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The Persecution of Tai Ji Men by the Tax Administration

**Instrumentalization of the Tax Administration to Persecute Religious
Minorities: Jehovah's Witnesses v. France at the European Court**

Webinar Taiwan, 22 July 2020

Oral presentation

On the occasion of this webinar, I am very pleased to share with the participants in this event some of our monitoring experience of the persecution of religious groups by tax administrations. The unfortunate experience of Tai Ji Men in Taiwan presents some strange similarities with a case opposing Jehovah's Witnesses to the French state about which the European Court of Human Rights issued a ruling in 2011.

In 1996, the then Taiwanese government launched a crackdown on groups labelled 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.

In January 1996, a French parliamentary report classifying Jehovah's Witnesses as a harmful sect/ cult resulted in various forms of discrimination by state bodies, in particular the tax administration.

In both cases, there were suspicions of fraud and tax evasion on hand-to-hand (manual) gifts. For both organizations, it was the beginning of a long obstacle course through their domestic courts.

The stigmatization of Jehovah's Witnesses and French tax administration

On 10 January 1996, the French National Assembly published a report about 172 allegedly dangerous sects, which were almost portrayed as criminal associations.

That "blacklist", as it was soon called by the media, had a devastating impact on those religious and spiritual groups. Jehovah's Witnesses were on that blacklist. Following that report, they were discriminated against, stigmatized and ostracized both in their private life and public life. Steps were taken by state administrations to marginalise them and treat them differently from mainline religions. In particular, the tax authorities carried out an audit.

On the basis of the information gathered in that audit, it was given notice to declare the hand-to-hand gifts that the association had received from 1993 to 1996 and to pay taxes. This was a sudden new interpretation of the General Tax Code that was applied to the sole movement of Jehovah's Witnesses.

The association refused and asked that the tax exemption applicable to gifts and legacies to liturgical associations, unions of liturgical associations and authorised religious congregations continued to be applied as every year before 1993.

As the association of Jehovah's Witnesses had not submitted the declaration requested by the tax authorities, it was subjected to an automatic taxation procedure in respect of hand-to-hand gifts which it had received.

The tax administration claimed that the hand-to-hand gifts "[had been] disclosed to the tax authorities in the course of the accounting audits to which it [had been] subjected".

The term "disclosed" is a key word in the French taxation administrative language because it implies that the "disclosure" was a voluntary move by the association to be taxed on the gifts they had received. This was not the case as the audit was not requested by the Association of Jehovah's Witnesses but was imposed on

them by the administration and could not be refused. Moreover, there is no legal obligation to disclose hand-to-hand gifts to the tax administration. There was a clear manipulation of the administrative terminology to corner the Association of Jehovah's Witnesses and, as it appeared afterwards, to kill them financially. Another similarity with Tai Ji Men case.

In May 1998 the Association was notified of a supplementary tax assessment for the equivalent of about **45 million euros** (about 23 million euros for the principal and 22 million in default interest and surcharges). The association stressed that the tax claimed concerned "donations" by 250,000 persons over four years (or an average of 4 euros per person per month for the period 1993-1996).

During the next six years, the Association of Jehovah's Witnesses used all the domestic remedies that it could to assert its rights but in the meantime the amount claimed by the tax administration had risen **from 45 million euros to more than 57.5 euros.**¹

The European Court of Human Rights

On 24 February 2005, the Association of Jehovah's Witnesses lodged a complaint against France with the European Court of Human Rights. It alleged, inter alia, that the imposed taxation of hand-to-hand gifts interfered with its right to manifest and exercise its freedom of religion as guaranteed by Article 9 of the European Convention.

The procedures lasted until 2011 and focused primarily on the controversial interpretation of the "disclosure" of hand-to-hand gifts and the allegedly undue interference of the state in the freedom of religion of Jehovah's Witnesses through a punitive taxation.

The association claimed that in imposing the disputed and exorbitant tax, the State interfered with the act of worship itself. If the disputed taxation were to be confirmed, it would result in the seizure and sale of the Bethel, bringing about the loss of a place of worship and the headquarters of the association.

The lawyer of the association, Philippe Goni, argued that collective practice of a religion implies the possibility of relying on material resources, generally obtained through the adherents' contributions. It implies the right to rent or acquire a place of worship and to produce literature. The contributions are

¹ Press release by the Registrar of the European Court:
<https://www.strasbourgconsortium.org/common/document.view.php?docId=5540>

religious in nature and represent its main resource, namely 86.47%. He contended that “subjecting these to taxation would inevitably lead to liquidation, as the State would have the right to sell the mortgaged property.” Lastly, he added that the State interfered with its freedom of religion through a punitive tax motivated by the desire to repress the religious activities of denominational minorities which had been blacklisted as sects.

Decision of the European Court

In its judgment of 30 June 2011, the European Court found a violation of Article 9 (right to freedom of religion), noting that the supplementary tax assessment "had concerned the entirety of the manual gifts received by the association, although they represented the main source of its funding. Its operating resources having thus been cut, it had no longer been able to guarantee to its followers the free exercise of their religion in practical terms."

By a judgment of 5 July 2011 the Court held that France was to reimburse the 4,590,295 euros (EUR) for the taxes unduly claimed by the tax administration that the Association of Jehovah's Witnesses had paid under coercion and EUR 55,000 for costs and expenses. The judgment was issued in French only.

It cannot be said that it was a happy end, in the usual sense, to this saga because the damage caused to the association and its members went far beyond the financial issue but that is another story.

There is unfortunately no Asian Court of Human Rights where Tai Ji Men could lodge a complaint but it is to be hoped that the current government of Taiwan will be able to repair the damage caused under previous government since the mid-1990s.

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