

PROVISION OF LEGAL AID FOR THE POOR AND LESS-PRIVILEGED GHANAIS

1. INTRODUCTION

HelpLaw Ghana is a Non-profit organization established to provide free legal and related services for the poor and less-privileged Ghanaians in civil and criminal matters. Particular attention shall be accorded indigent accused persons, including juveniles and women who are too poor to hire lawyers to represent them.

A. The Problem:

Ghana's justice system does not guarantee free legal services for the poor and less-privileged people who are unable to hire counsel to represent them. A State-funded legal aid scheme is woefully under-funded and ill-equipped to make any impact at all, and there is no effective private alternative to provide free legal services across board to the poor. Consequently, accused persons who cannot afford the services of counsel are normally arrested, mostly tortured to volunteer information, and subsequently sent to court without anybody defending their rights. Many of these accused persons are invariably convicted and jailed for maximum terms, or remanded in prison custody and forgotten for many years.

This sad situation has led to a terrible congestion of Ghana's prisons. The Ghana Prisons Records as of July 2009 show that the main prison facility, the Nsawam Medium Security Prisons had exceeded its maximum capacity of 851 inmates by over 200% to 2,951 inmates. The Akuse prison with a maximum capacity of 60 inmates had over 309 inmates, and the Kumasi Central Prison with a maximum capacity of 416 had over 1,678 inmates. More than half of all of these inmates were remand prisoners. Out of Nsawam Prison's 2,951 inmates more than 1,734 of them were remand prisoners. Some were charged but were never brought before any court of law for several years after their first appearance. In addition to the inmates in the prisons, a large number of accused persons are languishing in various police cells all over the country for several months in contravention of Ghana's 1992 Constitution.

B. Objectives of HelpLaw Ghana:

Having realized that the criminal justice system of Ghana and the existing facilities do not guarantee legal representation for the poor, and with the conviction that justice must not be rationed to favour only the rich and powerful, HelpLaw Ghana has been established to provide free legal and related services to as many poor and indigent accused persons who the charity can raise resources to support. The vision of HelpLaw Ghana is to eventually guarantee free legal services for the poor and all indigent accused persons in Ghana.

2. BACKGROUND

A. International Best Standard:

It is a fundamental international requirement that all human beings must have equal access to justice and equal protection of the law. Article 7 of the United Nations Universal Declaration of Human Rights provides that: "All are equal before the law and are entitled without any discrimination to equal protection of the law. . . ." Article 11 provides that: "Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."

Equal protection of the law, and equal justice for all means no person must receive less justice than others because of sex, color, language, religion, race, ethnicity, and financial status. Most of the member states of the United Nations have accordingly guaranteed the right to counsel to every citizen notwithstanding their financial status. In these jurisdictions, government-funded Public Defender Offices and privately initiated legal aid schemes have been established to provide free legal services to indigent accused persons. The private legal aid schemes are funded by human rights organizations, civil liberty groups, governments, private foundations, corporate entities, and private philanthropists.

B. Ghana's Commitment, Efforts, and Failure:

In Ghana, Article 19 (2) (e) of the 1992 Constitution provides, as previous Constitutions did, that everyone charged with a criminal offence shall “be given adequate . . . facilities for the preparation of his defence.” In pursuance of this goal, a State-funded Legal Aid Scheme was established under the Attorney General’s Office, ostensibly, to provide free legal services for the poor. There are also a few public interest practitioners seeking to provide various kinds of free legal services to certain categories of the population. Sadly, all of these initiatives have failed woefully to provide free legal services across board, to indigent accused persons who invariably end up in the prisons.

The inability of the State to provide effective free legal services to the poor and indigent accused persons, and the sad failure of private lawyers to effectively fill the gap, have created a void in the criminal justice system of Ghana leading to a serious congestion of Ghana’s prisons.¹ Many remand prisoners have been held for several years, although if they were sentenced, they may not be jailed for as long as they stay in remand.

In response to the congestion of the prisons, the UNDP has supported a “Justice for all project” seeking to review the dockets of remand prisoners whose warrants have expired, and possibly discharge some of them or grant them bail. However, while this is ongoing, new convicts and remand prisoners are being added to the stock daily because no attention is being paid to new indigent accused persons when they first appear in court. Most of them may be innocent, but because they do not have counsel to represent them, they invariably end up in jail. HelpLaw Ghana has been established to change this situation by providing free and effective legal services to these suspects right from their arrest until the end of their cases in court. It is our expectation that all organizations and individuals who cherish the rule of law and equal protection of the law for all human beings shall support us to discharge this noble social responsibility to the less-privileged people of Ghana.

¹ The Ghana Prisons Records indicate that by the end of 2009, almost all of Ghana’s Prisons had exceeded their maximum capacities by over 200%. Nsawam Prison had 2951 inmates instead of a maximum capacity of 851; the Kumasi Central Prison had 1678 inmates instead of maximum of 416 inmates; and the Akuse Prison had 309 inmates instead of a maximum of 60 inmates.

