

2014 International Forum on Legal Aid Taiwan Report

1. Introduction

Along with the societies in Taiwan have developed in the stages of democratization and legalization, the demand for the access to justice has increased accordingly. In 1998, groups from private sector, such as Judicial Reform Foundation, Taipei Bar Association, and Taiwan Association for Human Rights, launched a legislative movement for the establishment of Legal Aid Foundation. Under the help of the Judicial Yuan, the Legislative Yuan passed the “Legal Aids Act,” which was promulgated by the President in January 2004. The Judicial Yuan then contributed and established the Legal Aid Foundation (hereinafter referred to as LAF) in July of 2004. Meanwhile, five branch offices were set up to start taking applications for legal aids.

LAF has entered its 10th year by 2014. Comparing with its initial stage, as of 2004, which had only five branch offices, LAF has now expanded to have 21 branch offices. As of 2014, LAF’s organizational form, supervisory organ, status of legal aid services, criteria, service types, financial eligibility for legal aid, review mechanism (responsible for the decision making on applications for legal aid), and job assignment for private lawyers are introduced below. At the end, this report states LAF’s current challenges, and actions in plan to respond to them.

2. Country Information

County	Legal Aid Organization Name :	Date of Establishment :	Poverty line and number of population below the line	Total number of Practising Lawyers and number of private lawyers (staff-lawyers and contracted)
Taiwan	Legal Aid Foundation	July 1 st , 2004	The poverty line changed to NT10,869 in 2014 ¹ , approx. 700,000 persons	8,110 lawyers, as of August 31 st 2014, 2,928 private lawyers and 14 staff-lawyers.
Population	GDP	Total number of Applications Received in the last year	Total number of Applications Approved in the last year (Excluding legal counseling cases)	Rejected Total number of Applications Refused in the last year (Total applications minus legal counseling, aids granted and revoked)

¹ Data from Ministry of Health and Welfare.

23,373,517 persons, as of December 31 st , 2013 ²	2013 average per person, approximately USD21,283 ³ .	Total 136,065 cases in 2013 ⁴ (80,670 legal counseling cases)	Total 38,090 cases in 2013 ⁵	Total 14,212 cases in 2013 ⁶
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3. Nature of Organization and Supervision

(1) Nature of Organization

LAF is an organization in form of a foundation established by donations from the Judicial Yuan in July of 2004 under the Legal Aids Act promulgated in January 2004. The nature of LAF is a private organization founded by the government. Since the judicial system of Taiwan adopted a private-public dual system, of which the dispute resolution mechanism is designed based on both the relationships of public law and private law, which makes LAF unique. Hence, the premise for choosing a dispute resolution mechanism is to determine the nature of the dispute belongs to public-law relationship or private-law relationship. LAF, as a foundation, is supported by funds donated by the government with annual budgeting to run business. The nature of LAF, whether it is a public organization or private organization, will affect the nature of LAF's decision in granting/rejecting legal aids. If LAF is defined as a public organization, then its subsequent remedies have to follow relevant provisions specified in the Administrative Remedial Law. If LAF is defined as a private organization, further study is required to determine if a decision made for granting or rejecting an application is an administrative entrustment by the government, then the subsequent remedial procedures can be determined to follow either administrative proceedings or civil proceedings. The answer to such disputed-questions cannot be found in the provisions of Legal Aids Act. Although the Act specifies that LAF Reconsideration Committee are responsible to review all decisions made by Examining Committee. If an applicant refused to accept Examining Committee's decision, he/she can apply to Reconsideration Committee for reconsideration. The applicant cannot re-appeal against the decision of the reconsideration. However, it still needs further discussion as regards to if the provisions prohibit the applicant to initiate legal proceedings. Currently some applicants, who refused to accept the decisions made by Reconsideration Committee, have brought suits to either the Civil

² Data from Directorate General of Budget, Accounting and Statistics, Executive Yuan

³ Data from Directorate General of Budget, Accounting and Statistics, Executive Yuan

⁴ This is the total number of cases applied to LAF, excluding the labor projects and indigenous people projects commissioned from the Ministry of Labor and the Council of Indigenous People to LAF. This two projects received 2,110 applicants and 606 applications in 2013 respectively.

⁵ LAF granted aid to 36,225 cases with the remaining being commissioned cases.

⁶ LAF granted turned down aid to 13,361 cases with the remaining being commissioned cases.

Court or Administrative Court. By now, the courts have ruled that the decision made by Reconsideration Committee cannot be challenged because this is a special provision specified in the Legal Aids Act. The dispute itself is an incident of public law or an incident of private law, has not been discoursed upon. Therefore, the nature of LAF is still undefined.

(2) Supervision

The supervisory mechanisms over LAF include, in addition to internal Board of Supervisors, the Supervision and Management Committee of the competent authorities, the Judicial Yuan, as the responsible agency to supervise LAF. Therefore, LAF's budget is subsidized from annual budgeting by the Judicial Yuan, and then should be subject to the review by the Legislative Yuan. Moreover, various private NGO groups also form the Legal Aid Protection Alliance to play the role of supervision and balancing force in private sector.

- I. LAF Board of Supervisors: The President of the Judicial Yuan appoints five supervisors for LAF, unpaid positions with a 3-year term, consisting of representatives from the Executive Yuan, Judicial Yuan, a lawyer recommended by national and regional bar association, a specialist with background in accounting or other related professional knowledge, and a person of social justice. The Board forms the internal supervision mechanism of LAF.
- II. Administrative Supervision: The Judicial Yuan, the competent authority of LAF, established an additional Supervision and Management Committee (hereinafter referred to as SMC) as the responsible agency in supervising LAF. The Committee is comprised of nine members appointed by the President of Judicial Yuan, including the Deputy Secretary-General of Judicial Yuan, heads of relevant offices, external experts, and scholars. The Deputy Secretary-General serves as Chairperson, and currently, there are four internal committee members and five external committee members. SMC, with the scope of supervision covering fields of finance, business, and annual major measures of LAF, reviews monthly each resolution made by the Board of Directors of LAF (excluding personnel hiring), for which the outside world doubts the overlapping of functions between the Board of Directors and SMC. Moreover, because SMC also has the authority to review not only the legitimacy of BOD's resolutions but also the eligibility of them, SMC's reasonable scope of supervision becomes a controversy.
- III. Parliamentary Supervision: The budget of LAF mainly comes from the subsidies of the Judicial Yuan through annual budgeting. According to relevant laws of budgeting, both the Chairperson and the Secretary

General are required to present in the Legislative Yuan to be addressed inquiries. Therefore, LAF can receive opinions from elected representatives representing a variety of interests, which may enrich the depth and breadth of LAF's services. In addition, because legislators' opinions may differ from those of the Judicial Yuan, the discrepancy of opinion between administrative and parliamentary supervision could be balanced.

IV. Supervision by Legal Aid Protection Alliance: The private NGO played a significant role in the legislation of Legal Aids Act, and have a close relationship with and care highly about the operation of LAF since its establishment. Moreover, the Board of the Directors of LAF undergoes reorganization in every three years, which affects the direction and implementation of LAF's policies. Hence, the relevant private NGOs formed the Legal Aid Protection Alliance to continue supervise the routine operations and the reorganization of LAF's Board of Directors.

4. Organizational Structure and Business Overview

(1) Organizational Structure

The highest decision-making body of LAF is the Board of the Directors, under which, there are one Secretary-General, one Deputy Secretary-general, in addition to 21 branch offices and six specialist committees. The Secretary-General reports to the Chairperson of Board of Directors and is responsible for commanding and supervising the staff at all levels of the Foundation to implement the affairs at the Foundation and direct branch offices to handle branch affairs. Each office has its Examining Committee responsible for reviewing applications for legal aid, and LAF set up a Reconsideration Committee at Foundation's headquarters with responsibilities for reviewing the cases that applicants have refused to accept the decisions made by Examining Committee of a branch office. As of August 31, 2014, LAF has 227 full-time staff, 15 temporary personnel, and 14 staff-lawyers at both the Foundation's headquarters and branch offices.

I. Board of the Directors

The Board of the Directors is the highest decision-making body of LAF, comprised of 13 unpaid directors appointed by the President of Judicial Yuan, serving a term of 3 years, including 5 representatives of government agencies (in particular, 2 representatives of Judicial Yuan, and 1 representative from the Ministry of Justice, and Ministry of National Defense, and Ministry of the Interior, respectively), 8 representatives from private-sector (4 lawyer, 2

experts/scholars, and 1 representative of the disadvantaged group and 1 indigenous representative). The 13 directors elect one director as the President to represent the Foundation. The first three presidents were scholars, while the current fourth president is a lawyer.

II. Secretary-General and Deputy Secretary-General

The Board of the Directors appoints one Secretary-General and one Deputy Secretary-General responsible for commanding and supervising the staff at all levels of the Foundation to implement the Foundation's policies and direct branch offices to handle branch affairs. Under Secretary-General and Deputy Secretary-General, there are six departments, including Department of Legal Affairs, Department of General Affairs, Department of Business, Department of Promotion cum International Affairs, Department of Administrative Management (in control of General Affairs, Human Resource, Information Management, Document Control, and Cashier), Department of Accounting, and Office of Secretary, as well as a Northern Center for staff-lawyers.

III. 21 Branch Offices

LAF has set up 21 branch offices, which are located according to the areas of jurisdiction of district courts, to review and execute directly individual legal aid applications, to handle the payment or return of relevant lawyers' fees and litigation expenses, and to share or burden jobs of review and execution. The Board of Directors appoints an unpaid Director, with a term of three years, for each branch office by inviting a local lawyer or expert or scholar of zeal and good reputation. Each branch office has a certified lawyer as full-time executive secretary in charge of the operations of a branch's regular affairs.

IV. Examining Committee

Each LAF branch office's Examining Committee consists of unpaid Examining Committee members, each with a 3-year term. Each branch office director elects judges, prosecutors, military judges, lawyers, or other scholars/experts with professional legal knowledge, and submits to LAF for appointment. By the end of June, 2014, the number of Examining Committee members has reached 1,340. The responsibilities of Examining Committee are as follows:

- A. Granting/rejecting, revoking, and terminating legal aid incidents.
- B. Pre-paying, paying, reducing, or cancelling lawyer's fees and other necessary expenses.
- C. Applicant's share of lawyer fees and other expenses.
- D. Mediating and preparing mediation articles for disputes between the recipients and legal aid provider.

V. Reconsideration Committee

An applicant who refused to accept the decision made by Examining Committee may apply for Reconsideration, for which LAF set up, at headquarters, a Reconsideration Committee to accept and hear reconsideration cases. The Reconsideration Committee consists of unpaid members including senior judges, prosecutors, military judges, lawyers, or other experts/scholars with professional legal knowledge, for a term of three year. As of the end of June, 2014, the number of Reconsideration Committee members reached 233.

(2) Business Overview

- I. The total number of applications for legal aid in 2013 reached 136,065 and in particular, the applications for legal counseling services were 80,670 cases. The types of application and cases are shown below in Table 1.
- II. The types of legal aid cases can be divided into “general cases” and “special projects.”
 - i. “General cases” refer to the cases which the applicants apply for private lawyers’ “representation and defense,” “mediation or settlement” or “legal document drafting,” including civil, criminal, family, and administrative cases. The number of general cases granted with legal aid is 28,584.
 - ii. “Special projects” are divided into “Law Enforcement Project,” “Consumer Debt Clearance Project,” “Expansion of Legal Counseling Project,” and “Law Enforcement Project Involving Indigenous,” etc. The number of project-based cases that received legal aid is 70,120. In particular, 1,852 cases were law enforcement cases, 4,495 cases were consumer debts clearance cases (including 2,727 cases for legal counseling in consumer debt clearance), 59,752 cases for expansion of legal counseling, and 4,021 cases for law enforcement project involving indigenous.
 - iii. According to Article 2 of “Staff-Lawyer Assignment Guidelines,” the quantity assigned by LAF to staff-lawyers should be within 20% of the total number of legal aid cases.
- III. Analysis of 2013 cases of legal aid by type: “Representation and defense” is the majority of general legal aid cases and accounts for 87.78% of the total cases of legal aids. The types of legal aid cases

are shown in details in the following Table 2-4.

Table 1: Total Legal Aid Application Statistics							
Total (excluding commissioned cases) (a=b+c+d+e+f)	LAF Cases					Commissioned Cases	
	General Cases (b)	Project-Based Cases				Labor Litigation Legal Aid Project	Indigenous People Legal Aid Project
		Law Enforcement Cases (c)	Consumer Debt Clearance (including legal counseling)(d)	Expansion of Legal Counseling Cases (e)	Law Enforcement Cases for Indigenous (f)		
136,065	43,277	2,339	5,754	80,670	4,025	2,110	606

Table 2: Statistics of Total Legal Aid Cases					
Total No. of Legal Aid Cases (a=b+c+d+e+f)	No. of General Cases (b)	Project-Based Cases			
		No. of Law Enforcement Cases (c)	No. of Consumer Debt Clearance Cases (including insolvency legal counseling) (d)	No. of Expansion of Legal Counseling Cases (e)	No. of Law Enforcement Cases for Indigenous (f)
98,704	28,584	1,852	4,495	59,752	4,021

Table 3: (General Cases) Statistics of Types of Legal Aid Granted				
Type	Representation and Defense	Legal Document Drafting	Mediation or Settlement	Research Legal Consulting
No. of Cases	25,092	3,325	167	0
Ratio	87.78%	11.63%	0.58%	0.00%

Note: Research Legal Consulting cases refer to the legal aid services involving private lawyers' counseling and drafting legal counseling opinions after being approved by review, which differs from the cases giving oral consultation on site.

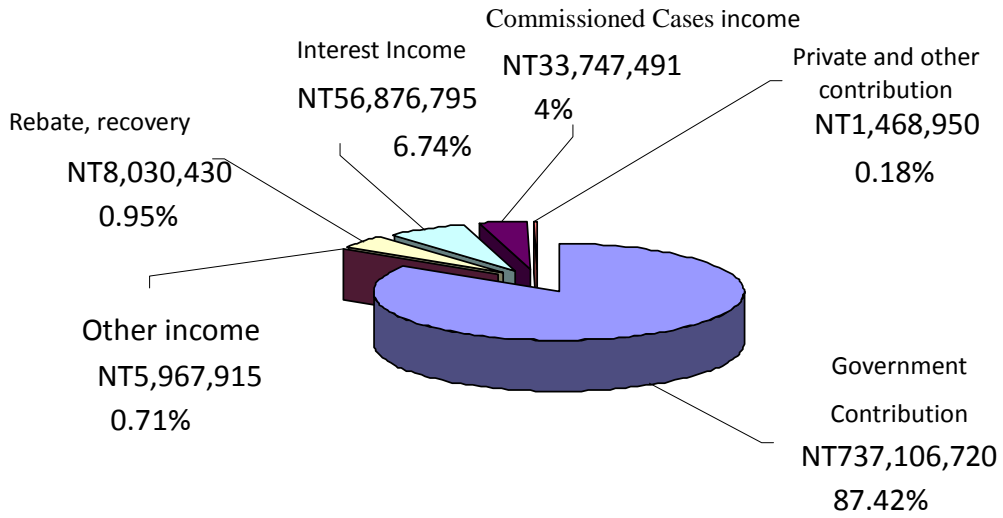
Table 4: (General Cases) Statistics of Applications and Types of Cases Granted Legal Aid				
Types	Applications		Cases Granted Legal Aid	
	No. of Cases	Ratio	No. of Cases	Ratio
Criminal	24,110	55.71%	16,408	57.40%
Civil	10,587	24.46%	6,378	22.31%
Family	7,941	18.35%	5,572	19.49%
Administrative	537	1.24%	226	0.79%
Blank	102	0.24%	-	0.00%
Total	43,277	100.00%	28,584	100.00%

5. Financial Status

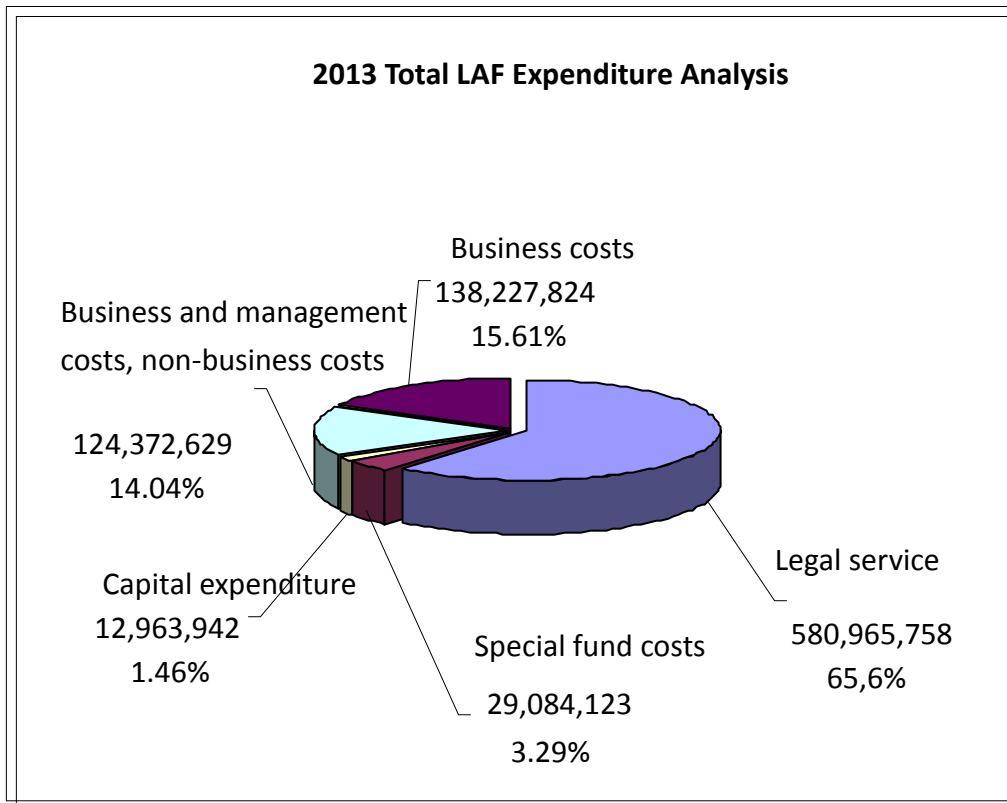
(1) Funding

According to Article 6 of Legal Aids Act, Judicial Yuan, the competent authority of LAF, shall prepare annual donation budget. As of 2013, the total funds revenue for LAF was NTD 843,298,301 (equivalent to USD 28,000,000). The income items are shown as follows:

2013 Total LAF Funds Revenue Analysis



(2) Total Expenditure: 2013 total expenditure for LAF was NTD885,614,276. The details are shown in the following diagram.



