



Taiwan's Legal Aid for Migrant Workers and Immigrants



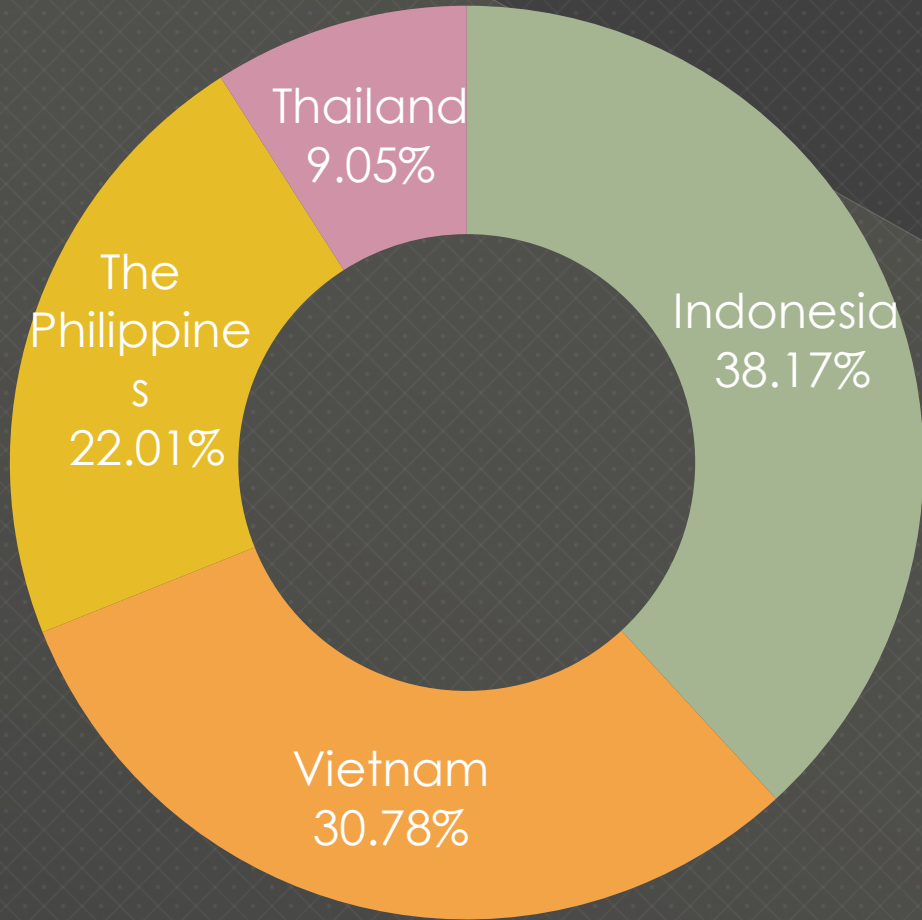
財團法人法律扶助基金會
Legal Aid Foundation

Taipei Branch
Chu Fang-chun,
Attorney-at-Law

An Overview of the Status of Migrant Workers and Immigrants in Taiwan



