

**National Report from Legal Aid Foundation, Taiwan for  
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1. Introduction

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

As of 2015, the LAF has entered its 11th year. The LAF has expanded to 21 branches compared to 2004 when it only had five branches. Below is an introduction on the recent operating conditions, financial situations, legal aid service delivery model and wages, legal support service types, quality control, new technology services model, and mutual international assistance operations of the LAF. Finally, we provide a description on the challenges currently encountered by the LAF and the relevant response plans.

2. Business Overview

(1) As of 2014, a total of 143,889 people have applied for assistance from the LAF. Among them, 139,980 cases were applications to this foundation for assistance; 2,050 cases were projects commissioned by the Ministry of Labor; and 1,859 cases were projects commissioned by the Council of Indigenous People (hereafter "Council of Indigenous People Projects"). Among the cases undertaken by this foundation; 79,137 of them applied for legal consultation services. Application type and cases are shown in Table 1.

Table 1: Total Legal Aid Application Statistics							
Total (excluding commissioned cases) (a=b+c+d+e+f)	LAF Cases					Commissioned Cases	
	General Cases (b)	Project-Based Cases				Immediate Support for Labor Litigation	Legal Aid for Indigenous Peoples Project
		First Interrogation Accompanied by Legal Aid Attorneys Cases (c)	Consumer Debt Clearance Cases(d)	Expansion of Legal Counseling Cases (e)	First Interrogation for Indigenous People Accompanied by Legal Aid Attorneys (f)		
139,980	45,133	2765	5,650	79,137	7,295	2050	1,859

(2) The types of legal aid cases can be divided into “general cases” and “special projects.”

- I. “General cases” refer to the cases which the applicants apply for private lawyers’ “representation and defense,” “mediation or settlement” or “legal document drafting,” including civil, criminal, family, and administrative cases. The number of general cases granted with legal aid is 30,550
- II. “Special projects” are divided into “First Interrogation Accompanied by Legal Aid Attorneys Project,” “Consumer Debt Clearance Project,” and “First Interrogation for Indigenous People Accompanied by Legal Aid Attorneys,” etc. The number of project-based cases that received legal aid is 4,673. In particular, 1,190 cases were First Interrogation Accompanied by Legal Aid Attorneys cases, 2,318 cases were consumer debt clearance cases, and 1,165 cases for First Interrogation for Indigenous People Accompanied by Legal Aid Attorneys.

<b>Table 2: Statistics of Total Legal Aid Cases</b>				
Total No. of Legal Aid Cases (a=b+c+d+e)	No. of General Cases (b)	Project-Based Cases		
		No. of First Interrogation Accompanied by Legal Aid Attorneys Cases (c)	No. of Consumer Debt Clearance Cases (d)	No. of First Interrogation for Indigenous People Accompanied by Legal Aid Attorneys (e)
35,223	30,550	1,190	2,318	1,165
<p>Note:</p> <ol style="list-style-type: none"> <li>1. The support caseloads presented in this table that have been granted mean cases reviewed and approved for council assignment by this foundation when the table was formulated on January 3, 2015. Therefore, they include cases originally dismissed by the review committee of the branches but approved for assistance by the reconsideration committee.</li> <li>2. This table excludes legal advice cases.</li> <li>3. The number of assistance approval cases for projects during the first prosecutor and police interrogation with an attorney presence as well as aboriginal prosecutors and police investigators that arrived at the scene with an attorney presence means cases that comply with the counsel assignment criteria.</li> </ol>				

(3) Analysis of 2014 cases of legal aid by type: “Representation and defense” is the majority of general legal aid cases and accounts for 89.68% of the total cases of legal aids. The types of legal aid cases are shown in details in the following Table 3-4.

<b>Table 3: (General Cases) Statistics of Types of Legal Aid Granted</b>				
Type	Representation and Defense	Legal Document Drafting	Mediation or Settlement	Research Legal Consulting
No. of Cases	27,398	3,019	127	6
Ratio	89.68%	9.88%	0.42%	0.02%
<p>Note: Research Legal Consulting cases refer to the legal aid services involving private lawyers’ counseling and drafting legal counseling opinions after being approved by review, which differs from the cases giving oral consultation on site.</p>				

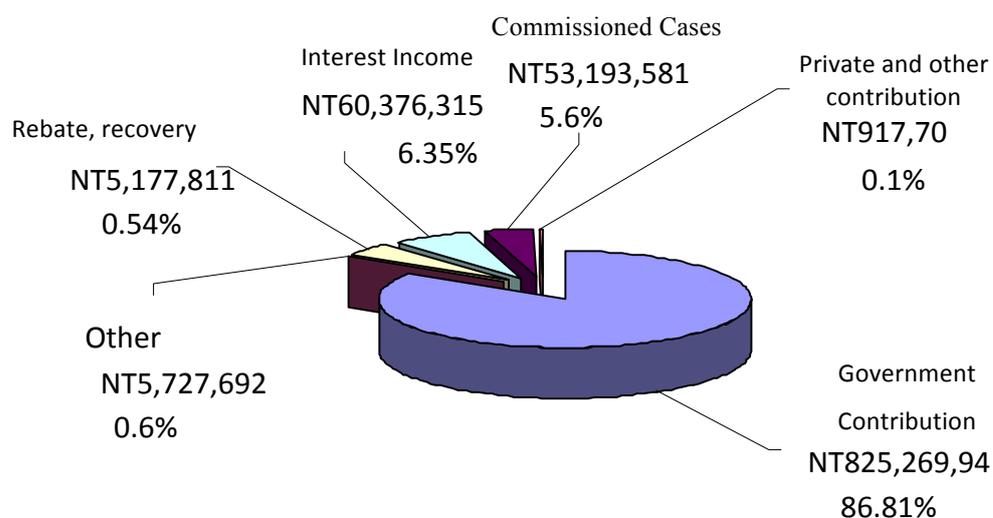
<b>Table 4: (General Cases) Statistics of Applications and Types of Cases Granted Legal Aid</b>				
Types	Applications		Cases Granted Legal Aid	
	No. of Cases	Ratio	No. of Cases	Ratio
Criminal	25,110	55.64%	17,483	57.23%
Civil	11,340	25.13%	6,882	22.53%
Family	8,114	17.98%	5,976	19.56%
Administrative	523	1.16%	209	0.68%
Blank	46	0.10%	-	0.00%
Total	45,133	100.00%	30,550	100.00%