(3) Funding had been suspended by Legislative Yuan without substantial reduction:

The average funds of LAF's is approximately between USD 20,000,000 and USD 25,000,000. Generally, the funding is based on the estimation of the number of cases for legal aid the year, with an exception for one year when Legislative Yuan was dissatisfied with LAG's performance on private contributions and decided to reduce NTD 50,000,000. The budget remains relatively steady without substantial reduction for years, in spite of some increase and decrease in the past budgets.

(4) Are there caps on annual spending?

The annual funding for LAF is estimated based on the number of legal aid cases for the year. However, LAF carries out legal aid services by following the standards provided by the Legal Aids Act and its authorization, LAF in general is not constrained by the annual funding of the year. Moreover, the payment for private lawyers is divided into pre-paid fees and case-closing fees. Therefore, there are case-closing fees of old cases and pre-paid fees for new cases in the same funding year. In the event of funding tightening, LAF will adjust the time to pay fees to the private lawyers and will not immediately suspend the accepting process of legal aid applications. By now, there is no any suspension of legal aid applications, in part or in whole, due to insufficient funding.

6. Performance assessment and branch offices performance

LAF has set up an assessment mechanism to evaluate the performance of the headquarters and the branch offices. Prior to 2009, the items for performance evaluation for the headquarters include "completing annual plan, counseling to branch nationwide, project planning and innovation, and others." The evaluation procedure starts from the headquarters submits the annual work report to the Board of the Directors. The Board of the Directors determines the annual performance of the headquarters. The performance evaluation items for branch offices include "number of cases, service quality, and implementing behavior, function, and others." The evaluation procedure starts from the headquarters sending assigned staff to branch offices to conduct business evaluation, and then submit evaluation reports to the Board of the Directors for determining their annual performance assessment.

However, due to the lack of explicit connection between the assessment standards of the aforementioned evaluation and the long-term objectives of LAF, the lack of objective and quantitative standards for the assessment items, and the lack of performance index that could motivate the colleagues. LAF has introduced KPI since 2009, configuring scores of quantitative performance measurement indices such as the number of cases and service satisfaction, etc., then, evaluated each branch offices' performance based on their achievements in each performance indices. This assessment system has been operated for 3 years before entering general review. LAF discovered that the KPI assessment is likely to encounter deviation, difficulty of configuring assessment indices, inability to highlight a branch's characteristics, time-consuming in the process of assessment and calculation, non-conformance to costs and assessment standards involving in individual cases. As a result, the system did not have achieved expected effects. Hence, LAF, at the beginning of 2014, revised the performance assessment system again and submitted a new assessment plan.

According to the revised assessment system, the performance evaluation items for the headquarters include "Foundation's planning and execution, branch offices management and supervision, and others." Similarly, the headquarters submits annual work outcome report to Secretary-General for preliminary evaluation, and then the President submits the results to the Board of Directors for resolution. Branch offices' performance evaluation items include "service quality, execution of policy and business, and others." The evaluation method includes document review, on-site interview, and in-field sampling (The three offshore islands, including Penghu, Kinmen, Matsu, will be primarily based on document review only). During the assessment period, the Secretary-General assigns responsibilities to the Deputy Secretary-General for establishing an assessment team to conduct in-field visit, during the assessment period, records survey, and personnel interview to understand the annual performance and business outcomes of each branch office. Through a comprehensive review on each branch's service outcomes, the standards for benchmarks learning among branch offices were thereby established and the effects of motivation between colleagues and of encouraging late comers were achieved.

7. Legal aid service models and fees

(1) Sources of private lawyers (by type)

There are two types of lawyers undertaking LAF legal aid cases. One is staff

lawyers (or staff-lawyers) hired by LAF, and the other type is private lawyers. The budget is designed for containing 18 staff lawyers and by August 2014 LAF has currently appointed 14 lawyers. There are 2,928 private lawyers as of August 2014 (accounted for 35% of the number of lawyers in Taiwan). Staff lawyers are responsible for handling major public welfare cases, such as major environmental pollution proceedings (RCA case) and the state compensation cases (the wiped-out of Xiaolin Village in Morakot Typhoon), while other remaining legal aid cases are all handed by private lawyers. Statistics show that among the cases that LAF granted legal aid, the ratio of cases undertaken by staff lawyers was only 1.6%, between January and September in 2014, 1.5% in 2013, and 1.7% in 2012. Private lawyers still play the major role in handling LAF legal aid cases.

(2) Eligibility for a lawyer to join LAF as a private lawyer.

In general, the lawyer must practice legal business for at least 2 years before joining the LAF. This LAF's requirement for private lawyers to be equipped with basic litigation experience is in order to assure the quality of legal aid cases.

A lawyer with less than 2 years of practice can prepare 15 proceedings memorials that he/she has actually undertaken and submit to LAF for review the eligibility before joining LAF, to become a private lawyer.

Additionally, private lawyers have low intention to process insolvency cases and law enforcement investigation cases, since these cases are usually held at midnight or early in the morning. From time to time, LAF relaxes eligibility for lawyers with less than 2 years of practice upon meeting certain conditions to apply for and join the aforementioned types of private lawyers (please refer to the article in Appendix 3).

(3) Assignment mechanism

A qualified lawyer is required to join the regional bar association and register at a branch office to become a legal aid lawyer at LAF. Each branch will take turn to assign a case to a private lawyer. In general, each private lawyer will be able to handle at most 24 legal aid cases each year.

(4) Lawyer's fees

The fee for LAF private lawyer is relatively lower than that of the market fee rate, approximately 1/3 to 1/2 of the average market fees. For this reason, the circle of lawyers has constantly demanded for reasonably higher fees. It is

believed that excessively low fees will affect the service quality of private lawyers. Nonetheless, LAF's budget is constrained by the Judicial Yuan and an increase of fees will require the consent of the Judicial Yuan. Although LAF has currently passed new payment regulations and slightly increased the fees for the lawyers involved in legal aid cases with considerably low fees. The Judicial Yuan agreed in general. Overall, however, the fees still far below the market level.

(5) For more information about the supervision system and issues related to LAF private lawyers, please refer to the paper in Appendix 3.

8. Types of legal aid services

(1) Service types

As for the types of legal aid cases, LAF, in principle, does not provide legal aid to specific items (mainly for commercial activities and objects of action with excessively low values, which is not worth suing). (However, with the consent of the Director of the branch office, legal aid may be provided, whenever necessary). LAF provides legal aid for applicants in other cases, including civil, criminal, family, and administrative. LAF offers legal aid for various cases with primary services, including legal counseling, representation and defense, legal document drafting, mediation and settlement. For more information about the analysis of case types, please refer to point 4 (2) of this report.

(2) Content of legal aid

Upon approval of an application, the branch office assigns a private lawyer to take over the case. LAF is not only responsible for lawyer fees but also the necessary expenses for ongoing cases, which in general will to be paid. As for the cases that require to pay judicature fees, the court should temporarily exempt payment obligations in general, according to the provisions set forth in Legal Aids Act. If the Examining Committee of a branch office deems that a legal aid incident is likely to win, and is necessary to petition for a temporary restraining order, LAF should also present a warranty to replace the security deposit that a recipient of legal aid should pay.

(3) LAF's resource allocation

For more information about issues related to LAF resource allocation, please refer to the paper in Appendix 2.

9. Application procedures and criteria for granting aid

(1) Application procedures

LAF has set up 21 branch offices. People can apply to a branch office, depending on convenience. Because the application concerns an applicant's means test and case diagnose, in principle, the applicant has to apply in person to a branch office and be interviewed by review commissioners of the Examining Committee. The Examining Committee will determine if legal aid should be granted, after the interview. However, for an applicant being behind bar or detained, to protect their rights, he/she can apply for legal aid by submitting a written application.

(2) Criteria for granting aid

LAF divided the cases into general cases and special cases, and they have different set of criteria for offering legal aid. In a layman's terms, the general cases are required to review an applicant's (including spouse, parent, children, property and/or residency sharing relatives) means test, but the special cases do not, as shown below:

I. General cases

A person, as long as conform to the following conditions, may apply to LAF for legal aid services, whenever necessary, regardless of types of the cases (including civil, criminal, family, and administrative cases). Upon being approved, LAF will provide proper legal aid, depending on the requirements of individual cases. This is so-called a general case.

- i. Legal residents in Taiwan: LAF only require a applicant who holds legal residence status in Taiwan, and Taiwan nationality is not required.
- ii. Financial eligibility must conform to Criteria for Means Testing (as shown in the following table); however, some special conditions are treated flexibly:
 - A. An applicant's income or assets may be higher than the amount listed in the table, however, if the excess is within the range of 20% of the level, LAF may offer partial legal aid, and the recipient of legal aid should be

responsible for 1/3 or 1/2 of the lawyer fees and necessary expenses.

B. In practice, LAF discovered that requesting foreign workers and spouses to provide documents for means tests is quite difficult. Moreover, applicants of Consumer Debt Clearance, because their relationship with their family are often on bad term, are hard to expect that their family will provide them the documents. In addition to considering the difficulty to get the documents, most of foreign workers and spouses are tear themselves away from their native places, due to difficulty to make a living in their mother countries; and the applicant of insolvency cases, inasmuch as insolvency, their financial eligibility should be in poor condition. Therefore, the means test at LAF can be replaced by an applicant's affidavit to attest the truth of a statement; therefore submitting of a financial eligibility document becomes not necessary.

【Criteria for Means Testing】

(Unit: NT\$)

	Single-person household		2-person household		3-person household	
	Monthly disposable income	Disposable assets	Monthly disposable income	Disposable assets	Monthly disposable income	Disposable assets
Taipei City	below 28,000	below 500,000	below 40,522	below 500,000	below 60,783	total below 650,000
New Taipei City	below 23,000		below 37,318		below 55,977	
Taichung City			below 35,580		below 53,370	
Tainan City			below 32,608		below 48,912	
Kaohsiung City			below 35,670		below 53,505	

Taiwan Province or other areas	below 22,000		below 32,608		below 48,912	
Regulations for Means Testing	subparagraph 1, Article 3		subparagraph 2, Article 3		subparagraph 2, Article 3	
Note	<p>1. Excluding single-households, for a status not listed above, the standard for calculating disposable income for each additional person in a household depends on the identification of the competent verification organ at the county (city) where the applicant resides, by following the qualifications for determining the income of a low and middle income household specified in Public Assistance Act.</p> <p>2. Disposable assets: This item does not include residential houses nor self-cultivated farmland at reported current value lower than NT\$5,500,000. In addition, the amount of disposable assets increases NT\$150,000 for each additional person starting from the third person in a household.</p>					

II. Special cases

For certain specific cases under special circumstances, the Board of Directors of LAF has reached resolutions to offer applicants of legal aid free from means tests, provided that it is within the scope of the resolution, and hence, regardless of an applicant's means test, the services will be delivered. The types of special cases that LAF currently operates:

- i. The program for Lawyer's Company for First Investigation: In regard to the criminal defendants' or suspects' right to counsel, the history of the development of Taiwan's criminal lawsuit system went from having a lawyer to be present only in the stage of trial, extended to have a defender in the public procurator' investigation, and then to include a defender in the police detective work. Considering that the unfamiliar questioning procedures or fear cause an ordinary people to be unable to give the statement of opinion freely, to guarantee the right of due process of law under the Constitution, the Board of Directors of LAF reached a resolution to offer a lawyer's company for the first questioning free of charge, and to guarantee a citizen's right of action and right of equality, the service is also free from

means tests.

- ii. Material, disastrous incidents happened in the society: Considering that the victims of a catastrophe have to face immediately the legal problems of the destroyed home, which he/she is not able to claim, and the death of loved ones, for which the inheritance procedures are complicated, LAF's Board of Directors will immediately pass a resolution for offering a special legal aid program, when a disaster occurred. For example, LAF has established an August-8 Typhoon Disaster Project for the disaster areas of Typhoon Morakot, to offer the victims legal aid services without requiring means tests, except engaging in a lawsuit is necessary. In another word, the project includes legal counseling, and representation of mediation or settlement, and other legal aid for non-contentious proceedings, without taking a means test. In addition, from July 31 to August 1, 2014, in the early morning, the incident of gas explosions occurred in Kaohsiung. The Board of Directors of LAF reached a resolution to follow the precedent of August-8 Typhoon Disaster Project to offer the services for non-contentious proceedings without taking means tests.
- iii. Legal counseling services: In view of the considerable differences between legal counseling, which is delivered without providing a written document of opinions, and legal aid, which requires application and approval, providing simple legal counseling to citizens to deal with legal problems is a basic service for a legal aid organization in advanced countries. To treat each people equally, be convenient for people, and to save administrative resources, the Board of Directors of LAF reached a resolution to provide legal counseling for people without the requirement of any means test.

(3) Criteria for granting aid of government commissioned projects

LAF, starting from March 2009 and from April 2013, accepted administrative entrustments by the Ministry of Labor and by the Council of Indigenous Peoples, respectively, to provide legal aid for both the laborers and the indigenous peoples. The qualifications for applicants of MoL' project are looser than those of general cases, and the qualifications for indigenous peoples are free from means test. For more information, please refer to an attached article in Topic 2.

10. Monitoring the quality of legal aid services

Upgrading service quality and ensuring the recipients' rights and interests are always LAF's major projects. Mechanisms having been carried out recently are as follows:

(1) Case-in-process monitoring

- I. The mechanism for requesting pre-payment LAF require that a private lawyer should start to process a case within two months after accepting the case, and after reporting with the documents about current status of the case to the branch office, he may request a pre-payment.
- II. LAF set up reminders on the software system for the services: A deadline is set up according to the type of legal aid cases. If a case is past due without reporting conclusion of the case, the branch office will actively find out the causes of delay, in order to master the case's schedule.

(2) Case-closing monitoring

- I. A private lawyer should, within one month after completing a case, collate relevant documents and report back the conclusion of the case. Upon finishing the case conclusion review by the branch office, the lawyer can get his/her case conclusion fees.
- II. The fees may be raised during case conclusion review, depending on the complexity of the case or favorable results of judgment in a criminal case. However, if there is an improper performance of duty imputable to the private lawyer, the fees may be reduced by varying degrees, depending on the circumstances.

(3) Summary

To some special cases, if there are private lawyers with specialties available to handle the cases, it would be able to guarantee the quality still further, though LAF adopted the aforementioned quality control scheme. LAF is aware of the importance of having specialty departments; therefore, has divided lawyers into three special domains, including labor, consumer insolvency, and domestic cases, to carry out a trial implementation of assigning a lawyer with specialties to a relevant case, starting from March 1, 2015. In principle, only lawyers with specialties qualified by LAF's review can be assigned to cases in relevant domain.

