

National Report: Taiwan

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Legal Aid Foundation, Taiwan

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1. Basic national and organisational figures in 2018

National information¹				
Name of country	Population (as of the end of 2018)	Gross domestic product (GDP) (preliminary statistics as of the end of 2018)	Poverty line and number of people below it	Number of Practising lawyers
Taiwan	23,588,932	US\$589.474 billion Per capita GDP is US\$25,004	In 2019, the lowest living index in different counties and cities varied from (NT) \$11,135 to \$16,580 per month (equivalent to approximately US\$369 to \$550) ² , or between US\$12.3 to \$18.33 per person per day; this applies to approximately 308,000 people nationwide, or roughly 1.3% of the total population ³	Approx. 8,500 ⁴

¹ USD to NTD conversion rate used in this table is 1 to 30.16.

² 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>

³ Calculated from Ministry of Health and Welfare statistics on low-income households and persons (in Chinese):

Legal aid organisation information				
Organisation name	Date established	Total number of applications in 2018	Total number of grants of legal aid in 2018	Total number of refused grants of legal aid in 2018
Legal Aid Foundation (LAF)	July 1, 2004	Number of legal consultations: 116,692 cases Number of applications for legal aid: 89,652 cases	64,981 cases	20,686 cases
Number of attorneys providing legal aid (as of the end of 2018)	Non-legal professionals within the Foundation (such as social workers, consultants, community cultural workers)	2018 government contributions to legal aid	2018 total legal aid expenditures	Government contributions as portion of total expenditures
4,066 (LAF adopted a mixed service model. However, vast majority of legal aid lawyers are private lawyers; only 20 of them are staff attorneys)	The foundation currently does not employ any full-time social workers, counsellors, or community cultural workers. But approximately 4.5 % of the foundation's frontline legal service staff have relevant backgrounds.	Sponsored by the Judicial Yuan: NT\$ 1,313,200,244 (equivalent to US\$43,541,122); Project revenue from other government departments: NT\$ 96,929,828 (equivalent to US\$3,213,854)	NT\$1,490,503,249 (equivalent to US\$49,419,868)	94.61%

<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 338,468 people (as of the end of 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 649,873 people, or 2.75% of the population.

⁴ 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.

2. Legal Aid Organisation / Authority

2.1 Status and Supervision

The Legal Aid Foundation (LAF) was established in July 2004 with an endowment from Taiwan's Judicial Yuan⁵ in accordance with the Legal Aids Act passed in January 2004. It is a government-established, privately-run non-profit organisation. Supervision of LAF is conducted internally by the supervisors and externally by the supervisory committee established by the Judicial Yuan as the competent authority. In addition, since it is funded out of the annual budget of the Judicial Yuan, LAF should be subject to review by the Legislative Yuan.

The recent Legal Aid Act 2015 has made the following amendments regarding organisational structure and supervision:

➤ **Adjustment of seats of representatives on the board of directors (Article 37):**

The LAF board of directors consists of 13 representatives from different organisations. The number of directors appointed by government agencies (Judicial Yuan, one from the Ministry of Health and Welfare, and one from the Ministry of Justice) has shrunk from five to four, and the number of lawyer representatives was reduced from four to three. Instead, the number of representatives from underprivileged groups was increased from one to two, and both representatives must be recommended by social groups. 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. Finally, in consideration that labour and indigenous peoples' legal matters are amongst LAF's primary types of cases for many years, it is specified that there must be one representative from labour organizations and one from indigenous tribes.

➤ **Change to chief executive officer model (Articles 38, 40, 41):**

⁵ Judicial Yuan is the highest judicial authority in Taiwan. Its main functions include: (1) To interpret the Constitution and to unify the interpretation of laws and orders; (2) To impeach the president and the Vice President of the Republic and to adjudicate cases concerning the dissolution of political parties that violate the Constitution; (3) To adjudicate civil, criminal and administrative cases; (4) To adjudicate cases concerning disciplinary measures with respect to public functionaries; and (5) To interpret whether local ordinances and matters conflict with national laws or the Constitution. (6) Judicial Administrative Power of the Constitutional Court.

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.

➤ **Enhanced independence and reasonable supervision for the Legal Aid Foundation (Articles 12, 60):**

In order for the LAF to function effectively and have a certain degree of autonomy and independence, the newly amended Legal Aid Act authorizes the LAF to formulate its regulations by a decision of the board of directors, which shall be submitted to the Judicial Yuan for future reference. The exceptions only exist in regulations concerning organisational structure, funding and budget, and critical measures, in which the formulation, amendment, and abolishment of regulations shall be subject to approval from the Judicial Yuan.

The amended act also stipulates that Judicial Yuan's supervisory regulations are limited to those concerning the use of funds and budget, the quality of legal aid, annual critical measures and others. The above provisions have clarified scope of matters under the supervision of the Judicial Yuan and help maintaining LAF's autonomy.

2.2 Mixed Service Model

LAF adopts a mixed model for service delivery, which means the legal aid casework is handled by LAF's staff attorneys and private lawyers.

Staff Attorneys

The statutory number of LAF staff lawyers whose roles are to undertake legal aid casework is 30.⁶ However, due to budgetary constraints, only 23 posts were allowed in 2018 and currently there are only 20 staff attorneys recruited. Due to the limited number of posts, the proportion of cases handled by staff lawyers is less than 5% of LAF's cases.⁷ Staff lawyers are mainly responsible for cases involving major public interest, human rights, class action, and high social profiles involving specific disadvantaged populations (such as migrant workers and indigenous people).

Private Lawyers

Private lawyers remain the main work force to undertake legal aid cases. As of the end of 2018, 4,046 private lawyers have registered to undertake legal aid cases. In

⁶ LAF also hires another 22 qualified lawyers for taking management or policy research roles.

⁷ Between 2014 and 2017, only 4.45% of LAF cases were handled by LAF staff attorneys.

general, LAF requires private lawyers to have at least two years of legal practice before undertaking legal aid cases besides certain exceptions. (See 5. Quality Assurance)

The remuneration for the private legal aid lawyers is much lower than market price — averages are only one-third to one-half of that. Since its establishment, the LAF has not undergone comprehensive adjustment for the past 14 years except a slight increase in certain categories (e.g. consumer debt, administrative cases and criminal court proceedings of second instance, etc.). Private legal aid lawyers therefore have continued to request reasonable wage increases.

