

INTERNATIONAL LEGAL AID GROUP CONFERENCE: 1 TO 3 APRIL 2009 – WELLINGTON, NEW ZEALAND

CHINESE TAIPEI REPORT

1.0 Foreword

July 2004 marked the most significant moment in the history of the development of legal aid in Taiwan. Before then there was no single organisation that provided a comprehensive range of legal aid services to the disadvantaged in Taiwan. Some organizations in the public and private sectors provided legal services as part of their business, most of which were limited to verbal legal consultation. Representation in court proceedings was available only as exception rather than the norm. On the whole, the quality and availability of legal aid services fell short of satisfactory or sufficient.

Following democratization and the establishment of the rule of law, the demand for judicial resources in Taiwan increased. In 1998, the Judicial Reform Foundation, the Taipei Bar Association, and the Taiwan Association for Human Rights jointly campaigned for the passage of the Legal Aid bill. With the support of the Judicial Yuan, the Legislative Yuan passed the **Legal Aid Act** which was proclaimed in January 2004. In July, under its mandate, the Judicial Yuan sponsored and established the Legal Aid Foundation ("LAF") and five of its branch offices. The Foundation began to accept legal aid applications, turning over a new page for a new era in a fairer society.

Since the establishment of LAF, legal services provided by other public and private organisations have continued to exist, although their roles have become complementary. Paragraph 2 of this report offers a description of all the legal aid services providers in Taiwan, while the rest are discussions focusing on LAF.

Paragraph 3 explains the assessment criteria for granting legal aid and the types of legal aid services provided. Paragraph 4 describes

the types of legal problems covered by LAF legal aid grants. Paragraph 5 is an overview of legal aid provided to foreign nationals by LAF. Paragraph 6 describes how private practitioners contribute to the LAF legal aid scheme. Paragraph 7 explains the mechanism which LAF has implemented to ensure the quality of legal aid services. Paragraph 8 describes other aspects of the LAF legal aid scheme, including staff attorneys, outreach services, and social reforms. Paragraph 9 describes LAF's current challenges and plans, including reviews of the assessment procedures, the financial eligibility criteria, the types of legally aided cases and the case assignment procedures. LAF will continue to conduct novel cases, and expand legal aid services for the growing number of foreign workers in Taiwan.

2.0 Introduction to Legal Aid Providers in Taiwan

2.1 Public sector legal aid providers

2.1.1 *Government agencies*

Before the establishment of the Legal Aid Foundation in 2004, there was no single government agency responsible for the provision of legal aid. Instead, depending on the nature of their usual business, government agencies offered legal services during the course of their normal business activities. The following are some examples:

- (1) *Labor*: where it is necessary to claim damages for unlawful dismissal or occupational injuries against employers through court proceedings, the Council of Labor Affairs of the Executive Yuan subsidizes legal fees for filing lawsuits if the plaintiff worker meets certain conditions. Some county and city governments make their own conditions for providing subsidies. For example, under the "Taipei City Labor Rights Fund Subsidy Guidelines" stipulated by the Taipei city government, upon application by a worker, the Taipei city government pays legal fees and living costs incurred during court proceedings.

- (2) *Foreign labor*: currently the number of foreign labor working in Taiwan exceeds 370,000 people. To provide complete assistance, city and county governments have set up the Foreign Labor Consultation Service Center, which provide legal, taxation, living, residential, and psychological consultation services.
- (3) *Women*: victims of domestic violence who are on low-income and are unable to afford the costs of litigation may apply to county or city governments for subsidies.
- (4) *Suspects of crime*: to ensure that every citizen has equal protection of the basic right to a fair trial, Article 31 of the Criminal Cod provides that the court must appoint defence counsel for the accused in the following circumstances: (1) crimes that attract a minimum sentence of three years imprisonment; (2) crimes which the High Court has jurisdiction at first instance; (3) where the accused is unable to state fully due to mental disability; (4) low-income households; and (5) other cases which the court considers necessary. Defence counsel is compulsory in all five cases. Although the courts may appoint a private practitioner to act as defence counsel, they have, on considerations of costs and convenience, instead established "Public Defenders" within the organisational structure to defend these cases. However, as the public defender is part of the court structure and is paid by the State, both its role and function have been questioned. Since the establishment of the Legal Aid Foundation, the policy is that no more public defenders will be recruited in the future. Instead, the Legal Aid Foundation will gradually take over the role as the sole provider of defence counsel in compulsory defence cases.
- (5) *General public*: most city and county governments run legal consultation desks which offer free legal advice to the public. There are no restrictions on the types of legal problems that advice may be sought, but services are limited to verbal

advice. Further assistance in drafting court documents or court representation services are not available.