### 3. Financial Status

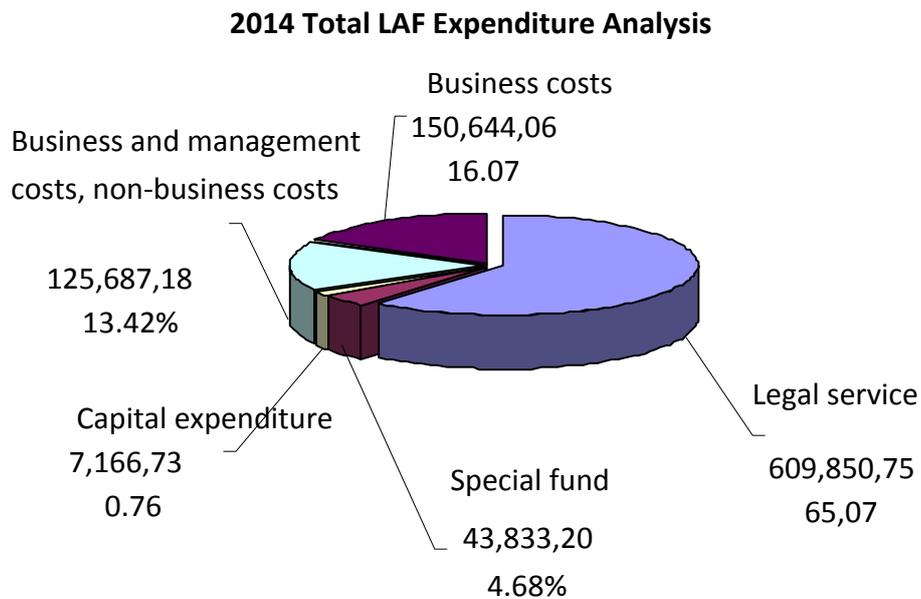
#### (1) Funding

According to Article 6 of Legal Aids Act, Judicial Yuan, the competent authority of LAF, shall prepare annual donation budget. As of 2014, the total funds revenue for LAF was NTD 950,663,045 (equivalent to USD 29,700,000). The income items are shown as follows:

#### 2014 Total LAF Funds Revenue Analysis



- (2) Total Expenditure: 2014 total expenditure for LAF was NTD937,181,927. The details are shown in the following diagram.



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

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

- (4) Are there caps on annual spending?

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

#### 4. Types of legal aid services

##### (1) Service types

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

##### (2) Content of legal aid

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

##### (3) LAF's Special Projects

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

###### I. Legal Aid for Consumer Debt Clearance

It is estimated that as many as 800,000 to one million credit card holders are trapped in debt. Despite the facts that the LAF had launched a consumer debt clearance assistance project in 2008 and Congress has repeatedly amended the Statute for Consumer Debt Clearance, numerous credit card holders still are not aware that they can resolve their debt problems through legal channels by seeking professional assistance to disengage themselves from the abyss of debt.

When the LAF first launched the debt clearance project, it established a lower attorney remuneration level compared to that for other types of case because it had envisioned simpler court proceedings. But court proceedings for this type of cases are in fact very complicated. Therefore, the LAF has elected to increase attorney remuneration for consumer debt clearance cases on January 1, 2015, and change its services model to provide consultation priority to such cases because most of the Taiwanese people have no concept or insufficient knowledge towards debt clearance and to balance the original operations of the LAF with the newly added debt clearance cases. After the amendment of the Statute for Consumer Debt Clearance and the court victory ratios have increased, the LAF has forgo the model of waiting for the debtors to confirm their willingness to clear the debt, select a procedure (reconstructing or clearance), and then apply for assistance under the same model as application for general support cases. After the change, although the caseloads have increased slightly, they are still considered as minority cases. The LAF has cooperated with the Consumer Debt Clearance Committee of the Bar Association and the Credit Card Debt Victim Self-help Committee as well as actively visit the local governments in hopes to actively promote the consumer debt clearance regulations and the LAF's support projects through government resources, and to encourage credit card debtors to stand up and clear their debt problems through the legal system.

## II. First Interrogation Accompanied by Legal Aid Attorneys

In regard to the criminal defendants' or suspects' right to counsel, the history of the development of Taiwan's criminal lawsuit system went from having a lawyer to be present only in the stage of trial, extended to have a defender in the public procurator' investigation, and then to include a defender in the police detective work. On September 17, 2007, LAF launched the First Interrogation Accompanied by Legal Aid Attorneys project to guarantee right of action and right of equality. The objectives of the project are to improve the efficiency and accuracy of investigation and trial, at the same time, to offset the gap of professional legal knowledge between ordinary citizens and criminal investigation organ, help people exercise their right of defense, and protect the involved party's rights. The project provides lawyer's accompanying services in the process of criminal interrogation, 24 hours a day, all the year round. Although this project does not carry out applicant's means test, it is limited to the arrested or detained persons who are involved in

committing a crime carrying a minimum 3-year limited imprisonment and are asked to be investigated for the first time for the case, except for indigenous and the mentally disabled. By the end of 2014, LAF has provided legal aid for 4,921 cases.

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

To strengthen the protection of the criminal defendants' rights, the LAF and the civil groups have drafted and proposed the amendment to Article 31 of the Criminal Procedural Law to ensure the rights of the arrested criminal defendants or suspects to consult with legal counsel or request to have an attorney present during post-arrest interrogations regardless of the crimes involved. The objective is to eliminate the legal evidentiary capacity of the interrogation or inquiry transcripts created without prior legal counsel consultation or attorney present pursuant to law. If the legislative process for this amendment is completed, the LAF will cooperate to promote and handle the "Telephone Consultation before Persecutor and Police Interrogation Project" so that the criminal defendants or suspects will be permitted to call the telephone center established by the LAF before an interrogations after been taken into custody or arrested, and to be accompanied by an appointed attorney during interrogations.

### III. Legal Aid for Indigenous Peoples

By the end of 2014, the number of indigenous population in Taiwan was 540,023, having 16 tribes<sup>1</sup>. They accounted for 2.30% of the total population (23,433,753) in Taiwan.

Taiwan is a society of multi-culture. Under the value of multi-culture, one should respect the world view that has been constructed in the process of each civilization's self-surviving, and should allow each ethnic group, following its common determination approach, to parallel

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<sup>1</sup> The Republic of China in Taiwan currently recognizes 16 indigenous ethnic groups: Amis, Atayal, Paiwan, Bunun, Puyuma, Rukai, Tsou, Saisiyat, Yami, Ita Thaw, Kavalan, Taroko, Sakizaya, Seediq, Hla'Alua, and Kanakanavu.

institute each ethnic group's life and pursue sustainable development, and to achieve the goal of multiculturalism through the model of cultural diversity and social organization management presented by the multi-culture.

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

Since April 2013, LAF has, in cooperation with the Council of Indigenous Peoples organized the project of "Legal Aid for Indigenous Peoples." Any indigenous, in addition to the cases apparently considered to have no way to relieve and regardless of financial ability, can apply to LAF for legal aid for legal problems, legal consultation, legal document drafting, or legal representation in litigations and defense. By the end of 2013, there were 606 applications, of which 280 applications accorded with the project requirements and granted legal aid. By 2014, there were 1,859 applications, of which 1,607 applications met the requirements of the project.

#### IV. Immediate Support Program for Labor Litigation

Starting from March 2, 2009, LAF was commissioned by the Ministry of Labor to operate the "Immediate Support Program for Labor Litigation." The program provided legal aid for workers involved in labor dispute cases. Its qualifications for application were less strict than those of regular LAF applications. The goal was to help offset the disadvantage of laborers in relevant actions due to their disadvantaged economic status. From the start of the program until the end of 2014, 12,762 laborers met the legal aid criteria, and according to the analysis of litigation results, around 76% of cases resulted in favor of the laborers.

#### V. Legal Aid for Victims of Human Trafficking

Along with increasing awareness of human trafficking issues in the international community, Taiwan, as a state of exporting, importing, transferring the victims of human trafficking, has established measures

of preventing human trafficking crimes too. On October 2007, LAF established a Legal Aid for Victims of Human Trafficking Program and actively conducted a series of actions to protect the victims. LAF has helped in drafting and promoting the private version of the Human Trafficking Prevention Act, in addition to offering legal aid to the victims of human trafficking in individual cases. The Act was finally proclaimed by the President on January 23, 2009, and put into operation by the Executive Yuan on June 1, 2009. After implementation, the LAF will continue to work with the relevant groups on further amending the law to resolve the problems faced during the process in addition to providing support for individual cases.