2017 Foreign Workers in Taiwan - By Nationality

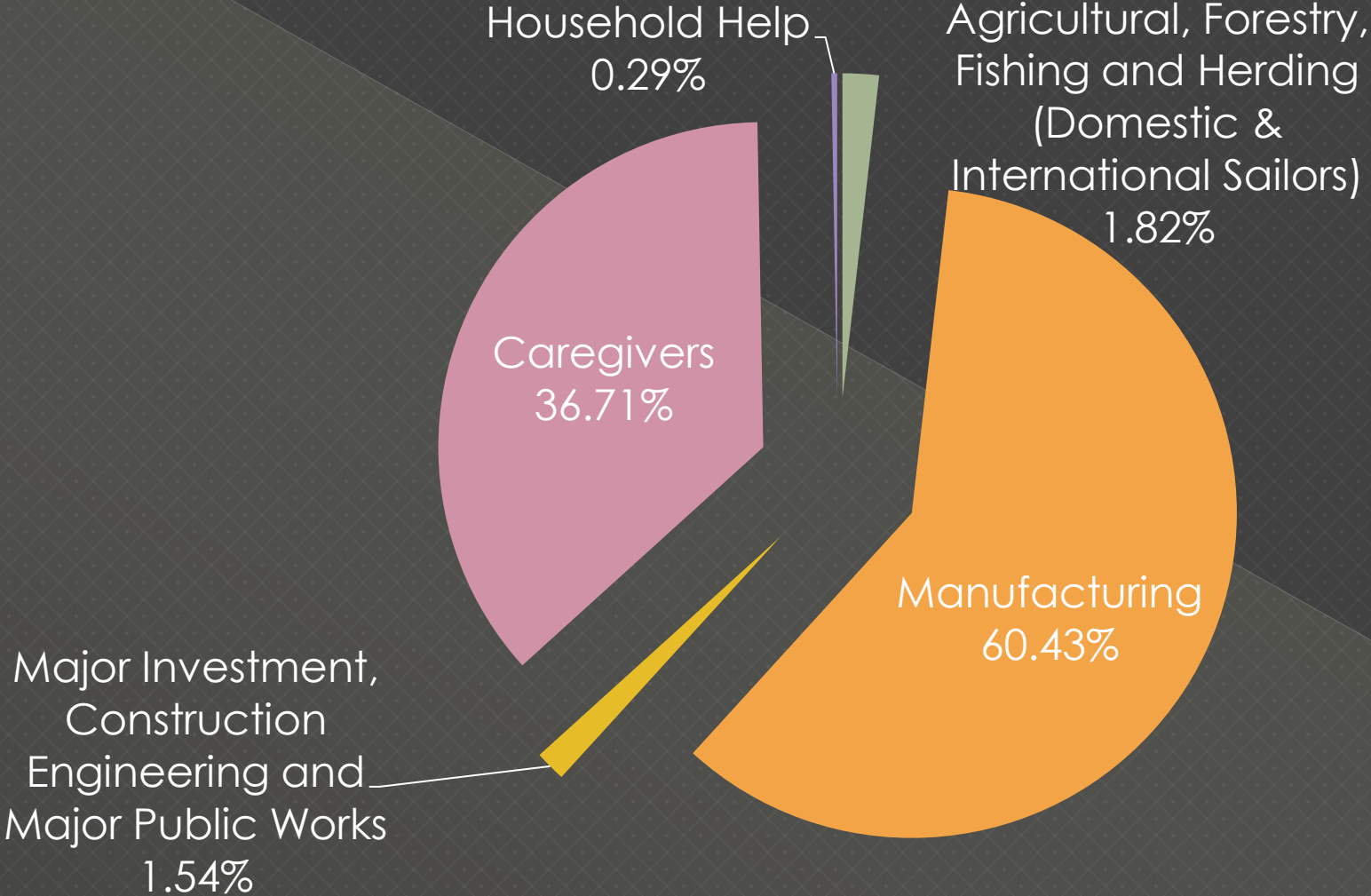


Indonesia	Vietnam	The Philippines	Thailand	Malaysia
258,084	208,095	148,786	61,176	1
Total: 676,142 people				

