

Legal Aid Programme in Myanmar (MCC & UNICEF)



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OUTLINE OF THE PRESENTATION

1. Why was the legal aid programme established?
2. Programme objectives
3. Juvenile Justice in Myanmar
4. Successes
5. Challenges
6. Statistics
7. Future plans

WHY WAS LEGAL AID TO CHILDREN ESTABLISHED?

- Convention on the Rights of the Child- A child has a right to be heard
- Specifically Article 37:
*“every child deprived of his or her liberty shall have the **right to prompt access to legal and other appropriate assistance**, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action”*

In Myanmar

- Child Law 1993: Every child has a right to be heard and defended through a representative (S.13)

WHY WAS LEGAL AID TO CHILDREN ESTABLISHED?

But what if a child cannot be heard? What if a child cannot afford legal representation?

- CRC:-Article 40, a child should have legal or other appropriate assistance in the preparation and presentation of his or her defence
- Child Law:- Government provide lawyer in cases that would result in death penalty if the offender wasn't a child (child = a person under 16)
- Courts Manual:- payment K 50 per case, payable as soon as the Advocate or Pleader accepts the brief, and an additional fee of K 25 per diem for each day's appearance in excess of two.

WHY WAS LEGAL AID TO CHILDREN ESTABLISHED?

- To respond to a gap in provision of legal services to child offenders who cannot afford representation (children under 18);
- To provide support to victims and witnesses of crime;
- To develop the capacity of lawyers to represent children by building their knowledge of CRC and Child Law;
- To build up a network of lawyers who would require the application by the Police and Courts of the juvenile justice provisions of the Child Law 1993: Examples:
 - No handcuffing
 - Charging as soon as possible
 - First appearance within 24 hours of arrest
 - Special treatment and care
 - Detention as a last resort
 - Alternative sentencing provisions
 - Probationary reports
 - parole

PROGRAMME OBJECTIVES

Over time objectives have developed as follows:

- To provide free legal representation for children in contact with the law and women survivors of gender-based violence;
- To mobilize pro bono lawyers to assist and support children and women;
- To provide social support, school support and vocational training to child and women victims as appropriate.

PROJECT AREAS

2008:

- **Projected started in** 31 townships within the metropolitan areas of Yangon with 45 lawyers (31 women)

2009:

- 118 townships in Yangon, Ayeyarwaddy, Mandalay and Lower Sagaing Regions with 465 lawyers (293 women)

Dec. 2010:

- 245 townships in all States and Regions(except Kayah State) to cover CCWL and new component of female survivors of Gender-Based Violence with 1168 Lawyers (733 women)

BENEFICIARIES

Sr.	Period	Boy	Girl	Women	Grand Total
1	Dec, 2007 – Nov, 2008	169	21	***	190
2	Dec, 2008 – 14 May, 2009	391	96	***	487
3	15 May, 2009 - 31 Jul, 2010	673	263	***	936
4	1 Dec, 2010 - 31 Oct, 2011	770	564	339	1673
Grand Total		2003	944	339	3286

JUVENILE JUSTICE IN MYANMAR - Opportunities

- 2 juvenile courts (Yangon, Mandalay); elsewhere Township courts fulfill juvenile court function
- Rates of child offending comparatively low
- Child friendly court procedures directive in draft;
- Training by UNICEF undertaken with Judges/ police on CRC and Child law since 2005;
- Child friendly court rooms in Yangon/Mandalay established, child friendly police rooms in process;
- Juvenile Justice Inter-Agency Working Groups established (Yangon-Mandalay);
- Good cooperation extended by police and courts to legal aid lawyers;
- On the whole, children not imprisoned even for serious offences.

Year	Boys	%	Girls	%	Total
2003	1105	80%	287	20%	1392
2004	1181	83%	246	17%	1427
2005	1234	85%	233	15%	1467
2006	1256	85%	226	15%	1482

JUVENILE JUSTICE IN MYANMAR - Challenges

- Child Law not considered and not always applied by police and courts
 - *Handcuffing of children persists*
 - *Limited alternative sentencing to detention (limited probation officers)*
- Most protections under CL apply to u-16
- Age of criminal responsibility 7-12
- Sentencing options available under child law undermined by lack of sufficient number of probation officers
- Status offences, and/or offences directly linked to low income, are a common cause of arrest
- DSW training schools- minimum stay 2 years (parole within 1 year)

CHILDREN'S MESSAGES

Children's messages to the police

'do not beat children; and do not handcuff us;

'keep us separate from adult prisoners'

'don't' take money from us and our family'

'treat us nicely like your own children and listen to us'

Children's messages to judges

'if we are not guilty, we want to be released immediately'

'ask us about our environment before making your sentence'

Children's messages to lawyers

'act as quickly as possible'

'thank you, you are good to us'

Children's message to training schools

'we were sent here and are not allowed to go home with a reprimand, we want to be reunited with our families'

(Reported by children in contact with the law in DSW institutions and beneficiaries of Legal Aid Programme, during participatory exercises as part of 'Strengthening Juvenile Justice in Myanmar' evaluation - August 2011)

