

OCTOBER 2015

CRACKDOWN at LETPADAN

Excessive Force and Violations of the Rights to
Freedom of Peaceful Assembly and Expression

LETPADAN, BAGO REGION
MYANMAR



IHRC

INTERNATIONAL HUMAN RIGHTS CLINIC
HUMAN RIGHTS PROGRAM AT HARVARD LAW SCHOOL



**FORTIFY
RIGHTS**

COVER PHOTO: Multiple police officers use batons to beat a single, squatting protester as he attempts to protect himself from being struck, Letpadan, Bago Region, March 10, 2015.
©2015 Sai Zaw/*The Irrawaddy*

The **HARVARD LAW SCHOOL INTERNATIONAL HUMAN RIGHTS CLINIC** works to protect the human rights of clients and communities around the world. The Clinic undertakes projects focusing on fact-finding, litigation, legal and policy analysis, report drafting for international oversight bodies, and the development of advocacy strategies. Through supervised practice, students learn the responsibilities and skills of human rights lawyering. hrp.law.harvard.edu

FORTIFY RIGHTS works to end and remedy human rights abuses. We investigate human rights violations, engage people with power, and strengthen responses to abuses through trainings and collaborative support for human rights defenders. We are an independent, nonprofit organization based in Southeast Asia and registered in the United States and Switzerland. FortifyRights.org

OCTOBER 2015

CRACKDOWN at LETPADAN

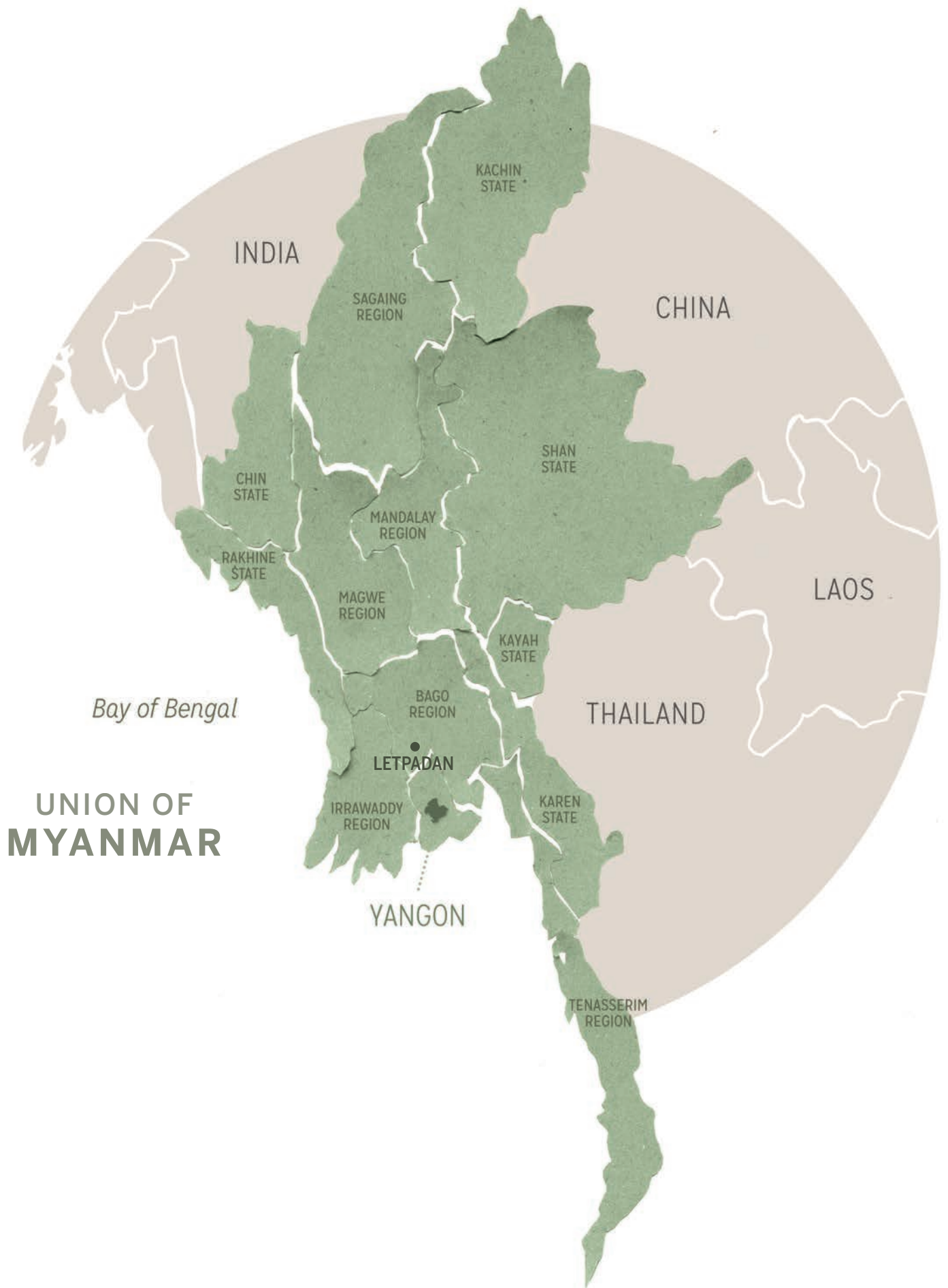
Excessive Force and Violations of the Rights to
Freedom of Peaceful Assembly and Expression in

LETPADAN, BAGO REGION, MYANMAR



IHRC

INTERNATIONAL HUMAN RIGHTS CLINIC
HUMAN RIGHTS PROGRAM AT HARVARD LAW SCHOOL



INDIA

KACHIN STATE

SAGAING REGION

CHINA

CHIN STATE

SHAN STATE

MANDALAY REGION

RAKHINE STATE

MAGWE REGION

LAOS

KAYAH STATE

Bay of Bengal

BAGO REGION

THAILAND

LETPADAN

IRRAWADDY REGION

KAREN STATE

UNION OF MYANMAR

YANGON

TENASSERIM REGION

CONTENTS

FOREWORD	1
EXECUTIVE SUMMARY	3
MAJOR FINDINGS	6
MAIN RECOMMENDATIONS	22
MAP: PROTEST AREA, LETPADAN	23
METHODOLOGY	21
I. BACKGROUND	24
Education and Student Uprisings in Myanmar	24
Current Context: The Struggle for Education Reform	26
II. HUMAN RIGHTS ABUSES IN LETPADAN, BAGO REGION	32
Restrictions on the Rights to Freedom of Peaceful Assembly and Freedom of Expression	32
Excessive Use of Force by Police	39
Abuses in Police Custody	53
III. RESPONSIBILITY FOR ABUSES	59
Security Forces and Civilian Involvement in Crackdown	59
Government Response	62
IV. LEGAL FRAMEWORK AND ANALYSIS	67
The Rights to Freedom of Peaceful Assembly and Freedom of Expression	68
Use of Force	72
Freedom from Arbitrary Arrest and Detention	74
The Right to Effective Remedy	75
V. RECOMMENDATIONS	77
APPENDIX: LETTER TO PRESIDENT THEIN SEIN	82
ACKNOWLEDGMENTS	84

Police officers confront protesters at the outset of the violent crackdown at Letpadan, Bago Region, March 10, 2015.