Source: Ministry of Labor

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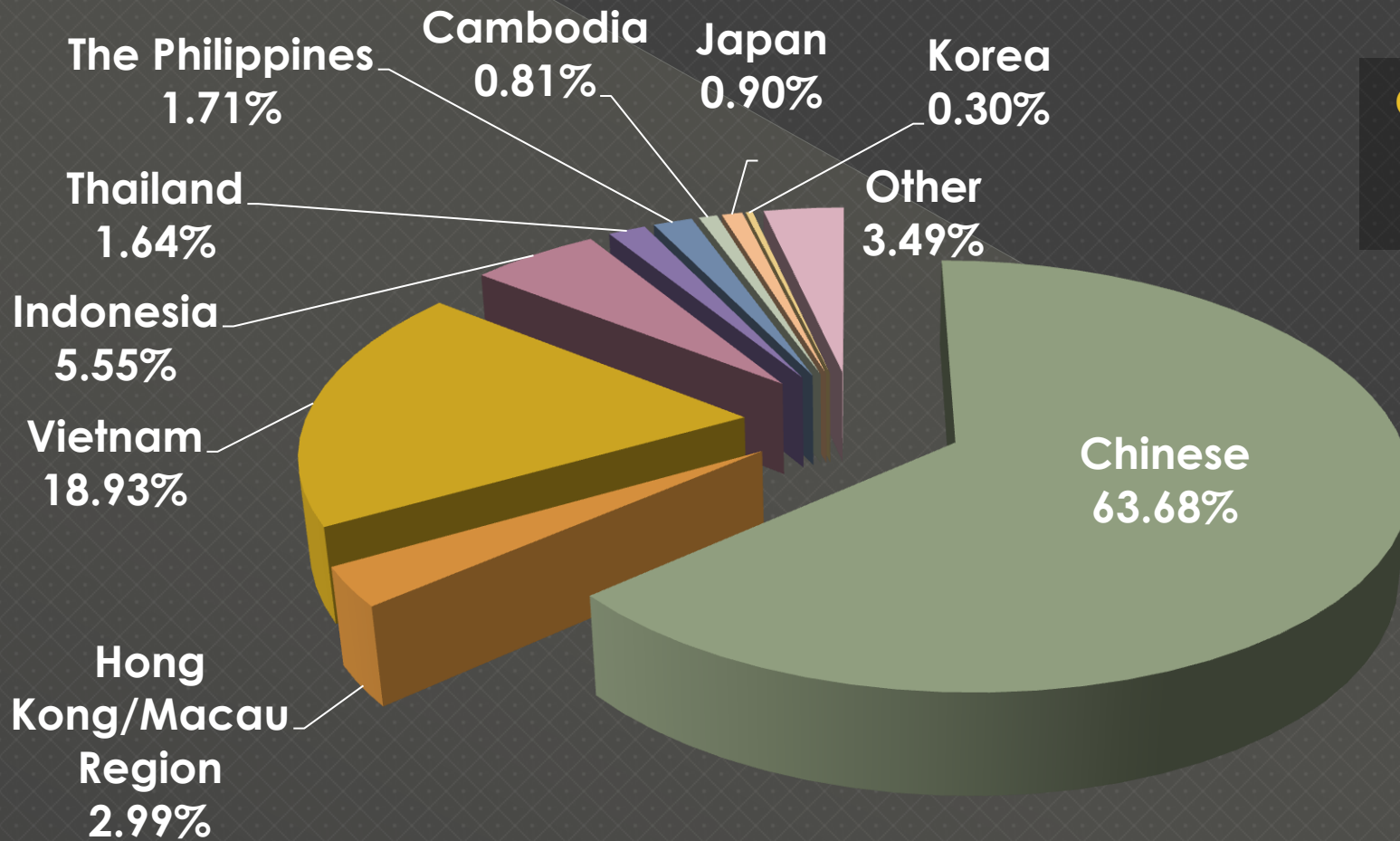
2017 Foreign Workers in Taiwan - By Industry



Source: Ministry of Labor

<https://statdb.mol.gov.tw/evta/JspProxy.aspx?sys=210&kind=21&type=1&funid=wq1402&rdm=poeoqbro>

2017 Foreign Spouses in Taiwan - By Nationality



**Chinese, Hong Kong/Macau, and other Foreign Spouses
Total: 884,196 people**

Taiwan Legal Aid
Foundation's
Legal Support to
Immigrants and
Migrant Workers



法律扶助基金會
Legal aid foundation

Everyone may be a recipient of legal aid, irrespective of nationality

- Article 14, Section 1, Item 1 of the Legal Aid Act:

The provisions of this Act are applicable to people **who reside legally within the border of the Republic of China.**

The provisions of this Act are also applicable to non-citizens of the Republic of China who meet any one of the following conditions: (Law amended July 1st, 2015 to loosen restrictions)

- 1 People who **lost their residency** due to incidents **not imputed to themselves.**
- 2 Victims or possible victims in a **human trafficking case.**
- 3 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, **who received the Foundation's aid in the past for the same cause, passes away.**
- 4 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.**
- 5 Other conditions as decided by the Foundation.