3. METHODOLOGY AND PROCESS

A. Target, Procedure, and Capability:

HelpLaw Ghana has already begun operation in the courts in the Greater Accra Region of Ghana. The demand for our services is constantly increasing and already overwhelming in light of the lack of funding to meet the understandable expectation of the poor. HelpLaw Ghana can retain lawyers either permanently or temporarily to discharge this important service if funding is secured. In the medium to long-term, the charity intends to provide opportunity for law students to participate through internship.

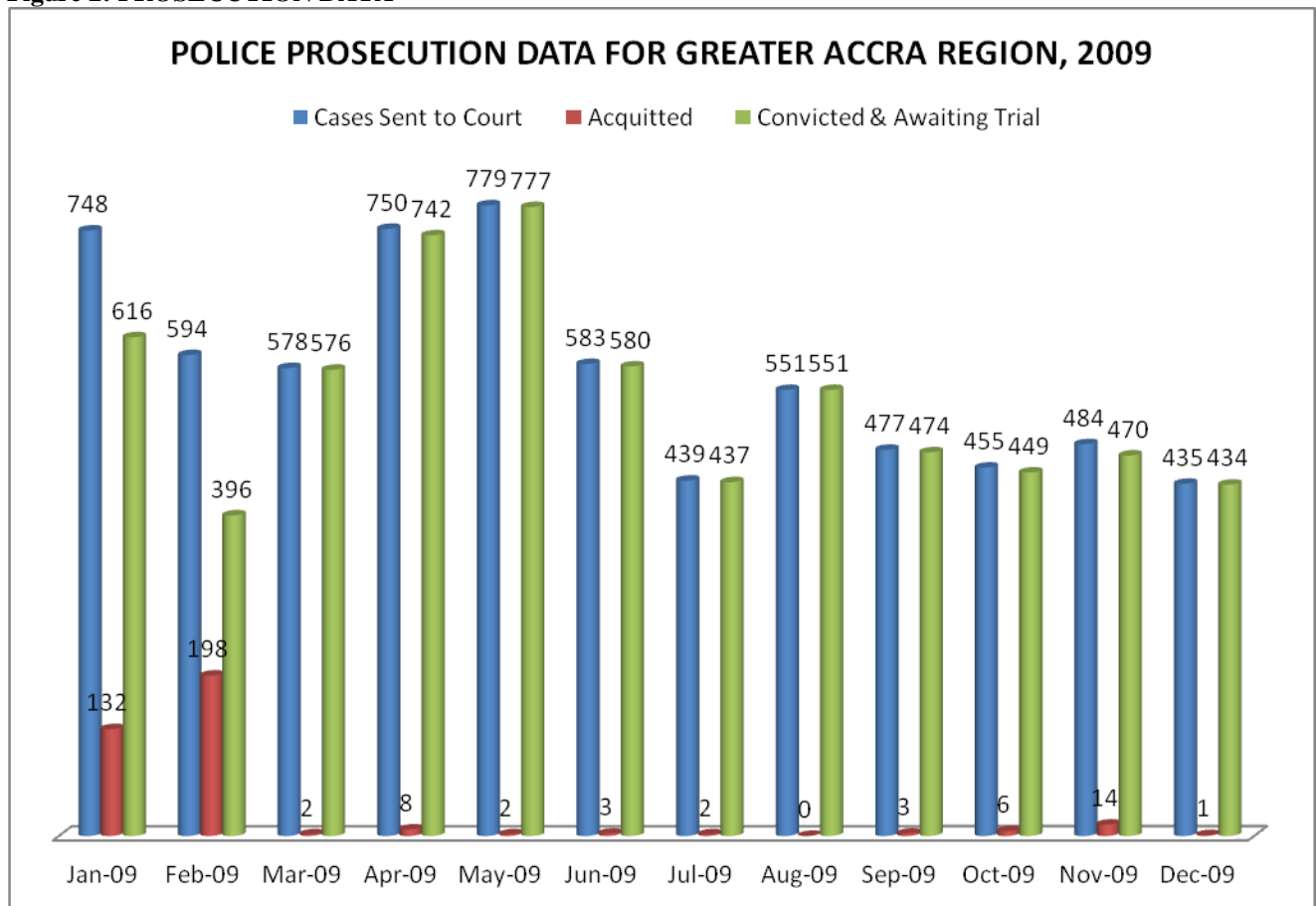
B. Police Prosecution Data in Greater Accra Region in 2009:

The table and graph below show the number of criminal cases that were reported in court by the police in the Greater Accra Region monthly in 2009. These are indicative of the general trend all over Ghana. In the graph, the blue bars show the total number of cases that were sent to court; the brown bars show the number that was acquitted; and the green bars show the numbers that ended in conviction or remand.

