

**National Report from Legal Aid Foundation, Taiwan for  
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**Mr. Tsong-Shyan Ling  
Deputy CEO, Legal Aid Foundation, Taiwan**

**1. Preface**

The greatest change the Legal Aid Foundation of Taiwan has undergone since 2015 ILAG Conference in Edinburgh is the amended new Legal Aid Act, which came into effect on July 6, 2015. The amended new Legal Aid Act expands the scope of legal aid services and funding sources, which, in combination with organizational transformation, grants LAF with a higher level of independence. It is expected that the result will facilitate a balance between an exploding caseload and the quality of legal aid services. LAF caseload has increased by 17% in 2016 since the new act came into effect, demonstrating that there remains much room for growth and improvement for legal aid services in Taiwan, where the coverage of legal aid services had been relatively low.

Compared to its peers in other countries, LAF Taiwan is still growing and perhaps does not have to worry about budget cuts yet. Nevertheless, LAF Taiwan is entering its 13th year and facing the daunting challenge of rising above limited budget and manpower under an exploding caseload to provide quality legal aid services. Service outcomes, financial data, and various projects of LAF Taiwan in 2016 are presented below. The amended new Legal Aid Act is also described in detail.

## 2. Taiwan

Country	Name	Date of establishment	Poverty threshold and population covered	Number of licensed attorney and legal aid attorneys (full-time and contract)
Taiwan	Legal Aid Foundation, Taiwan	July 01, 2004	The poverty threshold became NT\$11,448 in 2016 <sup>1</sup> , covering 700,000 people.	There are 8,110 attorneys in Taiwan. There were 3,506 private lawyers and 16 staff attorneys at the end of 2016.
<b>Total population</b>	<b>GDP</b>	<b>Latest year Total Applications</b>	<b>Approval</b> (excluding general consultation cases)	<b>Application rejected</b> (Total Applications less general consultation cases and approved or withdrawn cases)
23,539,816 persons as of end of 2016 <sup>2</sup>	USD23,827 per person in 2016 <sup>3</sup>	182,040 cases in 2016 <sup>4</sup> (105,142 cases were general consultation cases)	58,812 cases in 2016 <sup>5</sup>	14,291 cases in 2016 <sup>6</sup>

## 3. Organization and Supervision

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

## 4. Organizational Structure

The Board of Directors is the highest decision-making body of the Legal Aid Foundation. Thirteen Directors are appointed by the President of the Judicial Yuan

<sup>1</sup> Data from Ministry of Health and Welfare

<sup>2</sup> Data from Directorate-General of Budget, Accounting and Statistics, Executive Yuan

<sup>3</sup> Data from Directorate-General of Budget, Accounting and Statistics, Executive Yuan

<sup>4</sup> The data include cases under the Labor Litigation Program and the Indigenous People Program handled by LAF or on behalf of the Ministry of Labor and the Council of Indigenous Peoples. There were 3,785 and 2907 such cases, respectively, in 2016.

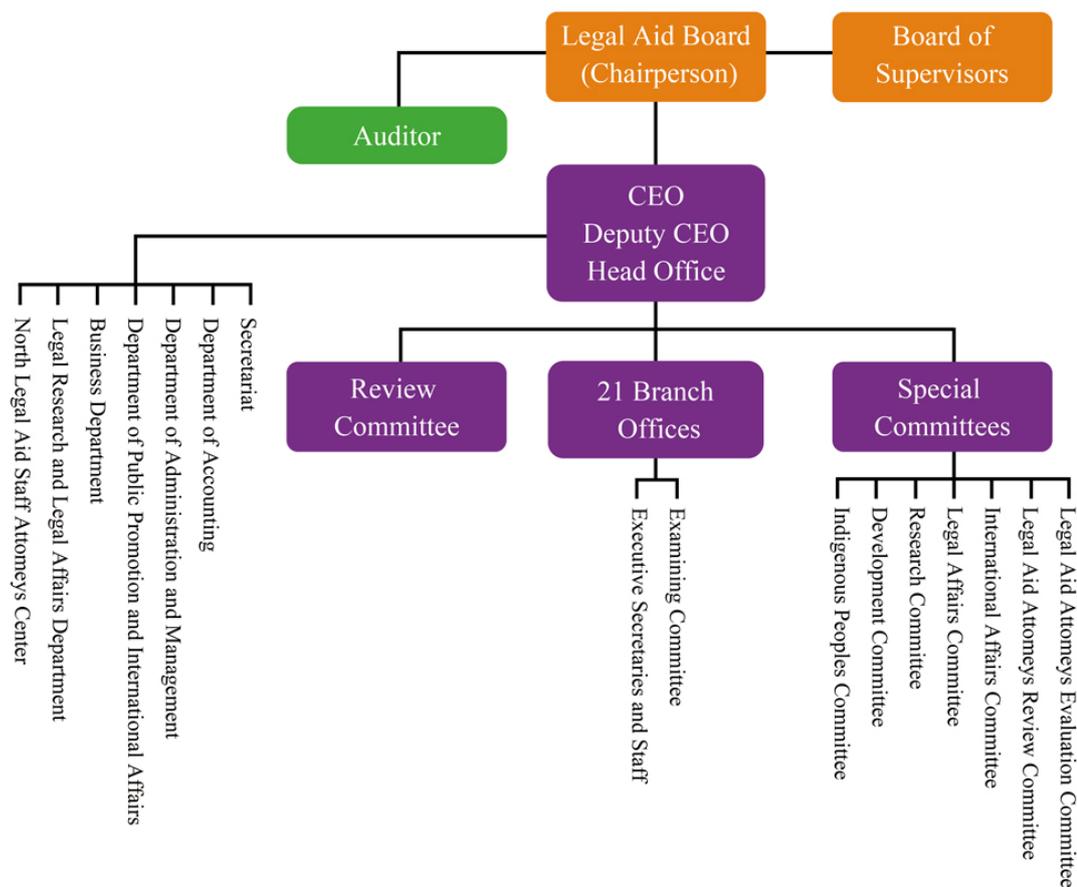
<sup>5</sup> 52,955 cases were applications approved by LAF for legal aid services, and the rest were commissions.

<sup>6</sup> 13,298 cases were applications rejected by LAF, and the rest were commissions.

to serve a term of three years on part-time unpaid basis. LAF appoints one CEO and one Deputy CEO, both serving on a full-time basis, managing the business affairs based on the orders of the Chairperson. LAF has also set up 21 Branch Offices throughout the country to serve the public. The Director of each branch office serves for a term of three years on an unpaid basis. In addition, to meet its business demands, LAF has established the Special Committees, the Review Committee, and the Examining Committees.

As at the end of 2016, LAF employs 263 staff members, including 16 staff attorneys, 19 project workers and 344 volunteers.

