



Briefing Paper: Medical Crisis for Political Prisoners of Letpadan Case

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All Burma Federation of Student Unions

Justice Trust

Letpadan Justice Committee

Overview

There has been a significant deterioration in the health and well-being of 53 students and supporters who have been detained without bail for nine months at Thayawaddy prison. Their criminal trial has now dragged on for nine months. If convicted, they could face up to ten years in prison. Because the arrest was in violation of their rights to free speech and peaceful assembly, which are meant to be protected under the 2008 Constitution (Article 354) and various provisions of international law, the detainees are recognized as political prisoners by human rights groups around the world.

Many of the detainees are suffering from serious untreated medical conditions due to the brutal beatings inflicted by police during their arrest, the unsanitary conditions of their detainment, and the lack of medical treatment. Their urgent efforts to access treatment have been repeatedly denied by the presiding judge and prison authorities. Multiple petitions to the Government of Myanmar for redress have also been ignored. As a result, several detainees have developed life-threatening illnesses, including tuberculosis, severe hypertension, and gastrointestinal diseases.

Under international and domestic law, the Government is responsible for ensuring the safety and well-being of all prisoners. Instead of fulfilling this legal duty, authorities have consistently denied the rights of Thayawaddy detainees – first by depriving them of liberty without lawful cause, second by conducting an unfair trial with lengthy delays and a lack of due process, and third by placing their health and lives at risk by refusing to provide adequate medical care.

This briefing paper focuses on the third issue – the failure to provide medical treatment. This is a clear violation of law and obligates the Government to take immediate steps to care for the well-being of the political prisoners.

The briefing paper has four sections:

1. Factual background of the Letpadan crackdown and trial process;
2. Applicable legal framework;
3. Key findings from a medical survey given to the detainees in November;
4. Summary of a report by an independent team of doctors who examined the detainees during prison visits in August and November.

The paper concludes with a call to the Government to fulfill its responsibilities by providing detainees with immediate access to proper medical treatment, and more broadly, to drop all pending criminal charges and grant them unconditional release.

Section One: Factual background of the Leptadan crackdown and trial process

In January 2015, protesters began a long march from Mandalay to Yangon to raise public awareness of their appeal to reform the National Education Law passed by Parliament in September 2014.

Figure 1: Student protesters (copyright 2015 Irrawaddy)



Figure 2: Students marching (copyright 2015 Irrawaddy)



In early March, police blockaded several hundred protesters at Letpadan Township in Bago Division. On March 10, police used excessive force to break up the protests in plain view of numerous journalists and bystanders, resulting in graphic videos and photos being circulated in traditional media and social media. Protesters were punched, kicked, and beaten with batons, particularly on their heads, backs, ribs, and legs. Many reported being beaten three times – during the initial crackdown at the protest site, while being processed for arrest at Aung Myay Baik Mann monastery, and during transportation to the police station at Thayawaddy township.

Figure 3: Police cracking down on student protesters (copyright 2015 Irrawaddy)



Figure 4: Student protester being arrested (copyright 2015 Irrawaddy)



Of the 127 initially arrested, 53 were released, and 74 detained on a series of charges under Myanmar Penal Code sections 143 (unlawful assembly), 145 (continuing an unlawful assembly after a dispersal order), 147 (rioting), 332 (preventing a public servant from carrying out his duty), and 505(b) (statements that disturb public tranquility). Several student leaders are also charged with violating section 18 of the Peaceful Assemblies Act (police permit required for protest). If convicted of all charges, the detainees face up to 10 years in prison. Section 505(b) is a non-bailable offense, with exceptions granted only for medical treatment, higher education, and for youth under the age of 18. All the detainees applied for bail; 19 were granted bail to pursue studies, and two were found to be underage. None were granted bail for treatment of their injuries.

The 53 detainees are entering their ninth month of detention, and the prosecution has not yet called all its witnesses in the first phase of trial. Presiding Judge Chit Myat has unduly delayed the case by scheduling court appearances on only one day per week (Tuesdays). He has also stormed out of the courtroom early on multiple occasions to express anger at the defense lawyers and defendants. He has even charged one lawyer, Khin Khin Kyaw, with violating Penal Code section 228 (disrupting the court), which can result in loss of legal license and a six-month prison term.