LAF, since its founding ten years ago, has faced many challenges in private lawyer's quality control. For example, a private lawyer's fee rate is evidently lower than that of market rate, which contradicts to quality improvement, as many critics described. In addition, the mechanisms of appeal and review have operated many years, but only screened out a few lawyers. The mechanisms' ability to select capable private lawyers in the future has been challenged. For more information about the quality control of legal aid services, please refer to the attached article of Topic 3

11. Informing potential applicants of the availability of legal aid services

(1) Advertising campaigns and participating in advocacy of legal aid

LAF distributes information about services through a variety of publicity activities to the public. Each branch office frequently go to remote districts in its responsible area to carry out legal counseling, offering the possibilities for people in those district to obtain legal counseling and be informed of the content of services.

(2) Setting up "Legal Aid Supporting Network" stands

To strengthen communications and referral channels, LAF has invited local governments, institutions, and societies to jointly build a "Legal Aid Supporting Network" and place various information kits at each station of the network, to make people know about the services provided by LAF.

(3) Issuing media releases

I. Publishing through government sector’s public good channels

LAF has produced short films and radio ads for a variety of topics and broadcast them through government sector’s public good channels to popularize its business information.

II. Working with media in public welfare issues and interviews

To distribute publicity of important service projects, LAF co-operates actively with media or makes arrangements of interviews. For example, television news tickers were used for broadcasting the proposal-to-debtors tour held at various locations in Taiwan in 2014.

III. Strengthening publicity on the Internet

Including updating LAF’s official website, answering questions in blogs, and setting up social networking service (Facebook) to strengthen communications with the public. To distribute publicity, LAF provides service project information for websites, blogs, and forums, where the relevant groups often gather, and put shot films on the Internet for people to click in for information, in order to increase publicity.

IV. LAF, in co-operation with radio stations, has arranged schedules regularly for lawyers to explain common legal problems to the public.

(4) Mobile vehicle—“Mobile Legal Aid Service Vehicle” patrolling the streets to announce the availability of legal aid services.

12. Reducing the amount of disputes which resort to the courts, including law reform and community legal education

(1) Offering private lawyer participated services in mediation and settlement cases

LAF currently provides lawyer services, including representation of parties in mediation and settlement cases, as well as drafting documents and representation of parties in court, that is, the private lawyers participate in mediations and settlements, either extra-litigation or during litigation, to assist the recipients of legal aid to resolve the cases as soon as possible to avoid

time-consuming judicial actions.

But, LAF in itself does not act as a mediational organ; however, a lot of public figures require LAF to be one and hope that LAF uses its neutral and professional stance to increase people's willingness to use mediation system. With this, LAF is carrying out a comprehensive assessment, including training of conciliators and law and regulations, and whether or not to limit it to only for the recipients of legal aid involved in mediation cases

(2) Advocating institutional reform

LAF has developed an approach by using special assistance cases to initiate institutional reforms to deal with issues involving the disadvantaged. For example, in 2006, the staff-lawyers of LAF had faced many difficulties when they were representing over 300 debtors to negotiate plans for discharge of debts with the banks and discovered that Taiwan lacked an individual bankruptcy mechanism. LAF worked together with NGO, who was also concerned with the debt issue, to help materialize the legislation of the Consumer Debts Clearance Act in July 2007, and set up a project for debtors to discharge consumer debts in March 2008, which is still continuing today. In addition, LAF's staff-lawyers have assisted many exploited foreign workers, and through this accumulated practical experiences, the lawyers helped the legislation of the Human Trafficking Prevention Act in 2009, providing more comprehensive protection for the victims of human trafficking. Moreover, the Inheritance Act of Taiwan has changed from a universal succession system to a limited succession system (limited liability for satisfaction of inherited estates) from 2008 to 2009. This is also an example that LAF and NGO have worked together to help materialize the reform of important legal institutions. In 2014, LAF, in co-operation with environmental groups, draw up a draft amendment for Water Pollution Control Act. LAF hopes, through these institutional reforms, to make more people's legal problems can be resolved.

(3) Offering legal education

To expand the connections between resources, LAF in co-operation with

National Open University has produced and broadcast programs to promote legal knowledge in multiple forms, such as e-learning. Lawyers assigned by LAF explain relevant issues of material social cases and legal problems of common people in the programs, in the hope that it can improve the attainment of citizen's legal education in Taiwan.

Additionally, each branch office, in co-operation with local bar association, county or city government, and educational institutions, has assigned private lawyers to explain legal common sense to the public in various campuses.

13. Making legal services accessible through technology

(1) Video-conference legal counseling services

Working and transportation are the two obstacles that are difficult to overcome when the disadvantaged are looking for legal assistance. How to make people in remote districts to obtain the right to legal aid without being blocked by a long journey becomes a challenge to LAF.

Since 2013, each branch office of LAF, step by step, in co-operation with local governments, has allowed people to go to a nearest affiliated unit and use video conference device to connect to and have a video conference counseling with a branch office's lawyer. Consequently, the network of the Internet replaces the network of roads and spares the disadvantaged living in a remote district the hardship of a journey. By September 30, LAF has set up 207 stations of video conference for legal counseling services, and accomplished 1,693 cases of legal conference. Some people living on a off-shore island had connected with staff-lawyers at LAF's headquarters at northern Taiwan. LAF hopes that, in the future, the system can be developed to provide an all-time, area-wide legal conference counseling services.

(2) Hotlines for legal counseling

LAF presently directs toward material social incidents and disasters to provide timely legal counseling in emergency, before being granted the legal aid services. People can dial a hotline, then leave contact information and name, and a LAF's staff-lawyer will call back and answer legal questions.

LAF is planning to provide nation-wide hotlines in the near future for selected

legal counseling services, in the hope that people can have multi-channel services of legal aid.

(3) Blog and Facebook

LAF has set up blogs and Facebook platforms maintained and answered by responsible lawyers every day. At the same time, a case may be referred to another branch office for other legal aid, whenever necessary, for example, legal counseling, application for legal aid, etc. In addition, the blogs and Facebook are able to advertise the relevant information of LAF's services to have a real-time dissemination.

14. Difficulties encountered and strategies

- (1) Indefinite nature of the organization: Is LAF a public corporation or a private corporation, though it is established as a foundation organization? The question is open to debate. As a result, it becomes difficult to answer the Legislative Yuan's demands. For example, the Legislative Yuan asked LAF to improve private fund raising ability and apply for appropriation of publicly-owned houses as LAF's offices in order to reduce the costs of renting offices. But, the Ministry of Health and Welfare, the competent authorities of private fund raising matters, considered initially that LAF is a quasi-government organization, which is not allowed to raise funds in open, though the Ministry later changed its opinion and considered that LAF could cite a special provision of the Legal Aids Act to raise funds in public. Furthermore, National Property Administration, on the other hand, interpreted that LAF is a private corporation and cannot use publicly-owned houses appropriated. It is evident that the nature of LAF is interpreted differently in different domains. In addition, the relationships between LAF and an applicant; LAF and a private lawyer, because the relationships involve how to select a appropriate remedial approach when a applicant or a lawyer decided against LAF's decisions. These are issues LAF will eventually face.
- (2) Balance between autonomy and supervision: Over a long period of time, the Supervisory and Management Committee of the Judicial Yuan has offered many assistance to LAF, in terms of the establishment of the system and business development. However, many criticisms pointed out that the Committee's

supervision is too detailed, which even overlaps the function of Board of Directors. How to strike a balance between the two has also become an important issue.

- (3) Revising the Legal Aids Act: The Legal Aids Act is the fundamental law for LAF to carry out its businesses. Since its establishment, the Act, in principle, remains the same, though it has been amended twice. However, through a decade of operation and the changes of social environment, it does have many portions incompatible with present needs. Moreover, all orders of society have many additional demands and imaginations; therefore, the Act has reached a point that it has to be revised. LAF has, at its third Board of Directors, passed a recommendation of revisions and submitted it to the Judicial Yuan (LAF does not have the right to submit a bill to the Legislative Yuan), but, the Judicial Yuan has its own opinions that have to be consolidated and therefore, has not yet brought up a draft of amendments. On the other hand, private groups have proposed, through joint signatures with legislators, many versions of amendments to the Legislative Yuan, which also have to wait for the submission of the Judicial Yuan's official version and let the Legislative Yuan to review them all together.
- (4) Crisis of brain drains: Although LAF is a foundation organization and more than half of its directors are private directors, it depends on funds donated by the Judicial Yuan, the competent authorities, and is intensively monitored by the Supervisory and Management Committee of the Judicial Yuan. LAF's regulations of organization or personnel are all subject to the agreement of the Committee; thus its discretionary limits are next to nothing, as a result, LAF's organization and personnel systems incline toward a system of public affairs, rigid salary structure; however, its staff member do not have the protections of a public servant status. Talents are lost easily, which is detrimental to the Foundation's long-term development.
- (5) How to respond timely to the demands of emerging disadvantaged minorities: LAF continually directs toward emerging or material incidents occurred in the society to provide legal aid services. However, LAF is unable to provide comprehensive legal aid services for the persons involved in class sections in connection with environmental or public welfare issues, because an applicant's financial qualification is limited by the Legal Aids Act, which should resort to amendment to the law.

- (6) How to simplify workflows: To a legal aid application, LAF, in principle, requires the applicant to bring means test and case information to a branch office in person to let examining commissioners to inquire. How to appropriately open for written applications, or applications by a lawyer on an applicant's behalf; how to negotiate with state taxation authorities to agree that a LAF branch office can directly access to the applicant's household taxation and property information; and how to properly streamline the review methods and processes for obvious legal aid cases, are the key points that LAF has been reviewing.
- (7) How to strike a balance between a lawyer's service quality and reasonable fees: To provide the recipients of legal aid high quality lawyers' services, LAF has, presently, set up many quality mechanisms for controlling a private lawyer's affiliation, case assignment, after-assignment case management, and case closing management. However, a private lawyer's fee rates are far lower than those of lawyers on the market. To balance the gap between the quality and reasonable fees, LAF Board of Directors has revised the standards for the relevant fees (to be approved by the Judicial Yuan). In the future, LAF will review the standards at least every three years, which may be able to help in providing reasonable fees.
- (8) How to utilize new technology to construct multi-channel services: The development of new technology brings an imagination that it could introduce convenient and effective legal aid services. Hence, LAF has established a video conference legal counseling services, and is planning to provide nation-wide hotlines in the near future for selected legal counseling services. In addition, LAF is planning to establish an on-line Q&A for legal questions to offer people self-help services. However, LAF is also aware of the limits of using new technology to provide services and understands the knowledge gap and predicaments of the disadvantaged in using the new technology. Therefore, new technology is used as an auxiliary tool in primary face-to-face services, to supplement, not to replace, face-to-face approach.

15. Mechanisms of co-operation with legal aid organizations abroad

Taiwan has not yet established mechanisms of co-operation with other international legal aid organizations. However, given that international mutual assistance can manifest and fulfill the value of the spirit of universal human rights, Taiwan will, in

this international conference, enter into mutual aid agreements with legal aid organizations of other countries. We also hope that the conference organized by Taiwan could offer legal aid organizations around the world a research platform for regular gatherings. In addition, for more information about Taiwan's needs for mechanisms of co-operation with legal aid organization abroad and the predicaments, please refer to the article in Appendix 1.

16. Conclusion

Since its founding, LAF has been challenged by many tough questions, including determination of its nature, balance between autonomy and supervision, and others. However, members of LAF uphold, all the time, the intent to offer legal aids as fundamental human rights and continue to guard the legal rights of the disadvantaged.

Over the past decade, LAF held International Forum on Legal Aid in 2005 and 2009 in hope of sharing the experiences from around the world, and members of LAF have paid multiple visits to and studied in more developed countries. From its initial preparations, after the approval of Legal Aids Act, to now, LAF has expanded to having 21 branch offices, 242 staff members, 2,928 private lawyers, accumulated 514,213 cases that have been granted legal aid, and received over 720,000 applications. LAF expects that through 2014 IFLA, LAF can continue to have exchanges with participating legal aid organizations and to go a step further, make valuable experiences learned into nutrients and motive power for sustained reform and advancement.

International Mutual Assistance

On the implementation of the United Nations Principles and Guidelines on access to legal aid through the mutual assistance offered by legal aid organizations from various states

Provision of Legal Aid to Foreigners

The Principle 6 “Non-discrimination” of the United Nations Principles and Guidelines on Access to Legal Aid opportunities in the Criminal Justice System (hereinafter referred to as UN Principles and Guidelines) specifies that “States **should ensure the provision of legal aid to all persons regardless of** age, race, color, gender, language, religion or belief, political or other opinion, national or social origin or property, **citizenship** or domicile, birth, education or social status or other status.”

According to the Article 15 of Legal Aids Act of Taiwan, foreigners, regardless of their nationality, if legally reside in Taiwan Area and pass means and merits tests, can usually be eligible for legal aid. With regard to the recipients of non-Taiwan who has obtained the legal aid from this Foundation, but left the country since, the Legal Aid Foundation (LAF) of Taiwan has also expanded the scope of the assistance through the interpretation of the Act. For example, the recipients who sought for legal aid from LAF “based on the same facts” should be determined according to their legal residence status in Taiwan Area when the facts occurred, a condition setting out in Article 15 of the Legal Aids Act that “all people whom legally reside in Taiwan Area.” Regrettably, although the Article 62 of the Legal Aids Act provides that: “An indigent person who has received legal aids form the Chapter applies the litigation in forma pauper is to the court during the legal proceeding shall be granted. However, this rule is not applicable to a person who fails to meet the requirements in applying legal aids.” However, the majority of the judges in Taiwan, in practice, still consider the reciprocity of the Article 108 of the Taiwan Code of Civil Procedure must take priority. Because Taiwan does not have many reciprocal agreement countries, many foreigners cannot access to legal aid in criminal justice processes.

To help more foreign nationals, the Board of LAF also recommended that the

competent Judicial Yuan should amend Article 15 to make the legal aid accessible to persons who do not have ROC nationality, but are qualified to have one of the following conditions: (1) A person who lost the right of residence due to the particulars of a matter not attributable to the person (such as foreign workers who lost their legal residence due to labor disputes). (2) The victim or suspected in a human trafficking case. (3) A non-resident person in Taiwan Area who obtained legal aid from LAF for the same facts. (4) A non-resident person in Taiwan Area who may excise the rights due to the death of other people, in accordance with ROC laws. (5) A resolution reached at a meeting of the Foundation, in addition to the existing legal residents in Taiwan.

LAF has also discovered some unreasonable parts of the Act in the process of offering legal aid. For example, the Hsinchu Chapter of LAF, after accepting and hearing a car accident case involving Ms. Nguyen, of Vietnam, found that Ms. Nguyen has previously abandoned her Vietnamese nationality in order to apply for ROC nationality by naturalization. In the accident case, she was charged with violation of accidental homicide, but since having reached a settlement with the family of the victim with a good attitude, she was sentenced by Taiwan Hsinchu District Court to 6 months in prison and given 5 years' probation. Unfortunately, the Ministry of the Interior, for this reason, rejected her application for naturalization, holding she has a criminal record that does not meet the requirements specified in the subparagraph 3, paragraph 1, Article 3 of the Nationality Act of "He/she behaves decently and has no records of crime." Ms. Nguyen, after being turned down her application for naturalization, has since become a stateless person during her stay in Taiwan. Without having a nationality, she has been unable to apply for a passport to return to Vietnam to visit her father, who was seriously sick. She usually responds to wanted ads with a temporary residence permit which is effective for less than a year and cannot have a bank account in Taiwan, for which employers often refused to employ her for having only short-term stay and no any payroll accounts, as a result, she cannot find a regular full-time job. And, her Taiwanese spouse, a physically disabled person, has almost no ability to work. Ms. Nguyen has to raise a young daughter and to provide for the family by doing odd jobs single-handedly. After LAF's Hsinchu Chapter discovered this, the Chapter informed the Ministry of the Interior by letter asking for an interpretation and vouchsafing careful discretion to the applicant in circumstances of crime, attitudes after committing the crime, family background, socioeconomic status, human rights considerations, etc., and in application for naturalization, if a reasonable condensive interpretation can be given to a foreigner with an unintentional crime record, based on the relevant provisions of the Nationality Act, to protect the person's civil liberties and the right to existence and to embody the protection of human rights,

after the signing of two International Covenants. The Ministry of the Interior has so far not given a favorable interpretation, and the Chapter has asked lawyers to study how they can provide subsequent assistance.