LAF's Legal Aid for Victims of Human Trafficking, according to Article 15 of the Act of original version, was initially limited to legal inhabitants of Taiwan. Since 2008, the legal aid program has expanded to include the victims of human trafficking identified by prosecutors or police organs. Additionally, according to Article 3 of the Regulations and Scope for Implementing Legal Aid, LAF, in principle, does not provide legal aid in representation of complaint in criminal trials. However, legal aids are desperately needed, in view of the disadvantaged situation of human trafficking victims due to suffering psychological trauma, coupling with the complexity of the large number of defendants, locality of crimes in multiple countries, difficulty in collecting evidences, etc. Therefore, in September 2013, a resolution was reached at the meeting of the LAF Board of Directors to revise the aforementioned Regulations to provide legal aid, in principle, for the victims of human trafficking undergoing trials. Until the end of 2014, LAF provided legal aid to 1,992 victims of human trafficking.

#### VI. Expanding Legal Counseling and Utilizing New Technology to Provide Legal Aid

Since there are numerous organizations and groups in Taiwan provide legal counseling, LAF initially did not provide simple legal counseling services. Later, after observing the operations of similar organizations in other countries, members of LAF realized that if problems can be solved through counseling, the litigations can become unnecessary, and legal resources can be saved. Therefore, LAF started to offer legal counseling services and expanded the services since March 2009, and the number of applications has been growing since. In 2014, the number of cases reached 79,137, indicating obviously that people do have needs for legal

counseling.

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

To provide diverse legal advice services, the LAF has established legal consultation telephone services that give priority to "labor dispute", "debt", and "aboriginal" related cases since May 1, 2015 in addition to launching the video conference legal consultation services that replace physical travels with the convenience of the Internet. The objective is to enable more economical and efficient services, pool the resources for more efficient applications, and provide universalized legal consultation services. The LAF will also review and adjust the program based on its performances.

## 5. Application procedures and criteria for granting aid

### (1) Application procedures

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

### (2) Criteria for granting aid

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

I. General cases

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

i. Legal residents in Taiwan: LAF only require a applicant who holds legal residence status in Taiwan, and Taiwan nationality is not required.

ii. Financial eligibility must conform to Criteria for Means Testing (as shown in the following table); however, some special conditions are treated flexibly:

A. An applicant's income or assets may be higher than the amount listed in the table, however, if the excess is within the range of 20% of the level, LAF may offer partial legal aid, and the recipient of legal aid should be responsible for 1/3 or 1/2 of the lawyer fees and the necessary expenses.

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

**【Criteria for Means Testing,2015】**

(Unit: NT\$)

	Single-person household		2-person household		3-person household	
	Monthly disposable income	Disposable assets	Monthly disposable income	Disposable assets	Monthly disposable income	Disposable assets
Taipei City	below 28,000	below 500,000	below 41,718	below 500,000	below 62,577	total below 650,000
New Taipei City	below 23,000		below 38,520		below 57,780	
Tao-Yuan City			below 38,464		below 57,696	
Taichung City			below 35,580		below 53,370	
Tainan City			below 32,608		below 48,912	
Kaohsiung City			below 37,456		below 56,184	
Taiwan Province or other areas	below 22,000		below 32,608		below 48,912	
Regulations for Means Testing	subparagraph 1, Article 3		subparagraph 2, Article 3		subparagraph 2, Article 3	
Note	<p>1. Maximum cases that can be handled per month: Except for single individuals or circumstances not listed above, as each family increases one individual, its disposable income standard is calculated based on the applicant's low household income criteria calculation standard established by the city or county municipal government pursuant to the Public Assistance Act.</p> <p>2. Disposable assets: In families with more than three people, 150,000 is added per each additional person, excluding self-residence houses or farmlands with the announced value of less than NT\$5.5 million. However, if the central government or the various municipalities announced the real estate quota of over NT\$5.5 million for mid to low-income families pursuant to the Public Assistance Act, the quote shall be deducted according to said announcements.</p>					

**II. Special cases**

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

The types of special cases that LAF currently operates:

- i. The program for First Interrogation Accompanied by Legal Aid Attorneys: In regard to the criminal defendants' or suspects' right to counsel, the history of the development of Taiwan's criminal lawsuit system went from having a lawyer to be present only in the stage of trial, extended to have a defender in the public procurator' investigation, and then to include a defender in the police detective work. Considering that the unfamiliar questioning procedures or fear cause an ordinary people to be unable to give the statement of opinion freely, to guarantee the right of due process of law under the Constitution, the Board of Directors of LAF reached a resolution to offer a lawyer's company for the first questioning free of charge, and to guarantee a citizen's right of action and right of equality, the service is also free from means tests.
  
- ii. Material, disastrous incidents happened in the society: Considering that victims of a catastrophe have to face immediately the legal problems of the destroyed home, which he/she is not able to claim, and the death of loved ones, for which the inheritance procedures are complicated, LAF's Board of Directors will immediately pass a resolution for offering a special legal aid program, when a disaster occurred. For example, LAF has established an August-8 Typhoon Disaster Project for the disaster areas of Typhoon Morakot, to offer the victims legal aid services without requiring means tests, except engaging in a lawsuit is necessary. In another word, the project includes legal counseling, and representation of mediation or settlement, and other legal aid for non-contentious proceedings, without taking a means test. In addition, from July 31 to August 1, 2014, in the early morning, the incident of gas explosions occurred in Kaohsiung. The Board of Directors of LAF reached a resolution to follow the precedent of August-8 Typhoon Disaster Project to offer the services for non-contentious proceedings without taking means tests.
  
- iii. Legal counseling services: In view of the considerable differences between legal counseling, which is delivered without providing a written document of opinions, and legal aid, which requires application and approval, providing simple legal counseling to citizens to deal with

legal problems is a basic service for a legal aid organization in advanced countries. To treat each people equally, be convenient for people, and to save administrative resources, the Board of Directors of LAF reached a resolution to provide legal counseling for people without the requirement of any means test.

### III. Criteria for granting aid of government commissioned projects

LAF, starting from March 2009 and from April 2013, accepted administrative entrustments by the Ministry of Labor and by the Council of Indigenous Peoples, respectively, to provide legal aid for both the laborers and the indigenous peoples. The qualifications for applicants of MOL' project are looser than those of general cases, and the qualifications for indigenous peoples are free from means test. For more information, please refer to 4 (3).

## 6. Legal aid service models and fees

### (1) Sources of private lawyers (by type)

There are two types of lawyers undertaking LAF legal aid cases. One is staff lawyers (or staff-lawyers) hired by LAF, and the other type is private lawyers. The budget is designed for containing 18 staff lawyers and LAF has currently appointed 14 lawyers. There are 3,008 private lawyers as of the end of 2014 (accounted for 35% of the number of lawyers in Taiwan). Staff lawyers are responsible for handling major public welfare cases, Such as major environmental pollution lawsuits (RCA case is the largest worker injury and major environmental protection litigation case in Taiwan. The plaintiffs have won the first instance judgment on April 17, 2015. Please see Appendix point 5 for details) and the state compensation cases (the wiped-out of Xiaolin Village in Morakot Typhoon), while other remaining legal aid cases are all handed by private lawyers. Statistics show that among the cases that LAF granted legal aid, the ratio of cases undertaken by staff lawyers was only 1.6% in 2014, 1.5% in 2013, and 1.7% in 2012. Private lawyers still play the major role in handling LAF legal aid cases.