The detained students and their parents established the Letpadan Justice Committee (LJC) to raise their concerns about the unfair trial process and lack of accountability for violations of their rights. The LJC has written petitions to the President Thein Sein (twice), Chief Justice Htun Htun Oo, Attorney General Tun Shin, Minister of Home Affairs General Ko Ko, the parliament's Rule of Law Committee, and the Myanmar National Human Rights Commission (MNHRC). Only the MNHRC responded, issuing a public statement that called for police officials responsible for the use of excessive force to be disciplined, and for criminal charges against the students to be dropped. But no action has been taken to date.

Figure 5: Students arriving at court for trial (copyright 2015 Irrawaddy)



Section Two: Applicable legal framework

All prisoners have a right to receive medical treatment. By arresting and detaining a person, the State takes full responsibility under international law for providing health care to ensure their lives and well-being. There are numerous legal principles that describe this responsibility of governments.

Article 12 of the International Covenant on Economic, Social and Cultural Rights provides for “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Persons who are imprisoned are entitled to a standard of medical care equivalent to that available in the wider community.

Article 10 (1) of the International Covenant on Civil and Political Rights provides that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. In numerous cases, the United Nations (UN) Human Rights Committee has stated that appropriate and timely medical care must be provided to all detainees as part of the state’s duty to ensure the enjoyment by all persons of the right to life (Article 6) and the prohibition on torture or cruel, inhuman or degrading treatment and punishment (Article 7).

The UN Standard Minimum Rules for the Treatment of Prisoners, which came into force in 1955, provide:

Article 10. “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”

Article 22. (1) “At every institution there shall be available the services of at least one qualified medical officer... (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals...”

Article 24. “The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions...”

Article 25. (1) “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.”

The 1988 UN Resolution “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment” goes further, holding in Principle 24 that “medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.”

And the 1990 UN Resolution “Basic Principles for the Treatment of Prisoners” states “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”

These international law principles are also reflected in Myanmar’s domestic law, which recognizes the state’s responsibility to provide health care to prisoners. For example Chapter 2 of the Myanmar Jail Manual outlines the rights of prisoner to receive medical care while in detention.

Figure 6: Concerned family and friends of detainees at the courthouse (copyright 2015 Irrawaddy)