©2015 Steve Tickner/*The Irrawaddy*



FOREWORD

On September 30, 2014, the Myanmar Government enacted the National Education Law. This law centralizes control of education policy-making and limits academic freedom, and is therefore inconsistent with the democratic hopes of Myanmar's people. For these reasons, the All Burma Federation of Student Unions (ABFSU) has opposed this law since it was drafted.

On November 12-13, student leaders organized a national emergency meeting to discuss the National Education Law. This meeting led to the formation of the Action Committee for Democratic Education (ACDE). The ACDE demanded that the Government take action to reform the National Education Law within two months. After two months, the Myanmar Government had taken no action. Student leaders, led by the ABFSU, therefore decided to march from Mandalay to Yangon. The purpose of the march was to address the inadequate educational standards in Myanmar, call for the reform of the National Education Law, and raise awareness of these issues among the Myanmar people.

Four-party talks with the Myanmar Government led to an agreement on reforming the National Education Law. However, the Government demonstrated that it was not negotiating in good faith. Despite its commitments, the Government continued to disturb, harass, and threaten our movement. Although we enjoyed the support of the people as we passed through many cities, the Government finally cracked down on the protesters at Letpadan.

After the crackdown, ABFSU and other partners requested Fortify Rights and the Harvard Law School International Human Rights Clinic to conduct an investigation. ABFSU supported the investigation by organizing interviews with eyewitnesses to the crackdown, including those who had themselves been subjected to violence.

Crackdown at Letpadan highlights the human rights violations that have been perpetrated against our movement and members, including the excessive use of force by police officers during the crackdown. We believe that the report helps to expose the true face of the Government, which pays lip service to democratic reforms but attacks its own citizens. The report will help us seek justice for those who have suffered because of the Government's actions.

ABFSU salutes the student leaders and activists who have sacrificed so much to support education reform in Myanmar. We demand the immediate release of all those arrested while exercising their democratic rights in Letpadan and elsewhere. ABFSU will never cease fighting for justice and democratic reforms in Myanmar.

All Burma Federation of Student Unions (ABFSU)

OCTOBER 2015





Police battalion officers detain a protester whose hands have been bound with plastic ties, March 10, 2015. Police arrested 127 protesters, journalists, and bystanders in Letpadan on March 10. At least 50 protesters remain behind bars at the time of writing. ©2015 Paul Mooney



EXECUTIVE SUMMARY

On March 10, 2015, following a weeklong standoff in the town of Letpadan in Myanmar's Bago Region, police officers violently cracked down on a group of approximately 200 protesters demonstrating against the recently passed National Education Law. Several days prior to the crackdown, the police imposed a blockade on the protesters and prevented them from continuing their march to Yangon. On March 10, after tension escalated during the morning, police officers charged into the group with batons drawn and severely beat unarmed protesters and bystanders. At the time of writing, the Government of Myanmar has taken no known disciplinary or criminal action against police officers involved in the excessive use of force at Letpadan.

The police arrested 127 protesters, journalists, and bystanders in Letpadan on March 10 and physically and verbally abused individuals in police custody. At the time of writing, 77 men and women arrested in Letpadan face charges that carry sentences of up to nine years and six months imprisonment. Fifty of those arrested remain behind bars. Some student leaders face multiple counts of the same alleged violation under a law regulating assemblies.

Fortify Rights and the Harvard Law School International Human Rights Clinic (hereinafter "the Clinic") interviewed 25 eyewitnesses to the events of March 10 and analyzed more than 500 photographs and 40 videos taken during the protest and crackdown in Letpadan. Many police officers who employed excessive force in Letpadan are clearly identifiable in these photographs and videos, and eyewitness testimonies implicate several commanding officers.

ABOVE: Police officers gesture towards protesters before the crackdown at Letpadan, March 10, 2015. Analysis of more than 50 videos and 400 photographs reveals that police threw stones at protesters moments before the crackdown.

©2015 Steve Tickner/*The Irrawaddy*





International law protects protesters' rights to freedom of peaceful assembly and freedom of expression. Myanmar authorities violated these protesters' rights by ordering them to disband, enforcing a blockade to prevent them from continuing their march to Yangon, and imposing unjustifiable and unnecessary restrictions on their protest activities. During the crackdown, police officers beat unarmed protesters while dispersing them as well as individuals after they were taken into police custody. These actions constitute an excessive use of force in violation of international law and standards. Finally, the ongoing detention and prosecution of individuals targeted solely for exercising their rights to freedom of peaceful assembly and freedom of expression is arbitrary and violates international law.

Fortify Rights and the Clinic recommend that the Government of Myanmar conduct a full, impartial, and independent investigation into the excessive use of force by police, arbitrary arrest and ongoing detentions, and violations of the rights to freedom of peaceful assembly and freedom of expression in Letpadan on March 10, 2015 and during events that preceded it. Individuals imprisoned solely for exercising their rights should be immediately and unconditionally released. The Government should hold accountable all officials involved in rights violations and provide full remedies to individuals harmed. The Government should also take all necessary steps to ensure that these rights violations are not repeated in other contexts, including by reforming legislation to fully protect the rights to freedom of peaceful assembly and freedom of expression.

A student raises an overturned Buddhist alms bowl as a sign of protest before the crackdown at Letpadan, March 10, 2015.

©2015 Paul Mooney

MAJOR FINDINGS

Myanmar's Parliament passed the National Education Law on September 30, 2014, despite objections by students, activists, and academics. Critics of the law argue that it fails to protect the right to form student unions, marginalizes the role of states and regions in determining education policy, and does not accommodate the particular needs of ethnic communities, among other shortcomings.

After the passage of the law, a significant student-led protest movement quickly formed. In January 2015, groups of students and activists began marching to Yangon from various locations around the country to draw attention to their demands regarding the law.