2.1.2 Legal Aid Foundation

The various types of legal aid services described above concern particular types of legal problems or certain categories of applicants rather than economically disadvantaged people in general. Some kinds of assistance are available only after the conclusion of court proceedings. This is unsatisfactory in terms of protecting the rights of the disadvantaged during litigation.

Since July 2004, the Judicial Yuan established LAF and continues to sponsor and supervise the work of the Foundation. Any person whose case is not clearly unreasonable and meets the financial eligibility criteria may apply for legal aid regardless of the type of legal problem or his/her background and identity. To date, 20 branch offices have been established around Taiwan, serving the population in Taiwan and offshore islands. The budget in 2008 is approximately NT690,000,000 dollars, and has increased to approximately NT850,000,000 dollars in 2009. As of December, 2008, the total number of full-time employees is 184 (including 9 staff attorneys), and 42 contract, casual and part-time employees.

2.2 Private sector legal aid providers

Free legal services are also provided by bar associations around Taiwan. Legal services provided by the Taipei Bar Association, for example, include regular, free on-site consultation services. For citizens who meet certain conditions (such as low-income families or physical or mental disability), pro bono representation services in court are also provided as needed.

Depending on the nature of their business, a number of social welfare groups, also provide legal assistance. However, due to funding constraints, the types of assistance are usually limited to legal consultation. Where there are major cases requiring the

professional assistance of lawyers, these groups will seek the pro bono support of appropriate counsel. There are no defined standards for handing cases over to private practitioners, and each case is determined on its own facts. In Taiwan, organizations that provide assistance to foreign workers include the Taiwan International Workers Association, the Hope Workers Center and the Rerum Novarum Center. Organisations that assist foreign brides include the Garden of Hope Foundation, the Vietnamese Foreign Workers and Brides Office, the Taipei Women's Rescue Foundation, the Good Shepherd Social Welfare Services, the Pearl S. Buck Foundation, and the TransAsia Sisters Association, Taiwan.

3.0 Assessment Criteria and Types of Legal Aid Services

As long as an applicant's income falls below the statutory standard, and the legal problem is not clearly unreasonable, the applicant may apply for legal aid regardless of personal identity and the nature of the legal problem. When approved, LAF assigns cases to legal aid lawyers and pays their fees. The courts will defer the obligation to pay adjudication fees. If a claim has highly favorable prospects of success and it is necessary to apply for an injunction over the defendant's property, LAF may issue a guarantee certificate to be filed in court instead of paying the security for the order. This way the rights of the economically disadvantaged to access court proceedings is protected.

3.1 Assessment criteria

Citizens who meet the following conditions may apply for legal aid from LAF:

- (1) the matter is not clearly unreasonable;
- (2) the applicant qualifies as a "low-income household" under social security laws, or has income and capital below a certain standard (see Table 1);
- (3) the applicant is not means-tested in criminal compulsory defense cases.

Foreign nationals who are legally living in Taiwan may also apply for legal aid if they meet the criteria above. As the **Legal Aid Act** expressly excludes aid outside the Taiwanese territory, legal aid is not available for citizens traveling overseas. If the need for legal assistance arises, then under the “Guidelines for Providing Emergency Assistance for Citizens Traveling Overseas” a list of local lawyers is available from the Taiwanese Consulate.

3.2 Types of legal aid services

The types of legal aid services provided by LAF include drafting, legal consultation, mediation and negotiation, and representation in litigation or arbitration. The types of legal proceedings include civil, criminal and administrative proceedings.