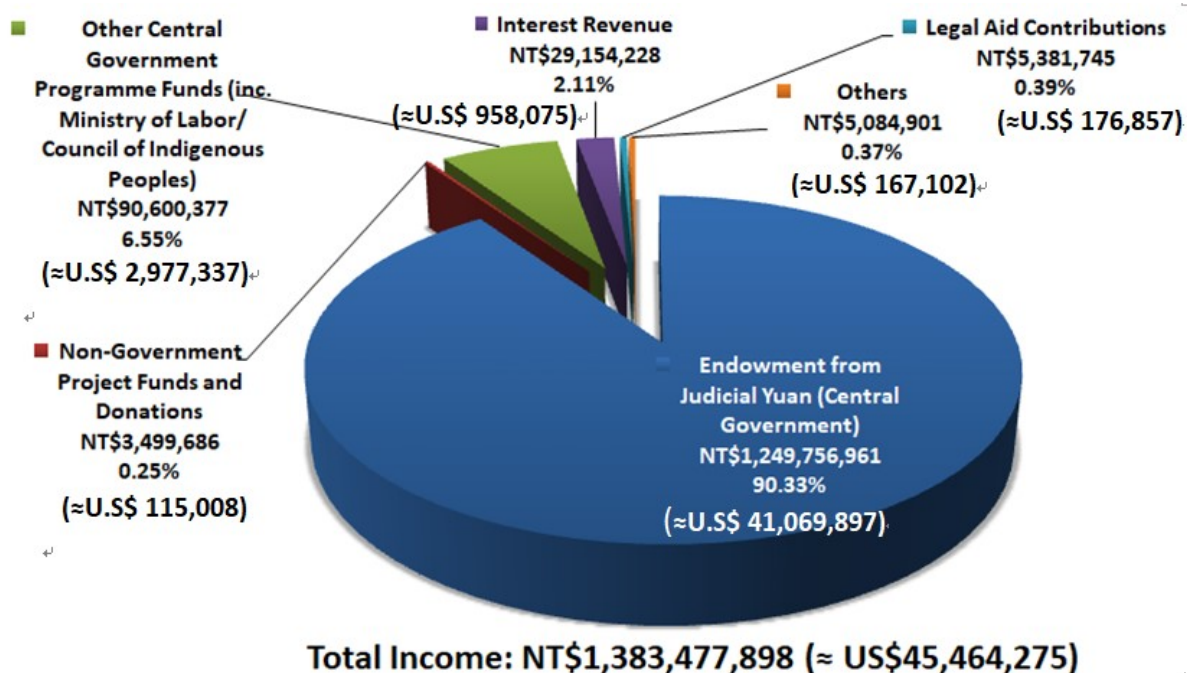
The recent amendment of Legal Aid Act 2015 increases the number of remuneration radices for certain types of legal aid (Article 27) and stated legal aid lawyers' rights to ask for increase in remuneration when the cases are extremely complicated. Accordingly, the LAF has also revised its Legal Aid Remuneration 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 lobby, fighting for a larger budget and reasonable adjustments to private attorneys' remuneration.

3. Budget and Spending

3.1 Budget and Spending Figures for the Past 2 Years

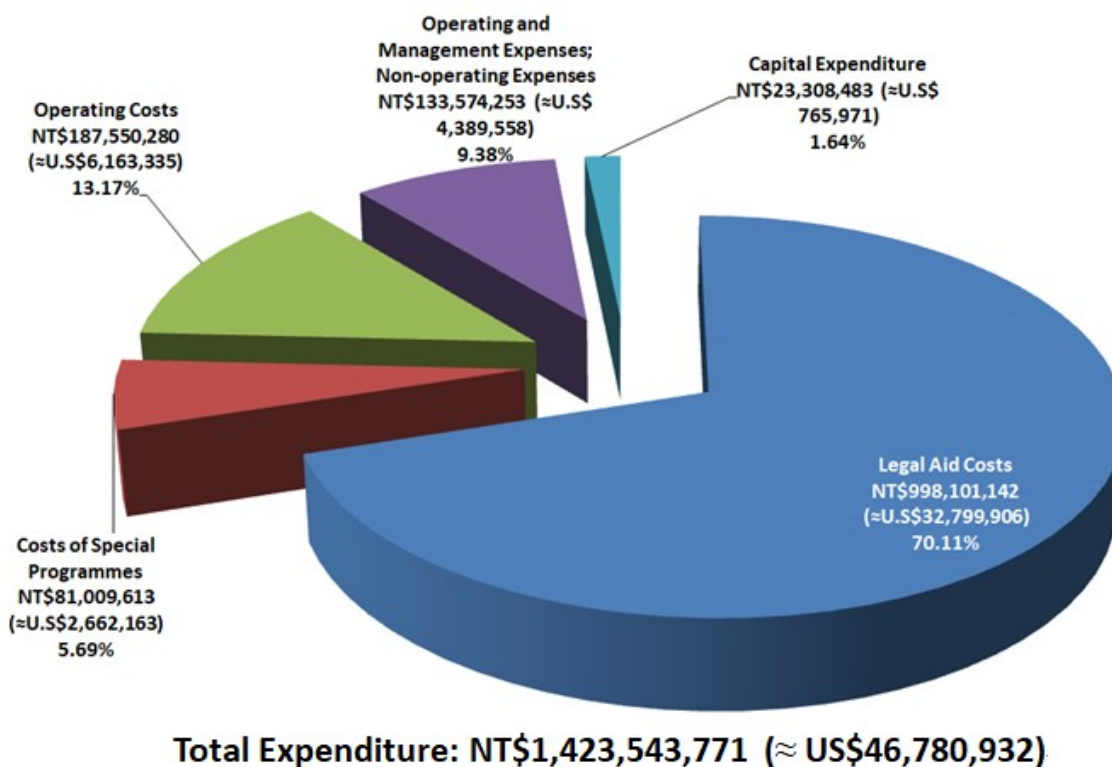
The budget/income and expenditure of legal aid in Taiwan in 2017 and 2018 are listed as Figures 1 to 4.

The main funding source is the Judicial Yuan of the central government, while the second is funding from the central government Ministry of Labour and Council of Indigenous Peoples for their specific legal aid programmes for labourers and Indigenous peoples.



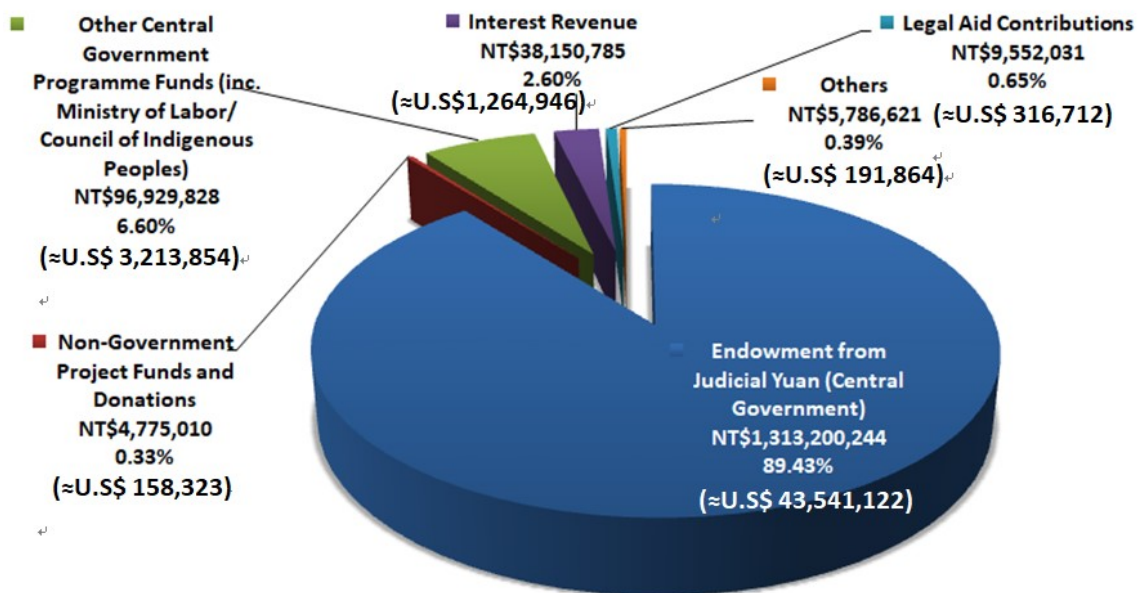
* USD to NTD conversion rate used in this table is 1 to 30.43.