Existing Status of Detention Concerning Foreign Spouses, Foreign Workers, Fishermen, and
Foreigners

The economy of Taiwan was affected by industrial restructuring, increasing the national income, the rapid growth of the service industry, enhancing of education level, changing in the concept of value of work, and other factors, which have resulted in a maladjustment of supply and demand in the labor market and labor shortages at grassroots level. To solve these problems, the Ministry of Labor, with effect from October 1989, has introduced foreign workers in succession from Thailand, Philippines, Indonesia, Malaysia, Vietnam, Mongolia, and other countries, relieving temporarily the labor shortage of industries and households. As of the end of December 2013, in Taiwan, there were 489,134 foreign workers, of whom 54.33% workers were engaged in the manufacturing sector, 0.69% in the construction industry, 2.00% worked as the fishing crew, 42.54% as care workers, and 0.44% as domestic workers. The top three countries of labor sources were Indonesia, Vietnam, the Philippines, accounting for 43.59%, 25.59%, and 18.20%, respectively. Consequently, the incidents of the uncertain whereabouts of foreign workers have also been reported now and then. As of July 31, 2014, the cumulative number of foreign workers whose whereabouts were unknown was 190,551, of which 144,449 workers have been investigated and deported. However, in Taiwan, there are still 45,579 foreign workers of uncertain whereabouts and 523 workers currently in detention centers.

As for foreign fishermen, the government currently do not carry out active supervision, because national laws do not apply to fishermen hired beyond the borders of the state, resulting in the incidents that some foreign fishermen were hired through agencies who provided deceitful information and improperly treated, or even worse, became victims of human trafficking. Maritime labor work in an environment very different from those of labor working on the land, and their working time, similar to that of housework labor, is difficult to define and regulate. They, when working on fishing vessels, have to face the weather, the loneliness of isolated sea life, lack of

adequate leisure, and communication difficulty between foreign fishermen and captains and other crew members of different nationalities. In July 2013, the Taiwanese captain and chief engineer of Tehongxing 368, a fishing vessel registered at Suao, were killed on board by foreign fishermen. The trial is still ongoing. LAF has offered legal aid for those foreign fishermen. According to the information currently known, it seems like the incident was arising from work related disputes between the two and the expatriate fishermen.

With regard to the foreign spouses, the cumulative total number of the spouses of foreign origin (referring to foreign nationals who were naturalized or obtained citizenship) and the spouses of foreign nationality (referring to foreigners who hold valid residence permits or permanent residence permit), in cities and counties in Taiwan, was 160,085, as of July 2014. Among which the majority of foreign spouses is identified to have national origin of Vietnam, Indonesia, or Thailand, accounted for 56%, 18%, and 5%, respectively. Concerning the ratios of married pairs and divorced couples between Taiwan nationals and foreigners, one of every 7.9 pairs of newlyweds in Taiwan in 2014 was a marriage between a Taiwan national and either a foreign or a mainland spouse, and one of every 4.6 pairs of divorced couples was a marriage between a Taiwan national and either a foreign or a mainland spouse.

In addition, regarding the detention of foreigners, as of July 31, 2014, the numbers of detained foreign nationals (including legal and illegal immigrants of foreigners and people from mainland China) in all existing detention centers are 204 in Yilan, 187 in Hsinchu, 195 in Taipei, 196 in Nantou, and 7 in Lianjiang, totaling 789 persons.

A Project for Human Trafficking Cases

In UN Principles and Guidelines, the Principle 10 “Equity in access to legal aid” specifies that “**Special measures should be taken to ensure meaningful access to legal aid** for women, children and **groups with special needs**, including, but not limited to, the elderly, minorities, persons with disabilities, persons with mental illnesses, persons living with HIV and other serious contagious diseases, drug users, indigenous and aboriginal people, **stateless persons, asylum seekers, foreign citizens, migrants and migrant workers, refugees** and internally displaced persons. Such measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures.”

Along with the globalization, the trend of population movement has brought with it human trafficking. Taiwan became an importing country of marriage immigration and labor force from the Southeast Asia, and human smuggling syndicates have profited by engaging in unlawful trafficking, a serious violation of human rights. In view of the seriousness of human trafficking, LAF has not only actively participated in the drafting of the civil version of Human Trafficking Prevention Act, but also founded, in October 2007, a project to provide legal aid for the victim, relax the conditions for the victim's access to legal aid, establish referral mechanisms with related organizations, organize and participate in domestic and international conferences and seminars of related topics, and offer training program for lawyers, in order to protect the victim in a positive way.

After the establishment of the project, as of July 31, 2014, LAF has been assisting in 1,936 cases filed by cross-border human trafficking victims. During 2013, LAF received 321 applications, of which 316 cases were granted full aid, 2 cases were offered legal advisory services, and only dismissed 3 cases, having an assistance rate of 99%. From January to July, 2014, 221 applications had been filed, of which 212 cases were granted full aid, dismissed only four, and offered five legal advisory assistance, reaching a legal aid rate of 98.19%.

LAF is aiming at relaxing the vetting criteria of the legal status specified in the regulations that an applicant is required to have in Taiwan, in addition to assisting trafficking victims in successfully applying for legal aid. If an applicant is identified by a law enforcement agency as a victim of human trafficking and helped settle down in the territory, LAF deems the applicant a legal resident who is compliant with the provisions of Article 15 of the Legal Aids Act. A human trafficking victim without relevant documents of ROC tax authorities for his means test can provide an affidavit explaining his/her financial capability is eligible for the legal aid provided by LAF. As for accepting applications from human trafficking victims or of foreign workers referred to LAF, each Chapter of LAF can consult the social worker's preliminary assessment form, investigation report, or legal aid survey, and other information resulting from investigations or interviews carried out by social welfare or government organizations to determine the procedure of its means test.

It is quite often that the victims of human trafficking, suspected victims, and foreign workers, after their cases were decided, want to apply for reconsideration or appeal. However, the legal remedial procedure is fixed and has an urgent time frame, and legal aid recipients are often lack of legal resources. LAF would ask its Branch office to coordinate legal aid lawyers to write and file first a remedial memorial, while deferring the logistical work of concluding the case at the current trial level or the procedure of investigation, and wait for the legal aid lawyers to institute a

reconsideration or grounds of appeal, then the lawyers would apply to the Chapter for raising reasonable remuneration, taking into account the circumstances.

On offering assistance to victims of trafficking, LAF has established a special project to assist Indonesia care-givers involved in the case of payroll withholding by Chizhi Group. Because the victims were all over Taiwan, LAF, since 2009, in cooperation with the Ministry of Labor and local Labor Affairs Bureaus, voluntarily sought for and assisted the victims who were willing to request civil damage and unjust enrichment in applying for legal aid. In May 2013, after the final judgment of the case's criminal trial of second instance was rendered, and the judgment of related incidental civil procedures was also rendered and enforced in succession. LAF, in 2013, continued to follow up and control the processing of the case and assist the victims who were still working in Taiwan in the procedures to apply for false performance and forcible execution.

The Human Trafficking Prevention Act came into force in Taiwan in June 2009, and relevant regulations were formulated for apprehending and prosecution of offenders and for protection and resettlement of victims. However, in 2014 June investigation report, the Control Yuan indicates that in practice the Act has the following issues: (1) The identification carried out by the judicial police authorities was called in question, because it was too loose and did not involve other relevant parties. (2) Although the identification process of a victim of human trafficking is a dynamic model, the current legal system does not give the victim the right of appeal, after a victim is unwilling to accept the result did not identify him/her as a victim of human trafficking. The protection is still inadequate. (3) If the disposition of a human trafficking case is not to institute a public action by the prosecutor, a victim's status should be re-identified, and therefore, the victim's status will not necessarily be lost, according to the letter issued by the Ministry of Justice. But, the law does not expressly provide that if a victim will be or not be stripped of his/her status, after the acquittal becomes final and binding. (4) Some vague wordings, such as, "labor to which pay is not commensurate with the work duty," "illegal debt bondage," "making use of the victim's inability, ignorance or helplessness," etc., are used in Human Trafficking Prevention Act, resulting in identification difficulty and execution predicament. The criterion of imposing penalty is obviously too low. Between 2008 and 2012, the offenders who committed the crime of human trafficking and were only sentenced to six months or less in prison accounted for in the range of 50% to 70%. (5) The National Immigration Agency and the Ministry of Labor do not actively pursue costs that should be paid by the offenders, including expenses of protecting, resettling, and repatriation, which in accordance with the law should be made by the offenders. (6) The Ministry of the Interior has established a special compensation account for the

victims of human trafficking since March 2010. However, the account amounts to zero, because various District Prosecutors Offices affiliated with the Ministry of Justice did not follow the law to allot the forfeited cash and the sale proceeds of criminal possession, though they legally confiscated and impounded offenders' proceeds of crime property or property interest from human trafficking. (7) Between 2009 and 2013, up to 30% to 80% of victims of human trafficking could not return to their home countries at will, because they had to cooperate in the investigation and trial procedures with the judiciary. Some victims had even been resettled for more than two years. Foreign remote interrogation measures should be deliberated and promoted, including setting up remote interrogation equipment at embassies or representative offices, to increase judicial officers' willingness to agree the repatriation of victims of trafficking, giving consideration to the victim's right to return home and the judicial officer's right to cross-examine the accused. In addition, the justice practitioners in Taiwan, including lawyers, do not have sufficient knowledge about human trafficking. All of these should be addressed in the future.

The Right to an Interpreter

In UN Principles and Guidelines, the Guideline 3 "Other rights of persons detained, arrested, suspected or accused of, or charged with a criminal offence" specifies that "To inform all foreign detainees and prisoners in a language they understand of their right to request contact with their consular authorities without delay;" and "To provide the services of an independent interpreter, whenever necessary, and the translation of documents where appropriate."

Regretfully, judicial interpreter resources are still relatively insufficient in Taiwan when assisting foreigners who are not fluent in Chinese, especially workers from the Southeast Asian, foreign spouses, or victims of cross-border human trafficking. For example, in 2014 February investigating report, the Control Yuan points out that when carrying out legal proceedings involving foreigners in Taiwan, litigation documents used in Prosecutors Office or the courts have not translated into the language the foreigners understand, and in some of the cases the defendants had not been provided an interpreter when opening a court session. Moreover, some Prosecutors Offices or courts did not serve litigation documents on the agents whom were appointed by foreigners, a serious interference with the foreigners' exercise of the right of action. The report also indicates that a judicial interpreter has a key position in proceedings, and the interpreter's function not only protects the defendant's right of defense, but also has a significant effect on finding criminal facts and results of judgment. A procuratorial organ's use of employment service agents as interpreters is not only unable to obtain the trust of the defendant, even the complainant questioned the objectivity and impartiality of their translation. Therefore, to ensure interpreters'

neutrality, objectivity, and impartiality, it is appropriate for the Judicial Yuan and the Ministry of Justice to deliberate on the measures to expressly provide that, in relevant laws and regulations, employment service agents are not suitable to serve as interpreters to prevent damaging the judicial impartiality.

To replenish the interpreter resources, LAF organized in 2010, in cooperation with Taipei Women's Rescue Foundation, four training programs for interpreters, and in the following year, held three advanced classes for the students to offer enhanced workshops on legal perspective. Through education and training, LAF has gradually built personnel database of interpreters with judicial expertise. In 2012, LAF began to offer interpreter services for "cases in applying at a chapter" and "stationed legal consulting cases," and the interpreter services are paid by hour plus traveling expenses. In 2013, business-related personnel at LAF's Branch office has applied for access to the interpreter talent database of the National Immigration Agency to cope with the demand for interpreters of minority languages.

LAF in 2013 also entered a cooperation agreement with the National Immigration Agency, Ministry of the Interior, which is primarily for protecting the right of action and right of equality of new residents and foreign detainees, integrating legal aid resources, and enhancing the legal education of new residents, in order to promote the relationship of cooperative partnership. The government provides venues and LAF assigns counsels to help the new residents and foreign inmates obtaining legal advice, judicial interpreter, legal seminars, etc., to promote legal aid education. The government provides venues and LAF assigns counsels to help the new residents and foreign inmates obtaining legal advice, judicial interpreter, legal seminars, etc., to promote legal aid education.

International Mutual Assistance

The introduction of UN Principles and Guidelines mentions that: "Provision of legal aid to foreign nationals should conform to the requirements of the *Vienna Convention on Consular Relations* and other applicable bilateral treaties." Guidelines 18 "Technical assistance" specifies that "Technical assistance based on needs and priorities identified by requesting States should be provided by relevant intergovernmental organizations, such as the United Nations, bilateral donors and competent non-governmental organizations, as well as by States in the framework of bilateral and multilateral cooperation, with a view to building and enhancing the national capacities and institutions for the development and implementation of legal aid systems and criminal justice reforms, where appropriate."

Taiwan has yet established mechanisms of mutual assistance with other international legal aid organizations, but is now actively negotiating mechanisms of mutual legal

aid with South Korea and the Philippines and discussing the content of signing the contract. The content that has been currently negotiating is as follows:

(1) Between mutual assisting countries, each legal aid organization of the contracting party should, upon request by the legal aid organization of the other contracting party, provide prompt, free lawyer counseling for nationals of the other mutual assisting country.

(2) Between mutual assisting countries, each legal aid organization of the contracting party should, upon request by the legal aid organization of the other contracting party, provide prompt, individual lawyer counseling at prisons or detention centers for nationals, in prison or custody, of the other mutual assisting country, and may accept directly their applications for legal aid, where necessary.

(3) Between mutual assisting countries, each national of contracting party who has received legal aid from the organization of the other contracting party, if he/she has subsequently left the country, should receive continued assistance and contact for follow-up instances of the same case.

(4) Between mutual assisting countries, each legal aid organization of the contracting party should provide equal legal aid to the nationals of the other contracting party.

(5) Between mutual assisting countries, each legal aid organization of the contracting party, when providing services described above to the nationals of the other contracting party, should also provide, where necessary, appropriate interpreter services.

(6) Between mutual assisting countries, each legal aid organization of the contracting party should establish a list of lawyers who can offer legal aid to the nationals of the other contracting party for their reference in selecting a lawyer.

(7) Between mutual assisting countries, each legal aid organization of the contracting party should be willing to assist the nationals of the other contracting party in making referrals to other social resources (such as emergency assistance), in addition to providing legal resources.

As for human trafficking victims who returned home from Taiwan, the difficulties of how to provide them with assistance in litigation or to protect their personal safety, as well as how to access to their perpetrators' property information in their country, have often encountered in practice. Therefore, for Taiwan and the countries that their nationals have close bilateral contacts, it may be more practical and feasible to take an approach of issue-on-the-agenda to joint relevant organizations from both governments and formulate action plans to provide international mutual assistance (such as the issue of human trafficking or new immigrants).

For example, on May 9, 2013, Guang Da Xing No. 28, a Taiwanese fishing boat registered at Liuqiu, was shot by the Philippines' official patrol boat, within the

overlapping exclusive economic zones of Taiwan and the Philippines. The incident led to the death of Taiwanese fisherman Hung Shih-cheng. Fortunately, Taipei Economic and Cultural Office in the Philippines appointed Philippine lawyers to assist our witnesses in appearing in court to present statements, facilitate the investigation procedures, and help the Philippine prosecutor in investigating the evidence. Finally, the prosecutor made the decision to prosecute. The case also highlights the importance of international mutual assistance under Taiwan's unique international status.

A Labor Brokerage Fraud Case in Taiwan

The defendant Lu had been, in the Republic of the Philippines (the Philippines), engaged in brokering Filipino labor to work in Taiwan. He thus knew Baby Reyes, who engaged in the same business in the Philippines, and starting from 2009 onwards, he worked in cooperation with Filipino companies, including R, D, and M.W., to provide brokering services for Filipino workers to work in Taiwan. The way they had cooperated in the business is as follows: Lu was responsible for contacting the agencies in Taiwan. After receiving Taiwanese agencies' orders, he searched for eligible Filipinos, and through Baby Reyes' contact, he arranged, on behalf of the agencies mentioned above, the Filipino workers to go to Taiwan. Baby Reyes commissioned Secretary M., a R company employee, to handle the documents, including Employment Contract for Caregiver, Foreign Worker's Affidavit for Wage / Salary and Expenses Incurred before Entering the Republic of China for Employment, Waiver: Foreign Workers should fully understand the related regulations of the Employment Service Act (ESA), etc., and subsequent exit formalities to Taiwan. The defendant, Baby Reyes, Secretary M, and a M.W.'s male Filipino employee worked together to carry out their unlawful intent, **knowing that the victims do not know that Filipino workers do not need to pay for any brokerage or other expenses to work in Taiwan** and taking advantage of the victim A's anxiousness to come to Taiwan to work and make money and lack of knowledge of the two countries brokerage charging regulations. Lu and Baby Reyes first used the approach described above to select Filipino candidates to work in Taiwan. Then, Secretary M or the M.W.'s male Filipino employee, at a certain time before the victims were departing for Taiwan, at an unknown location in the Philippines, **lied to A and others, individually, that there are other fees, after deducting fees paid, payable to work in Taiwan, and this part of the costs have been paid in advance, but it is required to sign documents with a paper company (in fact, no such company) and the defendant Zeng or Yao to process the loans before going to and working in Taiwan smoothly, and so on. This caused A and others to make mistakes and sign service commission agreements, affidavits, confessions, promissory notes,**

evidence of debt, and other loan documents. Soon after A and others arrived in Taiwan, Secretary M emailed the documents mentioned above to Lu's email box, and Lu then forwarded them to Zeng. After printing the documents out, Zeng took them to A and others and their employers to confirm the aforementioned loans. At this point, A and others, without suspicion, remitted money, or commissioned their ignorant employers to withhold salary and remit a monthly payment ranging from NT \$ 6,000 to \$ 8,850, respectively, to the defendants' accounts, following the instructions, and therefore, the defendants got the proceeds by fraud. Consequently, because the victims sought for external assistance, prosecutors began to search for clues, carried out investigations, and brought the case to court. LAF's full-time lawyers assisted in filing the lawsuit, and the defendants were sentenced to one and a half years to two years, respectively, in prison, or the penalties might be commuted to fines. From the case we see that foreign workers do not necessarily understand brokerage regulations, as a result, the unworthy is able to use all sorts of excuses to overcharge foreign labor agency fees, in the name of loans to exploit foreign workers.

