

# **Country Report: Taiwan**

## **Introduction**

As democratization and the rule of law were making headways in Taiwanese society from 1990s, along with growing public awareness of their rights, the need to use the law to achieve fairness and justice was also increasing. Starting 1998, non-governmental organizations such as the Judicial Reform Foundation, Taipei Bar Association and Taiwan Association for Human Rights have been committed to promoting legislation that improves legal aid, taking into account legislative efforts in other countries. In the National Judicial Reform Conference of 1999, consensus was reached in further promoting the legislation on legal aid, to be jointly promoted by the Judicial Yuan and the Ministry of Justice. With support from various parties, the Legislative Yuan enacted the Legal Aid Act (the "LAA") at the end of 2003, which was promulgated by the President on January 7, 2004. In July of the same year, the Judicial Yuan established the Legal Aid Foundation (hereinafter, the "LAF" or "the Foundation") by donating funds in accordance with the LAA, and established five LAF branches at the same time. As of the end of December, 2017, the LAF has 22 branches nationwide handling applications for legal support. The LAF's organizational structure, supervisory mechanism, methods of providing assistance and review, types of services, types of and standards for providing assistance, and financial status have all been described in Taiwan's country reports to the past three international forums.

In June 2015, the amendment to the Legal Aid Act was adopted by the Legislative Yuan, and the new Act came into force on July 6 of the same year. The new Act addresses shortcomings of the old regimes in its implementation over a decade, in terms of resolving practical difficulties, reinforcing the legal basis for past insufficiencies, improving the efficiency of processing legal aid, and providing better access to justice to those who are disadvantaged in terms of socio-economic resources and adequate legal protection, so as the legal aid system can better fulfill its legislative purposes. In the following this report will explain the direction and impact of this major legislative revision and the major operational developments LAF has undertaken over the past four years, as well as future directions of

development for the Foundation. Further, this report will address sub-topics related to the themes of this forum, including identifying and targeting people in need; providing legal services that legal aid clients need; working together with non-legal services; providing targeted legal aid for specific populations, together with LAF's implementation of international human rights conventions.

## 1. Basic national and organizational information

<b>National information<sup>1</sup></b>				
Name of country	Population (as of end of 2017)	Gross domestic product (GDP) (as of end of 2017)	Poverty line and number of people below it	Practicing lawyers Number of people
Taiwan	23,571,227	US\$572.767 billion Per capita GDP is US\$24,299	In 2018, the lowest living index in different counties and cities across the country varied from (NT) \$11,135 to \$16,157 per month (equivalent to approximately US\$365 to \$530) <sup>2</sup> , or between US\$12 to \$17.70 per person per day; this applies to approximately 308,000 people nationwide, or roughly 1.3% of the total population <sup>3</sup>	Approx. 8,500 <sup>4</sup>
<b>Legal aid organization information</b>				
Institution name	Date established	Total number of applications in 2017	Total number of grants of legal aid in 2017	Total number of refused grants of legal aid in 2017
Legal Aid Foundation	July 1, 2004	Number of legal consultations: 125,681 cases Number of applications for legal aid: 85,368 cases	63,935 cases	17,356 cases
Number of attorneys providing legal aid (as of end of 2017)	Non-legal professionals within the Foundation (such as social workers,	2017 government contributions to legal aid	2017 total legal aid expenditures	Government contributions as portion of total expenditures

<sup>1</sup> USD to NTD conversion rate used in this table is 1 to 30.43.

<sup>2</sup> According to the Public Assistance Act, the lowest living index per person benchmark for the poverty line has different standards, depending on region; Taiwan Province, the six municipalities directly under the central government, and Fujian Province each have different standards. For more details please refer to the Ministry of Health and Welfare's website (in Chinese):

<https://www.mohw.gov.tw/dl-44269-792e5adb-1233-49f4-9d73-c46482fd2811.html>

<sup>3</sup> Calculated from Ministry of Health and Welfare statistics on low-income households and persons (in Chinese): <https://dep.mohw.gov.tw/DOS/cp-2972-13779-113.html> If we add the number of those in middle-to-low-income households at the margin of the poverty line, that is, the 321,767 people (second quarter, 2018) in households earning less than 1.5 times the lowest living index per person per month, then the national number of those in low-income households and middle-to-low-income households is approximately 630,000 people, or 2.67% or the population.

<sup>4</sup> In reference to Ministry of Justice legal statistics, this figure was derived from taking the number of accredited attorneys in the various bar associations at the end of 2017 minus the total number of deaths recorded at the end of 2017, then rounded off. However, the Ministry warns that the number of deaths may be underestimated due to the lack of some historical data.

	consultants, community cultural workers)			
3,810 (Vast majority are private lawyers; only 20 staff attorneys)	The foundation currently does not employ any full-time social workers, counselors, or community cultural workers. But approximately 4.44 % of the foundation's frontline legal service staff have backgrounds in social work or psychology. (10/225)	Sponsored by the Judicial Yuan: NT\$1,249,756,961 (equivalent to US\$41,065,535) Project revenue from other government departments: NT\$90,600,377 (equivalent to US\$2,977,021)	NT\$1,423,543,771 (equivalent to US\$46,775,963)	94.16%

## **2. Major Changes over the Past Four Years**

In 2015, the newly amended LAA was introduced to ensure effective use of legal aid resources and to protect the rights of legal aid applicants and legal aid clients. The Legal Aid Act was completely overhauled, in seven areas: relaxing recipient eligibility requirements; expanding the scope of legal aid services; enhancing quality of services provided by legal aid attorneys; improving legal aid management performance; transforming the legal aid structure; creating more funding sources for legal aid; and making the LAF more independent and enabling reasonable supervision. This overhaul thus affected the operation of Taiwan's legal aid system for the future. In addition, LAF has also added new services over the past four years. This report will explain the major changes LAF has undergone over the past four years. Amongst these, items (1) to (4) are substantially related to the newly amended Legal Aid Act; items (5) to (7) are unrelated to the new amendments.

### **(1) Type (e.g. its nature and supervisory authority) and framework of the organization**

A. Adjustment of seats of representatives on the board of directors:

The LAF board of directors consists of 13 representatives from different organizations. The number of directors appointed by government agencies has shrunk from five to four (two from the Judicial Yuan, one from the Ministry of Health and Welfare, and one from the Ministry of Justice). The number of lawyer representatives was reduced from four to three. The number of academics remained the same at two seats, but was stipulated to be "scholars or experts with an expertise in law, social science, management or other specialties, who have extensive experience in issues concerning human rights, public welfare or protecting the disadvantaged" and must be recommended by the relevant social groups. The LAF's aim is to help the disadvantaged. In order to listen to voices from underprivileged groups, the number of representatives from underprivileged groups was increased to two; both representatives must be recommended by social groups. Finally, in consideration that labor and indigenous peoples' legal matters are the primary types of cases the LAF has given assistance with for many years, it is specified that there must be one representative from labor organizations and one representative from indigenous tribes. (Article 37, Legal Aid Act)

B. Change to chief executive officer model:

Considering that LAF's chairman of the Board of Directors was neither full time nor a paid position, the amendments changed the governance model from a chairman system to a CEO system. This allows for a paid, full-time CEO who will be responsible for administering general affairs and meet actual needs. (LAA, Articles 38, 40, 41, and reasons for revisions)

C. Enhanced independence and reasonable supervision for the Legal Aid Foundation:

In order for the LAF to function effectively and have a certain degree of autonomy and independence, Article 12 of the newly amended Legal Aid Act authorizes the LAF to formulate its regulations. Specifically, with regard to regulations concerning organizational structure, use of funds and budget, and critical measures, the formulation, amendment, and abolishment shall be subject to approval from the Judicial Yuan for reasons of being pertaining to

the preparation and use of the national budget. Apart from regulations in the aforementioned categories, the LAF may adopt its own regulation by a decision of the board of directors, taking into account its tasks, nature, and needs, which shall be submitted to the Judicial Yuan for future reference. Also, LAA, Article 60 states that "the competent authority may formulate supervisory management regulations concerning the use of funds and budget, the quality of provided legal aid, annual critical measures and others." The above provisions clarify scope of matters under the supervision of the Judicial Yuan and within LAF's autonomy.