In February, negotiations between student leaders, activists interested in education reform, government officials, and parliamentarians resulted in the development of a draft bill to amend the National Education Law. In response, several protest groups disbanded. However, a large group of protesters from Mandalay remained skeptical of the Government's intentions regarding the proposed amendment and decided to suspend their march rather than disband. In late February, this group of protesters, numbering approximately 200 people, took up residence in the Aung Myay Baik Mann monastery in Letpadan, Bago Region, about 75 miles north of Yangon.



Protesters press against police lines before the crackdown at Letpadan, March 10, 2015. ©2015 Paul Mooney



Beginning on March 2, the police imposed a blockade against the protesters at Letpadan, preventing their onward march to Yangon. Following failed negotiations with local government officials, the protesters attempted to push through the police blockade on March 10. Soon afterwards, police officers initiated a violent crackdown on the protesters.

The investigation into the crackdown undertaken by Fortify Rights and the Clinic resulted in four key findings:

- 1** The Myanmar authorities ordered the protesters in Letpadan to disband, implemented a blockade to prevent protesters from continuing their march to Yangon, and announced prohibitions on chanting, singing, and flag-waving on March 10 without providing justifications that meet the criteria provided by international law for limiting the freedom of peaceful assembly and freedom of expression. The Myanmar authorities' inability to facilitate the protesters' exercise of their rights exacerbated tensions that eventually resulted in a confrontation between police officers and protesters on March 10.

ABOVE: Police officers stationed behind a barbed wire barricade in Letpadan, March 10, 2015. Police constructed barricades to obstruct protesters from marching to Yangon, violating their human right to peaceful assembly.

©2015 Steve Tickner/*The Irrawaddy*

Under international law, restrictions on the rights to freedom of peaceful assembly and freedom of expression are only permitted when they are necessary to achieve certain legitimate aims, such as the protection of national security and public order. The restrictions must also be proportionate to the particular legitimate aims in the given situation. International principles allow for legislation that would require protesters to notify authorities of protests but do not permit states to require that officials authorize marches or protests. Under international law, failure to comply with notice requirements should not lead to fines or imprisonment.

Myanmar's Home Affairs Ministry expressly ordered the protesters to disband on February 28, saying they posed a threat to "state stability," "state security," and "regional peace." On March 2 and 3, the police blockaded the protesters near the local monastery, preventing them from marching out of Letpadan. The students and local supporters protested the Government's obstruction by taking up a position on the road directly in front of the blockade. They remained at this location throughout the following week.

The Government's February 28 order provided overly broad justifications for imposing restrictions against the protesters in Letpadan. There is no evidence, for example, that there was a threat to "regional peace" considering the nature of the protest at Letpadan. In fact, under these circumstances, none of the provided reasons justified ordering the protesters to disband, erecting a blockade, or restricting the protesters from marching out of Letpadan.



Multiple police officers with raised batons chase a fleeing protester in Letpadan, Bago Region, March 10, 2015. Dozens of protesters fled to a nearby monastery, where police later detained them, bound their hands behind their backs, and beat them.

©2015 Sai Zaw/*The Irrawaddy*



Police officers shout at protesters during the crackdown in Letpadan, Bago Region, March 10, 2015. ©2015 Paul Mooney



At no time during the march from Mandalay or while in Letpadan did the protest leaders attempt to obtain official authorization from township authorities to protest, as required by Myanmar's Peaceful Assembly and Peaceful Procession Law. However, the law's prior authorization requirement falls short of international standards. At the outset of the march from Mandalay, protest leaders publicly announced their opposition to the law and their intention not to comply.

On March 8, student leaders in Letpadan issued a statement expressing their intention to resume their march to Yangon on March 10. According to numerous eyewitnesses, a group of approximately 200 police officers maintained the physical blockade throughout the morning of March 10. In two meetings held that morning, Bago Region Security and Border Affairs Minister Col. Theht Htun told student leaders that the protesters would only be permitted to march by foot to a nearby highway junction, where they would be required to board trucks bound for Yangon.

Additionally, the minister told the protesters they would not be permitted to chant, sing songs, or raise flags or banners as they made their way to the highway. Like the earlier government



A police officer strikes an “information truck” used by protesters in Letpadan, Bago Region, March 10, 2015.

©2015 Steve Tickner/*The Irrawaddy*

actions, these restrictions were not related to any legitimate aim provided by international law and therefore were unjustified restrictions of the protesters’ rights to freedom of peaceful assembly and freedom of expression.

While maintaining “public order” is considered a legitimate justification to restrict peaceful assemblies and freedom of expression under international law, the evidence does not suggest that public order was threatened by the protest activities. Under certain circumstances, governments may disband protests that occupy public spaces. However, it is not clear that these circumstances were present in the context of the protests in Letpadan. The protesters’ occupation of the road in Letpadan was also precipitated by unjustified restrictions on the protesters’ rights to assemble and express their views.

By repeatedly imposing illegitimate and inappropriate restrictions on peaceful protesters in Letpadan, the Myanmar authorities failed to meet their international obligations to protect the fundamental rights to freedom of peaceful assembly and freedom of expression. Ultimately, the unnecessary restrictions placed on the protesters increased tensions and significantly contributed to the confrontation on March 10 and the excessive use of force by state authorities.



တရားစီရင်စွဲ

တရားစီရင်စွဲ

တရားစီရင်စွဲ



2 After initially exercising significant restraint on March 10, officers in the Myanmar Police Force used excessive force in violation of international standards against protesters who were attempting to exercise their rights to freedom of peaceful assembly and freedom of expression.

International law mandates that law enforcement officials use force only when strictly necessary and in ways that are lawful and proportionate to the threat at hand. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials instructs officials to “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.” The UN Code of Conduct for Law Enforcement Officials further requires that law enforcement officials “use force only when strictly necessary and to the extent required for the performance of their duty.” These principles apply even in actions to disperse unlawful peaceful assemblies.

Unwilling to accept the restrictions placed on their protest activities, the protesters decided to challenge the police blockade. Student leaders announced their intentions to the police through a loudspeaker, stating that they would try to march through the police lines in groups of four and would peacefully submit to arrest. When the first group of protesters reached the blockade, the police resisted and pushed them back. Soon, larger groups of protesters began pushing against the police lines simultaneously.

During this initial period of face-to-face physical contact, both the police and protesters showed significant restraint, and there appears to have been only a few isolated incidents that could be characterized as violent. Student leaders explicitly urged their colleagues to refrain from violence. Photographs and videos taken near the police lines during this period show police officers maintaining their formation while resisting the advance of the protesters.