The LAF organization overview is shown in the chart below.



## 5. Major changes in last two years - amendment of Legal Aid Act

More than a decade has elapsed since the establishment of the Legal Aid Act (the Act) on June 20, 2004 and its amendment on July 6, 2015, and many practical

issues that did not occur to the original legislators have emerged over the years. To ensure the Legal Aid Act effectively fulfills its purposes, the amendment focused on achieving a balance between efficient utilization of legal aid resources and protection of applicants' and aid recipients' rights by "relaxing recipient eligibility requirements," "adding legal aid services," "strengthening quality of services provided by legal aid attorneys," "improving legal aid management performance," "transforming legal aid structure," "creating more funding sources for legal aid," and "making LAF more independent and enabling reasonable oversight." The goals are to ensure reasonable allocation of limited resources and to help people exercise their rights. The impact is summarized as follows.

- (1) The scope of recipients of legal aid and that of services are expanded to quickly respond to the needs of emerging minority groups. Low to middle income households and families under special circumstances are made two of the financial eligibility criteria under the amended Legal Aids Act, and named as "people who are unable to receive proper legal protections for other reasons." The scope of LAF services is expanded to include: For the "First Criminal Interrogation Accompanied by Legal Aid Attorney Program," applicants must be "indigenous persons," "those with damage or impairment of the structures of the nervous system or of the psychological or mental functions," "juvenile delinquency investigations," "those in the process of clearing debts under the Consumer Debt Clearance Act." Regarding minority groups such as unskilled foreign workers and financially disadvantaged foreign spouses, the legal aid application procedures have been simplified. The Act states that a case of important public interest, high social profile, high complexity or similar instances as determined by LAF may be provided aid to quickly respond to the needs of disadvantaged groups.
- (2) LAF is granted a certain degree of autonomy and independence. Regulations to be established by LAF as authorized by the Act, except for rules related to organizational structure, fund and budget utilization, and significant actions which will be subject to the competent authority's approval, will only have to be filed with the competent authority before implementation.
- (3) Examples of opportunities for stating opinions to be given when rights change include the following: As a means to protect their rights, recipients should be given opportunities for stating opinions when legal aid is terminated, revoked, changed in category or scope.

- (4) Private lawyers are added to the list of eligible entities to submit appeals. The remedial procedure by which private lawyers objecting to remuneration increases, decreases, or termination may submit their appeals is explicitly stated to ensure the rights of private lawyers are also protected.
- (5) Rules are added to allow philanthropic organizations of the physically or mentally disabled to unilaterally file applications on behalf of those who are unable to make full statements due to damage or impairment of the structures of the nervous system or of the psychological or mental functions.
- (6) Rules regarding selecting, entering into contract with, and evaluating private lawyers are added to improve the quality of legal aid services.
- (7) The number of directors from the public sector and that from the private sector are adjusted to the implementation of an executive officer system in order to enable LAF's decision making and other business processes to better reflect the needs of minority groups in the society.
- (8) It is added that an indigent person who has been approved for legal aid may also apply in forma pauperis in a non-litigation proceeding. According to the Act in matters regarding foreign recipients, Article 108 of the Taiwan Code of Civil Procedure is deemed not applicable.
- (9) The criteria (guarantees in provisional remedies and enforcement procedures) under which a branch may issue a guarantee certificate in lieu of a collateral are also expanded. It is added that when the reasons for issuing a guarantee certificate cease to exist, branches may file retrieval applications with the court on their own behalf to better reflect actual practice.

## **6. Legal Aid Outcomes 2016**

In 2016, LAF received 182,040 legal aid applications, 105,142 of which were legal consultation applications. Application type and cases are shown in Tables 1 to 3.

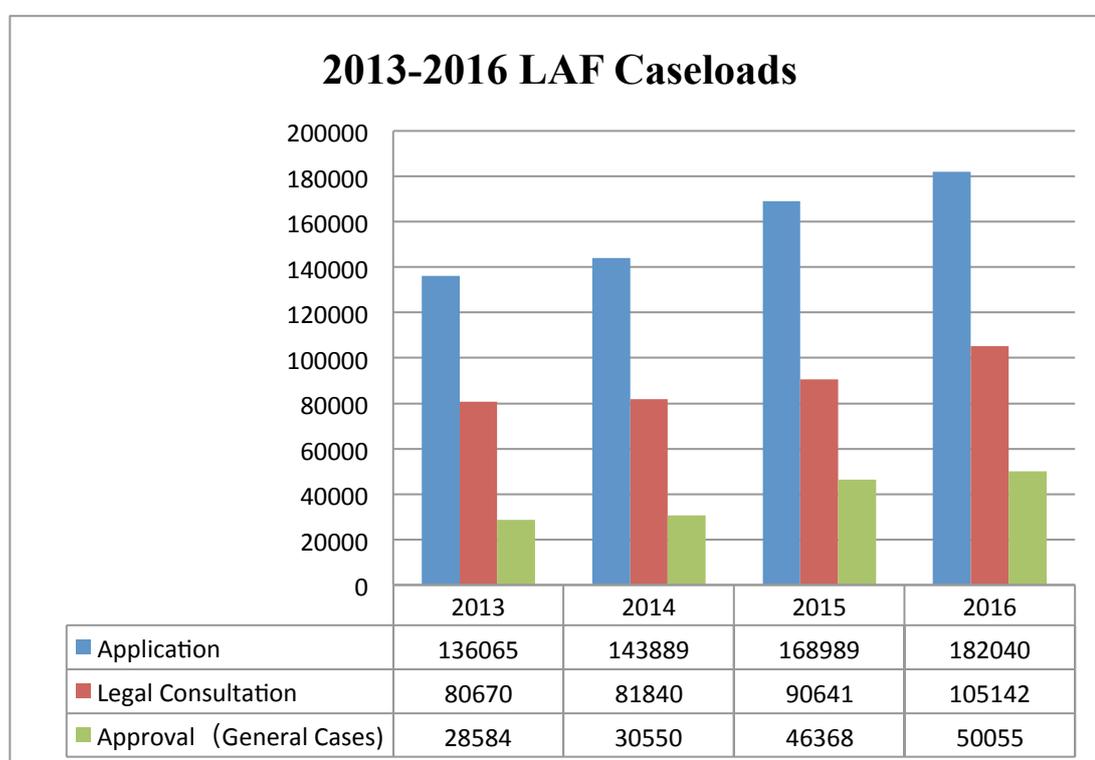
<b>Table 1: Total Number of Applications</b>							
Total	LAF Cases					Commissioned Cases	
	Legal Consultation	General Cases	Special Program Cases			Cases Commissioned by Ministry of Labor (MOL)	Cases Commissioned by Council of Indigenous Peoples (CIP)
			Interrogation Cases	Indigene's Interrogation	Habeas Corpus Cases		
<b>182,040</b>	<b>105,142</b>	<b>67,116</b>	<b>1,850</b>	<b>1,238</b>	<b>1</b>	<b>3,785</b>	<b>2,908</b>

