. The 206 responses were never provided to the Petition and Appeals Committee or to Tai Ji Men lawyers to verify the NTS' representations. Efforts by members of Tai Ji Men to obtain copies of their own response forms were rejected and thwarted by the NTB.

Based on the “evidence” provided by the NTB, the Petition and Appeals Committee rejected the administrative appeal on June 17, 2003. Hong and his wife therefore pursued additional remedies under the law.

On August 29, 2003, Hong was required to provide security so that the NTB of Taipei and the Administrative Enforcement Agency would defer enforcement of the tax assessments and penalties. Under Article 39 of the Tax Collection Act, unless a taxpayer pays half of the tax or provides a security equivalent in value to one half of the tax, the taxpayer's assets are subject to compulsory seizure. To prevent Tai Ji Men's facilities, which are used for its members' practice of Qigong, from being auctioned, Hong and his wife agreed that, as soon as the court lifted Hou's asset freeze, they would provide a security to the NTB.

On October 15, 2003, Judge Chao Tze-jung of the Taipei District Court lifted the asset freeze imposed on Hou. Despite the parties' prior agreement to use those assets for security and avoid compulsory enforcement under Article 39, just weeks later, on November 6, 2003, the Administrative Enforcement Agency and the NTB of Taipei jointly withdrew bank deposits and sold stocks without the knowledge of Hong or anyone else at Tai Ji Men. It was not until two years later that Chang Sheng-ford returned the assets as a “tax refund” to Hong, after the Administrative Court condemned his maneuver. While Chang Sheng-ford and his tax collectors received rewards and performance bonuses for monies collected from the Tai Ji Men case, Hong was deprived of assets and lost interests on property unlawfully seized and sold by the tax authorities.

c. Vindication in Criminal Courts

All the three criminal trial decisions rendered during 2003 through 2009 found that the honorariums to Hong were gifts, and that there had been no fraud or tax evasion by Tai Ji Men or Hong. On September 25, 2003, the first criminal decision acquitted all defendants, including Hong. On December 13, 2005, a second not-guilty verdict was issued in the second criminal trial, which again concluded that there was no tax evasion. On July 13, 2007, the final criminal trial again acquitted the defendants and concluded that there was no tax evasion. On that day, the Supreme Court rejected the prosecutor's appeal and acquitted all defendants. The court found that 1) the indictment was defective, and that 2) none of the defendants committed fraud, tax evasion or violations of the Tax Collection Act. The Supreme Court expressly stated that "the honorariums provided by the disciples to their master were gifts in nature and were thus tax-free income under Article 4, Subparagraph 17 of the Income Tax Act." All those who were detained received national compensation of approximately NT\$1.8 million from the government for wrongful detention in December 2009. But what was done to them can never be undone (Wang 2010). Worse, despite their victories in these criminal cases, Tai Ji Men and Hong continued to be subject to tax assessments and penalties.

d. The Control Yuan's Finding of NTB Concealment

On December 9, 2008, the Bureau of Investigation under the Ministry of Justice replied to an inquiry by Legislator Chu Feng-chih, stating that the assessment of taxes in this case and the examination and punishment of tax evasion are the authority and responsibility of tax agencies.

The Control Yuan investigated the NTB's concealment for the second time. On September 2, 2009, the Control Yuan concluded that the NTB committed seven major legal violations in handling the taxation issue in the Tai Ji Men case. Specifically, the NTB failed to fulfill its duty to independently investigate the case. The NTB also failed to pay equal attention to evidence both favorable and unfavorable to the taxpayer. On October 6, 2009, the NTB of Taipei replied to the Control Yuan. The reply included the survey that the NTB had conducted in 2002, where the NTB designed and distributed the 206 survey forms to some members of Tai Ji Men. Once again, the NTB concealed the true responses of the

206 Tai Ji Men members that the honorariums to the Hong were gifts.

The Taipei High Administrative Court and the Supreme Administrative Court determined that the nature of the honorariums should be based on the actual survey results, which the NTB never itself released but which were independently verified by members of Tai Ji Men. On August 6, 2009, the Supreme Administrative Court rendered a final decision to set aside the NTB's tax dispositions. However, on October 30, 2009, the NTB of Taipei ignored that decision, and continued to impose taxes against Tai Ji Men, treating it as a cram school.