Protesters carry an injured or sick student away from the front lines of the protest at Letpadan, March 10, 2015. ©2015 Sai Zaw/*The Irrawaddy*

Approximately one hour after the protesters began to push against the police lines, police officers commenced a violent crackdown on the students, their supporters, and uninvolved bystanders. At the outset of the crackdown, police officers and others threw rocks, batons, and other objects at the protesters. Nine separate videos reviewed by Fortify Rights and the Clinic show police officers throwing rocks and other objects at protesters and rushing toward the crowd of protesters with batons raised. In these videos, multiple protesters simultaneously react to being struck by projectiles—flinching, covering their faces, and running away from the police lines. Soon after, as the protesters fled away from the police lines, police officers rushed forward and began beating those they caught. In many cases, several police officers surrounded and beat a single unarmed individual.

A police officer with raised baton appears to strike at the legs of a protester being carried away from the scene of the crackdown in Letpadan, Bago Region, March 10, 2015. A confidential memo obtained by Fortify Rights and the Clinic contains a report from a police officer who acknowledged the use of force against protesters. ©2015 Steve Tickner/*The Irrawaddy*



The evidence collected by Fortify Rights and the Clinic demonstrates that the police used excessive force against protesters, journalists, and others. The research team spoke with ten protesters who were beaten by the police, some of whom sustained injuries to their heads, backs, and ribs. Three eyewitnesses described how police officers beat a protester receiving medical care in an ambulance. In addition to protesters, police officers beat at least two journalists who were on the scene to report about the protest as well as bystanders with no affiliation or involvement in the protests—including youth under the age of 18.

A male student from Yadanaborn University, who was holding a flag depicting a fighting peacock—a traditional symbol of the struggle for democracy in Myanmar—described to the research team how police beat him during the crackdown. He said:

Ten or 15 police beat me. I fell down, but I was trying to keep the flag up. The police tried to kick me in the face and the head. The police said to me, “Do you want to hold the flag now?” Some more police came and they stood above me and beat me even more.

The research team also collected 39 photographs and ten videos depicting police officers kicking or hitting protesters and others with batons or bamboo sticks. In almost all of these photographs and videos, multiple police officers beat unarmed individuals who had been surrounded by police officers or were already in police custody. None of the available photographs or videos show students violently resisting police officers or threatening them.

The actions of some police officers to protect civilians from other police personnel during the violent crackdown provide further evidence of the unjustified use of force by some officers. Several protesters told Fortify Rights and the Clinic how police officers proactively protected them during the violence. Videos and photographs reviewed by the research team show some officers using riot shields or their own bodies to protect protesters from attacks by other police officers.

Fortify Rights and the Clinic considered possible events that could have triggered the excessive use of force by police officers after the initial show of significant restraint. An amateur video reviewed by the research team shows a protester unsuccessfully attempting to slap a police officer before being directed away from the police lines by fellow protesters. Another shows a protester throwing a water bottle towards the police lines. Two photographs taken in Letpadan, but at a distance from the protest site, show individuals—identified by the photographer as Letpadan residents—carrying rudimentary weapons: a slingshot in one case and a large stick or club in the other. One person reported to the research team that someone in the protest group used a slingshot, but the research team has been unable to corroborate this account with either eyewitness testimony or video or photographic evidence.

Any incident that could be characterized as violent in the lead up to the crackdown, such as the throwing of a water bottle or the possible use of a slingshot, was isolated and does not appear to have posed a significant threat to the police or state authorities. Available evidence from videos, photographs, and eyewitnesses shows that protesters who pushed against the police barricade were unarmed, primarily refrained from violence, and in several cases urged others to do the same. Fortify Rights and the Clinic were unable to conclude what led to the breakdown of police discipline, but contributing factors could have included insufficient training, fatigue, and frustration. Similarly, Fortify Rights and the Clinic were unable to rule out the possibility that a specific order was given to commence the initial assault on protesters.

It is clear that after showing significant restraint with the protesters in Letpadan, the police used excessive force against the group, including against unarmed individuals, in violation of international standards. The crackdown was not proportional to any threats posed by protesters, and the police should have approached individual incidents of violence in a manner that would not have resulted in violence being used against the entire group. Further, the resort to violence by the police also violated the principle of necessity, which requires the police to only resort to force after exhausting peaceful alternatives for resolving the situation.

3 Officers in the Myanmar Police Force abused individuals in police custody on March 10 in violation of international principles that require that law enforcement officials respect and protect human rights of all persons and use force only when strictly necessary, lawful, and proportionate to the threat at hand.

The UN Code of Conduct for Law Enforcement Personnel requires that police officers “respect and protect human dignity and maintain and uphold the human rights of all persons” and “use force only when strictly necessary.” Similarly, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials requires that police officers only use force in relation to individuals in custody or detention when “strictly necessary for the maintenance of security and order within the institution or when personal safety is threatened.”

OPPOSITE ABOVE: Police transport detained protesters to Thayawaddy Prison in a police truck, March 10, 2015. ©2015 La Pyae

OPPOSITE BELOW: Police open the door of an ambulance containing sick or injured protesters at Letpadan, March 10, 2015. Eyewitnesses described seeing police officers drag protesters out of the ambulance and beat them. ©2015 Sai Zaw/*The Irrawaddy*



Following the police crackdown and dispersal of the protesters on the road on March 10, an estimated 80 protesters, journalists, and bystanders took refuge in the Aung Myay Baik Mann monastery, located approximately 500 feet from the protest site. The police soon surrounded the monastery and forced those inside to exit the building and sit in rows on the ground within the monastery compound. The police bound the hands of some people who exited the monastery, including most of the women and several men. According to those who were detained as well as eyewitnesses, police officers beat and verbally abused those held in custody at the monastery, including individuals whose hands were bound.

A journalist detained in the monastery with protesters and others told the research team how the police bound his hands behind his back and beat him:

They beat us for no reason . . . I was hit about 30 times. They hit me with batons and bamboo sticks and with their hands. Someone slapped me on the back of my head. Even now, my right ear hurts. I was hit in the head with a baton. Another police officer gave me a strong kick in the ribs.

When official police transport trucks arrived at the monastery, police officers formed two lines and forced the detainees to walk between the lines en route to the police trucks, beating the detainees with batons as they passed. Police loaded men and women into separate trucks; the truck transporting the men was severely overcrowded. Several men described being packed into the trucks in “layers” and struggling to breathe. The police trucks transported detainees to Thayawaddy Prison.