## **(2) Legal aid budget, its sources and legal aid expenses**

### **A. Expanding the sources of funding:**

In order to expand the sources of LAF funding, LAA, Article 8, Paragraphs 3 and 5 add "deferred prosecution fines" and "negotiated judgment charges" to the sources of LAF's funding, and at the same time clarify that sources of funding "shall be compiled by the competent authority [the Judicial Yuan] using 15% of the average total of the funds from the past three years, along with the funds as prescribed in the provisions".

### **B. Augmented funding:**

In order to increase the amount of funding the LAF receives, the amendments to Article 8, Paragraph 4 specifically states that the balance of funds from "donations from national and regional bar associations", "subscription from other groups or individuals", and "other [LAF] income" at the end of the fiscal year should be transferred into the LAF's funding.

## **(3) Procedures and financial eligibility criteria for legal aid application**

A major focus of the amendments to the Legal Aid Act was expanding the scope of those entitled to legal aid. The expansion was done in four areas: expanding the definition of financially eligible persons; adding the category of "people who are unable to receive proper legal protections for other reasons"; expanding the scope of those who are exempt from financial verification; and including non-citizens. Taken

as a whole, those amendments aim at expand the scope of people who receive service from the legal aid regime to include those are disadvantaged due to economic conditions, legal status, or special circumstances, so as to uphold the Act's legislative purpose in safeguarding the rights and interests of the people.

A. Expanding the definition of financially eligible persons:

The old law originally limited the definition of "financially eligible persons" to two categories: "low-income households eligible for public assistance under the Public Assistance Act" and "those whose monthly disposable income and disposable assets are below the specific standard set down by the Legal Aid Foundation" (hereinafter, "the LAF financial eligibility criteria"). The amendments broadened the eligibility criteria to include those in "middle-to-low-income households" eligible under the Public Assistance Act and "whose family is qualified as a Family in Hardship as described in Article 4, Paragraph 1 of the Act of Assistance for Family in Hardship". (Legal Aid Act, Article 5, Paragraph 1) In addition, the new act further stipulates regulations that exempt low-income households, middle-to-low-income households, and families in hardship from verification of financial capabilities. (Legal Aid Act, Article 13, Paragraph 2, Subparagraph 1) Finally, as to the calculation of household financial state for the purpose of financial eligibility criteria, Article 5, Paragraph 2 of the new act stipulates: "The property of spouses or relatives not living with the applicant are not counted towards the applicant's disposable assets. The disposable assets and monthly disposable income of the applicant do not apply to the applicant's parents, children, spouse or property-and-resident sharing relatives who are not dependents of the applicant; the same applies to the applicant's long-term separated spouse."

B. Adding the category of "people who are unable to receive proper legal protections for other reasons":

In order to implement the legislative intent in Article 1 of the Legal Aid Act, Article 5, Paragraph 4 of the new act specified persons who qualify as those "unable to receive proper legal protections for other reasons", to include the following: "a defendant who did not retain an attorney during the first

questioning (interrogation) of an investigation, or during a trial, in a case that carries the base sentence of at least three years of prison term, or in a trial of first instance adjudicated by the high court"; "a defendant or a suspect, who possesses indigenous peoples status and did not retain an attorney during an investigation or trial"; "a defendant, who is unable to make full statements due to damage or impairment of the structures of the nervous system, or of the psychological or mental functions, and did not retain an attorney during an investigation or trial, or did not retain a legal representative during a trial in which retaining a legal representative was deemed necessary by the presiding judge"; "a defendant, who is under the condition of any one of the preceding three subparagraphs in a juvenile delinquency investigation or trial, and did not retain an assistant"; "a defendant in other trials, or juvenile delinquency cases, where an attorney, a legal representative, or a legal assistant is not retained, but is deemed necessary by the presiding judge"; and "a case of important public interest, high social profile, high complexity or similar instances as determined by the Foundation".

C. Expanding the scope of those exempt from financial verification:

In addition to including those "qualified as a low-income residence, or middle-to-low-income residence under the Public Assistance Act", those "whose family is qualified as a Family in Hardship as described in Article 4 Paragraph 1 of the Act of Assistance for Family in Hardship", and cases involving "people who are unable to receive proper legal protections for other reasons" (as described in A. and B. above) as those exempt from financial verification, the new act further included those "in the process of clearing debts under the Consumer Debt Clearance Act" and those "applying for verbal legal consultation" to those exempt from financial verification (i.e. means tests). As to whether means tests are required in "case[s] of important public interest, high social profile, high complexity or similar instances", the Foundation is authorized to make the appropriate decisions. (Legal Aid Act, Article 13, Paragraph 2, Subparagraphs 1 and 2)

In the past, new immigrants and migrant workers who have yet to obtain



citizenship have found it difficult to secure a list of income or property. This resulted in questions about whether the above groups should be subjected to financial verification, and how to conduct such verification. In order to resolve these uncertainties, the amended Legal Aid Act states in Article 13, Paragraph 3 that: "Foreign nationals who came to Taiwan in accordance with the provisions of Article 46, Paragraph 1, Subparagraphs 8 to 10 of the Employment Service Act" (i.e. fishermen, domestic helpers, care workers, factory workers of foreign nationality) and "a citizen's spouse who is in financial disadvantage and has not been naturalized, or who has been naturalized but does not have domestic household registration" will be presumed to be financially eligible, after swearing an affidavit, and will be exempt from means tests.

- D. Clearly specifying that non-citizens of the Republic of China (Taiwan) are also eligible for legal aid protection:

Those who are not citizens of the Republic of China (Taiwan) but meet the requirements in Article 14 of LAA can receive aid from the LAF. Those who are qualified under this provision are: A. those who reside legally within the borders of the Republic of China; B. people who lost their residency due to incidents not imputed to themselves; C. victims or possible victims in a human trafficking case; D. people who do not reside within the borders of the Republic of China, but have received the Foundation's aid in the past for the same cause; E. people who do not reside within the borders of the Republic of China may exercise their rights under the laws of the Republic of China when the other party, who received the Foundation's aid in the past for the same cause, passes away; F. people who do not reside within the border of the Republic of China may exercise their rights under the laws of the Republic of China when the other party passes away due to an occupational accident; and G. other conditions as decided by the Foundation.

- E. Guaranteeing the right to defense for defendants in criminal felony cases, juveniles, indigenous people, and persons with disabilities, while simplifying the administrative process for granting legal aid:

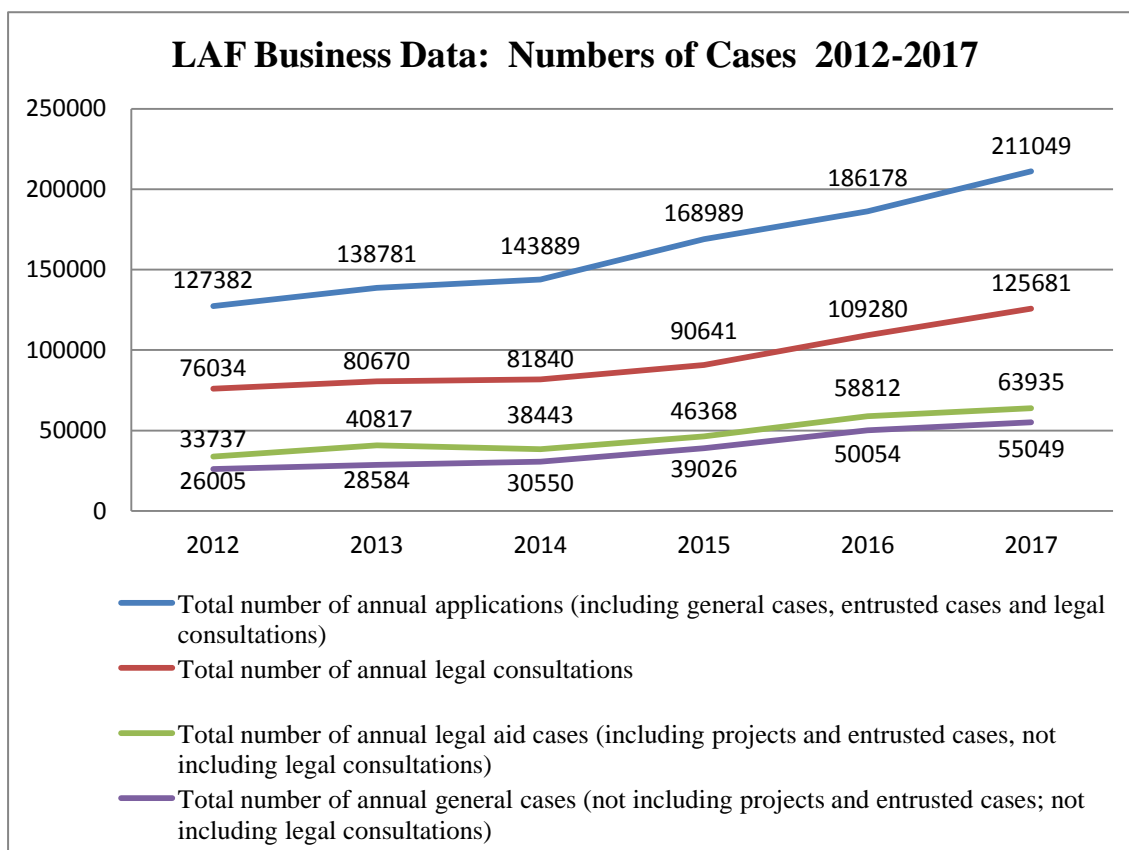
In accordance with relevant provisions in the Code of Criminal Procedure, Juvenile Delinquency Act, among others, a presiding judge shall appoint a lawyer to defend or assist a defendant. To supplement those provisions, the newly amended Legal Aid Act states in Article 13, Paragraph 6 that the presiding judge or prosecutor may notify the Foundation to assign an attorney to defend or assist such persons. Further, in order to ensure the protection of procedural interests of defendants in cases that carry a base sentence of at least three years in prison; indigenous peoples; "a defendant, who is unable to make full statements due to damage or impairment of the structures of the nervous system, or of the psychological or mental functions"; and juveniles, the newly amended Legal Aid Act states clearly in Article 15, Paragraph 2 that such applications may not be rejected for no legitimate reason or because the value of interests the legal aid applicant may recover from the prevailing litigation are less than litigation costs and lawyer's fees. In addition, the Legal Aid Act provides in Article 46, Paragraph 2, Subparagraph 2 that the Foundation should provide legal aid in such cases where the prosecutor is seeking the death penalty, and the court has pronounced the death penalty as the punishment, or the defendant is in danger of receiving a death penalty as the punishment, so as to observe the spirit of Articles 6 and 14 of the International Covenant on Civil and Political Rights in those cases that carry serious implications on the defendant's right to life.

Finally, in cases of preliminary questioning done by a prosecutor or the police, as well as those involves verbal legal consultation, in consideration of the service provided and efficiency, the newly amended Legal Aid Act states in Article 50 that acceptance or rejection of the legal aid instances shall be performed by the legal aid lawyers without subjecting the instance to three examining committee members for review.

F. Following the amendment and since 2015, the number of applications and cases the LAF has received have increased significantly:

Consider the following: As can be seen from LAF's business data for the past six years (Figure 1; Table 1), the number of applications and legal aid

cases showed some increases before 2015, when the Legal Aid Act was amended; but that increase was relatively limited and even showed negative growth in some cases. However, since the law was amended in 2015, the number of applications, legal consultation cases and legal aid cases has increased significantly, with annual growth rates of 10% to 20% or more. The growth in the number of legal aid cases slowed slightly in 2017, though still increasing at an annual growth rate of nearly 10%.



【Figure 1】 LAF Business Data: Numbers of Cases 2012-2017

#### (4) Recruitment and quality management of lawyers

Excellent quality of aid is a key factor in the operation of the legal aid system, and one in which lawyers play the most important role. In order to ensure legal aid attorneys provide excellent quality of service to truly assist those in need, the amendments to the Legal Aid Act made improvements in three areas: selecting legal aid lawyers; adjusting lawyers' remuneration; and strengthening legal aid lawyer evaluations. These serve as guides for the LAF as it pursues future directions for policy.

【Table 1】 Annual Growth Rates of LAF’s Cases 2012-2017

Item/Year	2013	2014	2015	2016	2017
Total number of annual applications	8.95%	3.68%	17.44%	10.17%	13.36%
Total number of annual legal consultations	6.10%	1.45%	10.75%	20.56%	15.01%
Total number of annual legal aid cases (including projects and entrusted cases, not including legal consultations)	20.99%	-5.82%	20.61%	26.84%	8.71%
Total number of annual general legal aid cases (not including projects and entrusted cases; not including legal consultations)	9.92%	6.88%	27.74%	28.26%	9.98%

A. Selecting Legal Aid Attorneys:

According to the old law, there were two sources of lawyers for the LAF. One was the private legal aid lawyer; the other was the in-house lawyers employed at the LAF (with actual operations run mostly by private legal aid lawyers). Under the old law, unless exempted under special circumstances, all lawyers in the country were obliged to undertake legal aid cases. But in practice, lawyers assigned by the LAF were all volunteers. Law has to reflect actual practice so as one may gain a realistic picture about the quality of legal aid lawyers. In this light, the amendments to the Legal Aid Act clearly provides that only those lawyers selected by the LAF may serve as legal aid lawyers. (LAA, Article 23, Paragraph 1; Articles 24 and 26). In accordance with the above amendments, the Foundation is currently drafting regulations on the said selection process. In order to ensure the quality and professionalism of the service provided by legal aid lawyers, the amendments took account of

the contracted attorney systems in other countries, and stipulated in Article 23, Paragraph 4: "The Foundation may sign retaining contracts with lawyers (law offices) to provide legal aid on matters relating to the provisions of this Act. The regulations on retaining standards, the duration, remuneration, assigning cases, the responsibilities when obligations are violated, and other related matters shall be prescribed by the Foundation." This provides the LAF with a legal basis for moving toward a contracted system in the future to secure better quality of service.

The degree of specialization in Taiwan's legal profession still has much to be desired. In consideration of this, and to improve the quality of legal aid in the majority of legal aid cases, to assist lawyers in improving their professionalism, and to facilitate the development of future contracted legal aid lawyers system, starting from August 1, 2015, the LAF has implemented a specialization pilot program in areas of employment, family, and consumer debt to establish a system in which legal aid lawyers can be assigned to an area according to their specialized expertise. This also ensures that disadvantaged people have access to high quality legal aid services.

#### B. Adjusting Attorney Remunerations:

In order to ensure that private legal aid lawyers receive reasonable remuneration, as well as to safeguard the quality of aid, Article 27 of the Legal Aid Act was amended to increase the number of remuneration radices for certain types of legal aid. In addition, Article 29, Paragraph 1 also states that if the circumstances of the legal aid case are complicated to a degree that would render the originally approved remuneration manifestly incommensurate with the service provided, the competent branch office may increase the remuneration, as appropriate, upon the application of the legal aid lawyer concerned.

#### C. Strengthening legal aid lawyer evaluations:

In order to avoid the situation where legal aid lawyers charge economically disadvantaged legal aid clients privately after receiving remuneration and

necessary expenses, the amendment clearly states that "apart from claiming the remuneration as prescribed in the provisions of this Act or other necessary expenses, legal aid lawyers shall not receive remuneration or other undue benefits in any circumstances. Legal aid lawyers who violate the provisions... are deemed to be in violation of the code of professional conduct, and their cases shall be forwarded for evaluation. If the violation is serious, the Foundation shall request that the Attorney Disciplinary Committee take disciplinary action in accordance with the Attorney Regulation Act." (Legal Aid Act, Article 26, Paragraphs 3 and 4) The full incorporation of the evaluation of legal aid lawyers into law is considered an important task, and the LAF is authorized to make further regulations on this (Legal Aid Act, Article 26, Paragraph 5) so to improve the quality of legal aid service.

**(5) Salary of staff attorneys and remuneration of external legal aid attorneys**

**A. Adjustments to staff lawyer salaries**

The LAF has adopted rules governing the recruitment and assessment of full-time staff attorneys, which specify the salary standards of staff attorneys, which shall be adjusted alongside with salary adjustments of national public servants. For example, in 2018, the Foundation adjusted salaries by 3%, in line with national public servant salary adjustment policies. In addition, under the previous system, to be qualified to work for the LAF, an attorney needs at least two year of experience in the field. Such a standard was relaxed in 2017: in order to cultivate skilled lawyers, the Foundation added a new system where junior lawyers may stay on as reserve staff lawyers after their internship at the Foundation has ended, and are able to become staff attorneys if they pass the assessment.

