

Who Stole Their Youth?

**24 Years of Persecution:
A Battle for Human Rights
& Tax Justice in Taiwan**

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Preface

Over the course of this case, the government has repeatedly drawn upon the full force of its power, egregiously violating the people's rights with contempt for accountability and justice. As citizens who believe in the important role of government in people's daily lives, we never thought that we would be drawn into the streets to protest the corrupt practices of trusted government officials. However, on behalf of our fellow citizenry, we have been compelled to stand on Keta-galan Boulevard, participate in demonstrations, protests, and advocacy activities, walk into the Presidential Office and the five yuans representing the five government powers, and attend over 100 seminars on legal and tax reform.

Over the years, what originally seemed to be an isolated case has revealed itself as a pattern of corrupt practices. As we took to the streets, we heard many stories of tax victims persecuted by the government in the same manner as what occurred in the Tai Ji Men case. Legal and tax scholars as well as other experts have documented that the Tai Ji Men case is the epitome of these persecution methods. Growing up in the so-called "era of democracy and the rule of law," we have personally experienced all kinds of undemocratic and lawless means of persecution. We have witnessed and endured the vulnerability of the people in the face of the "state machine" and are indignant at the fact that the law is not used to protect human rights but is conversely leveraged by "those who know the law" to undermine human rights. We do not want to be treated as fools and to have our rights violated by those entrusted to protect our rights. We do not want to tell our children that "this is what the world is" and "the system is just so evil" in the process of raising them, so we have consolidated the stories of the Tai Ji Men case and

related legal and tax knowledge into a book. There are countless citizens that have silently endured the unjust policies, thinking that they are alone or that they are wrong, when in fact, government officials have been exploiting the shame and silence to continue their corruption unchallenged. We hope that through this book, we will empower more people with “knowledge,” so that by shining light on the corruption, justice will be achieved for both the citizenry and the government officials, creating a fairer and safer future for our children and ourselves.

The stories and events in this book are true, and the victims are average upright citizens. The formerly silent cries for help are just a few voices of the many vulnerable citizens that echo throughout homes across Taiwan, and one after another are reverberating with increasing intensity. The book was made possible through the unshakable dedication of the victims of the Tai Ji Men case.

Kai-hsin Chao
Mei-ying Chang
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About Tai Ji Men

Tai Ji Men is an ancient *menpai* (similar to school) of qigong, martial arts, and self-cultivation. It has carried forward the wisdom of Daoist philosophy, which has been passed down since ancient times. It is an international nonprofit cultural organization. In order to fulfill a mission bestowed on him by his *shifu* (master), Dr. Hong, Tao-Tze inherited the role of Tai Ji Men's *zhang-men-ren* (grandmaster) and established the Tai Ji Men Qigong Academy in 1966, and since then, it has grown to 15 chapters worldwide.

Dr. Hong teaches his *dizi* (similar to students) methods to achieve physical, mental, and spiritual balance, and tens of thousands of families have benefited from his teaching. At Tai Ji Men, martial arts and wisdom have been passed down from the *shifu* to his *dizi*. Through this time-honored tradition, the *shifu* and *dizi* promote the Tai Ji culture and martial arts around the world while embodying what is true, good, and beautiful as well as spreading the ideas of conscience, love, and peace. Over the past half-century, the *shifu* and *dizi* have self-funded trips to over 300 cities in 101 nations to conduct more than 3,000 cultural performances and exchanges, and have been recognized as "International Ambassadors of Peace and Goodwill."

Foreword

"The Power to Tax Involves the Power to Destroy,"

McCulloch v. Maryland, United States Supreme Court (1819)

These words by Chief Justice John Marshall serve as a constant reminder of the destructive effect of taxing power when wielded by unscrupulous government officials who abuse their authority. The words are as true today as they were when Chief Justice Marshall wrote them 200 years ago in a landmark ruling about the sprawling power of the U.S. federal government. And they apply with equal force to the unprecedented 24-year persecution of Tai Ji Men and its spiritual leader, Dr. Hong Tao-Tze, by rogue government tax officials and prosecutors in Taiwan.

Tai Ji Men and Dr. Hong endured unimaginable abuse and torment at the hands of these civil servants--people who are supposed to respect and protect their fellow citizens, not engage in decades of harassment and tyranny. But Tai Ji Men and Dr. Hong refused to succumb to the illegal actions of these bandits in suits. They did not give up. They persevered. Because they were right. Because their cause was just. Because, as court after court ruled, no taxes were owed on gifts from his devoted followers at Tai Ji Men to Dr. Hong.

But justice did not protect them from the wrath of these scoundrels. The financial and emotional toll from years of unrelenting oppression are incalculable. Property was auctioned in August 2020 and forfeited to the state. The rulings of the courts were ignored, undermining the judicial system and calling into question the commitment of the entire government of Taiwan, complicit by their inaction, to the Rule

of Law. "Who Stole Their Youth" compellingly captures the magnitude of this sordid chapter in Taiwan's history.

We have gone through unprecedented challenges recently in the United States. The very foundation of our democracy was threatened by the most powerful person in the country. For the first time since the American Revolution, armed intruders entered our Capitol by force, threatening lawmakers and even our Vice President with bodily harm. These riots were fueled by lies about the integrity of our election perpetrated for months by the President himself. But the Rule of Law prevailed. Court challenges to the election failed, and those rulings were respected. The mob that invaded our Capitol will be prosecuted, and even the President himself faces serious repercussions for inciting this insurrection. No man is above the law. Not the President of the United States, and not tax officials and prosecutors in Taiwan.

The leaders of Taiwan have a choice: follow the path of justice, due process and the Rule of Law, or tolerate the lawless actions of rogue civil servants. Let us hope that they make the right choice. It is never too late to correct an injustice. And the Tai Ji Men tax abuse case is an injustice of epic proportions.

Kenneth Jacobsen
Professor of Law at Temple University
Former Advisor to President Bill Clinton

PART I

The Tai Ji Men Criminal Case

One Mistake After Another

The Administrative Enforcement Agency was like an executioner.

On August 21, 2020, a very absurd “drama concerning the execution of a wrongfully charged victim” was staged at the Hsinchu Branch of the Administrative Enforcement Agency (AEA).

In 1997, the National Taxation Bureau (NTB) issued tax bills to Tai Ji Men for six years from 1991 to 1996 based on the false indictment of Prosecutor Kuan-jen Hou. After Tai Ji Men spent more than 20 years in the pursuit of administrative relief, the NTB of the Central Area and the NTB of Taipei corrected the amounts in the tax bills for five of the six years to zero at the end of 2019 but left the 1992 tax bill uncorrected and referred it to compulsory enforcement.

After Tai Ji Men brought an administrative action against the enforcement, the Taipei High Administrative Court issued letters on May 5 and July 23 of 2020 to the NTB of the Central Area, requesting it to apply the same standard, by which the amounts in the tax bills for the other years were corrected to zero, to the 1992 tax bill and recommending that the enforcement be withdrawn.

It was suggested that the amount in the tax bill for 1992 should be corrected to zero as well and that the auction should not be carried out. The letters sought to stop the agency from auctioning Tai Ji Men’s land, and to ask them to stop the improper action and avoid hurting innocent people before it was too late.

However, the Hsinchu Branch of the Enforcement Agency still put the land up for auction for the first time on July 31, 2020, but the land was not successfully sold. Then, on August 21, it hurried to hold the second auction of Tai Ji Men's land. In the end, the auction still failed. The NTB of Taipei and the NTB of the Central Area then released a joint statement to assume the land together, translating into compulsory nationalization of the land.

In the 21st century, such an incident in Taiwan seems to be a reenactment of a time-travel drama, where a wrongfully convicted death row inmate was at an execution site while an official sent by the Ministry of Justice was hurrying on his way to the execution site to rescue the innocent inmate with a government document. However, the Hsinchu Branch of the AEA acted like a lawless modern-day executioner, simply ignored the order of the Taipei High Administrative Court, and still carried out the execution, further compounding the mistakes in an unjust case which has dragged on for over 24 years.

Why Are Those Civil Servants So Lawless?

On August 21, at the entrance of the Hsinchu Branch of the AEA in Miaoli, a child nervously told his mother, "Mom, the bad guy got away."

Bad guy? Without a doubt. The child watched the people from the NTB and the government enforcement agency walking away after auctioning Tai Ji Men's land, as if they were executioners who had just finished the job, without concern for who was killed or if that person deserved to die. The executioner simply completed the job and could even return to claim his reward.

Thousands of Tai Ji Men *dizi* (disciples) gathered at the auction site, angry, disappointed, and heartbroken with tears in their eyes. They could not understand why the government has not put an end to the 24-year persecution.

They could not understand why the government could be so unreasonable and lawless. The administrative court has stated unequivocally that the amounts in the tax bills to Tai Ji Men should be corrected to zero, and the auction was not warranted. Young people and children were even more perplexed, wondering why the bad guys were civil servants appointed by the government.

Urgent!

The Taipei High Administrative Court's two successive documents could not prevent the wrongful enforcement.

<p>臺北高等行政法院 函 副本</p> <p>地 址：[redacted] 傳 真：[redacted] 電 郵：[redacted] 聯絡電話：[redacted]</p> <p>受文者：君（訴訟代理人：蔡靜政律師） 發文日期：中華民國109年5月05日 發文字號：院簡權裁108第01406字第 1090005993 號 類別：[redacted] 送別：[redacted] 密等及解密條件或保密期限：[redacted] 附件：如文（副本無附件） 主旨：請就 滯納81年度綜合所得稅及罰鍰事件，是否有稅捐稽徵法第40條撤回執行之適用，表示意見，請查照。</p> <p>正本：財政部中區國稅局 副本：君（訴訟代理人：黃麗蓉律師、王明鵬會計師、蔡靜政律師）、法務部行政執行署新竹分署（訴訟代理人：陳靜怡 君）</p> <p style="text-align: center;">院長劉鑫楨 審判長陳心弘 決行</p>	<p>臺北高等行政法院 函 副本</p> <p>地 址：[redacted] 傳 真：[redacted] 電 郵：[redacted] 聯絡電話：[redacted]</p> <p>受文者：君（訴訟代理人：黃麗蓉律師） 發文日期：中華民國109年7月20日 發文字號：院簡權裁108第01406字第 1091004330 號 類別：[redacted] 送別：[redacted] 密等及解密條件或保密期限：[redacted] 附件：如文（副本無附件） 主旨：檢送原告行政訴訟準備四款（含所附證據）繕本1件，關於 滯納81年度綜合所得稅及罰鍰事件，請依 80、82、84年度綜合所得稅更正為0之一標準予以重新計算並說明計算結果，請查照。</p> <p>正本：財政部中區國稅局 副本：君（訴訟代理人：黃麗蓉律師、王明鵬會計師、蔡靜政律師）（訴訟代理人：黃麗蓉律師）、法務部行政執行署新竹分署（訴訟代理人：陳靜怡 君）</p> <p style="text-align: center;">院長劉鑫楨 審判長陳心弘 決行</p>
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These two documents clearly stated that the NTB of the Central Area was required to follow the same standard adopted for 1991, 1993, 1994, and 1995 in dealing with the consolidated income tax for 1992 and recommended that the enforcement be withdrawn. Since the payable consolidated income tax amounts for those four years had been corrected to zero, this suggests that the amount in the tax bill for 1992 should also be corrected to zero and that the auction should not be conducted.

A Protest in Front of the AEA

“Why are Tai Ji Men dizi protesting in front of the Administrative Enforcement Agency?” asked a reporter.

Thousands of Tai Ji Men dizi (disciples) protested against injustice in front of the Administrative Enforcement Agency (AEA). A reporter said to Hsiao-Ying Chang, a Tai Ji Men dizi, “You guys don’t look like victims since you guys are so tough.”

Mr. Reporter, what can a man do if he has been bullied for 24 years and still can only swallow the pain while justice is still not served? Twenty-four years have elapsed, and tears have dried up. Originally, we as victims thought we were wronged and tried very hard to explain and prove our innocence only to come to the poignant realization that we had been framed and purged by the government. Therefore, the only thing we can do is to stand up and defend our home with lawful and reasonable means in the face of the illegal, unfair, and unjust treatments inflicted by the lawless government officials.

President Tsai Ing-wen said that she wanted to bring a culture into her administration, encouraging “the people to speak loudly so that the government can hear them clearly,” and said, “If the government did not hear you, you can pound the table.” In the past 24 years, we have followed legal recourses to seek relief with as many as one thousand petitions to the Presidential Office and the five yuans representing the five powers of the government. Unfortunately, relevant departments have always turned a deaf ear and even auctioned our home. How can we stay calm?

We are angry because we are victims indeed, but this does

not mean that we are disadvantaged. If the unjust Tai Ji Men case cannot be corrected and redressed, what victims can seek justice for themselves? The fact that the government ignores a rational protest attests to the government's arrogance and incompetence.

Hsiao-Ying Chang, Tai Ji Men dizi

The reporter asked, "If Tai Ji Men were not guilty, they would have been fine a long time ago, right?"

Mr. Reporter, maybe we can look at it from another perspective. If we had been guilty, we would have been in prison for a long time. How could we have cleared our names one case after another? It is precisely because we have been innocent that we were acquitted following the third instance criminal trial, in which the Supreme Court also determined that we owed no tax. In administrative lawsuits, in which the people prevail only in 6% of the cases, Tai Ji Men has won six times. However, as a result of job rotation in the system, we are bound to encounter inept judges, lawless tax collectors, and corrupt administrative enforcers. That is why the Tai Ji Men case has dragged on for so long.

Furthermore, if Tai Ji Men had been guilty, how could the ruthless tax and enforcement agencies keep this case open for 24 years? If Tai Ji Men had been guilty, that would mean the third instance criminal decision were erroneous and all the judges had been derelict in their duties, right? This would also mean that the two investigations conducted by the Control Yuan were also incorrect. Tai Ji Men is innocent and owes no tax. It is the lawless government officials that are guilty. The case exposes the dark side of this country's legal and taxation systems.

Hsiao-Ying Chang, Tai Ji Men dizi

The reporter asked, "Since Tai Ji Men can afford it, why doesn't it just pay some taxes?"

Mr. Reporter, the wealth of a citizen has nothing to do with taxation. A tax agency is not a charity organization, either. Tax revenues are not generated by fundraising but rather by taxation pursuant to law. By the same token, people pay taxes in accordance with law. If people give in because the tax authorities threaten them with paying more than they should, even if it is just for a small amount, they will become complicit in the government officials' violations of law and encourage such a perverse pattern in which tax officials take whatever they want. In consequence, all taxpayers will be victimized.

The tax that is legal and payable should be paid, but the tax that is not legal or payable should not be paid. Taiwan has fallen prey to those evil officials who ask taxpayers to pay taxes they are not supposed to pay, which is in violation of the law. As a result, individuals have suffered from heavy property losses and even the foundation of this country has been shaken.

Hsiao-Ying Chang, Tai Ji Men dizi

The reporter asked, "Since Tai Ji Men has so many talented *dizi*, including lawyers and certified public accountants, why can't it win?"

That is a very good question! Many experts, scholars and professionals have come out in support of the tax reform move-

ment over the past few years, but it is regrettable that when a government uses its public powers to oppress and brutalize the people and turn against the people by improper means, no one can win in the face of such a dysfunctional government. Even C.V. Chen, the legal representative of Lee & Li Attorneys-at-Law, which is one of the largest law firms in Taiwan and has an army of the best lawyers in the legal profession, also lost a legal battle against a tax agency in the incompetent administrative court. Therefore, it is of paramount importance for all the people to be awakened, because the Tai Ji Men incident may very well happen to you and me, too.

Hsiao-Ying Chang, Tai Ji Men dizi

The reporter asked, "The land auction is over, why are you still fighting?"

Tai Ji Men insists that a clear line be drawn between right and wrong as well as true and false. It is precisely because the tax bill is wrong and unjust, we need to fight all the way through. The forceful nationalization of Tai Ji Men's land is a problem of this country's system and some of its officials. We hope to awaken the citizens by increasing public knowledge of legal and tax issues and push the government to reform the improper tax system, as exemplified by the Taxpayer Rights Protection Act. The results may not be immediately visible, but if we do not take any action, we will put ourselves at the mercy of lawless officials, and more people will be victimized.

Hsiao-Ying Chang, Tai Ji Men dizi

A reporter asked, "The tax bill and the auction of the land are the business of the grandmaster, and you as disciples should know better than to be used, right?"

One person may be used, ten are still likely, but this is impossible for tens of thousands of people. Tai Ji Men is a martial arts menpai (school), not a cram school. We are like a family, and the grandmaster (shifu) and his wife are just like our own father and mother. The grandmaster's problems are our problems. Every one of us hopes that the country can be better by promoting legal and tax reform of our own accord, not just for Tai Ji Men. Tai Ji Men is our family. We are protesting today not just for our own cause but also for the sake of all the people. What would you do if the Tai Ji Men incident befalls you and me?

Hsiao-Ying Chang, Tai Ji Men dizi

Stormy 1996

The fabricated Tai Ji Men case began in the stormy year of 1996.

In 1996, the first ever direct presidential election was held in Taiwan. Since certain religious groups had supported a particular presidential candidate, the government retaliated, after the election, against religious entities which had different political positions. As a result of a series of "religious crackdowns," several religious groups were shut down, fled to foreign countries or were criminally prosecuted. Suddenly, the entire country plunged into darkness.

On November 21, 1996, Pang-yu Liu, Taoyuan County Magistrate at that time, was brutally gunned down in an execution manner by unknown shooters that killed eight people and injured one. In less than 10 days, another tragic event took place in Kaohsiung. The body of Wan-ju Peng, Director of the Women Development Department of the DPP (Democratic Progressive Party) at the time, was found by the police three days after she had been reported missing following her taxi ride to attend the Interim DPP Congress that evening. The two outrageous major public security cases, which are still not solved, put enormous pressure on prosecutors and the police.

A Religious Crackdown

Tai Ji Men was caught in the path of the government's religious crackdown.

According to senior judicial news reporters covering news about prosecutors and police, the government allowed people to send untrue poison-pen letters to prosecutors in the name of a religious crackdown to divert public attention. As a result, Tai Ji Men became a target in this crackdown.

Prosecutor Kuan-jen Hou¹ was quite popular with the media groups. He was very popular because he had just concluded a case which occurred in April 1996 and involved the illegal operation of video arcades by Jen-shen Chou. This case ruined the future of several rising stars in the police force but brought the prosecutor the nickname "Judicial Rambo" from the media and a lot of media resources. A large number of reporters always followed him to the scene of a raid, and the media frequently rushed to cover the findings of his investigation.

1 Kuan-jen Hou previously prosecuted a very high-profile case in Taiwan in April 1996 involving Jen-shen Chou's illegal operation of video arcades, which is the largest case involving prosecutors and police corruption in Taiwan's history. A total of 197 individuals were indicted and entangled in litigation for nearly 10 years. Most of the indicted police officers were eventually acquitted. During the 10-year period, retrial after retrial was held. Several rising stars in the police force at that time were prosecuted in this case and suffered from protracted litigation. Some of them had to take odd jobs to make a living, some died of illness, some were found dead in the river, some just used their guns and took their own lives, and some parted with their spouses. Even when most of them were ultimately acquitted, they could not regain their lives, work, or reputation.

On the afternoon of December 19, 1996, around 3:00 p.m., Prosecutor Kuan-jen Hou led hundreds of armed policemen and investigators mobilized from across the country in a high-profile raid and search of 19 locations, including Tai Ji Men's academies and disciples' residences in various parts of Taiwan.

Conducting a Raid with Journalists in Tow

At that time, Kuan-jen Hou himself commanded more than 30 investigators from the Taipei City Field Division of the Bureau of Investigation and more than a dozen local police officers to storm into the Daan Academy of Tai Ji Men on Keelung Road in Taipei City, while journalists followed the prosecutor into the academy to record the event. The news was aired in the evening news program shortly thereafter.

On the night of the search, while the grandmaster (*shifu*) was being interrogated until dawn, the 7:30 p.m. news at CTV had reported that Tai Ji Men was allegedly involved in religious fraud. A conclusion had been reached even before the interrogation was concluded.

It was reported in newspapers on the morning of December 20 that Tai Ji Men allegedly evaded taxes in the amount of NT\$3.1 billion, but the interrogation had continued until dawn, which was way beyond the submission deadlines for the newspapers. In addition, the total balance in the relevant accounts was around NT\$610,000. Who provided the false number to the media?

Since there is a legal principle that the “specifics of investigation should not be disclosed,” why did the media appear on the raid site?

The principle that the specifics of investigation should not be disclosed is designed to protect the basic human rights of the defendants, suspects, victims, or other parties related to the litigation to prevent violation of their rights to a fair trial, which is based on the principle of presumed innocence.

Article 245, Paragraph 1, and Article 124 of the Code of Criminal Procedure also stipulate that "the investigation shall not be made public" and "the raid shall be held in confidence and the reputation of the person being raided shall be taken into consideration," respectively.

Extorting a Confession

Interrogations were conducted around the clock to force a testimony.

Ta-hsin Chen was 53, worked as the chief financial officer of a high-tech company, and had practiced qigong for 13 years when the incident broke out. Before joining Tai Ji Men, he had suffered from fulminant hepatitis and was declared incurable by his physician.

After Prosecutor Kuan-jen Hou raided and searched Tai Ji Men on December 19, 1996, I voluntarily visited the Taipei Field Division of the Bureau of Investigation with my shifu (master). Although I was not a criminal and no one accused me of any offense, I was treated worse than a criminal. I was taken to a separate interrogation room for separate interrogation.

I was interrogated continuously for 24 hours from around 5:00 or 6:00 p.m. on that day before I was transferred to the Taipei District Prosecutors Office for arraignment the following day. I was handcuffed against my will when interrogated by prosecutor Kuan-jen Hou. In the process, no food was provided to me, and I was intentionally deprived of any rest. They used all kinds of means such as intimidation, threat, deprivation of food, and deceptive enticement to force a testimony they desired out of me to put in the record. I was not released until around 8:00 p.m. the following day.

No Peace on Christmas Eve

On December 20, the day after the incident broke out, Chen-chen Wen and Ta-wen Li, Tai Ji Men *dizi* (disciples), were interviewed by the press and shared the improvements on their mental and physical conditions after starting to practice qigong at Tai Ji Men. However, on the early morning of Christmas Eve, December 24, Kuan-jen Hou ordered the search of their residences while they were accused by no one and there was no criminal evidence against them. They were even taken to the Bureau of Investigation for interrogation.

The residence of Ta-hsin Chen was also searched, and he was held incommunicado. The rooms of his two daughters were ransacked during the search, and his daughter's audio cassettes created with great efforts for learning English were all torn and destroyed by the investigators.

The house of Ying-ying Peng (elementary school teacher) was also raided on December 24, and she was held incommunicado. However, the prosecutor failed to notify her family and employer as required by law. Her school issued a letter to inquire about her to the Taipei District Prosecutors Office. It was not until December 31 that a response was received from the prosecutor, indicating that Ying-ying Peng had been detained. This meant that Ying-ying Peng had been missing for seven days already.

Prosecutor Hou also ordered the raids on five residences, including that of Ta-ming Chang, a Tai Ji Men *dizi*. Later, on December 27 and December 30 of 1996 and January 14, 1997, raids were successively conducted on the residences of Ta-hua Yu, another *dizi*, and others. A total of 35 Tai Ji Men academies and disciples' residences were raided during the investigation period in the absence of any criminal evidence.

Whoever Spoke Up Got Interrogated

Ta-wen Li was 33, worked as supervisor in a technology company, and had practiced qigong for three years.

On the early morning of Christmas Eve, several ferocious stocky men visited us with a search warrant, in which the address of my next-door neighbor was specified, and rummaged through chests and cupboards. They were unable to justify the reasons for the search, nor were they able to specify the evidence they were looking for. Later, without giving any reason, I was taken away against my will, leaving behind my wife and my five-year-old child. I learned later that they had no right to enter my home to conduct the search with a search warrant in which a wrong address is indicated, and that I did not have to go with them if they failed to show me an interrogation notice. However, most innocent law-abiding citizens do not know how to protect their basic human rights.

My home was searched, and I was taken to the Bureau of Investigation for interrogation simply because I had been interviewed by the media when they visited our academy a few days earlier. After being intensively interrogated for a full day, I was told before I got home that this happened to me because I was interviewed by the press about the Tai Ji Men case at the academy two days earlier. For this reason, Prosecutor Kuan-jen Hou ordered the search and interrogation immediately. I was also warned to be careful about what I did. Since then, my life has been overshadowed by the White Terror, and even my family and friends and relatives have lived in fear.

Coercing a Confession

The prosecutor leveraged the safety of my wife and daughters to force me to make false accusations against my shifu.

Ta-hsin Chen was 53, worked as the chief financial officer of a high-tech company, and had practiced qigong for 13 years. Before joining Tai Ji Men, he had suffered from fulminant hepatitis and was declared incurable by his physician.

On December 24, 1996, at 7:00 a.m., the prosecutor dispatched an army of investigators to search my house and transport me to the Taipei Field Division of the Bureau of Investigation for fatigue interrogation before I was detained and held incommunicado for nearly four months. It was Christmas Eve when I was detained. Although it was a time for heavenly peace, I was fraught with fear and anxiety like never before because I did not know when I would regain my freedom and see my family again.

After being detained, I was not arraigned until January 7 of the following year. Without notifying my lawyer to be present, Prosecutor Kuan-jen Hou asked a bailiff to take me to a meeting room on the 5th floor of the Taipei District Prosecutors Office. Without the presence of a clerk and with no one to prepare a record or to do the audio recording of the arraignment, Prosecutor Kuan-jen Hou lied to me by saying that my wife (who was working in the Ministry of Justice at that time) had tried to pull a few strings in my favor. He said, "When you are detained, a dozen people who care about you are restless." "Think about your family," and "Be a man and take responsibility for what you have done. Don't drag your family into this mess." He asked me to provide a testimony unfavorable to my shifu. When I stated that my shifu's kungfu (martial arts skills)

is real, Kuan-jen Hou immediately threatened me, saying, "Do not be a tragic hero," and that if I did not "tell the truth," my wife's salary would be halved. As a result, no one would be available to take care of my two daughters.

On January 16, Kuan-jen Hou arraigned me again, still without notifying my lawyer to be present. While awaiting the arraignment, I was surprised that my wife was in another detention room. I was very worried that Kuan-jen Hou's verbal threat was coming true. However, because I was held incommunicado, the bailiff would not allow me to talk to my wife. I even dared not look at her since I was afraid that I would burst into tears when our eyes met. I was even more fearful that my wife would sense my fear and worry about me. When I was still suffering from such emotional entanglements and struggles, Kuan-jen Hou began his first question without turning on the audio recorder or creating a record: "Have you seen your wife?" and "Is your shifu's kungfu real?" I still answered, "It's real." Infuriated, he pounded his desk with both hands forcefully, shouting, "You don't have enough compassion even though you have been seeking self-betterment. Even at the time when your wife is about to be detained, you still don't do anything to save her." I was extremely infuriated and saddened by the realization that a prosecutor with government power is leveraging human weaknesses and the safety of my family to force me to make false accusations and to choose painfully between my family and my shifu. When I adhered to my conscience and the truth, I was detained and held incommunicado for two more months.

Coercing Testimony via Detention

The prosecutor pressured a detainee into signing a fabricated record.

Ying-ying Peng was 39, worked as a schoolteacher, and had practiced qigong for three years. Before practicing Tai Ji Men qigong, she was unable to conceive for 17 years after she got married.

On the morning of the Christmas Eve in 1996, Prosecutor Kuan-jen Hou searched my house for no reason, without any accusation lodged by anyone against me and without any criminal evidence. Shortly thereafter, I was taken against my will to a field office of the Bureau of Investigation for interrogation.

Since Prosecutor Hou failed to inform my family and the organization I worked for of my incommunicado detention, it just appeared that I vanished from the world. My family, colleagues, and students were very worried and anxious about my disappearance and looked everywhere for me. They even suspected that I had been kidnapped. Later, the principal of my school made an inquiry with the Taipei District Prosecutors Office about my whereabouts. It was not until December 31 that he finally received a response, confirming that I had been held incommunicado in the Tucheng Detention Center for the last 7 days. It was later discovered that someone had forged my signature on my detention notice. It was not until the 28th day of my detention that Prosecutor Hou arraigned me for the first time. The first thing he said to me was, "I know you are innocent." If that was the case, why was I held incommunicado for 40 days? Thinking of my seven-month-old baby and my handicapped mother-in-law at home, I begged with

tears in my eyes for my release. Prosecutor Kuan-jen Hou still insisted that I be held incommunicado in order to force a testimony through detention and to obtain a testimony unfavorable to other defendants by hook or by crook.

During the entire time when I was detained, I was only arraigned three times. On two of the three occasions, my lawyer was not notified to be present and my interrogation took place directly in a meeting room, instead of an interrogation room, on the 5th floor of the prosecutor's office to deliberately invoke my fear and anxiety. In the course of interrogation, Prosecutor Kuan-jen Hou leveraged my attachment to my seven-month-old baby and mother-in-law at home and kept asking questions with intimidation and enticement. If he did not like my answers, he would distort my intended meaning and asked the clerk to prepare a record based on his dictation. If I remained silent, he would answer the questions he asked and ask the clerk to take down the answers. When I protested, he said that it was fine and asked me to sign the record first, resulting in a false record that does not reflect what I truly meant. This record is a false record fabricated by Prosecutor Kuan-jen Hou.

On January 31, 1997, I was taken to the Bureau of Investigation in Hsintien for a polygraph test. I was confident in my innocence, so I answered each question truthfully. At the end of the test, I was not informed of the outcome of the polygraph test. At noon the following day, Prosecutor Kuan-jen Hou allowed me to be released with bail, but he warned me "not to talk about what had happened to me after my release."

Later, in Prosecutor Hou's indictment, he accused me of "lying in my answers to all important questions," believing that I colluded with other defendants to conduct fraud in the name of qigong. After I was prosecuted, my files were submitted to

the court. However, my defense lawyer went through the entire files but did not see any record about the polygraph test. Since Prosecutor Kuan-jen Hou believed that I lied, why did he release me with bail the next day? The fact that the polygraph test report was not included in my files shows a deliberate attempt to set me up.

A Smear Campaign

When the detention deadline was near, an all-out effort was made to stigmatize Tai Ji Men.

After four months of investigation, Kuan-jen Hou continually leaked information to the media, resulting in one-sided negative news coverage about Tai Ji Men, including over 400 newspaper reports published like episodes of stories and over 70 reports by 12 TV stations.

Tai Ji Men did not collapse even under such aggressive measures taken by Kuan-jen Hou. What was embarrassing was that he still could not find any criminal evidence. With the imminent expiration of the four-month detention period, he had to make another move.

On April 15, 1997, when the detention period was about to expire, Kuan-jen Hou hastily concluded the investigation of the Tai Ji Men case and issued an indictment. On April 16, he released the indictment to the media, and that was the first time the accusation of "raising goblins" appeared.

The release of the indictment elicited strong reactions from the public, as well as questions about how to prove "raising goblins." As the first person who has ever used the words "raising goblins" in a government document in Taiwan's history, Kuan-jen Hou commanded investigators on the morning of April 17 to storm four Tai Ji Men academies in Daan, Nankang, Shulin and Kaohsiung with fruit boxes to search for evidence for raising goblins. Later, they found a peach wood sword, which was claimed to be evidence for raising goblins and was to be used as court evidence.

On the afternoon of April 17, Kuan-jen Hou questioned the grandmaster if he had "raised goblins" for the first time. The grandmaster answered, "No." And it was not until April 18, which was over 24 hours after the release of the indictment, that Kuan-jen Hou sent the grandmaster to the Taipei District Court for arraignment.

The indictment was released first before evidence was collected, followed by the interrogation of the individuals concerned. This procedure, like "shooting an arrow before drawing the target," is clearly illegal. According to news reports, Ying-chao Wu, the Attorney General at that time, threw Kuan-jen Hou's indictment to the ground for this reason. Then Kuan-jen Hou told the media that he had been suppressed by a supervisor who interfered with his investigation. The more daring prosecutors are, the more popular they are in the eyes of the media. When Kuan-jen Hou was interviewed in the News 100 program on TVBS on May 5, 1997, the host Si-duan Li asked him about his basis for the allegation that the grandmaster "raised goblins." Kuan-jen Hou stated openly, "I saw a glimmer of shadow in his eyes, and based on my instinct as a seasoned prosecutor, I believed that he did raise goblins."

That peach wood sword, which had attracted significant attention, was actually a souvenir given to the grandmaster by a disciple. In the end, the peach wood sword, which Kuan-jen Hou intended to use to prove the "raising of goblins" surprisingly disappeared and never appeared in court at all. After the grandmaster was acquitted in a final decision, this evidence, which the grandmaster requested to be returned, was nowhere to be found.

Inciting Fear in People

A locked door kept mother and daughter apart.

Mei-mei Lin, Tai Ji Men *dizi*, whose mother was nearly 70 and had practiced qigong for two years.

Soon after the Tai Ji Men incident broke out, I returned home one day only to find my mother drenched in tears. My mother happened to visit her own mother during the day and was surprised to find her elderly mother locked in the house from the outside and unable to open the door. She learned that her brother had locked my grandma in the house from the outside because my uncle heard from news reports that Tai Ji Men raised goblins and he was afraid that my mother would visit my grandma and invite goblins to their home. That was why he locked my grandma in the house from the outside when he went to work in order to keep my mother out.

What an agonizing situation in which my mother, who was approaching 70, was separated from her mother, who was 90, by a steel door, both with tears in their eyes!

A Child Goblin?

A five-year-old boy was ridiculed as a “goblin-raising” goblin.

Ping-ping Lai, Tai Ji Men dizi

My son was always quite popular in school. Both his teachers and classmates liked him. However, since Prosecutor Kuan-jen Hou’s ridiculous accusation of “raising goblins,” he was nicknamed “goblin” by some. Even the parents of some classmates intentionally ignored us when we ran into them.

When my son grew up in Tai Ji Men, all he saw, heard, and felt was nothing but the love and caring of brothers and sisters. He could not understand why all of a sudden, everyone was bad-mouthing Tai Ji Men. Even though we as parents tried very hard to protect him from any psychological harm, in the face of the mounting pressure, he could not stay unscathed. Even his beloved grandpa and grandma also talked about what the newspapers said. This matter prompted my five-year-old son to argue with his grandparents for the first time, and he ended up being upset and crying.

I Want My Dad Back

Hsiao-yu Lin is the daughter of Ta-ming Lin and was 10 at that time.

I was very lucky to be born into a three-generation and harmonious family. My father, Ta-ming Lin, was an optimistic and cheerful man. Though he was not well-educated, he was an honest person. He often reminded us that "heaven is watching our every action." My whole family practiced qigong with our shifu at Tai Ji Men. Our shifu loved us dearly and often taught us the path we should follow as human beings. Unfortunately, the happy days ended when I was in the fourth grade.

I came home that day but couldn't find my father. Grandma said he was taken away for interrogation, and those who came were quite mean and ferocious. Later, we heard that a group of people detained him and surrounded him, and the first thing they asked him was whether he had a prior criminal history. He was interrogated like a criminal and was threatened with our safety. They said they would monitor our home and put him in jail.

My father was an honest and law-abiding citizen. And we were just an ordinary family. What did he do to deserve the arrest? It turned out that the reason was that Prosecutor Kuan-jen Hou believed my father and our shifu had raised goblins to defraud others. Although my father came home safely, his lifelong reputation was tarnished.

On December 24, 1996, in addition to questioning our brothers and sisters, Kuan-jen Hou also declared to the media that he would detain 200 more people. My father was wondering every day as to when he would be arrested. Not wanting us

to worry about this, he hid his anxiety. As a result, the sources of our family bliss were gone, and my father finally became ill. When I was a freshman in college, he left this world with melancholy even though he was still in the prime of his life.

Not only did his departure leave a hole in our hearts, but our family also lost the pillar of financial support. My mother had to cope with the grief over the loss of my father on one hand, while also having to support the entire family, raise four schooled children, and care for my decrepit grandmother. Such a tremendous pressure accelerated the aging of my mother. Only in her 40s, she looks old and haggard as if she were in her 50s or 60s. I always feel heartbroken whenever I look at her from behind her back. I really want to ask the prosecutor, "Can you bring my dad back? Can you give my whole and happy family back?"

Beyond Compensation

The national compensation for wrongful imprisonment could not restore a good reputation or fix a broken family.

Ta-hsin Chen was 53, worked as the chief financial officer of a high-tech company, and had practiced qigong for 13 years. Before joining Tai Ji Men, he had suffered from fulminant hepatitis and was declared incurable by his physician.

My two elder brothers who emigrated to the U.S. saw the news reports about the case and called my wife from overseas to voice their concerns. They even asked my wife if I committed any crime and put our family and ancestors in shame. Being detained at the time, I could not personally explain the whole thing to my brothers, leaving all the pressure on the shoulders of my wife.

At the time, my wife was working as an editor in the Ministry of Justice, but this case attracted the attention of her supervisors and coworkers who became suspicious of her. Meanwhile, the prosecutor kept disclosing information in the course of the investigation, resulting in media reports implying an officer of the Ministry of Justice was involved in this case. Reluctantly, my wife had to choose early retirement. My two daughters, who were college students at that time, were ridiculed and discriminated against in school. As a result, their education and grades were seriously affected. Both of my daughters later chose to study and live abroad. Even though I could not afford to pay their tuition, still they would rather stay overseas by working hard to support themselves than return to this country where they feel sad and insecure.

Before I retired, I had worked as the chief financial officer of

a well-known company and was quite reputable in my field of work with an excellent credit history with banks. However, because of the unlawful investigation and detention by the prosecution, my good credit standing which I had earned in my lifetime was totally ruined. A couple of days after I was released, my bank called back my mortgage. With only my wife's salary, we found it hard to make ends meet. As a result, we had no choice but to swallow our pride and try to borrow money from our friends and relatives. However, they still had suspicion about me and were not willing to lend us a helping hand. I made a lot of efforts to seek help only to face rejection and mockery. The achievements I had made and my good reputation, for which I had worked very hard in my whole life, were completely destroyed.

I cannot restart my life all over again. Nothing can make up for the catastrophic damage to the spirit, property, reputation and career of my wife and me. My young daughters, who cannot even fully recover from the trauma, chose to stay abroad. My wife and I are no longer young. If we want to visit our daughters, son-in-law, and grandchild, we have to travel overseas. Since this is not easy, we have to suffer from missing our children. Prosecutor Kuan-jen Hou reduced my lifework to nothing. This can hardly be compensated by any compensation for wrongful imprisonment.

The Country I Love Hurts Me the Most

Hsiao-ya Chen, a daughter of Ta-hsin Chen, was 21 and attended college at that time.

On the Christmas Eve of 1996, I came home from school in a joyful mood. Not seeing my family at home, I discovered my house somewhat messy and appeared to have been touched previously. Shortly thereafter, my father called home, asking me to find his papers. While he was explaining this to me, the phone was snatched away from him by a man who asked me to find his papers and bring it to "No. 176, Keelung Road, Section 2." It was not until I got there that I realized that it was the address of the Taipei Field Division of the Bureau of Investigation.

On the day before my father was released, I received an anonymous note at school that read, "Don't think your family can escape from the punishment of law." Facing such ruthless accusations and tremendous pressure, I chose to study in Europe in order to leave this heart-breaking place. Bearing homesickness, I quietly fought for my academic pursuit and livelihood in a foreign country.

An Ordeal

Who should compensate for their pain and suffering?

The 5-year-old Hsiao Tung, the 10-year-old Hsiao Yu, the 21-year-old Hsiao Ya, and nearly ten thousand Tai Ji Men *dizi* (disciples) have been scarred and traumatized and compelled to act beyond their ages because of the unjust Tai Ji Men case that began on December 19, 1996. Their previous happy and warm families, as well as their happy school lives were destroyed overnight. We all have parents and relatives, and many are parents of their children. How would you feel if your relatives were treated so unreasonably? How would you swallow the pain and suffering?

Where is the government? Is it a state machine that protects the people? Or is it a machine that controls the people? Who can give back to them their lost relatives, reputation, and happiness?

Asset Freezing

On day 4 of the incident, the process of freezing the assets of the grandmaster and his wife began.