#### 5. 2011 to 2020: The Inter-Ministerial Meeting, the 7,401 Survey, Legislators' Joint Signature, the Taipei High Administrative Court, and the Auction of Hong's Properties

When visiting the Executive Yuan in 2010 and 2011, members of the Control Yuan urged on both occasions that the Tai Ji Men tax case be fairly dealt with. On July 1, 2011, the Presidential Office acknowledged that there was injustice in the Tai Ji Men case, after accepting a petition from Tai Ji Men members. The Presidential Office issued a letter requesting the Executive Yuan to follow the court decision and regard the honorariums to Hong as gifts and, therefore, tax-free.

Meanwhile, on December 9, 2011, Secretary General Lin Join-sen of the Executive Yuan organized an inter-ministerial meeting for the purpose of resolving the Tai Ji Men tax case once and for all. The attendants included the NTB, Minister of Finance Lee Sush-der, Deputy Minister of Justice Chen Ming-tang, Chief of Taipei Tax Administration Chen Jin-jian, the Director-General and the Supervisor of the Legal Office of the NTB of Taipei, the attorney for Hong and his wife, the representatives of Tai Ji Men members (see, in addition to Tan, Ding, and Huang 2016, *Global People Daily News* 2015).

At the meeting, the attendants adopted a resolution. Among other things, the resolution declared that: 1) the indictment in the criminal case should not be used as the basis of taxation; and 2) the tax administration should bear the burden of proof under Article 12-1 of Tax Collection Act. Accordingly, the NTB of Taipei should conduct an open survey on the nature of the honorariums to Hong over a period of two months. If the results of the survey would indicate that the



honorariums were gifts, they should not be taxed pursuant to law. If anyone claims the offering as tuition fees, the case should be processed accordingly.

On December 16, 2011, the NTB of Taipei called the 2074<sup>th</sup> Reconsideration Committee meeting, indicating that it agreed to the resolutions made at the inter-ministerial meeting. The NTB issued the Tsai-Pei-Guo-Shui-Fa-2-Tzu-No.100024971 announcement about the agreement on the same day. On December 16, the announcement was posted in the NTB's website and offices for two months, and published in domestic and overseas newspapers. On the same day, an open survey targeting all citizens was launched via the Internet and domestic and overseas newspapers. This was the two-month open survey that the NTB committed to conduct, in order to resolve the nature of the honorariums to Hong by Tai Ji Men members.

On February 19, 2012, the results of the survey revealed that all of the 7,401 survey forms indicated that the honorariums to Hong were gifts. No respondents indicated that the honorariums were tuition fees. Despite these results, and the ministers' agreement to abide by this survey process, the NTB issued a tax bill again when Chang Sheng-ford took office as the Minister of Finance. Eventually, the NTB ignored the outcome of the open survey, and treated half of the honorariums to Hong as tuition and the other half as gifts. On September 3, 2012, Tai Ji Men again filed an administrative appeal. However, on November 18, 2013, the Ministry of Finance (with Chang Sheng-ford as its Minister) rejected the administrative appeal.

On November 8, 2013, 33 legislators of the Legislative Yuan introduced a proposal for which joint signatures were collected to request the Ministry of Finance to cancel the latest tax assessment, pursuant to the resolution adopted at the December 9, 2012 inter-ministerial meeting, and based on the outcome of the open survey by which all of those ministers and departments (including the Minister of Finance and NTB) had explicitly agreed in writing to abide. However, the NTB ignored the outcome of the open survey and continued to impose illegal taxes.

On March 24, 2015, the Taipei High Administrative Court ruled in favor of Tai Ji Men regarding the 1996 income tax assessment, setting aside the assessment on the ground that the tax dispositions violated evidentiary rules and logical principles, and that the NTB of Taipei had never properly explored the nature and characteristics of Tai Ji Men and the honorariums given by its

members. On July 9, 2015, the Supreme Administrative Court rejected the appeal of the NTB of Taipei. The Administrative Court remanded the case to the NTB of Taipei for a legally appropriate disposition, while Hong's assets remained in jeopardy.