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

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

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

Additionally, private lawyers have low intention to process insolvency cases and law enforcement investigation cases, since these cases are usually held at midnight or early in the morning. From time to time, therefore, the LAF has recruited attorneys who have practiced for less than two years, meet certain conditions, and receive regular education and training who had apply and provide the aforementioned types of legal support services.

(2) Assignment mechanism

Lawyers who satisfy the LAF support attorney qualifications must register with the respective LAF branch located near to his or her Bar Association to serve as support lawyers. The branch office will then assign cases to the support attorneys using a fair case distribution mechanism. In principle, each support lawyer can handle a maximum of 24 legal aid cases per year. To enhance the quality of the support attorneys and protect the rights of the people receiving assistance, the LAF is further deliberating on a specialist case assignment mechanism that is expected to go into trial execution on June of 2015 (please refer to Point 7 for details on the specialist case assignment trial program).

(4) Lawyer's fees

The fee for LAF private lawyer is relatively lower than that of the market fee rate, approximately 1/3 to 1/2 of the average market fees. For this reason, the circle of lawyers has constantly demanded for reasonably higher fees. It is believed that excessively low fees will affect the service quality of private lawyers. Nonetheless, LAF's budget is constrained by the Judicial Yuan and an increase of fees will require the consent of the Judicial Yuan. Since January 2015, the LAF has implemented the new remuneration payment method for a small number of extremely low remuneration level cases to help slightly raise fees for this type of cases, and reviews for such cases are conducted at least once every three years. However, the fees are still far below the market level.

7. Monitoring the quality of legal aid services

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

(1) Promotion of the "Specialist Case Assignment Trial Program":

To further enhance the quality of support and protect the rights of those receiving assistance, the LAF has gradually established the specialist deployment support system under the "Specialist Case Assignment Trial Program" commenced in June 2015 under the "labor", "home affairs", and "consumer debt clearance" case categories; and will further expand to other specialist fields depending on the outcome of the trial implementation.

The LAF has adopted the specialist lawyer advance-review mechanism to ensure that only lawyers who satisfy certain qualifications can become a specialist lawyer and be assigned to take on a certain type of cases. At present, the qualifications are as follows:

- I. Attorneys who have personally undertaken 10 or more various specialist cases over the past three years and passed the examinations provided by the LAF support attorney specialist evaluation committee (hereafter "Evaluation Committee").
- II. Received the National Association of Specialist Lawyers Certificate issued by the Taiwan Bar Association related to the various specialist cases<sup>2</sup>.
- III. Formerly served as an assistant professor or higher in any university or independent college and taught in the various specialty fields or related law subjects for over a year.
- IV. Attended the various specialist related training courses provided by this foundation, judicial agencies, or Bar Association for 30 hours or longer.
- V. Authored a master's or doctorate thesis related to the various specialist fields, or publically published or authored three 10,000 word theses related to the various specialist fields or two 20,000 word theses or articles.

To maintain and control the case handling quality of the specialist attorneys, the LAF has adopted the subsequent case review mechanism to review the attorneys' qualities. Those with bad case handling qualities shall lose their qualifications as specialist attorneys and must wait for a certain period in order to reapply to become a specialist attorney again.

Specialist attorneys whose cases are reviewed by the Evaluation Committee to have good quality shall be assigned more cases based on their willingness but shall not take on more than 24 cases each year. In

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<sup>2</sup> In March 2013, the Taiwan Bar Association formulated professional attorney certification regulations, but the regulations have yet to be implemented.

addition, specialist attorneys are obligated to attend 6 hours of training in the various specialist fields or education training programs, and must satisfy the requirements by the LAF to share their case handling experiences during the relevant study programs. Should a specialist attorney fails to fulfill the abovementioned obligations without proper cause, the LAF shall be entitled to stop assigning specialist cases to said attorney until such obligations has been met.

Preparation and implementation for the specialist case system are not easy, but case and support attorney specializations can significantly enhance the quality of legal support and protect the rights of those receiving support. The LAF hopes to use this pilot program to receive valuable experiences and feedback to serve as references and lessons for the institutionalization of the legal aid specialist services in the future, and to enable the disadvantaged people to receive higher quality legal support services.

## (2) Case-in-process monitoring

- I. The mechanism for requesting pre-payment LAF require that a private lawyer should start to process a case within two months after accepting the case, and after reporting with the documents about current status of the case to the branch office, he may request a pre-payment. In case when an attorney fails issue a report, the branch shall stop assigning other cases to the attorney until said support attorney has completed the report, and may switch the support attorneys when necessary.
- II. LAF set up reminders on the software system for the services: A deadline is set up according to the type of legal aid cases. If a case is past due without reporting conclusion of the case, the branch office will actively find out the causes of delay, in order to master the case's schedule.

## (3) Case-closing monitoring

- I. A private lawyer should, within one month after completing a case, collate relevant documents and report back the conclusion of the case. Upon finishing the case conclusion review by the branch office, the lawyer can get his/her case conclusion fees.
- II. If information contained in an attorney's report is not complete and said attorney fails to provide corrections within 15 days after receiving a notice, the branch shall request the Review Committee to approve the settlement remuneration. To appropriately simplify the operations, if a

branch has reviewed and approved the case handling quality for a certain attorney, the branch may dispense with the abovementioned obligation to attach certain documents for each case. However, to ensure quality, irregular assessments can still be deployed. This mechanism can achieve a balance for forgoing the attorney's obligation to provide reports and protecting the rights of those receiving assistance.

III. The fees may be raised during case conclusion review, depending on the complexity of the case or favorable results of judgment in a criminal case. However, if there is an improper performance of duty imputable to the private lawyer, the fees may be reduced by varying degrees, depending on the circumstances.

(4) No more than 24 cases taken by the legal aid lawyers a year:

I. In order to avoid the influence of excessive cases taken by lawyers on quality, LAF set up the limitation on case numbers. According to Point 7 of Appointment of Legal Aid Lawyers, the legal aid lawyers cannot take more than 24 cases a year.

II. But there are exceptions when (1) clients appoint the lawyers or the lawyers have the experience to provide assistance for the procedure of instances or (2) clients appoint the lawyers or the lawyers have the relevant experience to provide assistance for the procedure of instances; the consideration of the mutual trust to some degrees shall be taken to protect the rights of clients.

VII. Additionally, for the types of some cases such as clearance of individual debts and First Interrogation Accompanied by Legal Aid Attorneys program, the willingness for legal aid lawyers to take the case is low. For encouragement, they shall be excluded in the calculation of the said 24 cases.

III. Furthermore, due to the unbalanced distribution of practicing areas of lawyers, some Branch offices may have the difficulty to appoint the legal aid lawyers, and they shall be also exempted from the said limitation on 24 cases.

(5) Appealing mechanism

I. LAF's appealing mechanism aims to protect the rights of the applicants and clients as well as to improve quality of legal aids. The parties applicable include LAF staff, staff lawyers, members of Audit Committee, and legal aid lawyers. According to Points Governing the Appointment of Legal Aid Lawyers, lawyers apply from the Branch office to become the legal aid lawyers, Thus, appeals of legal aid

lawyers shall be investigated by the President of each Branch office in person or secretary shall be appointed for the investigation. When necessary, an independent social representative shall be appointed to participate in the investigation. After investigation, according to violation, the President of Branch office shall be able to advise, consult, and encourage the improvement with the punishment of three-year termination of appointment. The President shall have the right to send the appraisal to the Appraisal Commission.