On the fourth day of the Tai Ji Men incident, all assets of the grandmaster (*shifu*) and his wife were successively frozen, including the dowry of the grandmaster's wife and assets accumulated by the grandmaster from his previous business operation, regardless of when the assets were acquired or whether they were related to this case. All of their assets were frozen, leaving them with nothing to pay for basic necessities or their children's education.

Question: Is it permissible to freeze all assets prior to a final determination of a crime?

Answer: Pursuant to law, it is indeed possible to freeze assets before a court decision becomes final in order to secure the sources of compensation for the victim by preventing a crime suspect from evading enforcement on his/her assets. However, the suspect's basic needs and the cost of his/her child's education should be taken into account when freezing his/her assets. Furthermore, assets that are unrelated to the crime for which the defendant is accused cannot be frozen.

Light of Hope

In the cold of winter, the lights of Tai Ji Men remained on.

Hsiao-hsueh Chen was 26 and had practiced qigong for two years.

Perhaps Kuan-jen Hou was expecting the 12 academies in Taiwan to be closed down and everyone to flee in fear, but he probably could not have imagined that the lights of each of our academies remained on every day, and that we contributed our financial resources and efforts to defend the 12 academies.

Although the following four months starting from December 1996 were the coldest winter of our lives, and it was an unusually cold winter, many brothers and sisters still made a pact to come to the academies and weave one "lotus heart" after another with red threads. The most special portion of these lotus hearts is the core, which has to be stretched firmly and tightly, much like our hearts, ready to defend our home. At that time, a total of 16,666 lotus hearts were made and tied with yellow ribbons to represent how much we missed our shifu, his wife, and our detained brother and sister.

An Ancient Menpai

The shifu and dizi share profound ties.

Hsiao-fen Wu was 23 and had practiced qigong for over a year.

There were more than 10,000 Tai Ji Men members in Taiwan alone. When some of the dizi (disciples) proposed to take to the street to protest against judicial defamation and injustice, Shifu asked us through his lawyer to remain diligent, apply what we learned, be patient, and be peaceful, and not to cause social instability. Hearing that, we could not help bursting into tears.

As Prosecutor Kuan-jen Hou threatened to arrest 200 more people, considering the possibility that some senior brothers and sisters might be taken away, some suggested that they should go into hiding to wait out the storm. However, these senior brothers and sisters continued to go to their academies every day and even visited other academies to encourage one another.

At that time, I had practiced qigong for just a little more than a year and was studying in central Taiwan. I would go to the academy and stay there whenever there was no school, fearing that it could be taken away from me. Worrying that the brothers and sisters who were studying in school away from home had not eaten proper meals, older brothers and sisters would prepare delicious meals for us. Every evening, more and more brothers and sisters would join us in the academy after they got off work to chat and share their experience and thoughts as well as our shifu's reminder to stay diligent, apply what Shifu had taught us, be patient, and be peaceful.

Unreasonable Treatment 1 Inhumanity in Detention Centers

During the four-month period of investigation, Prosecutor Kuan-jen Hou changed the grandmaster's detention locations several times. Every time when the detention place was changed, unlike the conventional practice of confinement with cellmates who allegedly had committed economic crimes, Kuan-jen Hou deliberately put the grandmaster in the same cell with felons. Later, Kuan-jen Hou asked the grandmaster's cellmates to testify against him by fabricating words that the *shifu* had never said and forging testimonies which contained nothing but slanders against the grandmaster.

The detention period lasted from December 1996 to April the following year, during a particularly cold and rainy season. Tai Ji Men *dizi* delivered a new quilt to the detention center. The new quilt, however, was replaced by a stinky, wet, and cold quilt, causing the grandmaster to suffer from excruciating itching throughout his entire body, resulting in swelling and bleeding throughout the entire body due to scratching, and keeping him sleepless for nine days. Later, his feet became so swollen that he could hardly walk, and they were nearly amputated. He applied for medical parole, only to be ignored. After the case was transferred to the district court, the judge saw the *shifu's* brief on medical parole and asked him about his swollen feet. Seeing the severely swollen portions behind the *shifu's* knees, the judge invited him to sit down for the duration of the court hearing.

Unreasonable Treatment 2

Concealment of Statements

In a tiny prison cell under a dim light, the grandmaster prostrated on the cold floor to prepare his lengthy statements for his defense by hand. He prepared over a dozen briefs, consisting of over tens of thousands of words.

All these statements were supposed to be transferred to the court along with the case. However, the three most important statements of them, which requested investigation of evidence, were concealed by prosecutor Hou and were withheld from the court. As a result, the grandmaster was still detained after this case was transferred to the court. The judge did not agree to the bail application until the lawyer urgently supplemented the three statements and relevant evidence. At the end, the grandmaster of Tai Ji Men was illegally detained for 159 days.

Normally, a detention period lasts two months. Why did the prosecutor request an extension, stretching the detention to nearly four months?

A total of 117 days elapsed from the day following the detention of the grandmaster (December 21, 1996) to the disclosure of the indictment to the public on April 16, 1997. During this period, Prosecutor Hou only conducted three arraignment hearings of the grandmaster, which lasted 29 minutes in total, and only asked 13 questions. Although Prosecutor Kuan-jen Hou detained the grandmaster for such a long time, he did not ask the grandmaster any substantive or in-depth questions. One cannot help but wonder if he was hoping to see if Tai Ji Men would collapse after its leader was detained.

Unreasonable Treatment ③

Requesting Shutdown of Tai Ji Men Beyond the Prosecutor's Authority

After the indictment was issued, this case was transferred to the district court on April 18, 1997, and thus the entire case was placed entirely under the jurisdiction of the court. On April 25, however, Kuan-jen Hou went beyond his authority and issued a letter in his own name, without obtaining his supervisor's approval, to the Ministry of the Interior to request the dissolution of Tai Ji Men, which he falsely accused of being an evil religious cult.

Not knowing what to do after receiving the letter from Kuan-jen Hou, the county governments simply followed the "instruction" of the prosecutor and directly issued a letter to Tai Ji Men to demand its dissolution.

Seeing that Tai Ji Men still operated normally, Kuan-jen Hou, again, directly issued letters to the Public Works Departments of Taipei City and of Taipei County in June 1997, demanding the termination of water and electricity supply to Tai Ji Men and the execution of his so-called "dissolution order." Tai Ji Men was compelled to bring an administrative action and spent two years before this issue was completely resolved.

This case was transferred to the Taipei District Court on April 18, 1997 after the indictment was issued. Since the case was pending a court trial, the prosecutorial investigation had theoretically been concluded as the case was turned over to the court. The prosecutor had no authority to conduct further investigation.

In addition, a prosecutor can only command police officers in various localities and the Bureau of Investigation, not the Ministry of the Interior or local governments. Tai Ji Men is a civil society organization regulated by the Ministry of the Interior, not the Ministry of Justice. Therefore, the prosecutor had no authority to order its dissolution.

Moreover, the Ministry of the Interior issued a reply on May 26, 1997, indicating that the Ministry of the Interior could not apply any relevant provisions of the Civil Associations Act to dissolve Tai Ji Men or render any other disposition. Kuan-jen Hou issued letters illegally again to the Public Works Department of Taipei City and the Public Works Department of Taipei County on June 18, 1997, directly demanding the termination of water and electricity supply to Tai Ji Men.

During the investigation conducted by the Control Yuan, Kuan-jen Hou also admitted his issuance of letters to the Ministry of the Interior and various county and city governments without the approval of his supervisor, which was against the law.

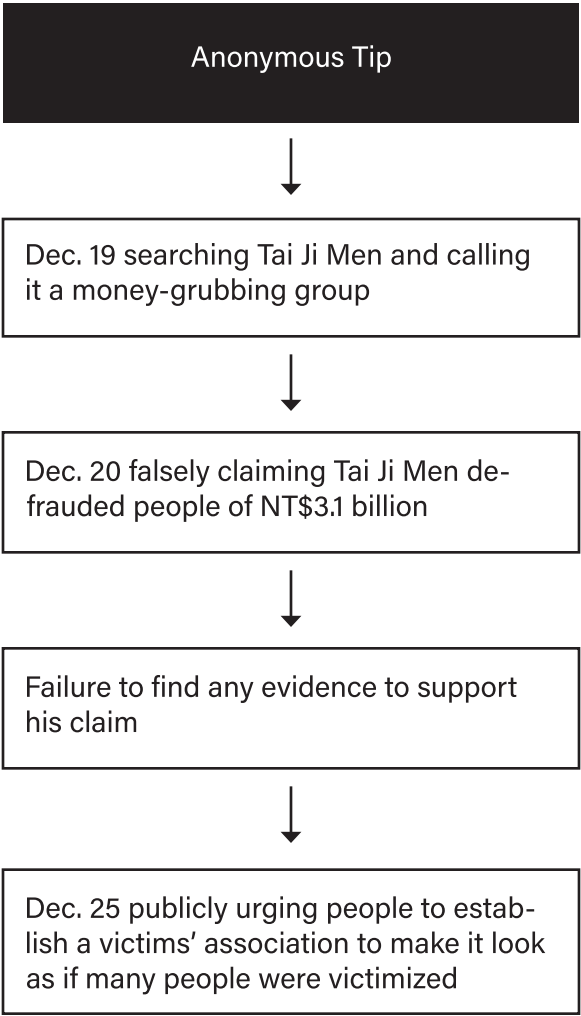
Thorny Road to Justice

The prosecutor released false and misleading information.

When the case entered the litigation phase in May 1997, Tai Ji Men prepared the facts and evidence and a defense team. But at that time, the media had fabricated a negative image of Tai Ji Men, making people believe that the accused were guilty before the trial even began.

In particular, during the investigation, Kuan-jen Hou tried to create a media frenzy in various ways, such as fabricating a "victims' association" six days after the raids on Tai Ji Men. According to common sense and general investigation procedure, typically there is a victims' association organized by the victims before the prosecutor intervenes in the investigation. In the Tai Ji Men case, however, it was the other way around.

On December 25, 1996, Kuan-jen Hou, through the media, publicly urged people to establish a victims' association, saying, "Complete the registration as soon as possible to secure your rights and interests." He attempted to create an impression that a lot of people had been victimized by urging the establishment of such a group. Kuan-jen Hou also frequently produced gripping developments of the Tai Ji Men case, disseminated false information through the media, and fabricated the image of organized fraud. At that time, this case became a high-profile case in the nation, and Kuan-jen Hou was frequently hitting the news headlines.



Freedom from Fear?

Tai Ji Men dizi would cautiously avoid the tailing and shadowing by the prosecutors and investigators.

Hsiao-mei Tsai was 27, had practiced qigong for half a year, and had just passed the bar exam.

When I stepped into the conference room, it was full of people, who all looked sad, frightened, and worried. I had just passed the bar examination, and the Tai Ji Men case turned out to be my first case as a lawyer. When Tai Ji Men was caught in the path of a tornado, Counsel Kuo-tang Chen, an old friend of our shifu for many years, shouldered the heavy responsibility to look for lawyers. Based on his years of experience and acumen and through the referral of some brothers and sisters, a number of excellent lawyers in terms of moral character and expertise were recruited.

Although I had only been practicing qigong at Tai Ji Men for six months at that time, still I knew that the media reports were completely wrong and absolutely ran counter to what I had witnessed. Although I was a rookie lawyer, still as a Tai Ji Men dizi, I felt obligated to join the defense team.

Some brothers and sisters expressed in the meeting that they were extremely nervous about joining the meeting because of Kuan-jen Hou's intimidating statements in the media. Afraid of being followed, they deliberately took long detours to get here. In addition, out of fear that other brothers and sisters would be affected, everyone brought a bag of essential items for survival with them. Some even hid their address books in their pigpens, thinking that doing so would prevent other brothers and sisters from being located in case they were detained.

I thought our nation has claimed to be a democracy adhering to the rule of law. Then why are we being persecuted simply for practicing qigong and cultivating our hearts? It is truly ironic as the Constitution specifically guarantees the people's freedom from fear.

In subsequent meetings, to avoid being followed by the prosecutor and investigators as well as avoid negative press coverage, when the lawyers called a meeting with our brothers and sisters, a gas station was sometimes chosen as the venue for a brief exchange of opinions, and sometimes the lawyers gave our brothers and sisters brief explanations on their way to the court when they were handling other cases. How ridiculous this is! Even the lawyers had to be so cautious in exercising their right of defense.

The frightening atmosphere was reminiscent of a television drama set in the ancient times when there was an overwhelming search and arrest as well as a full-scale hunt of martyrs. The plot of a TV drama series was being broadcast in full swing in "democratic" Taiwan in the 20th century.

Musical Chairs with the Judges

The judicial procedure limped along.

On April 18, 1997, the case was transferred by the prosecutor to Judge Hui-sheng Chen, who was assigned to this case by the luck of the draw. When the first hearing was conducted over one month later on May 26, Judge Chen found that many of the questionnaires presented by the victims' association were false. Therefore, he asked the agent of the complainants (the lawyer of the victims' association) to reorganize and produce the names and signatures of the complainants in three weeks. However, even after the final decision in the entire case was concluded, the so-called list of the complainants (list of the members of the victims' association) could not be produced. (Note: The mystery of why such material could not be produced would be revealed after the judge subsequently began the trial). Just when Tai Ji Men was pleased that the judge verified the various pieces of evidence one by one, Judge Chen was quickly transferred. The second judge, Chien-Yi Yang, never held a single court hearing for a year and a half after taking over this case. We even never saw the face of the judge. Chih-kuang Yang, the third judge, and Yu-shu Chang, the fourth judge, both were transferred after just a few court sessions.

Years have gone by, and the judges have changed four times during a period of close to four years. Tai Ji Men, which had been regarded as a racketeering organization and an evil religious cult, did not have a chance to clear its name. When the judicial procedure limped along, Tai Ji Men could only pray that justice would be served as soon as possible.

Uncovering the Truth

Tze-jung Chao, the fifth judge for this case, adopted a very serious approach in trying this case. Under the negative press coverage, he was still somewhat affected. Fortunately, cross-examination was piloted in local district courts. Judge Chao believed that cross-examination could contribute to the revelation of the facts and decided to try this case under the new system. As a result, the truth was gradually revealed.

In order to call one witness after another, the court sessions were very long, extending from afternoon to evening and even late into the night. The assertions of the so-called "victims' association" were refuted one after another during the trial.

For example, Chang-pin Tsai, the self-proclaimed president of the victims' association, asserted that he gave the grandmaster NT\$30 million as a gift. Later when the judge asked him if he had actually provided the money, he changed his statement swiftly, saying that he wanted to provide it but ultimately did not.

Pi-yun Tseng, the vice president of the victims' association, confessed during a court hearing that she had forged questionnaires distributed by the victims' association, since she spread the rumor at that time that "the higher the amount of money was registered, the more money will be received." Therefore, she asked her son and relatives to impersonate Tai Ji Men *dizi* and falsely claimed that their damage amounted to as high as NT\$3.3 million.

The First Storm Has Passed

Finally, the wheel of injustice halted, but seven years had elapsed.

Shao-hua Chiu was 38, worked as a physician, and had practiced qigong for five years.

The litigation process is time-consuming and resource-intensive, but we were at least lucky to have a responsible judge, who conducted long court sessions that frequently lasted well into the evening. In addition to judges, prosecutors, and defense attorneys, the courtroom was also packed with concerned brothers and sisters, some of whom took time off work to travel north from the central or southern regions of Taiwan. These were all social costs.

Once, the agent (lawyer) of the victims' association asked the judge why Tai Ji Men had to talk about self-cultivation with regard to qigong practice. Our shifu (master) turned around and asked him, "Do you know what self-cultivation is?" The lawyer froze on the spot. Shifu then said, "To cultivate yourself is to change yourself, and to practice is to act." Since then, the lawyer never appeared in the courtroom again.

Whenever I attended the court hearings, I was sometimes angry, but I also felt sad. The lawyers who knew nothing about self-cultivation, the prosecutor who thought he knew about goblins, plus a few members of the so-called victims' association with ulterior motives all worked together to stage a drama that was fabricated in those days and demonize an orthodox and virtuous martial arts menpai (similar to school) into an evil religious cult, thus creating a spooky atmosphere in Taiwan.

I became a dizi of our shifu to learn wisdom. All Tai Ji Men dizi know that Tai Ji Men emphasizes the dual cultivation of the heart and body. The heart refers to our spirituality, while the body means our lives. We practice qigong in the academy not only to improve our internal energy and health but also to enhance our spiritual growth, learn how to stay calm, reflect upon ourselves, and change our temperament. Only those who are willing to reflect upon themselves and mend their ways can become better and wiser.

Anyone who has read martial arts novels knows that in order to become a martial arts hero, it is necessary to cultivate one's moral character and the morality of martial arts. Shifu has set a very good example himself and frequently provided his teachings and guidance to us. We cultivate our morality of martial arts by following his example, practicing what he has taught us, as well as exchanging experiences and encouragement among ourselves. At Tai Ji Men, just like the scenarios depicted in martial arts novels, the shifu would pass on wisdom and martial arts to his dizi on proper occasions. In the academy, I often see Shifu offer his guidance to different brothers and sisters, and sometimes Shifu and dizi sit and talk for hours. Therefore, Tai Ji Men is not just a venue for practicing qigong. It is a brightly lit home, not a place created based on business transactions.

The End of the First Trial

Finally, a not-guilty first instance decision was issued after seven years.

Judge Chao examined the testimonies of about 200 witnesses, including members of the so-called victims' association, Tai Ji Men *dizi*, and people from the NTB. In addition, the exhibits in 12 large boxes were also examined one by one. The exhibits that the prosecutor transferred to the court, including the casual handwritten notes of the *dizi*, memos of their experiences, plans for the development of Tai Ji Men, and even props for social gatherings, became court evidence cited by the prosecutor against the grandmaster of Tai Ji Men.

After meticulous examination of about 200 witnesses and exhibits, the facts were gradually revealed. The first instance decision was finally rendered on September 25, 2003, acquitting the leader of Tai Ji Men and his co-defendants, almost seven years after Tai Ji Men was raided.

Seven years turns a child from a toddler into an elementary school student, a teenager into a young man, a young man into an adult in the prime of life, and a middle-aged man into an old man. How many seven years are there in a lifetime? Moreover, the Tai Ji Men case fabricated by Prosecutor Kuan-jen Hou has taken away 24 years (1996-2020), not just seven years from the *dizi*. In fact, the nightmare is far from over.

【裁判字號】86,訴,953

【裁判日期】920925

【裁判案由】違反稅捐稽徵法等

【裁判全文】

臺灣臺北地方法刑事判決

八十六年訴字第九五三號

公 訴 人 臺灣臺北地方法院檢察署檢察官

被 告 未○○ 男 五.

選任辯護人 蘇友辰律師

薛松雨律師

陳昆明律師

被 告 Q○○

選任辯護人 陳國堂律師

陳煥生律師

林鴻鵬律師

被 告 H○○ 男 六.

選任辯護人 陳國堂律師

蔡富強律師

陳明律師

被 告 M○○

選任辯護人 蔡靜玫律師

蔣瑞琴律師

被 告 T○○ 男 四.

選任辯護人 劉邦川律師

黃麗蓉律師

右列被告等因違反稅捐稽徵法等案件，經檢察官提起公訴（八十五年度偵字第二八四六六號、二八六〇一號），本院判決如左：

主 文

未○○、Q○○、H○○、M○○、T○○均無罪。

The first instance decision was finally rendered on September 25, 2003, acquitting the leader of Tai Ji Men and his co-defendants.

Vindication

The first instance decision that cleared our names was offered to my ancestors as a sacrifice.

Ta-jung Huang, at 38, was a military serviceman and had practiced qigong for eight years.

At 4:00 p.m. on September 25, 2003, in the 7th Criminal Court Room, Judge Tze-jung Chao declared that Tai Ji Men was not guilty of any charges on the spot. I could not help bursting into tears.

At that moment, the brothers and sisters who were there also hugged and cried together. Seven years! Our names were finally cleared.

I used my phone to deliver the good news to my mom, dad, brothers, and sisters in the countryside. My dad kept saying, "Great! Great! This is what the outcome should be!"

Many Tai Ji Men dizi have been physically and mentally distressed and many families have been broken during these seven years. Also, many dizi left Tai Ji Men because they could not bear the negative comments from society and their friends and relatives, and many dizi passed away with regrets. And again, it is difficult to imagine how many Tai Ji Men dizi have suffered from this catastrophe when their dreams and youth have been consumed.

Two weeks after the court ruling, it was October. Despite the fact that it was not the season for tomb-sweeping, Wai-ming visited his father's grave with his wife and children, bringing four fruits and a photocopy of the court ruling, saying, "Dad,

Tai Ji Men has been acquitted. You can rest in peace now. No one will ridicule your grandson for raising goblins anymore." With that, he burned a copy of the decision to send it to his family members who had passed away with regret before Tai Ji Men's name was cleared.

Jen-chieh and his wife Yu-shan put a copy of the decision on the table where the ancestral tablet was kept and lighted incense to pay their respect: "Mother, are you happy now? The judge has cleared our names."

All Tai Ji Men *dizi*, whether they have survived or not and whether they are in Taiwan or in foreign countries, hope that the government can clear their names. But in fact, the government is yet to clear the name of Tai Ji Men and still has been persecuting Tai Ji Men even more senselessly to this day.

The End of the Third Trial

After 10 years and 7 months, a not-guilty third instance decision was issued, finding no outstanding taxes.

On September 25, 2003, the first instance criminal decision issued by the Taipei District Court acquitted all the defendants. As usual, the first instance prosecutor appealed to the second instance court.

Judges Yao-yuan Wen, Cheng-ta Chou and Ching-jung Tuan of the collegiate panel of the second instance court, which was the Taiwan High Court, conducted investigation and summoned relevant parties with respect to some items for which no sufficient evidence had been produced in the first trial. One time when one court session was coming to an end, Presiding Judge Wen unexpectedly asked the grandmaster how to say “acupuncture” in English to test the knowledge of the grandmaster, who has a PhD in medicine. He immediately replied, “Acupuncture.” Presiding Judge Wen nodded in agreement. After over 10 witnesses were summoned, the Taiwan High Court, the second instance criminal court, rejected the appeal of the prosecution and upheld the not-guilty first instance decision on December 13, 2005.

The prosecution appealed to the Supreme Court. On July 13, 2007, the Supreme Court issued the third instance criminal decision, rejecting the appeal of the prosecution and finally concluding that the defendants were all acquitted without any fraud or tax evasion and did not violate the Tax Collection Act. The Supreme Court also determined that the red envelopes to the *shifu* were gifts by nature and were tax-free income under Article 4, Subparagraph 17 of the Income Tax Act, and that the procurement of uniforms and other items

by the *dizi* on behalf of others was not conducted to seek profits and had nothing to do with the *shifu* and his wife. This even marked the first high-profile case in Taiwan that was never remanded.

臺灣高等法院刑事判決
九十二年度囑上訴字第二號

上訴人 臺灣臺北地方法院檢察署檢察官

弟子間需要而統一購買練功服等代辦品，由師兄姊代辦，並非營利販售，……而弟子贈與師父之敬師禮，既屬「贈與」性質，依所得稅法第四條第十七款屬免稅所得，公訴人稱是以功德金等名目以「規避課稅」，實為推測之詞。

On September 25, 2003, the first instance criminal decision was issued by the Taipei District Court, acquitting all the defendants.

最高法院刑事判決
九十六年度台上字第三八三七號

上訴人 台灣高等法院檢察署檢察官

上列上訴人因被告等違反稅捐稽徵法等罪案件，不服台灣高等法院中華民國九十四年十二月十三日第二審判決（九十二年度囑上訴字第二號，起訴案號：台灣臺北地方法院檢察署八十五年度偵字第二四四六六號），提起上訴，本院判決如下：

主文
上訴駁回
理 由

On July 13, 2007, the Supreme Court issued the third instance criminal decision, rejecting the appeal of the prosecution and finally concluding that the defendants were not guilty of fraud, tax evasion, or violation of the Tax Collection Act.

臺灣臺北地方法院刑事判決
公訴人 臺灣臺北地方法院檢察署檢察官

右列被告等因違反稅捐稽徵法等案件，經檢察官提起公訴（八十五年度偵字第二四四六六號，二八六〇一號），本院判決如左：

主文
洪○○、游○○、陳○○、彭○○、黃○○均無罪

The second instance criminal court rejected the appeal of the prosecution and upheld the not-guilty first instance decision on December 13, 2005.

National Compensation

The third instance decision acquitted the defendants, concluding there was no outstanding tax, and all the defendants who were detained received national compensation for wrongful imprisonment.

By the end of 2009, Tai Ji Men *shifu* and his co-defendants detained by the prosecutor had received national compensation for wrongful imprisonment, which symbolizes the state's apology. In fact, it is not easy to be awarded national compensation for wrongful imprisonment in criminal cases in Taiwan. Tai Ji Men *shifu* and three of his co-defendants donated the entire compensation to support judicial human rights reform in Taiwan.

Is it easy to be awarded national compensation for wrongful imprisonment?

Although it is your right to apply for national compensation for wrongful imprisonment, not all applications are approved. In fact, the review criteria are very stringent. After all, an approval of the claim for compensation indicates an erroneous indictment issued by the prosecution or an erroneous court decision. Usually, an application would be rejected on the ground that the applicant has "intentional or material negligence," e.g., the material negligence of the party for remaining silent in the course of trial and failing to actively defend his/her innocence. In fact, it is very difficult to interpret and clearly define "intentional or material negligence." For example, in the case involving the negotiation of bills of exchange at First Commercial Bank, three innocent defendants were ultimately acquitted after wandering from court-

room to courtroom for 30 years. However, only one of them succeeded in getting the national compensation for wrongful imprisonment. In contrast, all of the four defendants in the Tai Ji Men case who were detained received the national compensation for wrongful imprisonment. This attests to the true injustice in the Tai Ji Men case.

Lack of Accountability

After the national compensation for wrongful imprisonment was awarded, the wrongdoer got promoted.

Hsiao-yen Huang was 15 and started to practice qigong at 10.

In the year when the Tai Ji Men case started, I was 15 years old and in the 10th grade. A strange prosecutor mentioned "raising goblins," a term I had never heard in my life, and took away my shifu, his wife and a number of brothers and sisters at Tai Ji Men. My father also became a defendant. The prosecutor said he would take away more people. I was always worried about my father, not knowing when he would be taken away.

I am the eldest daughter in the family. My brother was still in elementary school, my mother had just finished her postpartum care, my sister was just one month old, and I was ready to take a break from school at any time. Otherwise, economic support would become an issue for my family. Court sessions, one after another, tormented our family. Due to the media's extensive negative coverage, my grandfather thought my father was an ungrateful son. Although my father is the only son in his family, my grandfather did not want to live with us. I could not even receive his blessing in my once-in-a-lifetime engagement party. We all hope that we can be the pride of our parents, but my father lost his father's recognition forever because of this fabricated case.

My father was my idol and the greatest man and the man most filially pious to his parents in my mind. In 2012, my grandfather passed away without clarifying the misunderstanding between him and my father, and this has been the greatest

regret in the minds of my family.

When Sister Peng was taken into custody, her son was only seven months old. Even when he was already an elementary school student, he would feel panicky and cry loudly when he woke up in the middle of the night and couldn't find his mother.

The son of one of our brothers was only five years old when his home was raided. When he grew up, he attended Taipei Municipal Jianguo High School, and when passing by the Ministry of Justice, he would shout at the building: "Kuan-jen Hou, come on out!"

It is not easy to receive national compensation for wrongful imprisonment. In the Tai Ji Men case, all of the four people (including the shifu and three of his co-defendants), who were detained, received national compensation for wrongful imprisonment. However, there are many things that cannot be compensated by money. The reputation of the shifu and the Tai Ji Men dizi, the regrets of the deceased, the broken families, the loss of harmonious relationships with friends and relatives, and the loss of jobs or demotion caused by this case cannot be resolved with a check. Instead of awarding the compensation, it is better to have the perpetrators apologize to the victims and accept the punishment they deserve. Kuan-jen Hou, the very perpetrator that fabricated this case in the very beginning, was not penalized. In 2018, he was even promoted to Deputy Director-General of the Agency Against Corruption of the Ministry of Justice. This calls into question the evaluation criteria for promoting a government official. Where is the justice for the victimized Tai Ji Men shifu and dizi?

Wrongful Prosecution

Prosecutor Kuan-jen Hou's eight violations of the law were confirmed as a result of the Control Yuan's investigation.

Kuan-jen Hou initiated the Tai Ji Men case. In 2002, the Control Yuan investigated Kuan-jen Hou for eight alleged violations of law in the investigation of the Tai Ji Men case, including violation of the principle that the specifics of investigation should not be disclosed, illegal raids, illegal freezing of assets, overstepping his authority, ordering county and municipal governments to shut down various academies, serious violation of the principle that case investigation should be scientific, and damage to judicial authority and credibility of the prestige of the judiciary, etc., and referred him to the Ministry of Justice to pursue his liability and impose a severe penalty on him. It was also determined that in light of the contradictions between the indictment and the evidentiary materials, the prosecution on such basis does not meet the evidentiary rule.

During the Control Yuan's investigation, Kuan-jen Hou admitted that after the case was prosecuted and turned over to the trial court, he did not obtain the approval of his supervisor before issuing letters to the Ministry of the Interior as well as county and city governments to order the dissolution of Tai Ji Men or the disconnection of water and electricity to its academies. He also admitted that he seized all real estate held under the names of the grandmaster and his wife solely based on one-sided allegations of witnesses, and that he rashly prosecuted this case without verifying if the so-called list of "victims" was true.

Eight Major Violations of Law	Description
Violation of the principle that the specifics of the investigation should not be disclosed	On December 19, 1996, Kuan-jen Hou led large-scale raids on Tai Ji Men academies in Taiwan with the media, allowing the media to obtain exclusive news footage. During the investigation, he even continued to supply information to the media, resulting in over 70 news reports on 12 TV stations and over 400 sensational news reports published like continuous episodes of stories to create an impression of overwhelming negative public opinion. Kuan-jen Hou even appeared on television to publicly discuss this case.
Illegal raids	On December 20, 1996, several Tai Ji Men <i>dizi</i> were interviewed by the media, stating that the public accusations were wrong. They were searched by Kuan-jen Hou a few days later in the absence of any criminal evidence or any individual's complaint and were taken away to the Investigation Bureau for interrogation.
Illegal freezing of assets	Kuan-jen Hou successively froze all of the assets of the grandmaster and his wife four days after the outbreak of this case, regardless of whether they were related to this case. Not even a penny was spared for the basic livelihood and cost of education for their children.
Overstepping his authority	After this case was prosecuted, the entire case was pending with the court. However, Kuan-jen Hou overstepped his authority by issuing a letter in his own name without the approval of his supervisor to the Ministry of the Interior to request the dissolution of Tai Ji Men. Later, he issued letters to eight county and city governments, ordering the dissolution of Tai Ji Men. He even issued letters to the Public Works Departments of Taipei City and County, directly demanding the cutoff of water and electricity supply to the Tai Ji Men academies.

Eight Major Violations of Law	Description
Case investigation in serious violation of scientific principles	On April 15, 1997, Kuan-jen Hou concluded his indictment and alleged in his indictment that Tai Ji Men was raising goblins, causing a public outcry. He was even publicly interviewed by the media, claiming that just by looking at the <i>shifu's</i> eyes, he determined the <i>shifu</i> was raising goblins.
Undermining the authority and credibility of the judiciary	It was not until the day after the release of the indictment that Kuan-jen Hou raided four Tai Ji Men academies again. He seized a peach wood sword, which was used as the sole evidence for raising goblins. And it wasn't until that afternoon did the grandmaster get questioned for the first time as to whether he had raised goblins. The investigation procedure of the case seriously violated due process of law.
Seriously undermining the rights and interests of the defendants	From the following day after the grandmaster got detained to the release of the indictment, which lasted 117 days, Kuan-jen Hou surprisingly only interrogated the grandmaster three times, spending a total of 29 minutes and asking only 13 questions. During the interrogation process, Kuan-jen Hou was rude, not only throwing away files, pounding the table, roaring loudly, and speaking in a threatening manner, but also flatly refusing to obtain the favorable documentary evidence requested by the <i>shifu</i> . From the investigation to the transfer of the case to the trial court, Prosecutor Kuan-jen Hou neither informed Chao-hsiung Li, the lawyer appointed by the grandmaster, nor communicated the alleged crimes and legal provisions concerned. Such an investigation process severely jeopardized the party's rights to defend and litigate, as well as deprived the defense attorney of his rights to defend.
Undermining the prosecutors' image of fair and impartial law enforcement	Kuan-jen Hou made a biased decision prior to the trial. He openly broke the law by urging the establishment of a victims' association in the media, claiming that alleged victims could get compensation by joining a victims' association. He admitted that he did not investigate ex officio or verify the claims made by the so-called victims or members of the victims' association, and he determined the number of victims solely based on the information provided by this association.

Officials Protect One Another

The Ministry of Justice and the Taiwan High Prosecutors Office covered up the illegality of “their own.”

After receiving the official sanction letter from the Control Yuan in 2002, the Ministry of Justice (MOJ) did not sanction Kuan-jen Hou pursuant to law immediately but passed the buck to the Taiwan High Prosecutors Office (THPO), which postponed the handling of this matter to 2007 and finally stated that there “was no illegality” according to its own investigation. Both the THPO and MOJ stated that the sanction could not be imposed since the 10-year statute of limitations for sanctioning Kuan-jen Hou was over.

In fact, the Control Yuan had completed its investigation report on March 4, 2002 and requested ex officio that the MOJ take strict disciplinary action against Kuan-jen Hou. Therefore, the expiration of the statute of limitations was not an issue at all.

Is there a statute of limitations for sanctioning a civil servant? No more liability beyond that, right?

The government is vigorously promoting transitional justice. There should be no statute of limitations for sanctioning civil servants who have violated the rights and interests of the people when exercising government power on behalf of the state. For example, Mu-chin Shih, former Chairman of the Commission for the Discipline of Public Functionaries, was accused of violating the Code of Ethics for Judges and accepting improper entertainment when he served as a division chief judge at the Supreme Court and the President of

the Taiwan High Court in 1997. The Control Yuan adopted the decision to impeach Mu-chin Shih by a 12-0 vote on August 14, 2020 and referred this case to the Disciplinary Court. As bluntly remarked by Yung-cheng Kao, Member of the Control Yuan, although Mu-chin Shih argued that the 10-year statute of limitations had expired, still "if the Control Yuan had not investigated and had ignored this matter, these people would have still enjoyed a good life out of the pension they should not be entitled to, a phenomenon that the public cannot accept."

In addition, in the Kuo-ching Chiang case of 1996, five individuals including Chao-min Chen were sentenced to pay damages in the amount of NT\$59.57 million in 2014. Another example is the 228 Incident. Although the 228 Incident took place over 60 years ago in 1947 and most decision makers responsible for the incident no longer exist, still President Ma stated that it is appropriate for the government to assume the compensation. In July 2015, although the Nazi Holocaust occurred more than 70 years ago, the district court in Lüneburg of Germany still sentenced Oskar Gröning, a 94-year-old former Nazi, to four years of imprisonment for "assisting in the massacre of 300,000 people in concentration camps." If a 10-year statute of limitations is in place for the above cases, how can justice be done?

Smoke Screen of MOJ and THPO

Control Yuan, March 4, 2002

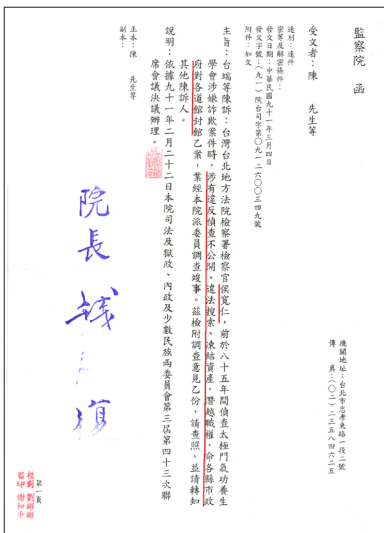
The Control Yuan found eight major violations of law by Kuan-jen Hou and referred this matter to the Ministry of Justice (MOJ) to strictly pursue his liability and take disciplinary action.

According to the constitutional system of Taiwan, the Control Yuan is the supreme inspection organ of the government. When its investigation was concluded with an investigation report, the MOJ was required to take disciplinary action directly.

MOJ and THPO, October 2002 - January 2006

The MOJ and the THPO replied seven times to the Control Yuan and the Tai Ji Men *dizi* that "the legal violations of Kuan-jen Hou will be dealt with immediately after a final decision is issued for this case."

Kuan-jen Hou's violations of law during the investigation phase and the court trial and decision are two different matters. The MOJ kept postponing its disciplinary action against the lawless and derelict prosecutor on the pretext that a final decision had not been rendered.



On March 4, 2002, the Control Yuan issued an official letter, stating that prosecutor Kuan-
jen Hou violated the law in his investigation of the Tai Ji Men case, and the Control Yuan's investigation report about the prosecutor's handling of the Tai Ji Men case was attached to the letter.

THPO to Fool the Control Yuan and Tai Ji Men

THPO, May 18, 2006

The THPO replied to the MOJ that Kuan-jen Hou “had not done anything improper according to its investigation.”

The Control Yuan has enumerated eight violations of law, and Kuan-jen Hou also admitted during the investigation that he had issued letters to the Ministry of the Interior and city and county governments to dissolve Tai Ji Men without obtaining his supervisor’s approval and that he seized all real estate under the names of the grandmaster and his wife simply based on one-sided allegations of witnesses. He even confessed that he prosecuted this case rashly without verifying the so-called list of “victims.” The THPO’s surprising statement that “there was no impropriety” clearly suggests government officials were biased and covering up the illegality of the civil servant.

MOJ and THPO, June 18, 2007

The MOJ and the THPO both announced that the statute of limitations for disciplinary action had expired.

Previously, both the MOJ and the THPO indicated that this matter would be dealt with when “a final decision for this case is rendered.” But they announced on June 18 that the statute of limitations of disciplinary action had expired before the final decision on the Tai Ji Men case was rendered.

Smoke Screen of MOJ and THPO

Tai Ji Men, July 13, 2007

The not-guilty third instance decision was rendered. On the same day, the MOJ issued a letter to reply to the Tai Ji Men *dizi* that “Prosecutor Hou did not engage in anything illegal or improper according to the investigation and review conducted by the Ministry multiple times in conjunction with relevant agencies.”

The investigation was completed on the day the final decision was issued. That was quick, wasn't it? This clearly shows the MOJ's deliberate cover-up.

After eight years, the Control Yuan issued a Correction on December 15, 2010, stating as follows:

After receiving a letter from us (the Control Yuan) concerning the request to take disciplinary action against Prosecutor Kuan-jen Hou, the MOJ did not take any action as requested, instead they transferred the case to THPO for another investigation. This violates the MOJ's Guidelines for Handling Reward and Sanction Cases Concerning Relevant Personnel of the MOJ and Its Affiliated Agencies. In addition, the results of the investigation surprisingly completely overturned the investigation conclusions reached by the Control Yuan, thus undermining the authority of the Control Yuan and potentially clashing against the constitutional system of separation of five government powers. In addition, the MOJ had learned about the THPO's conclusion that “there was no legal violation” as early as May 31, 2002 but indicated to the Control Yuan that the disciplinary action concerning this matter would be taken after the final decision on the relevant case was rendered, not to mention the MOJ failed to review ex officio the THPO's conclusion that “there was no legal violation.” Since this practice of the MOJ seriously undermines the credibility of prosecuting agencies and is a serious violation, a Correction is hereby issued in accordance with Article 24 of the Control Act.

THPO to Fool the Control Yuan and Tai Ji Men

THPO
October 30, 2007 - March 6, 2008

The THPO summoned the grandmaster and his wife as well as Tai Ji Men *dizi* such as Tiao-hsin Chen for investigation four times.

Unquestionably, the statute of limitations did not expire.

THPO, May 7, 2008

The THPO issued a letter indicating that "there was no legal violation by Kuan-jen Hou in handling this case according to our investigation."

Had the statute of limitations expired on June 18, 2007, why would the investigation have continued?