Legal Aid to Children

STATISTICS

December 2010 to October 2011

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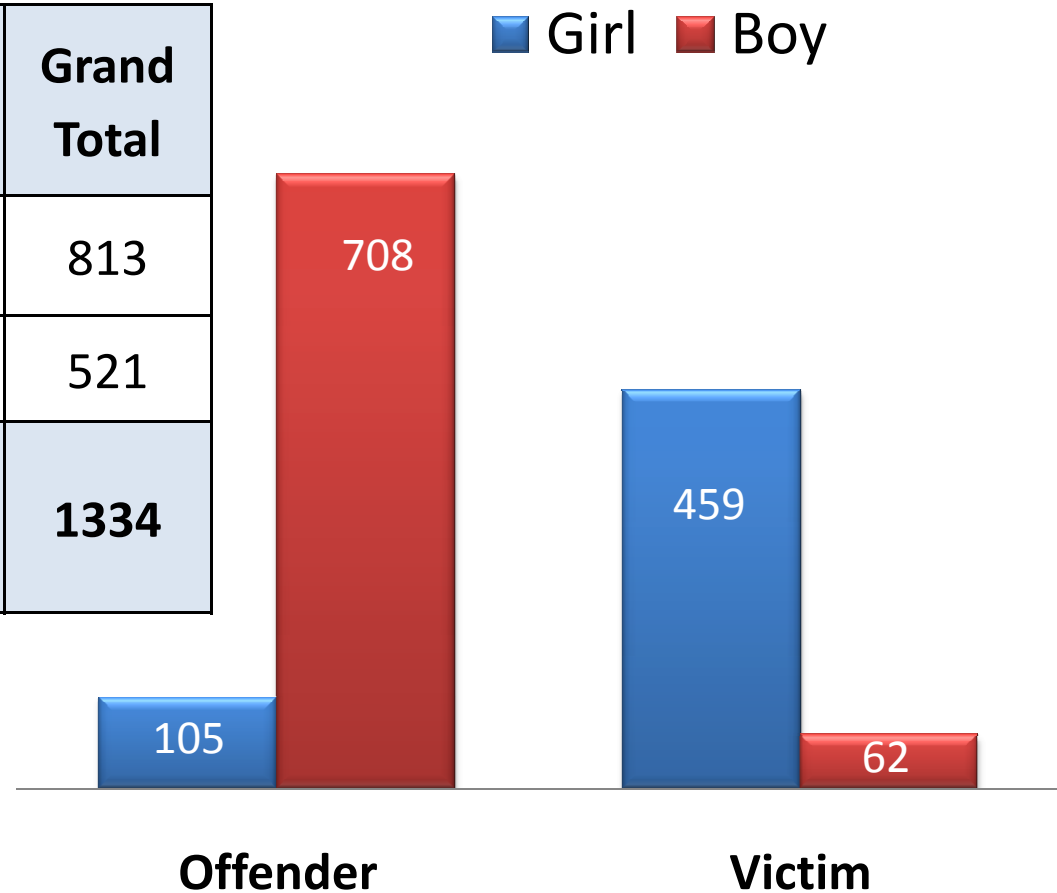
Number of Cases and Children (by location)

Division / State and number of townships	Hub office Name	Case Total	Child Total
Yangon (44)	Yangon	617	635
Mandalay (36)	Mandalay	171	186
Ayeyarwaddy (26)	Patheingyi	121	124
Bago (East)(11)	Bago	64	64
Bago (West) (14)	Pyaw	54	57
Tanintharyi (3)	Myeik	46	51
Shan (North) (14)	Lashio	37	40
Sagaing (Lower)(14)	Monywa	35	35
Mon(9)	Mawlamyine	31	32
Shan (South)(10)	Taunggyi	31	29
Kachin (9)	Myittha	18	18
Magwe& South Chin (11)	Pakokku	19	17
Sagaing (Upper) &Chin(15)	Kale	16	15
Magwe (21)	Magwe	15	14
Rakhine (2)	Thandwe	7	8
Kayin (4)	Hpa-an	6	6
Shan (East) (2)	Kengtung	3	3
Grand Total		1291	1334

Categories of Children

Most offenders are boys, most victims are girls

Type	Girl	Boy	Grand Total
Offender	105	708	813
Victim	459	62	521
Grand Total	564	770	1334