Fortify Rights and the Clinic collected evidence indicating that police officers beat scores of detainees, including those detained at the monastery and those placed in police trucks, who did not pose a threat to the security or personal safety of the police officers. The use of force against these individuals appears to have been entirely unnecessary and in violation of international standards.

4 The ongoing detention and prosecution of protesters targeted solely for exercising their rights to freedom of peaceful assembly and freedom of expression is arbitrary and violates international law.

Under international law, arrest and detention are unlawful when individuals are arrested or detained for engaging in activity that is protected under international law, such as exercising the rights to freedom of peaceful assembly and freedom of expression.

At the time of writing, 50 individuals of the 127 arrested on March 10 remain in Thayawaddy Prison. A majority of these individuals, and 27 others who have been released on bail, face up to nine years and six months in prison on charges relating to unlawful assembly, rioting, harming public servants, and public mischief. Several student leaders face multiple counts under a law regulating peaceful assemblies in Myanmar. In the months following March 10, Myanmar authorities have arrested and initiated criminal prosecutions against dozens of additional student leaders and protesters involved in protests at Letpadan and elsewhere. One student leader, arrested later in March, is being charged with multiple counts of the same charge and faces decades in prison.

Although the Myanmar Government may pursue prosecutions against individuals for whom there is credible evidence of involvement in an internationally recognizable crime, the multiple charges facing scores of protesters seem inappropriate given the available evidence relating to their engagement in the protest.

Government authorities have defended the restrictions imposed on the protesters, the use of force by police, and the arrests of the protesters and others. For instance, President Thein Sein told the BBC on March 24: “Even though you say [the police] violently cracked down on the protesters, it was just a response because they beat the police first. Police just took preventive measures as they were pelted with stones.”

At the time of writing, no known actions have been taken to hold accountable those responsible for the excessive use of force at Letpadan, and 50 individuals remain in prison for their involvement in the Letpadan protests.



On September 11, the Myanmar National Human Rights Commission (MNHRC) issued a statement concerning the findings of its own investigation into the crackdown at Letpadan. The statement called for police officers responsible for the use of excessive force in violation of applicable standards to be disciplined. The statement additionally alleged that the beating of protesters led to injuries, including to the faces and heads of protesters.



Multiple police officers beat a single protester in Letpadan, Bago Region, March 10, 2015. While many police officers used excessive force against unarmed protesters, some officers attempted to protect protesters, providing further evidence that the use of force was excessive. ©2015 Sai Zaw/The Irrawaddy

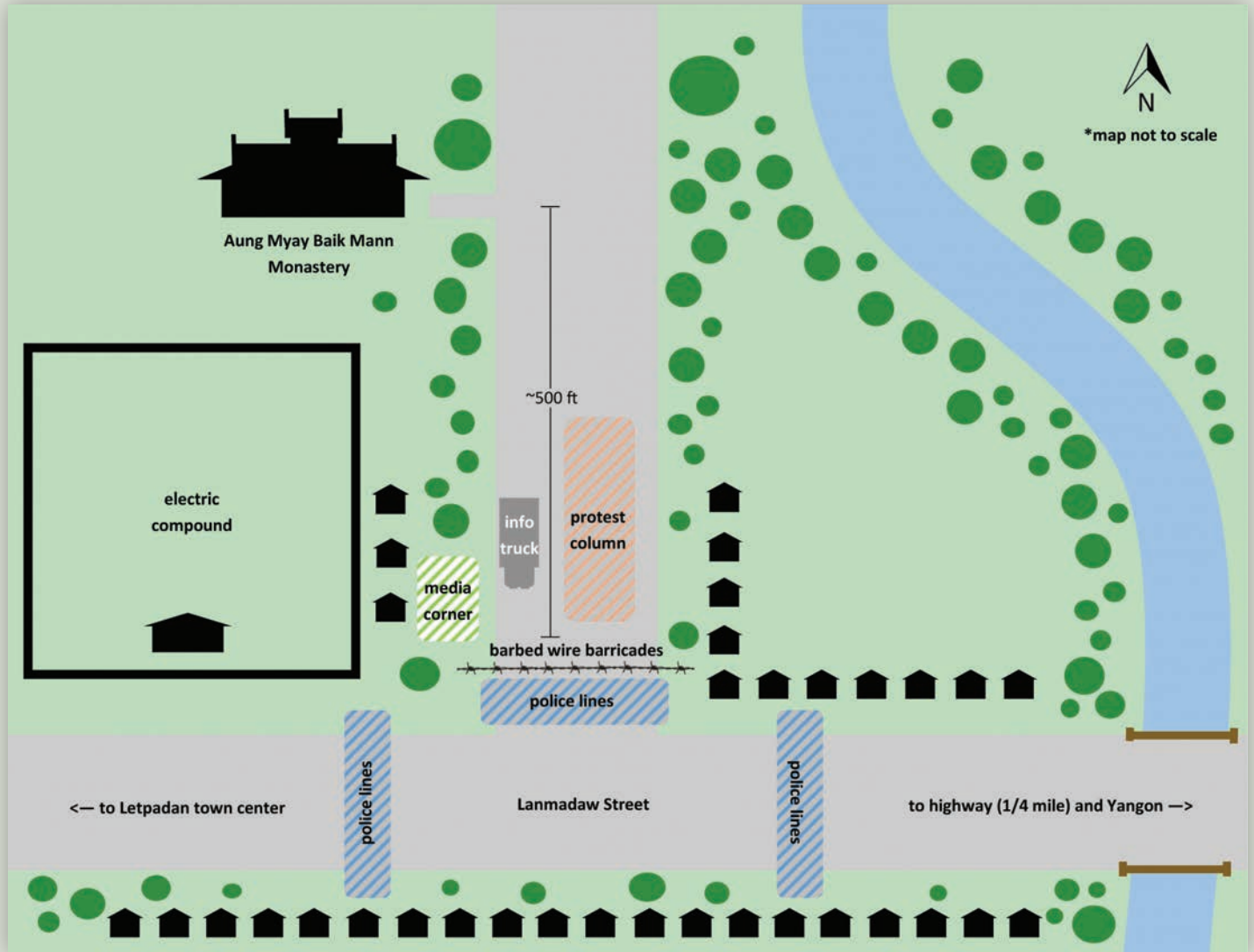
MAIN RECOMMENDATIONS

Fortify Rights and the Harvard Law School International Human Rights Clinic call upon the Government of Myanmar to:

- Immediately and unconditionally release all individuals imprisoned solely for exercising their rights to freedom of peaceful assembly and freedom of expression in Letpadan and elsewhere. Ensure that no charges are pursued absent credible evidence of involvement in an internationally recognizable crime and that any proceedings meet international fair trial standards.
- Provide full remedies to individuals whose rights have been violated in Letpadan and elsewhere. A full remedy should include:
 - A full, impartial, and independent investigation into the excessive use of force by police, arbitrary arrest and detention, and violations of the rights to peaceful assembly and freedom of expression in connection with the protest and crackdown in Letpadan on March 10, 2015. Ensure that any resulting report is made publicly available and supplements the MNHRC findings.
 - In line with the MNHRC recommendation, hold all police officers and other officials, including those with command responsibility, to account for any rights violations, including the excessive use of force in Letpadan and elsewhere, regardless of rank or position.
 - Ensure protesters are able to exercise their rights to freedom of peaceful assembly and freedom of expression and not face violent retaliation by authorities.
- Publicly affirm the right of Myanmar citizens to exercise the rights to freedom of peaceful assembly and freedom of expression as established in international law, and ensure that all laws, legislation, and standards that relate to police conduct and the rights to freedom of peaceful assembly and freedom of expression comport with international standards and best practices.

PROTEST AREA, LETPADAN

11:45 AM, MARCH 10, 2015



METHODOLOGY

This report was researched and written by the staff of Fortify Rights and faculty and students from the Clinic. The research team also included Myanmar nationals serving as legal researchers, interpreters, translators, and fixers.

The research team visited the cities of Letpadan, Mandalay, and Yangon in March 2015 and conducted 25 interviews with eyewitnesses to the events of March 10, including six females and 21 males, age 16 to 62. Interviews were conducted in English or in Burmese with English interpretation. None of the interviewees received compensation and all were informed of the purpose of the interview, its voluntary nature, and the ways that the information they shared might be used. All provided informed consent. In the interest of the security of people who spoke to the research team, the names of interviewees and other identifying information have been withheld.

In March, the research team, through intermediaries, requested a meeting with Bago Region Deputy Police Chief Win Sein. The request was declined. On July 10, 2015, Fortify Rights and the Clinic sent a letter to President Thein Sein providing preliminary findings from the report and a request for further information regarding the use of force by police, arrests of protesters involved in the Letpadan protests, and restrictions imposed on the protesters in Letpadan. The letter was copied to Minister of Home Affairs Lieutenant General Ko Ko, Chief Justice of the Union Tun Tun Oo, Attorney General of the Union Dr. Tun Shin, and Chairman of the Myanmar National Human Rights Commission Win Mra. At the time of writing, Fortify Rights and the Clinic have not received a response.

The research team obtained and analyzed more than 500 photographs and 40 videos taken by journalists, protesters, and bystanders present at the protest in Letpadan on March 10, 2015. These photographs and videos are catalogued and remain on file with Fortify Rights and the Clinic.

The research team also conducted desk research relating to relevant events that occurred before and after March 10. This research provided vital context and contributed to the analysis of rights violations presented in this report.

I. BACKGROUND

Education and Student Uprisings in Myanmar

Education has long been a contentious issue in Myanmar. Since the 1960s, successive military rulers neglected and often actively undermined the education sector as a way to maintain political control and limit dissent.¹ Myanmar's military governments have historically distrusted student movements and have consistently suppressed student demonstrations, at times with lethal force.

Since Myanmar's colonial-era independence movement, students have played a leading role in struggles for human rights and democracy in the country. Under military rule (1962-2011), Myanmar authorities killed thousands of students and protesters and arbitrarily arrested and imprisoned thousands more for taking part in student-led political activism.

On March 2, 1962, Myanmar Army General Ne Win took power in Myanmar through military coup, ending a 14-year-long period of parliamentary democracy. Students were among the first to protest, gathering at the historic Students' Union Building at Rangoon University. On the evening of July 7, soldiers arrived on the campus and massacred more than 100 students.² In the early hours of July 8, the Myanmar Army dynamited the Students' Union Building, reducing it to rubble. July 7 and 8 remain important dates for activists throughout the country, with annual memorials held in Yangon and elsewhere.³

Students were also at the forefront of pro-democracy uprisings in 1988. On March 12, 1988, a spontaneous teashop brawl erupted in Yangon between university students and local youth. When students learned the next day that police released one of the culprits—the son of a government official—they protested. Crowds gathered in front of the police station. Riot police

1 See Christina Fink, *Living Silence: Burma Under Military Rule* (London: Zed Books, 2001), pp. 179-192. Fink notes, "Under successive military regimes, the primary focus in the development of the university system has been the containment of student activism rather than the improvement of the quality of education." See also, Marie Lall, "Evolving Education in Myanmar: the interplay of state, business and community," in Monique Skidmore and Trevor Wilson, eds., *Dictatorship, Disorder and Decline in Myanmar* (Australian National University Press, 2008), p. 131.

2 Fink, *Living Silence*, p. 31; Bertil Linter, *Burma in Revolt: Opium and Insurgency Since 1948* (Bangkok: Silkworm Books, 1999), p. 214.

3 On July 8, 2015, there were two demonstrations in Yangon led by students' groups marking the 53rd anniversary of the Myanmar Army's destruction of the student union at Rangoon University. Several student activists were arrested that week in Yangon. See David Mathieson, "Stifling Student Dissent in Burma," Human Rights Watch Dispatch, July 14, 2015, <https://www.hrw.org/news/2015/07/14/dispatches-stifling-student-dissent-burma> (accessed July 16, 2015).

responded with force, killing three students and triggering more protests.⁴ In the days that followed, riot police killed an unknown number of students and beat and gang-raped women.⁵ In one reported incident, 41 student protesters were crammed into a police van and suffocated to death.⁶ The authorities closed down universities in the country for two months.

These events led to a national student-led pro-democracy uprising.⁷ By July 7, 1988, hundreds of students and civilians and dozens of police had already been killed in clashes. Student leader Min Ko Naing and his colleagues issued a bold pro-democracy statement calling for a multi-party democracy under the name of the All Burma Federation of Student Unions (ABFSU), the first public use of the name since the Army destroyed the student union building 26 years prior.⁸

On August 8, 1988, student leaders initiated coordinated pro-democracy protests, which lasted six weeks. Students carried red-colored fighting-peacock student union flags representing the struggle for multiparty democracy.⁹ Violent crackdowns ensued. ABFSU students took responsibility for managing crowds and encouraging peaceful assembly.¹⁰ Few protesters resorted to violence. However, military personnel in plainclothes allegedly posed as students to instigate attacks, appearing to deliberately create the context for a military crackdown—a common practice in Myanmar to date.¹¹

4 Student Maung Phone Maw died shortly after the incident; two other students died from injuries in the hospital, chained to their beds under armed guard. See Linter, *Burma in Revolt*, pp. 340-41.