In this connection, the Ministry of Labor, to strengthen the agency management in Taiwan, on November 9, 2001, amended the charging standard of agency fees, specifying that the agencies in Taiwan should not charge any brokerage fees to foreign workers, but may only charge a service fee every month, which should not exceed NT 1,800 per month for the first year, NT 1,700 per month for the second year, and NT 1,500 per month for the third year. And on March 2, 2010, the provision was amended again, specifying that an agency cannot charge any service fees in advance, in order to avoid causing burdens on foreign workers.

In November 2001, measures were taken to cut foreign labor brokerage fees, and the labor-exporting countries were recommended that the labor agency fees may not exceed the limit of the labor's one month's basic salary. Coordination has been carried out to verify with certainty that "Foreign Worker's Affidavit for Wage / Salary and Expenses Incurred before Entering the Republic of China for Employment" that the foreign workers signed when they process their entry visas to check if the foreign workers were overcharged for agency fees. The Employment Service Act amended and published on January 21, 2002, stipulates that an agency's charging improper fees may be punished with increase of fine, suspension, revocation of licenses, and other sanctions.

The "Direct Hiring Service Center" was established in December 31, 2007, in order to reduce the burden of high brokerage fees on foreign workers. In addition, Workforce Development Agency set up five service windows at public employment service agencies in the northern, central, southern, eastern, and western Taiwan, respectively, to help employers in recruiting their original foreign workers without

going through a manpower agency, to reduce expenses charged by domestic and/or foreign brokerage companies. The service windows also shorten the re-entry time and procedures for foreign workers, and provide consultation, inquiry, forwarding, transfer shipping, and SMS or E-mail services in different languages to remind employers of handling related follow-up matters after foreign workers entering the country.

A Foreigners' Overdue Detention Case

In July 2011, full-time lawyers of LAF's Banqiao Chapter, in the process of providing legal advice, found that the problem of overdue detention was very serious at Taipei Detention Center, including two foreign workers with Thai nationality, who did not commit any crime, had been detained for more than 11 months. Separately, multiple Thai nationalities, Indonesian nationalities, and Vietnamese nationalities who were the defendants of prosecutor's petitions for summary judgment and belonged to cases undertaken, respectively, by three judges of a certain Section of Taiwan Taoyuan District Court, but the judges went so far as to delay opening court sessions for several months, and did not make any decisions. However, the National Immigration Agency held that these cases were in accordance with the subparagraph 4, paragraph 1 of Article 38 of the Immigration Act, so-called "other facts, if found necessary, may be temporarily detained," on account of the pendency of the litigation in the District Court or Prosecutor's Office, and consequently, the detentions were extended repeatedly. It was very common for a detainee whose period of detention was more than six months, and many were more than one year.

After a joint consultation among the president, executive secretary, and full-time lawyers of the Banqiao Chapter, they decided that LAF should come forward to rescue. Thereupon, many civil societies, including the Taipei Bar Association; Judicial Reform Foundation; Taiwan Association for Human Rights; the Garden of Hope Foundation; TransAsia Sisters Association, Taiwan; New Immigrants Labor Association; Hope Workers' Center; Migrant and Immigrants Service Center; and Văn Phòng Trợ Giúp Công Nhân và Cô Dâu Việt Nam, among others, jointly petitioned the Judicial Yuan and the Ministry of Justice to carry out a thorough investigation into law-officers' dereliction of duty about the cases. The representatives of the societies mentioned above joined together and convened an impromptu press conference in front of the Control Yuan, and also petitioned Control Yuan to remedy the mistake of the National Immigration Agency and impeach officials who made illegal detention actions.

Subsequently, the Judicial Yuan and the Ministry of Justice, in their reply letters of investigation, stated that they did not see any excess of the time limit of handling the cases. But, the Control Yuan, in its investigation report, indicated that “Part of judges with Taiwan Taoyuan District Court heard detainees’ petitioning for summary judgment, ... The detainees had pleaded guilty, during the investigation, by submitting multiple petitions and asked the judges to hear as soon as possible. The judges still ignored their petitions. Furthermore, these cases of summary judgment do not need to hold a court, and the terms of penalty of final guilty sentence range from tens of days to six months, which are far below those of their long detained period, as a result, the detainees’ rights have been seriously violated. Therefore, the negligence is verified.” “A detainee, because of his witness status in a criminal case, was put in detention by the National Immigration Agency in accordance with the letter the Ministry of Justice, and the detention was extended to 335 days, which is far longer than the average 38.32 days in detention for detainees of non-criminal case, according to Agency’s 2011 statistics. This violates the provision of Article 8 Article of the Constitution of the Republic of China and the intent of Judicial Yuan’s interpretation over the years that personal freedom shall be guaranteed to the people. However, the report did not specifically impeach officials of offence of misconduct in public office. After the above joint efforts of the ten civil societies and LAF Banqiao Chapter, the criminal judgments related to the detainees in the Taipei Detention Center were sent out like “avalanche,” and the criminal cases the detainees had been implicated were all thus determined. Dozens of detainees, including the above two Thai witnesses, in August and September 2011, had quickly been repatriated.

With regard to the foreigner detention system, the Justices of the Constitutional Court, Judicial Yuan, in February 6, 2013, declared that the paragraph 1 of Article 38 of the Immigration Act shall become null and void from the date of proclaiming this interpretation, or no later than the expiry of two years, since the paragraph 1, which specifies the conditions for temporary detention due to the reasonable processing time needed for deportation, does not give the temporary detainee prompt judicial remedy; and, the detained time exceeding the aforementioned temporary detention, because it was not determined by court review, has violated the intent of the paragraph 1 of Article 8 of the Constitution of the Republic of China to protect personal freedom.

Conclusion

To comply with the principle of non-discrimination of UN Principles and Guidelines, legal aid has been provisioned to all persons regardless of nationality. In addition, the scope of the legal aid has also been expanded through the interpretation

of the Act. In response to increasing numbers of foreign spouses, foreign workers, foreign fishermen in Taiwan, how to ensure that these people are not victims of trafficking and to ensure their rights are increasingly important. LAF established a special project to deal with human trafficking issue and promoted legislation to comply with the principles of the UN Principles and Guidelines, which specify that states should take special measures to provide legal aid for special groups. The regulations and laws concerning foreigners being extendedly detained have been changed through the actions of legal aid organizations. As for foreigners' right to an interpreter at court, LAF also accesses the government's interpreter talent database to look for appropriate interpreters to help foreign applicants or legal aid recipients.

From the experience in providing assistance for victims of both the labor brokerage fraud case and Guang Da Xing No. 28 case, LAF realized the importance of mutual assistance between international legal aid organizations. In particular, because of the special international status of Taiwan, it is the most pragmatic to start with an unofficial cooperation. In this international conference, Taiwan will enter into mutual aid agreements with other countries, and the hope is, for the future, to expand from bilateral cooperation to multilateral cooperation. We also hope that the conference platform organized by Taiwan could encourage the legal aid organizations in the Asian region and even legal aid organizations around the world to have a research platform for regular gatherings similar to those of ILAG (The International Legal Aid Group, ILAG) organizations in Europe and America, in order to deepen the idea of legal aid.

Appendix 2

On Proper Allocation of Legal Aid Resources for Protection of Human Rights According to the International Covenants and UN Principles and Guidelines

I. Category and Scope of LAF Legal Aid Cases

According to Article 17 of Taiwan Legal Aid Act , Legal Aid Foundation (hereafter referred to as LAF) may decide the category of legal aid and the scope of legal representation or legal defense depending on the funding of the Foundation. LAF's Board of Directors, based on the authorization of the Article, formulated the Regulations and Scope for Implementing Legal Aid. According to the regulations, the Foundation accepts natural persons as the recipients of legal aid, excluding legal persons or organizations.

Furthermore, LAF provides aid for recipients in civil, domestic, criminal, or administrative proceedings, except for the excluded categories specified in the regulations. However, an applicant who has received more than three cases of legal aid for the type of either representation or defense in court within one year of the application, without the consent of the Director of LAF Chapter, should not apply for further legal aid. In addition, according to Article 2 of the same Act, LAF offers legal aid with the methods including legal advice, mediation, settlement, legal document drafting, and representation or defense in litigation or arbitration.

LAF does not provide legal aid for the following types of criminal cases: representation in complaint or reporting offenders in court proceedings; representation for private accusations; defense in retrial or extraordinary appeal; representation in requesting committal for trial or actual hearing procedures; representation in filing lawsuits for the cases involving investment in stocks, securities, derivative financial products, real estate, bonds, funds, or other investment activities; and representation in filing a lawsuit for trademark rights.

Civil cases for which LAF does not provide legal aid include: electoral actions; small claims or its compulsory execution procedures; retrial cases; cases involving investment in stocks, derivative financial products, real estate, funds, or other investment activities; trademark or patent rights cases. Administrative cases for which the LAF does not provide legal aid include: retrial cases; cases involving investment

in stocks, derivative financial products, real estate, funds, or other investment activities; trademark and patent rights cases.

In principle, LAF does not provide legal aid for the aforementioned categories of cases. However, if a legal aid is truly necessary, an exception may be granted by the consent of the Director of the Chapter. In addition, LAF offers legal aid for any applicant who has been sentenced to death, whether it is a criminal retrial case or extraordinary appeal.

In 2013, LAF received 136,065 applications, of which LAF provided legal aids for 38,090 applications, excluding 80,670 applications for general legal counseling. The primary methods of legal aids are representation or defense in court, which accounted for 87% of total applications.

Generally, both civil cases (including family cases) and criminal cases accounted for, respectively, about a half of overall cases that received legal aid. However, the number of criminal cases has been on the rise year by year. In 2012, for example, criminal cases accounted for 52.77%, civil cases for 24.68%, family cases for 21.83%, and administrative cases for 0.73%. In 2013, criminal cases accounted for 57.40%, civil for 22.31%, family for 19.49%, and administrative for only 0.79%. Among 16,408 criminal cases that received aid, 8,193 compulsory defense cases, the largest amount, accounted for 50%, of which the majority of cases were charges of felony carrying a minimum 3-year fundamental punishment.

LAF provides legal aid in civil and family cases, which include mediation and settlement, in addition to representation the recipients in court. In 2013, for example, 26% of civil cases and 32% of family cases were successfully mediation or settled out of court. In this connection, LAF's policy has been trying to facilitate legal aid lawyers to achieve settlements in civil and family cases, whenever possible. Therefore, in a case of successful settlement, the lawyer may apply for additional fee in the range of NT\$1000 to NT\$3000⁷ on the top of original remuneration.

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LAF, in Article 6 of the Regulations for Calculation of Legal Aid Service Fees, states: "Legal aid lawyers who have facilitated successfully in settlement cases may apply for additional one, up to three, base(s) of fee, without discretionary reduction of the original fees." In Articles 2 of the same Regulations, legal aid lawyer's fee is NT\$1,000 per base. The Regulations is a resolution reached at the 17th meeting of the 4th Board of Directors in July 2014, and waiting for approval by the Judicial Yuan.

The percentage of LAF's aid in administrative cases has always been on the low side. For example, in 2013, there were only 226 cases, which accounted for 0.79% of the total applications. Additionally, the numbers of the appeal and administrative cases that have been rejected were among the highest, and based on win-loss statistics, appeals have only a 22.22% chance to succeed and 14.29% for administrative cases, which are far lower than those of other types.

One of the causes may be that "It's a mercy that the government provides welfare" is a prevailing concept of value in Taiwanese society, rather than a right; therefore, people are not conscious of their rights and lack of knowledge to search for legal remedy, when their rights are aggrieved. Since Taiwanese nationals had experienced a history of authoritarian rule, and thus many have the thought of "Be submissive in front of an official," leading to being less willing to seek for administrative remedy. In addition, the trial practices of administrative lawsuits in Taiwan lean toward favoring administrative organizations, and because people had lower chance to win, they were reluctant to file administrative lawsuits.

II. LAF's Special Projects

Although LAF provides legal aid for applicants in various cases, except for excluded categories of cases specified in principles, the Foundation aims at the issues that have involved disadvantaged minorities, and based on current affairs, has established specific projects to provide special legal aid for them.

1. Legal Aid for Consumer Debt Clearance

In 2005, since the overall economic situation of Taiwan experienced a huge change, coupled with the results of many years of massive issue and promotions of credit cards by the banks, many credit card holders was facing financial crisis, creating a huge group of cardholders suffering insolvency. Furthermore, because the banks used a variety of means to demand repayment of the debt, many cardholders found themselves stuck in the mire; some went so far as to commit suicide, bringing about the entire society's solicitude for the situations.

However, at the time, there was no reasonable mechanism for liquidation of personal claims in Taiwan. To address this problem, LAF joined with several private organizations to promote the Consumer Debt Clearance Act (referred to below as CDCA). The Act has legislated on June 8, 2007 and went into effect on

April 11, 2008. To facilitate the implementation of the Act, each LAF's Chapter conducted 24 legal advocacy seminars by the end of 2007. LAF revised the regulations about legal aid scope of implementation, revoked the stipulation that LAF should not offer legal aid for bankruptcy cases, and started to provide legal aid for personal debt clearance cases.

When the CDCA was first put into force, LAF was flooded with 24,000 applications by the end of 2008. However, the court's attitude was overly conservative, and therefore, very few cases were successful in courts, which affected debtors' willingness to apply. As a result, there were only 9,750 applications in 2009. In 2013, the number of applications lowered to 5,754, and from January to August 2014, it reduced to 3,799 cases, decreasing annually.

Since the court's attitude was conservative, private organizations proposed revising the Act. As a result, the success rate of rehabilitation approval has improved gradually to 60%, the rate of discharge of debts has increased to 40%, and the percentage of settlement of obligation lowered from 50% to 10% or 20%. Still, the number of debtors who are willing to apply for redemption of debt in court has not yet significantly increased, indicating that the issue still faces many challenges.

2. Lawyer's Company for First Criminal Interrogation

In regard to the criminal defendants' or suspects' right to counsel, the history of the development of Taiwan's criminal lawsuit system went from having a lawyer to be present only in the stage of trial, extended to have a defender in the public procurator's investigation, and then to include a defender in the police detective work. On September 17, 2007, LAF launched the Lawyer's Company for First Criminal Interrogation project to guarantee right of action and right of equality. The objectives of the project are to improve the efficiency and accuracy of investigation and trial, at the same time, to offset the gap of professional legal knowledge between ordinary citizens and criminal investigation organ, help people exercise their right of defense, and protect the involved party's rights. The project provides lawyer's accompanying services in the process of criminal interrogation, 24 hours a day, all the year round.

Although this project does not carry out applicant's means test, it is limited to the arrested or detained persons who are involved in committing a crime carrying a minimum 3-year limited imprisonment and are asked to be investigated for the first

time for the case, except for indigenous and the mentally disabled. By the end of 2013, LAF has provided legal aid for 3,753 cases.

Since the project is limited to provide legal aid for the defendants of felony cases, the law does not require a lawyer to be present during police interrogation or procurator investigation, and the police are unaccustomed to the presence of lawyers, while they are handling a case, the project has only limited success and is in need of improvement.

3. Legal Aid for Indigenous Peoples

By the end of September 2014, the number of indigenous population in Taiwan was 538,439, having 16 tribes⁸. They accounted for 2.30% of the total population (23,410,280) in Taiwan.

Taiwan is a society of multi-culture. Under the value of multi-culture, one should respect the world view that has been constructed in the process of each civilization's self-surviving, and should allow each ethnic group, following its common determination approach, to parallel institute each ethnic group's life and pursue sustainable development, and to achieve the goal of multiculturalism through the model of cultural diversity and social organization management presented by the multi-culture.

However, indigenous customs and culture had not been respected through the ages, creating numerous conflicts. For example, indigenous tradition, due to its uniqueness, has clashed with the state's laws and systems. Or, the state's policies have encroached on the indigenous. Therefore, they need professional legal aid. Unfortunately, regular lawyers are unfamiliar with such types of cases, and hence LAF actively intervene in providing legal aid.