- II. From 2010 to 2014, there were 401 appeals of legal aid lawyers made, and among them, 135 depending on violations were punished including: lawyers did not meet those clients during prison and sentence, lawyers did not prepare documents required, lawyers prepared documents without due care, lawyers appointed non-lawyers to represent clients in court proceedings, lawyers did not present the clients in court proceedings and did not authorize other lawyers to do so to the court, seals and signature made without the approval of the related parties, lawyers presented the clients in cases of Procedure of Third Instance without submitting causes of appeals within the required time. \

(6) Appraisal mechanism of legal aid lawyers

- I. In order to ensure legal aid quality, LAF set up the Commission in charge of lawyer appraisals composed of 9 members. Besides Secretary-General, there are one judge (recommended by the Judicial Yuan), one prosecutor (recommended by the Ministry of Justice), two lawyers (recommended by national bar associations), and two social representatives or scholars and experts with legal or other professional fields retained by the Board of Directors serving a three-year term respectively.
- II. According to Point 6 of Appraisal, sources for LAF to conduct appraisals include (1) performance quality results from the questionnaire; (2) decision made by the President of Branch office to send for appraisal; and (3) appraisals deemed necessary to improve the service quality of lawyers. Based on violation determined by the appraisal, the Commission shall have the right to request improvement in writing according to Point 24 of Appraisal, suspend appointment for the maximum period of three-year, remove from legal aid lawyer list, and punishment according to Lawyer's Act given by the Lawyer Discipline Commission (hereinafter referred to as the Discipline Commission).
- III. Between 2007 and 2014, 51 legal aid lawyers were disciplined by the

appraisal agency with reasons below: violation to ethical code of lawyers ( about 33%, for example, delay the appeal time and failure to make appeal); doubts of legal aid quality (45%, for example, failure to prepare documents, provision of over simplified documents, failure to present the clients at the court, without meeting the clients or working with bad attitude), violation to LAF rules and regulations (16% such as violation to Guidelines including the appointment of non-lawyers to represent clients in the court proceedings, failure to inform LAF to apply for security procedure and guarantee documents), and failure to incorporate with LAF administrative affairs (about 6%, for example, the refuse to turn in documents for appraisal or false information reported in the case closure). Among them, failure to propose third instance appeals has a significant impact to the rights of those receiving assistance. The LAF will dismiss such attorneys from all legal aid work and refer the case to the Legal Punishment Committee. However, organizations in charge of attorney discipline usually decide on reprimand cases, and its disposal and the degree of violation was out of proportion. The LAF has already requested for rehearing pursuant to law<sup>3</sup>, and the rehearing resulted in duty performance suspension for four months.

- IV. The lawyer appraisal mechanism helps to eliminate lawyers who practice law with poor quality and recognize the good ones. Till now, 24 lawyers have been honored and recognized on the annual celebration of LAF. These awarded lawyers work with sincerity and positive attitude and have been highly recognized by the clients. They present complete and persuasive reasons in the statements of written documents and demonstrate high services quality in their profession.
- V. There are several challenges below for LAF lawyer's appraisal mechanism: (1) the need to establish appraisal standards: LAF clients are the minority and they involved in issues without market orientation, and therefore, legal aid lawyers need to be professional and shall show their empathy. Hence, the appraisal mechanism shall be focused on finding out those who are suitable to provide legal aid services not to punish and eliminate a small number of lawyers. In order to achieve this purpose, we need to establish the evaluation standards; (2) the link to other mechanism: LAF has overlapped case closure review system,

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<sup>3</sup> Taiwan's lawyer discipline system classifies into discipline and the second review procedure operated by the Commission; disciplines include warning, defamation punishment, termination of less than two-year legal services, and delisting. According to Article 42 of Lawyer's Act, when a group that sends the discipline request holds objection for the decision made by the Lawyer Discipline Commission, it shall appeal for the second review by the said Commission.

appeal system, and lawyer appraisal system and how to prevent loops or repetition requires more efforts; and (3) how to construct standard operational procedure for the quality of lawyers is the common challenge faced by the LAF and the legal field.

## 8. Making legal services accessible through technology

### (1) Video-conference legal counseling services

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

Since 2013, each branch office of LAF, step by step, in co-operation with local governments, has allowed people to go to a nearest affiliated unit and use video conference device to connect to and have a video conference counseling with a branch office's lawyer. Consequently, the network of the Internet replaces the network of roads and spares the disadvantaged living in a remote district the hardship of a journey. As of March, 2015, LAF has set up 255 stations of video conference for legal counseling services, and accomplished 3,547 cases of legal conference. Some people living on an off-shore island had connected with staff-lawyers at LAF's headquarters at northern Taiwan. LAF hopes that, in the future, the system can be developed to provide an all-time, area-wide legal conference counseling services.

### (2) Hotlines for legal counseling

The LAF originally only provided project support for major social disaster events after approval by the Board of Directors and telephone consultation services under emergency conditions. Citizens can call the hotline, leave their contact method and names, and a LAF staff attorney will call back and answer the legal questions. To further the goals of achieving a diverse legal consultation services, provide more economic and effective assistance, and pool the resources to provide universalized legal consultation services. The LAF has established legal consultation telephone services that give priority to "labor dispute", "debt", and "aboriginal" related cases since May 1, 2015 and will review and adjust the program accordingly based its performances.

### (3) Blog and Facebook

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

(4) Attorney Account Reconciliation Platform

The LAF will provide the monthly remuneration payment details through the Attorney Account Reconciliation Platform to facilitate the attorneys to confirm the case number and amount for each payment. The LAF plans to use this platform to provide remuneration related information and provide notifications to the various event, policy, and attorney education and trainings to the support attorneys. In addition to providing information, the platform is also expected to enhance the interactive features by enabling the support attorneys to upload the case related information and documents through the platform, and allow the LAF to monitor the support quality and progress more effectively.

(5) Support Attorney Online Education and Training Platform

The LAF was founded nearly 11 years ago, and it has established attorney education and training sessions throughout the regions of the country to continue to assist the support attorneys to enhance their litigation literacy and absorbed the required knowledge for various types of cases. To enable the courses to yield maximum benefits, the specialist attorneys are also obligated to take education studies each year. The LAF has begun to organize its own online learning courses for attorneys and established an automatic notification function to allow the LAF to be informed of the attorneys' study status in order to assign the cases to the appropriate attorneys.

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

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

LAF currently provides lawyer services, including representation of parties

in mediation and settlement cases, as well as drafting documents and representation of parties in court, that is, the private lawyers participate in mediations and settlements, either extra-litigation or during litigation, to assist the recipients of legal aid to resolve the cases as soon as possible to avoid time-consuming judicial actions.