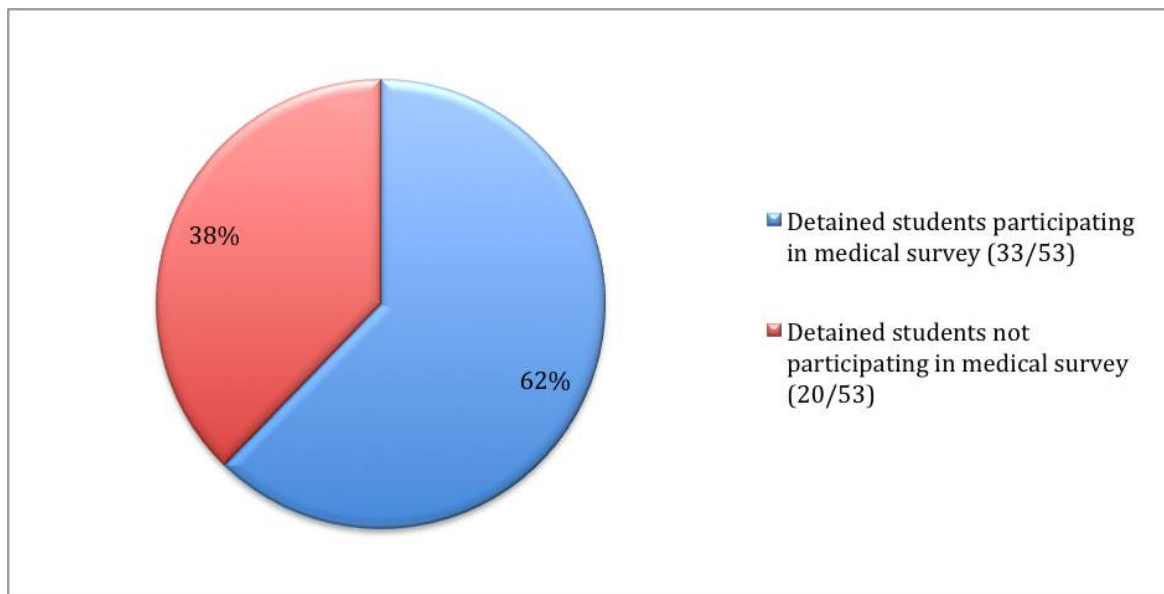


Section Three: Findings of medical survey

The LJC administered a medical survey to the detainees in Thayawaddy prison on November 17 and December 1. The survey consists of a series of questions focused on the detainees' injuries and health problems, and whether they had received any care from the authorities.

Of the 53 total detainees, 33 agreed to complete the survey, consisting of 27 male respondents and six female respondents. The 20 who were not surveyed gave various reasons for not participating. Some said that they did not have any medical conditions to report. All of the 33 respondents reported suffering from medical problems. Their responses are presented below:

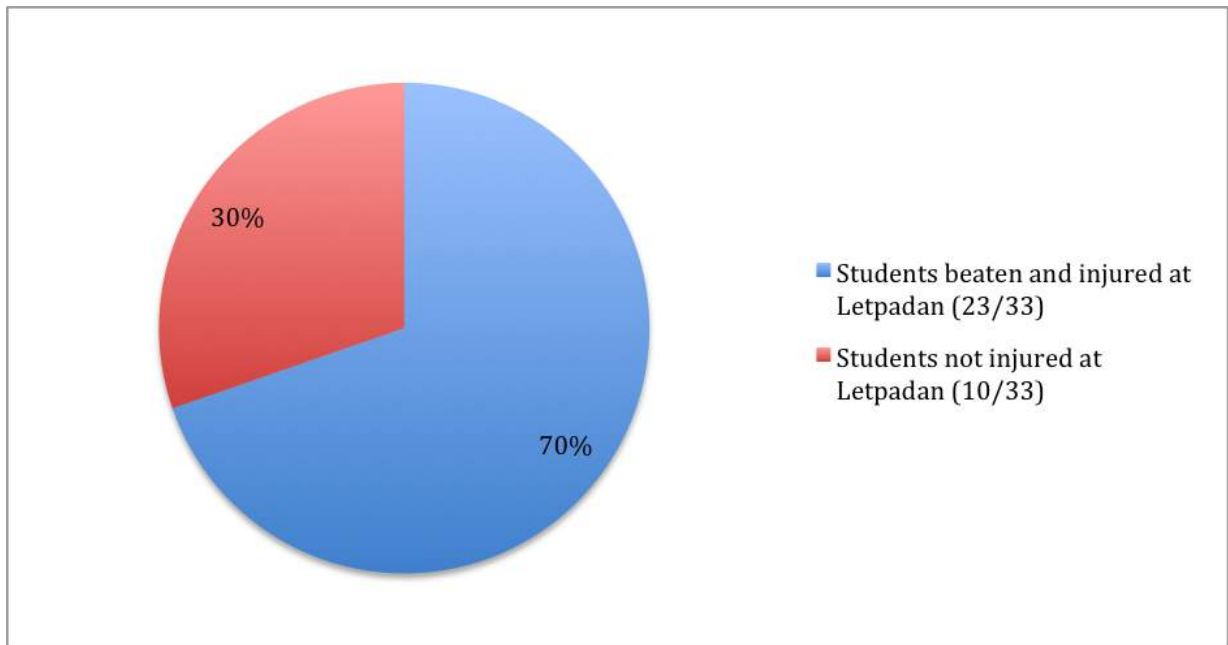
Figure 7: Participation in the medical survey



Of the 33 respondents, 23 reported suffering injuries when they were beaten by police at Letpadan. They reported getting hit, kicked, and beaten with batons all over their bodies, in particular on the head, face, ribs, back, hands, and legs. Their injuries included broken bones, severe bruising, and cuts and lacerations. Female students reported being slapped in the face.