Figure 1: Breakdown of LAF Total Income, 2017



* USD to NTD conversion rate used in this table is 1 to 30.43.

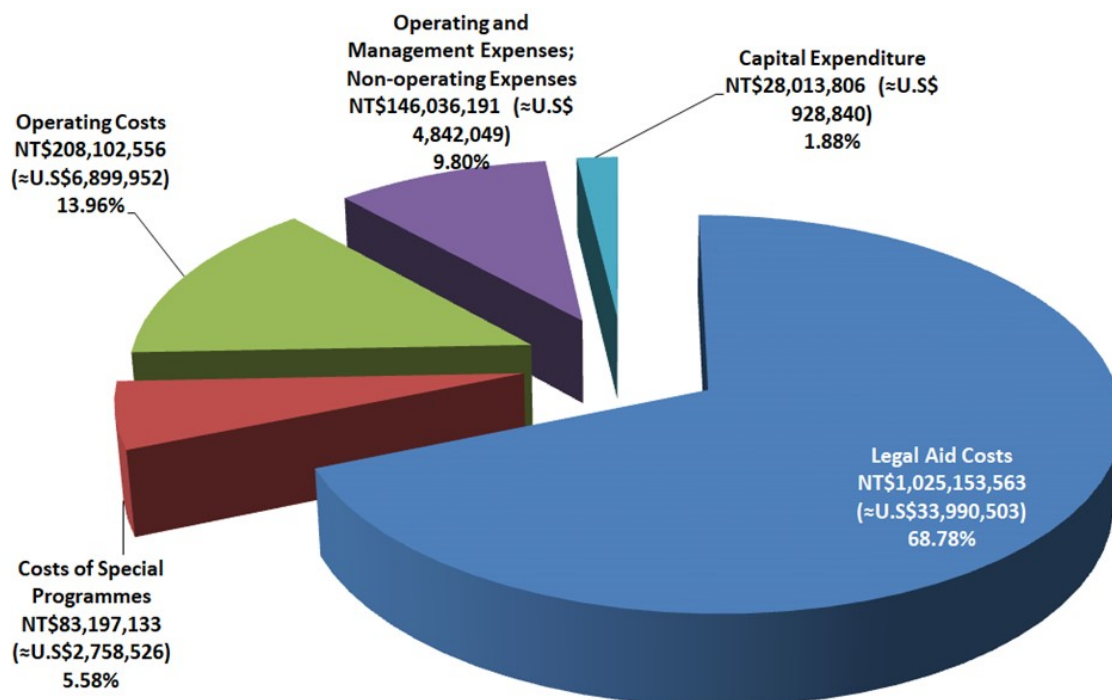
Figure 2: Breakdown of LAF Total Expenditures, 2017



Total Income: NT\$1,468,394,519 (≈ US\$48,686,821)

* USD to NTD conversion rate used in this table is 1 to 30.16

Figure 3: Breakdown of LAF Total Income, 2018



Total Expenditure: NT\$1,490,503,249 (≈ US\$49,419,868)

* USD to NTD conversion rate used in this table is 1 to 30.16

Figure 4: Breakdown of LAF Total Expenditures, 2017

3.2 A Mixture of Capped and Uncapped Budget

The budget from the Judicial Yuan of the central government is a mix of capped and uncapped types, depending on the account titles. While there is a statutory obligation for the state to provide legal aid funding, the account of legal aid costs (including court fees, lawyers' fees and other mandatory litigation costs of legal aid cases) are demand led and therefore has an uncapped budget. However, the rest of the expenditure accounts (including operating costs, expenses and capital expenditure) are capped with a general limit, though the budgets can be transferred between accounts.

The budgets from the Ministry of Labour and the Council of Indigenous Peoples for their specific legal aid programmes are similar. While the budgets for operation, management and capital expenditure are capped, the legal services costs are uncapped and led by demand.

3.3 Legal Aid Funding in the Past 14 Years

It is also worth noting that the level of the legal aid funding has been increasing for the past 14 years. The first leap occurred in 2008, right after the LAF initiated the Consumer Debt Clearance Programme for consumer debtors. The second leap happened after the amendment of Legal Aid Act in mid 2015. This can be apparently seen from the increase of the funding level after 2016, which is still continuing. As of 2018, the total funding for legal aid has increased by 4.45 times of the funding in 2005.

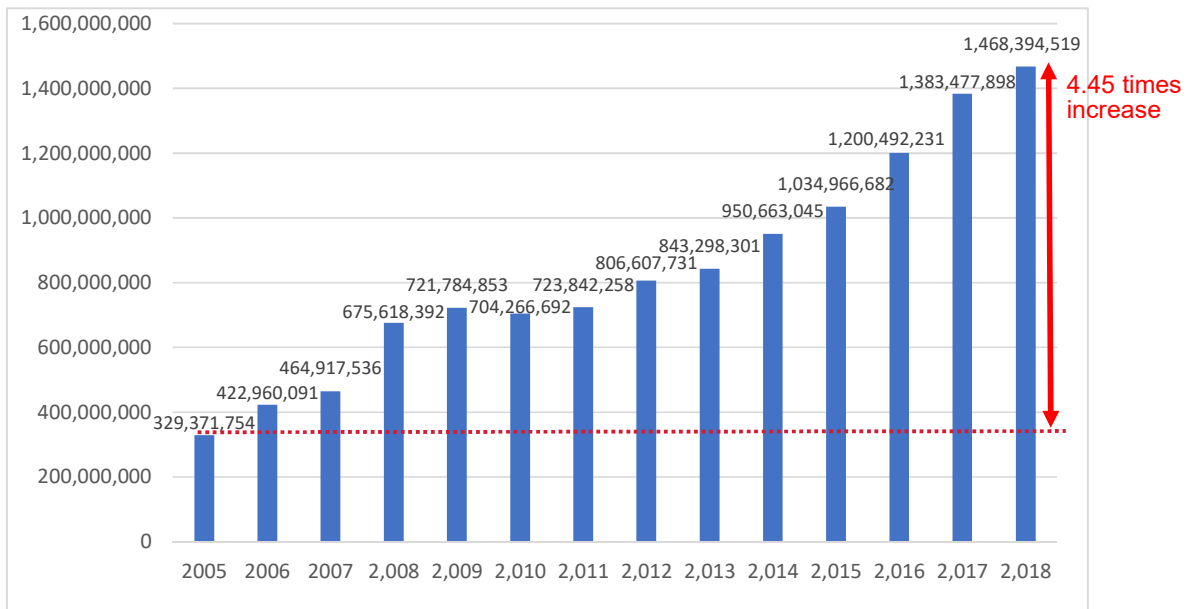


Figure 5 Total Funding in the Past 14 Years

3.4 The Amended Legal Aid Act 2015

In order to expand LAF's funding sources, the amended Legal Aid Act added "deferred prosecution fines" and "negotiated judgment charges" into the sources of LAF's funding, and stated that 15% of the average total of the above two funding sources from the past three years shall be compiled into the budget. (Article 8, Paragraphs 3 and 5)