5 Fink, *Living Silence*, p. 51; David Steinberg, *Burma: The State of Myanmar* (Washington, D.C.: Georgetown University Press, 2001), p. 6.

6 See *Ibid.*; Linter, *Burma in Revolt*, pp. 340-41, claiming 42 students suffocated.

7 While riot police killed hundreds of students and civilians, fueling nationwide discontent with military rule, “communal violence” between Buddhists and Muslims erupted in the towns of Prome and Taunggyi. Many at the time suspected that military authorities orchestrated the violence to divert attention from political issues and justify the need for continued military rule. See Fink, *Living Silence*, p. 53; Bertil Lintner, *Outrage: Burma’s Struggle for Democracy* (Bangkok: White Lotus, 1990), pp. 80-81.

8 Fink, *Living Silence*, p. 53. Myanmar’s first student union was founded in 1931, renamed the All Burma Students’ Union in 1936, and renamed the All Burma Federation of Students’ Unions in 1951. The group was active in opposing British colonial rule during Japanese occupation during World War II, and military rule in Myanmar. See Khun Sam, “Historic Student Union ABFSU Revived in Burma,” *Irrawaddy*, August 28, 2007, http://www2.irrawaddy.org/article.php?art_id=8410 (accessed July 20, 2015).

9 Fink, *Living Silence*, p. 56.

10 Students encouraged nonviolent resistance but faced challenges. Some protesters responded to government forces with violence in 1988, including beatings and killings of security officers, though protesters were overwhelmingly nonviolent. See Fink, *Living Silence*, pp. 55-8.

11 See Fink, *Living Silence*, p. 57.

The 1988 protests ended in mass bloodshed. In a nationwide crackdown, police officers and soldiers killed an estimated 3,000 students and others and arrested thousands of protesters, effectively crushing the movement.¹²

In August 2007, former student leaders from 1988 and current students again initiated nationwide pro-democracy protests. For several weeks, demonstrations in various parts of the country gathered momentum. Authorities responded by arresting students and protest leaders, forcing others into hiding. On August 28, the Buddhist *sangha*—order of monks—joined the protests in Sittwe, Rakhine State. Monks throughout the country soon took to the streets in what became known as the Saffron Revolution. This, too, ended in a deadly nationwide crackdown.¹³ The authorities raided monasteries, defrocked and killed monks, and imprisoned hundreds of students and others for their involvement in the protests.¹⁴

In 2011 and 2012, President Thein Sein issued amnesties for more than 1,000 political prisoners, including many students imprisoned for their participation in the 2007 protests. However, the authorities prohibited some of these students from obtaining passports, resuming their education, or engaging in political activities.¹⁵

Current Context: The Struggle for Education Reform

In recent years, the Myanmar Government, students, academics, and the international community have viewed education reform as a key priority. The Myanmar Government has acknowledged the need for greater decentralization of education policymaking, but has not yet fully committed itself to implementing the necessary reforms.¹⁶

12 Casualty recording at the time was circumscribed by highly repressive and violent conditions created by the authorities. The figure of 3,000 killed is widely cited but unconfirmed.

13 Human Rights Documentation Unit, *Bullets in the Alms Bowl: An Analysis of the Brutal SPDC Suppression of the September 2007 Saffron Revolution*, March 2008, <http://www.ibiblio.org/obl/docs4/BulletsInTheAlmsBowl.pdf> (accessed July 17, 2015); Human Rights Watch, *Crackdown: Repression of the 2007 Popular Protests in Burma*, December 7, 2007, <https://www.hrw.org/news/2007/12/07/burma-crackdown-bloodier-government-admits> (accessed July 17 2015).

14 Ibid.

15 Human Rights Watch, “Burma: Former Political Prisoners Persecuted,” September 17, 2012, <https://www.hrw.org/news/2012/09/17/burma-former-political-prisoners-persecuted> (accessed July 17, 2015).

16 “Country Paper of the Government of the Republic of the Union of Myanmar,” Learning for All Meeting, United Nations General Assembly, New York, September 2013, http://planipolis.iiep.unesco.org/upload/Myanmar/Myanmar_UNGA_Learning_for_All_2013.pdf (accessed May 9, 2015); Ministry of Education, Union of Myanmar, “Education for All Mid-Decade Assessment Report,” Yangon, August 2007, http://planipolis.iiep.unesco.org/upload/Myanmar/Myanmar_EFA_MDA.pdf (accessed May 9, 2015), p. 8 (“The Government is committed to strengthening local authorities and decentralisation of education delivery.”).

In 2012, a coalition of civil society, political, and religious organizations formed the National Network for Education Reform (NNER) to advocate for the reform of the education system in line with democratic principles.¹⁷ NNER subsequently held a series of workshops and public consultation sessions throughout the country.¹⁸ NNER's priorities include decentralization of education policymaking and addressing the educational needs of ethnic minority communities.

In 2014, NNER and its allies opposed draft legislation aimed at reforming Myanmar's education system, claiming that it failed to incorporate NNER's recommendations and did not meet international standards.¹⁹ Despite opposition to the legislation, Myanmar's Parliament passed it as the National Education Law and President Thein Sein signed it into law on September 30, 2014.²⁰

A vigorous, student-led movement emerged to oppose the National Education Law. On November 12 and 13, 2014, a student conference organized by the ABFSU led to the formation of the Action Committee for Democratic Education (ACDE)—a student group committed to education reform in Myanmar.²¹ In the days that followed, students and activists protested in Yangon, calling for amendments to the law.

On November 17, student leaders issued a public statement giving the Government 60 days to respond to their demands or face nationwide protests.²²

On January 20, with no response from the Government, a group of more than 100 students and their supporters began marching south from Mandalay on foot with the stated goal of

17 Soe Sandar Oo, "Education Organizations Criticize Govt Education Policy Draft," *Irrawaddy*, January 6, 2014, <http://www.irrawaddy.org/burma/education-organizations-criticize-govt-education-policy-draft.html> (accessed May 9, 2015).