<b>Table 2: Statistics of Total Case</b>							
Total	LAF Cases					Commissioned Cases	
	Legal Consultation	General Cases	Special Program Cases			Cases Commissioned by Ministry of Labor (MOL)	Cases Commissioned by Council of Indigenous Peoples (CIP)
			Interrogation Cases	Indigene's Interrogation	Habeas Corpus Cases		
<b>163,954</b>	<b>105,142</b>	<b>50,054</b>	<b>1,679</b>	<b>1,220</b>	<b>1</b>	<b>3,264</b>	<b>2,594</b>

**Table 3: Category Statistics of Applications and Approvals**

Case Category	2016			
	Application		Approval	
	Subtotal	Percentage	Subtotal	Percentage
Criminal	33,191	49.45%	24,787	49.52%
Civil	21,960	32.72%	16,643	33.25%
Family	10,758	16.03%	8,288	16.56%
Administrative	794	1.18%	336	0.67%
Unrecorded	413	0.62%	0	0.00%
Total	67,116	100.00%	50,054	100.00%

**Table 4: 2013-2016 LAF Applications, Legal Consultation and Approvals (General Cases) Caseload Statistics**

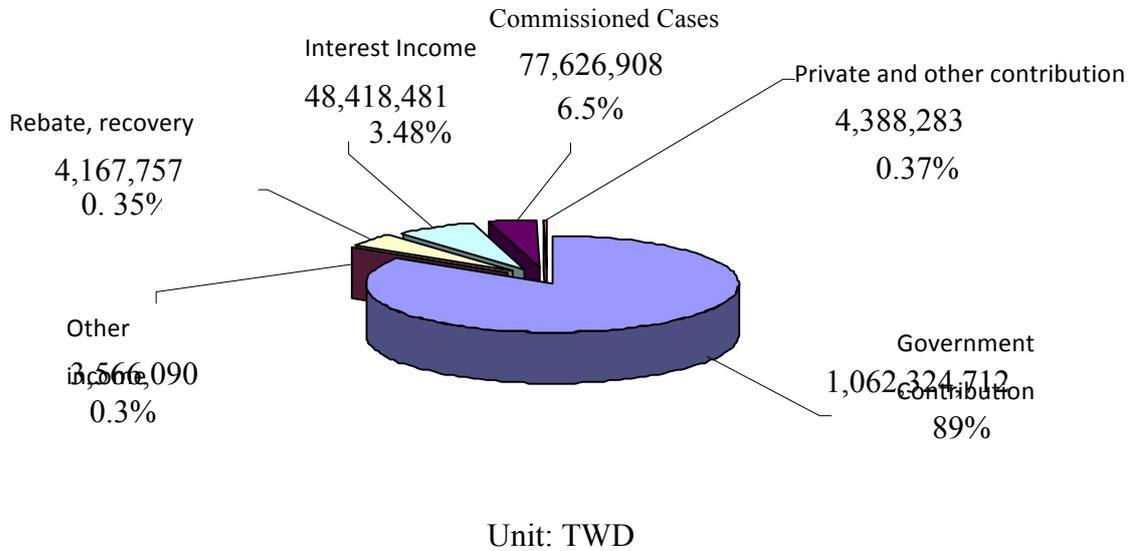


## 7. Financial Status 2016

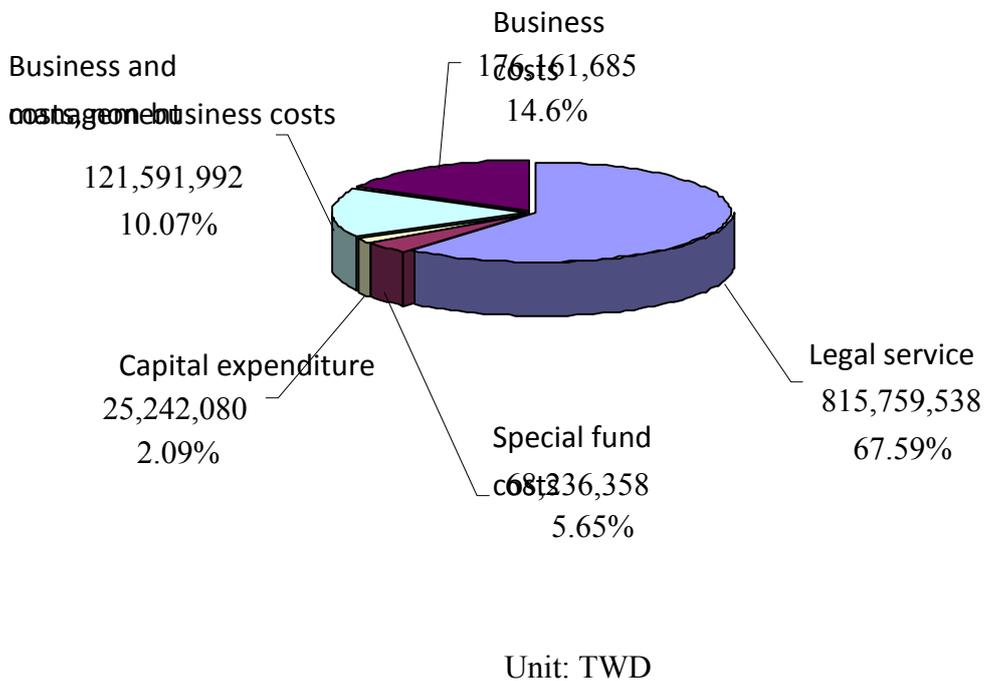
As required by Article 6 of the Legal Aids Act, the LAF is funded out of the annual budget of its competent authority, the Judicial Yuan. LAF's total income in 2016 was NT\$1,200,492,231 (approximately US\$38.73 million at TWD:USD