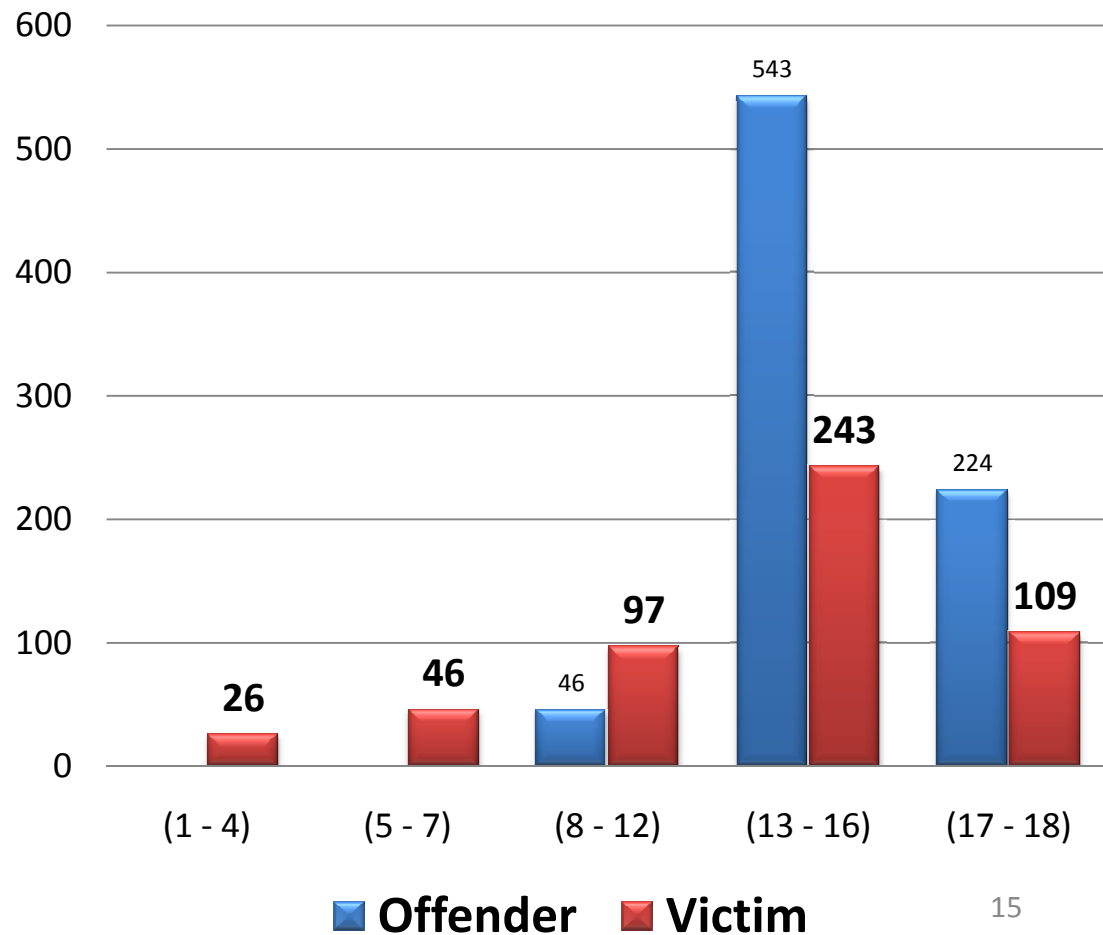


Classification by Age

Most offenders represented are between 13-16 years old

Age Group	Offender	Victim	Grand Total
(1 - 4)	***	26	26
(5 - 7)	***	46	46
(8 - 12)	46	97	143
(13 - 16)	543	243	786
(17 - 18)	224	109	333
Grand Total	813	521	1334