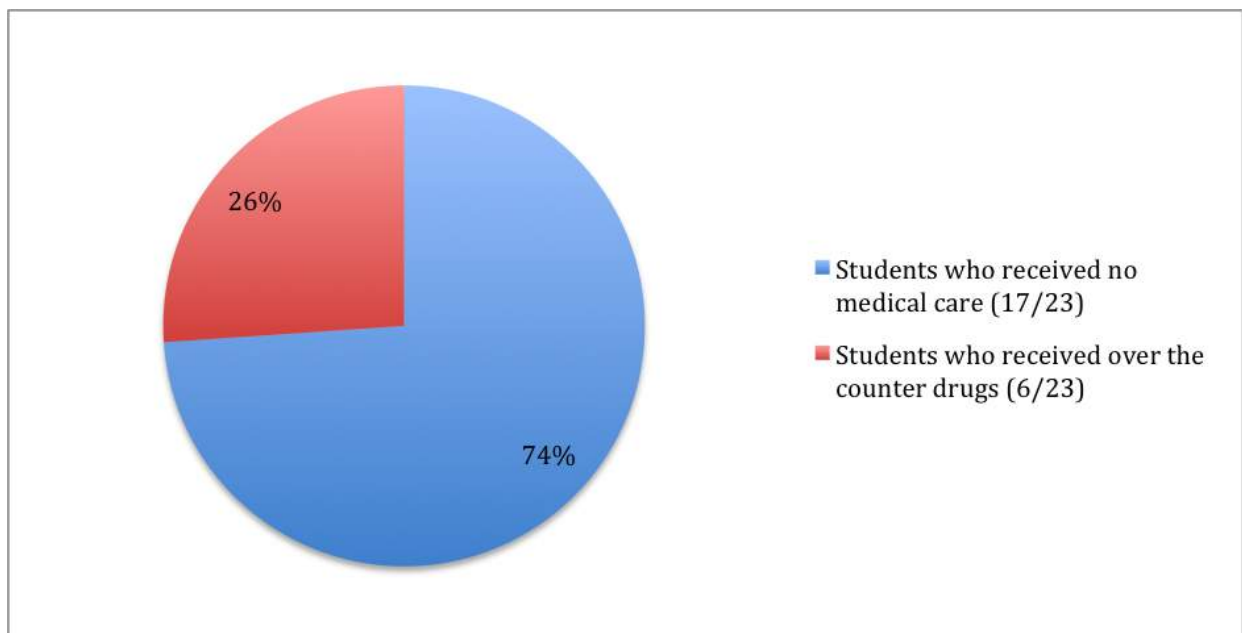
All six female respondents reported receiving verbal abuse and sexual harassment while in prison, including invasive body searches.

Figure 8: Students injured by police beating at Letpadan



Not one of the 23 injured by the police received care from a medical professional, despite repeated requests. Six reported being given over-the-counter drugs such as aspirin by other inmates employed by the prison, while 17 did not receive any kind of treatment at all.