Since April 2013, LAF has, in cooperation with the Council of Indigenous Peoples organized the project of "Legal Aid for Indigenous Peoples." Any indigenous, in addition to the cases apparently considered to have no way to relieve and regardless of financial ability, can apply to LAF for legal aid for legal problems,

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The Republic of China in Taiwan currently recognizes 16 indigenous ethnic groups: Amis, Atayal, Paiwan, Bunun, Puyuma, Rukai, Tsou, Saisiyat, Yami, Ita Thaw, Kavalan, Taroko, Sakizaya, Seediq, Hla'Alua, and Kanakanavu.

legal consultation, legal document drafting, or legal representation in litigations and defense. By the end of 2013, there were 606 applications, of which 280 applications accorded with the project requirements and granted legal aid. By August 2014, there were 1,144 applications, of which 981 applications met the requirements of the project.

4. Immediate Support Program for Labor Litigation

Starting from March 2, 2009, LAF was commissioned by the Ministry of Labor to operate the “Immediate Support Program for Labor Litigation.” The program provided legal aid for workers involved in labor dispute cases. Its qualifications for application were less strict than those of regular LAF applications. The goal was to help offset the disadvantage of laborers in relevant actions due to their disadvantaged economic status. From the start of the program until September 2014, 12,901 laborers met the legal aid criteria, and according to the analysis of litigation results, around 76% of cases resulted in favor of the laborers.

5. Support Program for Human Trafficking Victims

Along with increasing awareness of human trafficking issues in the international community, Taiwan, as a state of exporting, importing, transferring the victims of human trafficking, has established measures of preventing human trafficking crimes too. On October 2007, LAF established a Human Trafficking Victims Support Program and actively conducted a series of actions to protect the victims. LAF has helped in drafting and promoting the private version of the Human Trafficking Prevention Act, in addition to offering legal aid to the victims of human trafficking in individual cases. The Act was finally proclaimed by the President on January 23, 2009, and put into operation by the Executive Yuan on June 1, 2009.

LAF’s Human Trafficking Victims Support Program, according to Article 15 of the Act of original version, was initially limited to legal inhabitants of Taiwan. Since 2008, the legal aid program has expanded to include the victims of human trafficking identified by prosecutors or police organs. Additionally, according to Article 3 of the Regulations and Scope for Implementing Legal Aid, LAF, in principle, does not provide legal aid in representation of complaint in criminal trials. However, legal aids are desperately needed, in view of the disadvantaged situation of human trafficking victims due to suffering psychological trauma, coupling with the complexity of the large number of defendants, locality of crimes

in multiple countries, difficulty in collecting evidences, etc. Therefore, in September 2013, a resolution was reached at the 7th meeting of the 4th LAF Board of Directors to revise the aforementioned Regulations to provide legal aid, in principle, for the victims of human trafficking undergoing trials.

Until July 2014, LAF provided legal aid to 1,936 victims of human trafficking. From January to July 2014, LAF received 221 applications, of which 212 were granted full legal aid, 4 rejected, and 5 received legal advice, reaching legal aid rate of 98.19%.

7. Expanding Legal Counseling and Utilizing New Technology to Provide Legal Aid

Since there are numerous organizations and groups in Taiwan provide legal counseling, LAF initially did not provide simple legal counseling services. Later, after observing the operations of similar organizations in other countries, members of LAF realized that if problems can be solved through counseling, the litigations can become unnecessary, and legal resources can be saved. Therefore, LAF started to offer legal counseling services and expanded the services since March 2009, and the number of applications has been growing since. In 2013, the number of cases reached 59,752, indicating obviously that people do have needs for legal counseling.

In order to make legal consultation services more popular, convenient, and cost-effective, LAF, starting with Pingtung Chapter in 2006, offered video conference of legal consultation, followed by other Branch office. Later, LAF started actively negotiating and cooperating with other organizations to increase the number of service stations. Benefitting from the convenience of new technology, LAF will continue to evaluate and monitor its development and tangible advantage to provide legal aid for people by taking advantage of new technology, which also can be viewed as expending new types of services.

III. Adjustment of Resource Allocation

1. Criminal Compulsory Defense Cases

The Article 31 of the Code of Criminal Procedure, prior to 1997, required only that if a defendant was not defended by a lawyer in a trial, the presiding judge should appoint a public defender for defendants with a minimum 3-year fundamental

punishment or cases of the first instance under the Jurisdiction of High Courts. The same applies to other trials, whenever necessary.

In 1997, the Code was revised to count certain cases to be compulsory counsel cases, if the cases involve mentally disabled defendants who are unable to state opinions completely and do not have a defender in the trial. In 2003, it expanded to include low-income defendants who do not have a defender but request one. In 2006, it extended further to include mentally disabled defendants who are unable to state opinions completely and do not have a defender during investigation. In January 2013, it extended to include the cases in compulsory counsel category, if the cases, in prosecution or trial, involve defendants of both middle-income and low-income persons who apply for appointing a defender; and the cases involve defendants who have indigenous identification. In addition, it specially specified that if indigenous defendants who in the process of investigation do not have a defender, the public procurator, judicial police official, or judicial police should inform legal aid organizations to appoint a lawyer to be present for their defense.

From the history of legal revisions, it shows that compulsory counsel cases have expanded from the trial to investigation; however, in the investigation stage, it is still limited to include only defendants of indigenous and the mentally disabled.

In order to meet the requirements of aforementioned compulsory defense, Article 14 of the Legal Aids Act stipulates that defendant's means test is not required for compulsory defense cases. Therefore, nearly 80% of the cases were granted legal aid, which is much more than regular cases' 69%. In 2013, 28,584 cases were approved for legal aid, of which 8,193 were compulsory defense cases, accounting for 28.66%.

Since the police sometimes tried to obtain involuntary confessions during the interrogation process, LAF, in order to provide necessary defense rights at early stage of a criminal case, established Lawyer's Company for First Criminal Interrogation Program to provide lawyer's company service at the first questioning for the arrested or detained suspects involved in charges of felony with a minimum 3-year punishment. However, to protect human rights in criminal justice processes, it is essential to extend the scope of the Program to cover any cases potentially involved in fixed-term imprisonment, considering that the defendants or the suspects in the process of investigation, because the scope of investigation is still undefined, if it is a case of felony is still uncertain, and the questioning process has

a great impact on the rights of the defendants or the suspects, regardless of the type of cases to be compulsory counsel cases, in addition to the disadvantaged status when they are facing a governmental machine.

2. Defense in Death Penalty Cases

LAF has also established a special program for death penalty cases⁹. LAF revised relevant regulations to allow a capital punishment case appointing up to three lawyers¹⁰, in addition to no turning down allowed when reviewing the cases. In many cases, LAF's full-time staff attorney and lawyers outside of LAF have organized as a team to handle capital cases.

As for the special remedy procedure of extraordinary appeal or retrial of capital cases, LAF also provides that in principle, the legal aid should be offered. LAF has specially held several training sessions for lawyers of death penalty cases, and worked together with NGOs to compile a manual for death penalty defense.

3. Major High-Profile Public Welfare Lawsuits

LAF actively provides legal aid for a variety of major high-profile public welfare cases, including major labor disputes (such as Laborers from Closed Factories), state compensation for major natural disaster (such as Typhoon Morakot), and major collective environmental pollutions (such as the RCA and Tainan Zhongshihua cases), etc., to provide timely legal aid for in public welfare litigations of major environmental and human rights protections.

When participating in these cases, LAF faced many problems. In the Laborers

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Guideline 4 of Regulations for Members of LAF Review Committee: "The following should be taken into account when dealing with compulsory counsel cases:...death penalty cases must not be rejected because of merits."

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Article 5 of the LAF Regulations for Calculation of Legal Aid Service Fees states: "In criminal defense cases, the Secretary-General may approve a maximum of 3 lawyers to participate in cases that may be sentenced to death penalty and are material, complex, and unable to be sufficiently handled by one lawyer. Lawyer fees will be calculated separately." The Regulations is a resolution reached at the 17th meeting of the 4th Board of Directors in July 2014, and waiting for approval by the Judicial Yuan.

from Closed Factories case¹¹, only part of the laborers were able to pass means test, which LAF could provide legal aid, but, for the others who were not qualified, they had to hire their own lawyers. To avoid having divided lawsuit strategies, LAF and private pro bono lawyers organized a team to formulate objectives and strategies together. In addition, to meet the lawyer team's need, LAF searched for a variety of experts to invite them participating in discussions, organized seminars to deepen relevant discourses, and submitted the results to the lawyer team. In other words, it was an attempt by LAF to work with pro bono lawyers, the communities, and scholars to handle a major social dispute.

IV. LAF's Institutional Responses to International Covenants

1. In accordance with Article 6 and 14 of International Covenant on Civil and Political Rights and the principle of right to legal aid specified in the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, LAF, in 2013, revised its remedial approaches to provide legal aid for the offenders of capital punishment in retrials and extraordinary appeal procedures, changing from "in principle, do not

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The Protest Incident of Laborers from Closed Factories Line can be divided into two stages. The first stage occurred around 1996, when a number of textile mills and clothing factories were underwent involuntary bankruptcy, leaving workers without retirement funds or severance pay. Workers from several factories assembled the National Laborers from Closed Factories Line, and started a series of protests, including the Lianfu Clothing Company workers' Railroad-Lying Incident in Taoyuan, led by Zeng Maoxing on December 20, 1996. This eventually induced regulations of the Entrepreneurship Loan for Laborers from Closed Factories and the Re-Employment Loan for Laborers from Closed Factories. Moreover, these incidents may have brought about or sped up the New Retirement System and Factory Closing Acts (This was never established and replaced later by the Act for Worker Protection of Mass Redundancy). Following this, the various relief organizations worked on their own but were hardly able to retrieve lost wages from the original employers. The second stage occurred in 2012. Since the deadline of prosecution for Entrepreneurship Loan for Laborers from Closed Factories was approaching, the Ministry of Labor ordered workers to repay their loans in a letter and allocated funds for civil cases. Unfortunately, the workers felt that this violated the spirit of the subrogation originally promised by the Ministry of Labor; thus provoked a new wave of protests, including the Railroad Lying Incident at Taipei Main Station on February 5, 2013. In March 2014, the Ministry of Labor announced that it will not appeal the cases, and for the most part this ended the whole incident. The National Laborers from Closed Factories Line became a labor-movement group and continues to participate in protest incidents, such as, the National Highway Fee Collectors and Hualong Rescue Foundation.

offering legal aid” to “should provide them legal aid,” in order to guarantee the right of life for the offenders of capital punishment,

2. In accordance with Article 8 of International Covenant on Civil and Political Rights, “No one shall be held in slavery; slavery and slave-trade in all their forms shall be prohibited.” Therefore, in October 2007, LAF organized a project for handling issues related to human trafficking to provide special legal aid for victims of human trafficking.

3. In accordance with Article 9 of International Covenant on Civil and Political Rights, “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” On September 17, 2007, LAF launched a program “Lawyer’s Company for the First Criminal Interrogation” to help people in exercising their right to defense, in order to offset the gap of professional legal knowledge between investigative organ and ordinary people.

4. In accordance with Article 27 of International Covenant on Civil and Political Rights, concerning aboriginal policy, LAF also organized an Indigenous Program to provide the indigenous comprehensive legal aid, especially in the cases involving traditional customs and cultural preservation.

5. In accordance with Article 21 of International Covenant on Civil and Political Rights, concerning the right of peaceful assembly, LAF’s Board of Directors, on March 28, 2014, authorized the Secretary-General the power to adjust flexibly the scope of legal aid in criminal investigation and defense cases involving high-profile activities of public welfare. The Secretary-General reviews relevant cases, and then decides, case by case, if legal aid is needed, whenever necessary, he/she may follow the project of “Lawyer’s Company for First Criminal Interrogation” to provide legal aid.

6. In accordance with Article 9.4 of International Covenant on Civil and Political Rights, requiring prompt arraignment to determine the lawfulness of detention, LAF’s Board of Directors, on June 27, 2014, reached a resolution to organize a project “Lawyer Accompanied Arraignment.” Anyone arrested or detained by an organ other than a court, after the court issued a writ of certiorari, may call a hotline to request a lawyer for accompanying him/her to state opinions before the court, in order to ensure immediate remedy for people being stripped of their rights without a court order.

V. Future Prospects:

Along with the development of the economy, the poverty gap has been widening, which in turn brings about the need for providing legal aid for disadvantaged groups. In order to provide prompt legal aid services and meet the needs of these groups, LAF has been planning for establishing mechanisms to respond timely to the legal needs of emerging disadvantaged groups.

1. Allocate properly the legal aid resources through analyses of social associations and effectiveness of legal aid provision in a variety of legal aid cases over the years.
2. Understand timely the nations' needs for legal aid through legal aid survey mechanisms, from which the collected data serve as reference for allocating legal aid resources.
3. LAF has established a Development Committee composed of representatives of social welfare groups, scholars, and experts in order to serve as a platform for serving the needs of disadvantaged groups, formulating legal aid policies, and referral cooperation. The committee's functions and operations will be strengthened in the future.

Appendix 3

The Quality of Legal Aid Lawyers– How to Ensure the Quality of Legal Aid Lawyers to the Requirements of the Role of Lawyers Regulated in International Conventions or the UN Principles or Guidelines?

I. The dramatic increase of the number of lawyers in Taiwan, so does that of legal aid lawyers

Under Taiwan's old bar examination system, the pass rate of lawyers was mostly less than 8% with only double digits, or even single digit, of individuals past. Starting from 2011, new bar examination system began to adopt the ratio system that allows examinees with top 33% performance in the first round of examination to attend the second round and those who achieve the top 33% performance in the second round can become the members of the bar. That is to say, the annual pass rate remains about 11% and in these three years, annually, we have additional 1,000 lawyers in Taiwan. When practicing lawyers join the Legal Aid Foundation(hereinafter referred to as LAF), they became legal aid lawyers, and the number was 2,419 in 2010, 2,580 in 2011, 2,771 in 2012, and 2,805 in 2013. By August 2014, there have been 8,110 practicing lawyers national wide and among them, 2,928 have registered as LAF's legal aid lawyers accounting for 35% of practicing lawyers. The above numbers indicate the gradual huge increase of LAF's legal aid lawyers each year due to the high pass rate of lawyers.

The gender ratio of LAF's legal aid lawyers is about 2 to 1. Their seniority and ages are listed in the table below. Most practicing legal aid lawyers have the seniority between more than 11 years and less than 20 years (35%) and they are mostly at the ages between 31 and 50 (accounting for 72%).

Seniority Years	Percentage
Less than 2 Years	2%
More than 2 Years and less than 6 years	17%
More than 6 years and less than 11 years	26%
More than 11 years and less than 20 years	35%
More than 20 years	20%

Age	Percentage
Less than 30 years old	4%
Between 31 and 40 years old	38%
Between 41 and 50 years old	34%
Between 51 and 60 years old	14%
Between 61 and 70 years old	6%
70 years old and up	4%

II. Obligations for the practicing lawyers to serve as LAF’s legal aid lawyers

As regulated by Taiwan’s Legal Aid Act, when the LAF appoints a lawyer to provide legal aids, the lawyer shall not refuse the appointment¹². Article 24.1 of the said act, however, regulates “The Foundation may retain or appoint lawyers to provide legal aids,” indicating the arbitration freedom and the flexibility of the appointment for legal aid cases. In compliance with the Legal Aid Act, the application, review, and lawyer-appointed of legal aid cases are conducted by each Branch office of LAF¹³. People requiring legal aid service have to firstly submit an application form to the branch office of LAF which he/she is located at Branch office, and after approved by the Audit Committee, if the applicants request to appoint lawyers, in principle, the Branch office shall appoint the lawyer required by them. If there is no such requirement, the Branch office will appoint an legal aid lawyer to each case via the fair appointment system established by the LAF ; before appointment, the Branch office will contact the lawyers via telephone calls to explain the case and the court session as well as the willingness to take the cases. If there is a legitimate reason such as court session or interest conflict, the Branch office will according to the said fair appointment system to inquire the next lawyer until the appointment is completed and the relevant documents are sent to the legal aid lawyers.

¹² According to Article 25.1 of the Legal Aid Act, “Every lawyer shall provide legal aids set forth in this Law in the bar associations he or she jointed. But if a lawyer has a legitimate reason to exempt himself or herself from providing legal aids, the lawyer is not required to provide legal aids” as well as according to Article 27.2 of the same act, “If a lawyer is retained or appointed to provide legal aids, the lawyer cannot decline the representation without a legitimate reason..”