In 2008, the total number of applications received by LAF was 40,723, and the number of applications approved was 24,143. A total of 17,698 full grants and partial grants (ie, where applicants were required to pay contribution) were made, which accounted for about 43% of the total number of applications. The number of applications for legal consultation approved was 6,445, and accounted for about 16% of the total number of applications. Further details are presented in the following table:

Total Number of Applications								
Year	Total No. of Applications		Total Grant		Partial Grant		Legal Consultation	
	No.	Ratio	No.	Ratio	No.	Ratio	No.	Ratio
2008	40,723	100%	17,247	42%	451	1.1%	6,445	16%
2007	35386	100%	16724	47.26%	485	1.37%	6123	17.30%

In terms of category, the figures from 2007 and 2008 are as follows:

Number of Civil, Criminal and Administrative law matters in 2008					
Type		No. of Applications		Legal Aid Grants	
		No.	Ratio	No.	Ratio
Litigation	Civil	12,047	29.32%	6,405	26.31%
	Family	8,501	20.69%	5,535	22.74%
	Criminal	18,658	45.40%	11,328	46.54%
	Administrative	728	1.77%	332	1.36%
	N/A	45	0.11%	29	0.12%
Non-litigious matters		1,116	2.71%	713	2.93%
Total		41,095	100.00%	24,342	100.00%
Note: as this table allows multiple choices, the total sum here will be greater than the original total.					

Number of Civil, Criminal and Administrative law matters in 2007					
Type		No. of Applications		Legal Aid Grants	
		No.	Ratio	No.	Ratio
Litigation	Civil	17985	50.34%	12130	51.52%
	Criminal	16145	45.20%	10410	44.21%
	Administrative	633	1.77%	357	1.52%
	N/A	25	0.07%	15	0.06%
Non-litigious matters		934	2.62%	634	2.69%
Total		35722	100%	23546	100%
Note: as this table allows multiple choices, the total sum here will be greater than the original total.					

4.0 Types of Legal Problems Aided

4.1 Frequently aided matters:

4.1.1 *Civil law matters*

Applications and approvals in civil law matters account for approximately half of the total legal aid applications. There are no restrictions on the type of civil legal aid problems that could be raised. In 2008, the main types of civil law matters approved are torts, debts, salary disputes, and family law matters (such as divorce, maintenance claims, custody etc.)

4.1.2 *Criminal law matters*

In 2008, the five most frequently aided criminal law matters are “the manufacture, transport and sale of drugs”, “robbery”, “fraud”, “harm and serious injury” and “homicide”. It is worth noting that drug offences accounted for the largest criminal legal aid applications for two consecutive years.

4.1.3 *Administrative law matters*

There are very few applications and approvals in administrative law matters. In 2008, the four most frequently aided matters were under “infringement of the Regulations Governing the Relationship between People of the Taiwan Area and the Mainland Area”, “infringement of the Tax Collection Act”, “infringement of the Labor Standards Act” and “infringement of immigration laws”. Compared with the more advanced legal aid schemes in other countries, there is room for improvement for LAF in administrative law matters.

4.2 Significant, novel cases

4.2.1 RCA case: 529 plaintiffs claiming upwards of NT 2,400,000,000 dollars in damages for occupational injuries

The RCA Corporation ("RCA") is a manufacturer of television and integrated circuits. In 1994, RCA was exposed for causing suspected public toxic pollution by directly disposing unprocessed toxic waste and organic solvent at its plant site, thus causing permanent damage to the soil and water sources on the site. Excessive chemicals and organic solvents such as trichloroethylene and tetrachloroethylene were detected in the underground water at the site. Ex-employees were diagnosed with occupational cancers in the liver, lung, intestine, stomach, bone, nasopharynx, lymph, and breast. So far at least 1,059 people are proven victims of cancer, while 216 have died of it and 102 are affected with various tumors. Ex-employees decided to file lawsuits against RCA and its controlling company and claim compensation. The LAF Taipei Branch Office formed a team of attorneys and recruited experts and academics from different fields, as well as representatives of labor and environmental groups. The matter is now being heard in the Taipei District Court.