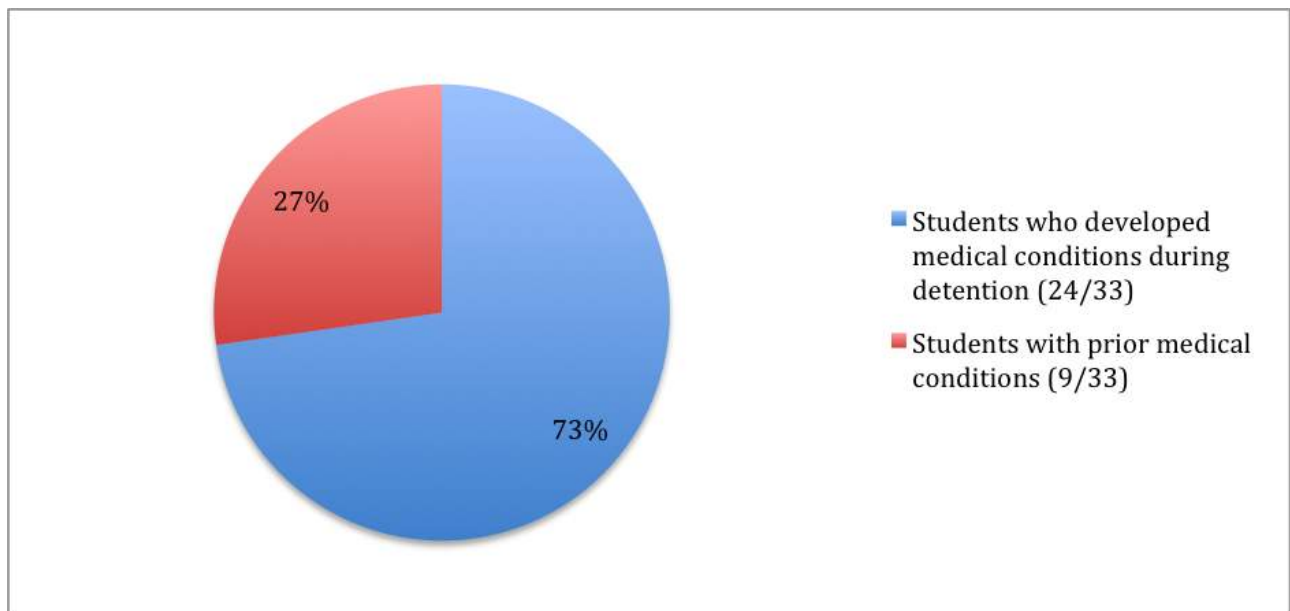
Figure 9: Medical care for students injured at Letpadan



24 of the respondent reported developing medical conditions while in prison, primarily due inadequate nutrition and unsanitary conditions in the cells. Medical conditions they listed included: gastrointestinal distress, kidney problems, asthma, skin conditions, dental problems, tuberculosis, urinary tract infection, hypertension, nose bleeds, numbness in limbs, and arthritis.

Nine reported having prior medical conditions, including: heart condition, arthritis, gastrointestinal problems, ulcers, skin condition, and severe migraines. Only one received any kind of medical care, in the form of aspirin for the migraines.

Figure 10: Causes of medical conditions



All respondents reported being denied access to books and reading materials by prison guards. Guards also frequently confiscated some or all of the food sent by families. Minor infraction of prison rules often led to harsh punishments. For example, six students were sent to solitary confinement for over two weeks for smoking or chewing betel nut. They reported having to sleep on the floor and being deprived of food and water for six hours at a time.

Given the deteriorating medical conditions, the detainees and their families tried many times to get medical transfers for treatment. The normal procedure is for the judge to issue an order to the police to transfer prisoners for medical treatment based on the recommendation of prison authorities. After repeated denials, the

prison finally made the recommendation in early November for transfer to Yangon Hospital. Lawyers for the students twice raised the issue with Judge Chit Myat in November. Both times he denied the request, and sent the students back to prison. He finally approved the transfer on December 1, after a hunger strike by several students gained national attention, and the independent medical team brought in by the LJC complained to prison authorities and the court about the deteriorating health of the detainees.

Since then, 18 students have been transferred to Yangon Hospital. Three students – Tin Win, Khin Hlain Aung, Aung Sithu – were transferred after they fainted in court. Another seven students – Aung Hmain San, Phyo Ta Na, Myo Myat San, Aung Myint Han, Ko Thein, Soe Moe Naing, Ye Htut Lwin – were admitted to hospital following their hunger strike. Eight more students – Po Po Myo, Min Min Zaw, Khin Mar Win, Myo Htet Paing, Ko Htut, Wai Yan Htun, Kyaw Zwar Lin and Honey Oo – were transferred for chronic illnesses. Many had pre-existing medical conditions, but because no medical treatment was given during detention, their conditions manifested into serious illness requiring specialist care.

Section Four: Summary of report of independant medical expert

Dr. Thet Min is a general practitioner with 36 years of experience. He became a doctor in 1979. He is also one of the founders National League for Democracy (NLD), and was one of the 14 members who began the party with Aung San Suu Kyi. In his previous capacity with the NLD, he was in charge of Irrawaddy Division.