4. Scope, Eligibility and Caseload

4.1 Service Scope

LAF provides comprehensive legal assistance including advice, document drafting, legal representation in mediation, settlement and litigation. The legal aid grants can be applied for criminal, civil and family, and administrative cases. Compared to the jurisdictions where the legal aid system is more developed, its scope of service is larger, covering a wide range of legal matters with few exceptions. According to the Regulation of the Scope of Legal Aid authorised by the Article 16 of the Legal Aid Act, the following legal proceedings and type of cases generally are not within the scope of legal aid unless additional approval is obtained:

- Criminal:
 - Representation for a compliant or informer in the court proceedings, except the compliant has barriers to make a complete statement or his/her case relates to sexual offence, human trafficking crimes and serious offences (in which the sentencing is at least 3 years)
 - Representation for private prosecution
 - Representation for retrials and extraordinary appeals, except in the cases of a death penalty sentence
 - Representation for applications to set the case for trial
 - Representation for victims of trademark infringement
- Civil:
 - Representation for election litigations
 - Representation for small claim proceedings
 - Representation for retrials
 - Representation for trademark or patent cases
- Administrative
 - Representation for retrials
 - Representation for trademark or patent cases

The amended Legal Aid Act also clearly stipulated that the non-citizens can be eligible for legal aid (still subject to the means and merit tests) in any of the following circumstances:

- people who reside legally within the border;
- people who lost their residency due to incidents not imputed to themselves;
- victims or possible victims in a human trafficking case;
- people who do not reside within the border, but have received the Foundation's aid in the past for the same cause;
- people who do not reside within the border may exercise their rights under the Taiwanese laws when the people they inherit from had received the Foundation's aid for the same cause before passing away.
- people who do not reside within the border may exercise their rights under the Taiwanese laws when the people they inherit from passed away due to an occupational accident.
- other conditions as decided by the Foundation

4.2 Eligibility Criteria: Means Test and Merit test

The legal aid applicant has to pass the means test and merit test to receive legal aid grants.

Informed by the practice in the first decade, a major focus of the amendments to the Legal Aid Act was relaxing the means test and merit test. The amendments have expanded the scope of financially eligible persons and those exempted from the means test to simplify the procedures of application examination. The general principle of means tests and merit tests and the recent amendments are summarised as follows:

Means Test

General Legal Aid

LAF has formulated a set of financial eligibility criteria for different areas according to local living standard. (See Appendix 1) The applicant's household disposable income and disposable assets are assessed against the criteria, varying with the number of the household members. While there are different deductible items allowed for the calculation of household income and assets, it is impossible to ascertain the accurate

number of the eligible people for legal aid. However, it is roughly estimated that less than a fifth (around 15~18%) of total population may be eligible for legal aid.

The applicants who can fully meet the criteria can be granted full aid. If the applicants' financial conditions exceed within 20% of the level, LAF may offer partial legal aid, and the recipients of legal aid should be responsible for 1/3 (when excess is within 10%) or 1/2 (when excess is within 20%) of the lawyer fees and necessary expenses. According to the amended Legal Aid Act, the scope of those exempted from the means test has expanded to include applicants:

- who receive low-income or middle-to-low-income benefits under the Social Relief Act;
- 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
- who is the debtor applying for debt clearance according to the Consumer Debt Clearance Act
- who is applying for oral legal advice
- who are foreign nationals coming to Taiwan in accordance with the provisions of article 46 paragraph 1 subparagraphs 8 to 10 of the Employment Service Act (migrant workers working in the factories or working as carers');
- who is a citizen's spouse but is in financial disadvantage and has not been naturalized, or who has been naturalized but does not have domestic household registration.
- who are 'people unable to receive proper legal protections for other reasons' according to paragraph 4, Article 5 of the Legal Aid Act.

The last type of exemption refers to the 'mandatory defence cases', however, a legal representative or a legal assistant is not retained during the investigation or trials. These include cases:

- where the minimum punishment is no less than three years imprisonment and where a high court has jurisdiction over the first instance
- where the accused is unable to make a complete statement due to damage or impairment of the nervous system, or of psychological or mental functions
- where a defendant or a suspect possesses indigenous peoples status
- where any of the preceding three subparagraphs occurs in a juvenile delinquency investigation or trial

- where a legal representative, or a legal assistant is not retained, but is deemed necessary by the presiding judge

It is worth noting that this category of criminal cases has become the exception of the means test rule not because of the applicants' deemed financial situation. Rather, it is the judicial policy following the consensus of the 1990 Judicial Reform Conference, attempting to replace the public defender systems by chiefly judicare legal aid for mandatory defence cases. However, recently the policy and institutional options for mandatory defence cases has attracted a heated debate. More discussion between different sectors is still ongoing.

Commissioned Legal Aid Programmes

The above means test criteria are for general legal aid funded by the Judicial Yuan. However, cases commissioned by other government agencies with special project funds apply to different criteria which are much looser than the general ones. The means test of the Legal Aid for Labourers Programme funded by the Ministry of Labourer only counts on the individual labourer's income and assets and rather than the household ones. Labourers with monthly personal income below NT\$80,000 and personal assets not exceeding 3 million can all be financially eligible. There is no means test applied to the applicants for the legal assistance commissioned and funded by the Council for Indigenous Peoples, however, a looser merit test than the general legal aid one still applies.

Merit Tests

Aside from the means tests, a successful application should also meet the following merits, or otherwise will be denied:

- the statements and information provided by the legal aid applicant show legitimate reasons for granting legal aid
- the value of interests the legal aid applicant may recover from the prevailing litigation exceeds the litigation costs and the lawyer's fees (except in cases where the controversies at issue are significant to the law or to the society.)
- the applicant has not received legal assistance from the LAF or any other agencies/organisations for the same matter

- neither has the applicant of the same case retained any attorney nor the court appointed an attorney to be the legal representative or assistant
- the applicant is not suing the LAF
- the litigation must take place within the border of Taiwan
- the same case has not been rejected by the LAF branch offices; or new facts or evidence are provided after refusal; or the facts and information provided by the applicant is sufficient to decide that it is necessary to provide legal aid
- the application corresponds to the purposes of legal aid provision

According to the amendments of Legal Aid Act and the LAF's regulation, exemption from the merit test apply to the following cases:

- whereas the prosecutor or presiding judge deemed the defendants to require an attorney and make the referrals to LAF as stipulated in Article 31 of the Code of Criminal Procedure
- The trial proceedings in the court of the first and second instances of the cases where the applicants are 'people unable to receive proper legal protections for other reasons' according to paragraph 4, Article 5 of the Legal Aid Act.
- 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.
- the debt clearance case according to the Consumer Debt Clearance Act

In brief, after the 2015 amendments, the applications for mandatory defense representation and debt clearance are basically exempted from both means and merit tests.