¹³ According to Article 11 of the Legal Aid Act, “The matters handled by the Chapter are as follows:
1. reviewing and executing the approval, denial, revocation and termination of the legal aids applications. 2...” and Point 1 Governing the Appointment of Legal Aid Lawyers by the LAF regulates that “the Chapter shall follow the guidelines to apply for and appoint legal aid lawyers for legal aids.”

III. For the handling of major and special cases, LAF retains the staff lawyers

In order to ensure the smooth implementation and the quality of legal aids, to respond to the actual demands in some rural areas, and to handle other special situations, according to Article 24 of the Legal Aid Act, LAF shall have the right to retain staff lawyers to process cases with special professionalism, charity, and significance such as those related to environmental litigation, human trafficking, and capital punishment that may not be often processed by general practicing lawyers.

Since April, 2006, LAF began retaining its staff lawyers with the purposes to:

- 1. Assist the minority issues:** LAF assists mostly the new inhabitants (foreign or Chinese spouses), the disable, labors (especially foreign labors) or the aborigines with less adequate expression and communication abilities and relying heavily on the assistance of lawyers. Form the cases we assisted, we are able to identify the minority issues that LAF shall develop programs to give assistance. For example, in 2006, LAF's staff lawyer on behalf of more than 300 consumer debtors negotiated with banks about clearing off debts. Although many difficulties were identified, yet the discovery of the lack of individual bankruptcy mechanism in Taiwan was also made. LAF, thus, worked with NGOs that care about the issue and finally in July, 2007, promoted the completed enactment of the Statute for Consumer Debt Clearance; LAF in March 3, 2008 developed the program for consumer debt clearance and the program has been continuously promoted. Additionally, LAF staff lawyers have assisted many foreign labors being exploited and through the accumulated practical experiences, we assisted Taiwan to ratify the Human Trafficking Prevention Law to ensure more comprehensive protection for the victims of human trafficking. Moreover, cases of public hazards and environmental protection and capital punishment cases are strangers to the general practicing lawyers and they can be assisted by LAF's staff lawyers.
- 2. Provision of necessary legal services for residents in remote areas or areas lack of legal services:** Because Taiwan's legal resources (including where lawyers practice laws) concentrate mostly on the west, especially in the metropolitan areas. For residents in the east, non-metropolitan areas, remote areas, offshore islands such as Kinmen, Penghu, and Matzu, there have been significantly insufficient legal resources. LAF would like to close down the gap of legal resources by providing the support of staff lawyers to the remote areas.
- 3. Assistance to urgent cases:** Some applications for legal aids face the due dates of expiration, court sessions, appeals, or counter appeals within days, and they are looking for urgent processing. LAF through the help of staff lawyers handles these

urgent cases to safeguard the rights of applicants.

To improve the quality of lawyers has long been the priority of LAF, and each year, LAF interviews those being assisted legally to understand the presenting state. Interview contents include whether cases are discussed, the sincerity of lawyers, preparation of legal documents, satisfaction toward contents, court sessions accompanied by the lawyers and satisfaction towards the performance of lawyers on the court, and outstanding parts or shortcoming of lawyers. LAF uses questionnaire to screen and identify lawyers that are concerned and requests the review of peer lawyers¹⁴. Interviewees do not exclude those assisted by the LAF's staff lawyers, and therefore, the questionnaire results help to know whether the staff lawyers are active, sincere, and professional and whether they are especially praised or complained by those being assisted.

In addition, LAF through the appraisal system understands the processing quality of the staff lawyers. LAF's appraisal on the staff lawyers is conducted by the Audit Team composed of five to seven members with samplings of document quality, professionalism, sincerity, court performance, communication attitude and other relevant items. Because the said telephone interviews are not mass surveys and may not include all cases taken by the staff lawyers. Thus, LAF conducts the appraisal on the staff lawyers and again uses questionnaire to understand the interaction between the staff lawyers and those being assisted, the court, the prosecution agency, social clubs or other relevant personnel. Members of the Audit Group includes Secretary-General, Deputy Secretary-General, two to four lawyers with the seniority more than ten years suggested by the Secretary-General and approved by the Chairman of LAF Board as well as one to two representatives of social clubs or experts and scholars in legal or other professional fields.

Besides presenting quality, LAF also focuses on occupational behaviors including work attitude, work capability, coordinating ability, and learning ability. Due to LAF's staff lawyers present at the Branch office and at the Northern Taiwan Staff lawyer Center, the appraisal on occupational behaviors has been conducted by the director of each Branch office or the supervisor of the Center. For the staff lawyers who take the position as supervisor, their leadership is included in the appraisal. The above appraisal system has long been conducted and implemented after the resolution adopted by the LAF Board of Directors but not been regulated (past by the Board of Directors in August, 2014 but pending for the approval of Ministry of Justice before

14 For lawyer assessment system please refer to 8.5 Assessment Mechanism of Legal Aid Lawyers.

implementation). At present, LAF's staff lawyers have been regulated in terms of their employment and appraisal. The staff lawyers are the contracted workers of LAF, and they are applicable to the appeal and reward systems of LAF¹⁵ .

According to existing Article 2 of the Employment Method of LAF's Staff lawyers, LAF shall retain the maximum number of 30 staff lawyers, but due to the budget concern, we are able to retain 18 and by September 2014 actually retain 12 including 3 in Taipei Branch office, 2 in Banqiao Branch office, and 1 in Tainan Branch office as well as 6 at Northern Taiwan Staff lawyer Center. The cases presented by the LAF's staff lawyers accounted for 1.6% from January to September, 2014, 1.5% in 2013, and 1.7% in 2012. Hence, LAF does not attempt to retain the staff lawyers to replace legal aid lawyers but has them to present as the relevant party or for cases on special issues.

Since April, 2006, LAF began retaining the staff lawyers. At the beginning, each Branch office retained lawyers according to the individual needs. Taipei Branch office is the first one that first retained the staff lawyers. Because of the occurrence of a major environmental case¹⁶, Taiwan Branch office also retained the staff lawyer while

15 According to Point 11 Governing LAF's Appeal Processing, "For the appeals of the full-time lawyers at the Chapter, the investigation shall be conducted by the President of the Chapter. When necessary, an independent social representative can be appointed to participate in the investigation. (Item 2), for the appeals of the full-time lawyers of the Foundation, the investigation shall be conducted by the Secretary-General. When necessary, an independent social representative can be appointed to participate in the investigation. (Item 3), investigation results shall be submitted to the final decision of the Board of Directors according to Point 11 Governing Personnel Reward and Punishment. LAF's Point 11 Governing Personal Reward and Punishment regulates that "the case of reward and punishment of the full-time lawyers shall be investigated by the Secretary-General; if the full-time lawyers are present at the Chapter, the President of the Chapter shall be in charge of investigation. Investigation results shall be submitted to the final decision of the Board of Directors. If it is in major violation of Lawyer's Act , the ethical code of lawyers, and rules and regulations of LAF, LAF shall process according to Points of Attention Governing the Appraisal of Service Quality of LAF's Legal Aid Lawyers as well as the rules and regulations of the Employment Method of the Full-time Lawyers."

16 In 2003, the major public hazard incident at " Ann-Shun Site of China Petrochemical Development Cooperation" broke out in Tainan, Taiwan. Nearby residents in 2007 received blood check and found the excessive Dioxins level. They, thus, applied from LAF for assistance to claim national compensation from Ministry of Economic Affairs, China Petrochemical Development Corporation, Tainan City Government, and Environmental Protection Bureau of Tainan City Government. Due to the large number of plaintiffs and the complexity of issues involved, Tainan

Banqiao Branch office also retained the staff lawyer due to the involvement in several major criminal cases and the cooperation with NGOs on the issue of social welfare. On December 22, 2012, the Northern Taiwan Staff lawyer Center has been established under LAF with the purposes below: (1) cultivating professionalism; (2) promoting the mentor system; (3) conducting the in-depth studies on the minority issues; and (4) influencing academic and legal works. In September, 2013, the Northern Taiwan Staff lawyer Center began its operation by aborigine group and domestic affairs group. It is hoped that through group operation, resources from various fields can be integrated to exchange with NGOs regularly for the building of communication platform in order to serve the minority better.

LAF's staff lawyers present at each Branch office are retained due to special needs. They are able to provide legal aids as the relevant party or for cases on special issues as well as assist the Branch office to conduct legal education and promotional activities to work closely with the Branch office. The Northern Taiwan Staff lawyer Center, however, belongs to LAF headquarters that does not appoint legal aid lawyers. Appointment of legal aid lawyers is the responsibility of each Branch office, and therefore, the linkage between each Branch office and headquarters is weak besides the appointment of legal aid lawyers. The staff lawyers support the evaluation of each project and presentation efficiency. It is urgent to solve the issues on what cases with significance shall be taken by the full-time employers and the retaining purpose of the staff lawyers. At present, each Branch office encounters issues involving the traditional custom of aborigines such as the recovery of traditional territories, ownership of hunting guns, hunting of wild animals, the use of forestry by-products and these are first presented by the Staff lawyer Center. It is hoped that through individual cases, experiences can be accumulated for the in-depth studies.

IV. Qualification to serve as LAF's legal aid lawyers

According to Point 2 Governing the Appointment of Legal Aid Lawyers, lawyers with more than two years of practicing experiences or 1. used to serve as judges, prosecutors, military judges, military prosecutors, or public defendants or 2. Attached with 15 copies of documents presented at different case numbers to obtain the approval of LAF can all apply to serve as the legal aid lawyers from each Branch office of LAF. In addition, LAF Board of Directors can flexibly adjust the qualification of legal aid lawyers according to the characteristic and needs of cases that look for legal aids.

Chapter thus retained the full-time lawyers to take charge of the major environmental protection case.

LAF, at the beginning, posed no limitation on the seniority of legal aid lawyers; in order to respond to the improved quality requirement of each field, in October, 2011, LAF Board of Directors considered the lack of actual litigation experience of junior lawyers with the seniority less than two years and decided to limit on the seniority for appointment. This measure was regulated in the said Points Governing the Appointment of Legal Aid Lawyers in the amendment made in February, 2014. Since the resolution adopted by the Board of Directors has been implemented, LAF's Branch offices found that due to the unique characteristics and demands of each case of legal aids in operation, the limitation of the seniority of two years in general is lack of flexibility. For some major cases, the seniority over two years cannot ensure the protection of the rights of applicants. Thus, when amending the above points, Article 2.3 especially reserves the rights for LAF to conduct flexible adjustment.

LAF since March, 2008, began the "Consumer Debt Clearance Legal Aid Program" (hereinafter referred to as "the Consumer Debt." Because of the low payment made to lawyers and the complicated case procedure and data preparation, the willingness for the legal aid lawyers to take the cases is influenced and there has been a significant shortage of the legal aid lawyers of the Consumer Debt in each Branch office. Due to the involvement of fewer disputes of the Consumer Debt, even lawyers who has practiced the law less than two years, through educational training shall be able to communicate with those being assisted with empathy and patience to help them during the process to clear out debts. In March, 2014, therefore, LAF Borad of Directors liberated the limitation on the qualification of the legal aid lawyers that assist the Consumption Debt. As long as lawyers who practice the law less than two years receive 6-hour training at LAF or the court or the bar association and join the communication platform built by the LAF, they are eligible to present the Consumer Consumption cases handled by the LAF. These lawyers after successfully present the first case and approved by the President of each Branch office can continuously be appointed to repsetn the Consumer Consumption cases handled by the LAF. However,the case number presented is limited to 12 a year. By the end of September, 2014, LAF has conducted seven educational trainings around Taiwan including contents of attention items for audit of LAF consumer debt clearance cases, negotiation and mitigation, self-supporting, clearance related legal points, and the description of speciality of mindset of the debtors. Thorough the diversified training courses, lawyers are equipped with the professional abilities to proces cases of consumer debt clearance.

In September, 2007, LAF began the “Program for Lawyers to Accompany to the suspect who is Investigated by the Police and Prosecutors in his first time” (hereinafter referred to the Duty Lawyer Program to the Police and Prosecutor’s Investigation”). Since its launch, Branch offices responded with the shortage of duty lawyers and the difficulty of appointment, and the Bar Association also expressed that young lawyers with complete educational trainings and experiences shall be encouraged to participate in the Program. Therefore, in May 2014, LAF Board of Directors removed the limitation on the two-year seniority requirement of lawyers for the Program. As long as lawyers who has practiced the law less than two years participate in the educational training for the accompany to the police and prosecutor investigation (three hours), they are qualified to be appointed. LAF and Judicial Reform Foundation jointly published the guideline for the accompany to the police and prosecutor investigation to improve the accompany skills of the lawyers as well as organized seminars to share experiences. Exchange platform has also been developed to assist young lawyers with the willingness to participate in the duty lawyer program to the police and prosecutor investigation.

v. LAF's specialty appointment and contracted lawyer system

In order to improve the quality of legal aid and to safeguard the rights of those legally aided, LAF has planned the specialty appointment of lawyers in professional fields for the implementation in March, 2015. At the initial stage, specialty fields have been selected in labor, domestic affairs, and consumer debt clearance cases (hereinafter referred to as specialty cases) and later depending on the achievement results and actual needs, more specialty fields will be included. LAF's legal aid lawyers shall be equipped with one of the following qualifications in order to be appointed as the lawyers for specialty cases: (1) personally presenting at least ten cases of specialty cases and approved by the Specialty Audit Committee of LAF's Legal Aid Lawyers (hereinafter referred to as LAF's Specialty Audit Committee); (2) certified with specialty lawyer certificates by Taiwan Bar Association; (3) with teaching experiences in universities and colleges as Assistant Professor and above for the legal subjects related to the specialty field for more than one year; (4) Participating in more than 30 hours of trainings related to specialty fields organized by LAF, justice agencies, or bar associations; (5) publishing paper at the length of more than 10,000 words or more than three relevant papers of specialty fields. In addition to the above qualification required to apply as LAF's specialty lawyers, when one of the following situation occurs, application is banned: (1) Punishment of terminated appointment has been imposed within one year after application by the LAF and the punishment execution has been completed less than one year; or (2) applicants are used to be punished to suspend to practice laws.

In order to encourage the lawyers to advance their professionalism, after they become LAF's specialty lawyers, each year, they are required to receive more than six hours of continuous trainings or educational trainings in the specialty fields and to incorporate with LAF's needs, they will share presentation experiences in the training courses. Meanwhile, if one of the following situation occurs, they will be disqualified for the appointment as specialty lawyers: (1) confirmed punishment for LAF to terminate appointment; (2) confirmed punishment for the lawyer to suspend his/her practice of law; and (3) poor presentation quality decided by the LAF Specialty Audit Committee to ensure the quality of specialty appointment.

Because of the lack of marketability of issues of legal aid cases, general practicing lawyers may not gain more cases with those looking for legal aids and lawyers have low willingness. In addition, the law practicing areas of lawyers are not evenly distributed. There are limited numbers in the east, non-metropolitan areas, remote areas, and offshore islands. LAF, thus, has the difficulty to appoint specialty lawyers.

Furthermore, LAF, at present, appoints mainly the individual legal aid lawyers not law firms. Taiwan's law firms mostly are small-scale ones composed of individuals or less than five people. LAF Branch offices are heavily relied on the investment of manpower for control and fail to satisfy the needs of residents in the remote areas for lawyers. Hence, LAF is planning to adopt "contracted lawyer" system to sign contracts with scaled law firms with good reputations to assign cases to the law firms, and the law firms shall take care of the quality control or appoint their lawyers to support legal aid cases in areas with insufficient resources. This can ensure quality control via the internal management mechanism of contracted law firms and solve the issue of insufficient resources in the remote areas.

VI. Educational training of LAF's legal aid lawyers

LAF requests its legal aid lawyers to actively participate in the on-the-job educational trainings, seminars, and conferences organized by LAF and incorporate with on-the-job training methods of Taiwan Bar Association, they shall attend the courses. Among the courses, LAF requests at least three-hour training of consumer debt clearance and accompany to the police and prosecutor investigation for lawyers to present the relevant cases. By doing so, legal aid lawyers are able to update and improve their professional legal skill and presentation quality in order to safeguard the rights of those being assisted¹⁷.

The ROC Legislative Yuan, on March 31, 2009 ratified the "International Covenant on Civil and Political Rights" and the "International Covenant on Economic, Social, and Cultural Rights"(hereinafter referred to as two covenants) and the act of implementation of two covenants. On December 10 of the same year, the rights protected by the two covenants regulate the domestic legal status of two covenants applicable to the ROC courts. When the relevant parties file litigation, they can actively claim the protection of two covenants. In lieu of the compliance with the two covenants by the cases presented, the LAF (sometimes with bar associations or other NGOs) conducts various educational trainings for the legal aid lawyers to be familiar with international covenants or the UN principles or guidelines to cultivate relevant knowledge about the practical cases of two covenants. In addition, the LAF each year

17 According to Attention Point 5 for LAF's Legal Aid Lawyers to Provide Legal Aids, "LAF requests its legal aid lawyers to actively participate in the on-the-job educational trainings, seminars, and conferences organized by LAF and incorporate with on-the-job training methods of Taiwan Bar Association, they shall attend the courses. The LAF shall have the rights to request the legal aid lawyers to complete certain types and hours on-the-job training courses before being appointed to specific types of legal aid cases of the LAF."

targets on different issues to organize or work with bar associations and NGOs to conduct educational trainings such as issues of domestic affairs, defenses for capital punishment, the aborigines or newly amended laws to improve the professionalism of lawyers.