Dr. Thet Min was sent to Insein and Patheingyi prison in 1989 for being a member of the NLD Central Committee. There he saw firsthand the lack of medical care and how prisoners are treated. According to Dr. Thet Min, the majority of physicians who work in prisons, do not work nor care about the patients.

“I too am a physician so I can tell you how poor the standards of care are inside. The doctors at times don’t even physically examine their patients, often they just ask questions and prescribe medicine. In Patheingyi, the routine was that the doctor would stand behind a rope line and decide on treatment at arms length from the prisoners, who were often behind bars. I have also seen prison doctors participate in physical beat downs with guards at the Insein prison.”

According to Dr. Thet Min, even though there is an infirmary and there are doctors who work in the prisons, almost all the medical treatments and care are provided by wata (prison staff with no certification or proper training) or baya (prisoners with long sentences who get some privileges by working for the prison).

“I have always been politically engaged because of my background so I was in touch with students and their parents. I became involved with treating the Tharawaddy students after hearing of deteriorating medical conditions and health problems. I went twice (in August and November 2015) to examine and treat the detained students. This is a summary report of what I found in these examinations.”

August visit:

- I went with another physician and dentist, and examined 34 students.
- The students unanimously told me a medical doctor has not examined them since their arrest and detention in March.
- One of the student’s parents is a practitioner of traditional medicine so he had seen some and given them natural remedies, but that was all the care they received.
- It was a general examination, and the authorities didn’t help arrange anything other than give us a chair in the courtroom. There was no bed or curtains, so the students often laid on the ground while I examined them.
- I gave a variety of treatments including antibiotics, antihistamine, vitamins, ORS, and medicine for gastric pain/problems.
- The most common problem I saw amongst the students was pain and swelling in all the various body parts. I can confidently say that their injuries had not been treated despite being plainly visible.

- Another common medical problem among the students was chest infection. I attribute this to poor air quality and lack of ventilation in the prisons. The sleeping areas of the prison are damp and dusty. My patients reported a lot of dust falling from roofs when it is windy. The chest infection if left untreated can become a more serious condition like tuberculosis. In fact, one of the students I examined now has medial cuneiform tuberculosis. This is a more serious variety requiring stronger treatment and monitoring.
- I also saw a lot of students with gastritis. There are multiples causes but most common in this case is likely due to hyper acidity from excessive stress and poor diet. Gastritis without proper treatment can lead to intestinal bleeding.
- There were some cases of skin infections, which were likely due to poor sanitation and water.
- Others were also suffering from dysentery due to poor sanitation in the prisons.
- A majority of the students appeared to have hypertension. Most people don't realize how dangerous unmanaged hypertension is. It is major cause of death, and to manage it you need to have a systematic treatment requiring monitoring and investigation. I didn't have equipment with me, but the proper course of investigation should include: an ECG, fasting blood sugar, do a lipid profile (at the minimum) and then do a complete panel on uria and creatine. There is no question that this sort of investigation is not being done in Tharawaddy Prison.
- My conclusion from the August visit: the students are not getting proper medical care, and their conditions are deteriorating.

November visit:

- The authorities gave me a shorter amount of time to examine my patients. I had almost a full day in August but in November they limited it to a half-day so I was able to examine only about 20 patients. Most I had seen my last visit, along with a few new patients.
- Their medical conditions had worsened from lack of care. For example, Phyo Tana, the patients with GI issues, now had melena, which is bleeding from the upper gastrointestinal tract. The cause of the melena is likely due to being beaten and kicked repeatedly in the stomach.
- Some patients with chest infection (like Min Min Zaw) had deteriorated and I saw from his chest X-Ray that he had developed full-blown TB. This patient needs to be isolated of it can spread to other prisoners. He refused to accept that he has TB fearing the authorities would isolate him and take him away from his friends who are his only support system inside prison.
- Other students like Ko Aung Hmine San were very exhausted and weak due to the hunger strike. I tried to give him some treatment but he refused and remained committed to his cause.