**B. Adjustments to remuneration for external legal-aid attorney:**

Since its establishment, the LAF has slightly incremented the level of remuneration for external lawyers only for certain categories (consumer debt clearance cases, simplified administrative, and regular administrative cases

and criminal lawsuits before a court of second instance, etc.) to reflect relevant practice in the legal profession. However, attorney remuneration has not undergone comprehensive adjustment for the past 14 years. This resulted in a situation where the practical average remuneration for lawyers serving legal aid cases across the categories and procedures is only about one-third the market average. As mentioned above in (4).A., the level of remuneration radices for legal aid lawyers has been adjusted in the amended Legal Aid Act, and the LAF has also revised its Legal Aid Remuneration Calculation and Payment Method, which specifies that the base and calculations for remuneration radices shall be reviewed every three years. However, due to the country's financial difficulties and the limited size of the budget, the Foundation is still continuing to research and discuss reasonable adjustments to private attorney remuneration, while fighting for a larger budget.

**(6) Ratio of cases taken by staff attorneys and by external legal aid attorneys**

The statutory number of in-house LAF lawyers is 30; however, due to budgetary constraints, only 23 posts were allowed in 2018. Due to the limited number of posts, the proportion of cases handled by staff lawyers compared to legal aid lawyers is not high. However, in-house lawyers are mainly responsible for cases involving major public interest, class action, and social human rights indicators; they also assist in handling litigation involving specific disadvantaged populations (such as migrant workers and indigenous people).

**(7) Other major new services**

**A. LAF Legal Advice Hotline:**

In order to offer more ways for the public to access legal advice , the LAF launched the Legal Advice Hotline (at 02-4128518) on May 1, 2015. A simplified legal consultation phone service was made available to deal with employment, debt, and indigenous related cases (added November 1, 2017). The telephone lines are staffed by attorneys who will answer callers' legal questions.

## B. Interpretation service for legal aid applications:

In view of the increasing number of legal aid cases for foreign workers and immigrants from Southeast Asia for which there are no relevant interpretation service, since the second half of 2017, the LAF has provided training courses for interpreters in languages from seven countries: Indonesia, Vietnam, Cambodia, Myanmar, Malaysia, Thailand, and the Philippines. Language services for those seven countries became available in January 2018. If necessary, applicants can ask a branch office for interpretation service during the application review process. This helps foreigners from Southeast Asia to use their mother tongues as they go through the application and appeal processes in order to ensure protection for their rights and interests.

## C. Legal Center of Indigenous Peoples:

When indigenous people are facing the judicial system, because of linguistic and/or cultural barriers, incompatibilities in terms of customs and legal cultures between the traditional indigenous communities and the modern legal system, they have a particular need for legal assistance, without it their legal proceedings tend to result in hasty compromises and confessions. In order to strengthen legal aid for indigenous peoples, to avoid such compromises and confessions, and to avoid infringement of personal or tribal rights, the LAF established the Legal Center of Indigenous Peoples in Hualien on March 12, 2018. It is hoped that the Center will handle special cases (those involving issues concerning traditional territories, The Forestry Act, Wildlife Conservation Act, Soil and Water Conservation Act, etc.), in defense of indigenous culture and through active and intensive tribal services. The Center is also expected to conduct in-depth studies of relevant issues, so as to make breakthroughs that lead to possible reform of the legal system, while providing greater culturally sensitive legal services to indigenous peoples. These goals will be accomplished by educating and training lawyers with better cultural awareness, and by using more proactive attitudes and methods to handle predicaments faced by indigenous peoples.

## D. Community Supporters' Hotline:



In addition to the above-mentioned telephone consultation service for the general public, the LAF, taking note that front-line community supporters such as social workers come into frequent contact with those who might become recipients of legal aid, has been looking for ways in supplying accurate legal information and providing consultations to them, so that they may properly help those who are seeking their help with legal questions, or may refer such persons to proper legal consultation in a timely manner, to prevent further legal problems from happening or escalating. In this light, the LAF opened the legal advice hotline for community supporters in May 2018 to provide front-line non-legal professionals with the legal information and consultation they need for their jobs as a second-tier support.

### **3. LAF's Development Strategy**

The LAF's recent organizational development strategy has mainly been focusing on four areas: access to justice; service quality; operational efficiency; and outside connections. This work helps to bring about continual enhancement and improvement. This is briefly summarized below :

#### **(1) Providing accessible legal services according to the needs of disadvantaged groups**

In order to achieve the objectives of the Legal Aid Act, various international human rights conventions and related agreements, as well as the requirements of the 2017 National Judicial Reform Conference (refer to 9. of this report), the LAF continues to review its scope of service. Questions such as whether or not the LAF's services cover disadvantaged groups in Taiwan's society, which members have not received proper protection under the law, and whether the service modes are easy for such disadvantaged groups to access are all scrutinized, in order to launch new services or to improve on existing services. As mentioned above (2. (7).), the major new services and operations launched over the past four years have included the telephone legal consultation service, interpretation service for applications and appeals in languages from seven Southeast Asian countries, and the Legal Center of Indigenous Peoples.

In addition, in October 2018 the LAF launched a legal aid program, commissioned by the Ministry of Health and Wealth, for persons with disabilities. The first year will center on legal consultations, with plans next year to provide disabled persons with legal representation and other preliminary case assistance (drafting legal documents; representation in reconciliations/settlements), under more favorable means tests (provisionally earmarked at 1.5 times of the general legal aid standards).

In the future, in addition to the already-completed interpretation resources for Southeast Asian languages, the LAF will gradually translate various documents, such as applications and notices of review results, into English and other Southeast Asian languages. At the same time, the Foundation will establish interpretation/translation resources and conduct training courses for indigenous tribal languages, other foreign languages, sign language and transcription services. By adjusting and improving the service process for people with different types of disabilities, the LAF will safeguard equal access to justice and legal aid for the judicially disadvantaged peoples. In addition, the LAF also plans to launch a video consultation service in 2019, to provide the public with more channels for legal consultation.

## **(2) Improving the quality of service**

Since its inception, the LAF has been committed to improving the quality of the legal aid services it provides, in order to protect the rights and interest of its legal aid clients. On one hand, the Foundation ensures it is at the front lines in receiving applications for legal aid from plaintiffs/defendants, and reviews the quality of the service provided by its employees through internal controls, regular assessments and complaint mechanisms. On the other hand, the LAF must also ensure the quality of services after legal aid is granted. As mentioned above, the posts of LAF staff lawyers is limited to 30; the vast majority of legal aid cases are handled by private legal aid lawyers. They are critical partners for the LAF; it is therefore the LAF's responsibility to assist them in establishing their professional careers, and by doing so, to ensure the quality of service they provide so that they can protect the rights of legal aid clients.

To this end, the LAF strategic orientation is set as follows:

- Promoting the specialization of lawyers, encouraging legal aid lawyers to develop specialties for specific groups and issues, and assigning cases to lawyers who have already passed capability assessments
- Holding regular educational and training courses for lawyers, so that legal aid lawyers have an understanding of emerging human rights topics, and have the professionalism to handle human rights cases (see also 6. below)
- Establishing multi-channel pipelines for immediate and effective evaluation, both during and after a case, such as: complaint mechanisms for clients and stakeholders, the lawyer assessment system run by the Judicial Yuan, and court/prosecution feedback forms; in the near future, an online case management system for lawyers, case-closure audits, legal aid client satisfaction telephone surveys, etc. Establishing these channels will help in the discovery and dismissal of incompetent lawyers (see also 6. below)
- Investigating the possibility of adjustments to attorney remunerations: Although legal aid work is done for the public interest, remuneration should still be sufficient to cover the operating cost of the case. While the LAF's remuneration benchmarks have never been comprehensively reviewed and reflected the rise in the cost of living. In the past 14 years, the Foundation is doing research and investigating the possibility of future adjustments to attorney remunerations, maintaining lawyers' willingness to undertake legal aid work..

### **(3) Streamlining service/administration processes to increase efficiency**

As mentioned in the previous section (2. (3). F.), the number of LAF applications and legal aid cases has been increasing year after year. This became even more obvious in 2015, after the amended Legal Aid Act came into effect. However, the Foundation's personnel increased by only 7% after the amendment, resulting in tremendous employee pressure and workloads. To this end, the LAF has actively promoted the consolidation and simplification of business processes, while simultaneously beginning to digitize services, strengthening the support capacity of the business software systems. This includes features such as the already-complete integration of the online appointment reservation interface, with the system

automatically sending an email to the legal aid lawyer reminding them to download information relevant to the case (such as: case assignment, reminders for filing dates, etc.), automatically checking the availability/suspension status of the legal aid lawyers, etc. In addition, a new accounting and property management system was introduced in 2018. In the future, the Foundation will introduce a new human resource system and an electronic document sharing platform to improve administrative efficiency.