THPO, March 29, 2010

According to the THPO, the 10-year statute of limitations expired. It claimed that since no disciplinary action was taken before June 18, 2007, no further disciplinary action could be taken.

The MOJ conducted subsequent investigation several times after June 18, 2007, when the 10-year statute of limitations was claimed to be "expired." This revealed that the expiration of the statute of limitations was just an excuse for not taking any disciplinary action.

Table of Wasted Judicial Resources Due to Kuan-jen Hou’s Illegal Prosecution

	Kuan-jen Hou’s Case Statistics	Court Hearing Statistics
Number of days consumed	The day following the detention of the grandmaster until the release of the indictment December 21, 1996 - April 16, 1997 (Around 4 months)	Transfer of the case to the court until the rendition of the not-guilty third instance final decision April 18, 1997 - July 13, 2007 (Totaling 10 years and 3 months)
Number of sessions	Three investigation sessions of the grandmaster	A total of 58 first instance and second instance court sessions were conducted
Verification efforts	13 sentences in the questions	Cross-examination and examination of the testimonies of about 200 witnesses (including the NTB personnel)
Total time spent	29 minutes in total	Around 9,570 minutes in total (Each court session lasting around 165 minutes on average)

How Can the Wasted Social Costs Be Reckoned?

Hsiao-hsiang Lai was 45 and had practiced qigong for four years.

I live in Taichung, and I was very thankful every time there was a court session, because it meant that there was at least some progress. I was afraid that if there was no court session or a very slow progress like the previous years, our names would never be cleared. Therefore, my sister and I took turns going to Taipei, each time returning home the same day. There were several times when I took the midnight bus back to Taichung. There were many brothers and sisters who were as concerned about the case as I was, and some of them even traveled from Kaohsiung to Taipei to follow the trial. I have long lost count of the fares I have paid, and my annual leaves were often spent in courtrooms. The most exhaustive challenge was to deal with public misunderstandings and the smear campaign. I was even more worried about the lack of judicial fairness. Fortunately, I could still maintain my mental and physical health through the practice of qigong. Otherwise, who can bear a ten-year lawsuit without feeling exhausted? But how can the cost assumed by the people be reckoned? I could have focused on my job on regular days and traveled with my family on holidays, making greater contributions to society and my family. But instead, I was pinned down by this fabricated case. Who can recover this cost for me?

PART II

The Tai Ji Men Tax Case

False Statements and Perjury

On April 9, 1997, Prosecutor Hou summoned a tax officer to commit perjury, and the tax collector dared to testify against Tai Ji Men even without evidence.

Tax collector Yueh-sheng Shih, who had never conducted any actual investigation of Tai Ji Men, was summoned by Prosecutor Kuan-jen Hou to commit perjury, falsely claiming that Tai Ji Men is a cram school which allegedly evaded taxes. The prosecutor, in his indictment, used Shih's false testimony as the only evidence to support his charges against Tai Ji Men for tax evasion and violation of the Tax Collection Act.

With respect to the testimony of Yueh-sheng Shih, Prosecutor Kuan-jen Hou surprisingly never interviewed the grandmaster and his wife or gave them an opportunity to explain.

Unlawful Prosecution

The prosecutor fabricated evidence to charge the defendants of fraud and tax evasion on April 15, 1997.

In the indictment, Kuan-jen Hou made up the offenses of fraud and tax evasion, as well as fabricated a large sum of income. On the one hand, he falsely claimed the money he made up as the proceeds of fraud and demanded the court to confiscate them in accordance with the law, and on the other, he falsely identified the same money as the tuition and operating revenue of a cram school and referred the matter to the NTB, which illegally imposed taxes and heavy fines.

This indictment was issued by the prosecutor on April 15, 1997. In 2002, the Control Yuan conducted an investigation and issued a report, stating that in addition to the eight major violations of law, the indictment also contradicted the evidentiary materials and the prosecution on such a basis did not meet the evidentiary rule. The prosecution should not have been conducted, and such an indictment should not have been relied on as the basis of taxation.

An Indictment Is Not a Court Judgment

Since Kuan-jen Hou's indictment in 1997, the NTB has been using the indictment as the only evidence to justify its tax demands, but the indictment is not a court judgment.

Po-yen Hu, Associate Professor of Law at Soochow University

Police and investigation agencies are all administrative agencies, not judicial agencies. A prosecutor's indictment contains nothing more than a statement of an administrative agency. All items yet to be substantiated should be verified by producing admissible evidence with appropriate weight to the court.

The NTB's use of the indictment as evidence is like putting the cart before the horse, since a prosecutor's indictment is not a court adjudication. This practice is not only very rough but also indicates the phenomenon that legal requirements are not matched with adequate judicial implementation.

Judge Yao-yuan Wen, the presiding judge of the second instance criminal trial of the Tai Ji Men case and a former division-chief judge and trial spokesman of the Taiwan High Court

The case spanned three trials, and a final judgment was rendered. We provided detailed arguments as to the portions of the indictment which were not acceptable. It is beyond imagination that any tax agency would rely on this indictment as the basis of taxation.

Due Process Was Not Followed

During October through December 1997, the NTB taxed Tai Ji Men as a cram school without verifying the prosecutor's claim.

A criminal judge sent a letter to the NTB of Taipei to inquire about the results of tax assessment. On October 22, 1997, Yueh-sheng Shih assigned this to Chen-shou Chien, a tax collector, and noted in an official document as follows: "Brother Chien, please use your best efforts to handle this as quickly as possible." On October 24, 1997, Chen-shou Chien completed the investigation report in only two days by copying the indictment word for word and asserting that Tai Ji Men was a cram school.

Violation of Due Process

At that time, the NTB did not conduct any substantive investigation of the evidence and did not call witnesses or related parties to investigate the alleged taxable income. The huge amount of NT\$3.2 billion written in the Investigation Report on the Audited Case is exactly the same as the amount set forth in the indictment issued by the prosecutor, and even the summation error is the same. This shows that the indictment was copied into the report.

Pursuant to laws and regulations, this is a violation of due process. To collect taxes, the NTB is supposed to assume the burden of proof by collecting evidence. That the NTB issued baseless tax bills without collecting evidence at that time is procedurally incorrect.

Unjustified Tax Bills

Two tax collectors joined hands to create illegal and hefty tax bills.

In December 1997, the NTB issued tax bills to Tai Ji Men as a cram school that teaches sewing, beauty, or hairdressing skills.

Hsiao-hsiang Lai was 45 and had practiced qigong for 4 years.

Gosh! This tax bill, which copied the indictment without any factual verification, was created by two NTB tax collectors: Yueh-sheng Shih, who committed perjury, and Chen-shou Chien, who directly copied the indictment into his report. The most bizarre aspect is that the tax was assessed on a cram school for sewing, beauty, and hairdressing, turning a qigong and health-promoting academy into a "beauty business."

The legislative reason for Article 83-1 of the Income Tax Act indicates that the approval of the Ministry of Finance (MOF) should be obtained first to avoid excessive tax bills and to provide a basis for their enforcement. In addition, the MOF also indicated, "Two important conditions must be met for its application, one of which is that there must be significant suspicion of tax evasion and the other is that the MOF's approval should be obtained, and both conditions are required." The NTB applied Article 83-1 of the Income Tax Act to assess the tax through an indirect income verification method but did not obtain an approval from the MOF. This violated due process. Chun-an Hsu, former Deputy Director-General of the Tax Administration of the MOF, also openly remarked on

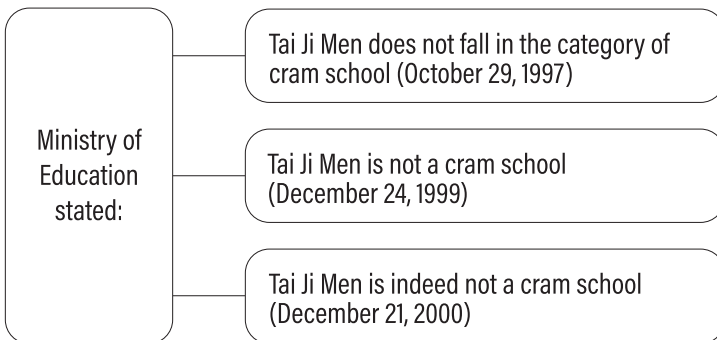
November 24, 2009 during his tenure that the NTB's failure to obtain an approval from the MOF cannot be remedied, and that the NTB should admit that the tax cannot be supplemented if the taxation period is over. Since the tax bills violate due process, they are always invalid.

Tai Ji Men Is Not a Cram School

During 1997 through 2000, the Ministry of Education stated three times that Tai Ji Men is not a cram school, but the NTB turned a deaf ear to those statements.

Taxes were imposed because the NTB claimed Tai Ji Men is a cram school. Cram schools, however, are administered by the Ministry of Education (MOE), which has declared three times that Tai Ji Men is not a cram school via circulars and in a public hearing.

After 1966, Tai Ji Men Qigong Academy successively joined the Taipei Martial Arts Association, the Chinese Martial Arts Association and the Chinese Qigong Association and is a member of martial arts associations regulated by Taipei City and the Ministry of the Interior. Tai Ji Men also joined the Taoist Association of the Republic of China and the Taipei Taoist Association in 1986 and is a member of religious associations regulated by the Civil Affairs Department of the Ministry of the Interior.



The Nature of the Red Envelopes

From 1998 to 2002, the Petitions and Appeals Committee ordered the NTB to investigate the nature of the red envelopes given to the shifu as it was the crux of this case, but the NTB failed to conduct a thorough investigation.

Since the NTB's tax bills were issued without any substantial investigation, they were riddled with errors. Shortly thereafter, the tax bills were cancelled five times by the Petitions and Appeals Committee (PAC) of the Ministry of Finance, and each time the NTB was ordered to investigate the nature of the red envelopes to the *shifu*.

The PAC ordered the NTB to investigate the nature of Tai Ji Men's red envelopes to the *shifu* and determine whether they were gifts or tuition. If the red envelopes were given as gifts, they should not have been taxed. They were only taxable if they were tuition.

Is it true that all income should be taxed?

Certainly not. The law specifically stipulates that certain types of income are "tax-free," and thus not taxable. Red and white envelopes received at weddings and funerals are examples of such tax-free income.

Although it is the people's obligation to pay taxes, taxation is still the acquisition of the people's assets without compensation. Because this is a form of asset deprivation, the government should levy taxes in accordance with the law, due process, and an objective and reasonable evidentiary rule. Otherwise, it will not only violate people's property rights, right to life, and other fundamental rights, but it will also have an impact on social stability, economic development, and even investment willingness and national competitiveness.

The Red Envelopes Were Gifts

The red envelopes given to the shifu were gifts, not tuition. How could they be taxed as tuition income?

Ta-hsing Chen, at 40, was an experienced certified public accountant and had practiced qigong for 3 years.

"Da-hsing, what are these?" Holding hefty tax bills, Shifu came to me with this question. The NTB accepted all of the information from prosecutor Kuan-jen Hou without performing its duty to verify tax information. In 1997, the NTB issued tax bills for six tax years, namely 1991-1996, for the first time.

I looked at the tax bills and said, "Shifu, don't worry. The NTB made a mistake. I will handle it." I reasoned that because the red envelopes to the shifu are gifts in traditional rituals, they are tax-free income under Article 4, Subparagraph 17 of the Income Tax Act and therefore are not taxable at all. That is why Tai Ji Men had never had a tax issue since its establishment in 1966. So all I had to do was to provide a clear explanation.

As a certified public accountant, I was confident in my communication with the NTB, but I did not expect the NTB to use the Investigation Bureau as an excuse for issuing the tax bills. The NTB had neither performed its legal obligation to verify the facts pursuant to law, nor had it checked each piece of information against bank account records. By treating Tai Ji Men as a cram school, the NTB illegally and forcefully imposed taxes and hefty fines.

Under Article 4, Paragraph 1, Subparagraph 17 of the Income Tax Act, the red envelopes given to the shifu are gifts in traditional rituals and are tax-free income and tax-exempt.

Remarks by Government Officials

There was no taxation issue with the red envelopes given to the shifu.

Ming Li was 42, worked as a supervisor at a company, and had practiced qigong for 6 years.

Confronted with the NTB's illegal taxation, we could only apply for recheck and file an administrative appeal pursuant to law on one hand, and petition to the Director-General of the NTB, the Minister of Finance, and the Deputy Minister of Finance on the other in 1998.

In 1999 and 2000, Finance Minister Ching-chang Yen and Deputy Finance Ministers Teh-shan Wang and Jung-chou Wang all stated that since the Tai Ji Men tax case was derived from the criminal case, it is necessary to straighten out the criminal case; and if the criminal case is resolved, the tax case will follow suit. Deputy Minister Teh-shan Wang also said that, as a Buddhist, he and his wife also give their master a monetary gift in the form of a red envelope during the Chinese New Year and other significant festivals.

The Gifts Were Not Income

The then Finance Minister Ching-chang Yen said, “If the criminal court decision finds the red envelopes were gifts, there should not be any taxation issue.”

Ching-chang Yen, the then Finance Minister, made the following remarks in 2000:

Since the Tai Ji Men tax case was derived from the criminal case, it is necessary to straighten out the criminal case. If the criminal case is resolved, the tax case will follow suit.

Former Finance Minister Yen also served as Taiwan’s representative to the WTO. He made the following remarks in 2017:

Since the nature of the red envelopes given to the shifu was confirmed to be gifts rather than income as a result of the criminal trial by the judicial system, there is no issue of income tax. There is no reason for the administrative agency to not invoke the facts determined in a final criminal decision.

Lack of a Substantial Investigation

In 1998 and 2000, the NTB of Taipei twice admitted that it had not conducted any substantial investigation of Tai Ji Men. Instead of investigating Tai Ji Men for tax purposes, the NTB sent inquiries to the Taipei City Field Division of the Investigation Bureau, which is not a tax investigation agency.

With respect to the illegal tax dispositions for 1991 through 1995, Tai Ji Men applied to the NTB of the Central Area for re-check on January 20, 1998. The NTB of the Central Area and the NTB of Taipei passed the buck to each other as to which agency should review the application. At that time, the NTB of the Central Area asserted that the data had been provided by the NTB of Taipei and thus sent an official letter to its counterpart in Taipei.

The NTB of Taipei replied to the NTB of the Central Area on March 27, 1998, stating that the Tai Ji Men tax case was investigated by the Taipei City Field Division of the Investigation Bureau, not the NTB of Taipei.

In 2000, the PAC (Petitions and Appeals Committee under the Ministry of Finance) set aside the NTB's disposition again and requested that the NTB ascertain the nature of Tai Ji Men's red envelopes to the *shifu*. The NTB of Taipei issued a letter on March 7, 2000 to the Taipei City Field Division of the Investigation Bureau, stating that "the details, nature and amount originally assessed by our office were all based on the materials and assessment provided by your office." The Taipei City Field Division replied, "Your office should make a determination ex officio."

受文者：法務部調查局台北市調查處 106台北基隆路二段二號
 送別：最連件
 密等及解密條件：
 發文日期：89年3月7日
 受文日期：89年3月7日
 附件：財政部八十八年十二月三十一日台財訴第八八〇四七九五四號及八十九年一月十四日台財訴第〇八八一五五一八九九號訴願決定書二份

主旨：為辦理太極門氣功養生學會負責人
 五年內綜合所得稅訴願撤銷重核乙案，
 所稱中是否含非屬收費標準及隨喜獻金，又金額為何？並請提供該案檢舉人暨被害人之調查筆錄影本供參。

說明：
 本件經財政部訴願決定，以東清（君稱系爭所得為東清）金額有無一定標準？非屬收費標準之給付，及隨喜獻金（或歡喜功德金）部分，與學費有無不同？是否屬提供勞務之對價？非無再行研酌之餘地，遂將本件撤銷，著由本局查明後，另為適法之處分。因本局原核定之內容、性質及金額，均以貴處通報資料與核算為準據，是請貴處應予查明原核定該學會之收入金額中，是否含非屬收費標準及隨喜獻金？又金額為何？並請提供該案檢舉人暨被害人等之調查筆錄影本供參。

894108

An official letter dated March 7, 2000 issued by the National Taxation Bureau of Taipei to the Taipei City Field Division of the Investigation Bureau

<p>中華民國政府 財政部調查局 台北市調查處 楊武財</p>	<p>調查員 楊武財</p>	<p>中華民國政府 財政部調查局 台北市調查處 黃銀志</p>	<p>中華民國政府 財政部調查局 台北市調查處 黃銀志</p>
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Tai Ji Men is a member of the Taipei Martial Arts Association, the Chinese Martial Arts Association, and the Chinese Qigong Association, all of which have issued written statements to declare that their members have never been taxed by the NTB for the red envelopes given to their masters by the disciples.

Violation of the Consistency Principle

Since its establishment in 1966, Tai Ji Men Qigong Academy has been required to pay taxes as a cram school for only six years.

Since the establishment of the Tai Ji Men Qigong Academy in 1966, there has never been any tax issue concerning the *dizi*'s (disciples') red envelopes to the *shifu* (master). After the relocation of the Nationalist Government to Taiwan, red envelopes given to a master by his/her disciples have been tax-free gifts for martial arts and religious organizations. Tai Ji Men is a member of the Taipei Martial Arts Association, the Chinese Martial Arts Association, and the Chinese Qigong Association, all of which have issued written statements to declare that their members have never been taxed by the NTB for the red envelopes given to their masters by the disciples.

Why is the Tai Ji Men Qigong Academy required to pay taxes for only six years (1991-1996) after its establishment? This is due to Kuan-jen Hou's criminal indictment on April 15, 1997, which resulted in the case being referred to the NTB for taxation.

The criminal case is like a poisonous tree planted by Kuan-jen Hou. Although the court later ruled that Tai Ji Men was not guilty of tax evasion or any other charges and owed no taxes, six fruits from the poisonous tree remained even after the poisonous tree was gone. Twelve years later, five of them are gone with one still poisoning the people.

A Survey About the Red Envelopes

In 2002, the NTB designed a survey form to investigate the nature of the red envelopes, but the results of the survey were not provided to the PAC as factual information.

From 1998 through 2002, the PAC (Petitions and Appeals Committee) of the Ministry of Finance set aside the NTB's tax bills five times and requested the NTB to investigate the nature of the red envelopes given to the *shifu* (master).

Since the NTB was constantly reprimanded by its superior authority, Sheng-ford Chang finally led the NTB of Taipei to design a survey form in 2002 and to select the respondents of the survey on its own. This was the first time that the NTB investigated the nature of the red envelopes given by the Tai Ji Men *dizi* (disciples) to the *shifu* (master).

In June 2003, the PAC rendered a decision on the administrative appeal, but the decision was inconsistent with the results of the survey.

A total of 206 survey forms were collected. The results of the 206 survey forms were the same in terms of the intention of the respondents even though different wordings were used. Although all the respondents indicated their red envelopes given to the *shifu* were "gifts" in the survey forms, the tax bureau still determined there was a counterparty relationship between the *dizi* and *shifu*. What were the criteria for determining the matter?

太極門函詢清單						
編號	冊號	入門日期	入門目的	是否在門	給付性質	給付標準
94	九	82.9	朋友介紹	是	束脩金	無
95	九	850128	改善健康	是	敬師禮金	無
96	九	82.11	同事介紹	是	敬師禮金	無
97	九	85.5	同事介紹	是	敬師禮金	無
98	九	8501	修身養性	是	敬師禮金	無
99	九	84.9	學習新知	是	贈與	無
100	九	89.5	親人介紹	是	敬師禮金	無
101	九	84	家人介紹	是	感恩	無
102	九	83	好奇		敬師禮金	無
103	九	85.5	修養身心	是	敬師禮金	無
104	九	81.1	修身養性	是	敬師禮金	隨喜
105	九	85.9	朋友介紹	是	感恩贈與	無
106	九	82.8	改善脾氣	是	敬師禮金	隨喜

The list of survey responses

No matter what the responses were, the NTB continued to impose taxes.

Concealment of the Survey Results

In June 2003, the PAC rendered a decision on the administrative appeal, and it is unbelievable that the NTB concealed the survey results.

The survey results were out in 2003. All of the 206 returned survey forms indicated that the red envelopes to the *shifu* were gifts by nature. However, the NTB of Taipei concealed the survey results, claiming that only 9 respondents indicated that the red envelopes were gifts. The same materials were delivered to the NTB of the Central Area, which then stated that only 5 respondents indicated that the red envelopes were gifts. It is unbelievable that the number became zero, according to Chung-yuan Ling, Director-General of the NTB of Taipei, during the Control Yuan's investigation of this survey in 2009.

Who are the 5 or 9 respondents pointed out by the NTB? To find an answer, the Tai Ji Men *dizi* have sent many letters to inquire about this for over 10 years. Throughout the lengthy process of document exchange, the NTB never provided any clear answers and even refused any application to review the files. The NTB also misled the PAC into erroneously rejecting the administrative appeal in June 2003.

Serious Violations of Law

The NTB concealed the survey forms and forged documents.

The Directors-General of the NTB allowed their subordinates to forge documents, falsely record that there were only 9 or 5 respondents who indicated the red envelopes were gifts, withhold the survey form materials from the PAC, and deny an opportunity for the concerned party to state his case. These actions were against the law and were in violation of:

Article 138 of the Criminal Code: "A person who destroys, damages, conceals, or renders useless a document, plan, or another thing which has been possessed by a public official by reason of his office or which has been officially entrusted by such official to a third person shall be sentenced to imprisonment for not more than five years."

Article 213 of the Criminal Code: "A public official who makes in a public document within his charge an entry which he knows to be false and causes injury to the public or another shall be sentenced to imprisonment for not less than one year but not more than seven years."

Article 129, Paragraph 1 of the Criminal Code: "A public official who collects taxes, duties, or other revenues that he knows he is not authorized to collect shall be sentenced to imprisonment for not less than one year but not more than seven years; in addition thereto a fine of not more than two hundred ten thousand dollars (NT\$210,000) may be imposed."

Article 36 of the Administrative Procedure Act: "An administrative authority shall conduct inquisition ex officio into ev-

idence regardless of any allegation which may have been made by the party, and shall take into consideration circumstances both advantageous and disadvantageous to the party."

Article 43 of the Administrative Procedure Act: "In rendering an administrative disposition or carrying out other administrative acts, an administrative authority shall make a judgment of the truthfulness of the facts based on logical reasoning and the empirical doctrine after taking into consideration the statements presented and the conclusion reached upon the facts found and the evidence obtained, and shall then give the party a notice of its decision and reasons therefor."

Article 75, Paragraph 1 of the Administrative Appeal Act: "The agency which the administrative action was made shall present all relevant evidences as the bases of the administrative action to the agency with jurisdiction of administrative appeal."

Extracting Money from Taxpayers

Can the government ask the people to pay unjustified taxes if the treasury is running out of money?

Hsiao-hui Li was 28, worked as a researcher, and had practiced qigong for three years.

It never occurred to me that after a few years, NTB and MOF officials would suddenly come up with a set of arguments, saying that the nature of "red envelopes" and "monetary gifts to masters" has not been determined and should be evaluated by a third party. And then they asserted that there is a counterparty relationship and that the red envelopes are by nature cram school tuition. The freedom of the people to provide such gifts is protected under the Constitution and the Civil Code. The intention of disciples to show their respect to their masters requires no NTB assessment or approval at all.

No other qigong, martial arts, or religious groups have ever been taxed for red envelopes given by disciples to masters. Only the red envelopes given by the Tai Ji Men dizi (disciples) to the shifu (master) are taxable. Everyone is equal before the law, isn't it?

On one occasion as a journalist, a sister privately asked Mr. Hung, a tax official, from the NTB about his opinion on the Tai Ji Men case. He said offhandedly, "The national treasury has been depleted!"

Tai Ji Men is a member of the Taipei Martial Arts Association and the Taipei Taoist Association, as well as the Chinese Martial Arts Association, the Chinese Qigong Association, and the Taoist Association of the Republic of China. The Ministry

of Finance explained in its Tai Tsai Shui No. 33031 Circular of April 29, 1975, "Gifts provided by believers to churches and preachers are exempt from income taxes." The Taipei Martial Arts Association, the Chinese Martial Arts Association and the Chinese Qigong Association have all issued statements indicating that their members have never been taxed by the NTB for red envelopes given by disciples to masters.

Fighting Administrative Lawsuits

The tax case started to enter the administrative litigation phase in 2003, and Tai Ji Men won an administrative lawsuit for the first time, two instances in a row (the Taipei High Administrative Court and Supreme Administrative Court).

In June 2003, Tai Ji Men's administrative appeal failed because the survey forms had been concealed by the NTB. As a result, Tai Ji Men was compelled to enter the third phase of administrative remedy, which is litigation. On July 14, 2003, Tai Ji Men brought an administrative action with the Taipei High Administrative Court with Yu-ju Lin as the commissioned judge.

On September 2, 2005, Tai Ji Men won the lawsuit. The Taipei High Administrative Court rendered a decision to set aside the illegal tax disposition on the grounds that the NTB of Taipei was rash since it had failed to consider the fact that the red envelopes were declared as gifts in the survey form materials and elected to assess the total income based on the net profit rate of cram schools and the fund flow data in the two bank accounts.

On August 6, 2009, the Supreme Administrative Court upheld the decision rendered by the Taipei High Administrative Court on September 2, 2005 and revoked the tax bill for 1996.

The principle of equality was violated since Tai Ji Men was the only martial arts organization that was treated as a cram school and taxed.

When the Taipei High Administrative Court conducted a

hearing on July 27, 2005, the agent surnamed Liu of the NTB admitted that currently no other martial arts entities had been subject to income taxes. That the NTB only issued tax bills to the grandmaster of Tai Ji Men and his wife pursuant to requirements for a cram school and imposed heavy fines constitutes a serious violation of the principle of fairness. That also violated the following two articles:

Article 6 of the Administrative Procedure Act: "No differential treatment is permitted for administrative acts without a good cause."

Article 129, Paragraph 1 of the Criminal Code: "A public official who collects taxes, duties, or other revenues that he knows he is not authorized to collect shall be sentenced to imprisonment for not less than one year but not more than seven years; in addition thereto a fine of not more than two hundred ten thousand dollars (NT\$210,000) may be imposed."

There was a wonderful exchange between Judge Yu-ju Lin and the NTB's agent surnamed Liu during the court hearing on July 27, 2005.

Judge Lin: *Except for Tai Ji Men, have you also taxed any similar organizations?*

Agent Liu from the NTB: *No.*

Judge Lin: *Then why did the NTB choose to do that only to Tai Ji Men?*

Agent Liu from the NTB: *There is room for discretion of an administrative agency precisely because such an organization has never been taxed.*

Judge Lin: *If we are talking about an organization of the same characteristics, I can certainly understand the practice of analogous comparison. However, the current situation is that "there is only one such organization" and there is no other organization of the same nature which has ever been taxed. This shows that this individual case is not common. In the interest of the people, rigorism should certainly apply. Since the law is silent about this, the NTB is required to provide a concrete theoretic basis and cannot just make an analogous comparison and consider it a cram school by stretching its interpretation. The NTB should provide its legal basis.*

An Interlude

The property of the wife of the grandmaster (shifu) was stealthily sold by the NTB in October 2003.

When the administrative tax relief entered the phase of administrative appeal, Tai Ji Men was required to pay one half of the tax amount or provide a guarantee, but all the property had been previously frozen by the prosecutor. Therefore, Tai Ji Men requested that, since the criminal court of first instance was about to issue its decision, the property would be provided as a guarantee if it was unfrozen after the decision was rendered. The NTB and the Administrative Enforcement Agency (AEA) agreed.

When Tai Ji Men won the first criminal trial on September 25, 2003, it was informed by the court on October 15 that the property was unfrozen. Tai Ji Men called the NTB immediately to offer the property as a guarantee. However, it was unexpected that the NTB notified the AEA to continue the enforcement on October 20, 2003. As a result, the AEA directly withdrew all the money in the bank accounts of the grandmaster's wife and stealthily sold all her stocks.

The method that the NTB used is to white out the original issuing date of October 20 and change it backward to October 15 (the day when the property was unfrozen), pretending that they were not aware of the unfreezing of the property.

To apply for an administrative appeal, the taxpayer was required to pay one half of the tax amount or provide a guarantee, but all the property had been frozen by the prosecutor.

Tai Ji Men requested that, since the criminal court of first instance was about to issue its decision, the property would be provided as a guarantee if it was unfrozen after the decision was issued.

Tai Ji Men won the first criminal trial on Sept. 25, 2003.

August 2003

September 2003

The NTB, in its letter dated Aug. 29, 2003, agreed to Tai Ji Men's request.

The AEA agreed in its letter to postpone the enforcement to Nov. 2, 2003.

As soon as it was informed by the court on Oct. 15, 2003 that the property was unfrozen, Tai Ji Men called the NTB to offer the property as a guarantee and started to work on the matter.

Not until Nov. 6, when receiving a notice, did the grandmaster's wife know that the NTB in cooperation with the AEA had withdrawn all the money in her bank accounts and stealthily sold all her stocks.

October 2003

November 2003

On Oct. 20, 2003, the NTB issued a letter to the AEA, asking it to continue the enforcement. The NTB used whiteout to change the original issuing date of Oct. 20 to Oct. 15 (the day when the property was unfrozen), pretending they were not aware of the unfreezing of the property.

From Oct. 31 to Nov. 7, 2003, the AEA directly withdrew all the money in the bank accounts of the grandmaster's wife and stealthily sold all the stocks.

Stealth Sale or Tax Refund? Big Difference!

After the stocks were stealthily sold and the wife of the grandmaster (*shifu*) applied for administrative remedy, the commissioned judge exposed the backdating and the forgery of the official document when this matter was tried by the Taipei High Administrative Court. The agent of the NTB immediately admitted in court to the fact of backdating. Subsequently, the NTB refunded the enforcement amount as a "tax refund" on an emergency basis.

However, a stealth sale is very different from a tax refund. If a stealth sale was conducted, the NTB should admit to its violation of law. In addition, all tax officials involved received rewards for the illegal auction. Such rewards should be disgorged, right? But the tax refund means that the money is taken from the national treasury. This avoided the liability for the stealth sale, and the rewards were not required to be disgorged. Moreover, the interest and the loss from the improper auction of the stocks are yet to be paid to the party concerned to date.

Fraudulent sale of assets by falsifying an official document is a crime.

Article 8 of the Administrative Procedure Act stipulates, "All administrative acts shall be performed in good faith and shall be aimed at the protection of the legitimate and reasonable reliance of the people."

Article 211 of the Criminal Code stipulates that "A person who forges or alters a public document and causes injury to the public or another shall be sentenced to imprisonment for not less than one year but not more than seven years."

Article 216 of the Criminal Code states, "A person who puts into circulation a document specified in one of the articles, 210 through 215, shall be punished in accordance with the provisions relating to forging or altering documents, making a false entry, or causing a false entry to be made."

The Right to an Effective Remedy Denied

As the NTB continued to issue tax bills, the only thing that Tai Ji Men could do was to seek administrative remedy. It turned out that the administrative remedy procedure in Taiwan goes all the way from recheck and administrative appeal to litigation. If the NTB issues a tax bill which the taxpayer objects, after the recheck is applied, the next stage is administrative appeal. At this time, without a court trial to determine if the tax liability exists, how much the payable tax is, or whether a tax is owed, the taxpayer is required to pay one half of the tax amount or provide a guarantee, or he/she will be subject to enforcement and auction and lose his/her family property or even lose his/her freedom by being taken into custody or restricted from leaving the country.

When a tax official issues a tax bill against the law, the taxpayer has to pay a huge sum of money and even provide his/her property as collateral first in order to file an administrative appeal.

Concealing the Survey Results Again

In May 2004, the case involving taxes for 1991 through 1995 was tried by the Taichung High Administrative Court, and the NTB of the Central Area also concealed the survey forms.

The NTB's concealment of the survey forms caused Tai Ji Men to fail in its sixth administrative appeal, and the case then entered the phase of administrative litigation.

The tax bills issued by the NTB of the Central Area for 1991-1995 were examined in a total of five court sessions during May 2004 through May 2005.

Although all of the 206 survey form respondents indicated that the red envelopes to the *shifu* (master) were gifts, the tax officials of the NTB of the Central Area claimed, on June 15, 2004, that only 5 indicated so.

During June 2004 through September 2004, the grandmaster twice requested in writing and twice requested during court hearings that the judge should order the NTB of the Central Area to produce all the returned survey forms, and the judge did request the NTB of the Central Area to produce such materials. However, the NTB refused to do so in three consecutive court sessions.

On October 12, 2004, the commissioned judge, Shu-ling Huang, stated in court that she wanted to dismiss the entire case and asked Tai Ji Men not to insist on the investigation of the survey forms and not to complicate the issue so that the preparation procedure could be concluded.

However, on December 1, 2004, Judge Shu-ling Huang was suddenly transferred.

Contradictory Decisions on the Same Facts

On May 25, 2005, the Taichung High Administrative Court issued contradictory decisions, finding in favor of Tai Ji Men for the consolidated income taxes of 1991, 1993, 1994 and 1995 but against it for 1992. After a change of judge, the new judge rendered two opposite decisions on the same underlying facts.

On May 25, 2005, Judge Wu-feng Hsu, the succeeding judge, of the Taichung High Administrative Court did not hold a preparatory hearing to conduct an investigation, but directly proceeded with oral arguments. The judge did not request the NTB to produce the survey forms, which are evidence favorable to Tai Ji Men, because he believed that there is no need to consider them for reference. He rendered a decision finding in favor of Tai Ji Men for four tax years, namely, 1991, 1993, 1994 and 1995, and reversing the relevant tax dispositions. However, Tai Ji Men lost the portion for 1992, and the tax disposition for that year was upheld.

Conflicting Judgments

After being sliced, an apple mysteriously consists of four slices of apple and one slice of guava?

While the tax estimation method used by the NTB and the evidentiary materials concerning the five tax years are the same, Judge Wu-feng Hsu of the Taichung High Administrative Court issued contradictory decisions, setting aside the tax bills for four tax years – 1991, 1993, 1994 and 1995 – but upholding the tax bill for tax year 1992.

Surprisingly, such contradictory decisions can be established. This is just like the metaphor that after being sliced, an apple mysteriously consists of four slices of apple and one slice of guava.

At that time, Judge Wu-feng Hsu should have known that the Administrative Penalty Act had been promulgated on February 5, 2005, and based on the principle of criminal precedence, he should have waited for the conclusion of the criminal case before taking administrative measures to resolve the taxation issue. In addition, pursuant to the legislative purpose of Article 177 of the Administrative Litigation Act, he should have stayed the trial and waited for the criminal court decision, which applies higher standards for the intensity of investigation and evidentiary weight, in order to determine the nature of the income. However, Wu-feng Hsu rushed to issue the decisions without waiting for the final criminal decision.

Disqualifications of Judges

On December 14, 2006, the Supreme Administrative Court rendered a final decision against Tai Ji Men concerning tax year 1992. Since the tax bill for 1992 was reviewed by the same judge in two consecutive instances (the Taichung High Administrative Court and the Supreme Administrative Court), it was difficult for Tai Ji Men to be treated fairly.

For the 1991-1995 tax bills, the Taichung High Administrative Court held a total of five trial sessions from May 2004 to May 2005, with Judge Shu-ling Huang participating in four actual trials. However, she did not continue with the trial of this case in this court because she was suddenly transferred on December 1, 2004 before the decision was issued.

However, on December 14, 2006, Judge Shu-ling Huang, as a member of the collegiate panel of the Supreme Administrative Court, participated in the trial of the Tai Ji Men case again. She failed to recuse herself, which was against the law.

Contempt of Court

A high-ranking tax official, He-fa Chen said, "Court decisions do not count."

The NTB began to issue tax bills after December 1997 and did not stop even after Tai Ji Men's acquittal in the third instance criminal decision in 2007. Why did the NTB ignore the judicial decision? He-fa Chen, Director of the Miaoli Branch of the NTB of the Central Area remarked in public that court decisions do not count. It was only then that we realized how contemptuous the tax officials are towards judicial decisions.

Although the NTB argues that the criminal court and administrative court can each make their own determinations, the Tai Ji Men tax case was completely derived from the criminal indictment. The Tai-Tsai-Su-Tzu No. 09313512360 Circular of September 29, 2004 from the Ministry of Finance also specifically stated, "Facts should be determined based on evidence . . . it is inappropriate to supplement taxes and impose penalties simply based on cases referred by agencies with investigation authority (such as the Bureau of Investigation of the Ministry of Justice or police agencies in various counties and cities) or referral documents, transcripts or indictments of other similar cases. In addition, it is also necessary to track the prosecution status of relevant cases and the trial results of previous instances for consideration." The Ministry of Finance also indicated several times in the gist of decisions on administrative appeal which set aside administrative dispositions that "if the results of a judicial decision affect the assessment of this case, the agency making the original disposition should ex officio handle the case according to the correction procedure."

The NTB often ignores criminal decisions that interfere with taxation. For example, there were taxpayers who were defrauded by a fraud ring and lost their money, a fact established by a criminal decision. However, the NTB claimed that they received investment income when in fact that was derived from a portion of the victims' own funds invested in the fraudulent investment scheme that were remitted back to them as "dividends." Judge Chien-jung Chien pointed out in a decision, "If a country's criminal decision cannot be relied on as counter evidence for the plaintiffs, this Court can hardly imagine if there is still any evidence sufficient to overturn the determination of the defendant (referring to the NTB)."

This kind of "adding insult to injury" is like rubbing salt into the wound of a victim. Similarly, how much salt has the NTB rubbed into the wound of Tai Ji Men? The NTB absolutely disregards judicial decisions. Does this country still have law and order?

受文者：本部賦稅署

密等及解密條件：普通

發文日期：九十三年九月二十九日

發文字號：台財訴字第093135123660號

附件

主旨：為使稅捐處分確實及利於事後之爭訟審理，請轉知所屬落實執行說明二之措施，請查照辦理。

- 一、依據本部九十三年七月二十一日台財訴字第○九三·一三五·〇二七五〇號函檢送之本部九十三年六月二十五日行政救濟業務聯繫會報議事錄議題四編號五決議事項辦理。
- 二、為確實辦理前開會報議事錄決議事項，請查核人員落實執行下列措施：
（一）安撫戶況。

文部 賦税署
4275 93.09 20

(三) 認定事實事項，須據機關、海關、應本於法律賦予之調查權，就違反法規所訂之補稅及處罰內各該事項，自為必要之調查。具體詳載當事人（人、事、時、地、物）及處分之依據。

(四) 認定事實事項所須據者，應詳實調查，並注意該事實人有利及不利事項；將證據資料逐項附案，不宜僅憑有權調查機關（如法院計調查局或各縣市警察局）移送案件及其他類似案件之移送書等筆錄或起訴書等資料核定補稅處罰，並應延距離關係案件起訴情形及厘審判決結果，併案審查。

正本：本部台北市國稅局、高雄市國稅局、台灣省七區國稅局、台灣省中區國稅局、台灣省南區國稅局、關稅總局
台北關稅局、台中關稅局、高雄關稅局、基隆關稅局
副本：本部賦稅署、訴願審議委員會、關政司

機關地址：臺北市中正區愛國西路二號
傳真：〇二二三五六八七七四

依本件公文性質擬調整
速別為速件、普通件。

電子公文

Criminal Court v.s. Administrative Court

Ordinary court

A criminal court is a general court that deals with criminal matters and the prosecution of people.

V.S.

Administrative court

A court where people bring a lawsuit against an administrative agency for sanctions imposed on them, in other words, a court where the people sue the administrative agency

It's evidence-oriented and rigorous.

Tax courtrooms in an administrative court

- Most of the judges are transferred from civil courts.
- Not well-versed in administrative law and tax law
- Most of them are biased in favor of the administrative authorities' opinions.
- Fewer witnesses are called, less rigorous.
- High rate of failure for the people, known as "courts where the people lose"
- Scholars and experts suggest abolishing administrative courts and returning cases to ordinary courts.

Tai Ji Men's View on the 1992 Tax Bill

The tax bill should never have existed in the first place.

The tax bill should not have existed from the beginning.