Types of Legal Aid



Legal Consultation



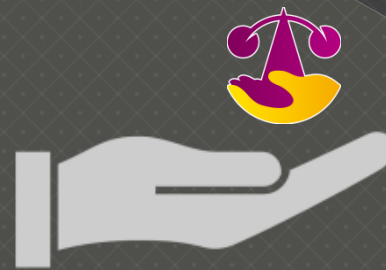
Mediation and Settlement
Representation



Legal Document
Drafting



Representing, Defending, and
Assisting in Litigation, Non-
contentious Cases, Arbitration,
and Other Matters



Other Necessary
Services and Fees for
Legal Matters



Other Matters as
Decided by the
Foundation

Review Standards



- ◎ **Means Test:**

Foreign migrant workers and disadvantaged spouses are presumed to meet the asset criteria for legal aid. No document review is required.

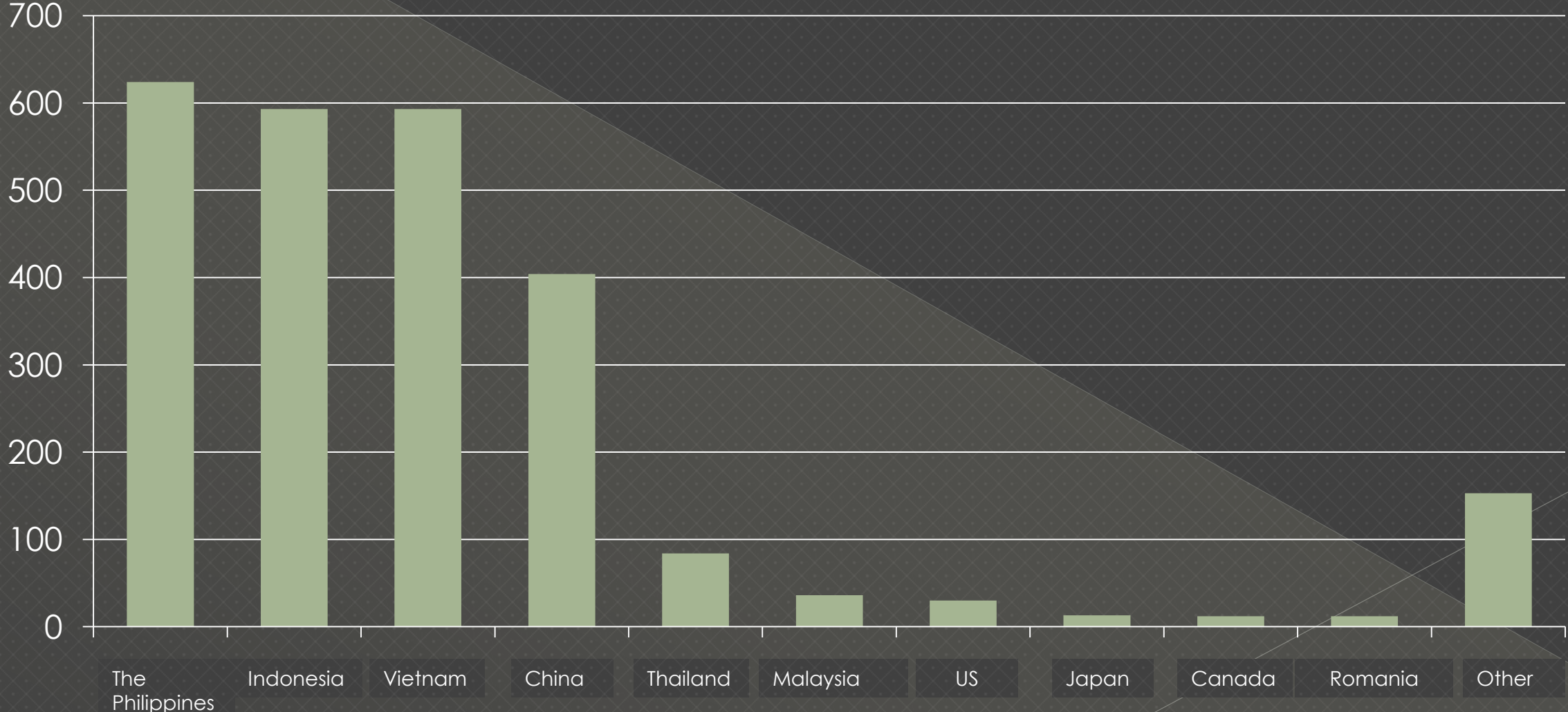


- ◎ **Merit Test:**

The case must be a meritorious one (by the same standards applied to citizens' cases).