The LAF will continue the digitization of daily business operation in branch offices and introduce a case management and reporting system for external lawyers in 2019. All of these are expected to save labor, time, paper, storage space, postal deliveries, and other costs involved in administration, achieving better efficiency and in turn adjusting employees' workloads to reasonable levels.

#### **(4) Strengthening connections with external partners**

Because those served by legal aid are often socially or economically disadvantaged persons, usually also disadvantaged in information and lacking awareness of laws and rights, their ability to actively seek assistance is thus lower. The LAF has always actively cooperated with external groups, strengthening links with local governments, social welfare organizations, and social workers who have first-hand contact with and can refer these groups, so that it can provide legal aid services to those who need them in a timely manner. The aforementioned "Community Supporters' Legal Advice Hotline", was born from such a desire. By providing front-line support workers such as social workers with accurate legal information and consultation, it is hoped that they can identify and prevent legal problems from happening and exacerbating and refer incidents to the Foundation in a timely manner. The Foundation is also keeping better tabs on social trends and local legal needs, through compiling a statistics on callers and referring institutions.

In addition, legal aid may be considered to be an integral part of the social welfare system. It is often the last remedy for specific cases. The LAF recognized that front-line workers in social welfare organizations usually have the most in-depth understanding of the disadvantaged situations their clients are in and the interlocking

problems they face. Therefore, the LAF adheres to the strategic direction that we have maintained since the founding of the organization: proactive cooperation with the frontline social service and the groups fighting for human rights of the disadvantaged, to tackle the systemic socio-legal problems at their roots. By this way, the Foundation can effectively reduce the number of legal problems and sources of litigation from the very start and promote legal restructuring. This prevents the nation and society from paying an even greater cost.

#### **4. Research on Legal Needs and Legal Assistance Seeking Behaviors in Taiwan over the Last Decade**

##### **(1) Academia Sinica's 2011 Taiwan Survey of Justiciable Problems**

In 2011, researchers Lin Chang-ching, Chen Kung-ping, Huang Kuo-chang, and Yu Ya-ting from Taiwan's Academia Sinica conducted an empirical survey on legal needs and assistance-seeking behavioral patterns of Taiwanese people, following the questionnaire model used in *Paths to Justice* by Professor Hazel Genn of the University of London in the 1990s. Through face-to-face interviews with 5,601 adult respondents, the study catalogued the types of civil legal problems most prevalently encountered by the Taiwanese people and how they were handled, then analyzed the correlation between the problem types, advice seeking behaviors and demographic variables (such as respondents' marital status, level of education, income level, social class, etc.). The study pointed out that the most common types of civil problems encountered by the general public in Taiwan were: disputes between neighbors, consumer disputes over goods or services, and employment and labor matters. These matters accounted for 26%, 24%, and 14% of the total of civil legal problems, respectively. These issues are also the most common types of legal issues for people in other countries such as the United States, the United Kingdom and New Zealand, where the most common type of issues are consumer disputes over goods or services. The study has helped scholars and policy makers understand the civil legal problems faced by Taiwanese people, as well as the legal assistance that respondents may require to deal with these issues.

The relevant publications (in English) from this study are available at:

Chen, K.-P., Huang, K.-C., Huang, Y.-L., Lai, H.-P., Lin, C.-C. (2012) The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Taiwanese. Paper presented at the Law and Society Association Conference, Honolulu, 5-8 June 2012.

[http://www.rchss.sinica.edu.tw/cibs/law/4.%202012%20International%20Meeting%20Honolulu/Hung%20Pin%20Lai%20and%20Ya%20Ling%20Huang/Experiences%20of%20problems%202012\\_0524\\_paper.pdf](http://www.rchss.sinica.edu.tw/cibs/law/4.%202012%20International%20Meeting%20Honolulu/Hung%20Pin%20Lai%20and%20Ya%20Ling%20Huang/Experiences%20of%20problems%202012_0524_paper.pdf) (last visited September 20, 2018)

[http://www.rchss.sinica.edu.tw/cibs/law/4.%202012%20International%20Meeting%20Honolulu/Hung%20Pin%20Lai%20and%20Ya%20Ling%20Huang/Experiences%20of%20problems%202012\\_0601\\_PPT.pdf](http://www.rchss.sinica.edu.tw/cibs/law/4.%202012%20International%20Meeting%20Honolulu/Hung%20Pin%20Lai%20and%20Ya%20Ling%20Huang/Experiences%20of%20problems%202012_0601_PPT.pdf) (last visited September 20, 2018)

Chen, K.-P., Huang, K.-C., Huang, Y.-L., Lai, H.-P., Lin, C.-C. (2012) Exploring Advice Seeking Behavior: Findings from the 2011 Taiwan Survey of Justiciable Problems. Paper presented at The Conference on the First National Civil Justice Survey in Taiwan, Academia Sinica, Taipei, 14 September 2012.

[http://www.rchss.sinica.edu.tw/cibs/law/6.%2020120914-Conference/papers/english/2-2.%20print-Advice\\_Seeing\\_Behavior\\_Slides%20\(ALL\).pdf](http://www.rchss.sinica.edu.tw/cibs/law/6.%2020120914-Conference/papers/english/2-2.%20print-Advice_Seeing_Behavior_Slides%20(ALL).pdf) (last visited September 20, 2018)

## (2) **LAF's systematic analysis and research drawing on past service data**

In the era of big data, the application of data and statistics has become an indispensable foundation for decision-making and operational management. The LAF has accumulated data in more than one million cases over the past 14 years, which have never been systematically organized or analyzed until recently. In one view, this should have been done earlier, since doing so would have allowed the LAF to get a better grasp on legal aid results, and to evaluate and predict potential client groups and service models for the future.

At the end of 2017, the LAF was fortunate to have a short-term public partnership project with SAS. The project's goal was to evaluate the LAF's marketing results by organizing the approximately 200,000 pieces of casework information between 2015 and 2017 through cross-checks with open data released from government agencies. The project tried to outline the demographic attributes, population coverage, case characteristics, geographic distribution, and legal awareness of the applicants. Thanks to the project, the LAF now has a preliminary

view of both our clients and our marketing results for the first time.

Following the aforementioned data analysis work with SAS, the LAF participated in the first Hackathon hosted by Presidential Office of Taiwan in mid-2018 and honorably became the only NGO winner. The Foundation hoped to explain the possible causes of each result it analyzed, and to propose corresponding service strategies and methods based on the analysis. For example, we used variables such as transportation and travel time to explain the gaps between high legal needs and low usage rate of legal aid in some areas, leading to the discussion for a better service strategy in these areas of ‘legal service deserts’. The LAF learned from our analysis that only through cross-sectoral collaboration between government and non-governmental organizations can more effective and efficient service delivery and better service integration be made possible.

Currently, data analysis programs have gradually become the business focus within the LAF, through internal capacity and cooperation with academic institutions. In addition to marketing analysis, data analysis can be applied to more areas and topics such as lawyers’ service quality, operational management, service innovation, etc. The LAF hopes that, with the guidance of big data, we can not only provide better legal services to the public, but also perform legal aid work more efficiently.

## **5. LAF’s promotional reach-out to legally disadvantaged groups**

The disadvantaged groups often lack legal awareness and tend to be not aware of the availability of legal aid. In view of this, and to help the public know where to turn to when they encounter legal issues, as well as to raise people’s legal awareness, the LAF is promoting its reach-out activities in the following variety of ways:

### **(1) Conducting face-to-face promotion and public legal education events**

The LAF head office and our 22 branch offices have combined legal aid resources to hold promotional activities, either on their own or in cooperation with local governments, local social welfare institutions, schools at all levels, tribal villages, hospitals, district/township district offices, village activity centers, libraries, temples, churches, prisons, etc. In order to promote the LAF's general business operations and services to the general public, the Foundation also carries out special

campaigns targeting the specific needs of special groups (such as indigenous people, inmates in custody, children and adolescents, women, people with disabilities, etc.), or in coordination with LAF projects (such as police interrogations and the Consumer Debt Clearance Program). To increase exposure, such events are often combined with educational programs about the rule of law and the human rights of disadvantaged groups, in order to convey truthful concepts about the rule of law, in which legal questions from the public are answered and legal resources are introduced. In total, there have been more than 1500 such advocacy and rule of law educational events around the country.