4.3 Caseload and Case Types

Following the aforementioned amendments in 2015, the numbers of applications and aid-granted cases have seen significant growth. As illustrated in Figure 6 and Table 1, the number of applications and legal aid cases showed some growth before 2015, however, fairly limited or even negative. Nevertheless, since the law was amended in 2015, the number of applications, legal advice and legal aid grants has increased significantly, with annual growth rates of 10% to 20% or more. The growth in the number of legal aid cases has gradually slowed since 2017.

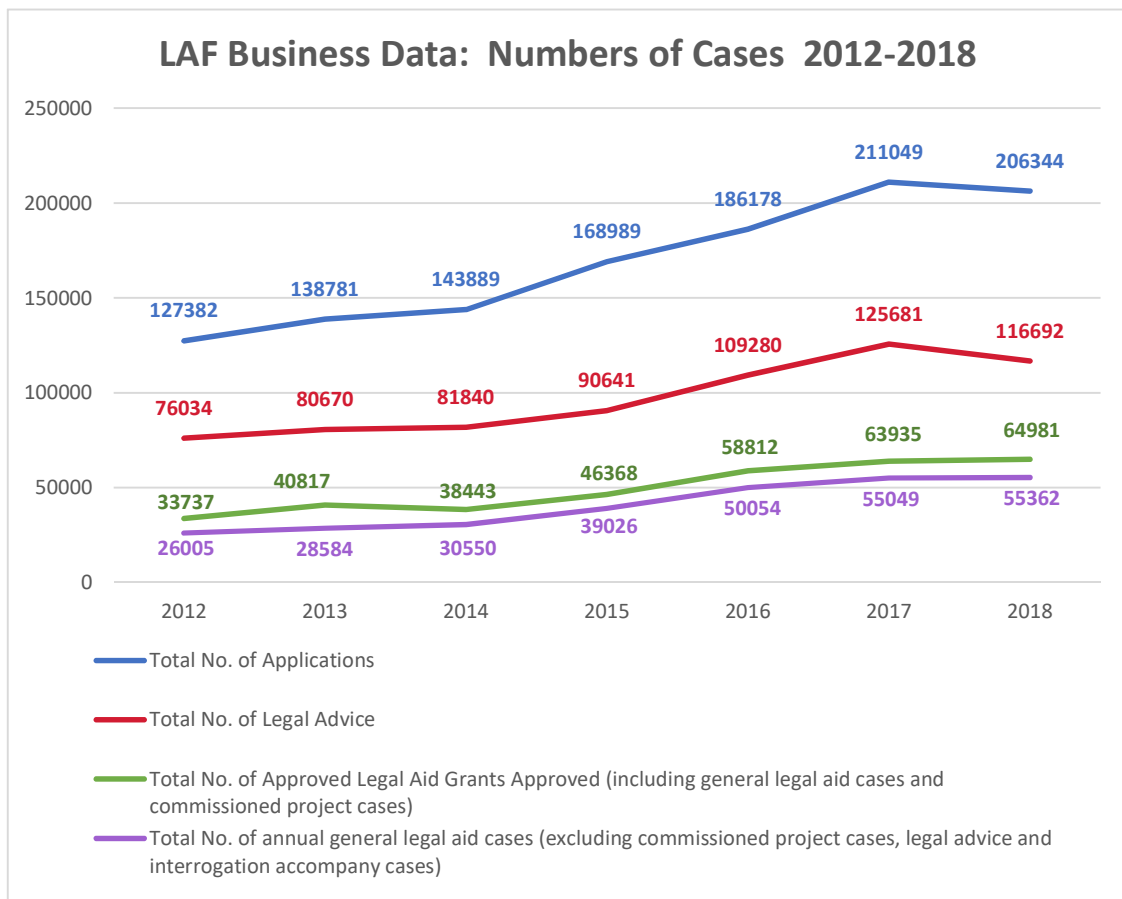


Figure 6 LAF Business Data: Numbers of Cases 2012-2018

Table 1 Annual Growth Rates of LAF's Cases 2013-2018

Item \ Year	2013	2014	2015	2016	2017	2018
Total number of annual applications	8.95%	3.68%	17.44%	10.17%	13.36%	-2.23%
Total number of annual legal advice	6.10%	1.45%	10.75%	20.56%	15.01%	-7.15%
Total number of annual legal aid cases (including commissioned project cases, not including legal advice)	20.99%	-5.82%	20.61%	26.84%	8.71%	1.64%
Total number of annual general legal aid cases (excluding commissioned project cases, advice and interrogation accompany cases)	9.92%	6.88%	27.74%	28.26%	9.98%	0.57%

The case categories of legal aid grants in 2017 and 2018 can be illustrated as Figure 7.

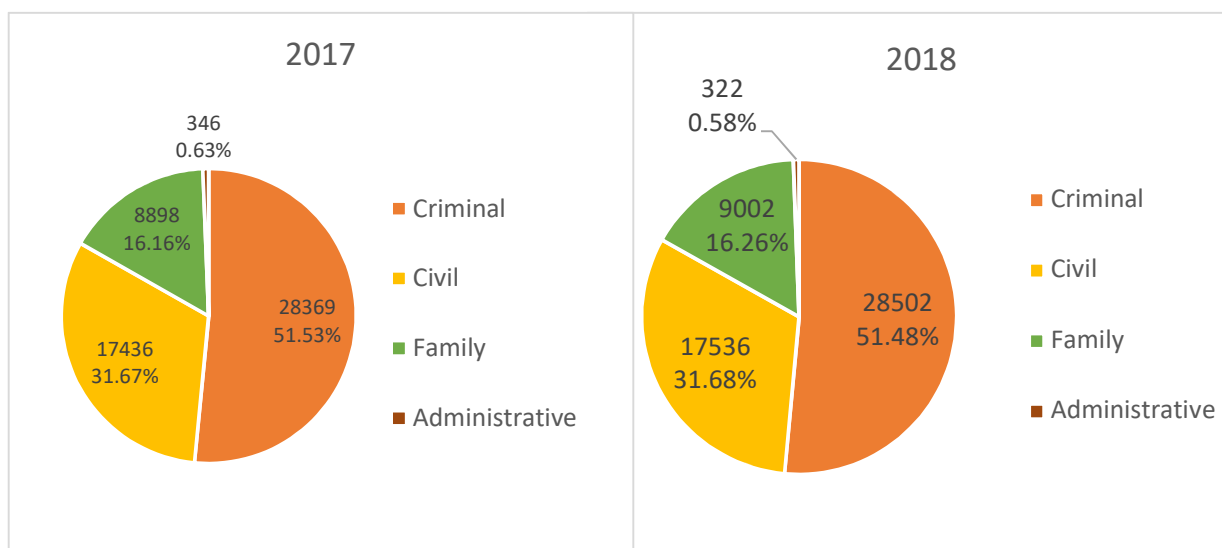


Figure 7 Case Types of General Legal Aid Grants 2017-2018

4.4 Cost Shifting

The cost shifting rule (loser pays) does exist in Taiwan, except in the criminal justice system in which no court fees are bore by any parties.