- While I was there, two of the patients threw up blood. I couldn't determine why without more investigation. There are likely causes for it. It could be due to a GI problem but it could also be due to a chest infection indicating they had picked up TB from others.
- On my last trip, I had told the authorities, there were serious medical conditions, which the prison is not equipped to treat and asked they transfer some of the students. But when I returned in November, not a single patient had been transferred.
- I know the prison medical facilities can provide certain treatments but if they are unwilling or unable, then they should transfer these cases to proper medical facilities. Truth be told, every prison has a hospital and facilities but they often lack the will to treat prisoners.

Dr. Thet Min's recommendations:

- There is no question that a lot of the medical deterioration is from lack of care. The students of Letpadan need and must receive effective treatment.
- The authorities must address and improve sanitation and living conditions to ensure patients don't contract any other diseases.
- We need to change mindset of physicians working in the prisons. As doctors, they swore an oath to treat their patients regardless of the circumstances. These prison doctors must decide with their conscience and humanity. I urge all medical personnel to listen to their conscience and do their job caring for everyone.
- I know a lot of doctors are scared of the Special Branch police and worry about being seen as sympathizing with political prisoners, but I hope it won't deter them from making the right call and demanding medical transfers for some of the serious cases because at the end of the day, someone's life is at stake and in your hands.

Conclusion

This briefing paper highlights a range of serious medical problems suffered by students and supporters detained at Thayawaddy prison. A majority sustained injuries from beatings by police during their arrest at Letpadan on March 10 2015. Others had pre-existing medical conditions. In all cases, their injuries and medical conditions became significantly worse due to the refusal of the judge and prison authorities to grant any of the detainees access to adequate medical care, despite repeated requests and pressure from their parents and civil society groups. It was not until several prisoners engaged in a hunger strike, and an independent medical team was able to examine most of the detainees, that the judge finally relented and allowed 18 injured students to be transferred to Yangon Hospital for specialized medical care. This took place on December 1, almost nine months after the initial arrests and detention.

The actions of the judge and prison authorities constitute a clear and egregious violation of the legal rights of the detainees. Access to adequate medical care for prisoners is guaranteed in both international and domestic law, including the Myanmar Jail Manual. The recent decision to allow some students to receive treatment is a positive step, but it is not enough. The judge should immediately issue orders to enable all detainees who require medical attention to receive proper specialized care. Moreover, the Government of Myanmar should respond to petitions submitted by the Letpadan Justice Committee and ensure the rights of the detainees.

Viewed in totality, the arrest and trial of the Letpadan protesters provide a snapshot of everything that is wrong with Myanmar's legal system. As such, this case is emblematic of systemic flaws that must be addressed if the country is to progress towards democracy and the rule of law.

In the first place, the arrests contravened the rights of students and their supporters to freely express their opinions and peacefully protest the national education law. Second, the brutal manner of the police crackdown violated their rights to health and bodily integrity. Third, their detention without bail offends their inherent right to liberty and presumption of innocence, since bail should only be withheld if the accused present either a flight risk or a danger to society. And finally, the denial of medical care for an extended period has put their health and lives at risk.

The truth is that the detainees are prisoners of conscience who should never have been put in jail. Basic justice demands that all charges against them should be dropped, and their unconditional release granted as soon as possible. Furthermore, the political leaders who ordered their arrest and detention, and the officers who used excessive force, should be held accountable under the law.

The electoral landslide in November 2015 shows that the country is united in its desire to move away authoritarian rule and embrace a democratic path. The Letpadan case represents a practical test of this popular will for justice. We repeat our call to the Government to drop all charges and release all the Letpadan detainees, and request the international community to publicly and privately engage with the Government to help resolve this important test case for rule of law in Myanmar.

For more information please contact:

Aung Nay Paing (ABFSU Spokeperson)

Mobile: +95 9 792 719 662

Email: aungnaypaing2014@gmail.com

Yee Mon Htun (Justice Trust Director, Myanmar Program)

Mobile: +95 9 254 316 256

Email: yee.htun@justicetrust.net

U Htun Oo (Letpadan Justice Committee Member)

Mobile: +95 9 450 003 077

Email: beeborn2012@gmail.com