The LAF regularly arranges for our mobile legal aid service vehicle to tour in remote areas where legal resources are scarce. In this form, such promotional activities combine advocacy, consultation, and legal aid application services.

**(2) Enhancing promotion and cross-referrals with the Legal Aid Support Network**

The external institutions mentioned above, with which the Foundation cooperates in advocacy events, have often become the partners of the Legal Aid Referral Network. This network offers a selection of published pamphlets and articles detailing the LAF's services (in many languages); these partner organizations can also immediately contact and refer people when they discover a potential case.

**(3) Promoting legal aid through a variety of media and technologies**

The activities include:

- A. Producing promotional videos and radio advertisements on various topics; broadcast through governmental department publicity channels to promote information about our services.
- B. Cooperating with the media on important projects, holding press conferences, and arranging interviews.
- C. Internet and social media campaigns:

Taiwan's internet penetration rate is high. In addition to continuing to operate our official website, the LAF in particular also strengthened our Facebook



presence, which cover a wide range of information on general legal knowledge. The Foundation has designed practical rule of law content to attract the attraction of followers; we also provide service information in line with important projects on blogs and forums frequented by relevant groups, and publish advocacy videos on the internet for the public. There is also a plan to use LINE, a common social media platform in Taiwan, to manage a community for disabled persons and provide them with legal information that is difficult to obtain through traditional means.

D. Working with the National Open University and other radio stations to provide regular programs where lawyers talk on common legal issues.

#### (4) **Publications**

The LAF has published a series of books depicting the life stories of disadvantaged groups (such as foreign immigrants, migrant workers, refugees, and stateless persons). Titles include *Their Stories*, and *Drifters at the Borders*. These publications help convey the living conditions, legal problems, and insurmountable predicaments faced by such groups, so that they will be more widely recognized by the public and by lawyers.

In addition, in order to build up the momentum and capacity for research on legal aid and thus benefit future policymaking, the LAF began publishing the biannual academic journal *Legal Aid and Society Review* in 2018.

#### (5) **Combining games, theater, and other innovative methods to conduct campus and public legal education**

The LAF is continuing to deepen our campus and public legal education. Starting in 2017, the LAF began developing and designing a board game for better engagement with pupils in the campus, which was just completed this year. In order to raise the general public's awareness of some human rights issues, the Foundation works with a non-governmental theater troupe to develop plays that promote public legal education, using elements and situations familiar to students and the general public to achieve better engagement.

## **6. LAF's Quality Assurance Approaches**

**(1) Multi-channel quality control: From ex-post measures to ex-ante screening**

Ever since our inception, the LAF has been committed to ensuring and improving the quality of legal aid provided by our legal aid lawyers, in order to protect the rights and interests of our legal aid clients. Early quality assurance mechanisms more concentrated on ex-post measures, such as a complaint system, file audits for the finished cases, and client satisfaction phone surveys. Recently, with assistance from the Judicial Yuan, the Foundation was able to receive the judges' comments on certain lawyers collected by the Judicial Yuan's lawyer assessment system, court/prosecution bulletins, and more. Although these ex-post measures provide specific evidence or clues for uncovering lawyers whose services are of doubtful quality, these investigations are time-consuming and conducted only after the services provided have already negatively affected the parties involved. Aid or remedy is thus usually too slow in coming to be of any help. Therefore, the LAF has come up with more pre-screening measures to assure quality control regarding the standards of our legal aid lawyers. By limiting the conditions under which private legal aid lawyers can accept cases, as well as the qualifications of the lawyers themselves in advance, the Foundation is able to exclude sub-standard lawyers and situations which may lead to poor handling of cases.

Under the above policies, since 2012, the LAF began limiting the number of cases a legal aid lawyers can take in one year to 24. This avoids poor handling of cases due to excessive caseloads. Since 2014, faced by a sudden increase in the number of new lawyers, the LAF has set a prerequisite of at least two years of professional experience for legal aid lawyers we recruit, in order to maintain the level of quality of aid we provide. However, the two year prerequisite or a lack of desire to cultivate their commitment to public affairs may result in a generation gap for legal aid lawyers, or discouraging young lawyers from becoming invested in legal aid work. For this reason, the LAF has opened the case types highly related to legal aid (such as consumer debt clearance regulations, police interrogations, etc.) to junior lawyers. Additionally, those young lawyers may also present the written pleadings they have produced in at least 15 different cases to be reviewed by a panel of five senior lawyers (the review committee); once passed, the applicant obtains

qualification to serve as a legal aid lawyer.

In addition, as mentioned above, the LAF has started the pilot program of specialist panels in the fields of employment, family, and consumer debt clearance since August 2015. The specialist lawyers in those three areas have to pass the Foundation's assessment, proving that they have professional knowledge and experience in handling cases, and/or be of a suitable character as observed and recommended by a branch office. Most cases in the three areas are assigned exclusively to such specialist lawyers to ensure the service quality of legal aid . At present, the pre-assessment for specialist qualifications is mainly done through the examination of written pleadings, the hours of training and the relevant publications. Additionally, recommendations from branch offices and a lack of negative evaluations from a branch office are also important conditions for becoming qualified to serve as a specialist lawyer.

**(2) Education and training: the foundation to ensure service quality**

The LAF also understands deeply that for legal aid work to be effective and long-lasting, it is not enough to just screen and recruit private lawyers on the market to handle cases. The human rights topics inherent in the legal aid services are neglected subjects in legal education and bar and judiciary examinations in Taiwan. In this rapidly changing time, many emerging human rights issues involving disadvantaged people continue to arise; the laws may change with them. The Foundation must continue to provide adequate education for legal aid lawyers and legal aid employees. Only through constant training can these lawyers and employees better understand situations faced by the socially disadvantaged , and be armed with the new legal knowledge and skills they require to meet clients' needs. Therefore, since our inception, the LAF has hosted educational training courses for lawyers and legal aid personnel in each individual region, in order to improve the level of professionalism in dealing with issues faced by the disadvantaged.

Taking the year 2017 as an example, the LAF invited experts, scholars, practitioners, and social welfare groups from the relevant fields to act as lecturers and speak regarding amendments to regulations and specific human rights cases. Nearly 40 training course and briefings were held throughout Taiwan on subjects

such as employment, family, indigenous people-related matters, human trafficking prevention, consumer debt, refugees, housing and evictions, and juvenile delinquency, etc . In these courses, in addition to the latest legal amendments, practical insights, and legal bases for claims, we also ask the lecturers to introduce the plight and the intertwining and intersectional social problems faced by the clients/ potential clients, informing the lawyers of their clients' circumstances. In addition to legal issues, the LAF also provides courses on how to conduct effective communication with clients, as well as vocational skills to help lawyers improve their sensitivity to the needs of legal aid clients and to respond to the clients in an appropriate way.

The Foundation also uploads some of our training content and lectures onto the internet, so that the materials can be viewed repeatedly in the future by interested or new legal aid lawyers and legal aid personnel. Experiential educational elements are also incorporated in some of the training. For example: in order to bring legal aid lawyers closer to the lives and cultures of indigenous people, whom the LAF is concerned with, the LAF has, since 2015, held the Immersive Tribal Experience Camp each year. The camp let legal aid lawyers and LAF staff experience and understand the traditional customs and cultures of indigenous tribes, raising their culture sensitivity and leading to deeper understanding of clients' needs when they take on the relevant cases.

In addition to the training for legal aid lawyers and LAF's staff mentioned above, we at the LAF also want to pass on our spirit of providing legal aid for disadvantaged groups to younger students. The head office and the various branch offices recruit college volunteers, interns, and university law-related departments to hold joint law camps that introduce students to the work the LAF does, and sow the seeds of interest in *pro bono* and legal aid work.