Total Children are 1334.

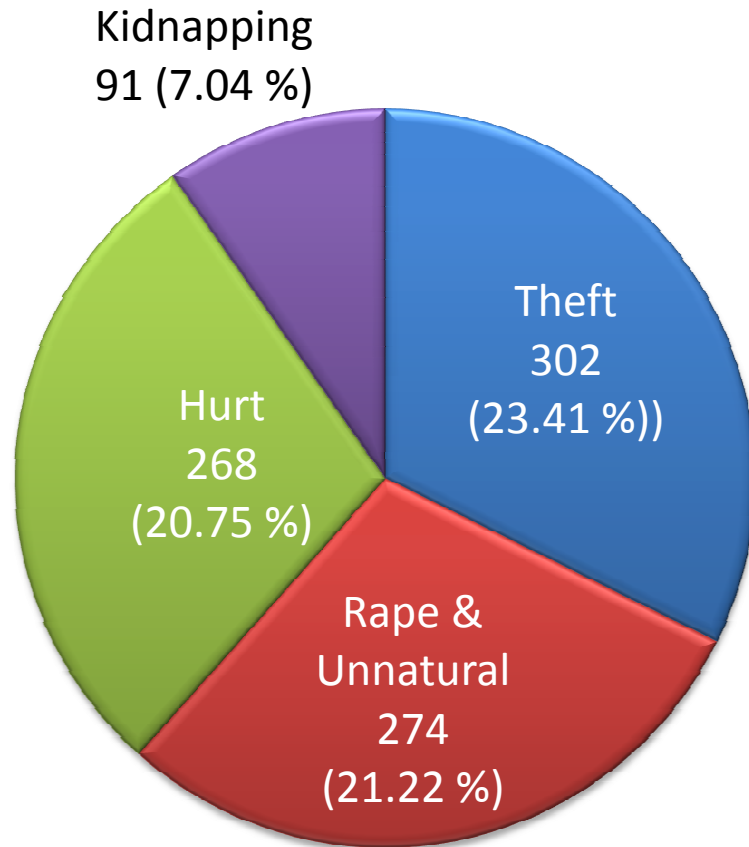


Classification by Offences (Child Cases)

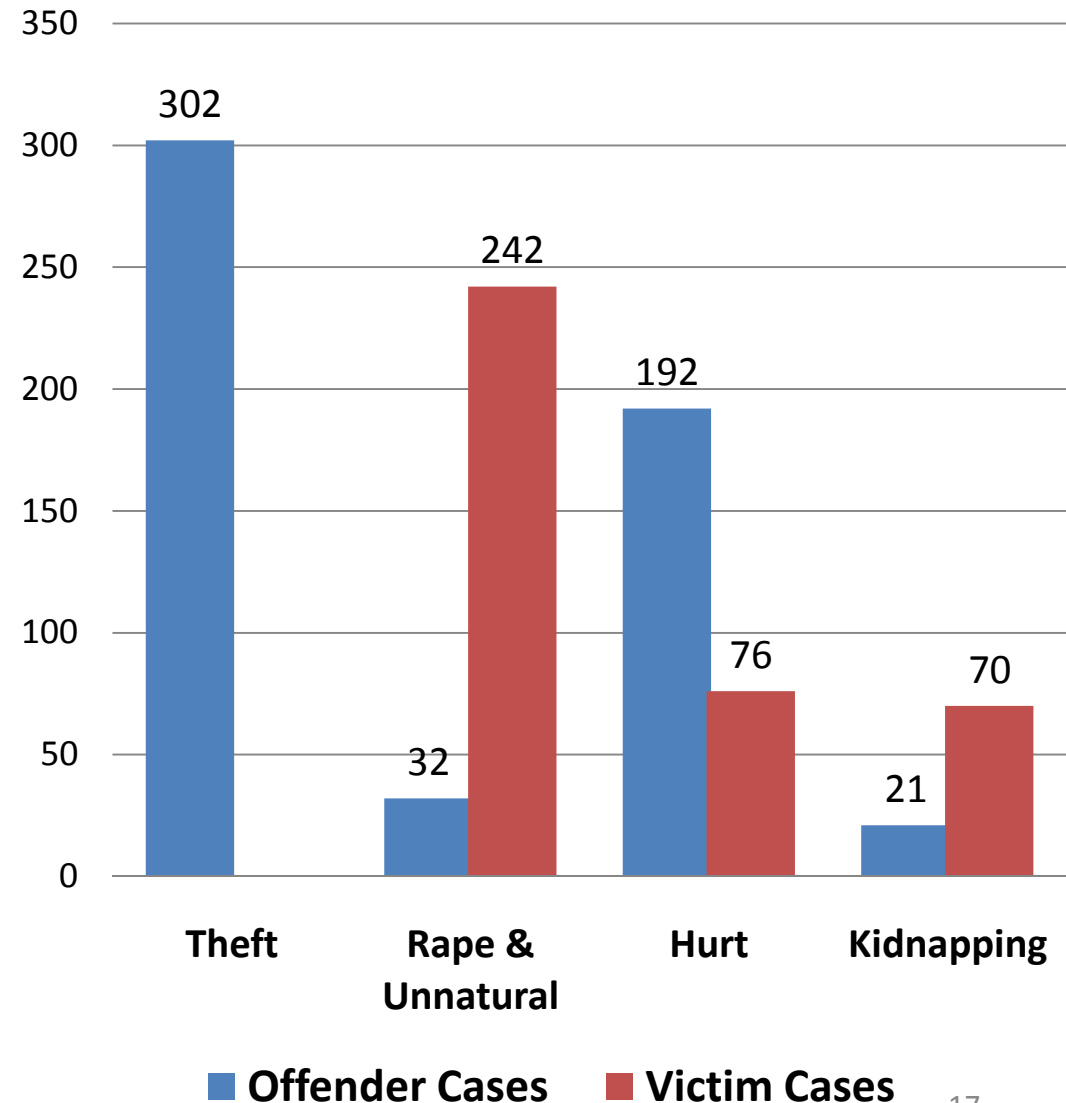
Theft (Survival Crimes) followed by bodily harm most common offence committed by children; rape most common crime against children (mostly girls)