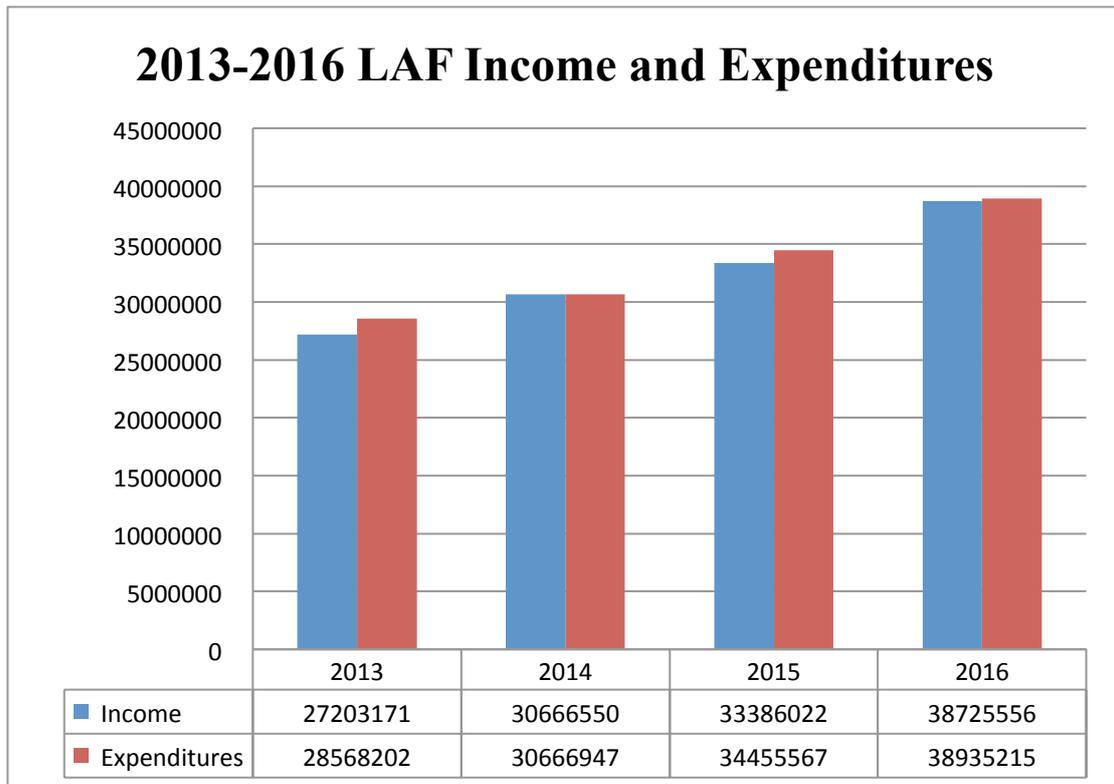
= 1:31). LAF's total expenditure in 2016 was NT\$1,206,991,653 (approximately US\$38.94 million, including capital expenses). A detailed breakdown of income sources is as below.

**Figure 1: Breakdown of LAF Total Income, 2016**



**Figure 2: Breakdown of LAF Total Expenditures, 2016**





**Table 5: 2013-2016 LAF Income and Expenditures (Unit: US\$)**

## 8. Project Outcomes 2016

### (1) First Interrogation Program

- **Service Introduction**

To balance the disparity in legal knowledge between the public and crime investigation authorities and to protect people's rights to defend their cases, on September 17, 2007, LAF launched the "First Criminal Interrogation Accompanied by Legal Aid Attorney Program." Suspects of felony punishable by a minimum sentence of not less than three years' imprisonment who are apprehended, arrested, or requested to be interrogated for the first time without a summon or notice may apply for the service. LAF provides 24/7 year-round service in legal aid attorney accompaniment during interrogations for the general public.

Article 31 of the Code of Criminal Procedure amended on January 25, 2013 states that a defendant or accused who is unable to fully express himself or herself due to mental retardation or is with indigenous identity and has not appointed a defense attorney for interrogation, regardless of being involved

in a felony or not, the police unit and the prosecutor shall comply with the legal procedures and notify LAF to appoint an accompanying attorney for the interrogation.

- **Service Outcomes**

In 2016, 3,235 of the interrogation cases referred to LAF by other agencies involved parties that declined accompaniment during interrogation and therefore are not counted in the applications. There were 1,850 applications for accompaniment during interrogation, 155 of which were ineligible and refused and 16 were withdrawn. 1,679 cases were eligible, 1,616 of which had LAF appointed attorneys accompany them in the interrogation. The success rate of case assignment reached 96.25%.

**(2) Indigene First Interrogation Accompanied by Legal Aid Attorney Program**

- **Service Introduction**

In order to strengthen legal protection and legal aid for the indigenous people, on July 15, 2012, LAF trial launched the "Indigenes' Interrogation Accompanied by Legal Aid Attorney Program" for a trial period of three months.

Article 31 of the Code of Criminal Procedure amended on January 25, 2014 states that a defendant or accused who is with indigenous identity and has not appointed a defense attorney for interrogation, regardless of being involved in a felony or not, the police unit and the prosecutor shall comply with the legal procedures and notify LAF to appoint an accompanying attorney for the interrogation.

- **Service Outcomes**

In 2016, 15,758 of the indigene interrogation cases referred to LAF by other agencies involved parties that declined accompaniment during interrogation and therefore are not counted in the applications. There were 1,238 applications for accompaniment during interrogation, 3 of which were ineligible and refused and 15 were withdrawn. 1,220 cases were eligible, 1,071 of which had LAF appointed attorneys accompany them in the interrogation. The success rate of case assignment reached 87.79%.

**(3) Commission by the Ministry of Labor to Operate Labor Litigation Program**

● **Service Introduction**

If a laborer encounters labor disputes, he not only loses his livelihood, but also has difficulties finding another job at similar wage levels. It would be nearly impossible for him to hire an attorney at his own expense and to file a lawsuit against his employer under such circumstances. Also, if the litigation lasts for a few years, the attorney fees will be even higher, this would be a tremendous burden on a laborer who does not have a stable income or are subject to occupational hazards.

Hence, LAF started working with the Ministry of Labor to offer the Labor Litigation Program on March 2, 2009. The two parties hope to provide strong legal aid to the disadvantaged laborers through the combination of resources, so that laborers can gain a sense of security while fighting for his rights.

● **Service Outcomes**

In 2016, LAF accepted a total of 3,785 applications. LAF approved 3,219 cases for aid and rejected 566 cases. 118 of the rejected applicants appealed for review. After deliberation, decisions were reversed on 45 cases, or 86.24%, which were approved for aid.

Regarding labor disputes, most cases were civil cases, comprising 98.74%, and were mostly granted aid for representation in court and defense. The top three categories in terms of approved cases for aid are severance pay, tort, and insurance enrollment disputes between employees and employers.

**(4) Commission by Council of Indigenous Peoples to Operate Legal Aid for Indigenous People Program**

● **Service Introduction**

Taiwan is a diverse country in its culture and society. The world view that each civilization or culture establishes in self-preservation should be respected and protected under diverse cultural values. When there exists a conflict between the uniqueness of aboriginal people's traditions and the legal system in the legal aspects, such as criminal cases involving the violation of the "The Forestry Act," "Controlling Guns, Ammunition and Knives Act"

and "Wildlife Conservation Act," civil cases involving the buying and selling of land, inheritance, marriage pact, etc., and administrative cases involving national remedy for tort on the aboriginal tribes based on negligence on the government agency's part, a state's obligations to provide assistance, in addition to Indigenous Peoples Tribunal Sections, also include the Legal Aid Program organized jointly by LAF and the Council of Indigenous Peoples ("CIP").