According to the Guidance on Calculation and Payment of Legal Aid Necessary Costs, once the case comes to the end and there is a need for the legal aided client to pay the necessary costs (including the court decided legal expenses), the client can request LAF's assistance for bearing the costs. The client cannot do it on his/her own. Instead, they have to ask their legal aid lawyers to submit an application form with their legal opinions and relevant documents to LAF. LAF will examine the application by an examining committee consisting of three legal professionals. The decision can be full payment, partial payment or rejection, depending on the cases and clients' circumstances. Most of the time, the decision for the legal aid clients who have been granted partial aid would be partial payment, which means that they would still be liable for 1/3 to 1/2 of the legal expenses.

In 2017, the LAF paid NT\$8,493,195 to the court for 274 cases, where the aided persons lost the litigation and had to pay the legal expenses; in 2018, NT\$4,418,766 for 222 cases.

5. Quality Assurance

Since its conception, 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 vast majority (over 95%) 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.

Multiple strategies and approaches have been applied:

5.1 Ex-post Measures: Multiple Channels for Evaluation and Investigation

LAF's quality assurance mechanisms started with ex-post measures through multiple channels to find out incompetent lawyers, including:

- **a complaint system** (established in 2007)
- **client satisfaction phone surveys** (conducted four times in 2007, 2009, 2012, 2018).
- since 2014, with assistance from the Judicial Yuan, LAF has been able to receive **judges' comments on lawyers' performance collected by the Judicial Yuan's lawyer assessment system**
- **a judges' and prosecutors' feedback collecting system** (set up in 2018)

In the near future, an online case management system for lawyers will be set up, facilitating case-closure audits.

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 the following more

pre-screening measures to assure quality.

5.2 Ex-ante Screening Measures: Requirements for Case Assignment

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. These measures include:

➤ **Setting up case assignment limit:**

Since 2012, the number of cases a legal aid lawyer can take in one year is 24 in order to avoid poor quality due to excessive caseloads

➤ **Setting a prerequisite for recruitment of legal aid lawyers:**

LAF requires the private lawyers to have at least two years of professional experience before they apply to be legal aid lawyers.

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 allows the following exceptions:

- the case types highly related to legal aid (such as consumer debt clearance regulations, police interrogations, etc.) are open to junior lawyers, however, subject to stricter supervision.
- Junior lawyers whose practicing experience are within two years 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.

➤ **The pilot programme of specialist panels since August 2015**

Since August 2015, the specialist lawyers in the three areas of employment, family, and consumer debt clearance have to pass the LAF's assessment before case assignment 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 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, hours of training and 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.

In the future, promoting the specialisation of lawyers, encouraging legal aid lawyers to develop specialties for specific groups and issues, and developing more specialist panels will continue to be an important pillar of LAF's quality strategy.

Additionally, taking account of the contracted legal aid lawyer systems in other jurisdictions, the amended Legal Aid Act stipulated that "The Foundation may sign retaining contracts with lawyers (or 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" (Article 23IV). This provides the LAF with a legal ground for future possibility to adopt a contracted system to secure better quality.

5.3 Education and Training: the Foundation Ensuring Service Quality

The LAF also understands 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 to legal aid services are neglected subjects in legal education, 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. Therefore, since our conception, the LAF has regularly 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. Experts, scholars, practitioners, and social welfare groups from the relevant fields are invited as speakers. In these courses, in addition to the latest legal amendments, practical insights, and legal bases for claims, we also ask the speakers to introduce the plight and the intertwining and intersectional social problems faced by the clients/potential clients which informed the lawyers of their client's 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, increasing their cultural sensitivity and leading to deeper understanding of clients' needs when they take on relevant cases.

6. Public Legal Education

6.1 Initiatives to Increase Public Awareness

Disadvantaged groups often lack legal awareness and tend to be unaware of the availability of legal aid. Because 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 reaches out through activities in a variety of ways:

➤ Face-to-face promotional and public legal education events

The LAF head office and our twenty two 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 centres, libraries, temples, churches, prisons, etc. In order to promote the LAF's 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 Programme). To

increase exposure, such events are often combined with educational programs about the rule of law and the human rights of disadvantaged groups. Questions from the public are answered and resources of publicly funded legal services are introduced. Recently there have been more than 1500 such public legal education events held around the country every year.

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 education and information, advice, and legal aid application services.

➤ **Leaflets, Pamphlets and Publications**

LAF regularly produces multilingual leaflets and pamphlets promoting legal aid and introducing steps to access legal assistance and places them at partner organisations which may share common clients with LAF. This information facilitates partner organisations' to contact LAF and make referrals immediately when they discover a potential client for legal aid.

LAF has also published a series of books depicting the life stories of disadvantaged groups (such as foreign immigrants, migrant workers, refugees, and stateless persons). These publications help to facilitate public understanding and recognition of these groups, including their living conditions, legal problems, and insurmountable predicaments, etc.

➤ **Media and technology channels**

Such initiatives include:

- Producing promotional video clips, short plays, radio advertisements on various topics and publishing through various media
- Broadcasting through governmental department publicity channels, National Open University, and other radio stations to promote legal aid and/or talk about common legal issues
- Press conferences on important topics and test cases and/or arranging interviews
- Providing general legal information on LAF's official website/Facebook or weblinks to provide resources for public legal education

➤ **Combining games, theatre, and other innovative methods in campus and public legal education**

Starting in 2017, the LAF began developing and designing a board game for better engagement with pupils on the campus, which was completed in 2018. Currently taster games are promoted around the country and innovative lesson plans are developed and innovated.

Additionally, in order to raise general public's awareness of some human rights issues, LAF has been working with a Beijing opera troupe and a modern theatre troupe to develop plays that promote public legal education, achieving better engagement with general public.

6.2 Academia Sinica's 2011 Taiwan Survey of Justiciable Problems

In 2011, researchers Chang-Ching Lin, Kung-Ping Chen, Kuo-Chang Huang, and Ya-Ting Yu from Taiwan's Academia Sinica conducted an empirical survey on legal needs and assistance-seeking behavioural 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 analysed the correlation between the problem types, advice seeking behaviours 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 neighbours, consumer disputes over goods or services, and employment and labour 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. However, according to the Taiwanese study, goods or services is also the least important or serious problem among the ten categories of problems. Instead, the family/relative and land/house problems ranked as the top 2 categories of the most serious and important problems perceived by respondents.