This tax case originated from the criminal case. Since the final decision of the criminal court indicated that there was no fraud, no tax evasion, and no violation of the Tax Collection Act, the administrative agency should have canceled the tax disposition. In addition, the NTB did not investigate in the beginning and the basis of taxation was entirely the information in the indictment, which contained matters to be substantiated and whose accuracy had not been confirmed through a court trial when the tax bill was first issued. Moreover, the Bureau of Investigation and the prosecutor were not tax investigators affiliated with the NTB. The indictment could not serve as the basis of taxation at all.

A criminal decision, which follows higher standards, should be adopted:

The facts determined in the criminal case and the facts underlying the tax case are in fact the same. A relatively higher standard is followed in a criminal case in the assessment of facts and evidence, while a lower standard applies to an administrative case. Why can different determinations be made with no constraint at all?

The wrongful decision for tax year 1992:

The case concerning tax year 1992 was lost because the NTB of the Central Area concealed the survey form evidence, which indicates that all of the 206 returned survey forms show that the red envelopes to the *shifu* (master) were "gifts," and falsely stated that only five respondents indicated gifts. In addition, a member of the collegiate panel of the court failed to recuse herself. As a result, a legally inappropriate decision was issued.

Although Tai Ji Men won the administrative lawsuits for the consolidated income taxes of 1991, 1993, 1994, 1995, and 1996, still the NTB could repeatedly turn things around in the course of administrative remedy procedure by continually issuing new tax bills. When a taxpayer wins an administrative lawsuit, he/she cannot be too excited for now, because that is not the end of the story. This just attests to the absurdity of tax law litigation. No matter how many times the taxpayer wins, the court usually remands the case back to the NTB and allows the NTB to issue a new tax bill again.

The taxpayer is trapped in the cycle of tax bill issuance, re-check, administrative appeal, litigation, cancellation, tax bill re-issuance, and further administrative appeal. In the meantime, the taxpayer's property has long been seized. This is just like someone who is strangled while struggling to seek remedy but is forced to surrender out of exhaustion. No wonder most taxpayers choose to swallow the injustice and compromise when it comes to the NTB.

**You can try to seek
administrative
remedy,**

BUT . . .

Recheck

The review committee consists of NTB personnel only.

Appeal

The majority of the petition committee are Finance Ministry staff or retired Finance Ministry staff.

The High
Administrative
Court

Judges are not well-versed in tax law, and the rate of losing a case for the people is 94%.

The Supreme
Administrative
Court

It does not make a final decision and usually remands the case back to the NTB and allows it to re-issue a new tax bill.

Perpetuating Injustice

The taxpayers were trapped in administrative courts for everlasting and tortuous tax bills.

Facing illegal tax bills issued continually, we could only seek remedy against the everlasting and tortuous tax bills continually. Although we have won more than a dozen times, still the case has not come to an end, and we can only keep petitioning in different places.

In those days, when laptops and projectors were not common, brothers and sisters spent a lot of money on laptops and projectors, carried heavy equipment and thick documents in their petition tours to different places, and made one presentation after another in the course of the petition. As a result, more than 300 legislators gave countersignatures, made proposals, questioned government officials, or called press conferences, public hearings, and coordination meetings, pointing out that the NTB broke the law and requesting that illegal tax dispositions be cancelled. However, legislators do not have administrative power, what can they do?

Ta-tien Hung worked as a telecommunication operator and had practiced qigong for 14 years.

Of course, there was no shortage of legislators who advised us to pay some taxes and settle with the NTB. One night, I was very excited to share with Shifu (master) the good news that a legislator could help us negotiate with the NTB for a very low settlement amount. At that, Shifu adamantly refused, saying that an important thing he teaches his dizi (disciples) is to distinguish right from wrong and true from false. He cited Jesus as an example, saying that Jesus could have avoided crucifixion, so why would Jesus accept such a fate? To be crucified and paraded around for the world to see? If Shifu wanted to make things easy and “pay a little bit” for the sake of settlement, he would rather not teach anymore! Through his guidance, we finally understood that in the face of lawlessness and unjust taxation, there is only black and white as well as right and wrong.

Since then, no dizi has dared to talk about “paying a token sum” in front of the shifu. His insistence and persistence over the past two decades have inspired the promotion of legal and tax reform in Taiwan in recent years.

The Final Criminal Decision

On July 13, 2007, the third instance criminal decision concluded that the defendants were not guilty and did not evade taxes. With this, the Tai Ji Men tax case, which is derived from the criminal case, should be naturally resolved. Since the criminal case proves that the indictment is false, the tax bills, which copied the indictment, are certainly false, too.

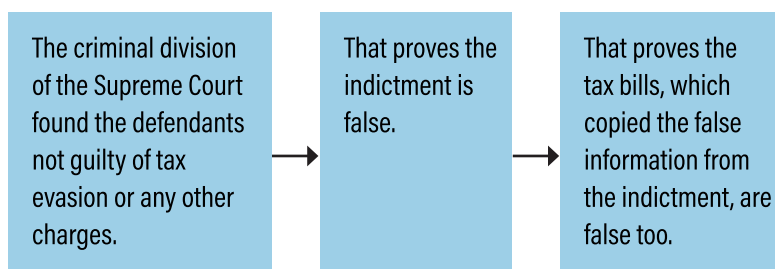
Just as the tax case was entering the administrative remedy phase, the criminal case arising from the indictment was finally concluded on July 13, 2007 with the third instance final decision acquitting the defendants and finding there was no tax evasion.

It took 10 years and 3 months to finally secure a final decision clearing our names and finding no tax evasion. This process involved the meticulous investigation by 14 judges and examination of the testimonies of about 200 witnesses including the NTB personnel with 12 big boxes of exhibits for this case, which were examined and argued upon one by one. In addition, the witness statements issued by 4,645 Tai Ji Men *dizi* and statements issued by 5,525 people to attest to the fact that the red envelopes given to the *shifu* were gifts, and 206 survey forms prepared and distributed by the NTB to ascertain the true intent of the Tai Ji Men *dizi* were also presented one by one in court for oral arguments in trial. Finally, on July 13, 2007, a final not-guilty decision was issued, concluding that the defendants were innocent, did not evade taxes or violate the Tax Collection Act. In addition, it was also concluded with respect to the income tax portion that "since the red envelopes given by the *dizi* to the *shifu* were gifts in nature, they should be deemed tax-free income in accordance with Article 4, Subparagraph 17 of the Income

Tax Act.” With respect to the business tax portion, it was determined that “the collective procurement of uniforms for practicing qigong for the benefit of and on behalf of other *dizi* was not a profit-oriented sale.”

From the perspective of jurisprudence, as the then Finance Minister Ching-chang Yen, as well as Deputy Finance Ministers Teh-shan Wang and Jung-chou Wang remarked in 1999 and 2000, since the Tai Ji Men tax case was derived from the criminal case, when the criminal case was concluded, the tax case would be naturally resolved.

Unfortunately, the administrative court rushed to issue a decision on the tax case against Tai Ji Men for tax year 1992 before the criminal case pending in the general court was concluded. Law and order were disrupted when the administrative court jumped the gun and rushed to issue its decision on the tax case before its criminal counterpart issued its final decision. This even perpetuated the mistakes. The auction of Tai Ji Men’s land in 2020 is a good case in point. When can the government, which made one mistake after another over this matter, be guided back to the right track?



The NTB's Violations of the Law

Facing the Control Yuan's investigation and correction, tax officials knew they were wrong but did not correct their mistakes.

On September 2, 2009, the Control Yuan once again came forward to investigate the NTB's violations of law and found that the NTB had committed major violations of law in the Tai Ji Men tax case.

- The NTB failed to fulfill its duty to conduct a thorough investigation and do adequate verification.
- The NTB failed to actively clarify the nature of the income involved in the case in accordance with its authority, which was obvious negligence.
- The record of the survey the NTB made based on the results of the survey on the nature of the income was sloppy and sketchy.
- The NTB failed to fulfill its duty to pay attention to portions both favorable and unfavorable to the taxpayers. It is urgent that these should be reviewed and rectified.

During a press conference on July 13, 2017 with "redressing the false case" as its theme, Hui-jun Chien Lin, former Member of the Control Yuan who was in charge of investigating the Tai Ji Men tax case, openly stated there was a seven-point correction issued with respect to the Tai Ji Men tax case. When each point was raised, the NTB would say, "Oh! We made a mistake!" She told the Finance Minister in 2011 that "I believe this case should be closed now."

Lying About the Survey Results

The then Director-General of the NTB of Taipei Chung-yuan Ling said, “I never give red envelopes to my parents.”

Chung-yuan Ling succeeded Sheng-ford Chang and became the Director-General of the NTB of Taipei in 2007. When facing inquiries from the Control Yuan in 2009, she conducted a recount based on the results of the 206 survey forms distributed in 2002, all of which indicated that the red envelopes to the *shifu* (master) were gifts. She created a chart for the Control Yuan and misrepresented that the results of the survey showed that zero respondent indicated gift and all of them suggested the red envelopes were considerations.

When Tai Ji Men *dizi* (disciples) explained that the red envelopes to the *shifu* are like red envelopes to parents and are all free from income tax, Chung-yuan Ling simply replied, “I never give red envelopes to my parents.”

Promises Made

On June 17, 2010, the Ministry of Finance promised that the case would be resolved within two months, and the NTB of the Central Area also made a similar promise on the spot.



Tai Ji Men *dizi* held copies of the survey forms they filled out and returned to the NTB, showing that they all indicated the red envelopes to the *shifu* were gifts, during a public hearing, where Deputy Finance Minister Sheng-ford Chang, Shu-chun Hsiao, Deputy Director-General of the NTB of the Central Area, and other government officials attended, on June 17, 2010.

Deputy Finance Minister Sheng-ford Chang:

Why don't we ask the NTB of the Central Area to submit an application to the Ministry of Finance? That's what I have to say.

Shu-chun Hsiao, Deputy Director-General of the NTB of the Central Area:

We will then follow what the Deputy Minister just said and include the opinion of our office in the application to the Ministry of Finance to withdraw this, right? The NTB of the Central Area will file a formal application to the Ministry.

抄本
抄件開卷

財政部 函

機關地址：臺北市中正區(10066)愛國西路2號
聯絡方式：(02) 23227581

受文者：如行文單位

發文日期：中華民國99年7月22日
發文字號：台財稅字第09900297670號
速別：
密等及解密條件或保密期限：普通
附件：

主旨：99年6月17日立法院「保護租稅人權 終結萬年不死稅單」公聽會會議決議，有關 君 81年度綜合所得稅移送執行案撤回執行之可行性部分，請依稅捐稽徵法第40條規定審酌具體事實本諸職權辦理，並將處理結果逕復立法院田委員秋莖、立法委員康世儒國會辦公室、立法委員涂醒哲國會辦公室及副知行政院秘書處。請查照。

說明：依據旨揭公聽會會議決議、貴局99年6月23日中區國稅法字第0990030560號函及99年7月8日中區國稅法字第0990033387號函辦理。

正本：財政部臺灣省中區國稅局
副本：

The Finance Ministry asked the NTB of the Central Area to revoke the compulsory enforcement.

副 本

檔 號：
保存年限：

財政部臺灣省中區國稅局苗栗縣分局 函

發文日期：中華民國99年8月27日
發文字號：中區國稅苗栗縣四字第0990011092號
速別：最速件
密等及解密條件或保密期限：普通
附件：如說明八

主旨：關於納稅義務人 之代理人蔣瑞琴律師為就貴處96年綜所稅執特專字第66110、66111號行政執行事件，申請停止執行事，請依行政執行法第9條第3項規定，准予停止執行，請 查照。

說明：

⋮

同年月23日聲請停止執行補充理由書（同附件3）等相關資料供參。

正本：法務部行政執行署新竹行政執行處
副本：代理人蔣瑞琴律師、立法委員康世儒國會辦公室、法務部行政執行署、財政部臺灣省中區國稅局

分局長陳合堯

The Miaolin Branch of the NTB of the Central Area asked the Hsinchu Branch of the Administrative Enforcement Agency to stop the auction.

Promises Broken

While a promise was made to cancel the tax bills, a new tax bill was issued again, restarting the vicious cycle again.

On June 17, 2010, the Ministry of Finance (MOF) promised to resolve the Tai Ji Men tax case within two months. In July 2010, the MOF sent a letter to the NTB of the Central Area, demanding it to cancel the enforcement, and the MOF also sent letters to Chiu-chin Tien, Shiing-jer Twu, and Shou-shun Chou, legislators at the time, indicating that the NTB of the Central Area had been requested to cancel the enforcement in accordance with Article 40 of the Tax Collection Act. The NTB of the Central Area issued a letter to the Hsinchu Branch of the Administrative Enforcement Agency on August 27 to stop the enforcement in accordance with the proviso of Article 9, Paragraph 3 of the Administrative Execution Act. However, the NTB continued to issue tax bills to Tai Ji Men.

The Interministerial Meeting

On December 9, 2011, the Executive Yuan called an interministerial meeting. The meeting resolution, which is legally binding as an administrative contract, stated that the results of the new investigation would be adopted.

On December 9, 2011, Chung-sen Lin, Secretary General of the Executive Yuan, called an interministerial meeting attended by Finance Minister Sush-der Lee, Administrative Deputy Justice Minister Ming-tang Chen, and Director-General of the NTB of Taipei Chin-chien Chen.

1. It was resolved that the information in the criminal indictment can no longer be used for taxation.
2. It was further resolved that the NTB will give a two-month announcement to publicly survey the nature of the red envelopes given to the *shifu* (master), and if the results of the survey show that they are tuition fees, they will be dealt with pursuant to law, and if the results indicate they are gifts, the unjust case will be concluded pursuant to law.

The interministerial meeting was attended
by 30 key participants.

Sush-der Lee, Finance Minister
Chin-chien Chen, Director-General of
the NTB of Taipei

Ming-tang Chen, Deputy Minister of the
Ministry of Justice

Chung-sen Lin
Secretary General
of the Executive
Yuan

Chen-fang Ma, a fair-minded member of the
society and former Minister of Transportation
and Communications
Chiu-yang Huang, Political Advisor to the
Executive Yuan

Jui-chin Chiang, representative of the Tai Ji Men
defense team
Te-ming Chen, representative of the certified
public accountants of Tai Ji Men

13 representatives of the Tai Ji Men *dizi*

The Public Survey

On December 16, 2011, the NTB of Taipei announced the survey. The NTB used a declaration form to investigate the nature of the red envelopes given to the shifu.

On December 16, 2011, the NTB of Taipei held a review committee meeting, in which a resolution was adopted, and it agreed to the conclusions reached in the interministerial meeting of the Executive Yuan, and on the afternoon, a public announcement was released on the NTB's website and the bulletin boards in its offices for two months and published in domestic and overseas newspapers on December 19.

**The NTB has already posted the announcement so publicly.
There should be no problem, right?**

The NTB of Taipei re-investigated the nature of the red envelopes for the *shifu*.

The announcement was published on the NTB's website for two months.

It was published on the bulletin boards of the NTB's offices for two months.

It was published in domestic and foreign newspapers.

The Results of the Public Survey

On February 19, 2012, the results of the public survey proved that the red envelopes to the shifu were gifts. The case could be closed with the results showing 100% gifts, right?

On February 19, 2012, the results of the public survey showed that 100% of the 7,401 pieces of evidence indicated that the red envelopes given to the *shifu* were gifts with no respondent claiming that they were tuition fees. This is consistent with the finding of gifts in the criminal decision.

Voices of Justice from Legislators

In 1999, when the criminal case was still in the trial stage, eighty-two legislators co-signed a proposal to request the NTB to cancel the unlawful tax bills on the grounds that the issuance of these tax bills by the NTB violated due process. In 2013, thirty-three legislators co-signed a proposal requesting the Ministry of Finance to cancel unlawful dispositions based on the Executive Yuan's interministerial meeting resolutions and the fact that the red envelopes were gifts, according to the results of the public survey. As of 2020, more than 300 legislators, regardless of their party affiliation, have co-signed, made proposals, questioned relevant officials, or held press conferences, public hearings, or coordination meetings to request that the NTB cancel the unlawful tax dispositions.

People Who Were Naive Thought the Ordeal Was Over

Ta-hsin Chen, a certified public accountant with 30 years of experience, has been following this case for more than a decade. Because the case files have grown thicker and heavier, he has broken over ten briefcases. When he learned in 2012 that the results of the NTB survey showed that all 7,401 declaration forms indicated that the red envelopes given to the *shifu* were gifts, he burst into tears over the years of sorrow he had accumulated. "Many thoughts arose: the thought that I had missed so many opportunities to spend time with my children over the years; the thought that my *shifu*, his wife, and Tai Ji Men brothers and sisters could finally be relieved of their hardships and no longer need to take to the street; the thought that my young Tai Ji Men brothers and sisters would no longer have to be entangled in the difficult struggle; the thought that the enforcement risk of our property has been defused. While driving home, I could not help but feel overwhelmed by the sorrow and burst into tears."

Issuing Unlawful Tax Bills Again

On August 3, 2012, the NTB of Taipei admitted that Tai Ji Men is not a cram school, but it issued a tax bill to Tai Ji Men again. On November 27, 2013, the NTB of the Central Area admitted that Tai Ji Men is not a cram school, but it issued a tax bill to Tai Ji Men again. The people could really be driven crazy by the NTB.

On August 3, 2012, sixteen years after issuing the first tax bill, the NTB of Taipei admitted in its official document containing the decision on a recheck that Tai Ji Men is not a cram school. However, in light of the survey's findings that the red envelopes were gifts, the NTB of Taipei decided to divide the red envelopes given to the *shifu* into two equal parts, one of which was treated as gifts and the other as tuition, and to continue issuing Tai Ji Men with unjustified tax bills.

On November 27, 2013, the NTB of the Central Area gave the same explanation as the NTB of Taipei, and then continued to issue tax bills to Tai Ji Men.

Why Does Tai Ji Men Keep Fighting the Lawsuit?

Some people asked, "Why do you have to keep fighting? How many lawsuits do you have to win in order to really win? Are you collecting victory points?" The culprit is the futile administrative remedy process, where the people's victory is not a true victory.

Under the dysfunctional administrative remedy system, even if the people win, the judges of the administrative courts do not render a final decision and usually remand the case back to the original agency (the NTB). After changing the tax amount, the NTB will issue a tax bill again, which leads to everlasting and tortuous tax bills. This cycle will not end until the people lose, are tired, or surrender.

With respect to the tax bill for 1996, although we won the legal battles in 2005 and 2009, still we had to continue the fight until March 24, 2015, when the Taipei High Administrative Court rendered a decision in favor of Tai Ji Men, holding that the NTB of Taipei had failed to explore the nature and characteristics of Tai Ji Men, and that its disposition violated evidentiary and logical rules. The decision set aside the unlawful tax disposition once again.

On July 9, 2015, the Supreme Administrative Court rendered a decision in favor of Tai Ji Men, dismissing the appeal of the NTB of Taipei again.

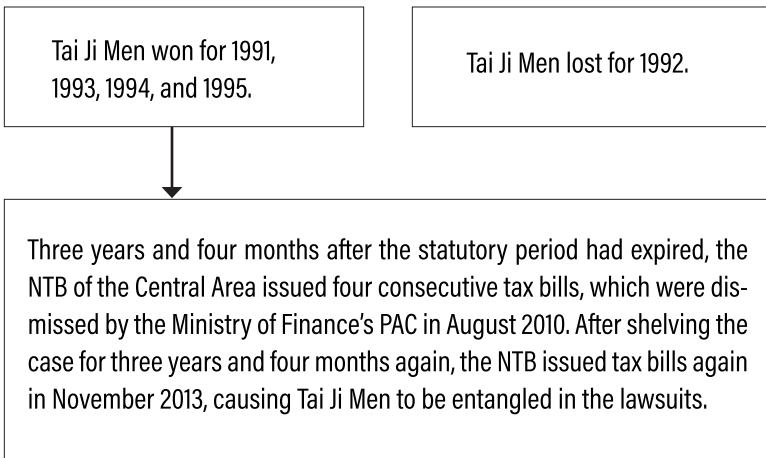
Wrongful Decision

On March 9, 2017, the Taichung High Administrative Court rendered a wrongful decision No. 228, and thus the Tai Ji Men case of human rights violations was nicknamed "Law and Tax 228."

The administrative courts set another record for their unreasonable operation. On March 9, 2017, the Taichung High Administrative Court did not conduct the recusal in accordance with the law, ignored the facts and evidence, and rendered an unlawful decision against Tai Ji Men for tax years 1991, 1993, 1994 and 1995. The reference number of the decision document happens to be No. 228. As a result, the case is nicknamed as "Law & Tax 228" by scholars and experts.

A Summary of the Previous Events

On May 25, 2005, Judge Wu-feng Hsu issued two opposite decisions on the matters of the same facts.



The first reason why the decision was wrongful:

The same judges heard the same case repeatedly without recusing themselves.

The second reason why the decision was wrongful:

The judge conveniently forgot the evidence favorable to Tai Ji Men.

Tai Ji Men requested that Judges Chiu-hua Lin and Chin-chang Chuang be recused pursuant to law because they had previously heard and adjudicated the Tai Ji Men tax case and were biased regarding the "nature of the red envelopes given to the *shifu*," which is the most important issue in this case.

In the press conference after the sentencing, **a reporter** asked, "The NTB of the Central Area asked the NTB of Taipei to investigate, and the NTB of Taipei has stated in its recheck decision that Tai Ji Men is not a cram school and the red envelopes are not tuition but gifts. I'm curious if Presiding Judge Lin was aware of this?"

Judge Chiu-hua Lin replied, "Yes, I was aware. However, because of my age, even if I have seen something, I may forget about it quickly."

The third reason why the decision was wrongful:

The judge made up laws and issued an unlawful decision.

The NTB of the Central Area asked the NTB of Taipei to conduct an investigation on its behalf. Their taxation methods and the factual evidence are exactly the same. Four decisions by the Taipei High Administrative Court and the Supreme Administrative Court in 2005, 2009, March 2015, and July 2015 overturned the NTB of Taipei's tax decisions. Judges Chiu-hua Lin, Chin-Chang Chuang, and Hsi-hsien Liu, on the other hand, disregarded the four cancellation decisions.

One of the judges said, "My decision was based on a 'substantive macroeconomic view.'"

The reporter asked, "Where can I find the legal provisions concerning the 'substantive macroeconomic view?'"

Judge Chiu-hua Lin answered, "There is no such legal provision."

According to the statistics of the Judicial Yuan, Chiu-hua Lin and Hsi-hsien Liu, judges of the Taichung High Administrative Court, respectively heard 68 and 56 tax cases in 2012, and Chin-chang Chuang heard 54 tax cases in 2016. Out of the total 178 tax lawsuits, the taxpayers failed in 100% of the cases. The expertise of every attorney and certified public accountant defending the taxpayers in the 178 cases was defeated. What chance do taxpayers have in front of such judges?

Although the three-year statute of limitations for the tax bills for 1991, 1993, 1994, and 1995 had expired, the NTB of the Central Area still issued unjustified tax bills to Tai Ji Men.

While Tai Ji Men won the tax disputes several times, in 2017, it lost because its case was heard by the aforementioned judges, Chiu-hua Lin, Chin-chang Chuang, and Hsi-hsien Liu in the Taichung High Administrative Court, who rendered a wrongful decision.

The fourth reason why the decision was wrongful:

The required procedure was not followed, and the substantive aspect was ignored.

Even after the statute of limitations had expired, a tax bill was still issued illegally, eroding the country's system, deceiving taxpayers, undermining the law, and destroying the country.

During the remedy process, the high administrative court and the Supreme Administrative Court issued decisions in favor of Tai Ji Men six times. However, the judges of the administrative courts did not render a final decision, and each time, the case was remanded to the NTB for another legally appropriate disposition. The NTB cannot issue a tax bill on a case if the statute of limitations has expired. In the Tai Ji Men case, however, the statute of limitations had expired, but the NTB continued to issue illegal tax bills to Tai Ji Men.

- Government officials can start fires, but civilians can't even light a lamp.
- A civilian's application for a recheck will be dismissed if he/she misses the 30-day statutory period by a day.
- The NTB could still issue a recheck decision when two or three years have passed beyond the statutory period.
- The "fires" that the government has started are far too large in comparison.

A taxpayer needs to file a recheck application within 30 days.	The government agency needs to give a recheck decision within 60 days.	The NTB of Taipei actually issued its recheck decision after two years.	The NTB of the Central Area actually issued its recheck decision after three years and 4 months.
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Under the Tax Collection Act, if a taxpayer finds his/her tax bill questionable, he/she must apply for a recheck or file an administrative appeal within 30 days, which is the statutory remedy period, or the application will be rejected on the grounds of “failure to comply with the procedure regardless of the substantive aspect.”

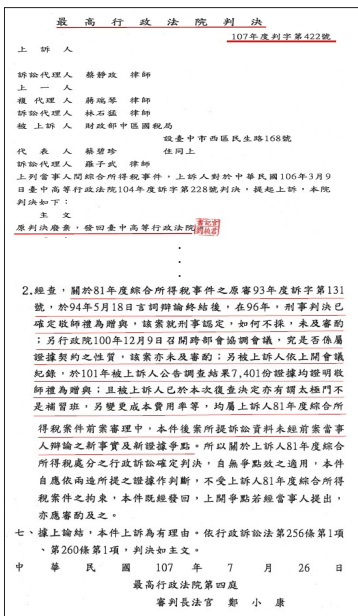
It is stated in Article 35 of the Tax Collection Act that “After receipt of an application for recheck, the tax collection authorities shall make a decision on the recheck within two months; the commencement date shall be the date the application was received from tax payers.” In the unjust Tai Ji Men case, the NTB oftentimes still rendered a recheck decision beyond the two-month period or even issued an illegal tax bill more than three years after the two-month statutory period had expired.

Critical Decision No. 422 Disproves Decision No. 228

On July 26, 2018, the Supreme Administrative Court rendered a decision in favor of Tai Ji Men concerning its consolidated income taxes for 1991 and 1993-1995.

Since the Taichung High Administrative Court issued a wrongful decision on March 9, 2017, Tai Ji Men lost the case and was compelled to appeal to the Supreme Administrative Court.

The Supreme Administrative Court issued Decision No. 422 in favor of Tai Ji Men, which concluded that Tai Ji Men is a *menpai* of qigong, martial arts, and self-cultivation and that the 7,401 declaration forms for the open survey indicated the red envelopes were gifts and remanded this case to the Taichung High Administrative Court for a new trial.



In 2018, the Supreme Administrative Court issued Decision No. 422 in favor of Tai Ji Men, which concluded that Tai Ji Men is a *menpai* of qigong, martial arts, and self-cultivation.

The Taichung High Administrative Court's Instruction

On September 10, 2019, the Taichung High Administrative Court instructed that this matter should be settled pursuant to law. After 23 years of litigation, too many judicial resources had been wasted, and high social costs had been incurred. It was time to stop.

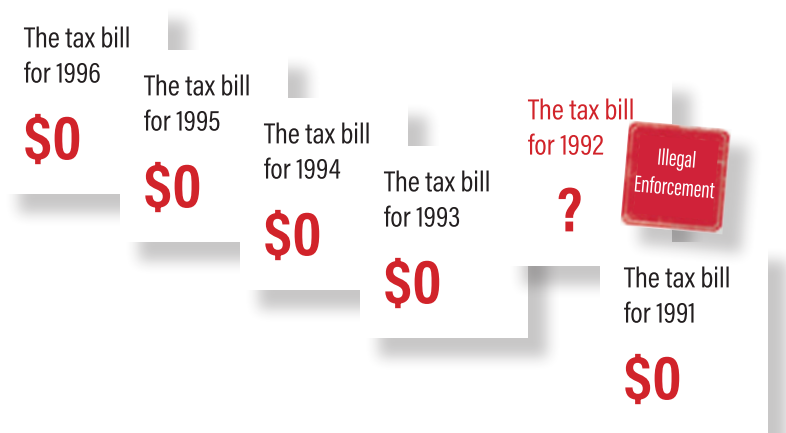
On September 10, 2019, the Taichung High Administrative Court instructed that this matter should be settled pursuant to law. The trial judge of the Taichung High Administrative Court explicitly stated that his decision should be bound by Decision No. 422 of the Supreme Administrative Court Decision. Since this case had dragged on for 23 years, the judge also stated that he understood the hardships of the taxpayers as a result of the protracted litigation and wished to save administrative and judicial resources. Therefore, he instructed both parties to settle pursuant to law.

The NTB Corrected the Tax Amount to Zero for Five Years

On November 22, 2019, the NTB of the Central Area corrected the tax disposition and changed the amount of the tax relating to the red envelopes given to the shifu for tax years 1991 and 1993-1995 to zero. In December 2019, the NTB of Taipei also made the same correction to the tax disposition for tax year 1996.

On November 22, 2019, the NTB of the Central Area conducted further meticulous review pursuant to the gist of the Supreme Administrative Court decision and the Taxpayer Rights Protection Act and ex officio corrected the tax amounts concerning the red envelopes given to the *shifu* for 1991 and 1993-1995 to zero.

In December 2019, the NTB of Taipei corrected the tax amount concerning the red envelopes given to the *shifu* for 1996 to zero. There is no tax issue for the red envelopes given to the *shifu*.



The Tax for 1992 Should Be Corrected to Zero, Too

The Taipei High Administrative Court issued a second letter, stating unequivocally that the consolidated income tax for 1992 should be treated in the same manner as the other years' taxes and corrected to zero.

On May 5 and July 23, 2020, the Taipei High Administrative Court issued two consecutive letters to the NTB of the Central Area with the Hsinchu Branch of the Administrative Enforcement Agency (AEA) copied. The letters cited the Supreme Administrative Court's 2018 decision (2018-Pan-Tzu-No. 422 Decision), which stated that the tax disposition for 1992 is not bound by the Supreme Administrative Court's 2006 decision on the consolidated income tax for 1992. Furthermore, in light of new facts and evidence not considered in the tax disposition for tax year 1992, the NTB of the Central Area is requested to follow the same standard by which the tax amounts for tax years 1991 and 1993-1995 were corrected to zero and withdraw the enforcement in accordance with Article 40 of the Tax Collection Act.

臺北高等行政法院 函	副本
地址：[redacted] 傳真：[redacted] 電話：[redacted] 傳呼電話：[redacted]	地址：[redacted] 傳真：[redacted] 電話：[redacted] 傳呼電話：[redacted]
受文者：君（訴訟代理人：蔡靜政律師）	受文者：君（訴訟代理人：黃麗蓉律師）
發文日期：中華民國100年5月10日	發文日期：中華民國100年5月10日
發文字號：院稽課稅108第01406字第1090005998號	發文字號：院稽課稅108第01406字第1090100030號
類別：[redacted]	類別：[redacted]
密等及解密條件或保管期限：[redacted]	密等及解密條件或保管期限：[redacted]
附件：如文（副本無附件）	附件：如文（副本無附件）
主旨：請就 滯納81年度綜合所得稅及罰鍰事件，是否有利預稽徵法第40條撤回執行之適用，表示意見，請查照。	主旨：檢送原告行政訴訟準備四款（含所附證據）繕本1件，關於 滯納81年度綜合所得稅及罰鍰事件，請依80、82、84年度綜合所得稅更正為0之同一標準予以重新計算並說明計算結果，請查照。
正本：財政部中區國稅局	正本：財政部中區國稅局
副本：君（訴訟代理人：黃麗蓉律師、王明龍會計師、蔡靜政律師）、法務部行政執行署新竹分署（訴訟代理人：陳靜怡 君）	副本：君（訴訟代理人：黃麗蓉律師、王明龍會計師、蔡靜政律師）（處代理人：蔣進榮律師）、法務部行政執行署新竹分署（訴訟代理人：陳靜怡 君）
院長劉鑫楨 審判長陳心弘 決行	院長劉鑫楨 審判長陳心弘 決行

These two documents clearly stated that in light of new facts and evidence not considered in the tax disposition relating to tax year 1992, the NTB of the Central Area is requested to follow the same standard, by which the tax amounts for tax years 1991 and 1993-1995 were corrected to zero, and withdraw the enforcement in accordance with Article 40 of the Tax Collection Act.

Forced Auctions Incentivized by Bonuses

While the fabricated Tai Ji Men tax case remains unrectified, Tai Ji Men's land was illegally auctioned. The Administrative Enforcement Agency clearly knew the tax bill was unjustified, so why did it proceed with the auction anyway? It turns out that such actions were motivated by bonuses.

The official document dated March 2, 2020 of the Hsinchu Branch of the Administrative Enforcement Agency (AEA) says, "The Shihlin Branch is proposed to record the performance and share one half of it with this Branch (the Hsinchu Branch). Please acknowledge it if you agree."

It was not until June 30, 2020 that the Hsinchu Branch of the AEA announced the scheduled auction of Tai Ji Men's land, but the officials had already been discussing the sharing of performance bonuses in March.

These officials, including the Director-General Ching-chung Lin of the AEA, Deputy Director-General Ying-Chin Chen of the AEA, Director Hui-ju Li of the Hsinchu Branch of the AEA, and Chief Enforcement Officer Kui-fen Li, broke the law and allegedly committed the offense of illegal collection under Article 129-1 of the Criminal Code.

The Hsinchu Branch of the AEA sent an official letter to the Shihlin Branch of the AEA, asking it to split the performance points with the Hsinchu Branch.

製表日期: 109年03月02日
保存年限: 10年

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擬定請士林分署登打續收,並回饋本分署%。

是否同意? 恭請裁示。

行政
執行官
109.3.-5
陳

主任
行政執行官
109.3.-5
李

書記官
109.3.05
蕭

Article 129, Paragraph 1 of the Criminal Code: "A public official who collects taxes, duties, or other revenues that he knows he is not authorized to collect shall be sentenced to imprisonment for not less than one year but not more than seven years; in addition thereto a fine of not more than two hundred ten thousand dollars (NT\$210,000) may be imposed."

The First Forceful Auction

The first auction on July 31, 2020 failed. Taiwan's independence, rule of law, and dignity were also put up for sale by the AEA.

Despite knowing that the tax bill for 1992 is false and unjustified, the AEA and the NTB partnered up to forcefully auction Tai Ji Men's land. Despite the fact that they were clearly aware that the enforcement procedure was illegal and involved the criminal offense of illegal tax collection under the Criminal Code, they insisted on carrying it out regardless.



Action Alliance to Redress 1219, Tax and Legal Reform League, Tai Ji Men *dizi*, and other supporters of legal and tax reform protested outside the Administrative Enforcement Agency during its first illegal auction of Tai Ji Men's land on July 31, 2020.



As Tai Ji Men's land was forcefully seized and auctioned, Tai Ji Men *dizi* and advocacy groups staged a demonstration, carrying two 150-meter-long protest banners and calling for the redress of the Tai Ji Men case.

Major Violations of Law by the Administrative Enforcement Agency

Illegal Seizure:

Although Tai Ji Men did not owe taxes, the Hsinchu Office (currently the Hsinchu Branch) of the AEA broke the law and surprisingly seized 52 parcels of land in Miaoli belonging to the *shifu* on July 23, 2009. The value of the land way exceeded the amount of the alleged tax debt. In addition, it also asked the Kaohsiung Branch and the Shihlin Branch to seize Tai Ji Men's academies in March 2019.

In 2010, the AEA was informed not to auction Tai Ji Men's property for the first time.

Continuation of Illegal Auctions:

On June 17, 2010, the Legislative Yuan held a public hearing, in which the Ministry of Finance and the NTB of the Central Area promised to withdraw the enforcement of the 1992 consolidated tax and to resolve the Tai Ji Men tax case within two months. In July 2010, the Hsinchu Branch had received letters from both the NTB of the Central Area and the Miaoli Branch, which requested it to stop the enforcement. However, it still issued a letter on August 18, 2010, stating that the enforcement would be carried out.

In 2012, the AEA was informed not to auction for the second time.

On January 19 and 20 of 2012, the Ministry of Finance and the Miaoli Branch issued letters again to stop the enforcement. Still ignoring the request, the Hsinchu Branch of the AEA continued the illegal auction procedure on February 1, 2012. The party concerned objected several times, holding

that since the boundaries of the land to be forcefully auctioned had not been surveyed yet, the party's property right and interest would be seriously undermined. It was only then that the enforcement stopped, and the party was allowed to conduct the survey at its own expense.

The decision rendered in 2018 made it even clearer that the auction should not proceed, but the AEA tried to conduct the auction as soon as possible.

The 2018-Pan-Tzu No. 422 Decision of July 26, 2018 rendered by the Supreme Administrative Court proves that the tax disposition and the court decision concerning tax year 1992 are both erroneous. Instead of ordering its Hsinchu Branch to stop the enforcement pursuant to law, the AEA issued a letter dated March 28, 2019 to request its Hsinchu Branch to actively conduct the enforcement and even specifically required that in the absence of a buyer, the property would be assumed by the NTB, the agency referring for compulsory enforcement, and directly nationalized.

In 2020, the AEA was advised for the third and fourth time that the auction should not be conducted.

On May 5, 2020 and July 23, 2020, the Taipei High Administrative Court requested the AEA to consider the 2018-Pan-Tzu No. 422 Decision as well as the fact that the amounts in the tax bills for the other five years were corrected to zero and reminded it that the amount in the tax bill for 1992 should also be corrected to zero.

The Hsinchu Branch of the AEA forcibly conducted the first and second unlawful auctions on July 31 and August 21, 2020, respectively. When the auctions failed, the NTB of Taipei and the NTB of the Central Area just assumed and

confiscated the property. The NTB, the AEA and its Hsinchu Branch knew the law but violated it and joined hands to rob the people.

In 2020, the AEA still forcefully conducted the auction.

The Second Auction

On August 21, 2020, the second forceful auction was conducted. After the second auction failed, the property was confiscated.

On August 21, 2020, after the second forceful auction of Tai Ji Men's land failed, the NTB of Taipei and the NTB of the Central Area jointly assumed and confiscated the property. Tai Ji Men strongly urged the government to stop the enforcement to avoid making a catastrophic mistake; however, the AEA continued to carry out the unlawful enforcement.



Nearly 1,000 Tai Ji Men *dizi* and advocacy groups protested outside the Administrative Enforcement Agency during its second illegal auction of Tai Ji Men's land on August 21, 2020.

Who Stole Their Youth?

Ta-yuan Chang, 19 and a college sophomore, started protesting on Ketagalan Boulevard at the age of 9.

On August 21, 2020, at the entrance of the Miaoli Branch of the AEA, I saw a child nervously tell her mother, "Mom, the bad guy got away."

I remember ten years ago when I was 9, my parents took my 6-year-old sister and me to protest on Ketagalan Boulevard. That was my first time protesting there. At that time, I only knew that the government did something wrong.

When I was in junior high school, the fabricated Tai Ji Men case had dragged on for more than a decade, and I wondered if I would have to join the protesters on Ketagalan Boulevard with my child when I grew up.

I am 19 now with a better understanding of what the government has done wrong. I am willing to stand in the front line because I hope that the fabricated Tai Ji Men case can be resolved, and the government can admit its mistakes and mend its way.

This fabricated case has forced us to learn and grow. Unlike other 19-year-old college students who play and do part-time jobs, I have to go on Ketagalan Boulevard as well as stand in front of the Ministry of Finance and the AEA to speak up against injustice, because I know that this fabricated case has to end, and the harm should not be passed down to the next generation.

My parents have practiced qigong at Tai Ji Men for 25 years, and they have also experienced the 1219 incident. This case is even older than I. How can a government allow a child to be born and grow up under the pressure of a fabricated case for 24 years and even worry if his next generation will continue to carry the burden? This has completely shattered the people's confidence in the government. Don't those in power know that?

The Chupei Incident

A Ms. Huang was arrested, yet there are still innumerable Ms. Huangs in Taiwan.

Can you imagine that this could happen on the streets of Taiwan? The police suddenly wanted to check the ID cards, and if the people being checked did not have them, they would be taken away to the police station. When the people nearby wanted to protect their own rights and interests by using their phones to videotape this process, the police officer yelled, "Whoever videotapes this will be questioned!" This scene took place on a street in Chupei City of Hsinchu County on September 19, 2020.

