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A tax case and a religious liberty problem

12 NGOs, including Human Rights Without Frontiers, and research centers, including CESNUR, wrote to the President of Taiwan protesting against the use of an old tax issue, related to the year 1992, to seriously harass the spiritual movement Tai Ji Men.

H.E. Dr. Tsai Ing-wen

President of the Republic of China

Office of the President

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Dear President Tsai:

We represent NGOs specialized in freedom of religion and belief, and academic research centers in the field of religion and spirituality.

We are impressed by the work done in Taiwan to protect religious liberty both at home and abroad, and some of us heard your inspiring opening remarks at the event "A Civil Society Dialogue on Securing Religious Freedom in the Indo-Pacific Region," co-sponsored by Taiwan's Ministry of Foreign Affairs and the U.S. Department of State in Taipei in 2019.

We take the liberty of writing to you concerning a tax case involving a spiritual school known as Tai Ji Men Qigong Academy, founded in Taiwan by Dr. Hong Tao-Tze in 1966. Some of us have studied Tai Ji Men and are also familiar with Dr. Hong's activities on behalf of world peace and inter-cultural dialogue, which have won praise by several international governments.

In 1996, the then Taiwanese government launched a crackdown on groups labeled as *xie jiao* or "cults," which according to most scholars who have studied the incident was politically motivated. The crackdown also involved Tai Ji Men, although it had not taken political sides.

On December 19, 12 Tai Ji Men academies were raided by the police together with private homes of *dizis*, and Dr. Hong, together with his wife and two disciples, was

arrested and prosecuted for fraud and tax evasion. They were held in preventive detention, and one of them even remained in detention for more than five months. On May 21, 1997, Taipei Court prosecutor, Mr. Hou Kuan Jen, ordered the dissolution of Ta Ji Men.

In October-November 1997, Taiwanese tax authorities accused Tai Ji Men of tax evasion and issued tax bills for the allegedly evaded amount. In 1999, the order of dissolution of Tai Ji Men was annulled by Ministry of Interior. The Control Yuan initiated independent investigations into the case, and confirmed in 2002 that prosecutor Hou had acted arbitrarily.

On September 25, 2003, Dr. Hong and his co-defendants were acquitted of all charges by the Taipei District Court. On December 13, 2005, the High Court of Taipei confirmed on appeal the first-degree verdict favorable to Tai Ji Men. On July 13, 2007, the criminal division of the Supreme Court of Taiwan pronounced the final acquittal of Tai Ji Men defendants, declaring them innocent of all charges. Both compensation for the detention and an apology were offered to Dr. Hong and his co-defendants. Despite the court decision, the Tax Office (The National Tax Bureau "NTB") continued issuing the tax bills, and the tax case proceeded.

On August 6, 2009, the Supreme Administrative Court ruled against the Tax Office and asked it to reconsider its claims against Tai Ji Men. However, new tax bills continued to be issued, causing yet another litigation to start. On July 9, 2015 and July 26, 2018, the Supreme Administrative Court, ruled again against the Tax Office.

This is one of the longest tax cases in the history of Taiwan, which is still not resolved to date. The heart of the matter is whether the donations given by the *dizis* to the grand master in pre-prepared "red envelopes" are gifts to a spiritual master, as such tax-exempt, or tuition fees paid to a cram school, i.e. a school offering tuition or preparing pupils for exams, which would be taxable. The Supreme Court of Taiwan in its final ruling on July 13, 2007 confirmed that the Tai Ji Men Academy is not a cram school and the content of the "red envelopes" should be considered as a gift within the framework of the relationship between disciples and master (or his organization) in a spiritual movement.

In 2018, with its decision no. 422, the Supreme Administrative Court also ruled that the Tai Ji Men Academy is not a cram school and that the monetary gifts to Tai Ji Men or the grand master, Dr. Hong, were not tuition fees and were not taxable. After this decision, in 2019 the NTB branches of both the Central Area of Taiwan and Taipei corrected their tax claims against Tai Ji Men for the years 1991, 1993, 1994, 1995, and 1996 to zero. However, for the year 1992, the NTB maintained its claim, based on the fact that its tax ruling had been confirmed by the Taichung High Administrative Court on May 25, 2005, and the Supreme Administrative Court had rejected an appeal by Tai Ji Men on December 14, 2006. Dates are important, here, as these administrative decisions occurred before the criminal division of the Supreme Court of Taiwan, on July 13, 2007, acquitted Dr. Hong and his co-defendants from all charges, and ruled that the content of the red envelopes was not taxable. In fact, the 2018 decision of the Supreme Administrative Court mentioned that its previous decision of 2006 about the fiscal year 1992 was wrong.

How gifts were collected in 1992 is not different from the other years, and if these gifts are not taxable for 1991, 1993, 1994, 1995, and 1996, obviously they are not taxable for 1992 either. The objection that the 1992 case has been decided with a final decision is not valid, based on the general principle that legal decisions can always be revised when new facts and evidence emerge.

A parallel (and less important) matter concerns items for the practice of Qi Gong, including uniforms, ordered at a discount price as collective purchasing. The NTB believes

that a taxable profit was made on these items by the movement. The criminal court confirmed in its ruling that, "The aggregated ordering of uniforms is conducted by brothers and sisters of Tai Ji Men. It is not a business activity." Also, the ordering does not concern Dr. Hong and his wife personally.

Some may object that, after 23 years of litigation, perhaps Tai Ji Men may settle by paying the taxes for 1992 and the minor business taxes on the uniforms. This objection would misunderstand what Tai Ji Men has been fighting for, for all these years. It was never about money. Compromising with NTB would have been more convenient for Tai Ji Men money-wise, even if one considers just the legal expenses it incurred. Tai Ji Men, however, refused to submit to the threat from the tax authorities because this would have been equivalent to admitting tax evasion, something that goes absolutely against the principles it consistently proclaims and teaches. During the years, Tai Ji Men has also understood this incident as part of a fight of conscience and justice for the rights of taxpayers and for spiritual liberty.

Professor Kenneth A. Jacobsen, of Philadelphia's Temple University School of Law, called the NTB's tax disposition on Tai Ji Men a "persecution" and a "travesty of justice." We sincerely believe that Taiwan should recognize that its crackdown on "cults" in 1996 was an unfortunate episode, politically motivated and ultimately unsuccessful. Taiwanese authorities of 2020 bear no responsibility for this.

The remaining part of the tax case against Tai Ji Men is an after-effect of a campaign undertaken more than twenty years ago, generally regarded as ill-advised and unfair, and long since forgotten. It also violates freedom of religion and belief, and the right to take part in cultural life as protected by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Taiwan, and you personally, have gained the sympathy of many countries and organizations in the world for your defense of democratic rights in East Asia and the transparent and effective handling of the COVID-19 crisis. It is great time that this old situation is resolved, by guaranteeing to the members of Tai Ji Men their human rights and freedom of religion.

Respectfully,

Association of World Citizens

CAP-LC – Coordination des Associations et des Particuliers pour la Liberté de Conscience

CESNUR – Center for Studies on New Religions

EIFRF – European Inter-Religious Forum for Religious Freedom

Fedinsieme [Faiths Together]

FOB – European Federation for Freedom of Belief

FOREF – Forum for Religious Freedom Europe

HRWF – Human Rights Without Frontiers

LIREC – Center for Studies on Freedom of Belief, Religion and Conscience

ORLIR – International Observatory of Religious Liberty of Refugees

Osservatorio sul Pluralismo Religioso [Observatory of Religious Pluralism]

Soteria International