4.2.2 The CPDC pollution case: residents who lived with toxic wastes for over 60 years

The China Petrochemical Development Corporation Plant ("CPDC") in Anshun, Tainan, was established in 1942 by the Japanese company Kanegafuchi Soda to produce sodium hydroxide, hydrochloric acid, and liquid chlorine. It was temporarily shut down in 1982 due to financial problems. It then merged with CPDC in 1983, and was finally privatized on June 20, 1994. Between 1940s and 1980s, a time when environmental protection awareness was poor and the ideal of sustainable development in soil and underground water conservation unexplored, there was no statutes or managerial system pertaining to environmental protection. As a result, various by-products and harmful industrial

wastes were produced by the CPDC plant in Anshun. Due to long-term accumulation and biological chain formation, the soil, the underground water body, and the surface water body in and around the plant was seriously polluted. Neighboring residents were found to have excessive dioxin in their blood. On July 11, 2005, the government proposed a five-year program of NTD1.3 billion compensation to local residents. However, due to the large number of residents , the compensation for each was minimal. After the NTD1.3 billion compensation was claimed in five years, the physical damage to residents still exist and the environmental recovery still unclear. The government, however, had no plans for further compensation. LAF has appointed two staff attorneys to work on the matter. So far 85 plaintiffs are being represented, and the claim for damages was filed in June, 2008.

4.2.3 The case of Lo-Sheng Sanatorium: infringement on human rights spanning 70 years

The Lo-Sheng Sanatorium established by the Department of Health of the Executive Yuan is a relic of the tragedy of Japanese colonialism and eugenicism. The Japanese government treated patients with Hansen’s Disease (i.e., leprosy) with measures such as compulsory quarantine, imprisonment, sterilization and abortion. When the Lo-Sheng Sanatorium was taken over by the National Government in 1945, the compulsory quarantine policy was carried on illegally until 12 February, 1949, when the Provincial Government of Taiwan enacted the “Prevention Regulations Against Leprosy in Taiwan Province”, and enforced compulsory hospitalization on the patients. Patients suffering from leprosy received many instances of inhumane treatments, such as compulsory sterilization, medical experimentation, and improper quarantine. Not only were patients deprived of the possibility of development in life, their human rights were severely abused.

Staff attorneys of the Taipei branch office teamed up with other pro bono lawyers to represent leprosy patients in court proceedings, claiming State compensation for infringements of

human rights by compulsory quarantine and sterilization. The team also handled administrative actions arising from compulsory removal of these patients out of the sanatorium.

LAF also cooperated and campaigned with other social welfare groups and in 2008 a legislation was passed to provide for compensation and the protection of leprosy patients' human rights. This legislation restores the reputation of these patients, and eliminates the general public's discrimination and prejudice against them. It also gives patients who have been quarantined for life proper medical care and appropriate compensation for long-aggrieved human rights.

5.0 Legal Aid for Foreign Nationals: statistics on grants made to foreign nationals

In 2008, the total number of grants made to foreign nationals was 1,669. This accounted for approximately 6.91% of the total number of applications approved, and should be comparable with the growth in the number of foreign brides and workers in Taiwan.

The Number and Ratio of Grants Made to Foreign Nationals		
Year	Number of Grants Made to Foreign Nationals	% of Total Grants
2008	1669	6.91%
2007	1671	7.16%
2006	1227	4.95%

In terms of nationality, the top ten nationalities of applicants whose applications were approved by the LAF since its establishment to December, 2008 are as follows:

Applications, Approvals and Nationalities				
Order	Nationality	Total Applications	Grants	Ratio (Grants)
1	Vietnam	3616	3232	34.54%
2	China	2878	2427	25.93%
3	Indonesia	1738	1579	16.88%
4	Philippines	908	829	8.86%
5	Thailand	446	365	3.90%
6	Malaysia	160	130	1.39%
7	Cambodia	132	117	1.25%
8	Myanma	103	85	0.91%
9	United States	51	39	0.42%
10	Japan	45	37	0.40%
11	Others	619	517	5.52%
		10696	9357	100.00%

The above table shows that the top three nationalities are Vietnam, China and Indonesia, indicating the close contact between the three countries and Taiwan, and a higher demand for legal aid.

6.0 Contribution of Private Practitioners

LAF has extensively invited the participation and assistance of private practitioners to formulate its policy directions, amend its rules, regulation, and business operations. LAF has also received warm responses in return. In addition, the interaction with private practitioners extends to holding training courses, sharing casework experiences and initiating significant human rights cases and projects to assist the disadvantaged. The contribution of private practitioners is an important motivation for the growth and development of LAF, and it is a central concern of LAF to continue the dialogue with private practitioners in different ways. LAF is able to provide services that meet the applicants' needs

only with the participation and assistance of private practitioners. The paragraphs below briefly explain the contribution of private practitioners.