Every day, there are tax and legal reform volunteers holding up signs on major streets in Taiwan to express their demands. On the afternoon of September 19, 2020, while holding up signs near Dong Hsing Junior High School in Chupei City of Hsinchu County to promote their cause, volunteers from the Tax and Legal Reform League were surrounded by a dozen police officers for identity checks. The police officers claimed to have caught Ms. Huang, a volunteer aged nearly 60, in the act and took her to the police station to have her statement taken until late into the night before transferring her to the local district prosecutor's office for nighttime interrogation. The prosecutor decided to put her under restricted residence, triggering a public outcry and people from all over Taiwan successively voiced their support for Ms. Huang.

On the afternoon of September 19, 2020, the police officers insisted on checking the identities of the volunteers, obviously knowing that they were only holding up signs to express their demands peacefully without engaging in any criminal

acts. However, after the check, the police officers continued to forcibly evict the volunteers, shouted at them arbitrarily, and obstructed them from expressing their demands. When the volunteers asked if they were in a restricted area, the police officers ignored them and even verbally threatened, "Whoever videotapes this will be questioned!"

There are limits on police powers

The behavior of the police officers violated the freedom of speech of the people under the Constitution and Article 3 of the Police Power Exercise Act, which provides that "when the police exercise their power, such exercise may not exceed what is necessary for accomplishing their goals, and they shall employ the approaches that can minimize infringement upon people's rights."

In the beginning, the police checked the identity of Ms. Huang and took her pictures, saying that she would not have to go to the police station if she provided her ID number for registration. Around 30 minutes later, they came back and claimed that they caught her red-handed. She did not hold any sign at that time, but the Chief of Liuchia Police Station and several police officers questioned very rudely which sign she held. Then they took out a sign from a bag on the ground. The sign reads, "Chief Enforcement Officer Kui-fen Li of the Hsinchu Branch of the AEA, how much money did you receive as a reward from handling the Tai Ji Men case? NT\$100,000? NT\$1 million? NT\$10 million? Come on, disgorge the money!" They pushed the sign into Ms. Huang's hands, saying that there was a name on it and that what Ms. Huang did was very intimidating. And then, without being

told what crime she had committed, she was arrested and taken to the police station to have her statement taken. Other volunteers on site asked what charges were used to arrest her, the Chief refused to explain and yelled at the volunteers, warning them not to videotape this for evidence.

**When detaining or arresting a person,
the police should inform the person
of the reason for the arrest**

"In executing an arrest with or without a warrant, the reasons for the arrest with or without a warrant as well as the items specified in Article 95, Paragraph 1 shall be communicated to the accused or crime suspect on the spot, and due care shall be taken of the body and reputation of the accused or the crime suspect." (Article 89, Paragraph 1 of the Code of Criminal Procedure)

Ms. Huang, the 60-year-old volunteer, was taken to the police station and held there from 6:00 p.m. to 12:00 a.m. She was then transferred to the district prosecutor's office where she was charged with several crimes and put under restricted residence. At 1:00 a.m. when Ms. Huang came out, she fainted in fear and was taken to the hospital and diagnosed with acute distress disorder.

That night, the police chief in Chupei explained before the district prosecutor's office that the Chief Enforcement Officer surnamed Li had filed a complaint the day before (i.e., September 18). However, Ms. Huang, who was arrested, held up the sign for the first time at the street corner on September 19. How could the Chief Enforcement Officer predict that Ms. Huang would hold up the sign at the street corner the following day?

What kind of sign was it? "Chief Enforcement Officer Kui-fen Li of the Hsinchu Branch of the AEA, how much money did you receive as a reward from handling the Tai Ji Men case? NT\$100,000? NT\$1 million? NT\$10 million? Come on, disgorge the money!" According to several scholars and experts, the content of the sign falls within the scope of freedom of speech. In addition, that the AEA officials receive performance bonuses and rewards is clearly spelled out in black and white in official documents. Whether Chief Enforcement Officer Li received a reward is something that may be commented on by the public. This hardly constitutes a libel or insult and could have been dealt with through an ordinary complaint procedure, much less the need to transfer her overnight to the prosecutor's office. Perhaps the volunteers touched the taboo behind a black curtain of what can be done but not said.

People from all walks of life stand up to defend freedom of speech in Taiwan

Attorney Ti-ying Huang, President of Taiwan Forever Association

Such behavior of the police in the 21st century is unbelievable. The offense of defamation is a misdemeanor. The police arrest in this manner obviously violated the principle of proportionality, cannot be tolerated in a modern country under the rule of law and does not reflect an enforcement attitude appropriate in a modern democratic country. The liability of

the police should be pursued. Citizens holding up signs indicating questions absolutely do not undermine reputation, and the police should not have made the arrest. They could have just confirmed the identity of the person and allowed the prosecutor to decide if the person would be summoned. A normal prosecutor would not prosecute the sign holder after looking at the sign. However, it is absurd that this person was transferred to the district prosecutor's office with a prosecutor's order issued. It is necessary to contemplate if the liability of the police and the prosecutor should be pursued. This matter may be referred to the Control Yuan for an independent investigation. The Control Yuan should impeach government officials who have seriously violated the law and abused their authority to deter the police and prosecutors from abusing their power, protect human rights and freedom of speech, supervise the government, and urge it to keep moving forward under the rule of law.

Chun-chieh Huang, Distinguished Professor of the Department of Financial and Economic Law of the National Chung Cheng University

It is apparent that many clear provisions of the Constitution were not complied with respect to the protection of personal freedom from the perspective of the Constitution. As a result, a country under the rule of law in the 21st was degenerated into a police state of the 18th century. The arrest of the volunteer, Ms. Huang, on September 19 violated due process of law and obviously constituted a serious violation of Article 8 of the Constitution. On that day, the volunteers were there to seek justice for the Tai Ji Men case. What they have insisted on is for public interest. They have also set a good example for the fight for tax justice for future generations.

Ching-Chin Wu, Associate Professor of Law at Aletheia University

The first question for the subject of Constitution and Administrative Laws during the examination for judges, prosecutors and lawyers was about a case involving holding up signs. It was obviously intended to inculcate future judges with better ideas about human rights protection when they hear this type of case. Pursuant to Judicial Interpretation No. 718 of 2014, emergency and occasional rallies and marches do not require permission. Does simply holding up a sign that says NT\$100,000 or NT\$1 million with a question mark on it constitute defamation? No, this is a factual statement. Pursuant to Judicial Interpretation No. 509, if an actor has certain reasons to believe that it is true, he/she cannot be held criminally liable for defamation.

Chun-chih Wu, a lawyer from Eternity Law Firm

According to the Police Power Exercise Act, there must be reasonable suspicion to conduct an investigation. How reasonably suspicious can a granny holding up a sign at a street corner be? The so-called “person in flagrante delicto” refers to someone who may immediately cause bodily or life-threatening injuries and thus should be dealt with urgently. Therefore, a person in flagrante delicto should be arrested immediately. However, how can the offense of defamation alleged by the police satisfy the criteria for arresting a person in flagrante delicto? Does the fabrication of the person in flagrante delicto mean that the entire apprehension process or even the police interrogation process might also be illegal?

Attorney Tzu-hsiang Chen, Senior Partner of Hao Hsin Law Firm

When the student movement just got started, the students participating in the Wild Lily Movement were not taken away by the police even though they badmouthed the parliament or former President Lee. In the Sunflower Movement, students lashing out on the government were not taken away by the police, either. Tse-hai Ke, who is protesting everywhere, is never taken away by the police. This is the most valuable aspect of Taiwan – the progress of democratization. Government powers should be placed under supervision because the government has guns, powers and budget and is very powerful. That is why it should be supervised by the most stringent standard, and maximum protection and tolerance should be guaranteed to expressions conveyed for the supervision.

Yi-nan Chen, Director of Taiwan Society North

After watching the video footage of the Chupei incident, he expressed his sorrow.

It happened in Taiwan now. All people should rise and fight! We should fight against evil with our conscience. We should not be overpowered. How could a person who did not engage in any criminal act be treated as a person in flagrante delicto? Human rights protection in Taiwan should continue to move forward. I suspected that there was someone behind the scenes who had premeditated the arrest to silence the people. The liability of the government officials who broke the law should definitely be pursued.

Cheng-tien Kuo, former Professor of the Medical School of Yang Ming University

He was inexplicably arrested as a communist spy and interrogated during his freshman year, so he has a special feeling about the Chupei incident involving the volunteer, Ms. Huang.

The 919 Chupei Incident was an example of political persecution. They arrested her on some fabricated charges. Therefore, the White Terror still exists in Taiwan. Today, it was Ms. Huang; tomorrow, it can be you and me.

Professor Tse-chung Wei, Assistant Professor of the Business Administration Department of Fu Jen Catholic University

Although Kui-fen Li, Chief Enforcement Officer of the Hsinchu Branch of the AEA filed a defamation complaint, still the people did not wrong her. The AEA's rules for distributing the enforcement performance rewards are drafted very clearly, and there are indeed bonuses for performance. How can a proper comment on a matter that may be commented by the public be regarded as defamation? Since the police, prosecutors and enforcement officers have strong government powers, they should follow existing legal procedures even more strictly. The law enforcers cannot become violators; otherwise, there will be more people suffering from senseless damage.

Chia-lin Chang, Professor of the Department of Religious Culture and Information Management of Aletheia University

I wondered if Taiwan has become a country under the rule of the police. How can Taiwan, as a signatory to the two international human rights covenants, claim to be a country dedicated to human rights protection if law and order is not followed? It makes no sense that a volunteer holding up a sign without reprimanding anyone got arrested and interrogated for over six hours while the Sunflower Movement protesters were exonerated for occupying the Legislative Yuan.

Associate Professor Chien-yuan Tseng of the National Central University

He finds it difficult to believe that the September 19 Chupei incident could happen.

This incident plunged the victim and her family into a deep panic. It is hard to imagine such fear which was only experienced in the past during the White Terror, when the police lawlessly abused their power. I urged local leaders and councilors of Hsinchu to express their opinions on this incident, because what was injured is not just the mental and physical health of Ms. Huang but also the people's trust in the government power wielded by the police as well as Taiwan's achievements and confidence over decades of democratization. This is a very serious incident indeed.

In retrospect, the fabricated Tai Ji Men case is indeed a mirror that reflects legal and tax problems in Taiwan: the prosecutor's abuse of power to detain innocent people, the NTB's issuance of false tax bills to extract real tax money, the enforcement agency's illegal and forceful land auction, the police's random arrest of the volunteer, who was simply expressing her demands by the roadside, and so on. Defects in the legal and tax regimes in Taiwan as well as government officials that broke the law and abused their power have been exposed one by one. Who will take the emerging state violence crisis seriously and keep government officials away from evil? Who will be able to break the culture of inertia, re-establish Taiwan's democracy, and achieve seamless alignment with the international human rights trend? Taiwanese citizens are waiting.

The Tai Ji Men Case and the Two International Covenants

The Tai Ji Men case concerns not only legal and tax issues in Taiwan, but also the international perceptions of human rights in Taiwan. It has been 11 years since Taiwan implemented the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 2009. When the international review panel of the two covenants came to Taiwan in 2013 to review the national human rights report, they specifically asked about the status of the Tai Ji Men tax case. As the third national human rights report review meeting is going to be held in Taiwan next year (2021), what achievements will the Taiwan government be able to demonstrate with respect to the obligations and implementation requirements under the two covenants? The Tai Ji Men case, as a landmark case, involves the scope of human rights protection in the areas of freedom of religion and thought, the right to cultural life, fair trial, and effective remedies, which are safeguarded by the two covenants. After more than 20 years of futile efforts to seek statutory administrative remedy, the victims are still unable to obtain an effective remedy, and their basic human rights continue to be violated. This highlights the government's failure to perform its "Ubi jus, ibi remedium" (where there is a right, there is a remedy) obligation.

We would like to ask the Taiwanese government, which claims to have implemented the two international covenants, the following questions:

1. Has it fulfilled its commitment to respect human rights?
2. When the government has long violated their human rights and there are no remedies available, should people approach international organizations for assistance?

**The government has violated the principle of
“equality and non-discrimination”**

It is stated in General Comment No. 18 of the International Covenant on Civil and Political Rights (ICCPR) that “not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.” However, in the Tai Ji Men tax case, the NTB made different dispositions on Tai Ji Men for the red envelopes to the *shifu* for different tax years without any legal or objective reason, and treated Tai Ji Men differently from other martial arts or religious organizations, in clear violation of the ICCPR and inconsistent with the constitutional interpretations by the Grand Justices. In addition, the NTB lacks any reasonable and objective justifications for the different treatments, which is in violation of the most fundamental principles of equal protection and non-discrimination under the two covenants (Articles 2 and 26 of the ICCPR and Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Constitution of the Republic of China (Article 7).

**The government has violated the people’s right
to “freedom of religion or belief”**

Pursuant to Article 18 and General Comment No. 22 of the ICCPR and Article 13 of the Constitution, judicial interpretations rendered by the Grand Justices and academic theories, the freedom of religion and faith should be fully protected and interpreted in the broadest sense, with its application not limited to traditional religions. In addition, an individual’s freedom of thought, belief, and freedom to follow or practice the religion or faith of his/her own choice fall within the

scope of absolute protection and should not be restricted or violated by the state. Since the Tai Ji Men *dizi* can identify with their *shifu*'s tenet of purifying human spirit, they have decided to follow their *shifu* to practice qigong and cultivate their hearts and strengthen the bond between the *shifu* and *dizi* through a traditional ritual. The *dizi* make voluntary offerings to their *shifu* when joining the Academy and during important festivals of the Chinese people, out of gratitude to the *shifu* and due to their belief. This type of veneration is essential to personal practice of faith or religion and is the freedom of thought, belief, and religion the covenants seek to protect and is absolutely inalienable. The tax case is clearly derived from a religious crackdown and signifies the government's use of taxation to suppress the people's freedom of religion or belief.

The government has violated the people's "right to participate in cultural life"

Pursuant to Article 15 and General Comment No. 21 of the ICESCR, the core obligations a state has for cultural rights include encouraging the people to participate in cultural life, respecting and protecting the right of every person to practice his or her own cultural tradition, and taking active behavioral safeguards, systematically adopting legislation and other necessary steps to protect the right of people to participate in cultural life without discrimination. Tai Ji Men is an organization of qigong, martial arts, and self-cultivation, which inherits Chinese qigong and martial arts culture, aims to promote the physical, mental, and spiritual health of the world, and is registered as a member of the Chinese Martial Arts Association, the Chinese Qigong Association, and the Taipei Chinese Martial Arts Association. Over the years, the *shifu* has led his *dizi* to stage over 3,000 public interest and

cultural qigong and martial arts performances at home and abroad and has received considerable respect and admiration from all walks of life at home and abroad. The taxation act of the NTB for discriminatory purposes is completely contrary to the spirit of the two covenants and seriously violates the right to cultural participation of the *shifu* and *dizi* of Tai Ji Men.

The government has violated the people's right to a fair trial

With respect to the erroneous tax dispositions for the six tax years, the NTB corrected in 2019 the amounts in the consolidated income tax dispositions concerning the red envelopes to the *shifu* for a total of five years (1991 and 1993-1996) to zero. However, the NTB insisted on carrying out the compulsory enforcement based on the unlawful administrative court decision concerning tax year 1992 by auctioning the land of Tai Ji Men's *shifu*.

Due process of law, as well as the right to a fair trial and a public hearing before an independent and impartial court, as protected under Article 14 and General Comment No. 32 of the ICCPR and Article 16 of the Constitution, were clearly violated in the process by which the court decision pertaining tax year 1992 was published. Open oral arguments ensure trial transparency and serve as an important safeguard of individual and social interests. Vital evidentiary materials should go through full defensive and offensive exchanges between the parties during oral arguments pursuant to law, and these materials should be verified to be true before they can serve as the basis of a decision. However, in the decision concerning tax year 1992, the judge ruled against Tai Ji Men based on privately obtained materials and was clearly biased

in favor of the NTB, which is a serious violation of the people's right to have fair, just, and open trial proceedings under Article 14 of the ICCPR.

The government has failed to fulfill its obligation to provide effective remedies

The *shifu* and *dizi* of Tai Ji Men have spent 24 years seeking remedies and have identified major flaws in the retrial system in the judicial and administrative remedy as well as in the recheck mechanism of administrative tax agencies, and thus the people's right to an effective remedy under the two covenants have been seriously violated.

For the tax bill issued based on an erroneous indictment, the NTB only needed to correct the erroneous tax bill ex officio to stop the violation of the taxpayer's right. However, the NTB has surprisingly ignored judicial decisions and the Control Yuan's investigation, which contain findings of state agencies and objective evidentiary materials which are favorable to Tai Ji Men, and the NTB insisted on collecting taxes while it is fully aware that it has broken the law but is unwilling to deal with the mistakes honestly. On the other hand, the government has also surprisingly allowed the power of the NTB to exceed the findings of other state agencies. For over 20 years, tremendous administrative and judicial resources and government budgets have been wasted. What is more serious is that this has gravely disrupted the system of a constitutional democracy with separation of government powers and significantly violated the obligation of the government to provide effective remedies under the covenants.

Achieving justice in individual cases is often an important catalyst for driving the progress of a system. Tai Ji Men was

caught in the crossfire of the government's religious crackdown, and its tax case, which has lasted for over 20 years and has not been completely redressed, was a byproduct of the crackdown. This means that it has been more than ten years since the government signed the two covenants in 2009, and after two national human rights reports, the government has still not thoroughly reflected upon itself and practiced human rights-based governance. As long as the Tai Ji Men tax case remains unresolved, the Taiwan government will never be able to achieve a passing grade in the implementation of the two international human rights covenants. As long as the Tai Ji Men tax case remains unresolved, President Tsai's vision that Taiwan will become a land of religious freedom will not be achieved and will become nothing more than an empty slogan.

We sincerely hope that the government will promote human rights education so that respect for human dignity will be deeply ingrained in our culture, internalized in the law, and internalized in the core values of those in power. We also hope that the protection of human dignity and freedom of religion will be implemented in every individual case.

I. What are the two covenants?

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are the two international human rights covenants. They, together with the Universal Declaration of Human Rights, are known as the International Bill of Rights and are the most fundamental and overarching international human rights norms.

II. Why are there two covenants?

In order to implement the 1948 Universal Declaration of Human Rights and to legally bind the States Parties, the United Nations adopted the two international covenants on December 16, 1966, by which the States Parties are required to take appropriate measures to protect and respect fundamental human rights in the civil, political, economic, social and cultural spheres.

III. What are the procedures for accession to the two covenants?

A country seeking to become a signatory to an international human rights covenant needs to go through the signing, ratification, and deposit of the covenant. After Taiwan's ratification is completed in accordance with the Constitution and laws, the only remaining issue is deposit with the United Nations. However, since Taiwan is not a member of the United Nations, it has not completed the deposit process.

IV. President Ma Ying-jeou signed the ratification of the two covenants

In 2009, President Ma Ying-jeou also knew that even if Taiwan ratifies the two covenants, the deposit with the United Nations may be rejected. However, the two covenants were still ratified on May 14 in hopes that Taiwan would not only keep pace with the world in science, technology, economy,

and culture, but also align itself with the world in terms of human rights environment so that Taiwan can become a country that is truly on par with the rest of the world in terms of human rights agenda. The people of Taiwan should understand that the protection of human rights is not just a matter of words but requires real actions to show the world that Taiwan's human rights protection is in line with international standards.

V. What have the States Parties to the covenants done?

Countries that ratify international human rights covenants are committed to respecting human rights and ensuring that their domestic laws are consistent with international law. When the domestic law of a member state does not provide remedies for human rights violations, other member states have the right to seek the help of regional or international human rights protection agencies. Thus, the government of a state that becomes a signatory not only pledges to respect human rights but can also call on international organizations for assistance when the human rights of its people are violated.

APPENDICES

Appendix A

About Taiwan's Legal and Tax Matters (I)

Q: The police are coming to search my house. What do I need to know?

A: Theoretically, a search warrant is basically required, and the organization with the authority to issue a search warrant is not the police or the prosecutors' office, but the court. The search warrant should indicate the time, place, and scope of the search, and the search should not be conducted beyond the scope of the search warrant. If there is any discrepancy in the contents of the search warrant, the search can be refused pursuant to law.

Q: What should I do if the police officers do not have a search warrant and ask for permission to enter my house to take a look?

A: If the police do not show a search warrant, then the search is conducted without a search warrant. In this situation, the search requires the permission of the person subject to the search. Even if the police are allowed to enter and search, they may still be requested to present their papers to identify themselves.

Q: Can I request the presence of a lawyer during a police raid?

A: In principle, the person subject to the raid and the appointed attorney may be present at the raid site, and the enforcement agency should notify the person subject to the raid and his/her attorney to be present except when there is an urgent situation.

Q: Can the police come to me and ask me to go to the police station with them to explain the case?

A: Article 71-1 of the Code of Criminal Procedure stipulates that a police officer shall first prepare a notice and shall not apprehend or arrest a crime suspect or witness by force except for *a person in flagrante delicto*. Therefore, when the police come, the police can certainly be requested to show you the notice. In addition, when you are summoned by the police by telephone, you can certainly also request a formal notice to be sent to you first.

Q: The police say that the prosecutor has questions for me. Should I go with them?

A: Article 71, Paragraphs 1 and 4 of the Code of Criminal Procedure stipulate that if the prosecutor wants to question a defendant or witness, a subpoena shall be served. The police should also show the subpoena issued by the district prosecutors office and indicate the extension number of the clerk. If you are concerned that it is issued by a fraud ring, you can call to confirm.

Q: Is there definitely a written notice if I am summoned by a prosecutor?

A: Take an individual subpoenaed as a defendant for example. Under Article 71, Paragraphs 1 and 4 of the Code of Criminal Procedure, a subpoena shall be used to summon a defendant, and a subpoena shall be signed by the prosecutor during the investigation stage and by the presiding judge or commissioned judge during the trial stage. However, there is an exception under Article 72 of the same law, which provides, "The fact that an accused has appeared and is personally informed of the date, time, and place for his

next appearance and that an arrest warrant may be ordered if he fails to appear, all of which is made a matter of record, shall have the same effect as the service of a summons. The same rule shall apply if a defendant states in writing that he will appear at the appointed time." Therefore, in principle, a prosecutor should issue a subpoena to the defendant. However, if an accused has appeared and is personally informed of the date, time, and place for his next appearance and that an arrest warrant may be ordered if he fails to appear, all of which is made a matter of record, then that shall have the same effect as the service of a summons.

Q: What rights do I have if I am arrested by the police?

A: A police officer performing an arrest should inform the individual under arrest of the basic rights. Under Article 95 of the Code of Criminal Procedure, the individual under arrest shall be informed of the suspected crime and the right to remain silent. In addition, the individual may be accompanied by a lawyer from the very beginning of the interrogation in the police station and may ask the police to await the arrival of the lawyer before the interrogation may begin to protect his/her own rights and interests. If a certificate of low- or medium-income household is available, a pro bono lawyer may be requested from the Legal Aid Foundation.

About Taiwan's Legal and Tax Matters (II)

Q: Can the prosecutor directly detain me after questioning me?

A: In principle, since as early as 1997, the prosecutor has no longer had the authority to decide on detention. Instead, the prosecutor is required to apply to the court for detention, and a neutral third party not pressing charges conducts the review to determine if detention is necessary. Under Article 101, Paragraphs 1 and 2 of the Code of Criminal Procedure, the judge should review the evidence produced by the prosecutor to determine the cause and necessity for the above-mentioned detention and decide if a person is to be detained. Both the defendant and the prosecutor may appeal to a higher court against the court's decision by stating the reasons.

Q: Can I learn about the grounds and evidence the prosecutor relies on in his/her application for my detention?

A: On April 26, 2017, the President promulgated Article 33-1 of the Code of Criminal Procedure as amended in the Legislative Yuan, which provides the defendant or his/her defense attorney with the opportunity to review the case files pertaining to the reasons of arrest and grounds of detention in the investigation stage in dealing with the interrogation of the prosecutor and police and, in particular, the proceeding for reviewing a detention application. Therefore, a new provision was added to allow defense lawyers or the defendant to review case files and evidence during the proceeding for detention review in the course of investigation. Under Article 100, Paragraphs 3, 4, and 5 of the Code of Criminal Procedure, a lawyer should be present to defend the defendant

during the court detention proceeding and may apply to review case files. The prosecutor seeking to restrict or prohibit the review should appear in court and present the grounds. In addition, the portion of the case files which is prohibited from review should not be relied on by the judge for deciding if detention is to be granted. In addition, evidence relating to detention application may be copied or photographed so that the defendant may exercise his/her defense right in order to meet the gist of due process of law under Article 8 of the Constitution and of protecting the litigation right under Article 16 of the Constitution.

Q: Can the prosecutor and the judge prevent me from explaining my case? Can they only look into areas that are not favorable to me?

A: Under the law, the prosecutor and the judge are inherently required to pay attention to portions both favorable and unfavorable to the defendant (Article 2, Paragraph 1 of the Code of Criminal Procedure). When the defendant is interrogated, the defendant must be allowed to provide a continuous explanation of the alleged facts from beginning to end, and when the defendant mentions favorable aspects, the defendant is required to propose a method of substantiation (Article 96 of the Code of Criminal Procedure) such as requesting confrontation (Article 97 of the Code of Criminal Procedure) in order to protect the defendant's rights and interests.

Q: Do the police need to tell my family when they are taking me away with an arrest warrant?

A: Take the capacity of a defendant for example. Article 77, Paragraph 1 and Article 79 of the Code of Criminal Procedure provide that an arrest warrant shall be used for the arrest of a

defendant. In addition, an arrest warrant shall consist of two slips. Therefore, basically when the police conduct an arrest, one slip of the arrest warrant should be given to the defendant or his/her family for reference in order to be lawful.

Q: What can I do if I think the enforcement procedure was illegal after I was arrested by the police?

A: Pursuant to Articles 1 and 8 of the Habeas Corpus Act, the people can communicate their petition for habeas corpus to the arresting agency and for the court to intervene in reviewing the legality of the arrest and incarceration procedures.

Q: I'm detained, but my family doesn't know. What should I do?

A: Under Articles 102 and 103 of the Code of Criminal Procedure, detention should be carried out with a writ of detention, which should be delivered to the prosecutor, the detention center, the defense attorney, the defendant and his/her designated relatives or friends. Therefore, you can request that the writ of detention be delivered to the designated family members. In addition, the writ of detention must specify: (1) the name, gender, age, place of birth, and residence of the defendant; (2) the background of the case and the legal provisions that have been violated; (3) the grounds of detention and the facts relied on; (4) the detention site; (5) duration of detention and the commencement date; and (6) the remedies in case of objection to the detention disposition.

Q: What should I pay attention to in the preparation of the record when I am interrogated? Will the hearings conducted by a prosecutor or judge be audio or video recorded?

A: Under Article 100-1 of the Code of Criminal Procedure, the entire interrogation of the defendant should be continuously recorded. If necessary, the entire process should also be videotaped, provided that this restriction shall not apply in case of emergency, which is noted in the record. This also applies to court hearings. Under Article 44-1 of the Code of Criminal Procedure, the entire process for which a record is prepared should be audio recorded, and the record should be prepared in a manner that reflects the intent of the parties. If the parties believe that the record is not consistent with what they said, they can request a correction immediately. If the law enforcement agency does not accommodate major implications in the contents of the record, it can be asserted that the record will not be admissible evidence for subsequent court hearings. The police department and the Bureau of Investigation should also note that the procedure should be audio or video recorded. Even though video recording is not always conducted due to the differences in equipment, the entire process should be audio recorded.

Q: When I am interviewed, can I review the ultimate record? Can I make a correction to any mistake in my statement? Is my signature required at the end?

A: Nowadays, records of investigation (by both the police and Bureau of Investigation) and court hearings are made by typing on the spot, and finally the entire record will be shown to the person being interrogated. The interrogated person should see if there is any mistake in the record, and if there is any mistake, he/she should immediately ask for correction, and a correction, if any, should be specially noted. Finally, the record should be signed. However, a court trial record does not require the signatures of the interrogated individuals.

Q: Can the prosecutor (or judge) force me to confess to a crime or ask me to cooperate and say things unfavorable to other people by promising that I can post bail or get a lighter sentence?

A: When questioning the defendant, the prosecutor or judge should have a proper attitude, and the defendant should be allowed to talk absolutely freely according to his/her intention. It is inappropriate to use threats or deception or even offer certain terms to request the defendant to make a statement against his/her intention and contrary to the facts. A record so created is legally not admissible evidence.

Q: Do I need to prove that I did not commit the crime?

A: The principle of presumed innocence is adopted for criminal cases. Simply put, this means that a person is presumed to be innocent until proven guilty in a trial. In addition, the fact of the crime should be established with evidence, and if there is no evidence, the fact of the crime cannot be established. In other words, a crime suspect or defendant has no obligation to prove his or her innocence, which is a manifestation of the principle of presumed innocence. This is not only a principle of due process of law in a country under the rule of law, but also a constitutionally guaranteed right.

Q: If I was coerced to admit things I had not done during investigation by the police or people from the Bureau of Investigation, can I deny them in court?

A: Under the exclusionary rule of evidence, testimonies or exhibits obtained in violation of legal procedures can be excluded and regarded as inadmissible evidence in criminal proceedings. Therefore, if a police officer or prosecutor employs violence, coercion, inducement, fraud, fatigue inter-

rogation, illegal detention, or any other improper means to force a crime suspect or defendant to testify against himself or herself, this is legally known as confession without voluntariness. This not only calls into question the truthfulness of the confession but also creates the problem of tolerating judicial personnel to obtain confessions by improper means and seriously undermines the principle of human rights protection in a democratic country. Such a confession cannot be used as evidence to prove criminal facts.

About Taiwan's Legal and Tax Matters (III)

Q: Is it possible for criminal proceeds, which should be confiscated pursuant to law, to be subject to income tax at the same time?

A: According to the principle of criminal priority, proceeds of crime should be confiscated pursuant to law, and since the criminal act has been criminally punished, the proceeds of crime should not be subject to income tax and the property right of the defendant should not be violated this way. When an income is deemed proceeds of crime, it cannot be a lawful income. Otherwise, there is a contradictory logic error.

Reference laws and regulations: Article 26 of the Administrative Penalty Act

Q: Can the NTB rely solely on information in a prosecutor's indictment for its tax bills without conducting an ex officio investigation?

A: Pursuant to the Administrative Procedure Act and relevant tax law requirements, the NTB shall conduct an ex officio investigation before issuing a tax bill. Police and investigation agencies are both administrative agencies, not judicial agencies. The indictment issued by a prosecutor is just a statement issued by an administrative agency. All the matters to be proven cannot serve as evidence until they are examined in a court trial. Therefore, an indictment is not an adjudication of a judicial agency at all. The NTB cannot rely on an indictment as the basis of taxation.

Reference laws and regulations: Article 36 of the Administrative Procedure Act, Article 12-1 of the Tax Collection Act, Article 11 of the Taxpayer Rights Protection Act, and the Tai-Tsai-Su-Tzu No. 09313512360 Circular from the Ministry of Finance

Q: Should the NTB give me a chance to state my opinion before it makes a tax assessment or orders a penalty?

A: Before the tax authorities make a tax assessment or order a penalty, a taxpayer, pursuant to law, should be given a chance to provide an explanation concerning the tax disposition to be rendered. In practice, however, in the past, taxpayers were not given any chance to state their opinions beforehand because there is a recheck procedure for tax dispositions; consequently, taxpayers did not know that they were required to pay supplemental taxes until receiving tax bills. Currently, a special chapter for the protection of taxpayer rights has been added to the Tax Collection Act, and the Taxpayer Rights Protection Act has come into effect. Both Acts require that taxpayers be given an opportunity to state their opinions before the NTB makes a tax assessment or orders a penalty.

Reference laws and regulations: Article 102 of the Administrative Procedure Act, the proviso to Article 103 of the Administrative Procedure Act, and Article 11 of the Taxpayer Rights Protection Act

Q: In the process of tax collection, if a taxpayer does not provide accounting books and records, can the tax agency levy taxes by way of estimation?

A: When a taxpayer is unable to provide direct tax information such as accounting books, vouchers or documents, if

the taxpayer is highly suspected of tax evasion, the tax agency can obtain bank information for investigation and assess the taxable income by way of estimation based on the profit rate of the industry only after obtaining an approval from the Ministry of Finance (MOF) (both criteria – “high suspicion of tax evasion” and “MOF approval” – should be satisfied).

However, the estimation can only target the tax base, such as the revenue, income, sales amount, proceeds, expenses, and profits, which form the basis of tax assessment. With respect to the determination of tax facts (such as the nature of income or business operation of the taxpayer), this requires evidence-based investigation, and it is not permitted to determine if the tax criteria are met by way of estimation.

Reference laws and regulations: Article 83 and Article 83-1 of the Income Tax Act

Q: Does everyone have the obligation to set up accounting books and records?

A: Not everyone. Only profit-seeking businesses and individuals engaging in professional practice are required to maintain accounting books and records. Under Article 14, Paragraph 1, Category 2 of the Income Tax Act, an individual engaging in professional practice shall set up at least one kind of daily journal to record his/her business income and expenditure items in detail. For business expenses, actual vouchers shall be obtained. The accounting books and vouchers shall be kept for at least five years. Article 21 of the Income Tax Act stipulates that “A profit-seeking enterprise shall keep sufficient and accurate account books, vouchers and accounting records to calculate its total amount of business income.”

Reference laws and regulations: Article 14, Paragraph 1 and Article 21 of the Income Tax Act

Q: Can people apply to tax agencies, the Petitions and Appeals Committee (PAC) or the administrative court to review tax materials? Can tax agencies withhold such materials?

A: Although the Tax Collection Act stipulates that tax authorities have a confidentiality obligation, still the main purpose of tax secrecy is to protect the personal interest of taxpayers. The tax materials concerning a taxpayer are not confidential to the taxpayer. Therefore, when a taxpayer or his/her successor or his/her authorized agent applies for a copy of relevant tax materials during tax assessment and the pursuit of tax remedies, the tax authority, the PAC, and the administrative court should provide the materials and should not refuse or withhold such materials.

Reference laws and regulations: Article 33 of the Tax Collection Act, Article 46 of the Administrative Procedure Act, Article 5 of the Freedom of Government Information Act, Article 49 of the Administrative Appeal Act, and Article 96 of the Administrative Litigation Act

Q: Can the tax authorities impose targeted tax dispositions in the course of tax collection?

A: The Constitution provides that all people are equal under the law, regardless of gender, religion, race, class, or party affiliation, and that property rights shall be protected. The same requirement can be found in the Administrative Procedure Act. An administrative act shall not provide differential treatments without justification. Therefore, the government should also adhere to the principle of equality in taxation. If

individuals, companies, or organizations of the same category are not taxed, specific individuals, companies or organizations shall not be subject to a tax disposition which is different from the general principle.

Reference laws and regulations: Article 7 and Article 15 of the Constitution and Article 6 of the Administrative Procedure Act

Q: What is the investigative procedure for a tax audit?

A: Before conducting an investigation, a tax officer shall notify the auditee in writing of the subject matter and the scope of the investigation or inquiry. Meanwhile, the auditee has the right to choose an agent or an assistant to be present. Before the agent arrives, the auditee may refuse to make any statement or accept the investigation.

Reference laws and regulations: Article 12, Paragraphs 1 and 2 of the Taxpayer Rights Protection Act

Q: What can I do if I encounter an unlawful investigation by an investigator from the taxation agency?

A: If the investigator conducts an illegal investigation, the person being investigated may audio or video record the process of investigation on his/her own or request the taxation agency to do so, and the taxation agency shall not refuse.

Reference laws and regulations: Article 12, Paragraph 3 of the Taxpayer Rights Protection Act

Q: In the course of tax assessment, if the case is derived from a criminal case, can the taxation agency elect to issue a tax bill or impose a fine without waiting for the final criminal decision to confirm the nature of the income in question?

A: If the case is derived from a criminal case, since the criminal and tax cases are based on the same facts, and the criminal court adopts a more stringent procedure than the administrative court to examine the facts and evidence, administrative court decisions and Ministry of Finance (MOF) circulars both specifically point out that a tax bill cannot be issued until the final criminal decision is issued and the nature of the income is confirmed.

Reference laws and regulations: The 29-Pan-Tzu No. 13 Decision rendered by the Administrative Court in 1940, the 32-Pan-Tzu No. 18 Decision rendered by the Administrative Court in 1943, and the MOF's circular dated September 29, 2004

Q: What measures can a taxpayer take when an unreasonable and unlawful supplemental tax bill is received?

A:

1. If the taxpayer believes that a tax bill is erroneous due to erroneous record, miscalculation, or other obvious errors, or if a notice of payment is repeatedly issued for the same tax fact, the taxpayer may apply for "verification and correction" during the payment period.
2. If the correction is not made or if you are not satisfied with the correction, you may apply for a recheck within 30 days after the expiration of the payment period.

3. If you believe that the tax bill is not erroneous or repetitive, you can apply for a recheck directly, and the correction procedure does not apply.

Reference laws and regulations: Article 17 and Article 35 of the Tax Collection Act

Q: What can you do next if you are not satisfied with the results of the recheck?

A: If you are not satisfied with the results of the recheck, you can file an administrative appeal to seek remedy. If the tax in question is a local tax (e.g., housing tax or land value tax), you can file an administrative appeal with the petitions and appeals committee of the county or municipal government; and if it is a national tax (e.g., income tax or business tax), you can file an administrative appeal with the PAC of the MOF.

Reference laws and regulations: Article 38 of the Tax Collection Act

Q: Are there any criteria for filing an administrative appeal?

A: When filing an administrative appeal, you have to pay half of the payable tax amount specified in the recheck decision or provide a guarantee; otherwise, you will be restricted from leaving this country, your property will be seized, auctioned or sold, or you will be taken into custody, etc.

Human rights violation: The above provision is an unconstitutional provision that violates the people's right to petition. When a taxpayer is not satisfied with the tax bills issued by the tax authority and the remedy process is still ongoing, the taxpayer is required to pay half of the tax amount before the

tax amount or the payability of the tax is determined. This is tantamount to rendering a decision before the trial begins. The government should amend the law as soon as possible to remove the provision.

Reference laws and regulations: Article 39, Paragraph 2 of the Tax Collection Act

Q: What organization is responsible for “administrative appeals”?

A: The superior agency of the agency making the original disposition is responsible for handling an administrative appeal. For the handling of administrative appeals, each agency is required to set up a petitions and appeals committee consisting basically of members with expertise in law. The members of a petitions and appeals committee should consist of high-ranking employees of the agency, fair-minded members of the society and scholars and experts. In particular, fair-minded members of society and scholars and experts should account for no less than one half of all the members. In addition, to strengthen the protection of taxpayer rights, the Taxpayer Rights Protection Act even provides that the fair-minded members of society and scholars and experts should account for no less than two thirds of all the members and should have expertise in law, finance and tax or accounting.

Violation of human rights: The reason for including members from outside the system is to ensure that the people’s administrative appeals can be reviewed fairly and impartially so as to enhance the credibility of a decision on administrative appeals. However, the appointment of the petitions and appeals committee members is controlled by the agency, and it appoints scholars and experts relatively close to it as

the members. As a result, the current situation is that incumbent officials dictate administrative appeal cases, and that it is more difficult to achieve the objectives of fairness and objectivity. This issue should be addressed.

Reference laws and regulations: Article 52, Paragraphs 1 and 2 of the Administrative Appeal Act and Article 17 of the Taxpayer Rights Protection Act

Q: When you are not satisfied with the outcome of the administrative appeal decision, what can you do next?

A: If the individual filing the administrative appeal is still not satisfied with the results of the administrative appeal, he/she can file a lawsuit with the administrative court within two months after receiving the administrative appeal decision, so that the judicial power can intervene, and the court can be requested to issue a fair decision on the public law disputes.

In addition to the high administrative court and the Supreme Administrative Court, the Judicial Yuan set up administrative litigation tribunals in the district courts in 2012. For cases of summary proceedings (e.g., cases with minor penalties or penalties of less than NT\$400,000) and traffic adjudications, the administrative litigation tribunal of a district court should be the court of first instance. The second (final) instance is the high administrative court. For other ordinary cases, the high administrative court is the first instance court, while the second (final) instance court is the Supreme Administrative Court.

Reference laws and regulations: Article 90 of the Administrative Appeal Act and Articles 4 and 5 of the Administrative Litigation Act

Q: Why are administrative courts in Taiwan called “failure courts” or “rejection courts”?