Case Category	Offender Cases	Victim Cases	Grand Total	Percentage
<i>Theft</i>	302	-	302	23.41 %
<i>Rape & 'Unnatural'</i>	32	242	274	21.22 %
<i>Bodily harm</i>	192	76	268	20.75 %
<i>Kidnapping</i>	21	70	91	7.04 %
Assault to women	17	40	57	4.41 %
Cheating	10	45	55	4.26 %
Murder & Homicide	41	11	52	4.02 %
Trespass	25	10	35	2.71 %
Obscene Song and Word	20	3	23	1.78 %
Mischief	8	-	8	0.61 %
Dacoity & Robbery	7	-	7	0.54 %
Negligent	5	-	5	0.38 %
Defamation	-	4	4	0.30 %
Dishonest	3	-	3	0.23 %
Intimidation to Women	3	-	3	0.23 %
Purposes of Prostitution	-	2	2	0.15 %
Others	7	-	7	0.54 %
Special Law	85	10	95	7.35 %
Grand Total	777	514	1291	99.93 %

Classification by Offences (Child Cases)



Total Child cases are 1291.

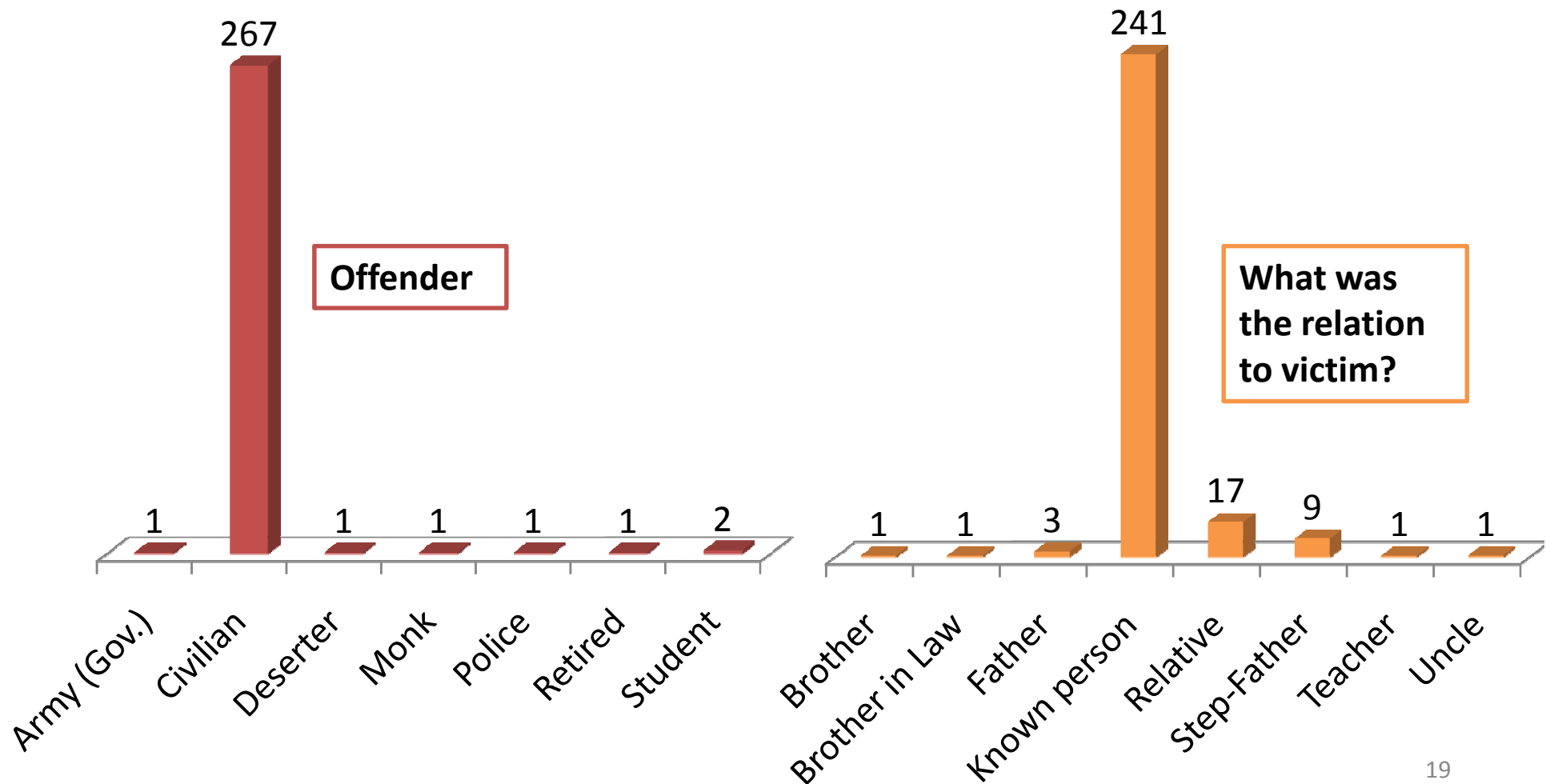


Classification by Offences in each Area (Child Cases)

State / Division	Theft	Rape / Unnatural	Hurt	Kidnapping	Assault	Cheating	Murder / Homicide	Other	Special Law	Grand Total
Mon	4	9	6	1	1	-	3	3	2	30
Ayeyarwaddy	10	32	22	9	14	16	3	9	4	119
Bago	4	38	30	9	10	7	6	10	4	118
Chin	-	1	-	-	-	-	2	1	1	5
Kachin	-	4	1	-	-	1	-	2	10	18
Kayin	3	3	-	1	-	-	-	-	-	7
Magway	1	11	9	1	1	3	2	2	2	32
Mandalay	60	16	43	9	5	1	9	16	12	171
Rakhine	1	1	2	1	-	-	1	1	-	7
Sagaing	6	9	10	4	3	9	4	2	1	48
Shan	23	11	11	1	1	1	6	4	13	71
Tanintharyi	13	10	7	3	2	1	5	2	3	46
Yangon	177	129	127	52	20	16	11	44	43	619
Grand Total	302	274	268	91	57	55	52	96	95	1291

Classification of Rape and Unnatural Cases (Child Cases)