## **7. The LAF's Cooperation with Non-legal Organizations/ Professionals**

As mentioned previously (3. (4). and 5.), strengthening external links is one of the LAF's important strategies. The LAF's work in the areas of legal aid promotion, public legal education, legal consultation, legal representation casework, and social

advocacy can never be done by just one organization. The Foundation must target people in need and work hand-in-hand with other public and private organizations, complementing each other's strengths, to maximize effectiveness and impact. Summaries of existing LAF cooperation methods, listed from low to highly interconnected and in terms of different applications are as the following:

**(1) Cooperative relationships for business promotion**

Through cooperation with local governments and local organizations (social welfare organizations, lawyers' associations, charities, etc.) in forms such as advocacy, legal education, fairs, games, lectures, and traveling lectures, we help outside organizations gain an understanding of the LAF and the services provided, and gradually build up both relationships of trust and communication mechanisms. This model is often the start of a cooperative relationship with an organization, and effectively increases points of contact between disadvantaged people and the LAF. It remains a frequent method by which the LAF integrate local resources and promote our services.

**(2) Case referrals**

The LAF works with organizations that often come into contact with financially eligible people who need legal aid, such as social welfare groups, government agencies (courts, local prosecutor offices, domestic violence centers, social welfare centers, etc.), village offices, hospitals, and the above-mentioned bases for advocacy operations. The Foundation has established a liaison and referral mechanism with these institutions, through which clients and cases may be referred to the LAF. The LAF operations system shows that more than 10% of annual legal aid cases come from outside referrals. Many referrals are not even noted, because both sides already have an established relationship, which reduces the amount of administrative paperwork. In the course of providing services, if the LAF finds that an applicant or legal aid client has needs additional to those in the legal field, we will refer them to other agencies that provide relevant services.

**(3) Co-located consultation services**

Different from the previous two models, which sometimes are either one-off or occur on an irregular basis (i.e. connections only occur when the organization needs to host an event or refer someone), the LAF arranges weekly, monthly, or quarterly legal consultation services and outreach services at institutional locations with higher legal needs. This increases access opportunities for targeted groups through the use of other non-legal aid services, reducing their money and time to seek assistance.

**(4) Commissioned by other government authorities for casework dealing with specific target groups**

Access to justice for specific disadvantaged groups that the LAF is concerned about is also often of concern to the other competent authorities within the government. Therefore, to make the best use of resources and maximize benefits, governmental departments such as the Ministry of Labor and the Council of Indigenous Peoples have commissioned the LAF through contract to handle case-based legal aid. The Ministry of Labor and the Council of Indigenous Peoples provide funds, as well as establishing a broader funding requirements and standards for review; they entrust the LAF to perform review, case assignment, and follow-up. This cooperative approach thus provides comprehensive institutional guarantees, ensuring access to justice for the specific target groups.

**(5) Integrated services networks**

Cooperative relationships between the above-mentioned agencies still tend to divide labor amongst different institutions to resolve individual cases. However, the legal problems faced by legal aid clients are often not limited to a single, independent issue. Rather, they are compounded by other socio-economic issues, often triggering the need for social welfare, medical, and/or psychological service. Simply dealing with a client's legal problems is not necessarily enough to improve their disadvantaged situation. Recipients of legal aid are also vulnerable to other problems, and may end up evading or giving up on their legal issues. Therefore, in order to ensure that legal aid cases are resolved comprehensively and completely, there is a need to combine legal services with the non-legal aid services required by specific groups into an integrated and holistic service.

The LAF has already established a preliminary model for integrated services in certain types of cases such as consumer debt. By combining NGOs (e.g. the Consumer Debtor Self-help Association) and faith-based groups (e.g. Taipei Social Care Office of the Bread of Life Christian Church) and by making good use of lawyers, physicians, psychologists/counselors, financial counselors, pastors, social workers, and professionals in other fields, we have established a system of holistic support, tackling all of a debtor's legal, social welfare, psychological, medical, financial management, and faith needs. The debtors thereby regain courage to face their debt issues through the debt clearance process. This significantly reduces the debtors' withdrawal ratio due to hesitation and avoidance.

In this model of integrated services, organizations with different operative functions are no longer divided into separate silos whose jobs are to provide funding, provide venue space, or refer potential clients; rather, now they are aware of each other's work and roles, and working together at different stages of a case. For example: social workers at the Bread of Life Christian Church in Taipei are familiar with the LAF application and review process as well as the debt clearance process. Every time after the LAF assigns the debtor client a legal aid lawyer, social workers would continue to assist and accompany the debtor by connecting them with other professional resources, and providing mental and spiritual support.

In addition, the LAF hold regular liaison meetings with core institutions in the above-mentioned integrated services to exchange information about the integrated service system and the needs of individual cases. At the same time, if we find shortcomings in the current laws and regulations, we carry out law reform initiatives to improve the legal systems.

## **8. LAF's Services for Specific Disadvantaged Groups or**

In this forum, the LAF will introduce the social welfare issues we are involved in and the legal aid service we provide to women and children, indigenous people, immigrants and migrant workers. For details, please refer to the LAF reports for Panel Discussion 4A, 4B, 5A, and 5B.

## **9. Taiwan and LAF's Implementation of UN Human Rights**

## **Conventions**

Many important international human rights conventions and related instruments clearly state that people should have the right to a fair trial, and the right to legal aid. Although Taiwan is formally not a member of the United Nations, as a member of the international community it still actively follows the spirit of important international conventions and instruments. From 2009 to 2014, it enacted the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the Enforcement Act of the Convention on the Elimination of all Forms of Discrimination Against Women; the Implementation Act of the Convention on the Rights of the Child; and the Act to Implement the Convention on the Rights of Persons with Disabilities. The provisions on the protection of human rights mentioned in the conventions have been given domestic legal effect by incorporating the provisions of said conventions.

The LAF integrates important human rights values and issues stated in international conventions by engaging in relevant education and training for lawyers, working together with NGOs, and actively participating in legislative initiatives. In addition, the LAF is also actively fighting for implementation of international conventions and the implementation of conventions incorporated into Taiwan's domestic legal order that mention legal aid, legal access, and the right to legal defense. These help to establish universal institutional guarantees for case relief in conformity with Convention standards. The following is a brief description of the extent of legal aid the LAF has implemented in accordance with various international conventions, as well as the Foundation's goals for the future:

### **(1) Legal support for criminal defendants:**

For a criminal defendant, access to a defense attorney is tantamount to whether they can exercise their right to defend themselves. The issue of defense counsel is mentioned in Article 14 and General Comment 32 of the International Covenant on Civil and Political Rights (ICCPR), which encourages states parties to provide legal assistance to those without sufficient means to pay for it. The LAF provides the following special legal assistance to criminal defendants:



A. Relaxing review criteria for compulsory defense in criminal cases:

As mentioned in the previous 2. (3). C. and E., in order to cooperate with Article 31 of Taiwan's Code of Criminal Procedure, the LAF does not need to review the financial eligibility of defendants in compulsory defense cases who have applied for legal aid. In accordance with the 2015 amendments, the Foundation will no longer review such cases to determine if there is no clear reason, and will lower the application threshold and provide legal aid to the defendant immediately.

B. Establishing the Interrogation Accompanied by Legal Aid Attorney Program:

Since 2007, when the LAF set up the Attorney Presence at Initial Criminal Interrogation Program, providing free legal assistance to people receiving police or prosecutor interrogations. Originally the criteria limit the eligibility to a person who is “involuntarily brought before the police or prosecution” (e.g., being detained or arrested). In March 2018 the criteria was relaxed to broaden the eligibility for attorney assistance to a person who “is interrogated by the police or the prosecution for the first time”, so as to better protect human rights.

C. Providing more complete defense in cases potentially involve death penalty:

As mentioned in 2. (3). E., in view of the irreversible and significant effect of the death penalty on people's right to life, in accordance with the new 2015 amendments to the Legal Aid Act, also taking into account Articles 6 and 14 and General Comments 6 and 32 of the ICCPR, the LAF now provides more complete and specialized legal aid to defendants in death penalty cases. This helps to implement the Convention's assistance mechanisms for capital punishment cases. Specifically in criminal defense cases where the death penalty may be declared and the case is major and complex, and more than one lawyer is required, with the consent of the CEO, the Foundation will assign up to three legal aid lawyers or staff lawyers to handle the case. In cases where the death penalty is pronounced in the final judgment, legal

assistance and defense will be provided in retrial and extraordinary appeals proceedings on an exceptional basis.