A: According to the statistics compiled by Associate Professor Shih-Chu Huang of National Taipei University of Business about tax lawsuits in 2011 through 2013, the people’s success rate was only 6.11%. Even in the past five years, of all the 129 cases involving income taxes of profit-seeking enterprises and tried in the Kaohsiung High Administrative Court, the taxpayers only won one case, and the average success rate was only 0.78%.

Source: the webpage of the Secretariat Office of the National Taipei University of Business at <http://sec.ntub.edu.tw/files/16-1023-37415.php>, last viewed on March 25, 2018

Q: When the administrative court rendered a decision in your favor, does it mean that the tax bill issued to you by the taxation agency will be cancelled once and for all?

A: The current administrative court is negligent for not determining the facts and the tax amount and not cancelling the original disposition. They just remand the case to the agency making the original disposition to render a legally appropriate disposition. As a result, the case returns to the original starting point where the taxpayer was dissatisfied and applied for a recheck. A taxation agency often changes the tax amount or fine and then issues a new tax bill. The taxpayer’s victory in the lawsuit is pointless. Such violation of human rights has violated the two covenants.

Reference laws and regulations: Article 2, Paragraph 3 of the International Covenant on Civil and Political Rights and Articles 2, 4 and 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

Q: After a court decision is confirmed, if you or the taxation agency finds that the tax bill is indeed unlawful, what can you or the taxation agency do in addition to seeking administrative remedy?

A: Since it is the obligation of government to conduct administration pursuant to the law, even if the taxpayer fails to initiate the remedy procedure due to omission, the administrative agency can cancel the unlawful tax bill on its own in accordance with Article 117 of the Administrative Procedure Act. The taxpayer can also apply to the administrative agency to cancel, revoke, or change the tax bill. If new facts or new evidence sufficient to prove that the tax bill is incorrect are found after a decision is rendered, the tax bill can be cancelled according to the above-mentioned procedure in addition to filing a retrial in accordance with law.

Reference laws and regulations: Articles 117 and 128 of the Administrative Procedure Act

Appendix B

Ten Years of Tax Reform Advocacy on Ketagalan Boulevard

- The government is not willing to listen.
- The government is not willing to solve the problems.
- They sat by and watched as an organization of qigong, martial arts, and self-cultivation was violently abused by this country's legal and tax systems for 24 years.
- For 10 years (2010-2020), people had no choice but to march onto Ketagalan Boulevard undeterred by the roasting weather and torrential rain.
- How can the government allow this to happen?



As the government still continued to turn a deaf ear to people's demands for legal and tax reform a decade after the initiative began, Tai Ji Men *dizi* braved the wind, rain, and sun to stage a sit-in protest in front of the Presidential Office Building, each holding a sign that reads, "injustice."

“Implementing Tax Reform to Save Taiwan, All People Stand Up” in 2010

On the centennial of Taiwan’s founding, the movement of “Implementing Tax Reform to Save Taiwan, All People Stand up” urges the government to respect the people’s right to existence and liberty, their property rights, and their right to work.

Demand 1: The government is urged to pass the Taxpayer Rights Protection Act.

It is hoped that with the birth of the Taxpayer Rights Protection Act, tax victims will no longer need to stomach the unreasonable tax bills. There will be, at the minimum, legal provisions and taxpayer rights protectors to safeguard the people’s rights and interests.

Demand 2: The tax laws and regulations that violate the two international human rights covenants should be reviewed.

On December 10, 2009, President Ma Ying-jeou announced that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and their implementing legislation formally came into force. After one year of implementation, has the government thoroughly reviewed the tax laws and regulations that violate the two Covenants?

Demand 3: Revoke all illegal and inaccurate tax bills in accordance with the law.

Tax victims from all walks of life are burdened with everlasting and tortuous tax bills. If the tax system and tax laws are not amended, people will need to dispute these bills one after another, endlessly. This disaster could extend to future generations.

Demand 4: Take serious disciplinary actions against the unlawful tax officials.

The NTB committed forgery and concealed evidence that proved the red envelopes were gifts given to the *shifu* (master) by Tai Ji Men *dizi* (disciples.) That is illegal and a serious violation of human rights. Naturally, the tax officers involved should be severely punished by law.

In Greek mythology, Sisyphus was punished for offending gods and was forced to roll an immense boulder up a hill, only to watch it roll back down. He had to repeat this action for eternity. The treatment of the Tai Ji Men tax case is just like the never-ending punishment of Sisyphus – one without any true remedies.

Opinions of Experts and Scholars in 2010

Mu-ming Yu, Chairman of the New Party

Although I do not have a legal background, I understand that taxpayers' rights are fundamental to democracy. A country would not qualify as a democracy under the rule of law if its tax agency continues to impose unjustified taxes, ignoring the criminal decision, which found the defendants not guilty of tax evasion or any other charges after a decade of judicial entanglement.

Chun-hung Chang, Former Legislator

There have been four different presidents since the first direct presidential election, but today we still see "judges sitting on their thrones forever and enjoying outrageous salaries, privileges, and the prerogative of a king." If this can be tolerated in a democratic society, what else cannot? Francis Bacon, a 17th century English philosopher, said, "The consequences of an unjust judgment are equivalent to more than 10 crimes; and while crime pollutes rivers, unjust judgments pollute the sources of water." Such a phenomenon is gone in the UK 300 years later. However, the abusive prosecution by a prosecutor in Taiwan today can trigger unlawful decisions delivered by 100 judges. The Tai Ji Men case is the most classic example.

Attorney Jim Chang

The tax system that undermines this country has lasted for not just 14 years but at least 40 years. This country is lovely and great, but law enforcers are breaking the law. I was once a victim when the bank informed me that a sum of money was deducted by the NTB because I had an unpaid property tax bill sent to a registered household address that was vacant. Neither had I received the tax bill nor been informed by the Administrative Enforcement Agency. I was completely in the dark until I was informed by the bank of the payment deduction. Administrative appeals are a mere empty formality, and administrative courts are courts which rule against the people.

“Unfair Taxes: Stakeout on Ketagalan Boulevard” in 2016

As the unjust Tai Ji Men case went on for 20 years without intended resolution from the government, a tower of light commemorating the “1219 Human Rights Day” was erected on Ketagalan Boulevard on December 19, symbolizing democracy and freedom. It is our hope that we would usher in an era where there would be no more unjust or fabricated cases in Taiwan, and that the legal and tax systems in Taiwan could be truly reformed.

With the establishment of the Tax and Legal Reform League, tax victims who had been hopeless and were hiding in the shadows began to bravely march onto Ketagalan Boulevard. They joined hands with other victims to fight for taxpayer rights and end tax injustice.

1. End tax disasters and solve the problems.
2. Promote legal and tax reform; follow the rules of evidence and due process.
3. Rectify and correct unjust and fabricated cases and carry out transitional justice.
4. Truly enforce taxpayer rights.

Opinions of Scholars and Experts in 2016

Prof. Chun-chieh Huang

Distinguished Professor of Financial and Economic Law of National Chung Cheng University and Member of the Presidential Office Human Rights Consultative Committee

I discussed the Tai Ji Men case with the NTB in the past, the NTB officers privately admitted that they could not find any legal provision that justifies the taxation. However, in the NTB's position, it was acceptable to reduce the amount, but complete exemption was out of the question. Had there been no unlawful and cruel government officials, the Tai Ji Men case would have been resolved a long time ago! If the administrative, legislative, and judicial powers of a country cannot side with the people, the people will have no choice but to exercise their resistance right to request the government to do the right thing.

Attorney Chien-an Wang

Beacon International Attorneys at Law

Although judicial reform is of paramount importance, tax law reform is the core of judicial reform. The Tai Ji Men case is the epitome of all tax cases and cases of tax injustice.

Prof. Yeong-ming Chang

Department of Economic and Financial Law, National Kaohsiung University

Tax problems are encountered by everyone. Tai Ji Men dizi (disciples) rise above their own unjust tax case and stand up to push for a true tax law reform together. That is truly admirable!

Yi-nan Chen

Arbitrator

I urge all law enforcers to follow their conscience and call on judges to change their mindsets so that the people will be given an opportunity to serve as jurors in a trial and participate in judicial operations. In the era of popular sovereignty, the government should emulate the German Basic Law and give the highest priority to the people's rights.

“Movement Against Evil Tax String Pullers” in 2017

Who is behind the scenes of the twisted tax system? What is the motive? The answer is hidden in the bonus program for tax collectors.

Five major demands:

1. Constitutionalize taxpayer rights and abolish illegal interpretations by government circulars.
2. Rectify unjust tax cases and terminate everlasting and tortuous tax bills.
3. Abolish the bonus program for tax collectors and eradicate illegal taxation.
4. Refund over-collected taxes and severely discipline the unlawful tax officials.
5. Openly and fairly select taxpayer rights protectors and tax judges.

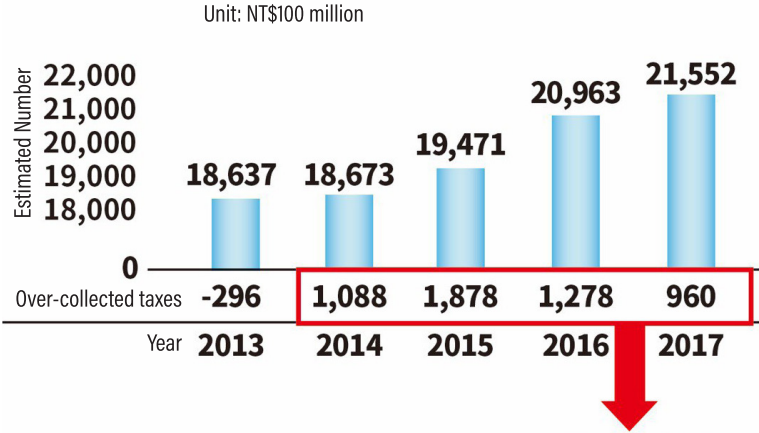
Are the taxes paid by the people of Taiwan not enough for the country?

Everyone is a tax victim.

From 2013 to 2017, NT\$520 billion were over-collected.

The NTB also used the taxation methods of a totalitarian country, “negotiating” with the people and forcing them to pay unjustified taxes by administrative orders, in order to squeeze more taxes out of the people, which created more tax victims.

Over-Collected Taxes in Recent Years



Note: In 2017, the estimated number was for the entire year while the amount of over-collected taxes represented that for the first three quarters.

Source: The Ministry of Finance
United Daily News, October 30, 2017

5,204 Billion

“Illuminate Taiwan via Law and Tax Reform” in 2018

Young Power

The Tax and Legal Reform League launched the “Illuminate Taiwan via Law and Tax Reform” movement, which started with the power of the common people, and visited 7860 villages and boroughs throughout Taiwan, including offshore islands. The village and borough leaders, who have first-hand knowledge of the people’s wishes, started to co-sign the tax reform petition. At that time, as high as 96% of all village and borough leaders supported and endorsed the petition. Meanwhile, a group of young people started to deliver the sacred torch around the island and increased the interactions with leaders and residents of villages and boroughs to promote the tax reform demands.

Demand 1: Conduct legal and tax reform to end tax disasters.

To address prevalent tax disasters, the tax system and taxation concepts should be reformed. As a result of the NTB’s “malicious tax audits,” many tax victims criticized the NTB’s unwritten rule that “taxpayers should more or less pay some taxes even if they are not required.” When an enterprise found tax filing errors and asked the NTB how to correct the errors, it was imposed with a heavy fine that is 20 times of the taxed amount. The motives of the tax officials are truly questionable.

Demand 2: Save the people from suffering from low wages and return the over-collected taxes to the people.

The Ministry of Finance over-collected more than NT\$500 billion over the past four years from 2013 to 2017. The government is urged to have transparent financial operations and publicize money flows. Over-taxation is an unjust enrichment, and the excess taxes should be refunded to the people. With such implementation, each citizen in Taiwan could receive NT\$22,000 on average.

The “Anti-over taxation and Abolition of Bonuses for Tax Collectors” movement was initiated because bonuses for tax collectors may in fact encourage tax collectors to illegally issue tax bills and ultimately result in over-taxation.

Demand 3: Elect the wise and capable to light up Taiwan.

The tax system is related to the people’s livelihood and the country’s economy, so the grassroots power of the people was harnessed by collecting co-signatures of village and borough leaders and of people’s representatives, county and city mayors and all levels of government officials.

At this critical point in time before the election, the Tax and Legal Reform League also announced its support of candidates who support legal and tax reform, encouraging the people to elect the wise and capable so that we can join hands in improving the legal and tax systems and save Taiwan from its economic hardship.

“Tax Reform Parade: Preventing the Exodus of Children from Taiwan” in 2018

Get Rid of Rogue Tax Officials to Secure Our Future

Demands of the parade

1. Keep the roots of enterprises in Taiwan: Carry out tax fairness and justice and reject illegal tax bills and “threats to businesses.”
2. Prevent the exodus of children from Taiwan: Attract investment, address the issue of low wages, and create an environment favorable for securing their foothold in Taiwan.
3. Make taxpayer rights a universal value: Improve tax remedies, redress tax injustice, and defend the spirit of democracy.



Protesters demanded that the government remove rogue tax officials and implement legal and tax reform to secure themselves and their children a brighter future.

"Anti-Authoritarianism and the Fight for Survival" in 2018:

The 1219 Human Rights Day

The Tai Ji Men 1219 Incident took place on December 19, 1996, when a series of government purges and crackdowns on religious groups resembled the resurgence of the White Terror. Scholars and experts refer to this incident as the Law & Tax 228 Incident, which was concluded as a human rights abuse incident in the "General Report and the Work of Human Rights Protection of the Control Yuan (1999-2005)." It was also listed as a case of human rights violations against an organization in the "ROC Centenary, Taxation and Human Rights White Paper."

The government is urged to fulfill its promises to the people by redressing the 1219 Incident immediately, carrying out transitional justice, ending the everlasting and tortuous tax bills, and implementing judicial and tax law reform to further the economic development of this country and to become a true democracy under the rule of law.

Opinions of Scholars and Experts in 2018

Legislator Ting-fei Chen

I'd like to use the Tai Ji Men case as a classic example of a tax disaster. Tax agencies did not clearly understand the nature of Tai Ji Men and made erroneous determinations. In this regard, the administrative court should provide the taxpayer more opportunities for clarification. The original decision of the Taiwan High Administrative Court was reversed by the Supreme Administrative Court. Therefore, the grounds and reasons for the reversal should be contemplated. If the fairness and justification of the issuance of the tax bill at that time had been considered from this perspective, a lot of unnecessary litigation could have been avoided.

Legislator Kuo-chang Huang

I'd like to express my gratitude to the people who have stood up for taxpayer rights. I also know that the people are truly infuriated. They repeatedly won in administrative courts over a case of illegal taxation, but the NTB just issued another illegal disposition each time it lost. In the face of such an endless cycle, when can the taxpayer rights be truly protected?

One decision issued by the Supreme Administrative Court in the summer of 2018 shed light on the resolution of the everlasting and tortuous tax bills. It is necessary to continually monitor and assure the judges of the high administrative court are guided by the gist of the Supreme Administrative Court decision as well as the spirit of the Taxpayer Rights Protection Act and the protection of taxpayer rights. I hope the judges can demonstrate their moral courage by rendering decisions on their own and putting an end to this.

“From Persecution to Vindication: The Path of Democracy and Human Rights” in 2019

The White Terror in the martial law era remains in the form of legal and tax oppression in Taiwan.

A special exhibition under the theme of “From Persecution to Vindication: The Path of Democracy and Human Rights” in 2019 was organized by the Taiwan Association for Financial Criminal Law Study in venues such as the National 228 Memorial Museum and featured a series of exhibitions. Through major human rights abuse cases, such as the 228 Incident, the White Terror, the Kaohsiung Formosa Incident, the cases involving factory lockouts nationwide, and the efforts to rectify the Tai Ji Men case, the exhibitions allowed the visitors to understand the evolution of human rights development in Taiwan and realize that human rights are secured through laborious struggles.

People’s awareness of taxpayer rights has significantly increased after the financial tsunami in 2008. According to statistics, there were as many as 11.04 million new enforcement cases involving outstanding payment of taxes and government fees in 2019. Since there are 23 million people in Taiwan, this means that on average there is one case pending enforcement for every two people. Was it caused by a multitude of unlawful citizens or because taxpayer rights have long been trampled? It is true that you cannot live on democracy, but without it, everything, including your life, your wealth, everything that belongs to you, can disappear at any time.

Opinions of the 228 Incident Victims

Kuan-yu Tsai

Victim of the White Terror

We were locked up in a small prison, and our families were emotionally in jail. Taiwan was a prison island, and the persecution targeted the entire Taiwanese population. Everyone was frightened, and their trust in each other disappeared. We must go through transitional justice after the authoritarian rule is over.

Chin-sheng Chen

Another Victim of the White Terror

He came from Malaysia to Taiwan at the age of 18. He was wrongly accused of being an international communist spy and sentenced to 12 years in prison.

What I want the most is the truth behind our suffering and hope that the wrongdoers would apologize to us. I'd like to suggest to President Tsai that the implementation of transitional justice should not be limited to a certain period of time. Injustice cases occurred after 1991 should be redressed as well. All authoritarian persecutions must be dealt with.

Opinions of Scholars and Experts in 2019

Prof. Tze-lung Chen

Former Director of the Memorial Foundation of 228 and Current Chairman of the Taiwan Association for Financial Criminal Law Study

While political persecution has a long history, the vindication of the victims is not possible in the foreseeable future. There is no vindication without identifying the perpetrators. In light of the political purge launched in 1996, although the general public perceived problems in the Tai Ji Men case (a political purge case), the NTB still issued tax bills to Tai Ji Men. The soul of Taiwan is still plagued by authoritarianism, and there is a huge problem within the system in that the administrative branch of the government serves those in power instead of the people.

Ching-Chin Wu

Associate Professor of Law, Aletheia University

The so-called "transitional justice" in Taiwan is constrained since it is limited to the period of 1945 to 1992. I believe that transitional justice is required for all actions or incidents involving collective and structural violation of human rights. For example, the Tai Ji Men case obviously involves persecution of the people through government organizations and structure. Although Tai Ji Men has been acquitted in a final criminal decision, the tax case derived from the criminal case has still lingered on even to this day. Only transitional justice can fundamentally resolve this issue.

Attorney Sean Chen

To redress a fabricated case is challenging because not only the government has to admit its mistakes, but also evidence should be collected. The Tai Ji Men case is a classic fabricated case. The key to the issues about this case is whether the red envelopes to the shifu (master) are tuition income or gifts. Taxation should be based on evidence. However, the NTB has been unable to provide concrete evidence from the very beginning.

"Rescuing Taiwan and Stopping a Few Unlawful Officials from Hijacking the Nation" on July 26, 2020

President Tsai Ing-wen, please uphold justice!

Three major demands:

1. Cancel the illegal auction immediately, or a full-scale lawsuit will be pursued all the way through.
2. Withdraw the illegal tax bills immediately, or full-scale resistance will be waged all the way through.
3. President Tsai Ing-wen is requested to uphold justice and respond to the people's demands by severely penalizing unlawful government officials and comprehensively revealing the truth behind the corruption of government officials.

The basis of the demands:

- Since 1997, the Ministry of Education has stated three times that Tai Ji Men is not a cram school.
- In 2007, the third instance criminal court issued a final decision, acquitting Tai Ji Men and concluding there was no outstanding tax.
- In 2009, the Control Yuan investigation pointed out seven major violations of law by the NTB.
- On June 17, 2010, the Ministry of Finance and the NTB of the Central Area promised to cancel the tax bills and stop the enforcement during the Legislative Yuan hearing.
- In 2018, the Supreme Administrative Court issued its No. 422 Decision, stating that Tai Ji Men is an organization of qigong, martial arts, and self-cultivation and that the final decision for tax year 1992 failed to consider the fact

about the red envelopes being gifts as determined by the criminal decision and the open survey results.

- In particular, in 2019, the NTB corrected the taxes related to the red envelopes for 1991 and 1993-1996 to zero.

Campaign on Ketagalan Boulevard on August 19, 2020

“Save the Taiwanese people! President Tsai and Premier Su, have you heard the voices of the people?”

Three major demands:

1. Cease the illegal auction immediately.
2. All decision makers in the government are requested to implement its error-elimination process.
3. The government is requested to establish an effective remedy system.

During this campaign on Ketagalan Boulevard, experts and scholars have targeted their criticism at the authorities with the intention to see if the ruling party can truly shoulder the responsibility and take necessary actions.

Dr. Tze-lung Chen, former Professor of Law at National Taiwan University

Taiwan is a democratic country under the rule of law, but a small group of people are abusing their power. I would like to urge the government to take resolute action to deal with this small cluster of “cancer cells,” or Taiwan’s democracy and rule of law will be jeopardized, and Taiwan will be “despised by the world.”



Prof. Yung-chang Chen, National Taiwan University

Why did the Administrative Enforcement Agency proceed with the auction even when the court has ruled that Tai Ji Men is not guilty of any crime or tax evasion? It is because of the corrupt government officials and the corruptions in the government. The President and the Premier should stand up and resolve the issue not just for Tai Ji Men, but for the tax reform in Taiwan.

Huan-chih Su, former Tainan County Magistrate

The Ministry of Justice, the Executive Yuan, and the Presidential Office should pursue the liability of the Administrative Enforcement Agency (AEA). The two government agencies (the NTB and AEA) have passed the buck for more than 10 years, inflicting tremendous pain on so many people. This case is a major human rights violation case. This year, the Control Yuan established the Human Rights Commission. The President should mandate the Members of the Control Yuan to listen to the voices of the people.

Chung-hsin Hu, the host of a political commentary program

Tai Ji Men has struggled for 24 years and is the only group in the world that pursues their demands in a peaceful, rational, and non-violent manner. I hope President Tsai, Premier Su, and all relevant officials would remember they said back in 2016 that they should be extremely humble and resolve the people's problems.

“Saving Human Rights and Fighting for Taiwan” on August 23, 2020

The trial judge of the Taichung High Administrative Court clearly stated that his decision should be bound by No. 422 Decision of the Supreme Administrative Court. He stressed that since the case had prolonged for 23 years, he understood the people's suffering from the long-lasting litigation. He also hoped to save administrative and judicial resources and instructed during a court session that the parties should settle pursuant to law.

Demand 1: Severely discipline and impeach unlawful government officials so that no one will be persecuted by the government again.

In 2002, the Control Yuan conducted an investigation on Prosecutor Kuan-jen Hou, who investigated the Tai Ji Men case in 1996, and confirmed he had committed eight major violations of law. The Control Yuan requested the Ministry of Justice (MOJ) to take severe disciplinary action against Hou, but the MOJ did not take any such action. On December 15, 2010, the MOJ was corrected by the Control Yuan, which pointed out, “The Control Yuan previously requested the MOJ to take disciplinary action, but the MOJ surprisingly only treated this as an ordinary petition case from the people. As a result, the disciplinary action is long overdue. This has also undermined the constitutional system of the five government powers.” Instead of being punished, Kuan-jen Hou was promoted to Deputy Director-General of the Agency Against Corruption in 2018.

The fabricated and unjust case of Tai Ji Men was caused by government misdoings. However, if the perpetrators are not

dealt with and if crime rings are formed, people will continue to be victimized in the future.

Demand 2: Redress unjust and fabricated cases and defend human rights in Taiwan!

How many unjust and fabricated cases are there in Taiwan? Some victims were vindicated, but some died before any relief or redress was granted. In cases of Chien-ho Su, Hsing-tse Cheng, Chung-chiu Hung, Kuo-ching Chiang, Ching-hsu Chen, Chien-yuan Tseng, Yang-chun Yeh, Wen-huang Huang, Yung-sung Chien, Tai Ji Men, and many more, how many individuals wasted their time and found their reputation destroyed?

After the White Terror, a new force of human rights violation has risen again. President Tsai Ing-wen and President Chen Chu of the Human Rights Commission of the Control Yuan are urged to redress the fabricated cases and defend human rights in Taiwan.

Although the auction of Tai Ji Men's land is completed, the case has not been rectified and the truth of the case must be made public. If a government agency makes a mistake, it should apologize and clear the name of the victim. Tai Ji Men *dizi* (disciples) are determined to take legal actions to recover the sacred land that was auctioned.

Demand 3: Total abolition of tax collection bonuses

On June 30, 2020, the Hsinchu Branch of the AEA announced that Tai Ji Men's land would be auctioned. However, earlier on March 2, the official document of the Hsinchu Branch of the AEA indicated, "The Shihlin Branch is proposed to record the performance and share one half of it with this

Branch (the Hsinchu Branch). Please acknowledge if you agree." Before the auction was completed, a distribution of performance bonuses had been planned.

In 2000, the Administrative Enforcement Agency (AEA) of the Ministry of Justice (MOJ) was established. The number of new enforcement cases on back taxes and fees was 1.89 million in Taiwan in 2001, and that increased to 11.04 million in 2019, a surge of 5.84 times. On average, one out of every two people in Taiwan will encounter the issue of tax and government fee enforcement. According to the MOJ statistics, there were over 13 million new enforcement cases on taxes and government fees in Taiwan in 2020 (January through September). The number of new cases accumulated in nine months alone exceeds that of the previous year. Is it because the vast majority of the Taiwanese population are evading taxes, or is the number of cases increasing due to the bonuses for collecting taxes and fees?

When will the Taiwanese enjoy human rights if the bonus program for collecting taxes is maintained?

In 1954, during the period of martial law, the Provisional Statute for Handling Financial Penalties was enacted. In particular, Article 3 provided that the tax officers of the tax investigation agency could share tax audit bonuses (also known as penalty bonuses).

In 2004, 160 legislators, including Hsing-yu Chu from the Democratic Progressive Party (DPP), made a legislative proposal to abolish the bonus program by abolishing Article 3 of the Provisional Statute for Handling Financial Penalties, and the proposal was adopted.

In 2008, the Ministry of Finance (MOF) promulgated the Operating Guidelines of the Ministry of Finance for Granting Bonuses for Collecting Taxes on its own. Each year, the MOF prepares a budget of up to NT\$100 million for such bonuses, which have no legal basis. The bonuses consist of group bonuses and personal bonuses. When answering questions in the Legislative Yuan, the then Finance Minister Sheng-ford Chang stated, "Before the tax audit bonus program was canceled, each NTB director-general could receive NT\$1 million, but currently it is somewhere over NT\$700,000."

In 2013, the legislators' position was to delete the MOF's tax audit bonuses of around NT\$100 million. But the then Finance Minister Sheng-ford Chang strongly opposed this on the grounds that "the salaries were not high enough to cultivate the integrity of the tax officials."

In 2017, DPP legislator Ying Chen exposed the fact that the bonuses for collecting taxes have no legal basis and are excessively distributed under a clever pretext.

During a budget review in 2019, the Caucus of the New Power Party voluntarily made a proposal to delete the NT\$130 million tax audit bonus budget. Legislator Jung-chang Wang, a member of the ruling party and the Convener of the Finance Subcommittee, leveraged the overwhelming votes of the party caucus to defeat the proposal of deleting the tax audit bonus budget, saying, "It's not true that we don't have a legal basis, but rather we have no legal authorization."

Government officials could get promotions and bonuses by persecuting the people with unjust and fabricated cases.

Is this a democratic country that adheres to the rule of law and protects human rights? Are the people being treated as the rightful owners of the country or just political cannon fodder?

The Tai Ji Men Case	
The Criminal Case	The Tax Case
In 2002, the Control Yuan concluded as a result of its investigation that Kuan-jen Hou had committed eight major violations of law and requested the MOJ to take a severe disciplinary action against him, but the MOJ delayed for a long time and ultimately did not take any disciplinary action.	<ul style="list-style-type: none">• In 2009, the Control Yuan concluded as a result of its investigation that the NTB had committed seven violations of law and issued a correction.• Sheng-ford Chang and Yu-jer Sheu, who had the longest and deepest involvement in the Tai Ji Men case, were both suspected of major violations of law, such as forgery of documents, concealment of evidence, and forceful taxation.
In 2018, Kuan-jen Hou was promoted to Deputy Director-General of the Agency Against Corruption.	<ul style="list-style-type: none">• Sheng-ford Chang and Yu-jer Sheu were promoted very smoothly from Director-General, Deputy Finance Minister, and then to Finance Minister without getting the punishment they deserved.

What is the future of the youth in Taiwan?

Thousands of young students took to the streets to mourn the death of human rights by tying yellow ribbons around trees. Didn't the government promise to create a better future for the young generation? When the rule of law and democracy are not upheld, human rights in Taiwan will be superficial and fake, and the talks about strengthening economic development will be lies, too.



Lee, at 100, before his passing, regretted that the Tai Ji Men case is yet to be redressed.

Pei-chao Lee, at 100, asked, "Can you move my bed to the protest site?" In the final moments of his life, Lee was still concerned that the unjust case had still not been redressed. Legal and tax reform is a bumpy road. At 98, Lee said, "If my life consists of 100 steps, I am determined to take the last two steps to promote legal and tax reform until my eyes are permanently closed, hoping that the next generation will live in happiness."

Our time in this world is limited. How much longer should the people continue to fight until the government returns justice to them? When will the government implement reforms? The people have been suffering because of this unjust case fabricated by the government for 24 years. Have you heard their cries? Have you seen their pain?



Pei-Chao Lee, at 100, attended a protest for tax justice. When he was young, he fled to Taiwan from a war but was unexpectedly persecuted by the Taiwanese government for 24 years before he passed away.

Appendix C

How much sweat and tears must tax victims shed over a single wrong tax bill?

In Taiwan, if you owe NT\$18,000 (US\$643) in taxes or government fees, your home could be auctioned by the government. This kind of auction does not meet the principle of proportionality.

A Mr. Chen in Keelung City was subject to compulsory auction of his ancestral home, which housed his family of six and was worth NT\$2.5 million all for owing traffic fines of NT\$18,000. He eked out a living by taking on odd jobs. He was upset that he had no idea from the beginning that his property would be auctioned. "That was my bad. I did not pay the money I owed to the government. But is there supposed to be a legal basis for auctioning my home? Why did they barge into my home without prior notice?" In this case, the Ministry of Justice was exposed to supplement a photo to pretend that "prior notice had been given." The Ministry of Justice still has not provided any explanation about fabricating the photo at that time, much less any disciplinary action.

A while ago, when a Mr. Lai in Taichung City applied for a mortgage loan from a bank for a house that was registered under his name, and it was worth more than NT\$20 million, he suddenly found that his "assets had been frozen," and that his house was to be seized. When he inquired about this, he learned that he had accumulated an outstanding vehicle license tax of NT\$38,000 and was subject to the "compulsory enforcement" by the AEA of the MOJ. He severely criticized the seizure as "violent and rough means." Mr. Lai said, "This indeed did not meet the principle of proportionality. They did not conduct detailed investigation as to the status of available assets before resorting to such brutal means, which would truly cause an ordinary citizen to panic about his/her

livelihood.”

Ms. Cheng, a property owner in Taichung, owed a land value tax of NT\$48,000. The Taichung Branch of the AEA had been unable to find her for many years before locating a 34-ping (one ping is equal to 0.307 square meter) flat. They stepped into the flat for inspection only to find her remains as Ms. Cheng had committed suicide long ago. Even so, the flat, valued over NT\$6 million, was still auctioned off. This does not meet the principle of proportionality, either.

Background knowledge

When an outstanding tax or government fee payment case is referred to enforcement, although the AEA may seize or attach the property of the party concerned, still the seizure should comply with the principle of proportionality and the due process of law. When real estate is seized or a bank deposit or stocks are attached, the party concerned should be notified and reminded that payment should be made voluntarily to avoid additional losses. The amounts of taxes or government fees owed in the above three cases are not high and are all lower than NT\$50,000. Theoretically, equivalent amounts of bank deposits could have been attached to achieve the enforcement effect. However, the parties concerned indicated that they did not know that the property had been seized or even auctioned. Obviously, the AEA did not begin with bank deposits or stocks but prioritized the enforcement against real estate, whose value is much higher than the amount of the tax or government fee owed, and the parties concerned were not notified. It is obvious that the enforcement procedure was significantly illegal and violated the principle of proportionality.

You are forced to pay a luxury tax when you actually lost money? A taxpayer suffered from an unexpected misfortune.

Mr. Li bought his first home in 2011 for NT\$6.2 million but spent a total of NT\$6.6 million due to simple renovations plus miscellaneous expenses such as deed tax, transfer cost, and mortgage cost. In April 2012, he sold his home for NT\$6.8 million because of the bad economic situation and his inability to afford the huge loan. However, simply because he failed to register the address of that house as his registered household address, he was considered to have omitted filing a luxury tax and thus was forced to pay NT\$2.04 million in supplemental tax and fine. Although he had gone through the administrative appeal and administrative lawsuit but lost on both occasions.

Background knowledge

Mr. Li is the only son of his family. He did not change his registered household address from his parents' to his own because he feared that doing that would make his parents feel that he was going to desert them. However, he did, in fact, live in the house he bought (which was substantiated by his utility bills and statement of the local borough leader), but the NTB refused to accept the fact.

He bought that house for the first time with absolutely no intention of speculation and sold it only because he could not afford the mortgage payment anymore. In fact, he did not generate any profit at all but sustained a loss because the cost, including the incremental land value tax, the deed tax, and the renovation and property transfer costs, was higher than the sale price.

However, he was slapped with a tax bill of NT\$2.04 million. Since he was unable to pay the tax bill, he had to accept an installment repayment arrangement where a monthly deduction of NT\$22,000 would be made from his monthly salary. In fact, this was tantamount to multiple losses for him. This tax was extraordinarily heavy for an ordinary worker like him.

Taiwan's tax remedy system is completely dysfunctional and fails to protect the rights of the people. In addition, our tax law does not provide any exception for taxpayers who are not intentionally or seriously negligent. Therefore, not aware of some laws and regulations, ordinary taxpayers with no intention of evading taxes may suffer unexpected misfortune. When the laws and regulations were formulated initially, a provision that exempts taxpayers with minor negligence from a fine should have been included to protect innocent taxpayers from accidentally breaking the law.

Honest tax-paying foreign companies wanted to withdraw from Taiwan after being slapped with supplemental tax.

In 2010, HANG TEN, a famous chain of casual clothing, and three other foreign companies, whose products were sold to consumers with the uniform invoices issued by their partner stores. However, they were requested to pay over NT\$500 million in supplemental business taxes and fines by the NTB. After pursuing administrative remedy, they still lost their lawsuits. They wrote a letter together to the President, the Premier and legislators affiliated with the ruling party and the opposition parties. The petition letter to President Ma stated, "We have paid our taxes honestly and have never owed or evaded any tax. However, the NTB has wantonly distorted facts and asked us to pay supplemental taxes and fines, which seriously undermines the government's rule-of-law image and forces the businesses to go bankrupt and close down." Infuriated, they threatened to pull out of Taiwan.

The four major affordable apparel companies have paid the business taxes they were supposed to pay, not a penny less, but because of a tip from a citizen, they were asked to pay a total of more than NT\$500 million, including a supplemental tax and a fine all because their taxes were filed incorrectly. According to their petition letter, they have complied with laws and regulations and paid taxes honestly as part of their dedication to brand image and ethics. In addition, the business taxes they have paid over the years are all 5% value-added taxes and they have satisfied the laws and regulations and spirit of value-added business taxes. However, the NTB applied a tax rate of 33% to 47% for the taxes plus the heavy fines. "How many businesses can bear such illegal and unconstitutional supplemental taxes and stringent

finer? Isn't that equivalent to forcing the businesses to lay off employees, close down and ultimately declare bankruptcy?"

Background knowledge

The four foreign companies contracted with their partner stores to set up counters to sell their branded products, and their counter personnel would collect the money while the partner stores would issue uniform invoices to consumers. This practice is similar to that of a department store, where the cooperating counters sell the products and issue uniform invoices in the name of the department store. The important point is that there is no difference in the 5% value-added business tax assumed by the consumers. The country's tax revenue is not reduced at all. Ching-hsiu Chen, a tax law professor at Soochow University, pointed out that the case started because the NTB unilaterally determined the relationship between the foreign companies and their partner stores. It is outrageous already to ask them to supplement taxes, and it is even more so when they were accused of tax evasion and were imposed a heavy fine equivalent to three times of the taxes. This violates the principle of proportionality.

Pro bono lawyer was set up and got a tax bill of NT\$112 million out of the blue.

Mr. Chang passed away in 2007. Since the heirs of his estate abandoned their inheritance, the NTB of the Central Area subsequently transferred this case to the Taichung District Court, which then appointed Attorney Huang as the administrator of Mr. Chang's estate. Attorney Huang then handled this matter according to the required procedure. He first advanced more than NT\$3,000 for this case. According to the information he found, there were only four accounts left under Mr. Chang's name, totaling only NT\$926.

In 2010, the NTB suddenly indicated that they had found that Mr. Chang had remitted two sums of money totaling around NT\$50 million to foreign countries before his death. In November, Attorney Huang received a ruling signed by Yi-he Cheng, the then Director-General of the NTB of the Central Area. The ruling required Attorney Huang to pay a total of around NT\$112 million, consisting of the outstanding inheritance tax for Mr. Chang, the tax amount of more than NT\$55 million, which had been omitted, and a fine equivalent to the payable tax as imposed by the NTB.

Attorney Huang reported this to the Taichung District Court, which invited the representatives from the NTB and the National Property Administration for coordination. This issue remained unresolved after two coordination meetings. In January 2011, Kun-hsien Lin, former Chairman of the Taichung Bar Association, also asked Legislator Hsiu-yen Lu for help. Attorney Huang also approached Sheng-ford Chang, the then Deputy Finance Minister, and Yi-he Cheng, Director-General of the NTB of the Central Area for a coordination meeting. During the meeting, Hsiu-yen Lu questioned the MOF official, "The lawyer worked on this assignment on a pro bono

basis. How can you penalize him?" The then Deputy Finance Minister Sheng-ford Chang explained, "If we don't penalize him, we are concerned that he would collude with the inheritors." Although Sheng-ford Chang mentioned to the media that this matter had been resolved, still Attorney Huang has not received any official document clearly indicating that any tax bill is cancelled. He still lives in a nightmare.

Background knowledge

Attorney Huang can be regarded as the unluckiest pro bono lawyer in Taiwan's history. Helping the NTB out as a volunteer, he got himself into trouble. He said he did not expect to be treated as a thief by the NTB for doing pro bono work out of his own pocket. For a number of times, he wanted to jump off a building and end this ordeal. Whenever he harbored such dreadful ideas, he would go back home and see his child sleeping soundly, and he would change his mind about taking his own life. Even today, Attorney Huang still lives in shadow and does not know when he will be subject to compulsory enforcement or restriction from leaving this country. The only thing the bar association can do is to inform all lawyers to take good care of themselves and be careful if they work as a pro bono liquidator and estate administrator.

Abusing tax collection authority by threatening small stores with “money laundering” charges

There was a small noodle eatery. In the beginning, the owner did not know how many bowls of noodles she could sell. Therefore, she told the NTB that she would issue receipts rather than invoices. The NTB sent someone to stand in front of the eatery to calculate how many bowls of noodles she could sell in order to calculate the amount of annual business tax that should be filed. For over a decade, the eatery owner filed her business tax by such an amount. In 2016, she suddenly received a notice from the NTB, indicating that in spite of the amount of business tax as filed, there is a lot of money in her bank account. She was asked to provide an explanation to the NTB as to whether there was any omission in the tax filing or whether the sales amount is actually higher. Later, she visited the NTB with a certified public accountant to understand the situation. She pointed out that there was an economic recession, and the shopping area had declined due to changes to the urban plan. She asked the NTB to send someone to observe how many bowls of noodles she could sell each day. The NTB just replied that they did not have time and indicated that if she could not justify with an explanation that the money was the income generated from the business operation of the noodle eatery, she would be considered to have engaged in money laundering and been in cahoots with an international money laundering syndicate. If that is the case, the money would be confiscated. The eatery owner was requested to pay a supplemental tax of more than NT\$400,000. To get out of this trouble, she paid the supplemental tax.