In most cases the offender was a civilian known to the victim



Legal Aid to Women

GENDER BASED VIOLENCE

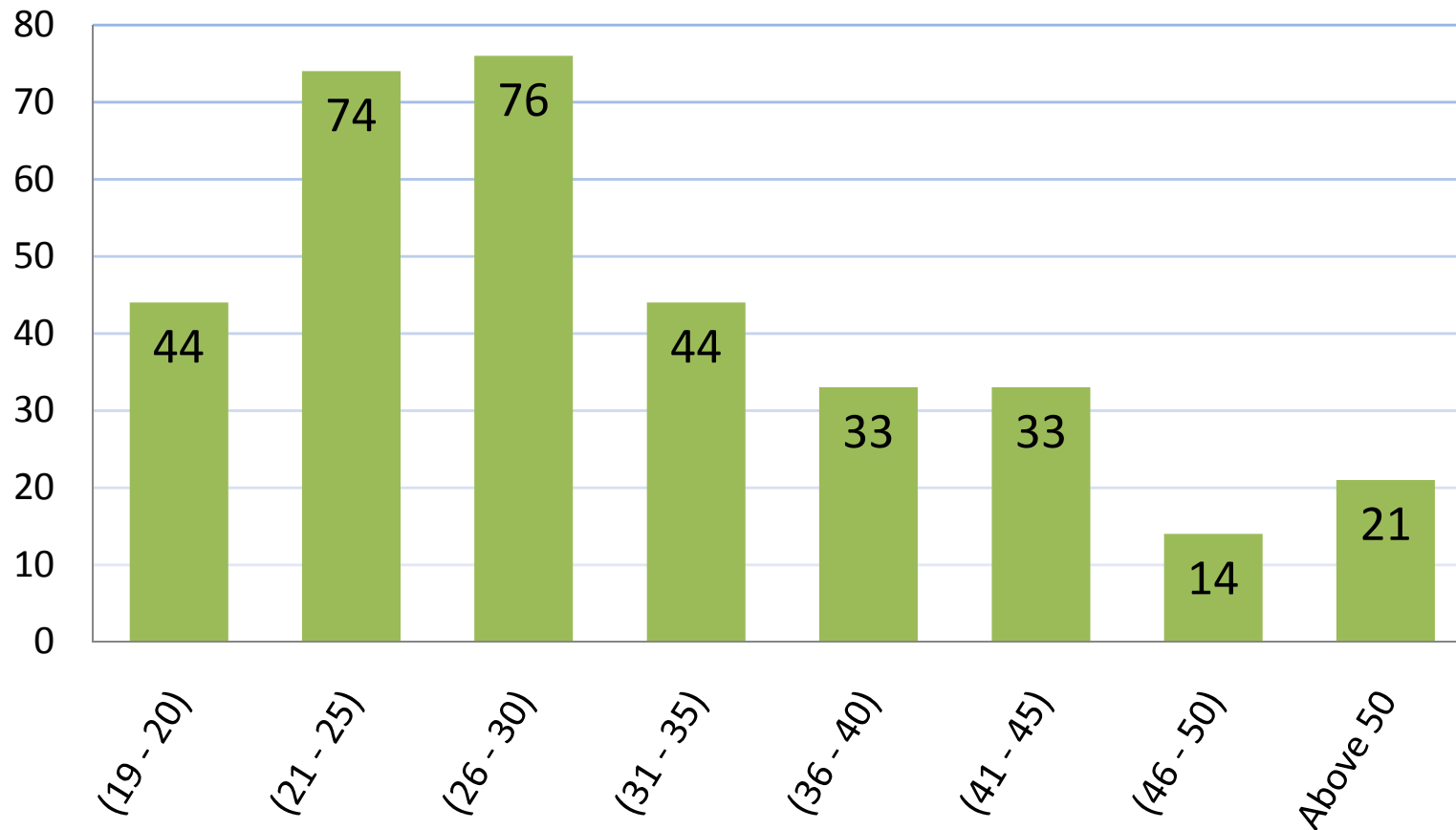
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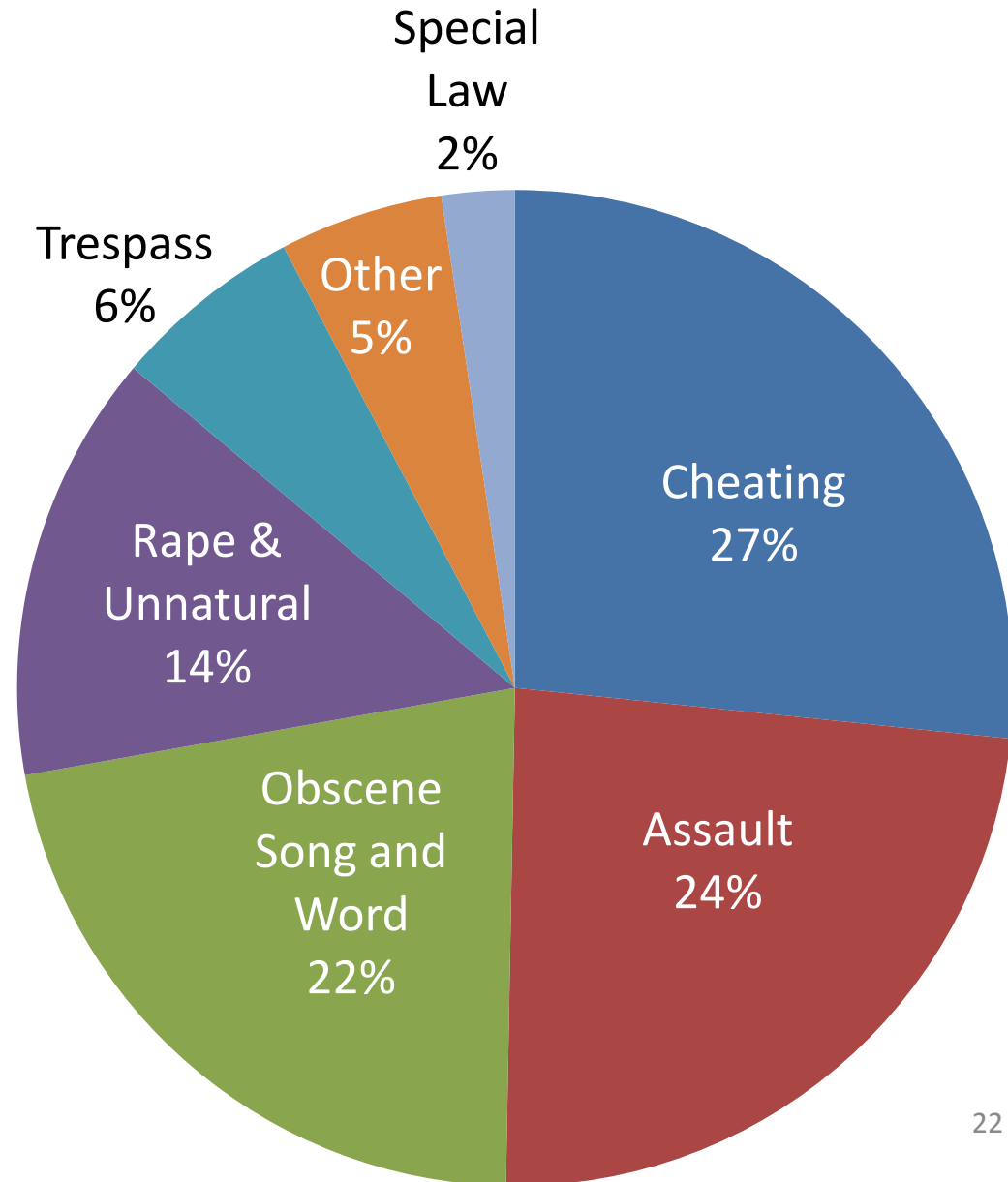
Age Group of Women (Victims only)

Total Women are 339 out of 338 Cases.