The Administrative Court set aside the illegal tax assessments from 2013 through 2015, and other challenges had similarly been successful for other years, but the NTB and Minister of Finance refused to remove the unlawful assessments and penalties for a six year period from 1991 to 1996. Thus, despite successes in every venue imaginable under Taiwan's Constitutional system of government, Tai Ji Men and Hong remained under attack by the same forces that initiated this threat more than two decades before.

In 2018, the Supreme Administrative Court ruled against the NTB in yet another case, finding that Tai Ji Men is an academy of Qigong, martial arts, and self-cultivation, not a cram school—the entire basis of the NTB's illegal tax assessments.

Based on decisions of the Criminal Division of the Supreme Court in 2007, the Taipei High Administrative Court in 2015, and the Supreme Administrative Court in 2018 (copies of the decisions are in the author's possession), and under pressure from other sources, both the National Taxation Bureau of Taipei and the National Taxation Bureau of the Central Area finally, after more than two decades, corrected the tax amounts for the honorariums for years 1991, 1993, 1994, 1995, and 1996 to zero. But in an apparent vendetta against Tai Ji Men and Hong, and in likely retaliation for their vindication in those other cases, these agencies continued to pursue taxes and fines for 1992, until in 2020, despite street protests with thousands of participants in Taiwan and statements by international scholars and human rights activists, properties belonging to Hong were seized and auctioned.

#### *IV. Miscarriage of Justice and Abuse of the Role of Law*

Hong's supporters, loyal members of Tai Ji Men throughout the world, have taken their case to the court of public opinion in the international community, including the United Nations (UN), couching the conflict as a violation of human rights (*Digital Journal* 2010). And so it is. But one impediment to gaining any

traction in that forum is Taiwan's unique status in the international diplomatic community.

Taiwan is not a member of the United Nations or its sub-organizations. Only sovereign states enjoy membership in the UN. China claims Taiwan as part of its territory, and denies that Taiwan is a sovereign state, thereby depriving Taiwan of the international diplomatic muscle that other nations might enjoy through UN membership. China has the further advantage in that it is one of the five permanent members of the Security Council. China also enjoys increasing international clout outside the UN system. The Taiwan government in Taipei does not engage in consultations with Beijing on its participation in international organizations, while Beijing continues to openly reject the possibility of expanding Taiwan's presence in international organizations (Winkler 2012).

Protests to these international human rights organizations, at least those connected directly or indirectly to the UN, will produce uncertain results for Tai Ji Men and Hong. But the Taiwan government, particularly the current administration, is not immune from forces that can shape its international stature as a Constitutional democracy. The ongoing tax case against Tai Ji Men does nothing to advance that goal, and continuing this sordid saga may undermine its perception as a modern, advanced nation dedicated to the Rule of Law. Certainly, criminal charges levied against one of its own citizens for "raising goblins" will do nothing to advance Taiwan's prestige on the international stage.

But setting aside questions of geopolitical sovereignty, there nevertheless are disturbing questions of due process and violations of the Rule of Law that should trouble any Constitutional democracy, which Taiwan professes to be. Tai Ji Men appears to have followed all of the rules—and won. That is, Hong and his followers were successful in the criminal courts, in administrative hearings, before legislative bodies, and even before the Constitutional branch of Taiwan government explicitly charged with reining in wayward politicians and bureaucrats—the Control Yuan. But to what avail? It appears none. How can there be a right without a corresponding remedy? Availing oneself of the "process" that is "due" is meaningless, unless the outcome of that "process" yields results that are consistent with the ultimate decision and are legally enforceable. Otherwise, as with Tai Ji Men, the Rule of Law is a hollow platitude.

Which raises the even larger question—how can a few rogue bureaucrats defy the findings and directives of virtually every branch of Constitutional authority in the country to bring a lawful organization and its leader to their knees, and

continue to do so with impunity to this very day? Perhaps the President of Taiwan can finally end this travesty, and restore the Rule of Law to its rightful place in Taiwan's Constitutional democracy.

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