2017 Non-citizens Granted Representation in Litigation and Documentation Assistance - By Nationality

Total: 2,554 cases



2017 Non-citizens' Legal Aid Cases – Top 6 Case Types

Ranking	Case Type	Number of Cases	Percentage
1	Civil Tort Cases	307	12.18%
2	Civil Labor Dispute Cases	251	9.96%
3	Civil Loan Dispute Cases	231	9.16%
4	Criminal Injury Cases	195	7.74%
5	Civil Illegal Profit Cases	190	7.54%

Building a Multi-lingual Environment

- **Legal aid interpreter database** established in 2018 (including Aboriginal and Southeast Asian languages).
- to assist **case review and help attorneys communicating with clients.**
- Interpreters have received legal training.
- Legal aid application forms and notices translated into multiple languages.



Language	Number of Interpreters
Vietnamese	53
Indonesian	22
Thai	8
Burmese	7
Malay	3
Khmer (Cambodian)	2
Filipino	1
Total	96

Promoting Legal Amendments; Improving Foreigners' Rights



- Promoting amendments to Article 19, Section 2 of **Nationality Act**, aiming to set time limits for withdrawal of citizenship after naturalization.
- Promoting amendments to **Immigration Act**, aiming to reduce discrimination against foreigners.
- Promoting amendments to **Human Trafficking Prevention Act**, aiming to reduce difficulties in practical operations , protect victims and sanction perpetrators.



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Recent Special Programs

Maintained Intentions Group - A Case of Severe Salary Deduction Against Indonesian Caregiver Workers

- Victims: more than 5,000 Indonesian caregiving workers.
- Workers came to Taiwan in 2008. Their salaries were deducted by Taiwanese manpower agency CHIZHI Group, altogether more than NT\$200 million.
- In 2016, Miaoli District Prosecutors Office asked LAF to assist in finding the victims. Civil lawsuits were filed against the defendants.
- By the end of 2017, 347 victims had been found and represented by LAF in filing litigation. The defendant agreed to settle the dispute and proposed compensation of more than NT\$36 million, which was returned to the victims by the Foundation.