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

(2) Advocating institutional reform

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

(3) Offering legal education

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

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

10. Community-based organizations

(1) Aboriginal Law Research Center

Because of the peculiarities and differences in the aboriginal culture, life, and language, indigenous people are in a relatively disadvantaged position during legal proceedings. It is therefore necessary for the LAF to provide professional legal assistance in order to help the indigenous people and protect their rights. Since its founding, the LAF has provide support to the indigenous people in over 200,000 cases, and provided assistance in major cases where the aboriginal tradition and habits conflict with the national legal system. However, the aboriginal legal aid work development has met with numerous difficulties thus far because existing laws dictate that the aboriginal legal aid work can only focus on the protection of "personal / individual" rights and cannot provide assistance to the indigenous people in a "class / tribal" action. In addition, the accumulated aboriginal legal aid results have not yet been effectively organized into a practical database and cannot serve as training materials for the relevant personnel in the existing judicial system or as policy initiative reference data for the self-judicial governance of the aboriginal people. To strengthen the legal aids work for the aboriginal people, the LAF has deliberated on establishing an aboriginal law research center. The LAF has established a dedicated aboriginal committee to invite experts and scholars to brainstorm on the priorities, content, and objectives of the relevant work in 2015 in order to facilitate the center to establish and solicit advices from aboriginal experts and scholars.

(2) Family Services Center

As the economy has developed, the gap between rich and poor also widened, and various legal services for the disadvantaged groups have emerged as a result. Take the woman and children related family matter cases as an example, to provide legal advices needed for people involved in family law related matters, the LAF has cooperated with the Family Services Center of the Judicial Yuan since 2014 and appointed attorneys to station in the Family Service Center and provide legal consultation services to the interested parties and stakeholders involved in family matter related cases in order to help the community to integrate the government's resources and practically meet the requirements of the new family justice system.

(3) Consumer Debt Clearance Project and Credit Card Victim Self-help Committee Cooperation Model

Prior to the implementation of the Statute for Consumer Debt Clearance in 2007, there was no reasonable personal debt clearance mechanism. In addition, Taiwanese people are negatively biased in terms of their common perception and value towards the cause of personal consumer debt. Therefore, even though the LAF has provided assistance in debt clearance, the majority of debtors have not used this mechanism to resolve their debt problems. Therefore, the LAF has cooperated with a group of volunteer attorneys as well as experts and scholars as consultants to establish a self-help committee that focuses on successfully resolving debt problems through the debt clearance mechanism. The committee used the debtor briefings, legal consultations, and law amendment methods to help more debtors to actively face their debt problems through the debt clearance mechanism and to free themselves from the traps of debt.

11. Difficulties encountered and strategies

- (1) Indefinite nature of the organization: Is LAF a public corporation or a private corporation, though it is established as a foundation organization? The question is open to debate. As a result, it becomes difficult to answer the Legislative Yuan's demands. For example, the Legislative Yuan asked LAF to improve private fund raising ability and apply for appropriation of publicly-owned houses as LAF's offices in order to reduce the costs of renting offices. But, the Ministry of Health and Welfare, the competent authorities of private fund raising matters, considered initially that LAF is a

quasi-government organization, which is not allowed to raise funds in open, though the Ministry later changed its opinion and considered that LAF could cite a special provision of the Legal Aids Act to raise funds in public. Furthermore, National Property Administration, on the other hand, interpreted that LAF is a private corporation and cannot use publicly-owned houses appropriated. It is evident that the nature of LAF is interpreted differently in different domains. In addition, the relationships between LAF and an applicant; LAF and a private lawyer, because the relationships involve how to select a appropriate remedial approach when a applicant or a lawyer decided against LAF's decisions. These are issues LAF will eventually face.

- (2) Balance between autonomy and supervision: Over a long period of time, the Supervisory and Management Committee of the Judicial Yuan has offered lots of assistance to LAF, in terms of the establishment of the system and business development. However, many criticisms pointed out that the Committee's supervision is too detailed, which even overlaps the function of Board of Directors. How to strike a balance between the two has also become an important issue.
- (3) Amendment of the Legal Aids Act: The Legal Aids Act was promulgated in 2004 and has been operated for over a decade. However, due to the social environment changes as well as the addition or amendments of the civil, criminal, and administrative proceeding laws. Some impractical or stifling factors for the Act have occurred. In addition, the various fields of the community also have numerous new demands and ideas towards the legal assistance system, and the Legal Aids Act must be amended. Civil society groups have proposed numerous amendment versions through the members of the Congress. The Judicial Yuan has also integrated the suggestions and proposed numerous official versions. In May 2015, Congress has reached preliminary consensus to adopt the amendment draft after numerous consultations. This amendment will greatly expand the subjects and the range of support to protect the litigation rights of the disadvantaged groups; and to include the mid and low-income households, foreign workers, economically disadvantaged foreign spouses into the scope of legal support. The LAF shall pass a resolution on providing assistance to major welfare, socially well-known, and significantly complicated cases; expand the range of conditions that need not review the funding; list the prosecution fines or

consultation judgment fines paid to the public treasury as a source of the LAF funding (which may inject approximately NT\$270 million annually); adjust the seats of the LAF official and private directors, add seats to the members of the disadvantages groups to which a gender cannot account for less than 1/3 of the board in response to the international gender mainstreaming trend; and the LAF shall shift its governance model to an executive officer system in order to match their responsibilities. Because this amendment has reached a high degree of consensus, the amendment may pass the review process and be officially promulgated in the near future.

- (4) Crisis of brain drains: Although LAF is a foundation organization and more than half of its directors are private directors, it depends on funds donated by the Judicial Yuan, the competent authorities, and is intensively monitored by the Supervisory and Management Committee of the Judicial Yuan. LAF's regulations of organization or personnel are all subject to the agreement of the Committee; thus its discretionary limits are next to nothing, as a result, LAF's organization and personnel systems incline toward a system of public affairs, rigid salary structure; however, its staff member do not have the protections of a public servant status. Talents are lost easily, which is detrimental to the Foundation's long-term development.
- (5) How to respond timely to the demands of emerging disadvantaged minorities: LAF continually directs toward emerging or material incidents occurred in the society to provide legal aid services. However, LAF is unable to provide comprehensive legal aid services for the persons involved in class sections in connection with environmental or public welfare issues, because an applicant's financial qualification is limited by the Legal Aids Act. If the Congress can successfully pass the amendments to the Legal Aids Act, it should help to resolve the problems.
- (6) How to simplify workflows: To a legal aid application, LAF, in principle, requires the applicant to bring means test and case information to a branch office in person to let Examining commissioners to inquire. How to appropriately open for written applications, or applications by a lawyer on an applicant's behalf; how to negotiate with state taxation authorities to agree that a LAF branch office can directly access to the applicant's household taxation and property information; and how to properly streamline the review methods and processes for obvious legal aid cases, are

the key points that LAF has been reviewing.

(7) How to strike a balance between a lawyer's service quality and reasonable fees: To provide the recipients of legal aid high quality lawyers' services, LAF has, presently, set up many quality mechanisms for controlling a private lawyer's affiliation, case assignment, after-assignment case management, and case closing management. Although remunerations for some of the cases have increased and said remunerations shall be reviewed as least once every three years after the implementation of the new remuneration payment method in January 2015, remuneration for each support attorney still averages at approximately NT\$21,000. This is significantly lower than the market price and people often criticize the contradiction of low wages with quality improvement. We are urgently striving to provide reasonable remuneration that facilitates quality improvement.

(8) How to use new technologies to construct a diverse services channel: new technology developments bring new ideas for economically sound and effective legal-aid services. As such, the LAF has developed comprehensive video-conference legal consultation services. Starting on May 1, 2015, the telephone legal consultation services provided by the LAF would give priority to "labor dispute", "debt", and "aboriginal" cases that the disadvantaged groups often encounter in order to provide more convenient legal consultation services. In addition, we will gradually construct an online legal facts and question (FAQ) database to provide self-services to the public. However, the LAF has also realized the restrictions on using new technologies to provide services as well as the knowledge gaps and difficulties for the disadvantaged group to use new technologies. Therefore, services provided using new technologies were meant to serve as complementary tools serving to fill the gap rather than a replacement.