The study has helped scholars and policy makers understand the civil legal problems faced by Taiwanese people, as well as the legal assistance of different levels that respondents may require to deal with these issues.

The relevant English publications 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 (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 (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)

7. Alternative Sources of legal services

7.1 Public Funded Legal Advice Service (Mostly Generalist)

In addition to the comprehensive legal assistance covering education, information, advice, minor assistance, legal litigation and strategic advocacy provided by LAF, there are also other small-scale publicly funded legal services in Taiwan. Most of them focus on the provision of legal advice, by face-to-face and/or by telephone. For instance, advice clinics operated, arranged or even funded by local government, member of parliament/council, local councils, council mediation centres, and other government agencies; university legal clinics, family service centres, not-for-profit organisations, bar associations. Some of the above clinics (especially the ones running by universities, not-for-profit organisations and bar associations) also apply and receive funding from the Ministry of Justice. While most of the clinics provide

generalist service, some clinics target special groups or problems and provide specialist service.

The Ministry of Justice has completed an online directory detailing the service time, venues, scopes and contact details.⁸ However, no service data are published online by the Ministry of Justice, funders and service providers.

7.2 Public Funded Specialist Legal Services

Aside from advice clinics, there are also several small-scale schemes providing specialist advice, minor assistance and representation or reimburse the litigation costs for their targeting clients or legal problems. Some of them are run by the government funders, while the others are organised and operated by the not-for-profit organisations with the government funding. For example:

- The Ministry of Health and Welfare reimburses the victims of domestic violence and sexual assault lawyers' fee and litigation costs.
(The Ministry of Labour and Council for Indigenous Peoples had similar reimbursement systems for labourers' employment cases and indigenous peoples' cases before they commissioned their legal aid programs to the LAF in 2009 and 2013 respectively.)
- The Veterans Affairs Council also provides legal representation and minor assistance in addition to advice to veterans and their families.
- The Environmental Protection Administration has set up a legal assistance system for victims of public nuisance since 2012. The eligibility criteria are less strict than the LAF.
- The Association for Victim Support which was established and funded by the Ministry of Justice has been running panels of lawyers to provide legal advice and representation assistance for victims of crimes.
- The Environmental Rights Foundation was established with the endowment by the Ministry of Science and Technology with the funding of the settlement compensation in an environmental lawsuit. It provides legal and non-legal assistance for the individuals, inhabitants' associations, communities or tribes or

⁸ See <https://www.moj.gov.tw/cp-37-98395-b34e6-001.html> (Chinese version)(Accessed 1 May 2019)

other environmental protection organisations that might be the potential victims of development activities in the hearings or proceedings (e.g .environmental impact assessment) in both government agencies and the courts.

All of these schemes focus on their targeting communities or legal matters and thus have a looser eligibility criteria compared to LAF's. It is unfortunate that even though the competent authorities have collected service data, it is rarely open to the public.

8. Holistic legal services

Strengthening external links especially with non-legal professionals has always been one of the LAF's development strategies. While legal aid clients are often socially or economically disadvantaged as well as lacking legal awareness and information, their capability to actively seek legal assistance is thereby 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.

Moreover, the legal problems faced by our 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 services. Simply tackling a client's legal problem sometimes may not really improve their disadvantaged situation. Legal aid clients are also compelled to handle other more urgent and serious issues, which may cause them to evade resolving their legal problems. 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.

Several examples are given as follows, to illustrate LAF's recent initiatives on the link-ups and collaboration with non-legal professionals in different models:

8.1 *Community Supporters' Legal Advice Hotline*

Recognising that front-line community supporters such as social workers have more frequent contacts with potential clients of legal aid (compared to the LAF) and have great need for accessing accurate legal information and advice for their clients, the LAF launched its advice hotline for community supporters in May 2018 to provide frontline non-legal professionals with legal information and advice as a second-tier support.

Compared to the advice hotline provided to the general public, this hotline for community supporters provides generalist advice covering a wider range of areas and allows more sufficient time for seeking advice.⁹ It is hoped that through this initiative, the LAF can help non-legal professionals identify and prevent legal problems from happening and being exacerbated and refer them to the LAF in a timely manner. While each non-legal professional may simultaneously serve or reach tens or even hundreds of clients, the impact of the advice provision to non-legal professionals can achieve synergistic effects.

The Foundation is also monitoring social trends and local needs through compiling statistics on callers and referring institutions. The recent statistics showed that nearly half (49.2%) of the calls have been made from government agencies (e.g. social service), more than a third (37.4%) from NGOs, and around a tenth (10.6%) from hospitals, health or nursing agencies. This result has informed future partnership strategies for a more holistic service.

8.2 One Stop Advice Clinics and other Co-located Initiatives

Since 2009, after recognising the importance of legal advice from the foreign legal needs studies, the LAF has expanded its scope in advice provision and actively set up legal advice clinics across the country.¹⁰ These clinics are usually operated weekly, fortnightly or monthly at our partner organisations. LAF branch offices help arrange the rota for private legal aid lawyers to participate as face-to-face advisers.

Some of the host organisations are delivering other non-legal service and providing advice to their clients as well. For example, family resource centres, social welfare

⁹ The LAF hotline for the general public only allows the questions in the areas of family, employment, debt and indigenous peoples. Each call only allows 20 minutes for advice.

¹⁰ The so-called 'Expanded Legal Consultation Programme'.

service centres, immigrant agencies, etc. These outreach advice clinics aim at increasing the access to targeted groups through their use of another service, while the co-location arrangement may reduce their time and costs of seeking legal assistance.

Moreover, there are also clinics located at venues where host organisations have arranged them to be one stop advice clinics. In these cases, the host organisations have already invited different non-legal services to the same location. The service providers may recognise the existence of other services on the spot and cross-referrals may occur. However, more in-depth research is still required. The most prominent examples are the Joint Service and Advice Centre at Taipei City Hall, and the Joint Service Centre of Kaohsiung Juvenile and Family Court.

8.3 Integrated Services Network: Consumer Debt Legal Aid Programme

The LAF first entered the area of consumer debt in 2006 when there were several incidents of suicide that occurred because the debtors could not afford the unreasonably high interests of credit loans, and there was no proper legal framework to help them. The LAF thereby set up a Consumer Debt Legal Aid Programme, leading strategy advocacy and law reform through in-depth practices of casework.

Through years of practice, the LAF has gradually recognised that most debt issues are complicated and often need to be tackled recurrently. Additionally, the problems faced by debtors are often multi-faceted. The consumer debt legal aid clients are often characterised as hesitant and indecisive, which also cause repetitive withdrawals from engagement. This has greatly increased the difficulty to resolve their debt problems thorough legal solutions.

In order to solve the above problems for debtor clients, the LAF has gradually established an effective model of integrated services. By working with 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 gathering lawyers, physicians, psychologists/counsellors, financial counsellors, pastors, social workers, and other professionals, we have established a system of holistic support, tackling all of a debtor's multi-facet needs with different expertise. The debtors thereby regain courage to face their debt issues throughout the debt clearance process. This

significantly reduces the debtors' withdrawal ratio due to denial and hesitation.