Background knowledge

A small-scale profit-seeking business is not required to issue invoices. Instead, the business tax is based on a predetermined fixed sales amount. If the NTB requests to increase taxes or imposes a supplemental tax, it has to assume the burden of proof pursuant to law. The NTB should not have threatened the taxpayer with the likelihood of confiscation for money laundering. With such abuse of power in tax collection, no wonder the government has collected excessive tax revenues year after year and the tax collectors get to enjoy the generous bonuses.

Wrongfully collected taxes were refundable only for taxes concerning the past five years, and this issue was not resolved until the law was amended.

C.V. Chen, a well-known lawyer, has been living in a self-used residence registered in his wife's name at his current address in Taipei City since 1986. In 1996, the Taipei City Revenue Service adjusted the housing tax rate for his home from 1.2% for a "self-used" home to 3% for "business use," because Pei Kang Glasses Co. was set up at this address. It was not until 2007 that C.V. Chen found there was a mistake and requested a refund of the overpaid taxes in the amount of NT\$169,000 in the past 15 years. The Taipei City Revenue Service only agreed to refund the overpaid taxes in the last five years.

Background knowledge

The Taipei City Revenue Office made a mistake and collected more money than they should, and yet the office was unwilling to admit the mistake and refund the money. Even C.V. Chen, a well-known lawyer of the largest law firm in Taiwan, could not have the erroneous tax bills cancelled even after applying for a recheck, filing an administrative appeal or taking administrative action. Finally, legislators made a proposal to amend Article 28 of the Tax Collection Act so that in case of an overpaid tax for reasons attributable to the government or tax agency, the taxpayer's application for a tax refund would no longer be subject to the five-year constraint. As a result, there were a total of 6,822 cases of tax refund due to overpaid taxes nationwide the following year, and the amount of the refund plus interest was as high as NT\$350 million.

C.V. Chen contributed an article to the press to convey his

concern about this legal amendment, emphasizing that it conversely covers up the requirement that in a country under the rule of law, government agencies should follow the “principle of administration pursuant to law.” He mentioned that Article 117 of the Administrative Procedure Act stipulates that “after the expiration of the statutory remedy period, the agency making the original disposition ‘must’ ex officio cancel the entirety or part of an unlawful administrative disposition.” In addition, currently members of the Petitions and Appeals Committee (PAC) and judges all interpret Article 117 of the Administrative Procedure Act narrowly. Whether the people’s rights and interests can be protected will be decided at the mercy of administrative and judicial agencies.

C.V. Chen pointed out that in fact Article 117 of the Administrative Procedure Act has never been applied by any administrative agency to cancel administrative dispositions to date, even though administrative courts and the PAC are supposed to be the last line of defense for law and order. They should have corrected and requested the administrative agency to perform its duty pursuant to law. However, this case just shows that the PAC had no function at all, and the administrative court also endorsed the illegal act of the administrative agency.

The money defrauded by a fraud ring = investment income?

In 2005, Ms. Tsai, a housewife, mistakenly believed a friend's advice, took out a loan with her husband, invested \$9.6 million in a financial management project of Hua Hsin Co. and became a shareholder of the company. Later, prosecutors and investigators found that Hua Hsin Co. was in fact an illegal fraud ring. However, based on the accounting books and records seized during the raid by the prosecutors and investigators, the NTB of the Northern Area determined that Ms. Tsai and her husband had "salary income," "other income," and "business operation and interest income," and that they had failed to file their income tax within the required period. Therefore, it concluded that they should pay a supplemental tax of more than NT\$260,000 plus a fine of over NT\$100,000 assessed by the multiplier of 0.4. After decisions were issued by the Taipei District Court in 2007 and the Taiwan High Court in 2012, the "profits" remitted by Hua Hsin Co. were just a facade to mislead the investors into believing that Hua Hsin Co. was in operation. In fact, the company just remitted to the investors a portion of the money it received from them, and the remitted money was not "investment income," much less the sales bonuses or facilitation incentives determined by the NTB of the Northern Area. Even though a final criminal decision had been issued, the consolidated income tax was still forcefully collected by the NTB.

Background knowledge

This case was not a so-called investment from the beginning, but a fraudulent scheme in which the victims' own funds were remitted back to them, disguised as "dividends", and the amount of money received by the investors was far less than the amount of money they were defrauded. Ms. Tsai and her husband were just two of the many victims of a crime of fraud. There was no "investment profit" at all. This was a fact determined in a criminal decision. If the state's criminal decision cannot serve as the taxpayers' counter evidence, it is difficult to imagine the kind of evidence that will be available to reverse the finding of the tax agency.

The NTB robbed me when my house was on fire.

A fire broke out on the early morning of January 3, 2013 at the public dormitory in Miaoli, where an associate professor Tseng lived. Fortunately, he and his wife were awakened by the smell of smoke and were able to escape in time. However, his wife was seriously injured. The accident caused them to stay in a hotel for nearly a month and incur many extra financial expenses.

The fire was identified to be caused by a poorly designed dehumidifier that short-circuited and set itself on fire. He and the product manufacturer settled in court on January 9th and calculated a financial loss of about NT\$1.21 million. Since it was difficult for him to provide evidence for some of the lost items, the parties settled for a compensation of NT\$1 million. In addition to medical expenses, most of the compensation was used in the redecoration of the dormitory and the purchase of furniture. His book collection over the years, beloved clothing, jewelry, and memorabilia were almost completely wiped out by the fire. Therefore, his actual loss absolutely exceeded the amount of the compensation.

In 2014, he did not report this NT\$1 million compensation when filing his income tax since he included this compensation as compensation for disaster damage. On January 21, 2016, to his surprise, he received a ruling signed by Jui-fang He, Director-General of the NTB of Taipei, who indicated that because the settlement compensation could not be listed as compensation for disaster damage, he had omitted a portion of his income in his tax return and was required to pay more than NT\$200,000, consisting of the supplemental tax and a fine. He found this unbelievable.

Background knowledge

According to Associate Professor Tseng, the nature of the compensation was to make up for the property, personality right damage, dormitory repair, and the increased cost of living during the recovery from their injuries. It is neither an income nor a profit. Moreover, after the compensation was used to cover the medical cost, the remainder was entirely used to purchase furniture, clothing, books, transportation, and hotel rents. How could he have any money left for the tax?

He then applied to the NTB for a recheck and explained the simple common sense that "compensation is not an income." He also cited a MOF circular that indicates that "income tax may be exempt if it is for a payment which is by nature 'compensation.'" He also asked the company that paid the compensation to issue a document to the tax agency with an attachment of the evidence to explain the content of the compensation and the basis of the calculation.

Later, he received the NTB's recheck reply, which held that although NT\$760,000 of the compensation pertains to the specific property loss, the remaining disaster expenditure of NT\$240,000 required further evidence to justify it. However, after an accident occurs, most people do not make special efforts to collect and retain receipts for a hotel stay, transportation cost, and many other miscellaneous living expenses as evidence. Associate Professor Tseng was no exception. Therefore, he believed that the NTB could treat NT\$240,000 as the tax base at most. To his surprise, he received in September 2016 a formal NTB ruling, which regarded the total NT\$1 million compensation as his income and imposed a high amount of tax and fine.

Ms. Wu was afflicted with multiple illnesses and two suicide attempts as a result of an erroneous tax bill.

Ms. Wu was previously a cram school director. At that time, the owner wanted to close it down after collecting tuition fees from the students. She pitied the students as the entrance exam in July was coming. She tried to acquire the cram school but failed. The owner did not transfer the cram school ownership and cancelled the registration of the cram school in July of the same year. The tax agency put the entire tax of NT\$1.6 million owed by the cram school on her shoulders. Therefore, she had to prepare a lot of materials to defend her case and seek tax remedy.

"The administrative court also knew that I was duped and requested the tax agency to produce proof evidencing the tax bill was issued after the ownership was actually transferred, but the tax agency could not produce it at all." The administrative court set aside the administrative appeal decision and the original disposition (including the recheck decision). Even so, the NTB kept issuing tax bills. In the environment where only the government agency, not the people, can prevail in administrative lawsuits, Ms. Wu was really pushed to the corner without any remedy. In the past 20 years since 1997, her life has been ruined by an erroneous tax bill. She had depression, attempted to commit suicide twice, and was hospitalized in a psychiatric ward. In addition to hypertension, diabetes, and heart disease, she also had stage 3 breast cancer, and just had a surgery. She cried, "I have suffered so much from the hardship all the way through, but now I have nowhere to go for help." "How can the government treat the people this way?"

Background knowledge

For a sole proprietorship cram school, the target of taxation should be its responsible person. The transaction by which Ms. Wu sought to acquire the cram school was not completed before the original responsible person canceled the cram school registration. However, the NTB pursued the outstanding tax from her. The target of taxation is clearly incorrect. The illegal tax disposition led to a long-winding remedy process, causing Ms. Wu to suffer from multiple mental and physical illnesses, and she has nowhere to go for help. The injustice has not been redressed.

Nine companies collapsed in a row after “imaginary” tax bills were issued.

Former Legislator Shu-lei Luo accepted a petition from a citizen. About 12 years ago in Yangmei, a listed company was the second-largest copper and aluminum company in Asia, with almost 100% of its product exported. Business tax for export sales can be refunded. At that time, a tax collector in the Yangmei tax agency found there were business transactions between this company and its eight satellite factories. Some scraps from the company were sold to these satellite factories. The tax collector requested the presentation of freight invoices to prove that transportation did take place. However, the company and the eight satellite factories were located nearby, so the company used forklifts to deliver the scraps and did not need other means of transportation. Therefore, there were no transportation receipts, and the invoices were exchanged directly. However, the tax collector treated the invoices that were exchanged as inflated business revenue based on his groundless imagination. He inferred that inflation was made to achieve a tax refund. Consequently, the tax amount of over NT\$100 million, which was supposed to be refunded previously to the company, was withheld. This matter was then referred to the Bureau of Investigation. After learning this, the banks that had business transactions with the company also cancelled their credit to the company, and the company could not survive. As a result, not only this listed company went bankrupt, but the satellite factories were also regarded to have engaged in fraudulent transactions and thus received tax bills for over NT\$1 billion. Consequently, they closed down as well, and one thousand six hundred employees lost their jobs.

Background knowledge

When the company sent more than ten boxes of accounting records to Shu-lei Luo's office, she volunteered to check them. After reviewing them one by one, she found the export customs declaration information was very clear, and that it was all a misunderstanding. She then forced the NTB to set up a project to conduct the verification, and the taxes were refunded after they confirmed the mistake. But the nine companies had already collapsed without any prospect of remedy. One of the business owners died of a stroke triggered by his anger at this case.

Mr. Chien defeated liver cancer but not the NTB.

Yung-sung Chien, a technical advisor of the Executive Yuan, previously owned a traditional technology company. In 2000, with the rise of the Internet, the company transformed into an international network company. Yung-sung Chien reorganized the company in 2000 when his old company used its agency right to invest NT\$100 million in the new company, and the old company would no longer operate.

The government has preferential provisions that allow the deferral of income tax on stocks if intangible assets, such as technologies or patent rights, are used as capital contribution until stocks are sold and profits are recognized. However, the NTB never provided the taxpayer with a chance to state his case under the Tax Collection Act before applying an interpretation circular for the Statute for Use of Intangible Assets as Capital Contribution and used this as the basis for issuing tax bills continually to the dissolved and wound-up former company. The NTB has imposed a total of NT\$70 million to date since then.

Seeking administrative remedies, such as administrative appeal and action, Chien had paid more than NT\$40 million. During this process, he submitted a petition to the Control Yuan, which also agreed that the NTB was at fault. Yet, it was ignored by the NTB. During the administrative lawsuit, the court dismissed evidence favorable to the taxpayer and copied the tax agency's materials before issuing a decision. In addition, the five-year and seven-year tax collection periods have expired, but the tax bills have still not been cancelled. Yung-sung Chien criticized, "Our government does not resolve issues for the people. All over the world, the quality of a government depends on its problem-solving ability and the resolution of government mistakes."

Background knowledge

Although the Control Yuan stated that the NTB made a mistake, the NTB still ignored this. Obviously, the societal remark that the NTB holds more power than the Presidential Office and the five yuans, representing the five government offices, is not baseless. The administrative court often ignores the taxpayer's evidence and is partial to tax agencies. Therefore, it is nicknamed "failure court." No wonder the failure rate of the people is as high as 94%. The government should not be apathetic to illegal tax collection cases anymore.

Even the Grand Justices could not stand the Administrative Courts' long-term connivance at the wrongdoings of the NTB and the Ministry of Finance anymore.

In 1998, a leasing company purchased a property at auction pursuant to law. It paid 5% business tax or more than NT\$63 million as required. The company presented the court receipt to the NTB, asserting that the business tax was paid. Still, the NTB issued an administrative circular to indicate that the court receipt is not a certificate and rejected the company's tax deduction application. After over ten years of administrative appeal and administrative litigation, the company lost and then applied for constitutional interpretation by the Grand Justices. In 2012, the Grand Justices issued Judicial Interpretation No. 706, holding that the Ministry of Finance's (MOF's) circular that indicated that court receipts could not serve as certificates is unconstitutional. Surprisingly, the NTB disregarded this judicial interpretation. As a result, this company pursued an administrative remedy again and applied to the administrative court for retrial. It turned out that the administrative court rejected the retrial application three times. The company was compelled to apply for constitutional interpretation again. The Grand Justices then rendered Judicial Interpretation No. 757, which directly pointed out in an almost unprecedented manner that Judicial Interpretation 706 and the court receipt can be used directly as the basis of tax deduction within three months upon delivery of this judicial interpretation.

Background knowledge

This case clearly shows that the judges of administrative courts have long been tolerant of the NTB and the MOF, and even the Grand Justices could not stand it anymore. The NTB and the MOF even turned a deaf ear to the judicial interpretation due to their arrogance and lawlessness and have long overridden this country's system. After the persistent taxpayer struggled for 20 years, the Grand Justices finally came to his rescue. However, in light of so many disastrous tax cases, it is impossible to rely on the Grand Justices for every case.

In fact, the interpretations rendered by the Grand Justices of the Judicial Yuan can effectively bind administrative agencies. As a result, the NTB should follow the basis of the judicial interpretations in handling tax cases. Therefore, this is indeed a rare case where the Grand Justices rendered two judicial interpretations, which concluded that the NTB and the administrative court were unlawful for failing to allow the taxpayer to deduct the business tax already paid. This also proves that the criticism mounted by scholars and experts against the NTB and the administrative courts is not baseless as the NTB is too powerful and overrides the Presidential Office and the five yuans representing the five powers of the government, and the administrative courts, which do not understand tax laws, have been degenerated into bouncers of the tax agencies.

Different circulars of explanation made it difficult for taxpayers, while the NTB got whatever it wanted.

A few years ago, Ms. Su's company had to return a batch of imported wheat that had not passed the customs inspection, so she asked another company in the industry to help her import wheat. That company asked the tax office it is associated with if it is necessary to issue an invoice. The tax officer replied that it was not required based on an explanation circular. Therefore, no invoice was issued, but the account entry was still recorded accurately.

Two years later, when the NTB audited the accounts of this year, they asked why there was no invoice for this shipment of wheat. At that time, Ms. Su explained that no invoice was required and provided the NTB's explanation circular forwarded to her by that company, but the tax collector showed her another explanation circular that indicates that an invoice is required. Since the company that helped with the importation did not issue an invoice, the two companies were each fined NT\$1 million. The NTB at that time also hinted that since failure to issue an invoice falls within the scope of business tax, they could continue to investigate further in areas of income tax for a profit-seeking enterprise. The business owner was concerned that this could implicate other affiliates, and reluctantly issued a letter agreeing to pay the NT\$1 million fine to the NTB. After that, the NTB audited the accounts of the company Ms. Su worked for but could not find any irregularity. Therefore, they said, "I suspect that you have evaded taxes by failing to issue invoices." The business owner, who was afraid of the NTB, had to say, "How much do you want me to pay? Fine, take it! I will work hard to earn that money back." Ms. Su wondered if there is any contradic-

tion between so many explanation circulars, and the taxpayer still takes the blame for violating the law. How can people be law-abiding in the face of such double standards? The NTB can get its way all the time because the people have adopted the attitude of appeasement. That is why the NTB is becoming more and more arrogant.

Background knowledge

Importing goods on behalf of others is by nature collection and payment on behalf of others. If there is no price difference and the certificate is issued with the entrusting party indicated for the title, there is certainly no need for an invoice. Otherwise, an invoice should be issued. However, regardless of whether an invoice is issued, if the goods are by nature purchased merchandise, this can be used to offset business taxes. Therefore, there is no issue of business tax evasion for both parties. When the NTB used contradictory explanation circulars to find fault with the taxpayer and penalize the entrusting and entrusted parties further, the principle of administration pursuant to the law was violated. This also highlights the urgent need to establish the due process of taxation for mutual compliance by the tax agency and the taxpayer.

The assets of a mushroom tycoon were taken away overnight by the NTB, which arbitrarily determined acts of gift-giving based on bank deposits.

In the unjust case of Tien-Tsai Lin, a mushroom tycoon, he became Taiwan's pride with his scientific research on mushroom cultivation. Each season, he prepared NT\$300 million to acquire inventory. Due to a banker's recommendation, he transferred some amounts to the bank accounts of his children, even though he was still the person using the funds. In addition, he signed a contract with the bank at that time, stating that the children could not use the funds.

However, the NTB directly determined that this was a gift, and aggregated the amounts of withdrawals and deposits of the principal amount of NT\$300 million to NT\$3.3 billion. After the NTB imposed the gift tax plus a 100% fine and an overdue fine totaling NT\$1.2 billion, his family assets were taken away overnight by the state. It is saddening that his final years were miserable, and he even suffered from cancer.

Background knowledge

Gift-giving should comply with provisions of the Civil Code. One party should convey the intent of giving, while the other party should express the intent of receiving. It is not true that gift-giving can be determined simply based on a formal transfer of property. The NTB's decision to determine the deposits as gifts without assuming the burden of proof or verifying the reasons for withdrawal and deposit violates the requirement that taxation by way of estimation should follow a reasonable and objective procedure and be based on an appropriate method. In addition, taxation should not affect the basic living expenses of the taxpayer. However, the compulsory enforcement just took away everything without sparing any penny and failed to safeguard the taxpayer's survival right, work right, and property right at all.

A technology professional became a tax slave with a broken family.

In 2000, in response to the call from the government's Ministry of Economic Affairs (MOEA), Mr. Yeh gave up his enviable job in the U.S. and brought a DNA chip technology back to Taiwan. Initially, it was agreed that he would join a company through technology shares. He received certification by a certified public accountant pursuant to law and obtained approval from the MOEA. Later he voluntarily made an inquiry to the NTB about tax filing issues since he had sold part of the shares, but no response was received. He was surprised that a year and a half later, he received a hefty tax bill. It turned out that the NTB concluded that his more than 10 million shares valued at par value were not technology shares but salary income, taxed it at a tax rate of 40% and asked him to pay a tax amount over NT\$4 million. The technology shares determined by the MOEA are different from the salary income determined by the NTB, but Mr. Yeh had to bear the consequences.

Background knowledge

An unreasonable tax bill ruined Mr. Yeh's promising life, and before he could see the money, he was ripped-off by the NTB first. Mr. Yeh offered to hand over shares valued at more than NT\$3 million to the AEA but was rejected. Therefore, he was restricted from leaving this country after May 2007, and could not go back to his home in the U.S. to reunite with his wife and children, not to mention that he owed several million New Taiwan Dollars' worth of tax. His wife could not accept this, and as a result, they got divorced. For over 10 years, Mr. Yeh has sought an administrative remedy to seek justice, but every application was rejected. The Control Yuan finally dismissed this case in May of 2012 after conducting an investigation. However, his broken family and wasted youth could never be restored.

COMMENTS FROM EXPERTS

Safeguarding the People's Rights Is an Unavoidable Obligation of the Government

At the beginning of the 21st century, human beings have been looking forward to the emergence of a heart-warming vision and universal values. The terrorist attacks in New York and the devastating Covid-19 pandemic have caused catastrophic impacts on the world's civilizations and profound cultures. While the overall development of Taiwan is being celebrated, an outrageous injustice which has not been redressed and has been endured by Tai Ji Men's grandmaster (*shifu*) and disciples for 24 years has secretly lingered on. When this case drags on and remains unresolved, the grandmaster and disciples stay focused and are persistent in their struggle for legal and tax justice for the country. Every time I think about this, I am terribly frightened with tremendous sadness. Why is this still happening in Taiwan? This raises the question of whether the civil servants put at the helm of the country with the taxes paid by the people have really listened to the voices of the people and taken the pains of the people to heart by handling this case prudently to fulfill a modicum of their obligations as government officials with public power.

The purpose of the government is to protect the people and defend their rights to act under the rule of law, but it has failed to do so in the Tai Ji Men case, resulting in such egregious persecution of innocent citizens. This is indeed quite unfortunate for this country. The Tai Ji Men case is a landmark case which the government can no longer continue to ignore passively and disregard it with negligence. It is advisable that the government immediately and thoroughly reflect on the problems which have emerged in the entire government institution and the civil service. It is a great shame and scandalous to the Taiwan government as its incompetence and

dereliction of duty are exposed in this obvious case of injustice that has not been resolved for more than two decades.

Cheng Chung-mo

Former Grand Justice of the Constitutional Court

Former Vice President of the Judicial Yuan

Awakening of True Legal Professionals Preventing the Abuse of the Government's Legal and Taxation Powers

Another book on the Tai Ji Men case is to be published again. After the three monographic books – *Revelation, Justice and Truth* – were published, some citizen journalists have collated the essence of the stories about the struggles against unreasonable taxation from the above three books and made painstaking efforts to author a book consisting of over 50,000 words and titled *Who Stole Their Youth?* This book accuses a prosecutor, tax officers, judges, and enforcement officers of stealing the youth of Tai Ji Men's members through misconduct and illegal activities and vows to restore justice and reflect the truth. It is really difficult for me to stop sighing and regain my composure after reading this book.

The main individuals caught in the vortex of the injustice are Tai Ji Men's grandmaster and his wife. Due to the close bond between the disciples and the *shifu* (master) of an ancient martial arts *menpai* (school) such as Tai Ji Men, the fate of thousands or even tens of thousands of Tai Ji Men's disciples has been intertwined, and the suffering of the *shifu* is assumed by the disciples. For these disciples, their youth is the essence of their lives and the pillar of their existence. The youth of tens of thousands of people is extremely precious. Unless people are deprived of their lives, their youth is like flowers in full bloom and can be trampled, eroded, wasted, and spent in vain. However, the Tai Ji Men members have devoted their lives to energetically fighting for fairness and justice for mankind, and the more they fight the more they glow. In this sense, their youth is not "stolen." The "youthfulness" recorded in the above three monographs is the best evidence.

From the vindication in the criminal case to the entanglement in administrative lawsuits, they have persisted for 24 long years. If not for their strong will and conviction, they, like most people, would have long given up or given in. What I admire most is that they are still united under a rock-solid bond and have never abandoned their *shifu* and his wife. Although they have fought for a long time and exhausted all means, including petitions, parades, overnight picketing, seminars and forums, and have spent countless hours, with their regular work and rest schedules disrupted, they have still persisted and treated the ordeal as a kind of "self-cultivation" and practice, and have always stood by the side of their *shifu* and brothers and sisters under Tai Ji Men's motto of "nourishing the positive energy of the universe and emulating the true ones through the ages" until the suffering is over.

This unprecedented "struggle against legal and tax injustice," which probably will not be matched by another case of injustice with a similar magnitude in the future, can be transformed into a positive force for "legal and tax reform." This has not only awakened the conscience of legal professionals but also successfully promoted the legislation of the Taxpayer Rights Protection Act. Tai Ji Men has also won 18 legal battles during its administrative litigation as professional judges in administrative courts have been installed and demonstrated the spirit of judicial independence. As a result, the National Taxation Bureau (NTB) of the Central Area and the NTB of Taipei admitted their errors in the tax bills for consolidated income taxes for 1991 and 1993-1996 and voluntarily changed the taxable amount to "zero" and unconditionally withdrew from the litigation except for a final decision for 1992, which is yet to be fundamentally uprooted (by filing a retrial or overturning the decision in another pending matter concerning enforcement objection). If this court decision

can be successfully defeated, then the youthful time of the Tai Ji Men members will not be spent in vain.

U.S. Supreme Court Justice Ruth Bader Ginsburg, a prominent liberal advocate for gender equality, who died of cancer this September at the age of 87, had warned law students, "If you just want to be a lawyer, you do have mastered a skill. But if you want to be a real legal professional, you should not stay satisfied with your own achievements and should strive to allow those who are less fortunate than you to also lead a better life." People who caused problems should fix them. Therefore, only when the legal conscience of professional judges of administrative courts is truly awakened, can abusive and illegal acts of bad tax collectors be effectively deterred, and justice be served in the world!

As this book is to be launched soon, I feel compelled to voice my opinion as a long-term collaborator in the journey to pursue justice. That is why I wrote a few words of encouragement for this book.

Attorney Yiu-chen Su
Honorary Chairman of the Chinese Association for Human Rights

State Power Should Be Exercised Prudently Pursuant to Law and People Should Be Treated with Kindness

The government of a democratic country under the rule of law should conduct administration in accordance with law, and the rights granted to the people under the Constitution, such as property right and litigation right should be protected through legislation. Although the citizens are obligated to pay taxes to support the government, still taxes should be levied pursuant to law and tax-free income should not be taxed illegally. In addition, there should not be different determinations on the same fact without remedies. The red envelopes given by the disciples of Tai Ji Men to the *shifu* (master) are gifts in nature. During the 54-year period since the establishment of Tai Ji Men Qigong Academy in 1966, the red envelopes given to the *shifu* were regarded as gifts without issues in 48 years except for Tax Years 1991-1996 when questionable tax bills were issued by the National Taxation Bureau (NTB) illegally based on the indictment issued by the prosecutor. On July 13, 2007, the criminal case involving Tai Ji Men was concluded with a not-guilty decision of the Supreme Court. This is sufficient to indicate the falsehood in the various sections of the indictment. Therefore, the NTB voluntarily changed the amounts in the tax bills for Tax Year 1991 and Tax Years 1993-1996 to zero, except for tax year 1992, since the Supreme Administrative Court rendered a final decision without considering the not-guilty criminal decision, which resulted in the illegal taxation on the red envelopes given to the master, which should be tax-free. The final decision of the Supreme Administrative Court as mentioned above is obviously erroneous, and the period in which a retrial may be filed by the victim is also constrained by the Administrative Litigation Act, thus depriving the victim of any recourse to remedy. Aware of the violation of the people's rights, the

government should have actively granted remedies and provided redress. Unfortunately, the compulsory enforcement agency was allowed to auction the victim's property in egregious violation of the citizen's property rights.

Government powers should be exercised with prudence in accordance with law, the people should be properly treated in a modest manner, and human rights should be protected. Since the red envelopes given to the *shifu* were taxed only for 1992 in the course of 54 years only because of a court decision, the court decision obviously deviated from the facts and was erroneous for violation of laws and regulations. I sincerely hope that the publication of this book will inform the public of the injustice suffered by Tai Ji Men in this case, and that the government will resolve the matter and restore the status quo ante for the benefit of both the country and the people.

Best wishes.

Yao-yuan Wen

Former Judge and Division-chief Judge

and Trial Spokesman of the Taiwan High Court

Former President of the Miaoli District Court of Taiwan

Respect for the People's Freedom of Religion

Over 20 years have elapsed since the beginning of the injustice case of Tai Ji Men when I was an intern judge and happened to be on site when the raid on Tai Ji Men took place. I was by chance assigned to hear the first instance criminal trial of this case. It has been over 10 years since the third instance final criminal decision finding the defendants not guilty and not owing any taxes was rendered. This was a very long journey for ordinary citizens, and only those who have been through the process know how hard it is.

Everything should be handled with conscience and love, and everyone should enjoy the freedom of religious belief and association. However, the prosecutor failed to consider this aspect. The media were also confused by the prosecutor into reporting this case. There is only one gist in the first instance decision: the freedom of religion, faith and thought, which should also be respected under tax laws. The decisions of the first instance, second instance, and third instance all concluded that since the nature of the red envelopes is a gift, Tai Ji Men should not be interpreted as a cram school.

From the development of the Tai Ji Men case, we can see that the entire judicial system of this country really needs to be reformed. The current national judicial system has failed the people, because if the people are found not guilty, the prosecutors will definitely appeal and will accumulate their performance points without any liability. In contrast, the people have to spend a lot of time and energy on the judicial matters. This is an issue that should be addressed in the reform of the national judicial system. The Tai Ji Men case also suggests that the issues facing the judiciary system in Taiwan have not been properly addressed, and that the sug-

gestions proposed for judicial reform do not actually meet the people's needs. The urgent problem to be addressed is how to change from the judge-centered approach to a people-centered approach.

However, looking at the Tai Ji Men case from a positive perspective, I find that this case can enhance the taxpayers' rights that many Taiwanese have not enjoyed.

Tze-jung Chao
Judge of the Taipei District Court of Taiwan

Twenty-four Years of the Tai Ji Men Case: A Pentalogy of Purge

Human dignity means treating people as human beings. Only then will there be a society that respects diversity; only then will there be love and peace; and only then will there be “non-violence” as advocated by Mahatma Gandhi in India. Without human dignity, equality for all will not be possible. Without human dignity, the development of personality rights will not be possible. Without human dignity, people-oriented democratic rule of law will not be possible, either.

The 24-year Tai Ji Men case verifies whether the rule of law in Taiwan is on track, does it not? In Europe, there are philosophy, logic, rationality, and ontology, whereas in Taiwan, some high-ranking government officials betrayed the public confidence in their knowledge, abused their authority, and arbitrarily violated the people’s rights during law enforcement without relying on any evidence. The first wave of purge in the past 24 years began on December 19, 1996 when the government carried out a religious crackdown, which was actually a smear campaign. The purge in the form of false tax bills began in 1997 with the entire Ministry of Finance involved in the process. The third wave was initiated by administrative courts with lawless adjudications and judges who failed to recuse themselves as required by law. The illegal auction conducted by the Administrative Enforcement Agency marked the beginning of the fourth wave of purge, followed by the fifth wave involving the Incident of Ms. Huang in Chupui on September 19, 2020. These people are infectious like viruses. They believe that they can do anything they want if they can wield government powers and frame innocent people by fabricated charges. Strictly speaking, they all lack respect for human dignity, democracy, and the rule of law.

Only through a true Enlightenment can Taiwan become a true democracy under the rule of law. Currently, the second Enlightenment has already taken place in other countries, but Taiwan has yet to undergo even the first. Taiwan will enjoy true democracy and rule of law when more people understand democracy, the rule of law, evidence, and justice. Tai Ji Men has distributed flyers and posters on the streets to educate people about the rule of law. This is something that the Department of Law of National Taiwan University cannot achieve and should be encouraged.

Should we tolerate perpetrators of state violence who have denied and challenged human rights, ignored human dignity, failed to conduct administration pursuant to law, and fabricated a case to purge others. These individuals believe that they represent government authorities and are always correct while the public is always wrong, and that they can bully the people without being held accountable. As a result, the civil servants who have rendered lawless adjudications, abused their rights by prosecuting innocent people, and illegally collected taxes have not been convicted of their crimes. Only by identifying and exposing these perpetrators and letting them face the music and legal consequences, will we be able to prevent further harm and truly save the people.

Prof. Tze-lung Chen
Chairman of the Taiwan Association for
Financial Criminal Law Study
Former Professor of Law at National Taiwan University

A Human-made System Sent Innocent People to the Guillotine. Can't They Be Saved by a Human-made System?

Twenty-four years after the onset of the unjust Tai Ji Men tax case, the National Taxation Bureau (NTB) has voluntarily corrected the tax amounts to zero for five of the six years in which the consolidated income taxes were levied. Currently, only one of the tax years remains unresolved, since the administrative court rushed to issue a final decision before the final criminal decision acquitting the defendants was rendered. As a result, it is claimed that the tax amount for that tax year "cannot" be changed and was referred to compulsory enforcement. This means that the courts ruled both against and in favor of the same party with the same underlying facts just because the judges and the sentencing timing were different. How can the party concerned or fair-minded people accept the unfair trial results caused by differences in judicial procedures rather than differences in the substantive aspect? Did the judges attain "godhood" because of their inner conviction so that no rule applies to them anymore? I'd like to ask legal experts for their opinions: What would you think if you were the party concerned in this case?

Some of you may know that I was "prosecuted for 12 years" by prosecutors for cleaning up the Haian Road Underground Street Project in Tainan City (a project undertaken by the most vicious contractor in the history of Taiwan) (please read the book titled *Before the Dawn of the Truth*, which shows that the indictment was wrong except for people's names). I was given a hard time for over six years in this case in the judicial procedure. In that process, I insisted on not accepting any offer to intercede this matter for me from anyone who cared about me (some very influential people asked me

twice if I needed help). I was finally acquitted. At that time, I faced the case with the spirit of a revolutionary, just like when I was teaching at a university but was unexpectedly forced into exile in the U.S.

I used to openly remark that the Tsai Administration, highly expected by all the people for its advocacy of transitional justice, could regain justice and the truth for the unjust Tai Ji Men case. Although the portion of the case involving five tax years has finally come to an end, still the tax bill for one tax year remains, resulting in the illegal auctions and nationalization of Tai Ji Men's land. I am truly speechless about this development. Is it true that the human-made system can send innocent people to the guillotine but cannot save them at the last moment?

Former Legislator Tain-tsair Hsu
Former Mayor of Tainan City
Chairman of the Commerce Development Research Institute

Is There Still Judicial Justice in Taiwan?

This book reopens my testimony about the judiciary: once the judiciary is revealed to be influenced by political powers, I do not necessarily believe that there is any remedy to restore justice through the judiciary.

The "Tai Ji Men case" has dragged on for a quarter of a century. Through the efforts of hundreds of elite members of society, this case has not only exposed the injustice of the judiciary in Taiwan but also highlighted something fearful: this case has been dictated by political discretion.

Who can guarantee or deny that there are no dark forces such as "political score-settling," "stubborn inner conviction of the administrative system" or "the unimaginable mindset of those in power" behind this case?

Social justice is a key element in our pursuit of social and civilizational progress in Taiwan, but without judicial justice as the last line of defense for the rule of law, there will be no social justice at all.

Let us ask the following question loudly to the politicians and judicial practitioners: do you truly believe that the spirit of the judiciary in Taiwan nowadays is indeed the justice upheld by Lady Justice with a blindfold over her eyes, a long sword in one hand and a balance in the other?

As a person with relevant personal experience, I can honestly say: As long as there are political factors, I don't believe it!

Therefore, for the progress of Taiwan, we can only sincerely pray that the judicial reform must succeed.

Pai-hsien Peng
Former Nantou County Magistrate

**The Tai Ji Men Case:
A Benchmark Case That Shows If Human Rights
Protection Is Carried Out in the Governance of
This Country**

It has been 24 years already. I am grateful for the perseverance of Tai Ji Men, which has established a benchmark for taxpayer rights. If Tai Ji Men were not truly innocent, it would not be possible for judges who had tried the case to have the courage to come forward and openly explain the entire trial process and emphasize that the prosecutor's charges of fraud or tax evasion were not valid after all the evidence was investigated. Therefore, it is truly unbelievable that the NTB still relies on the prosecutor's indictment as the basis of taxation.

In a country under the rule of law, due process and procedural justice are pivotal. An observation of the Tai Ji Men case should return to the original "gift" nature of the "red envelopes to the *shifu* (master)" as a matter of law, since in the context of religious beliefs and cultural martial arts organizations, a "red envelope given by a *dizi* (disciple) to the *shifu*" reflects the *dizi*'s humble attitude and gratitude to him, hoping to make a small contribution to the promotion of martial arts culture with the *shifu* and share his burden. How can such a humble attitude be treated as a counterparty relationship in a cram school?

Despite the significant changes in the rule of law of Taiwan over the past two decades, such as the introduction of the two international human rights covenants and respect for the fundamental rights of religion and culture, including the Taxpayer Rights Protection Act, which came into force on December 28, 2017, unfortunately, there have been very few

changes in administrative courts, which are still very conservative. As a result, the injustice suffered by the *shifu* and *dizi* of Tai Ji Men have not been truly redressed by administrative courts to completely clear their names.

If the Tai Ji Men case cannot be resolved after so many presidents have come and gone and several changes of government, what then is Taiwan capable of handling? The Tai Ji Men case can be a concrete example for reviewing if the people in power have carried out the governance of the country based on human rights protection.

Prof. Chun-chieh Huang
Distinguished Professor of the Department of Financial and
Economic Law
Director of the Research Center for the Department of
Financial and Economic Law, National Chung Cheng
University

A Litmus Test for Tax Justice

The Tai Ji Men case originated in 1996, and the grandmaster of Tai Ji Men was detained by the prosecutor for four months without justification and then prosecuted for fraud and tax evasion. The investigation reports released by the Control Yuan in 2002 and 2009, respectively, indicated that the prosecutor had committed eight major violations of law, and the NTB was also cited for seven major violations of law. This was not only quite rare in the judicial history of Taiwan, but this case was also included in the "General Report and the Work of Human Rights Protection of the Control Yuan (1999-2005)" as a major human rights protection case. However, justice is still not served after 24 years have elapsed.

Tai Ji Men's criminal case was concluded with the third instance decision acquitting the defendants and finding there was no fraud, no tax evasion, and no violation of the Tax Collection Act, with the four individuals who had been illegally detained – the *shifu* and three of his co-defendants – all receiving national compensation for wrongful imprisonment; however, the most unbelievable part of the Tai Ji Men case is that the government did not resolve the tax bills based on the results of the criminal case. The Administrative Enforcement Agency (AEA) under the Ministry of Justice disregarded the fact that the NTB only maintained its tax claim for one of the six years while having corrected the tax amounts to zero for the other five years. The Enforcement Agency even forcefully auctioned the land of Tai Ji Men's grandmaster in 2020, and later the NTB of Taipei and the NTB of the Central Area jointly declared the assumption of the land after the two auctions failed. This totally violated the human rights protection requirements under the two international covenants and the Act to Implement the International Covenant on Civil and

Political Rights and the International Covenant on Economic, Social and Cultural Rights, which regulate how government agencies should perform their functions.

In fact, several past chairmen of the Chinese Association for Human Rights (CAHR) have been heavily involved in helping with the judicial justice and human rights protection in the Tai Ji Men case, including Yiu-chen Su, former Chairman of the Chinese Association for Human Rights and a criminal defense lawyer of this case, while two former chairmen, Yung-jan Li and Tien-tsai Lin, have promoted the reform and protection of taxpayer rights by conducting many public hearings, seminars and forums. In 2011, the CAHR also included this case as a major unjust tax case in its "ROC Centenary, Taxation and Human Rights White Paper." CAHR established a taxpayer rights committee and pushed the government to adopt the Taxpayer Rights Protection Act in 2016, which came into force in 2017, setting a new milestone for human rights protection in Taiwan.

The Tai Ji Men case highlights many unreasonable and outdated provisions of our tax laws. The human rights violations suffered by the Tai Ji Men *shifu* and *dizi* since the beginning of the investigation cannot be redressed by any compensation, nor can it be treated as an isolated case. The redress of this case should be treated as a litmus test for taxpayer rights in Taiwan. At the time when this book is about to be published, I would like to recommend it on behalf of the CAHR and hope that a case like this will never happen again, and that justice and taxpayer rights in this nation can be protected.

Prof. Si-po Kao
Chairman of the Chinese Association for Human Rights

Who Stole Their Youth?

After 24 years, a baby will become an adult, a teenager will become a middle-aged person, and a senior citizen may no longer be with us. These perhaps are the inevitable stages in life: birth, growth, aging, and death. But if 24 years of a person's life are consumed in battling against fabricated charges, such pain actually goes beyond the imagination and endurance of ordinary people. However, such a tragic situation is not the theme of a drama but has actually occurred in society. This is the Tai Ji Men case, which is known as the "Tax & Law 228 Incident."

The Tai Ji Men case started in 1996 when Prosecutor Kuan-jen Hou raided Tai Ji Men's academies without any concrete evidence and forced relevant individuals to confess by detaining them before taking their statements. He further seriously violated the principle that the specifics of an investigation should not be disclosed to the public, openly made announcements in the media, and used a peach wood sword he had obtained from the raid to falsely accuse the grandmaster of "raising goblins." In light of such absurd behavior, although the criminal court issued the final and third instance decision to acquit the defendants, the prosecutor's announcements in the beginning attached indelible labels to the innocent people and their families. Some of them even died with regrets about the injustice they had suffered.