**(2) Legal aid for persons with disabilities:**

Article 13 of the Convention on the Rights of Persons with Disabilities (CRPD) concerns how persons with disabilities in states parties should have the same access to legal protection as other people. Article 8 of Taiwan's Act to Implement the Convention on the Rights of Persons with Disabilities also mentions that the government shall provide legal assistance according to the law when the rights, protected by the Convention and related laws and regulations, of persons with disabilities are being infringed upon, or when those rights cannot be or may be implemented only with difficulty. In order to realize the objectives of the CRPD, the LAF provides the following legal aid to persons with disabilities:

**A. Providing fuller legal aid for people with specific types of disabilities:**

As stated in 2. (3). B. and C., and in accordance with Article 5, Paragraph 4, Subparagraphs 3 and 4 of the Legal Aid Act, there is no need to assess financial eligibility when "a defendant, who is unable to make full statements due to damage or impairment of the structures of the nervous system, or of the psychological or mental functions, and did not retain an attorney during an investigation or trial, or did not retain a legal representative during a trial" applies for legal aid. In addition to the LAF's scope of legal aid with regard to the aforementioned persons with disabilities, the LAF can also act as an agent on part of the plaintiff to file a complaint or an accusation in trial procedures.

**B. Commissioned by the Ministry of Health and Welfare to handle litigation aid projects for persons with disabilities:**

As mentioned in the previous section (3. (1).), the LAF was commissioned by the Ministry of Health and Welfare and started to handle litigation aid projects for disabled persons starting in October of this year. The Foundation now provides a legal consultation hotline for those with disabilities, at-home legal consultation, and simultaneous sign language translation or transcription

service during the application review process. The LAF has also used this opportunity to improve relevant infrastructure such as the accessible official website and accessibility facilities. This has improved the accessibility of LAF services to those with physical or mental disabilities. In the future, the Foundation will propose to relax the financial eligibility criteria for those with disabilities to apply for legal representation in litigations and other preliminary services (drafting legal documents and counsel representation in settlement/mediation).

**(3) Legal aid to women and children:**

Article 37 of the Convention on the Rights of the Child (CRC) states clearly that the states parties shall ensure that all children who have been deprived of liberty have the right to prompt access to legal and other appropriate aid. Article 15 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) states that states parties shall treat women equally at all stages of court and litigation proceedings. The Foundation's relevant measures are as follows:

**A. Establishing a system for specialist lawyers for family law cases:**

As mentioned previously in 2. (4). A., the Foundation began trial runs in assigning specialist lawyers in August 2015. The cases handled included family law cases, of which cases regarding divorce, guardianship, and support are closely related to women and children. By assigning specialist lawyers who have passed prior evaluation, the Foundation has been able to ensure applicants more comprehensive and quality support.

**B. Reviewing the LAF's legal aid for women in conjunction with review of 3rd national report on CEDAW:**

From July 16 to 20, 2018, an examining committee formed by five international experts came to Taiwan to conduct the review of the 3rd national report of Taiwan on CEDAW. The Committee's Conclusions and Recommendations, at Point 17 mentioned the provision of comprehensive and sustained legal aid for women. The LAF will invite women's organizations to

consultation meetings to confirm the needs of women applicants and examine LAF regulations, to see if women applicants are only provided with equal opportunities for but not actually equal amounts of legal aid, and to study relevant policies in response to the results.

- C. Providing full assistance to children and adolescents going through the judicial processes, via case assistance, education and training for lawyers, legal education, and legal consultations:

The LAF works to strengthen the guarantee of children and adolescents' right in terms of access to justice. For those who, during the investigation and trial in certain types of juvenile cases, did not retain an assistant; or with defendants in other trials, or juvenile delinquency cases, where an attorney, a legal representative, or a legal assistant is not retained, but where the relevant legal representation is deemed necessary by the presiding judge, there is no need to review the financial eligibility of such applicants for legal aid (Legal Aid Act, Article 5, Paragraph 4, Subparagraphs 4 and 5; Article 13, Paragraph 2, Subparagraph 2). The Foundation hopes the courts will proactively refer cases to the LAF and expedite review process, to safeguard access to immediate and free legal aid for children and adolescents<sup>5</sup>. The LAF is presently organizing a number of education and training courses for lawyers on topics concerning rights of children and adolescents, and strengthening juvenile correction mechanisms to promote both legal education and legal consultation. In the future, the Foundation will establish a system for lawyers specialized in juvenile cases, so that lawyers familiar with the relevant laws and regulations can provide friendlier and more supportive services.

#### (4) **Other important human rights issues:**

- A. The right to housing:

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<sup>5</sup> In November 2017, Taiwan held its first country report and review of the CRC. Point 95 in the report's Conclusions and Recommendations mentions that in most cases, payment is required if children and adolescents who violate criminal laws want to receive legal assistance during the juvenile justice process. The international examining committee seems to have misunderstood the LAF's system regarding this section. In addition to providing free lawyer assistance to those who pass the application review process, the scope is widened and review criteria relaxed specifically with cases involving children and adolescents, so they receive the aid and legal protections they need.

In recent years, in the face of economic development, Taiwan has faced petitions, protests, and litigation against land acquisition, urban reconstruction, demolition, and other issues involving the right to housing. Article 11 of the International Covenant on Economic Social and Cultural Rights (ICESCR) mentions that states parties shall recognize that everyone has the right to an adequate standard of living, including proper food, clothing, shelter and a constantly improving living environment, for themselves and their families. General Comment 7 of the ICESCR further states that appropriate legal procedural protection and due process are particularly important in the issue of forced evictions, and calls on the states parties to provide legal assistance to those who need to go to the courts for remedies.

The LAF has long been committed to right to housing cases, including assisting indigenous peoples to preserve tribe-owned houses and land such as in the case of the Kaohsiung Ljavek tribe<sup>6</sup> and Keelung's Happy Mountain community<sup>7</sup>. The LAF has separately provided legal aid for administrative appeal procedures and criminal defense procedures, and continues to handle related education and training of our employees and lawyers, as well as investigating the establishment of an attorney team specialized in right to housing issues.

#### B. Human trafficking issues:

Article 8 of the ICCPR states that no one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited; and that no one shall be held in servitude. In 2009, Taiwan promulgated and implemented the Human Trafficking Prevention Act, which lists sexual exploitation, labor exploitation, and organ trafficking as part of the prohibitions and control of human

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<sup>6</sup> The Ljavek settlement is located in Kaohsiung's Qianzhen district and is an indigenous peoples' urban settlement. Residents are mainly from the tribe of Paiwan, with some non-indigenous residents. In the decades following 1951 a settlement formed there, but Kaohsiung's city government planned the district as an economic and trade park, leaving Ljavek residents to face forced removal.

<sup>7</sup> The Happy Mountain community in Ruifang, New Taipei City started as a settlement for Amis tribesmen who came from Hualien and Taitung to work in Taipei and New Taipei more than twenty years ago. They cleared land and set up simple dwellings on the outskirts of the cities, and passed on their culture by gathering together and living in close communities. Relevant government units had started helping the tribal people to complete procedures to lease state land. However, the relevant agencies received reports, which the Taiwan Keelung District Prosecutors Office investigated and prosecuted, that more than 40 tribal people named in the reports had violated the Soil and Water Conservation Act.

trafficking, which are subject to relevant criminal prosecution and punishment. Although Taiwan was placed in Tier 1 and its efforts to combat human trafficking recognized in the 2018 Trafficking in Persons Report published by the US Department of State, the country still faces cases in which foreign fishermen are abused, and where working hours for family care workers are too long. The LAF has long been concerned with migrants' rights and interests, and has assisted many foreign workers subjected to labor exploitation such as unreasonable wages and compensation. Examples include the Chiji Group severely deducting the wages of Indonesian care workers<sup>8</sup>, exploitation of Filipino migrant workers<sup>9</sup>, etc.

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<sup>8</sup> The Chiji Group scam took place in 2009. Fourteen recruitment agencies headed by a person surnamed Lin, one of the persons in charge, charged as many as 5,282 Indonesian caretakers with excessive brokerage fees and made deductions to their pay without just cause. The scam was estimated to have grabbed more than NT\$210 million.

<sup>9</sup> In the 2017 Filipino migrant case, recruitment agencies and financing companies in the Philippines teamed up with collection companies in Taiwan to financially exploit Filipino migrant workers who came to Taiwan to work. The workers were defrauded into signing promissory notes before they arrived in Taiwan and were charged illegally high interest (over 48% per annum). LAF lawyers filed a lawsuit against the bearer of the notes on behalf of the workers. The LAF approved grants of legal aid for 279 Filipino migrant workers in 2017 and continued to receive more applications in 2018.