6.1 Participation in regular business

6.1.1 Legal aid lawyers

Apart from a handful of staff attorneys, the majority of legal aid work is carried out by private practitioners, who provide legal consultation, mediation and negotiation, the drafting of legal documents, and representation in litigation or arbitration. Under the **Legal Aid Act**, lawyers are obliged to participate in legal aid work. There are about 5,500 practicing lawyers in Taiwan, and as of 2008, lawyers who have indicated willingness to do legal aid work have reached 2,729. So far, it has not been necessary for the Foundation to take any action to compel lawyers to provide legal aid.

6.1.2 Assessment Committees

Each branch office establishes an Assessment Committee, members of which are unpaid and have a tenure of three years. Directors of branch offices nominate judges, prosecutors, military judges, lawyers or scholars and experts in the legal field to LAF for appointment. As of December 2008, committee members have reached 1,718. The Assessment Committee is responsible for the following matters:

- (1) approval, refusal, revocation and termination of legal aid applications;
- (2) advance-payment, payment, reduction or cancellation of legal fees and costs;
- (3) legal fees and other costs that should be born by applicants; and
- (4) resolution of disputes between legally assisted persons and legal aid services providers.

6.1.3 Review Committees

Applicants may appeal the decision of the Assessment Committee. LAF has formed the Review Committee for this purpose. Committee members include senior judges, prosecutors, military judges, lawyers or other experts and scholars in the legal field. Members are unpaid and have a tenure of three years. As of December 2008, the committee has 197 members.

6.1.4 Specialist Committees

LAF may establish "specialist committees" underneath the Board of Directors. Committee members consist of NGO representatives and experts and scholars with expertise in legal knowledge. These positions are unpaid. So far, the Foundation has set up the Legal Affairs Committee, Development Committee, the Research Committee and the International Affairs Committee. The four committees assist the Foundation in the drafting and amendment of regulations, interpretation of its statutes. It also provides advice on the Foundation's policy, trend, and future directions.

6.2 Other contributions

6.2.1 Projects on issues concerning human rights and the disadvantaged

In addition to processing legal aid applications, LAF also keeps a watchful eye on the protection of human rights. It has initiated a number of projects to fight for the rights of disadvantaged groups. Projects in 2007 included the following: duty lawyers' assistance during suspects' first interviews at police stations and prosecutors' offices; legal aid for card debtors under the Card Debt Clearance Act; cooperation with the Alliance to End the Death Penalty; assistance for victims of human trafficking; amendment of the occupational injuries legislation; assistance for low-income households; assistance for stateless students from Thailand and Myanmar, and assistance for the Matsu "ghost

population". Projects such as these, in terms of establishing policies and goals, project coordination, casework, law reviews, advocacy, feedback, and evaluation, all involve the continued participation of private practitioners.

6.2.2 Legal education and symposiums

Issues concerning the disadvantaged generally are not part of the usual practice of mainstream private practitioners. Consequently there is frequently a lack of extensive understanding of these issues. On the other hand, the mission of LAF is to assist the disadvantaged. To bridge this gap, LAF held a series of practical training courses and symposiums, inviting scholars, judges and legal practitioners as speakers on the relevant laws and practice. NGOs and frontline social workers were also invited to share their skills and experiences in dealing with applicants. The aims were to equip lawyers with professional skills, an understanding and care for the disadvantaged, as well as the ability to cooperate with NGOs. Training courses held in 2007 included practical skills in defending death penalty cases, family law, advising suspects during their first interviews at police stations and prosecutors offices, and skills in handling cases under the Card Debt Clearance Act.

7.0 Quality Control

LAF considers the specialization of legal aid lawyers as the main guidance in assigning cases. However, as private practitioners generally lack the experience to handle problems concerning the disadvantaged, and so few organisations provide these trainings, LAF has coordinated seminars which provided professional and practical training on these issues for legal aid lawyers. Furthermore, in order to obtain better understanding of the quality of legal aid services, LAF has also established complaints handling and quality evaluation procedures.

7.1 Lawyers' legal education

7.1.1 Professional training on defending capital punishment cases

Since 2006, LAF has been increasing legal aid for defending the accused who are subject to the death penalty. However, as capital punishment cases are more complex than other types of criminal cases, requiring highly professional skills and academic scholarship to provide competent defense, LAF had invited scholars and lawyers experienced in the area to share their professional skills and defense tactics in training seminars.