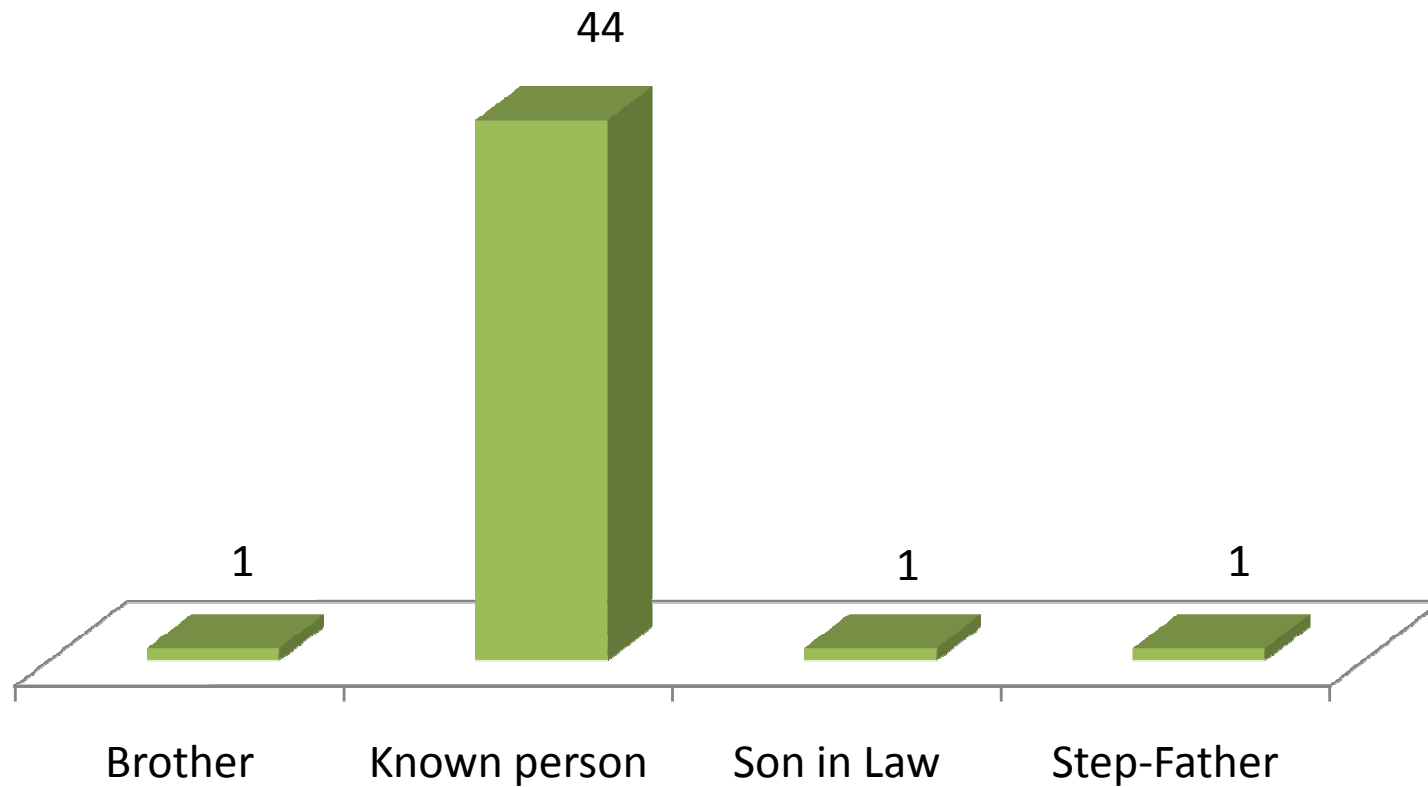


Classification of Women Cases

Cases Category	Cases
Cheating of women	90
Assault to women	80
Obscene Song and Word	74
Rape	47
Trespass	21
Other	18
Special Law	8
Grand Total	338



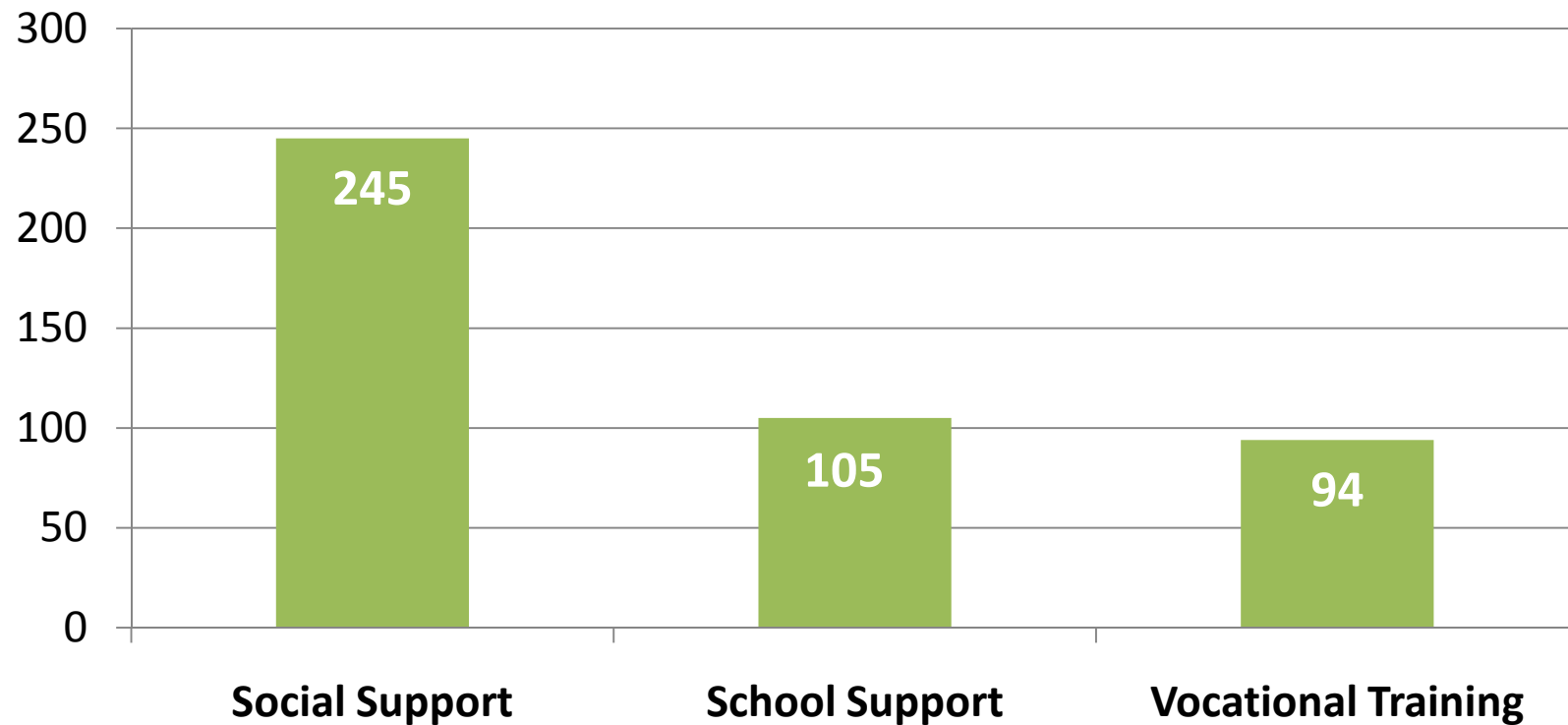
Classification of Rape (Women Cases)



Total Rape are 47 Cases.