Figure 1: PROSECUTION DATA

POLICE PROSECUTION DATA IN GREATER ACCRA, 2009			
MONTH (2009)	TOTAL CASES SENT TO COURT	ACQUITTED	CONVICTED / REMANDED
January	748	132	616
February	594	198	396
March	578	2	576
April	750	8	742
May	779	2	777
June	583	3	580
July	439	2	437
August	551	-	551
September	477	3	474
October	455	6	449
November	484	14	470
December	435	1	434
TOTAL	6873	371	6502

Figure 2: PROSECUTION DATA



On the average, 573 cases were sent to court each month of 2009. The accused persons in 30 of the cases were acquitted while those in 543 of the cases were either convicted or remanded. If a conservatively low number of 2 suspects are assumed to be involved in each case, then on the average, 1,146 suspects were charged every month. Only 60 of these were acquitted while 1,086 were either convicted or remanded. In reality, more than 95% of those convicted or remanded had no legal representation at all. These unfortunate ones are the target of HelpLaw Ghana. The charity may take up to 200 of these cases each month thereby representing about 400 indigent accused persons who would otherwise be jailed or remanded monthly because they are too poor to hire counsel to represent them.

4. SUSTAINABILITY

The vision of HelpLaw Ghana is to ensure that eventually, the poor and less-privileged Ghanaians shall have free legal services whenever they are confronted with legal issues in the courts. This is undoubtedly a noble social and constitutional responsibility, which must be met primarily by the State. Unfortunately, the State is unable to guarantee this right to all of its citizens. As consultations continue among the leadership of the institutions in the criminal justice system and among lawyers and friends, everyone applauds our vision and describes it as a brilliant one. Many are providing encouragement in various forms. The feedback from experts and the general public suggests abundantly that the initiative shall not be a stop-gap project but shall expand and be sustainable provided funding is secured. We are already demonstrating the requisite experience and credibility for our vision, and information of these exist at our official website at: www.help-law.org

5. MONITORING AND EVALUATION

There shall be continuous self monitoring and assessment of our activities through regular reviews and evaluation. Monitoring shall be done by analyzing the processes that we will adopt in assisting our clients and measuring the results we attain. Evaluation reports shall be submitted to, and discussed with our Advisory Board and interested donors, as well as published at our website for public information.

6. BUDGET

We have enclosed a modest budget estimates.

7. CONCLUSION

With a very humble start, HelpLaw Ghana is beginning to change the disorder in the criminal justice system of Ghana. We have established our charity solely for this purpose, to represent those who are charged with criminal offences but cannot hire counsel to represent them. We are determined to make a tremendous impact to boost

Ghana's democratic stature and promote the rule of law and respect for human rights of all citizens. Unfortunately, our vision will fail if the requisite financial support is not provided by international and local donors. We are hereby appealing to you to support our noble cause by donating graciously to support our vision, Please take time to visit our website at www.help-law.org.

BUDGET ESTIMATES FOR YEAR 2013

SUMMARY OF ESTIMATES

BUDGET ITEMS	GHC	USD	REMARKS
OFFICE ACCOMMODATION	20,120	10,589.47	SUB TOTAL 1
FURNITURE & FITTINGS	43,600	22,947.37	SUB TOTAL 2
VEHICLE	60,000	31,579.00	SUB TOTAL 3
OFF EQUIPMENT & COMMUNICATION	12,650	6,658.00	SUB TOTAL 4
RE CURRENT EXPENDITURE	162,000	85,263.16	SUB TOTAL 5
GRAND TOTAL	298,370	157,037.00	@ 1.9

DETAILS OF ESTIMATES

OFFICE ACCOMMODATION, FURNITURE & FITTINGS & VEHICLE

DETAILS	QTY	UNIT COST	FREQ	O/A	F & F	VEHICLE	REMARKS
OFFICE SPACE	30	55.89	12	20,120		-	
F & F : 1.DESKS & CHAIRS	4(SETS)	6,000	-	-	24,000	-	
2.WORK STATION	1(SET)	10,000	-	--	10,000	-	
3.CABINET	3NOS	2,200			6,600		
4.CONFERENCE TABLE & CHAIRS	1 SET (8 CHAIRS)	3,000			3,000		
VEHICLE- PICK-UP TOYOTA 4.8D	1	60,000		-	-	60,000	
SUB TOTALS, 1,2, 3, & 4				20,120	43,600	60,000	

OFFICE EQUIPMENT & COMMUNICATIONS	QTY	U/COST	GHC
1.Telephone installation		600	600
2.Internet connectivity		1,000	1,000
3.Laptops	2	1,500	3,000
4.Desk top computer	2	1,100	2,200
5.Canon Photocopier	1	4,500	4,500
6.Printer Col. laser jet cp1515N	1	1,100	1,100
7.UPS 800VA	1	250	250
SUB TOTAL-4			12,650

RECURRENT EXPENDITURE

DETAILS	QTY	U/COST	FRQ	GHC	RMKS
SALARIES & ALLOWANCES:					
Founder/Attorney	1	2000	12	24,000	
Permanent lawyers	2	1300	12	31,200	
Supporting staff	3	800	12	28,800	
OFFICE CONSUMABLES	-	2000	12	24,000	
ADMINISTRATIVE EXPS	-	1500	12	18,000	
VEHICLE RUNNING EXPS		1000	12	12,000	
GENERAL REPAIRS & MAINTENANCE		1000	12	12,000	
FILING FEES, PUBLICITY & PRESS RELATED EXPS		1000	12	12,000	
SUB TOTAL - 5				162,000	