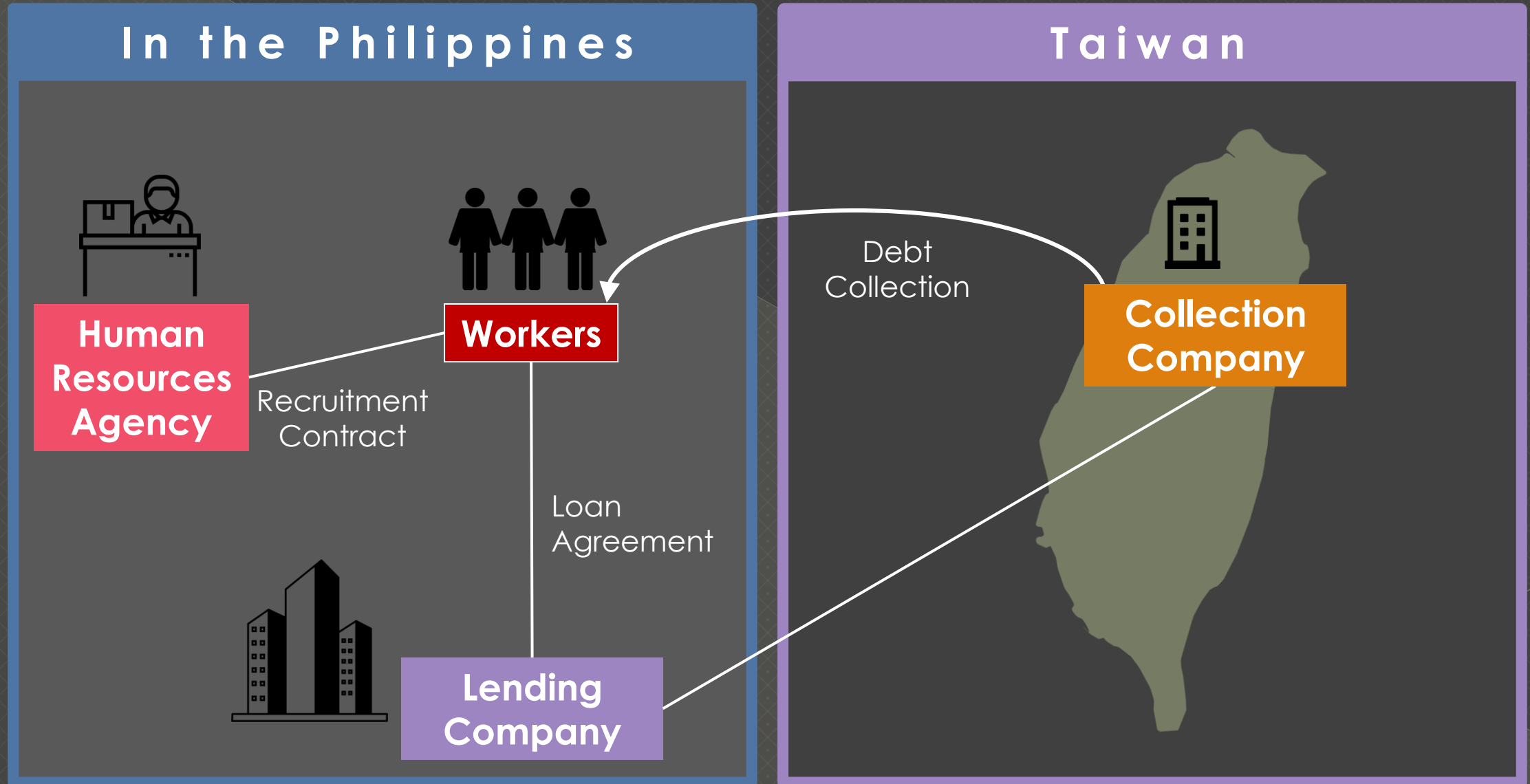


A Case of Usury Against Filipino Migrant Workers

- ◉ Filipino manpower agencies and lending companies worked with a Taiwanese collection company to exploit Filipino migrant workers in Taiwan through usury.
- ◉ Charging excessive interest rates (over 48% per annum).
- ◉ LAF attorneys represented victims in filing lawsuits against the Taiwanese collection company .
- ◉ 279 cases received a grant of legal aid in 2017; there were both wins and losses. Some cases were settled.