7.1.2 Issues in family law training seminars

In family law, multiple claims are frequently litigated in one proceeding. For example, domestic violence cases may accompany claims for criminal compensation; divorce lawsuits may accompany applications for protection orders. Among them, divorce lawsuits usually deal with custody, maintenance, damages and the division of assets. Personal trauma aside, what legal services should legal aid lawyers provide to meet the litigants' needs? Without appropriate training, it is impossible to represent them competently. Accordingly, LAF had invited scholars and lawyers specialising in negotiating family law matters to share their experiences.

7.1.3 Duty lawyers services at police stations and prosecutors' offices

In September 2007, LAF commenced a pilot program to provide duty lawyers' services to suspects during their first interviews at police stations and prosecutors' offices. This was a milestone in the history of human rights protection in Taiwan. To provide training for lawyers who participated in this pilot, LAF invited a senior criminal law solicitor, Mr Anthony Edwards, from London to deliver lectures on the skills of a duty lawyer, and to share over 10 years of experience in this field.

7.1.4 *Trainings and symposiums on the Card Debt Clearance Act*

The current financial crises in Taiwan left many debtors insolvent. There were no debt clearance mechanisms to deal with debts. Coupled with violence in debt collection practises, this created numerous serious social problems. LAF collaborated and campaigned with community groups, and the Legislative Yuan finally passed the Card Debt Clearance Act in June 8, 2007, which became effective on April 11, 2008. At the same time, LAF also coordinated a project to assist debtors and held training seminars for legal aid lawyers.

7.2 Handling of complaints

Except for a few novel cases which are handled by staff attorneys, legal aid cases are mostly assigned to private practitioners. In order to gain deeper understanding of legal aid lawyers' quality of work, and to resolve the complains of legal aid recipients and associated persons, LAF has formulated a complaints handling procedure, where legal aid lawyers, LAF staff members, assessment and review commissioners can all be complained against. In addition, judges or prosecutors of legally aided matters could also complain against legal aid lawyers about their performance.

In 2007, LAF handled a total of 228 complaints, and 230 complaints in 2008. The complaints were mostly against the services of staff members and the quality of legal aid lawyers' conduct of their cases. For complaints against lawyers, if the conduct complained of is affirmed after investigation, then depending on its seriousness, LAF may issue warnings, reduce or stop assigning cases. In serious cases, LAF may also refer complaints to the bar association's disciplinary board.

7.3 Evaluation of the quality of legal work

To ensure that every recipient of legal aid obtains quality legal assistance, LAF formed a scheme in December 2006 to evaluate the quality of work done by legal aid lawyers. The scheme was implemented in December 2007. The scheme involved the collection of questionnaires from three sources:

- (1) results of telephone survey of legal aid recipients in 2005 and 2006. A total of 3,228 valid questionnaires were completed;
- (2) survey of social workers who accompanied legal aid recipients during consultations with lawyers or in court hearings. They were asked to evaluate legal aid lawyers' performance. A total of 47 valid questionnaires were collected;
- (3) the Judicial Yuan provided 478 questionnaires completed by Judges on legal aid lawyers' handling of their legal aid cases.

Questionnaires from the three sources were collected and analyzed to focus on the work of about 80 lawyers, the performance of whom were rated among the top and bottom ranges of the grading scale. Files in nearly 400 legal aid cases were selected and checked by staff members who then interviewed recipients of legal aid, and carried out the second round of the same selection process. The results were forwarded for investigation, and those who shown problems were offered the opportunity to provide written explanations, which were accepted as reference for the final grading decision.

This evaluation process is expected to be completed in April, 2009. LAF will announce the names of lawyers who provided outstanding services. For those rated with poor performance, depending on the degree of concern, LAF may issue warnings, reduce or stop the assignment of cases, discharge them from association with legal aid, or refer the matter to the relevant bar association's disciplinary board for its consideration. LAF has deployed a team of staff members, 21 investigators and 9 committee members to conduct this evaluation process. It is a

demanding scheme, both in terms of scale and cost.