Such a tragic situation was not relieved by the acquittal, but instead was followed by tax litigation that lasts longer than the criminal trial. Regarding the tax dispositions for the six years in question, the administrative court ruled in favor of Tai Ji Men for all the years, except one. Since the circumstances were the same for the six years, the court should

rule either against or in favor of Tai Ji Men for all the years. The inconsistent decisions actually demonstrated an issue of logic rather than law, plunging the party concerned into an infinite purgatory and causing administrative courts to be labeled as the protectors of the NTB, not the people.

In August 2020, the Administrative Enforcement Agency (AEA) also got into the act and seized the property of the party concerned and even barbarically auctioned the land of the party and subsequently nationalized it when no one offered any bid. To make the matter worse, the AEA and NTB rushed to plan for the distribution of performance bonuses before the auctions. In addition, during a peaceful picketing event, a citizen was arrested and interrogated overnight without any justified charges by the police of the Chupei Station and was imposed residence restriction by the prosecutor. This is undoubtedly a great irony to the rulers who often boast of their human rights-oriented governance of this country.

Therefore, it is the government not the natural lapse of time that has stolen 24 years of youth from Tai Ji Men. The people's plea is quite humble, and they only hope that the unjust Tai Ji Men case can be redressed as soon as possible and serve as a typical reminder for future rulers to come.

Prof. Ching-Chin Wu
Associate Professor of Law at Aletheia University

Decoding State Crimes

The State stole twenty-four prime years
from Tai Ji Men members.
The State's confiscation of the people's property
in the name of the law is an act of a licensed robber.
However, it cannot steal the eternal Tao of Tai Ji
in the hearts of the people,
And it cannot take away
Tai Ji's supreme goodness and righteousness.
Despite the past ordeals,
the people have continued to improve themselves
and reflect the law of Heaven.
They are decoding State crimes,
awakening people's conscience,
and inspiring others to do good deeds
and seek truth, kindness, and beauty.
The people are everything
and the masters of the country.

Prof. Lukas Lien
Taiwan-based Professor, Osnabrück University of Germany
Founder of the Tax and Legal Reform League

When Government Fails to Promote Safety and Happiness, the People Have the Right to Resist

There are many historical facts indicating that the government's "harsh taxation" system caused the people to revolt and stage a revolution. In view of the respect for human dignity and protection of human rights in Western countries, the government is required to promote the safety and happiness of the people, and the people have the right to resist if human rights are seriously violated.

A senior tax professional remarked, "The Tai Ji Men case . . . in which the Ministry of Education has stated that Tai Ji Men is not a cram school. All these show that the entity previously subject to tax assessment is not an entity legally required to pay taxes, and this constitutes illegal taxation pursuant to judicial interpretations rendered by the grand justices. The taxes which have been collected should also be voluntarily refunded in accordance with Article 28, Paragraph 2 of the Tax Collection Act. However, the gist of the judicial interpretations rendered by the grand justices was not followed."

It is regrettable that the unjust Tai Ji Men tax case has not been fully redressed. To pursue the truth, the Tai Ji Men *dizi* have taken to the streets to advocate tax reform issues, conducted seminars and the "True Legal and Tax Reform and Saving Taiwan with Conscience" campaign for many years, and received extensive support from all walks of life at home and abroad. This book presents the history of the unjust case in plain language, hoping to accelerate and deepen respect for taxpayer rights and to enhance the welfare of the people.

Yi-nan Chen

Director of Taiwan Society North

Founder of the Tax and Legal Reform League

People in Power Should Avoid Excessive Law Enforcement and “Enforcement Without Kindness”

In the era of autocracy in China, the scholarly class ruled the people, and a “clean” official was an honest and upright official who “decided cases fairly and honestly.” In the era of democratic rule of law, all public officials are appointed by the people to govern the country; therefore, they should not treat the people as their enemies. Public officials should not deviate from the principle of “kindness to all creatures.” In modern times, those who think they are “clean” officials are mostly those who think they are righteous because they are not greedy for money. As a result, they tend to over-enforce the law. When enforcement is conducted at the expense of kindness, the sagacity and sustainability will be lost.

Taxation is the driver of government operation and is the most neutral indicator of fairness and justice in the governance of the country. The benchmark for proper taxation is the “principle of taxation by law and the principle of substantive taxation” pursuant to the judicial interpretations rendered by the grand justices. Deliberate collection of excessive or insufficient taxes is illegal, while excessive taxation out of ignorance creates a bad karma, which invokes injustice and grievances.

In the Tai Ji Men case, the criminal violation of human rights has been compensated with the national compensation for wrongful imprisonment, but the violation of property rights remains for one tax year, and more people have been subject to the same violation. As indicated in my book *Defending Tax Justice and Protecting Taxpayer Rights*, taxation on “tax-free income” and on non-income “gains” are the most serious violations of the principle of taxation by law. It has been a

month since my book was published and I got to know Tai Ji Men. I would just like to recommend this book by conveying my above thoughts after auditing taxes all my life.

Kun-kuang Huang

Former Auditor of the National Taxation Bureau of Kaohsiung

Shameful Legal and Tax Practices: 24 Wasted Years

Twenty-four hours lapse very quickly, but 24 years mark a precious duration in a person's life, long enough for one to lay the foundation for one's career. However, if a person is tormented by an unjust criminal or tax case during this period, the pain would be more than anyone can bear. As a cultural organization that promotes traditional qigong and martial arts, Tai Ji Men was caught in the path of a religious crackdown in 1996. The resultant unjust tax case has dragged on for 24 years.

This book depicts a long and painful history of legal and tax grievances. Without a strong belief in justice and righteousness, ordinary people would never be able to endure such endless litigation and the repeated blows of the everlasting and tortuous tax bills. *Shifu* Hong's righteousness has led his disciples through many difficulties and obstacles, shining a light in the dark corridor of law and taxation not only for himself but also for the conscience and taxpayer rights of the country.

As a long time provider of professional tax services, I have seen many taxpayers suffer from improper and unjust tax bills, but most taxpayers swallowed the injustice to protect themselves. As a result, the practice of issuing unjust and erroneous tax bills has run rampant for a long time. The compassionate spirit of Tai Ji Men's master and disciples as practitioners who have themselves suffered and witnessed the suffering of others and the history of their struggles will shine long and bright.

Wei-chieh Tsai

President of the New Taipei City Next Generation Rotary Club

The Duty of Good Government - Ending Unjust Cases

After 24 years of suffering and torment, the Tai Ji Men tax case has caused extraordinary emotional pain, waste and attrition of life, and tragic losses in the form of innumerable social costs due to the incompetence of the government, which has stolen the youth of Tai Ji Men and a countless number of people. Such meaningless waste of youth, the most valuable period of life, is a loss to the country.

The Tai Ji Men case went through a final third instance court decision acquitting the defendants and finding there was no tax evasion, with the national compensation for wrongful imprisonment received. Why can't the government return justice to the people and resolve the unjust case swiftly based on the court decision? What kind of government is this? Where can we find a government so incompetent that it cannot resolve the difficulties its people face but create more problems for them instead? In fact, if the government cannot resolve problems for the people, the people can abandon such incompetent and unaccountable government. In particular, the delay in resolving the difficulties of the people for over 20 years is a disgrace to the government!

When a government agency cannot leverage a final court decision to deal with and resolve problems for the people, the credibility of the government will collapse completely. Although so many civil servants have been mobilized to handle this case, this unjust case remains unresolved. I sincerely urge the government to return justice to Tai Ji Men quickly without further delay in order to prevent the continuous stealing of the youth of countless people. This is the responsibility of a good government.

Shih-cheng Huang
Chairman of the Taiwan Heritage Foundation

**Pursue the Truth to Restore Light
Resolve the Unjust Case to Vindicate the Victims
Protect Human Rights to Shine the Path Forward**

Tai Ji Men has long dedicated itself to the transmission and promotion of Chinese culture. Its grandmaster and disciples have traveled around the world at their own expense to advocate the concepts of love, conscience, and peace in 101 countries, promote cultural diplomacy, and demonstrate the spirit of benevolence and humanity, which has been extensively recognized and praised by people from all walks of life both at home and abroad.

The nature of Tai Ji Men, whose legacy is passed down from the master to the disciples, has never changed. In 1996, the government oppressed religious beliefs under the pretext of a religious crackdown. As a result, Tai Ji Men was caught in the path of a tornado. Tax agencies abusively and wantonly regarded the red envelopes provided by the Tai Ji Men disciples to their master, which are part of traditional Chinese culture, as cram school tuition, thus triggering a 24-year case involving oppression of religious faith.

In the fabricated Tai Ji Men tax case, illegal taxes were imposed for six tax years from 1991 to 1996. After judicial and administrative remedy in the past 24 years, the Supreme Court issued a decision concluding that Tai Ji Men did not commit any crime or evade any tax, and all of the defendants who had been detained received national compensation for wrongful imprisonment. The Control Yuan also concluded as a result of its investigations that the prosecutor and the NTB both broke the law and violated human rights. In 2018, even the Supreme Administrative Court rendered a decision finding that Tai Ji Men is a *menpai* (similar to school) of qigong,

martial arts, and self-cultivation. As a result, the NTB corrected the tax amounts to zero in the tax dispositions concerning the red envelopes to the master for five of the tax years. However, in the case involving tax year 1992 and having the same facts, the administrative agencies still forcefully imposed taxes illegally and have illegally auctioned the people's property.

In conclusion, it is obvious that the administrative agencies should cancel the illegal auctions and the illegal tax disposition based on the decisions of the Supreme Court and the Supreme Administrative Court, stop violating the people's freedom of religious belief and cultural choice, and end human rights violations.

The people in power should be mindful of their own mistakes, act in manners that reflect the truth, and know, admit, and correct their mistakes. If they can set a good example for the people and win the support of the people, that will benefit not only the people but also the country.

Ven. Ming Kuang

Chairman of the Religionist Association of the Republic of China

Abbot of Haiming Temple in Shulin, New Taipei City

The Fabricated Tai Ji Men Case Pertains to “the Government’s Serious Violation of Human Rights!”

Life just consists of dozens of summers and winters and is quite limited. “Money can’t buy back youth!”

I am a descendant of the post-war political victims from a Hakka village in Chungli, Taoyuan, which is Taiwan’s “Holy Land of Democracy.” I have studied political science, constitution, and administrative law and taught courses such as special topics of laws and politics for a long time at National Taiwan University, specializing in Taiwan’s political history and knowing very well the pain of political victims and their families.

Alas! How many “24 years” do we have in life? The youth of many people in the fabricated Tai Ji Men case has been stolen by the Taiwan government or vicious government officials, and each of these victims has led a miserable life with hefty losses.

For 24 years since 1996, the grandmaster and disciples of Tai Ji Men and their families have suffered from state violence with their human rights oppressed, abused, and brutalized. This case took place when the Kuomintang was the ruling party. However, after several changes of government, the Democratic Progress Party (DPP) has been the ruling party for many years, and Taiwan has always claimed to be a free and democratic country under the rule of law where human rights are highly regarded and is a showcase of democracy for the Chinese. Currently in Taiwan in the 21st century, since the DPP is “in full control of the government,” it should be able to assume “full responsibility!” How can we tolerate that there are still so many political purge cases in which the

government has seriously violated human rights?

The false Tai Ji Men case in Taiwan is by nature a political purge involving issues of human rights, law, and politics and reflecting a type of crime committed by the government in serious violation of human rights. We are particularly concerned and seriously condemn the Taiwan government for violating and trampling on human rights. Ordinary Taiwanese also have a sense of crisis since they are likely to be the next victim at any time. The people of Taiwan in general feel that "everyone is in danger and may suffer at any time!" This is really a serious problem in Taiwan that needs to be resolved urgently!

We highly expect that the DPP/the Tsai regime will set up a special project to review and improve the situation and properly conduct "crisis management" as soon as possible. By the end of 2020, the political purge case in which the government seriously violated human rights should be properly resolved. Otherwise, the regime will soon be ousted by the people of Taiwan.

Prof. Rong-Jeo Chiu
Former Vice Dean of the College of Law at National Taiwan University

Justice Is in the Heart

Thomas Hobbes said that the state is the Leviathan, which is a necessary evil. However, if the Leviathan cannot uphold justice for the people, it will be a devil that devours the rights of the people.

The administrative and judicial systems of the Republic of China, regardless of the blue and green governments, have deprived Tai Ji Men *shifu* and *dizi* of their youth--24 years! As far as they are concerned, the perpetrators are like leviathans and devils.

It all started in 1996 when the government cracked down on religions. At that time, the prosecutorial system prosecuted the case based on the red envelopes given by the Tai Ji Men disciples to the master and froze the master's assets. Through the solidarity and perseverance of Tai Ji Men in their efforts to seek justice, justice was finally served. However, the unjust tax case concerning the year 1992 remains even to this day.

Although Tai Ji Men was acquitted by the judicial decision in 2007, still the administrative system keeps issuing tax bills to Tai Ji Men and even elected to seize and auction its property.

Since 2010, Tai Ji Men has been fighting for its rights, appealing to society, and protesting on Ketagalan Boulevard to advocate tax reform. Over the past 10 years, it has won the recognition and support of experts and scholars in the field of religious studies, religious sector, and legal communities. The elites from all walks of life believe that the state should return justice to Tai Ji Men and not be the Leviathan or devil that violates democracy, the rule of law, and human rights!

Today, I am glad to see the publication of *Who Stole Their Youth*, which contains a full account of the unjust and fabricated case and the history of the battle over the past 24 years. I am happy to write a few words for it from the perspective of the universal values of religious equality and freedom. I would like to offer my encouragement to Tai Ji Men and sincerely hope that the government will restore their youth.

Prof. Chia-lin Chang
Professor at Aletheia University

Transition from Iron to Steel in 24 Years

It is senseless to claim that the red envelopes given to the *shifu* were tuition fees of a cram school and were taxable. It is outrageous that such a senseless accusation was adopted by the administrative court, ruling that the red envelopes of one year were cram school tuition while the red envelopes of the other years were all gifts. Surprisingly, such an absurd decision has lasted for years, and based on this decision, an enforcement order to auction the people's property was eventually carried out! The foolhardiness of the judges and tax officials of the Republic of China is just unbelievable! They are also very shameless as they dare to embarrass themselves in front of the world!

Twenty-four years are long enough for a child to grow into an adult. After 24 years of political persecution, Tai Ji Men, like a piece of iron that has gone through the transformative process for 24 years, has turned into steel or even high-quality steel that can be used to make spaceships.

Although it is not good to be persecuted, persecution is still a kind of challenge that can make people braver and stronger. I hope that the Tai Ji Men disciples will not be frustrated by this but should hold their heads up and continue to move forward so that those who persecute Tai Ji Men will feel guilty, with their heads bowed in shame.

Prof. Cheng-Deng Kuo

Former Professor of the School of Medicine at National Yang Ming University

Former Director of the Medical Research Division, Department of Medical Education, Taipei Veterans General Hospital

No Compromise for Justice

In Mandarin, one dimension of the word “justice” means universal, regardless of time and space, and regardless of affinity, gender, or race. The other dimension refers to high-level “appropriateness,” which is reasonable treatment with respect to one’s action. In short, justice is a universal and reasonable treatment.

Since the beginning of time, humankind has been seeking justice from the rulers. The thinkers have developed it into an academic discipline; the religionists have attracted followers on such basis; many more have shed their blood and laid down their lives for this ideal.

Since the end of the 20th century, people have been more enlightened, and public good has become a universal value. People can tolerate individual sloth and even be lenient to selfish individual criminals, but they never ignore justice, because it is shared, and no one has the right to give it up for others. Everyone has the right to criticize those who do not act in manners of justice and should participate in the preservation of justice. Otherwise, injustice will befall us. This is exactly what the statement – “no compromise for justice” – means.

Pao-leh Chang
President of the Pacific Daily News

Small Things Are the Bedrock of Greatness Creation of a Great Belief

This book is worth recommending. Hsiao-hsiang Lai shared her experiences in attending court hearings. Her painstaking effort to attend as many court hearings as she could reflects the bond and solidarity between the master and his disciples, which support the difficult 24-year journey of the Tai Ji Men disciples. Their perseverance is unusual and admirable, indeed! On the other hand, however, it is saddening to see the immense social and opportunity costs incurred by the state.

Legal and tax reform can help usher in a bright future for Taiwan. The long-term campaign of the volunteers of the Tax and Legal Reform League is a promising project of hope for Taiwan. Its demands are very valuable as they identify the ways and goals to make Taiwan a better place.

"Whoever can be trusted with very little can also be trusted with much, and whoever is dishonest with very little will also be dishonest with much." (Luke 16:10)

We know that all things work together for good and that those who love God reap the benefits. "Nothing that is covered is not revealed, and nothing that is hidden is not known." The Tai Ji Men case is full of cover-ups and injustice, and it is surprising that the civil servants think that they will not be exposed.

Therefore, when anyone is in power and in charge of a public instrument, it is an opportunity to achieve justice and show mercy. Be an honest civil servant, be honest, speak honestly, and do honest things. We can work together with our inno-

vation and intelligence to achieve great things together, and today is the beginning. As the saying goes, "If people are wonderful, God will arrange good things for them." Let us join hands in building things together and become a blessing for everyone.

Chin-sheng Wu
President of the Taiwan Human Rights and Cultural
Association
Publisher of Brain Magazine

Redressing Injustice Is the Wish of All People and the Fortune of the Country

Morality is declining, the world is deteriorating, and people's virtue is eroding toward the end of the Dharma. People have become profit-oriented and have abandoned the notion of righteousness as society values the pursuit of wealth. There are many difficulties and hazards in society because there are those who mix up good and evil, who would renounce their morals rather than endure poverty, and who bully the weak rather than the powerful. As a result, good people are deterred from doing good deeds, while virtuous people incur losses. In the end, society's conscience will be lost, and the world will be filled with wickedness and dirt.

Since many law enforcers of the country are selfish and greedy for merits and profits, there are incessant unreasonable court decisions and wrongful imprisonment. As a result, the people have lost their hope for the judiciary and human rights. In a democracy, the government has the responsibility to secure the people's freedom from fear and to provide them with the security they deserve.

Since 1996, Tai Ji Men Qigong Academy has suffered from the unjust tax case for 24 years. Although the criminal case was concluded after the decisions were rendered by the three instances of court, namely, the district court, the high court, and the Supreme Court, which finally concluded that no crime, no tax evasion, and no violation of the Tax Collection Act were committed. The detained defendants had all received national compensation for wrongful imprisonment by the end of 2009. However, the AEA and the NTB have yet to cancel the tax bills, creating fear and threat to the people and making people further doubt and distrust the government's attitude.

Since its inception, Tai Ji Men Qigong Academy has made a significant and positive impact on the well-being of society and the country. In addition to actively promoting traditional excellent culture, forging social harmony, and promoting world peace, the academy has visited 101 countries and over 300 cities and participated in more than 3,000 domestic and international cultural performances, making great contributions to the country and society. When the academy suffers from injustice and an unresolved tax case, the government should, from the perspective of upholding fairness and justice and maintaining social stability, redress the unjust case so that this excellent organization with its positive energy can continue to contribute to the society and the country. This is the wish of all the people and a fortunate development of this country. That is why I have contributed a few words to this book.

Kuo-chang Huang

President of the Association for the Worldwide Promotion
of the Chinese Kuansheng Culture

President of the Chinese Association for the Promotion of
Taoyuan Mingsheng Scripture

Elections Are Not Equated with Democracy and Human Rights

Over the past 24 years, during the government's religious crackdown, Tai Ji Men was smeared. It has gone through an unjust criminal case and an unjust tax case, which is not something that ordinary people can endure. However, the prosecutor in the unjust case is not only free from any liability, but also promoted to a higher government position, unscathed even after the Control Yuan decided to pursue his liability.

Although the final criminal decision concluded that there was no crime and that the red envelopes given to the master were not cram school tuition, the NTB continued to abuse its power by imposing taxes on Tai Ji Men. Not only was the Control Yuan's correction to the NTB ineffective, even a meeting convened by the Executive Yuan was insufficient to sway the NTB's decision. In addition to the bureaucracy and the fact that many bureaucrats are not brave enough to do what is right, the bonus system also contributes to the vicious cycle: the tax bureaucracy, abuse of power and persecution of taxpayers, and greed for bonuses for collecting taxes.

Although the NTB has corrected the tax amounts for tax years 1991 and 1993-1996 to zero, it still insists on not correcting the tax bill for 1992 based on a final court decision. This simply demonstrates a lack of common sense, empathy, and courage to shoulder its responsibility and represents a serious lack of basic training in the rule of law on the part of the government. This poses a risk of uncertainty in the country's investment environment.

The Administrative Enforcement Agency enforces tax bills,

and its officers earn bonuses for doing that. This is obviously an improper system because the agency acts as a ball player and the referee at the same time and it acts as a state-run debt recovery agency that earns commissions based on the tax amounts it enforces. It is imperative to review and abolish such a system and return the job of compulsory enforcement to ordinary courts.

Since 1996, when the president of Taiwan was first popularly elected, Tai Ji Men began to suffer. At present, 24 years of youth have passed, and many Tai Ji Men brothers and sisters, as well as the young second-generation disciples, have experienced this 24-year-long, continuous battle since childhood, but still have not succeeded in restoring justice. This proves that the presidential and parliament elections hardly translate into democracy and human rights. The government is cold-blooded, arrogant, abusive, and unreasonable, resorts to the violence of the majority, and is drifting farther and farther away from the people. Taiwan needs another movement to deepen and reform democracy.

Former Tainan County Magistrate Huan-chih Su
Managing Attorney of Tayouan Law Office

Democracy Is Built on People's Distrust of the Government

Since December 19, 1996, when Prosecutor Kuan-jen Hou broke the law, abused his power, and illegally raided 19 places, including 12 academies of Tai Ji Men nationwide and the residences of its *dizi* (similar to disciples), Tai Ji Men and its *dizi* have been persecuted by both the judiciary and tax officials in Taiwan. Although the unjust criminal case from an illegal indictment was concluded in the third instance trial on July 13, 2007 after more than 10 years, and the grandmaster and his co-defendants who had been illegally detained received national compensation for wrongful imprisonment, still the erroneous tax case is not only ongoing, but also led to new unjust criminal cases.

The cases relating to Tai Ji Men in the past 24 years are like “monster-revealing mirrors” that reflect the ugly judicial, tax and administrative enforcement practices in Taiwan as well as the lawlessness of prosecutors, tax officials, administrative court judges, administrative enforcers and police officers who have trampled on human rights. Is Taiwan truly a democratic society under the rule of law with popular sovereignty?

Thomas Jefferson, who drafted the Declaration of Independence of the U.S., remarked that democracy is built on the people's distrust of the government. Although the future development of the Tai Ji Men case, which has lasted for over 24 years, remains unknown, still the nature of democracy has become clearly visible to the people of Taiwan. The Taiwan government truly does not deserve the trust of the people. The people of Taiwan should be awake to the reality that it is time for the people to directly share and restrict the gov-

ernment's power, because the government has taken away our youth.

Attorney Ching Chang
Vice President of the Taiwan Jury Association

Touchstone of Human Rights Protection – the Tai Ji Men Case

Twenty-four years have passed since the start of the Tai Ji Men tax case, which is still not comprehensively resolved. In this case, simple red envelopes provided by the Tai Ji Men *dizi* (disciples) to their *shifu* (master) were ridiculously distorted and falsely claimed by the NTB as an illegal act involving tax evasion. Tai Ji Men's grandmaster and other individuals were even detained by the prosecutor based on erroneous facts, lost their freedom and were even wrongfully indicted. Fortunately, the remedy procedure for criminal cases allowed for a final decision that acquitted the defendants, and the defendants who were detained received national compensation for wrongful imprisonment.

Although the criminal case was redressed and national compensation for wrongful imprisonment was received, the tax case, which involves six tax years, remains unresolved. The tax amounts have been corrected to zero for five of the six years, and Tai Ji Men did not owe any tax; however, since a final court decision for one of the tax years has been issued, relevant remedies cannot be obtained for this case due to the unfavorable final court decision although the underlying facts in this case are the same as those in the other years. It is unbelievable that this regrettable phenomenon still exists in Taiwan, which claims that human rights are the bedrock principles for the development of the nation.

After the Tai Ji Men case began, taxpayer rights have gradually been taken seriously. When I was the Chairman of the Chinese Association for Human Rights, I specifically called for the enhancement of "taxpayer rights" protection, and the Legislative Yuan also favorably responded to the public opin-

ion by adopting the Taxpayer Rights Protection Act after the third reading. This marked a giant step forward for the people in the protection of "taxpayer rights."

However, with respect to the individual Tai Ji Men tax case, I believe that this case should be reasonably resolved as soon as possible, since all the individuals who have been wronged in all unjust cases should be granted with reasonable legal remedies. This is the norm of a democratic country that values human rights. In Taiwan, the Organic Act of the Control Yuan National Human Rights Commission has been enacted with the formal establishment of the National Human Rights Commission. Chen Chu, President of the Control Yuan, also serves concurrently as the Chairperson of this commission. The commission should investigate this case proactively and grant proper remedy. Therefore, it is my sincere hope that the Control Yuan can make more efforts to deal with the unjust Tai Ji Men case and use it as a touchstone to reshape the government's image concerning human rights protection, return justice to the individuals concerned and put a perfect ending to this case, which has lasted for decades.

Attorney Yung-jan Li
Former Member of the Presidential Office Human Rights
Consultative Committee
Honorary Chairman of the Chinese Association for Human
Rights

Justice! Justice! How Many Sins Are Committed in Thy Name?

Democracy and the rule of law are the jewels of human civilization and the gatekeepers of human rights. As the implementer of democracy and the rule of law, the government is supposed to pursue substantive justice and protect the rights of the people.

However, in the Tai Ji Men case, both the prosecutor's abusive indictment and the NTB's forceful collection of taxes are bad examples where human rights were blatantly violated in the name of justice. This is undoubtedly a great irony of democracy and the rule of law.

Although the criminal decision and most of the tax decisions have cleared the name of the Tai Ji Men family, still decades of their lives and their good reputation have been snatched away cruelly. In addition, the issues concerning the penalty for those who abused their power and the deformed tax system are yet to be resolved. There is still a long way before Taiwan can achieve sound democratic rule of law.

The progression of human rights is the history of the struggle between the people and the government. The Tai Ji Men victims of the deformed tax system are also fighters for taxpayer rights. To safeguard human rights, Tai Ji Men's *shifu* (master) and *dizi* (disciples) have sacrificed their youth to usher in a bright future for taxpayer rights in Taiwan. Tai Ji Men's *shifu* and *dizi* are precious assets of Taiwan. Their efforts have guided communities in Taiwan to join hands in defending goodness.

Attorney Tien-tsai Lin
Former Supervisor of the Crime Victim Protection Association

“Heaven and Earth May Come to an End,” but the Protection of Taxpayer Rights Will Continue Forever

Under the social atmosphere of the religious crackdown in 1996, the academies of Tai Ji Men nationwide were raided by the prosecutor in 1996 due to false complaints, and *Shifu* (master) Hong and several senior members of the academy were detained incommunicado (at that time, the authority to launch a raid and detain people was still not “reserved for judges”). At that time, the media fully echoed the investigation of the prosecutor by providing extensive negative coverage, in serious violation of the principle that the specifics of an investigation should not be disclosed, and by fabricating “criminal facts.” This was extremely unfair to crime suspects and defendants such as *Shifu* Hong. It was regrettable that prosecutors were very powerful at that time.

Shifu Hong and others were subsequently released on bail after they were indicted, and this case was transferred to the court. I left the civil service at the end of 2000 and became a lawyer. Through the introduction of Attorney Li-jung Huang, I had a cup of tea with *Shifu* Hong in one Tai Ji Men academy, accompanied by several Tai Ji Men's *dizi* (disciples). *Shifu* Hong showed me the indictment he had received and asked me about the evidentiary direction of the defense. After reading the indictment, without hesitation, I told *Shifu* Hong that the evidence in the indictment does not meet the cardinal principle of criminal jurisprudence, which is the “requisite elements of crimes,” and that a not-guilty decision should be issued under the “presumption of innocence.” I also explained the legal principles I relied on to draw my conclusion. The people there were pleasantly surprised that I offered such an assertive opinion so quickly.

Who Stole Their Youth? depicts the perseverance and persistence of a group of Tai Ji Men's *dizi* and legal scholars in seeking justice in the criminal matter, following the remedy procedure under tax laws, and staging their protests for 24 years from 1996 until 2020 in order to clear the name of Tai Ji Men. To seek fairness and impartiality of the legal regime and thorough protection of human rights, they have dedicated themselves to these goals tirelessly. When the criminal investigation of the Tai Ji Men case began, the "tax" case was created when the criminal matter was changed into an administrative matter, followed by "tax audits." Since Tai Ji Men has extensive presence all over Taiwan, local tax agencies all used the indictment as the template and basis of their taxation. To deal with this situation, Tai Ji Men followed the administrative remedy procedure by filing an administrative appeal, bringing an administrative action, and pushing this matter all the way to the Supreme Administrative Court. In particular, the tax bills for the consolidated income tax for five of the tax years have been corrected by the tax authority by changing the tax amounts to zero, marking the end of the administrative procedure for these tax years. As for the administrative enforcement case relating to the consolidated income tax for one remaining year, the administrative agency conducted two public auctions of Tai Ji Men's land. After the auctions failed, the land was forcefully nationalized since the statute of limitations for the enforcement was going to expire; as a result, the "tax" case was also concluded.

This book discusses in detail the twists and turns of "criminal fraud (including tax fraud)," administrative tax penalties, and the chronology of the related events. The years that have elapsed are like the journey of life from childhood to middle age. The participants of the tax and legal reform forum series organized by Tai Ji Men over the past few years also lamented that the government's so-called "judicial reform"

seemed to ignore the principles of "administration pursuant to law" and "taxation pursuant to law." In fact, in comparison with the "presumption of innocence," which is emphasized in criminal law, legislative efforts should be made to establish "presumption of no tax liability" by revamping the administrative litigation procedure. When a tax agency exercises its "punitive power," it should present evidence of tax evasion so that the taxpayer can prepare a defense in order to fulfill "taxpayer rights." Under the current system, the taxpayer files a complaint while relevant government agencies are identified as the defendants, and the burden of proof to substantiate there is no tax liability is on the taxpayer. As the legal saying goes, "the party that assumes the burden of proof will be the losing party." For decades, the dismissal rate of administrative lawsuits has been extremely high. Administrative courts are nicknamed "dismissal courts" for good reasons.

"Heaven and Earth may come to an end," but the protection of taxpayer rights will continue forever. The government should conduct administration and collect taxes pursuant to law; otherwise, there will be a lot of "unjust cases" and "fabricated cases," which will erode the people's trust in the government.

Attorney Chen-hsing Chang
Chiu Shih Li Ting Law Firm
Former Supervisor of the Crime Victim Protection Association

A Long Journey: Joint Efforts to Review and Advance Judicial Reform

Is justice delayed still justice? In a modern democracy under the rule of law, attention should not only be paid to substantive justice, but equal attention should also be given to procedural justice. Ernst-Wolfgang Böckenförde, a leading German public law scholar, explained that the focus of state action is not to provide formal guarantees of freedom, but to create a state of substantive justice in law.

Who Stole Their Youth? highlights the lengthy litigation process in Taiwan and the divergent and contradictory views among different courts, and even different chambers of the same court, leaving people at a loss as to what to do. The descriptions of many judicial cases show that there is a long journey for judicial reform in Taiwan, and it takes joint efforts to review and advance it.

Attorney Ti-ying Huang
President of the Taiwan Forever Association

**Seek the Truth
Do Not Be Silenced Out of Timidity!
Do Not Give Up for Lack of Strength!**

This book simplifies complex legal relationships and presents them in plain language, making it easy to read even if you are not proficient in legal matters. The contents of the book are worth reading. Therefore, I highly recommend this book.

After reading this book, my memory took me back to 24 years ago on December 19, 1996, when I was still a young and unsophisticated college student. Now, I am a father of two, but the fabricated Tai Ji Men case is still not redressed.

During these 24 years, this group of people are willing to give up pleasures, give of their time, and keep moving forward while suffering persecution for the sake of justice. The tales of tears and perseverance depicted in this book are not remote stories but a reality that is happening near us.

The process of redressing the fabricated Tai Ji Men case is not only a story of the people's perseverance and struggle against the improper exercise of state powers, but also a piece of history that should be fairly recorded; this false case should undoubtedly be redressed.

We know that our system is not perfect, and we also know that redressing a fake case is never an easy task. However, this group of people, who seek truth and righteousness regardless of gains or losses, have never been silenced out of timidity or given up for lack of strength.

Their stories should be recorded and depicted. We should not leave this group of people alone! Only when state powers respect the Constitution and the group of people defending their rights under the Constitution, can we be confident and proud of our democracy and rule of law. Therefore, this book is highly recommended for anyone who cares about the issue of human rights protection.

Attorney Sean Chen

Tax Dollars May Not Necessarily Be Rightfully Collected

If the readers read every line, every paragraph, and every page of the stories in this book carefully, they will discover that the tax system, criminal investigations, and litigation procedures that most people have taken for granted can reel in their youth like a meat grinder.

No matter how much you understand taxes, you are encouraged to read this book and learn that our criminal investigation procedure has been so sloppy, that the tax dollars collected from us may not necessarily be justified, and that law enforcement by our police is often conducted with all kinds of brutality behind the limelight. Most importantly, it is important to understand the reasons why this group of people fight on the streets, in courtrooms, at academic forums, and in various domestic and international arenas and what sustains them.

After reading it, you will have a new understanding of the tax regime and even the transformation of the administrative system.

Attorney Chun-chih Wu
Eternity Law Firm

“Blessings from Ketagalan Boulevard” in 2016

The Human Rights Protection Committee of the Taiwan Bar Association has long been concerned with the issue of judicial human rights in society. With respect to the 20-year struggle of Tai Ji Men against the everlasting and tortuous tax bills, we have taken part in the rescue action out of our sense of mission, professional conscience, and concern for human rights as lawyers, because this is an abuse of power and violation of law by public authorities. As legal practitioners, we cannot sit idly by while major human rights violations are taking place.

Through numerous seminars, forums, and panel discussions over the past 20 years, all scholars, experts, and lawyers have unanimously confirmed the truth that Tai Ji Men is not a cram school and the red envelopes given to the master were gifts, not tuition. The NTB's final recheck decision in August 2012 also recognized that Tai Ji Men is not a cram school, and that the red envelopes given to the master were gifts. Thus, they were not subject to service taxes pursuant to law. Nonetheless, the NTB wrongfully handled them like two types of income and continually issued illegal tax bills to Tai Ji Men. With everlasting and tortuous tax bills, they are leaving the good taxpayers in torment and in tears in search of remedies.

In the two-decade battle against injustice, Tai Ji Men has endured painful ordeals. To prevent the tragedy of unjust and fabricated cases from happening again, they have been working with scholars, experts, and practitioners to promote reform for taxpayer rights. In addition to a human rights white paper which they jointly released in 2011, they also pushed forward the Taxpayer Rights Protection Act, which cleared through three readings in the Legislative Yuan on December

9, 2016. If this legislation is fully implemented, not only will the NTB's tax collection through illegal tax bills be prevented, but administrative courts will also be pushed to clear their name of being "dismissal courts" by demonstrating the spirit of independent adjudication, thereby protecting taxpayer rights.

Unfortunately, such advanced reformative legislation for taxpayer rights is designed with a high threshold, which hinders the resolution of the everlasting tax bills suffered by Tai Ji Men. As a result, Tai Ji Men still has to wander from courtroom to courtroom. We would like to point out poignantly that Tai Ji Men has "sacrificed itself for the betterment of others." We would like to express our gratitude for their sacrifice and contribution, as well as their perseverance.

The new government stressed that it would resolve problems and proceed with major initiatives such as transitional justice and judicial reform. The everlasting tax bills are the enemy to all the people. We hope that the new government will be brave in confronting the truth, eliminating the harm, assuaging people's grievances, and establishing a new legal and tax framework that is "fair and just and protects human rights," allowing Taiwan to right the wrongs and restore lost justice.

Attorney Yiu-chen Su, Honorary Chairman
Chinese Association for Human Rights

Postface:

Self-cultivation in the Mundane World

In the past 24 years, we have stepped out of the criminal courts but are still caught between administrative courts and the NTB. Our dark hair has turned gray as a result of the litigation. However, because we believe that there is no tunnel without an end, that our perseverance will bring hope, and that the truth will eventually be unveiled, we have persevered in our quest to restore justice for 24 years. This is our path of self-cultivation in the mundane world.

Perseverance: Taiwan's Project of Hope

**Giin-Tarng Hwang, Professor of Political Science
at National Taiwan University**

All suffering is meaningful for the greatness it is destined to achieve. Perhaps it is the beautiful arrangements passed down from generations in the past to achieve this greatness through the Tai Ji Men tax case. Tai Ji Men can exert its influence on the issue of taxpayer rights. With the experience accumulated through this case and the aspirations that are invoked, Tai Ji Men will definitely contribute to the progress of taxpayer rights in Taiwan.

Since we have suffered personally, witnessed the broken legal and tax systems, and heard the cries of victims in different corners of the society, we realize that only by breaking the silence and allowing the people to speak up can we see positive changes. However, the road to restoring justice is bumpy and the path to legal and tax reform is even harsher. Adhering to the cause requires tremendous courage and positive energy. However, we are not alone on this journey as more and more people have joined us in the battle for our rights. Meanwhile, more and more young people realize that they should save their own country. In the summer of 2020, countless young students protested on the streets almost every day. Although they were young and inexperienced, they demonstrated a great deal of courage and determination. We can see the hope of Taiwan's future in their eyes.

Persistence: To End Human Rights Violations

Ma Ying-jeou, former President of Taiwan

Nine out of 10 human rights violations came from the government.

The unjust Tai Ji Men case is a case of gross human rights violations perpetrated by the Taiwan government's dysfunctional power mechanisms and is the embodiment of modern rotten officialdom.

Yu-hsiu Hsu, former Grand Justice

The two major pains inflicted by the state include criminal law, which can put people in jail, and taxation, which deprives people of their assets. These two pains are experienced at the same time in the unjust Tai Ji Men case and still not relieved after 24 years of suffering.

"Bad apples" and cruel government officials exist in every country and in all eras. They never disappear. However, public apathy will encourage them to do whatever they desire. Conversely, public anger will provide checks and balances and eliminate the force of darkness. The unjust Tai Ji Men case is not an isolated case, and the disclosure of this landmark case is not just to reveal the opaque administrative operation and the truth. To reduce or prevent unjust cases and confront long-standing hubris and prejudice of bureaucrats in government agencies, everyone should pay close attention to the truth and monitor policy implementation of the government by exercising civic power as a "jury." Only this way can the people safeguard the rights of others while protecting their own.

Persistence: To Secure Happiness for Future Generations

Chih-kuang Wu, Professor of Law at Fu Jen Catholic University

To me and to the entire legal community, a very important meaning of the Tai Ji Men case is that it has tapped into a lot of existing problems which we did not think twice about. We keep challenging the established system because we are the victims of its rigidity, but only by continually challenging this system can we finally hope that one day we will identify which law or court decision is a milestone made possible by the Tai Ji Men case, as the saying goes, "A person is able to sit under the shade of a tree today because someone else planted the tree a long time ago."

Without human rights, there is no democracy or the rule of law, and to realize human rights protection, the citizens need to be awakened. The many civic movements in the history of Taiwan's democratic development have made the people better understand this: if someone's human rights are being infringed upon today, you may be the next victim tomorrow. In this world, there are those who are foresighted, those who become aware only after things have happened, and those who are oblivious to what is happening. Since we have seen that Taiwan and the world need transformative change, how can we stand on the sideline and do nothing? Moreover, helping others is also helping ourselves, because in modern society we share a common destiny, and no one can enjoy a good life alone while others are suffering. Only when all the citizens are awakened to taxpayer rights can we live safely in the land of freedom and democracy.



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