## 12. Mechanisms of co-operation with legal aid organizations abroad

In light of the manifesting international solidarity and to realize legal support as the spirit of the universal human rights value, the LAF has signed mutual assistance agreements with the International Forum on Legal Aid, the Legal Aid Corporation of Korea, and the Philippine Department of Justice Public

Defender's Office in 2014. Therefore, the LAF has entered into in-depth mutual international cooperation with South Korea and the Philippines. In addition, the LAF has used its network platform to continue provide exchanges with other countries, instantly understand the latest news from legal aid organizations in other countries, and to serve as reference data for LAF policy formulation or operation promotion.

### 13. Conclusion

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

Over the past decade, LAF has held three international forums, participated in numerous visit trainings or dispatched personnel to advanced countries to receive legal aid experiences, and participated in numerous international conferences. In the future, the LAF will also continue to initiate exchange collaborations with the legal aid organizations from various countries in addition to providing the various services internally, and will turn the valuable experiences acquired into the nutrients and momentum required to promote innovative services.

## Appendix

### 1. Country Information

County	Legal Aid Organization Name :	Date of Establishment :	Poverty line and number of population below the line	Total number of Practising Lawyers and number of private lawyers (staff-lawyers and contracted)
Taiwan	Legal Aid Foundation	July 1 <sup>st</sup> , 2004	The poverty line changed to NT10,869 in 2014 <sup>4</sup> , approx. 700,000 persons	8,110 lawyers, as of December 2014, 3,008 private lawyers and 12 staff-lawyers.
Population	GDP	Total number of Applications Received in the last year	Total number of Applications Approved in the last year(Excluding legal counseling cases)	Rejected Total number of Applications Refused in the last year (Total applications minus legal counseling, aids granted and revoked)
23,433,753 persons, as of December 31 <sup>st</sup> , 2014 <sup>5</sup>	2014 average per person, approximately USD20,900 <sup>6</sup> .	Total 139,980cases in 2014 <sup>7</sup> (79,137 legal counseling cases)	Total 35,223 cases in 2014 <sup>8</sup>	Total 13,087 cases in 2014 <sup>9</sup>

### 2. Nature of Organization and Supervision

#### (1) Nature of Organization

LAF is an organization in form of a foundation established by donations from the Judicial Yuan in July of 2004 under the Legal Aids Act promulgated in January 2004. The nature of LAF is a private organization founded by the government. Since the judicial system of Taiwan adopted a private-public dual system, of which the dispute resolution mechanism is designed based on both the relationships of public law and private law, which makes LAF unique. Hence, the premise for choosing a dispute resolution mechanism is to determine the nature of the dispute belongs to public-law relationship or private-law relationship. LAF, as a foundation, is supported by funds donated by the government with annual budgeting to run business. The nature of LAF, whether it is a public organization or private organization, will affect the nature of LAF's decision in granting/rejecting legal aids. If LAF is defined as a public

<sup>4</sup> Data from Ministry of Health and Welfare.

<sup>5</sup> Data from Directorate General of Budget, Accounting and Statistics, Executive Yuan

<sup>6</sup> Data from Directorate General of Budget, Accounting and Statistics, Executive Yuan

<sup>7</sup> This is the total number of cases applied to LAF, excluding the labor projects and indigenous people projects commissioned from the Ministry of Labor and the Council of Indigenous People to LAF. This two projects received 2,110 applicants and 606 applications in 2013 respectively.

<sup>8</sup> LAF granted aid to 36,225 cases with the remaining being commissioned cases.

<sup>9</sup> LAF granted turned down aid to 13,361 cases with the remaining being commissioned cases.

organization, then its subsequent remedies have to follow relevant provisions specified in the Administrative Remedial Law. If LAF is defined as a private organization, further study is required to determine if a decision made for granting or rejecting an application is an administrative entrustment by the government, then the subsequent remedial procedures can be determined to follow either administrative proceedings or civil proceedings. The answer to such disputed-questions cannot be found in the provisions of Legal Aids Act. Although the Act specifies that LAF Review Committee are responsible to review all decisions made by Examining Committee. If an applicant refused to accept Examining Committee' decision, he/she can apply to Review Committee for reconsideration. The applicant cannot re-appeal against the decision of the reconsideration. However, it still needs further discussion as regards to if the provisions prohibit the applicant to initiate legal proceedings. Currently some applicants, who refused to accept the decisions made by Review Committee, have brought suits to either the Civil Court or Administrative Court. By now, the courts have ruled that the decision made by Review Committee cannot be challenged because this is a special provision specified in the Legal Aids Act. The dispute itself is an incident of public law or an incident of private law, has not been discoursed upon. Therefore, the nature of LAF is still undefined.

## (2) Supervision

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

- I. LAF Board of Supervisors: The President of the Judicial Yuan appoints five supervisors for LAF, unpaid positions with a 3-year term, consisting of representatives from the Executive Yuan, Judicial Yuan, a lawyer recommended by national and regional bar association, a specialist with background in accounting or other related professional knowledge, and a person of social justice. The Board forms the internal supervision mechanism of LAF.
- II. Administrative Supervision: The Judicial Yuan, the competent authority of LAF, established an additional Supervision and Management Committee (hereinafter referred to as SMC) as the responsible agency in supervising LAF. The Committee is comprised of nine members appointed by the President of Judicial Yuan, including the Deputy

Secretary-General of Judicial Yuan, heads of relevant offices, external experts, and scholars. The Deputy Secretary-General serves as Chairperson, and currently, there are four internal committee members and five external committee members. SMC, with the scope of supervision covering fields of finance, business, and annual major measures of LAF, reviews monthly each resolution made by the Board of Directors of LAF (excluding personnel hiring), for which the outside world doubts the overlapping of functions between the Board of Directors and SMC. Moreover, because SMC also has the authority to review not only the legitimacy of BOD's resolutions but also the eligibility of them, SMC's reasonable scope of supervision becomes a controversy.

- III. Parliamentary Supervision: The budget of LAF mainly comes from the subsidies of the Judicial Yuan through annual budgeting. According to relevant laws of budgeting, both the Chairperson and the Secretary General are required to present in the Legislative Yuan to be addressed inquiries. Therefore, LAF can receive opinions from elected representatives representing a variety of interests, which may enrich the depth and breadth of LAF's services. In addition, because legislators' opinions may differ from those of the Judicial Yuan, the discrepancy of opinion between administrative and parliamentary supervision could be balanced.
- IV. Supervision by Legal Aid Protection Alliance: The private NGO played a significant role in the legislation of Legal Aids Act, and have a close relationship with and care highly about the operation of LAF since its establishment. Moreover, the Board of the Directors of LAF undergoes reorganization in every three years, which affects the direction and implementation of LAF's policies. Hence, the relevant private NGOs formed the Legal Aid Protection Alliance to continue supervise the routine operations and the reorganization of LAF's Board of Directors.