To further protect the rights of indigenous people and provide more comprehensive legal aid services for more indigenous people, LAF and CIP signed an entrustment contract on March 21, 2013 and started operating the Legal Aid for Indigenous People Program on April 1, 2013 (the Indigenous People Program).

- **Service Outcomes**

In 2016, LAF accepted a total of 2,908 applications under the Indigenous People Program. LAF approved 2,577 cases for aid and rejected 331 cases. 43 of the rejected applicants appealed for review. After deliberation, decisions were reversed on 17 cases, or 89.20%, which were approved for aid.

Regarding the Indigenous People Program, most cases were civil cases, comprising 55.86%, followed by domestic cases, comprising 20.20%, and were mostly granted aid for representation in court and defense. The top three categories in terms of approved cases for aid are tort, ownership disputes, and loans.

## **9. Projects of Major Social Concern**

### **(1) Legal aid program for victims of Formosa Fun Coast explosion**

- **Background**

Around 20:30 on June 27, 2015, dust explosion took place at the "Color Play Asia" party at Formosa Fun Coast Waterpark in Bali, New Taipei. The total number of patients, including locals and foreigners, according to the Department of Health of New Taipei City Government was 499. As of January 20, 2016, 15 victims had died from their injuries.

- **Case Status**

LAF promptly assembled an attorney group to provide legal aid services. LAF also had staff attorneys file criminal charges on behalf of certain victims as well as applications for and execution of provisional attachment. The defendant was sentenced to four years and ten months in prison by the court of first instance. Both parties filed an appeal, and the case is currently being reviewed by the Taiwan High Court. The attorney group also filed supplementary civil claims, which were moved to the civil court by the criminal court.

## **(2) RCA Taiwan class action against public health hazards**

- **Background**

RCA Taiwan Limited ("RCA")<sup>7</sup> had failed to provide protection measures as

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<sup>7</sup>RCA Taiwan Limited 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 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. The failure to provide protection measures, local air exhaust mechanisms inside the plants, or overall ventilation system as required by the law 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. 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.

required by the law and exposed the plaintiffs and their family members to high concentrations of hazardous organic solvents. Over 1,300 former RCA employees developed cancer. Among these, 221 people had already died and the number of deaths continued to increase. The victimized staff selected the parties mentioned above as the plaintiffs pursuant to Paragraph 1, Article 44-1 of the Taiwan Code of Civil Procedure and a lawsuit was filed.

- **Legal Aid**

The case was brought to LAF by the RCA Care Association in late 2006. Led by LAF staff attorneys, a pro bono attorney group was formed with public interest attorneys to proceed with class action. This case required knowledge from the disciplines of occupational safety and health, environmental engineering, toxicology and epidemiology. The case also involved legal issues such as causation, piercing the corporate veil and the limitation period. Therefore, the LAF has also formed a team that comprised experts and scholars in the relevant fields. The case of suing the defendant, RCA Taiwan, for more than NT\$2,700,000,000 finally received a favorable judgment from the court of first instance on April 17, 2015 after years of fighting. The court ruled that the defendant should pay NT\$564,450,000 in damages<sup>8</sup>. It was the most complex lawsuit in Taiwan's judicial practice. The case involved an incident dating back a long time, numerous victims, and difficulty to retrieve materials. It required knowledge from the disciplines of occupational safety and health, environmental engineering, toxicology and epidemiology. The case also involved legal issues such as causation, piercing the corporate veil and the limitation period.

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<sup>8</sup>Both the plaintiff and the defendants, including RCA, had submitted appeals. LAF and the Ministry of Labor published a hotline at a press conference on May 26, 2015 after the first instance decision was delivered so to file further lawsuits on behalf of members wishing to hold the defendants accountable. The hotline offers consultation for those who wish to become members and be part of second instance litigation. 1,025 names were added to the list for second instance litigation. The claims were raised by NT\$5,582,000,000. However, the court of second instance ruled that the additions were illegal. An appeal was filed with and rejected by the Taiwan High Court. As a result, a claim of NT\$7,300,000,000 against the five defendants was filed with the Taiwan Taipei District Court on May 9, 2016.

### **(3) National remedy for Typhoon Morakot**

- **Background**

Typhoon Morakot brought rainstorms to the hills in Kaohsiung and close to 2,000 mm of rainfall between August 6 and August 9, 2009. Siaolin Village was located in the redrawn Jiaxian District of Kaohsiung City. A serious collapse took place at top of Mount Xiandu on the east. Falling rocks and debris (approximately 25,000,000 cubic meters) slid down to the foot of the mountain and covered part of Siaolin Village. A total of 169 households were buried under rubble in the mudslide, which caused 381 deaths and 16 missing persons and nearly wiped out the entire population of Siaolin Village. The incident sent shock waves throughout the country.

- **Legal Aid**

Some of the residents tried to seek national remedies through LAF. The Taiwan Kaohsiung District Court rejected the residents' civil claim, which was appealed at the court of second instance. The Taiwan High Court Kaohsiung Branch Court ruled that Civil servants could not have foreseen the collapse on Mount Xiandu, and the senior management did not give instruction for evacuation of the entire village. Therefore, the lack of action to remove the villagers by force did not amount to neglect of duty on the part of civil servants. In addition, since the local shelter, too, was buried under rubble, removing the villagers by force would not have been able to prevent deaths. Hence, it was deemed a causal relationship did not exist between such neglect and the subsequent deaths.

The residents asked LAF to appeal to the court of third instance. LAF provided special legal aid services in accordance with Article 5, Paragraph 4, Subparagraph 6 and Article 13 of the Legal Aids Act. The case is being appealed by staff attorneys to the court of third instance and being reviewed by the Supreme Court.

### **(4) CPDC dioxin pollution case**

- **Background**

The manufacturing processes at Tainan Anshun Plant of China Petrochemical Development Corporation ("CPDC") generated side products

such as dioxin and mercury and other hazardous industrial waste, causing serious pollution of the soil, rivers, and underground water at the factory and its surroundings. As a result, local residents had an apparently higher concentration of dioxin in their blood, causing severe damage to their health.

● **Legal Aid**

LAF started having staff attorneys work on the case in 2007. Restrictions imposed by the prevailing regulations at the time meant that the case, as it involved victims who did not meet LAF's financial hardship threshold, had to be handled by civic-minded attorneys gathered by Tainan Bar Association.