8.0 Other Legal Aid Services

Other than routine business, LAF also aims to plan and implement timely programs that meet the contemporary needs of citizens. Below are three examples:

8.1 Staff attorneys and improvement to the quality of services

Since 2006 LAF has been employing and allotting staff attorneys to its branch offices. There are a number of goals in employing staff attorneys: to ensure the smooth implementation of the legal aid scheme, to ensure the quality of legal aid services, to ensure the capacity of handling novel or significant cases, and to satisfy needs in some remote areas or in other special circumstances. As of 2008, LAF has employed nine staff attorneys, five of them in Taipei, two in Tainan, and three in Banciao branch offices.

The main duty of staff attorneys is to handle cases concerning the disadvantaged and novel cases, such as the RCA occupational injury claim, the human rights claim of the leprosy patients of the Lo-Sheng Sanatorium, the project to assist victims of human trafficking, and the claims for compensation in the CPDC pollution case.

Staff attorneys refer recipients of legal aid to community organisations if such needs are discovered during the conduct of the case. If flaws in the judicial system are discovered, they will also try to find solutions or suggest improvements by involving the efforts of other community groups. Staff attorneys also cooperate in marketing activities and in other related administrative duties.

8.2 Outreach services

Although 20 branch offices have been established around Taiwan, residents from the remote parts still experience difficulties

attending branch offices. Depending on the local circumstances, branch offices cooperate with courts or other organisations to provide legal clinics. Some branch offices also provide services through video-conference facilities. In addition, some branch offices regularly conduct outreach services, mainly for aboriginal tribes.

8.3 Participation in reforms: expanding the functions of legal aid

8.3.1 Project to campaign for the passage of Consumer Debt Clearance Act

Please see the previous paragraphs regarding the campaign for the passage of the Consumer Debt Clearance Act and the Foundation's project to grant legal aid to card debtors.

8.3.2 Pilot program: duty lawyers services at police stations and prosecutors' offices

LAF commenced a pilot program in September 2007 to provide duty lawyers services for suspects during their first interviews at police stations and prosecutors offices. At first services were available only during normal office hours, but the program has now expanded to a 24-hour, seven-day scheme since October 17, 2008.

8.3.3 Cooperation with the Alliance to End the Death Penalty

The abolishment of capital punishment has been a global judicial trend and future direction in Taiwan government policy. Although it is not possible to legislate for its abolishment at the moment, the President has announced that the death-penalty will not be executed, resulting in the non-execution of many death-penalty cases. Many accused and their families having exhausted their resources could not afford legal counsel to pursue the re-trial of their cases. Accordingly, LAF cooperated with the Alliance to End

the Death Penalty, and by December 2007 had provided legal aid in 25 cases.

8.3.4 Assistance for victims of human trafficking

Human trafficking is one of the top three transnational organized crimes, along with the smuggling of drug and weapons. Human traffickers easily deploy tactics such as fraud, intimidation, violence, and imprisonment to control the victims, committing them to forced labor, sexual exploitation, and organs removal for extortionate profits. Taiwan is classified as a source, destination and transition country for victims of human trafficking, which is a serious problem.

Due to the seriousness of the crime of human trafficking, LAF has loosened its assessment criteria and has granted legal aid to victims in court actions to pursue criminal and civil compensation, to obtain lawful residence in Taiwan, or to return home in safety. As of October 23, 2008, LAF has aided 66 victims of human trafficking.

8.3.5 Project to assist low-income households

After an amendment to the Social Security Act in January 2007, an increase of about 50,000 people was expected to be eligible for the scheme. The effect of the amendment, however, was the possible cancellation of subsidies for many families. LAF formed a "Research team on low-income households project" to analyze and discuss related legal and social issues. The team also collaborated with social groups to finalize the amendment of the Social Security Act on January 16, 2008, which expanded the criteria for recognizing the economically disadvantaged people in Taiwan.

9.0 Conclusion: Growth and Challenges

9.1 Review of the assessment procedures

There are two types of assessment procedures. For general legal aid applications, an applicant or his/her representative is initially interviewed by an assessment commissioner, and the application is then jointly decided by a panel of three commissioners (which included the first commissioner). If the decision is to grant legal aid, the matter is assigned to a lawyer who was not a member of the assessment panel. For card debt clearance applications, the applicant or representative is interviewed by a lawyer for initial advice, and once a panel of three lawyers decides that aid should be granted, the case is assigned to the lawyer who gave the initial advice. Regardless of the type of legal problem, it is the policy to decide an application on the same day that it was made, unless this is not possible under time arrangements or if the applicant has been requested to supply further documentation. The Foundation's efficiency in processing applications has received positive feedback from the general public. Generally speaking, NGOs find the assignment criteria too strict, while the judiciary finds it too relaxed. LAF has begun to review the relevant comments, to take into account both fairness and efficiency in assigning cases to lawyers.