Flowchart of How Filipino Workers Were Exploited by Excessive Interest Rates



Promotion of Access to Legal Aid

- ◉ NGO Referrals
- ◉ Collaborating with consulate offices in TW



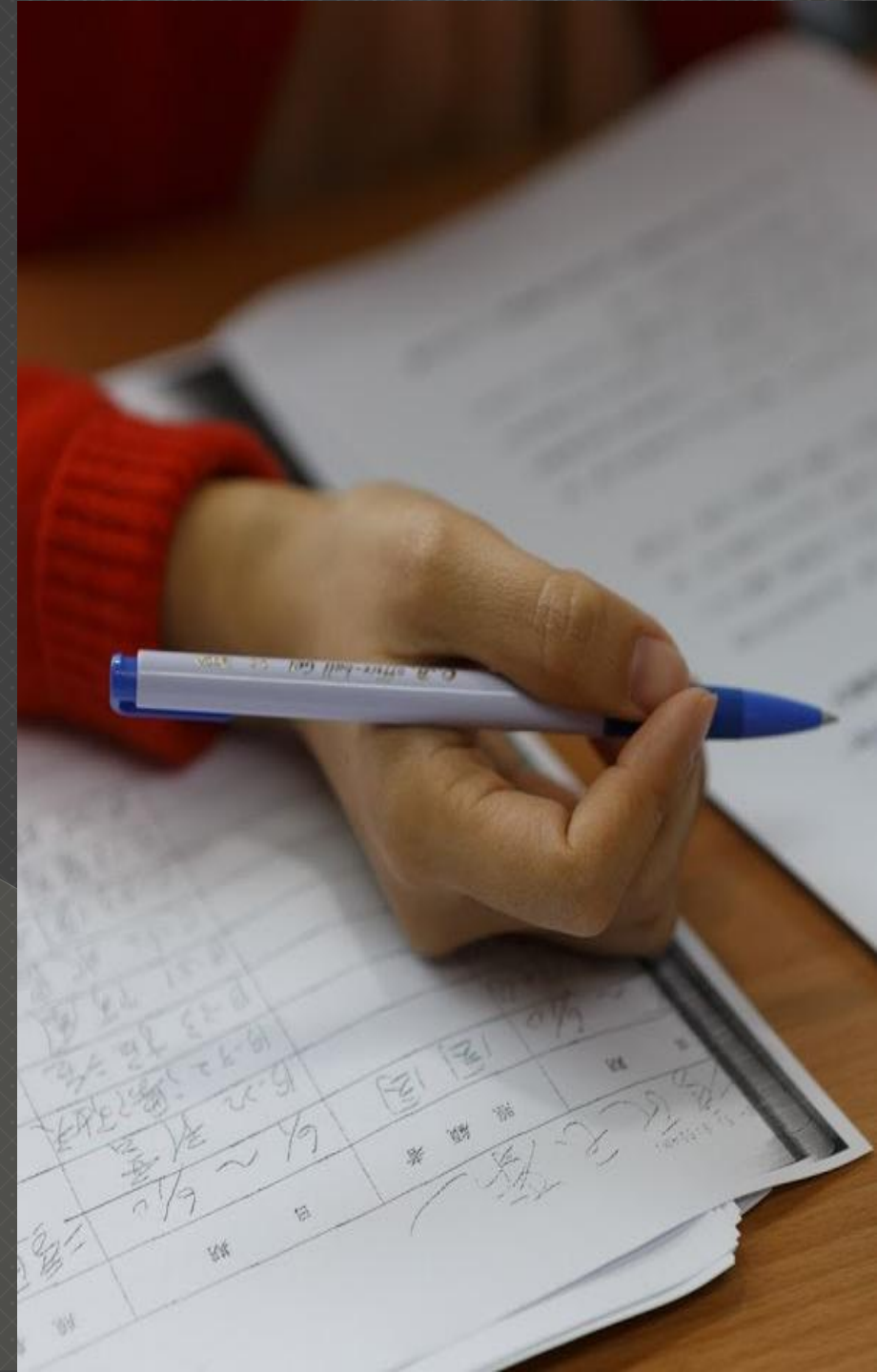
Challenges of Providing Legal Aid to Foreigners

◎ Access to Legal Aid

- > multi-lingual documents and more interpreters needed
- > Domestic workers have trouble attending judicial proceedings.
- > Some prosecutors and judges avoid making referrals to Legal Aid Foundation.
- > Reaching out workers in Fishing industry .

◎ Collaborative network with workers' home countries to be established

- > Litigants are difficult to contact once they have returned to home countries.
- > Lack of judicial interactions with other countries makes implementation difficult.



Challenges for Providing Legal Aid to Foreigners (Cont.)

◎ Finding competent interpreters?

- > limited language supports in interpreter database.

◎ Verdicts to be challenged

- > Labor exploitation or labor disputes?
- > Commensurate pay with the work duty?
 - commission charged by an agency considered unreasonable salary deduction?
 - by the standards of home country or R.O.C.?
- > Workers in a “vulnerable state”
 - Soft and obscure constraints are more common and likely to escape punishment.

In their Shoes: Taiwanese Migrant Workers in Other Countries

Taking Taiwanese Workers on Working Holidays in Australia as an Example

- ◎ **Labor-related:**
lower salary than the minimum wage; unpaid salaries and overtime; no compensation for work injuries.
- ◎ **Housing-related:**
Deposit not returned; tenants overcharged.
- ◎ **Car accident-related:**
Compensation for the victim (including medical expenses for injuries, car damage); accident compensation.
- ◎ **Sexual harassment and assault.**



Problem: No access to local legal aid resources.

Implementing Legal Aid for Migrant Workers In Accordance With International Conventions

◎ **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families - Article 18**

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

(a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;

(d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

(f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

Implementing Legal Aid for Migrant Workers In Accordance With International Conventions

◎ International Covenant on Civil and Political Rights - Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.



Thank You

Thank you for listening. Any comments and suggestions are welcome.



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Zhu Fang-Jun - Attorney-at-Law, Taipei Branch