The national remedy case entered into legal proceedings in June 2008. More than seven years later, the Taiwan Tainan District Court ruled, on December 7, 2015, that the defendant, CPDC or the Ministry of Economic Affairs, should pay the plaintiff NT\$168,170,000<sup>9</sup>. The decision in this case deemed that the residents did have a high concentration of dioxin in their blood, which could be construed as violation of their right to health, and explicitly stated that the CPDC Anshun Plant did pollute the environment and cause harm to the plaintiff.

After the first instance ruling, the victims held a press conference to urge the Ministry of Economic Affairs and CPDC to face their responsibilities, but the defendants filed an appeal regardless. LAF provided special legal aid services for the victims for the second instance proceedings in accordance with Article 5, Paragraph 4, Subparagraph 6 and Article 13 of the Legal Aids Act.<sup>10</sup>

**(5) Weiguan Case**

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<sup>9</sup>Damages to be paid in the case were calculated by picograms of dioxin in the plaintiff's blood, starting with NT\$200,000 for the first 32 picograms of dioxin and NT\$5,000 for each additional picogram thereof. Those who had diabetes or cancers as a result would be entitled to NT\$400,000 and NT\$300,000, respectively, in addition. Furthermore, some of the residents who did not file their claims in the case above were assisted by LAF staff attorneys in initiating a new case at the court of first instance to fight for their rights. The case entered into legal proceedings in February 2017.

<sup>10</sup>The second instance proceedings entered into the first preliminary proceeding on May 20, 2016, and had had 7 preliminary proceedings by the end of January 2017. The preliminary proceedings were expected to end on March 8, 2017, and arguments would be presented on April 12.

- **Background**

At 3:57 am on February 6, 2016, Weiguan Jinlong Building in Tainan collapsed during an earthquake that measured 5 on the Richter scale. The collapse killed 115 and injured hundreds. LAF agreed to provide special legal aid services in accordance with Article 5, Paragraph 4, Subparagraph 6 and Article 13 of the Legal Aids Act.

- **Legal Aid**

An attorney group of staff attorneys and private lawyers was assembled to file criminal charges, civil claims, provisional attachment and related affirmation regarding claims. The Taiwan Tainan District Court conducted a string of reviews in early April 2016. On November 25, 2016, it sentenced each of the five defendants to five years in prison in conjunction with a fine of NT\$90,000 for negligent homicide<sup>11</sup>.

The criminal case was detained at the Taiwan High Court Tainan Branch Court due to the appeal filed by the five defendants. The first preliminary proceeding was expected to take place on February 15, 2017. The civil case was moved to the civil court.

## **(6) Civil Disobedience Interrogation Accompanied by Legal Aid Attorney Program**

In order to further protect human rights, the CEO is authorized by LAF to decide whether to appoint an attorney to accompany the interrogation with regard to criminal investigation defense cases derived from charity movements of social concern. The program mainly assists in protecting the people's rights to attract public attention and start movements for the purpose of changing the government law or policy. Since the program started in 2014, LAF has appointed attorneys to accompany the interrogation in cases including the protest against the Cross-Strait Service Trade Agreement, the student

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<sup>11</sup>The sentences were the statutory maximum under Article 276 of the Criminal Code of the Republic of China. However, the defendants committed a crime that caused a large number of deaths and injuries, and even the maximum sentences fell far below the expectations of the families of victims and the general public. Therefore, the attorney group will continue to assist the families in subsequent proceedings and campaign to amend the law in order to ensure fairness and justice.

movement against the lack of transparency in the national curriculum, the relocation of Sanmin market in Kaohsiung, and the protest against the one fixed day off and one flexible day off each week policy.

## **10. Legal aid service delivery model and wages**

### **(1) Sources of attorneys handling LAF cases**

LAF cases are handled by two types of attorneys. One is staff attorneys employed by LAF; and the other is private lawyers. The budget allows 18 staff attorneys, but LAF employs only 16 at present. The number of private lawyers was 3,506 (approximately 35% of the total number of attorneys in Taiwan) at the end of 2016. Staff attorneys handle cases of important public interest and high social profile. Examples include major environmental pollution lawsuits (the RCA case) and national remedy cases (destruction of Siaolin Village during Typhoon Morakot). Nearly all of the other LAF cases are handled by private lawyers. Staff attorneys handle less than 2% of LAF cases, and private lawyers remain the engine behind most LAF cases.

### **(2) Requirement of LAF private lawyers**

As a general rule, an attorney has to have been practicing for two years or more before he/she can apply to join LAF. The requirement is to find private lawyers with experience of basic litigation in order to ensure quality of LAF cases.

Attorneys with less than two years of practice<sup>12</sup> may submit to LAF legal documents from 15 cases that they handled. If the legal documents pass the review, the applicant will receive an exemption and be allowed to become a private lawyer.

### **(3) Case distribution mechanism**

Attorneys who satisfy the LAF private lawyer qualifications must register with the respective LAF branch located near to his or her Bar Association to serve as support attorneys. The branch will then assign cases to the private lawyers using a fair case distribution mechanism. In principle, each support attorney can

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<sup>12</sup>In addition, the willingness for private lawyers to take on the LAF debt clearance as well as the prosecutor and police interrogation attorney presence cases is low because the debt clearance cases have long working hours and low wages, and the hours for prosecutor and police interrogation attorney presence cases often go into late nights or early mornings. Therefore, the LAF has recruited attorneys who have practiced for less than two years and meet certain conditions to apply and provide the aforementioned types of legal support services.

handle a maximum of 24 legal aid cases per year.

**(4) Attorney remuneration**

The wages for the LAF support attorneys are lower and averages only one-third to one-half compared to that of the market remuneration level. Attorneys in this field have continued to request for reasonable wage increases. Others believe that the low wages may affect the quality of the legal aid services. However, because the LAF's budgets are restricted by the Judicial Yuan, the Judicial Yuan must approve all of the remuneration hikes. LAF has implemented a new remuneration payment method for a small number of extremely low remuneration level cases to help slightly raise wages for this type of cases. The new method has received preliminary approval of the Judicial Yuan, but remains on the whole significantly below industry standard.

**(5) Staff attorneys**

**i. Regulatory basis for staff attorneys**

LAF, according to Article 24 of the Legal Aid Act, may employ staff attorneys. For example, American legal aid organizations also employ a large number of staff attorneys. In addition to ensuring quality of LAF cases, employing good attorneys with professional expertise provides another advantage as it is easier to monitor cases handled by staff attorneys than those handled by private lawyers. It is also easier to ensure that individual large and complex cases are handled in a manner consistent with LAF's programs and policies, which is very important to promoting legal aid services.