### 3. Organizational Structure

The highest decision-making body of LAF is the Board of the Directors, under which, there are one Secretary-General, one Deputy Secretary-general, in addition to 21 branch offices and six specialist committees. The Secretary-General reports to the Chairperson of Board of Directors and is responsible for commanding and supervising the staff at all levels of the Foundation to implement the affairs at the Foundation and direct branch offices to handle branch affairs. Each office has its Examining Committee responsible for reviewing applications for legal aid, and LAF set up a Review Committee at

Foundation's headquarters with responsibilities for reviewing the cases that applicants have refused to accept the decisions made by Examining Committee of a branch office. As of August 31, 2014, LAF has 227 full-time staff, 15 temporary personnel, and 14 staff-lawyers at both the Foundation's headquarters and branch offices.

I. Board of the Directors

The Board of the Directors is the highest decision-making body of LAF, comprised of 13 unpaid directors appointed by the President of Judicial Yuan, serving a term of 3 years, including 5 representatives of government agencies (in particular, 2 representatives of Judicial Yuan, and 1 representative from the Ministry of Justice, and Ministry of National Defense, and Ministry of the Interior, respectively), 8 representatives from private-sector (4 lawyer, 2 experts/scholars, and 1 representative of the disadvantaged group and 1 indigenous representative). The 13 directors elect one director as the President to represent the Foundation. The first three presidents were scholars, while the current fourth president is a lawyer.

II. Secretary-General and Deputy Secretary-General

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

III. 21 Branch Offices

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

#### IV. Examining Committee

Each LAF branch office's Examining Committee consists of unpaid Examining Committee members, each with a 3-year term. Each branch office director elects judges, prosecutors, military judges, lawyers, or other scholars/experts with professional legal knowledge, and submits to LAF for appointment. By the end of 2014, the number of Examining Committee members has reached 1,368. The responsibilities of Examining Committee are as follows:

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

#### V. Review Committee

An applicant who refused to accept the decision made by Examining Committee may apply for Review, for which LAF set up, at headquarters, a Review Committee to accept and hear reconsideration cases. The Review Committee consists of unpaid members including senior judges, prosecutors, military judges, lawyers, or other experts/scholars with professional legal knowledge, for a term of three year. As of the end of 2014, the number of Review Committee members reached 229.

#### 4. Performance assessment and branch offices performance

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

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

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

##### 5. RCA Case Special Report:

Legal support for the employee victims of the Radio Corporation of America (RCA) in Taiwan<sup>10</sup>. The plaintiffs in this case are the Taoyuan County

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<sup>10</sup> RCA in Taiwan (hereafter "RCA") was founded on August 21, 1967, and had established plants in Taoyuan, Zhubei, and Yilan in 1970 that produced electronics and electrical products. These plants

Association, formerly the Employee Care Association of RCA in Taiwan formed by the employees or the family members of the deceased employees who used to work for RCA. In 1996, the association came to the LAF Taipei branch for help. A 15 member volunteer attorney team (including 5 LAF full-time attorneys and 2 LAF administrative attorneys) led by Yong-Song Lin (director for the LAF Taipei branch at the time) was deployed to handle the case. The co-defendants of the case are RCA in Taiwan and its parent company Technicolor (originally named Thomson SA, Technicolor SA) as well as General Electric Company (GE). The case was a civil tort action claiming compensation for civil infringement damages. The case went through the first instance trial, the second instance court procedurally dismissed the litigation, and the third instance Supreme Court abandoned the case and remitted it back to the Taipei District Court for further review in March of 2006 (Review Case No.: 2006 Review Geng Yi Zi No. 4). This case requires knowledge from the disciplines of occupational safety and

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primarily focused on producing computer selectors for television sets. During the operating periods of its plants, RCA used 31 types of organic solvents and solders that include trichlorethylene and tetrachlorethylene for a period of 22 years until the plants closed in 1992. During this period, RCA neither fulfilled any obligations in environmental protection and control nor provided any protection related instructions or guidance to its employees. Due to the lack of professional staff with professional knowledge in environmental protection and chemicals, RCA had allowed trichlorethylene, tetrachlorethylene, and other volatile organic solvents that have been proven to likely increase the risks of cancer to the human body to evaporate into the air. RCA had arbitrarily dumped organic solvents on the ground and underground, which caused soil and groundwater contaminations in the area. Because RCA had failed to provide protection measures, local air exhaust mechanisms inside the plants, or overall ventilation system as required by the law, it exposed the plaintiffs and their family members to high concentrations of hazardous organic solvents and gases through the skin and the respiratory system. RCA also used groundwater contaminated with organic solvents such as trichlorethylene and tetrachlorethylene as the source of cafeteria drinking water and shower water in staff quarters for the production line staff, which exposed the plaintiff members and members of their families to high concentrations of hazardous organic solvents through diets, skin contacts, and the respiratory system. The plant staff and local residents have a carcinogenic risk probability of 0.3% (the medically acceptable value is 0.01% to 0.0001%) and non-carcinogenic probability (the risks of contracting other diseases) of 16.9% (the medically acceptable value is less than 1%). Throughout the period between the closing of the plants and the filing of the tort action, over 1,300 former RCA employees have developed cancer. Among these, 221 people have already died and the number of death continued to increase. The victimized staff established the Plaintiff Care Association in 1998 with the goal of requesting RCA to provide compensation for infringement damages. Therefore, the parties mentioned above were selected as the plaintiffs pursuant to Paragraph 1, Article 44-1 of the Taiwan Code of Civil Procedure and a lawsuit was filed.

health, environmental engineering, toxicology and epidemiology. The case also involved legal issues such as causation, piercing the corporate veil and the limitation period. In addition to the operations of the volunteer attorney team, the LAF has also formed a team that comprised experts and scholars in the relevant fields to present the facts of the case to the court during the proceedings. The litigation debate proceedings for this case were completed in 2007, and witnesses were called in to testify on the facts of RCA violations to the Court for the first time in 2009. Between 2010 and 2011, Taiwan conducted cross-field class action lawsuit fieldwork investigations for the first time in its history. The LAF invited legal and medical volunteers to record the interview questionnaire data and organized two "RCA Labor Injury Case Volunteer Training Camps." A total of 120 volunteers and 90 volunteer attorneys have joined the case, and a total of 305 valuable first hand interview questionnaires were completed by the victim population. Subsequently, numerous expert witnesses in various fields were summoned to testify in the court. Oral argument was held in December 12, 2015, and the judgment was issued on April 17, 2015. The review-trial verdict found RCA, Technicolor (Thomson SA, Technicolor SA), and its subsidiary Thomson Consumer Electronics (Bermuda) Ltd. liable for compensation. The amount of compensation was set at NT\$564.45 million. For former workers who have already died, the maximum amount was NT\$1.68 million and the minimum amount was NT\$920 thousand. For former workers who have contracted diseases, the maximum amount was NT\$4.47 million, and the minimum amount for former workers who did not show explicit symptoms was NT\$300,000.

This is Taiwan's largest work injury and major environmental disaster litigation, and is critically significant as follows:

- (1) In terms of "casual relationship," the court has adopted the "reasonable probability" standard and accepted the testimonies of the expert witnesses that the trichlorethylene, tetrachlorethylene, trichloroethane, methylene chloride, etc., released by RCA have high pathogenic risks. The court therefore converted the responsibility for the proof of causation and ordered RCA to provide proof of no-causality in order to reduce the plaintiff's obstacles in proving "causal relationships."
- (2) In terms of the damage period calculation, the known starting timeframe was determined after the experts have successively testified regarding to causal relationship.
- (3) When faced with the transnational capital investment complexity, the court exposed the corporate veil to identify the controlling companies that are liable for compensation.