9.2 Review of the financial eligibility criteria

Under the Legal Aid Act, an applicant charged with a compulsory defence crime is exempt from means assessment. Consequently, a wealthy criminal may request the services of a legal aid lawyer, and this had created controversy. All other legal aid applications are subject to means assessment, and as a result LAF could not assist certain cases that involve significant infringement of human rights and cases that were the product of structural flaws in the judicial system. LAF has received various opinions regarding the financial eligibility criteria, and has begun to review these issues.

9.3 Review of the types of legally aided cases

LAF does not restrict the types of legal problems that it will accept. However, due to constraint on resources, and also with reference to the laws of overseas legal aid schemes, LAF has commenced reviews with the aim of prioritising aid to matters that concern the disadvantaged.

9.4 Review of the case assignment procedures

The branch offices are responsible for the assignment of cases. In principle, branch offices respect the applicant's choices of lawyers. However, as most applicants do not have preferences, branch offices assign cases according to the specialization, preferences (eg, court representation, drafting legal documents) and monthly quota of each legal aid lawyer. Branch offices also consider the quality of previous work, complaints or disciplinary history of the lawyer, and assign cases fairly. However, as the assignment standards have not been streamlined between branch offices, there are inevitably criticisms over the fairness and appropriateness of assignment. Accordingly, LAF has built the assignment procedures into its business software. The assignment of cases becomes computerized through programmed instructions, and is done manually only in exceptional cases.

In addition, LAF is also investigating the possibility of adopting a contract model, where contracts are signed with quality legal aid lawyers who will be assigned with a given number of cases within the contract period. This will help establish a public interest lawyers system, and at the same time raise the quality of services.

9.5 Continue to conduct novel cases

In addition to accepting legal aid applications, LAF will continue its focus on the protection of human rights, paying special attention to individual disadvantaged groups, and coordinate various

projects to defend these rights. In addition to the projects mentioned above, others include the project to amend the laws relating to occupational injuries, the project to assist the stateless students from Thailand and Myanmar, the project to assist the “ghost population” in Matsu, as well as the joint project with the Association for Victims Support to assist victims of crimes.

9.6 Expand legal aid services for foreign workers

So far, the number of foreigners living in Taiwan for very long periods of time has exceeded 770,000, and this includes 370,000 foreign workers and 400,000 foreign brides. The number is increasing each year, as well as the demand for legal aid. As language and cultural issues must be considered when foreigners run into legal problems, it is difficult to provide the appropriate assistance without taking these elements into consideration. Therefore, LAF takes particular care to keep in contact with NGOs, government agencies and consulates to provide realistic and effective assistance to foreign applicants.

LAF already has contacts with many consulates, and has set up channels of referral. However, instances had occurred where consulates attempted to interfere with lawyers’ handling of cases and the judicial process. LAF will improve its communications with consulates and representatives to deepen their understanding of the judicial system and the legal aid scheme in Taiwan.

[Table 1] Financial Eligibility Criteria

		Taipei City	Kaoshiung City	Other Areas
Single Household or 2 people in the household	Monthly disposable income	Under NT\$28,000	Under NT\$23,000	Under NT\$22,000
	Disposable assets	Under NT\$500,000		
3 people in the household	Monthly disposable income	Under NT\$38,000	Under NT\$33,000	Under NT \$32,000
	Disposable assets	Household total under NT\$500,000		
4 people in the household	Monthly disposable income	Under NT\$48,000	Under NT\$43,000	Under NT\$42,000
	Disposable assets	Under NT\$600,000		
Notes	<p>1. The standard for household total income refers to the standard for the area in which the applicant lives.</p> <p>2. In situations not listed above, the monthly disposable income for the household increases by NT\$10,000 for each additional family member.</p> <p>3. Disposable assets: this does not include residential or private agricultural land having declared present market value under NT\$4,000,000.</p>			