**ii. Evolution of staff attorneys**

In 2005, LAF started employing staff attorneys to help the branches handle cases of major social concern. Examples included the RCA organic solvent pollution case and the CPDC Anshun Plant dioxin pollution case. Such cases tend to involve a large number of people or complex details that are too difficult to handle for private lawyers or private firms. Therefore, LAF assigns most of these cases to staff attorneys. Meanwhile, staff attorneys have a lot of experience in cases involving certain minorities, such as foreign workers, foreign spouses, victims of human traffickers, credit card debt holders, indigenous people, and death penalty recipients. The

experience makes them trainee teachers on legal issues faced by minorities. They are able to help LAF organize education and training for private lawyers, which will contribute to professional development of LAF private lawyers.

Staff attorneys are also widely recognized for their performance with the cases. Having observed legal aid systems in developed countries and examined information from international legal aid conferences and visits to facilities in other countries, LAF established the North Legal Aid Staff Attorneys Center at the Head Office on December 22, 2012. The center is managed in a manner to ensure staff attorneys are assembled in one place and more specialized and efficient.

The goals are as follows:

- A. To strengthen legal aid for minorities: The North Legal Aid Staff Attorneys Center started with strengthening legal aid services for major criminal cases, and would extend the scope to provide more specialized services for workers, indigenous people, credit card debt holders, migrant workers, immigrants and other minorities.
- B. To ensure quality of services provided by staff attorneys: Staff attorneys used to be stationed at different branches and would find it difficult to exchange opinions. It was also time consuming to travel for project research. In addition to existing staff attorneys at the branches, the North Legal Aid Staff Attorneys Center was established at the Head Office. The center makes it easier for staff attorneys to engage other legal professionals and ensures quality of services provided by staff attorneys.
- C. To enhance capabilities of private lawyers: Most of the cases undertaken by staff attorneys are cases that normal attorneys would rather not handle. With the North Legal Aid Staff Attorneys Center in place, education and training can be provided to pass on professional knowledge and experience to private lawyers across the country to help private lawyers improve their capabilities and provide better services.

- D. To formulate legal policies that evolve with society's changing needs: The North Legal Aid Staff Attorneys Center will, depending on its operational performance, legal aid outcomes and practical experience, assist the officials in formulating legal policies that evolve with society's changing needs.

In addition to the North Legal Aid Staff Attorneys Center, which assists all branches with legal aid cases of major social concern, LAF will employ three staff attorneys at the LAF Tainan Branch and develop the LAF Tainan Branch into a hub that provides assistance to branches in the southern region in handling legal aid cases of major social concern. Plans to establish a legal aid center for indigenous communities in eastern Taiwan are also in place so as to better serve local indigenous persons and provide them with necessary and prompt legal aid services with regard to legal disputes arising from differences between indigenous heritage and the law.

**iii. Results delivered by staff attorneys**

Since the establishment of the North Legal Aid Staff Attorneys Center on December 22, 2012, LAF has been able to offer services through staff attorneys with abundant experience in class actions to victims of major natural disasters or accidents in Taiwan. For example, victims of Typhoon Morakot, Formosa Fun Coast explosion, and Weiguan Building collapse were offered timely and effective legal aid resources (details shown under major cases on Pg. X) to help them proceed with civil and criminal suits and claim damages.

**11. Quality control standard for services of private lawyers**

In order to maintain the service quality of the private lawyers, the following control measures were adopted by LAF: qualification requirements for applying attorneys, case assignment management prior to handling the case (including the fair assignment policy and specialized case assignment system), control through the complaint system during case handling, and quality control through the Attorney Performance Evaluation System after case closure.

**(1) Policy planning for maintenance of attorney legal aid quality**

**i. Attorney qualification requirements and relaxation**

In order to maintain the quality of aid, starting from 2012, applying attorneys with less than two years of practice were requested by LAF to submit legal documents to the review committee to determine if the quality of the documents was sufficient. In 2016, a total of 42 attorneys were qualified by the review. In addition, to solve the problem of shortage of CDCP attorneys and accompanying attorneys in interrogation across the country, the Board of Directors approved the relaxation in the attorney qualification for CDCP and interrogation cases.

**ii. Promoting the Fair Assignment Policy**

The LAF Fair Assignment Policy focuses on the annual upper limit of 24 cases per attorney. The purpose is to create an upper limit to the number of cases accepted in effort to prevent conflicting court sessions and an overload of cases. The policy takes into account the overall workload of private lawyers who undertake legal aid cases on top of the attorney's existing cases. Currently, with the exception of Taitung and Hualien where attorney manpower is limited, in general private lawyers are not allowed to exceed the upper limit of 24 cases annually.

**iii. Program for assigning specialized attorneys to cases**

Based on the characteristics and needs of legal aid cases, labor cases, family cases, and CDCP cases were selected as the three categories for the trial program for assigning specialized attorneys to cases. Nonspecialized attorneys may be assigned only in three exceptional cases, which are "when a nonspecialized attorney is requested specifically by the legal aid recipient and has been involved in the proceedings or in factually relevant cases," "when the branch cannot find any other available staff attorney," and "when CEO grants an exception based on characteristics of a case or interest of the legal aid recipient."

The trial program for assigning specialized attorneys to cases was launched on August 1, 2015 for a trial period of two years. Between August 1, 2015 and December 31, 2016, LAF approved 244 labor law attorneys, 610 family law attorneys, and 480 CDCP attorneys. There were a total of 3,763 labor related cases, 3,307 or 87.88% were assigned to specialized attorneys. There

were a total of 8,144 family related cases, 7,311 or 89.77% were assigned to specialized attorneys. There were a total of 6,192 CDCP related cases, 6,149 or 99.3% were assigned to specialized attorneys. On the whole, more than 80% of cases were assigned to specialized attorneys.

**(2) Complaint system**

Based on the LAF Guidelines Governing Complaint Handling Procedures, any applicant or related party or LAF employee may file a complaint against illegal or inappropriate action of a private lawyer (including LAF employees, Assessment Committee members and other staff members). LAF will immediately investigate and take disciplinary actions accordingly. In addition, LAF will follow up and reply any petition filed by the general public on the assessment standards or legal aid system.

Since 2014, LAF has been gathering evaluation data on private lawyers from the judge (attorney) evaluation system database operated by the Judicial Yuan. LAF takes action to file complaints and investigations against any private lawyers identified to have committed malpractice. No private lawyers have committed malpractice in 2016 according to the evaluation system.

In 2016, LAF processed 77 complaints against private lawyers, 4 of which were rejected (on grounds of the facts being more than two years old and withdrawal by the applicant) and 4 are still being investigated. The investigation on 69 of them was completed. The results were: no punishment in 35 cases; disciplinary actions, including coordination, guidance, warning, and improvement notice, in 26 cases; barred assignments in 7 cases; and barred assignments and referral to the Attorney Evaluation Committee in 1 case.