In this model, organisations with different operative functions are no longer divided into separate silos. Rather, they are better aware of each other's work and roles, and work together at different stages of a case. For example: community workers at the Consumer Debtor Self-help Association and social workers at the Bread of Life Christian Church in Taipei now are familiar with the LAF application and review process as well as the debt clearance process. Every time after the LAF assigns a legal aid lawyer to the debtor client, social workers would continue to assist and accompany the debtor by connecting them with the other professional resources, providing mental and spiritual support and practical guidance in financial management.

In addition, the LAF regularly hold liaison meetings with core partner organisations to exchange information about the integrated services network and the needs of individual cases for better case management. The programme meetings are also the incubator of law reform. The loopholes of the current law and regulations are very often brought into discussion, which have led into further research and lobby for reform.

9. UN SDG Standard 16.3

The United Nations set 17 Sustainable Development Goals with 169 targets and corresponding indicators in 2015 for the 2030 agenda, and the target SDG16.3 provides that 'promote the rule of law at the national and international levels and ensure equal access to justice for all', which is highly related to the main purpose of legal aid.

Taiwan is not an UN member state, however, as a legal aid organisation as well as a member of the international community, the LAF has actively followed the spirit of this international agenda and other international conventions and instruments on human rights and legal aid, considering 'ensuring equal access to justice for all' to be the most crucial strategy for our future development.

In the past few years, following the enactment of several domestic laws to implement

international human rights conventions¹¹ and the resolutions of the 2017 National Judicial Reform Conference, the LAF has been reviewing the current scope of its services and service delivery model. Questions such as whether or not the LAF's services have reached the disadvantaged communities and groups in Taiwan's society, which groups have not received proper protection under the law, which geographic areas might have potential legal needs and requires further exploration and promotion, whether the current service models are easy for certain disadvantaged groups to access, what are the barriers and facilitators for target groups to access and use our services...etc., have all been discussed.

Although more in-depth research is still required to answer the above questions, the LAF has already developed and launched a few initiatives to improve and facilitate potential clients' access to LAF's service for the past two years. For instance:

- Set up an interpretation service for legal aid applications and appeals in 7 Southeast Asian languages (including recruiting and training interpreters) across Taiwan in January 2018.

LAF is still recruiting new resources for more languages such as indigenous languages, sign languages and other foreign languages.

- Established the Legal Centre of Indigenous Peoples in March 2018.
The Centre aims to provide culturally-sensitive service to indigenous peoples to overcome the language and/or cultural barriers of the modern justice system. It especially handles cases in relation to indigenous culture and its conflicts with modern laws, such as cases concerning traditional territories, Forestry Act, Wildlife Conservation Act, Soil and Water Conservation Act, etc. It is expected to conduct in-depth studies, so as to bring greater impact and make breakthroughs in strategic advocacy and law reform. The Centre is also responsible for undertaking community legal education in the tribes and running training courses for legal professionals.
- Launched Community Supporters' Legal Advice Hotline in May 2018.
- Introduced a legal aid programme for persons with disabilities in October 2018.

¹¹ From 2009 to 2014, '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' have been enacted. 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 programme was commissioned by the Ministry of Health and Welfare. In the first year, through the advice hotline, the LAF has collected common legal problems for people with different types of disabilities, informing the needs for further legal research and training for lawyers. Minor assistance (e.g. drafting legal documents) and legal representation are planned to be provided for target clients with a more favourable means test from the second year on (from October 2019).

As noted above, the initiatives for different target groups are just starting points to achieve better access to justice. It is hoped that through the development of the above services/programmes as well as continuous efforts in identifying and filling service gaps, the goal of SDG16.3 can be better realised in LAF's practice.

Appendix 1

Legal Aid Foundation – Financial Eligibility Criteria(2018)

Area	Financial Eligibility Criteria Upper limit	Legal Aid Range	Family Households(person)									
			1	2	3	4	5	6	7	8	9	10
Taipei	Disposable monthly income (NT\$)	Full aid	28,000	46,164	69,246	92,328	115,410	138,492	161,574	184,656	207,738	230,820
		Partial aid	33,600	55,397	83,095	110,794	138,492	166,190	193,889	221,587	249,286	276,984
New Taipei City		Full aid	23,000	43,154	64,731	86,308	107,885	129,462	151,039	172,616	194,193	215,770
		Partial aid	27,600	51,785	77,677	103,570	129,462	155,354	181,247	207,139	233,032	258,924
Taoyuan City		Full aid	23,000	41,076	61,614	82,152	102,690	123,228	143,766	164,304	184,842	205,380
		Partial aid	27,600	49,291	73,937	98,582	123,228	147,874	172,519	197,165	221,810	246,456
Taichung City		Full aid	23,000	41,440	62,160	82,880	103,600	124,320	145,040	165,760	186,480	207,200
		Partial aid	27,600	49,728	74,592	99,456	124,320	149,184	174,048	198,912	223,776	248,640
Tainan City		Full aid	23,000	37,164	55,746	74,328	92,910	111,492	130,074	148,656	167,238	185,820
		Partial aid	27,600	44,597	66,895	89,194	111,492	133,790	156,089	178,387	200,686	222,984
Kaohsiung City		Full aid	23,000	38,824	58,236	77,648	97,060	116,472	135,884	155,296	174,708	194,120
		Partial aid	27,600	46,589	69,883	93,178	116,472	139,766	163,061	186,355	209,650	232,944
Other areas in Taiwan or other places		Full aid	22,000	37,164	55,746	74,328	92,910	111,492	130,074	148,656	167,238	185,820
		Partial aid	26,400	44,597	66,895	89,194	111,492	133,790	156,089	178,387	200,686	222,984
Other areas in Taiwan or other places	Disposable assets (NT\$)	Full aid	500,000	500,000	650,000	800,000	950,000	1,100,000	1,250,000	1,400,000	1,550,000	1,700,000
		Partial aid	600,000	600,000	780,000	960,000	1,140,000	1,320,000	1,500,000	1,680,000	1,860,000	2,040,000
Financial Eligibility Criteria		Article2	Article 2.1.(1) &Article 2.2	Article 2.1.(2)&Article 2.2								

Note

I. Monthly income limit: Except for one-person households, the standard of disposable income for each family shall be based on the middle-low-income household standards approved by the applicant's local municipal or county (city) competent authority under the Public Assistance Act.

II. Upper Limit on Disposable Assets: The total value of disposable assets increases by NTD150,000 for each additional family member starting from the third person. However, the calculation of disposable assets does not include the applicant's residence or private agricultural land which has declared present market value below NTD5,500,000. However, the central government or governments of special municipalities shall deduct accordingly from households holding immovable assets which have a declared present market value exceeding NTD5,500,000 during the current calendar year, in accordance with the standards for middle-low income households in the Public Assistance Act.

Source: <https://www.laf.org.tw/en/upload/files/201712291018447613.pdf>