Support for Victims (Women & Children)

Supported 282 person out of 860 Victims (Child & Women).



PRO BONO LAWYERS



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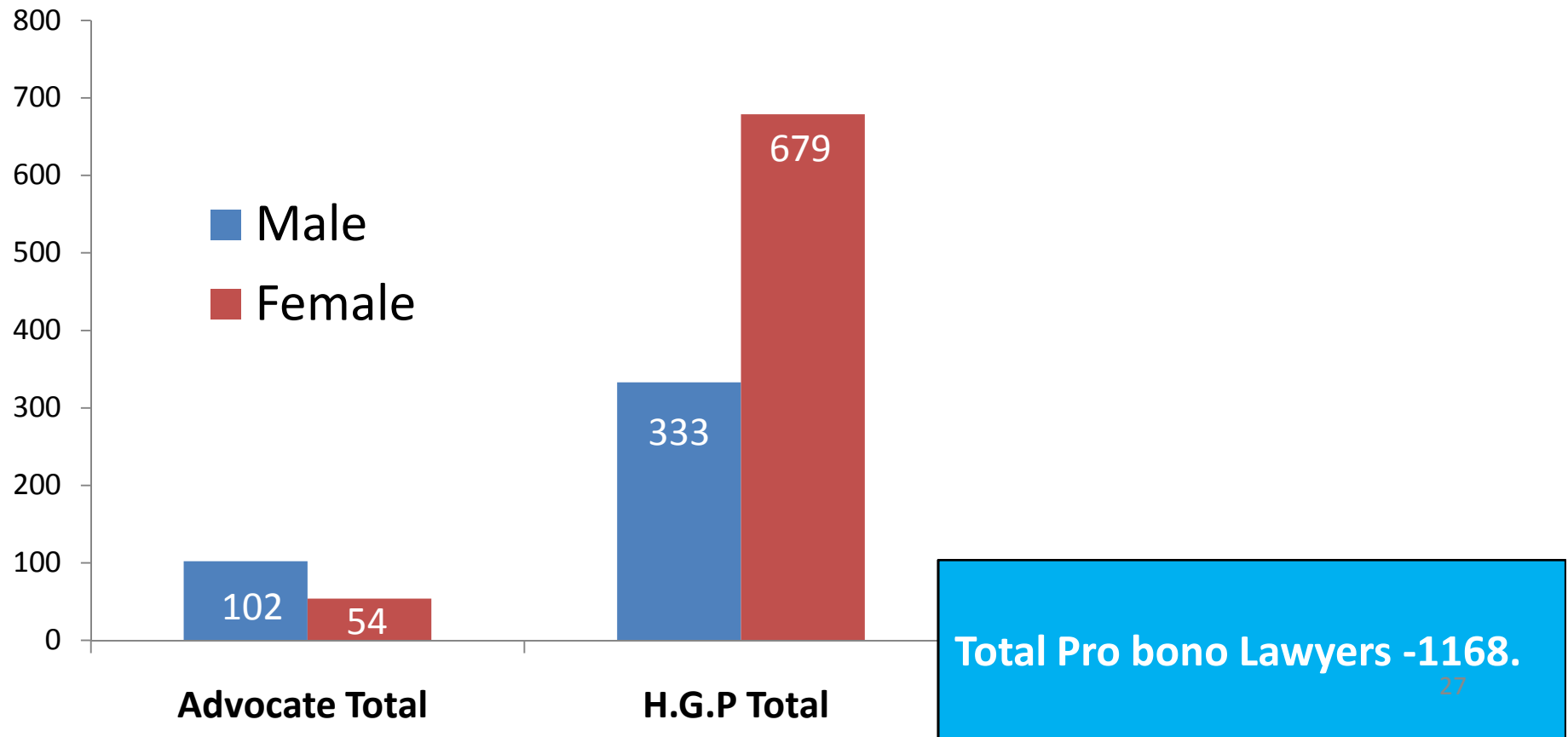


Pro Bono Lawyers

- Take on cases either allocated by project assistant, through word of mouth, contacted by police, through court lists;
- Expenses are paid, but nothing else;
- Motivated by sense of compassion;
- Ethnically, regionally, religiously diverse;
- Often young and seeking court experience;
- Provided with basic training on CRC, Child Law and case management;
- Expected to provide social support, where none other is available e.g. court expenses of child, basic needs

List of Pro Bono Lawyers

Gender	Advocate Total	H.G.P Total	Grand Total
Male	102	333	435
Female	54	679	733



Future Plans

- Diversify funding: Entire programme has been supported by AusAID;
- Pending funding availability expand to all townships in the country by end 2012;
- Continue building capacity of lawyers;
- Continue improving coordination between key stakeholders;
- Make programme more sustainable through new local partnerships; foundations;
- Explore partnerships with private sector for support with a view to open up Legal Aid offices in key locations;
- Pending possible future developments/operations of lawyers' groups, explore opportunities for legal aid component;
- Selected research, improved data collection and analysis;
- Transforming from UNICEF supported NGO programme to becoming a national independent NGO (in process of establishment).

Training in Child Friendly Practices for Pro Bono Lawyers (Yangon)