**(3) Attorney performance evaluation**

i. Results of Attorney Performance Evaluation

Since 2007, LAF has been conducting biennial attorney evaluation. Three large-scale attorney evaluations had been conducted as at December 31, 2016. A total of 24 excellent private lawyers were selected and commended,

while sanctions were imposed on 101 poor-quality or faulty private lawyers. The results are as follows: dismissal from legal aid service for 43 attorneys, barred assignments for 25 attorneys, reduced assignments for 8 attorneys, written notices of improvement to 24 attorneys; and warning to 1 attorney. Among the aforementioned sanctioned attorneys, 24 attorneys in violation of attorney ethics were referred to the Attorney Discipline Committee.

The sanctions imposed by the Attorney Evaluation Committee were primarily on the following categories of conduct: issues with service quality (such as failure to submit documents, insufficient documents, failure to appear in court, and attitude in communication), violation of attorney professional ethics (such as failure to meet the deadline for appeal, failure to submit grounds for appeal, and failure to meet the verdict deadline), violation of the Guidelines Governing the Handling of Legal Aid Cases by Private Lawyers (such as appointing an agent who is not an attorney, failure to meet with the client, and failure to inform the security procedures) and noncompliance with evaluation in providing documents and related materials.

ii. Reform in Attorney Evaluation Guidelines

In the past, evaluation was conducted in the manner of special programs, which cost a lot in random sampling and most attorneys were found to perform well without abnormal faults. Thus, the evaluation was not only an inefficient screening tool, but also untimely in quality control. LAF started adding more channels to the Attorney Performance Evaluation System in 2014. Attorneys who have received complaints and disciplinary actions or provide services of questionable quality will be given priority to undergo evaluation by the branches in order to more efficiently eliminate poor-quality attorneys. Disciplinary actions taken by the Attorney Evaluation Committee against violations over the years are summarized and published. Results of said disciplinary actions are also made available to the branches as a basis for attorney quality control.

## **12. Shifting relationship with legal community**

To enhance the quality of support and protect the rights of those receiving

assistance, LAF has established a number of mechanisms that control the progress, quality, remuneration, and administrative procedures of cases handled by private lawyers. Meanwhile, private lawyers play a key role in LAF's effort to advocate legal aid services. The balance between maintaining quality of aid and trusting and respecting private lawyers has been an important issue in legal aid services in Taiwan. To this end, LAF has made recent adjustments described as follows.

(1) Administrative processes are simplified to cut down unnecessary controls.

For better legal aid services and more effective case management, management of the administrative procedures for private lawyers to close cases has been reviewed and simplified. The Guidelines Governing the Handling of Legal Aid Cases by Private Lawyers has also been amended. The rule that previously required private lawyers to submit all documents when closing cases has been amended to "private lawyers may be asked to present documents they prepared and supporting documents where necessary." The rule that requires attorneys to report status in two months after taking a case now includes an exception clause specifying that "exception applies when it is confirmed that the case has been opened or suspended for reasons not attributable to the private lawyer." The Case Assignment and Status Reporting Form is amended by replacing the fields previously to be completed by private lawyers with the criteria for "case opened" and details of opened cases by aid category.

Regarding management of legal aid cases, there are plans to implement online reporting in the future.

(2) Reasonable wages for private lawyers

Since its establishment, LAF has slightly incremented wages for private lawyers only for certain categories (CDCP, simplified administrative, and regular administrative cases and criminal lawsuits in the second instance court) to reflect industry practice. Attorney remuneration has not been modified as a whole for twelve years, while practitioners have continued to protest against LAF attorney wages, which are significantly below industry average.

Meanwhile, LAF's budget is subject to subsidies provided by the Judicial Yuan and reviews by the Legislative Yuan; attorney wages are already the majority of LAF's budget. Given the increasing caseload, changing the basic wage and pay grades

will involve a large amount of funding. Therefore, the annual budget prevents any immediate change.

While legal aid services contain an element of charity, devotion to charitable causes should be rewarded with reasonable wages in order to guarantee that aid recipients receive quality services.

(3) Creating a communication platform

To invite comments and suggestions regarding legal aid systems from the legal community, LAF plans to create a communication platform by working with the Taiwan Bar Association and having both organizations appoint several representatives to the platform. Forums will be held regularly to discuss relevant issues.

### **13. Use of new technology to offer legal aid and results**

(1) Video legal consultation services

Work and transportation are often the two largest obstacles faced by minorities seeking legal aid. Helping residents of remote areas so they are not forced to give up their rights to legal aid due to distance is a challenge for LAF.

LAF branches started working with local governments in 2013 so that members of the public have access to video conferencing equipment at nearby affiliated agencies. Attorneys at the branches provide consultation services via video conferencing, effectively replacing roads with Internet for minorities living in remote areas. As of the end of 2016, LAF has established 380 video legal consultation stations and provided legal consultation by video conferencing in 1,038 cases. There are also video conferencing links between offshore islands and the North Legal Aid Staff Attorneys Center.

(2) Telephone legal consultation

Traditional face-to-face legal consultation services require a time and place for consultation to take place. The approach lacks flexibility and people have to be physically present at the scheduled time for consultation. The process is tiring and time consuming, and makes it harder for people who live in remote areas or are physically disabled to access fast, friendly consultation services. To make legal aid more accessible and friendly, LAF launched the legal consultation phone service for labor cases, debt cases, or cases involving legal issues faced by indigenous people on May 1, 2015. The hotline is 412-8518 and is staffed by

7 attorneys 9:00am to 5:00pm, Monday to Friday. The legal consultation phone service is available free of charge, but callers will be charged for the calls by their telecommunications service providers. There were 29,560 phone service cases in 2016. The five largest categories were family cases, CDCP cases, criminal injuries cases, labor cases, and criminal fraud cases.

(3) Website, Facebook page, and blog

Since the overhaul of the LAF official website in November 2015, LAF has been adopting modern webpage designs that cater to different user groups (the general public, LAF employees, attorneys, and external agencies). The website had 489,732 new and old visitors and 1,984,925 views in 2016.

The LAF Facebook fan page received the grey verified badge in May 2016 and became an officially verified social media platform. The highest post reach in 2016 was 62,856. The fan page has 34,641 fans, 4,500 more than the previous year.

The LAF blog was set up in 2006. Through the accumulation of information and web searches, the number of views has kept growing. In 2016, the blog was viewed on average 1,486 times a day and received more than 9,775 messages posted to inquire about legal issues.

#### **14. Conclusions**

Since the new administration took office in 2016, the public has been exhibiting greater expectations of judicial reform. Since the national affairs conference on judicial reform began in late 2016, there have been continuous discussions regarding the role of LAF and the scope of services it provides. The direction in which legal aid in Taiwan will evolve is as yet uncertain but is nevertheless worthy of our interest and attention.