VII. LAF legal aid lawyers' remuneration

LAF, according to the difficulty of cases, set up remuneration methods and standards and the Audit Committee determined the lawyers' remuneration for their legal aid services.¹⁸ For example, the remuneration for the Procedure of the First General Instance is normally between Twenty to Thirty Thousand New Taiwan Dollars(hereinafter used the same currency), but due to less difficulty, the Procedure of the First Simple Procedure is between Fifteen to Twenty Thousand Dollars. If the cases get more complicated, after the cases are closed, they can apply for the additional maximum remuneration of ten thousand dollars. LAF pays the remuneration about one third to one half of market prices and fails to have the flexibility to pay lawyers according to the specialty of cases. Hence, in July, 2014, LAF Board of Directors ratified the amendment methods of remuneration and enacted reasonable working hours table. ¹⁹ If working hours of legal aid lawyers exceed enacted ones to a certain degree, the application for additional remuneration is allowed. At the same time, standards of increase or reduction mechanism of lawyers' remuneration were also enacted.²⁰ For example, if legal aid lawyers did not discuss or meet with those in need of legal aids or related parties, three thousand dollars (equal to 100 USD) shall be deducted.

Although the LAF Board of Directors has the right to adjust the remuneration of legal aid lawyers, yet according to the previous Article 2.2 and 9 of Remuneration Payment

¹⁸According to Article 28.1 and 31.2 of Taiwan's Legal Aids Act, "The lawyer who provides legal aids shall be paid by the Branch office, and the remuneration shall be calculated based on the following standards:1. the remuneration shall be 1 to 5 radixes when the lawyer provides legal consultation or provides legal services necessary to other legal matters. 2. the remuneration shall be 2 to 10 radixes when the lawyer provides legal services in mediations or settlements, or drafts legal documents without involving legal representation or legal defense in litigations or arbitrations and 3. the remuneration shall be 15 to 50 radixes when the lawyer provides legal representation or legal defense in the litigation or arbitration for each level of trial" and "The remuneration and necessary fees is calculated based on legal aids provided in every level of trial or every event of legal dispute. The rules governing the calculation of the remuneration radixes, payment in advance, payment, reduction or cancellation of the remuneration and necessary fees shall be established by the Foundation and submitted to the competent authority for review and approval."

¹⁹ LAF Remuneration Payment Methods are enacted according to the authorization in Article 31.2 of Legal Aids Act, and as regulated in Article 12 of Legal Aids Act, "The enactment, amendment and abolishment of the rules enacted under this Law shall be reviewed and approved by the competent authority," so the methods need to be reviewed by the Ministry of Justice.

²⁰ Please see C (1) below for the increase and reduction mechanism of remuneration.

Methods, “the amount calculation of the said radixes can be increased or deducted by 20% due to the needs of the Foundation,” and “the Board of Directors can deem the financial status of the Foundation to make the adjustment of the amounts paid according to the Remuneration Payment Standards Table between plus or minus 50%.”²¹. Although the budget does not increase along with the increased number of legal aid cases, yet till now, the LAF Board of Directors has not initiated the said adjustment mechanism.

VIII. Quality control of LAF legal aid lawyers

To improve legal aid service quality and ensure the rights of clients has long been the priority work of LAF with the adoption of mechanism below:

1. Report of the legal aid lawyers after taking the cases:

In compliance with Guidelines for LAF Legal Lawyers in processing Legal Aid Cases (hereinafter refer to Guidelines for LAF Legal Lawyers)²², legal aid lawyers shall process the appointed cases within two months and report back the processing status back to the Branch office for the application of prepaid remuneration.²³ If the reports from the lawyers are not received within time, the Branch office will withdraw the case appointment from the lawyers and when necessary, lawyers will

²¹ These two items were integrated after amendments into Article 7, “The Board of Directors shall due to the needs and depending on the financial status of the Foundation, between the range of 50% increase and deduction to adjust the radixes in the attached Remuneration Payment Standards Table as well as between the range of 20% increase and deduction, the calculation amount of remuneration radixes regulated in Article 2.” Item 2 was added with “The Board of Directors shall review the radixes and calculation amount of remuneration of the legal aid lawyers; where there is special situation, methods shall be reviewed from time to time” enacting the obligation for the Board of Directors to review remuneration regularly (pending for the ratification of the Judicial Yuan before Implementation).

²² Article 7.3 of Attention Items for Legal Aid Lawyers regulates “The legal aid lawyers shall process legal aid cases within two months after taking the cases and fill in and send the formal copy of remuneration receipt and case processing status report back to the Branch office; those who fail to report back within time will be terminated with case appointment and when necessary, lawyers shall be replaced.”

²³ LAF’s lawyer remuneration is divided into prepaid and case closure remuneration. The former is paid with partial payment at the beginning before the lawyers process the cases while the latter is paid after cases are closed. The Branch office according to relevant information sent by the lawyers pays the remuneration. At present, the prepaid remuneration is about 50% of the amount ratified by the Audit Committee.

be replaced.

2. No more than 24 cases taken by the legal aid lawyers a year:

In order to avoid the influence of excessive cases taken by lawyers on quality, LAF set up the limitation on case numbers. According to Point 7 of Appointment of Legal Aid Lawyers, the legal aid lawyers cannot take more than 24 cases a year. But there are exceptions when (1) clients appoint the lawyers or the lawyers have the experience to provide assistance for the procedure of instances or (2) clients appoint the lawyers or the lawyers have the relevant experience to provide assistance for the procedure of instances; the consideration of the mutual trust to some degrees shall be taken to protect the rights of clients. Additionally, for the types of some cases such as clearance of individual debts and the accompany to the first investigation by the police and the prosecutor, the willingness for legal aid lawyers to take the case is low. For encouragement, they shall be excluded in the calculation of the said 24 cases. Furthermore, due to the unbalanced distribution of practicing areas of lawyers, some Branch offices may have the difficulty to appoint the legal aid lawyers, and they shall be also exempted from the said limitation on 24 cases.

3. Mechanism to review case closure:

(1) Increase and reduction mechanism of remuneration

Since its initial establishment, LAF in order to encourage lawyers to take legal aid cases paid 80% remuneration in advance (prepaid remuneration). But later due to the excessive or insufficient amount of remuneration after the closure of legal aid cases, LAF often needed to collect the remuneration back from lawyers as well as there had been delays of reports from the lawyers, the Branch office needed to spent huge manpower to trace the processing situation regularly. LAF also needed to consider the use of budget. Since February, 2010, the prepaid remuneration has been made by 50% of the total amount, and after documents sent by lawyers are received and the Branch office reviews the case closure, the rest remuneration can be applied (case closure remuneration). The amount of remuneration after reviewed by the Audit Committee, in principle, cannot be changed but if the cases are complicated, lawyers need to spend more time and efforts or results of criminal cases are sentenced with innocent or suspended sentence, the application for additional remuneration is allowed²⁴ but if there is any cause attributable due to the failure of

²⁴ Article 8 of Remuneration Payment Methods regulated “when one of the following situation occurs, the legal aid lawyers shall have the right to apply from the Branch office for additional remuneration but the total remuneration radixes shall not exceed the maximum stated in Article 28.1 of the Act (Legal Aids Act): 1. Working hours engaged in legal aid cases exceed those regulated in Standard

the legal lawyers to carry out their obligations properly, then remuneration shall be deducted according to the serious level²⁵.

(2) Obligations for legal aid lawyers to report back the case closure

Legal aid lawyers shall within one month after legal aid cases are closed fill in the report of case closure and according to the types of legal aid cases attach proof documents. Then Legal aid lawyers shall send all the said proof documents to the Branch office in time. If there is incomplete information in the report and no improvement has been done within 15 days after receiving the notification from the Branch office, the Audit Committee shall then calculate the case closure remuneration upon the request of the Branch office²⁶. In order to simplify the case closure operation, when presentation quality of legal aid lawyers is reviewed and approved by the Branch office, the Branch office shall have the right to exempt the obligation for the said attachment requirement of documents and relevant ones, but to ensure quality, sampling from time to time is still required, a mechanism to balance between the reporting obligation of lawyers and the protection of rights of

Working Hours Table of Legal Aid Remuneration Calculation (Attached Table 2), and for each excessive hour, the Branch office shall increase 0.5 radix according to the application with the maximum of additional 10 radices and 2. Due to the defense assistance by the legal aid lawyers, clients are sentenced with innocent or suspended sentence” (pending for the ratification of the Judicial Yuan before implementation).

²⁵ According to Article 11 of Remuneration Payment Methods, the deduction standards are listed below:

1. When legal aid lawyers do not discuss cases or meet with clients or the related parties, 3 radices shall be deducted.
2. For legal aid cases that are approved to use agent and defendant for litigation or attribution, legal aid lawyers without any proper reasons do not prepare documents shall be deducted with 5 radices.
3. If document quality related to factual sentence or verbal sentence of instance prepared by legal aid lawyers is significantly poorer than those prepared by general practice peers, legal aid lawyers shall be deducted with 10 radices or cancelled with remuneration payment.
4. When legal aid lawyers fail to present themselves to the court during court session or for the expression of opinions without proper reasons, legal aid lawyers shall be deducted with 5 radices or cancelled with remuneration payment.
5. When legal aid lawyers do not study case documents without proper reasons, they shall be deducted with 2-5 radices.
6. Legal Aid lawyers violating Article 8 of Items of Attention for LAF’s Legal Aid Lawyers to Take Legal Aid Cases shall be deducted with 3 radices” (pending for the ratification of the Judicial Yuan before implementation).

²⁶This is based on Article 1 and 2 of Point 35 of Items of Attention for Legal Aid Lawyers.

clients.

According to operation experience of each Branch office, the investment of human resources for case closure is huge. If legal aid lawyers are able to report back after case closure, the Branch office can control the quality in time and effectively use LAF's budget. Thus, LAF include alert function in the administration software developed on its own to set up different time limit for various types of legal aids. If reports are not received within the limited time, the Branch office is able to use the search system of decision made by the Judicial Yuan and inquiry from legal aid lawyers and applicants to understand the status of cases. According to Article 35.3 of Guidelines for legal aid lawyers,, if cases are closed completely (such as decisions made by the court), lawyers fail to report for closure within the required time, and no reports have been sent back within 15 days after notified by the Branch office, the Branch office shall directly send to the Audit Committee for remuneration reduction or cancellation. Appraisals will also be conducted by Lawyer Appraisal Commission (hereinafter referred to as "The Appraisal Commission") according to LAF's Points of Attention for Legal Aid Lawyer Appraisal.

4. Appealing mechanism

LAF's appealing mechanism aims to protect the rights of the applicants and clients as well as to improve quality of legal aids. The parties applicable include LAF staff, staff lawyers, members of Audit Committee, and legal aid lawyers. According to Points Governing the Appointment of Legal Aid Lawyers, lawyers apply from the Branch office to become the legal aid lawyers, Thus, appeals of legal aid lawyers shall be investigated by the President of each Branch office in person or secretary shall be appointed for the investigation. When necessary, an independent social representative shall be appointed to participate in the investigation. After investigation, according to violation, the President of Branch office shall be able to advise, consult, and encourage the improvement with the punishment of three-year termination of appointment. The President shall have the right to send the appraisal to the Appraisal Commission.

From 2010 to September, 2014, there were 361 appeals of legal aid lawyers made, and among them, 124 depending on violations were punished including: lawyers did not meet those clients during prison and sentence, lawyers did not prepare documents required, lawyers prepared documents without due care, lawyers appointed non-lawyers to represent clients in court proceedings, lawyers did not present the clients in court proceedings and did not authorize other lawyers to do so

to the court, seals and signature made without the approval of the related parties, lawyers presented the clients in cases of Procedure of Third Instance without submitting causes of appeals within the required time.

5. Appraisal mechanism of legal aid lawyers

In order to ensure legal aid quality, LAF set up the Commission in charge of lawyer appraisals composed of 9 members. Besides Secretary-General, there are one judge (recommended by the Judicial Yuan), one prosecutor (recommended by the Ministry of Justice), two lawyers (recommended by national bar associations), and two social representatives or scholars and experts with legal or other professional fields retained by the Board of Directors serving a three-year term respectively.

According to Point 6 of Appraisal, sources for LAF to conduct appraisals include (1) performance quality results from the questionnaire; (2) decision made by the President of Branch office to send for appraisal; and (3) appraisals deemed necessary to improve the service quality of lawyers. Based on violation determined by the appraisal, the Commission shall have the right to request improvement in writing according to Point 24 of Appraisal, suspend appointment for the maximum period of three-year, remove from legal aid lawyer list, and punishment according to Lawyer's Act given by the Lawyer Discipline Commission (hereinafter referred to as the Discipline Commission).

Between 2007 and September, 2014, 51 legal aid lawyers were disciplined by the appraisal agency with reasons below: violation to ethical code of lawyers (about 33%, for example, delay the appeal time and failure to make appeal); doubts of legal aid quality (45%, for example, failure to prepare documents, provision of over simplified documents, failure to present the clients at the court, without meeting the clients or working with bad attitude), violation to LAF rules and regulations (16% such as violation to Guidelines including the appointment of non-lawyers to represent clients in the court proceedings, failure to inform LAF to apply for security procedure and guarantee documents), and failure to incorporate with LAF administrative affairs (about 6%, for example, the refuse to turn in documents for appraisal or false information reported in the case closure). Among them, delay to submit reasons for the Procedure of the Third Instance greatly affects the rights of clients. LAF generally suspend the legal aid services of lawyers and send them to the Discipline Commission. But the discipline agency often resolved to give defamation punishment, and that shows the unbalance between processing and violation. LAF according to

laws has appealed for the second reviews.²⁷

The lawyer appraisal mechanism helps to eliminate lawyers who practice law with poor quality and recognize the good ones. Till now, 24 lawyers have been honored and recognized on the annual celebration of LAF. These awarded lawyers work with sincerity and positive attitude and have been highly recognized by the clients. They present complete and persuasive reasons in the statements of written documents and demonstrate high services quality in their profession.

There are several challenges below for LAF lawyer's appraisal mechanism: (1) the need to establish appraisal standards: LAF clients are the minority and they involved in issues without market orientation, and therefore, legal aid lawyers need to be professional and shall show their empathy. Hence, the appraisal mechanism shall be focused on finding out those who are suitable to provide legal aid services not to punish and eliminate a small number of lawyers. In order to achieve this purpose, we need to establish the evaluation standards; (2) the link to other mechanism: LAF has overlapped case closure review system, appeal system, and lawyer appraisal system and how to prevent loops or repetition requires more efforts; and (3) how to construct standard operational procedure for the quality of lawyers is the common challenge faced by the LAF and the legal field.

IX. Conclusion

Lawyers have the mission to protect human rights, realize the access to justice, and promote democracy and shall be autonomous based on the ethical consciousness to protect the dignity and honor of the profession. However, lawyers practicing law in Taiwan pay less attention to the ethical code. After the establishment of LAF, in lieu of the insufficient self autonomous management of lawyers to ensure the rights of clients, we have to adopt the above mechanism to control quality. But with significantly low remuneration compared to market prices, we often receive critiques about the efficiency to improve quality. It is indeed very difficult to find the balance.

In compliance of the first paragraph of Article 14.1 of International Covenant on Civil and Political Rights, "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a

²⁷Taiwan's lawyer discipline system classifies into discipline and the second review procedure operated by the Commission; disciplines include warning, defamation punishment, termination of less than two-year legal services, and delisting. According to Article 42 of Lawyer's Act, when a group that sends the discipline request holds objection for the decision made by the Lawyer Discipline Commission, it shall appeal for the second review by the said Commission.

suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law” and Sub-paragraph 5 of the same article, “Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law,” the establishment purpose of legal aid institutions is to help the minority and protect their rights to litigate. Hence, the LAF shall work hand in hand with the minority, and in the near future, the LAF will work more actively to assist legal aid lawyers to realize each international covenant, to provide legal aids by lawyers with sincerity and professional abilities, to establish quality control mechanism, to facilitate the protection right of the clients, and to ensure the rationality of remuneration paid to legal aid lawyers. It is hoped that participants of Taiwan’s legal aid services (staff and legal aid lawyers) to work with sincerity and passion and continue carrying out the goal to protect the legal right of the people in need like what we have done in the past decade.