18 Ibid.

19 Yen Snaing, "Backlash Grows Against Burma's National Education Bill," *Irrawaddy*, September 23, 2014, <http://www.irrawaddy.org/burma/backlash-grows-burmas-national-education-bill.html> (accessed May 9, 2015).

20 Aye Min Soe, "National Education Law advisory body urges students to resolve issues with law democratically," *The Global New Light of Myanmar*, November 20, 2014, <http://globalnewlightofmyanmar.com/national-education-law-advisory-body-urges-students-to-resolve-issues-with-law-democratically/> (accessed July 29, 2015).

21 Action Committee for Democratic Education, "Statement regarding the Need for Creation of National Education Policies and Laws for Realization of Democratic Education System," January 24, 2015, <http://www.burmapartnership.org/2015/01/statement-by-the-action-committee-for-democratic-education/> (accessed May 9, 2015).

22 Nobel Zaw, "Students Pause Protest, Demand Govt Response on Education Law," *Irrawaddy*, November 17, 2014, <http://www.irrawaddy.org/photo/students-pause-protest-demand-govt-response-education-law.html> (accessed July 24, 2015); Mark Inkey, "Burma's student protesters follow in predecessor's footsteps," *Asian Correspondent*, November 28, 2014, <http://asiancorrespondent.com/128608/burmas-student-protesters-follow-in-predecessors-footsteps/> (accessed May 9, 2015).

proceeding to Yangon unless their demands were met.²³ Separate groups of students and activists soon formed in Pakokku, Magway Region; Patheingyi, Ayeyarwady Region; and Dawei, Tanintharyi Region and also began organized marches toward Yangon.²⁴

Four days after protesters started marching, the ACDE issued 11 demands regarding the education law.²⁵

On February 1, student leaders and NNER representatives met government officials and parliamentarians for four-party meetings held at Yangon University.²⁶ The students put forward their 11 demands and sought agreement on preconditions for further talks.²⁷

Additional four-party talks between February 11 and 15 led to an agreement on the 11 student demands and the text of a revised education law.²⁸ Shortly after the agreement, the protest groups from Dawei, Patheingyi, and Pakokku disbanded and returned to their homes, while protesters from Mandalay continued to march towards Yangon.²⁹

On February 17, state-run media published the four-party draft bill alongside a competing bill put forward by the Education Ministry.³⁰ On February 18, the Mandalay protesters halted their march in Letpadan, a town approximately 75 miles north of Yangon, taking residence in the

23 “Timeline of Student Protests Against Education Law,” *Irrawaddy*, March 10, 2015, <http://www.irrawaddy.org/burma/timeline-of-student-protests-against-education-law.html> (accessed May 9, 2015).

24 “Hundreds of Police Deployed Along Myanmar Students’ Protest Route,” *Radio Free Asia*, February 5, 2015, <http://www.rfa.org/english/news/myanmar/deployed-02052015180541.html> (accessed May 9, 2015).

25 ACDE, “Statement regarding the Need for Creation of National Education Policies and Laws for Realization of Democratic Education System.”

26 Nobel Zaw, “Protests Continue as Students, Govt Discuss Education Reform,” *Irrawaddy*, February 2, 2015, <http://www.irrawaddy.org/burma/protests-continue-students-govt-discuss-education-reform.html> (accessed July 24, 2015). The Government’s delegation was led by President’s Minister Aung Min. Student leaders present at the meeting included Phyo Phyo Aung and Min Thwe Thit.

27 *Ibid.*

28 Nobel Zaw, “Southern Student Protests Disband, as Mandalay Marchers Press Ahead,” *Irrawaddy*, February 17, 2015, <http://www.irrawaddy.org/burma/southern-student-protests-disband-mandalay-marchers-press-ahead.html> (accessed May 9, 2015); “NNER’s Education Amendment Bill to Be Submitted to Parliament,” *Eleven*, February 15, 2015, <http://www.elevenmyanmar.com/local/nners-education-amendment-bill-be-submitted-parliament> (accessed May 9, 2015).

29 *Ibid.*

30 Nobel Zaw, “Students, NGOs Say Govt Violates Agreement on Education Law Overhaul,” *Irrawaddy*, February 23, 2015, <http://www.irrawaddy.org/burma/students-ngos-say-govt-violates-agreement-education-law-overhaul.html> (accessed May 9, 2015).

11 DEMANDS OF ACTION COMMITTEE FOR DEMOCRATIC EDUCATION

JANUARY 24, 2015

1. Inclusion of representatives of teachers and students in legislation process of education policies and laws, by-laws and other related laws.
2. The right to freely establish and operate student and teacher unions and legal recognition for them.
3. Establishment of National Education Commission and University Coordination Committee mentioned in the approved National Education Law.
4. Self-determination and self-management on educational affairs of individual state/regions and schools.
5. Modifying current examination and university matriculation system.
6. Modifying teaching methods to ensure freedom for thinking and self-studying of students.
7. Inclusion of a provision in National Education Law that ensures freedom for the practice of ethnic languages and mother tongue based multi-lingual education for ethnic populations and tribes.
8. Inclusive education for all children including children with disabilities.
9. Resumption of enrollment for students previously expelled from schools due to the student uprisings.
10. Allocation of 20 percent of national budget for education.
11. Regulating of free compulsory education up to middle school level rather than primary level.³¹

31 ACDE, “Statement regarding the Need for Creation of National Education Policies and Laws for Realization of Democratic Education System.”

Aung Myay Baik Mann monastery.³² They announced that they would continue their march to Yangon on March 1 if Parliament failed to pass the bill agreed to at the four-party talks.³³

During the march from Mandalay and during their residence in Letpadan, the protesters did not obtain consent to demonstrate from township police chiefs, as required by the Peaceful Assembly and Peaceful Procession Law.³⁴

On March 2, Myanmar authorities prevented the protesters from continuing their march to Yangon, leading to a week-long standoff. On March 10, police violently cracked down on the protesters and arrested scores of students, activists, and others. At the time of writing, 50 men and women arrested at Letpadan remain behind bars.

The day after the crackdown, the opposition National League for Democracy (NLD) stated that the actions of the police were unlawful and called for an independent investigation.³⁵ The European Union delegation in Myanmar, which had previously donated US\$11 million to train more than 4,000 Myanmar Police Force officers in crowd-control techniques, issued a statement saying it was “deeply concerned to hear reports of the use of force against protesters in Letpadan,” and called for an investigation into the crackdown.³⁶

32 Nobel Zaw, “Marching Student Protestors Pause for Exams,” *Irrawaddy*, February 29, 2015, <http://www.irrawaddy.org/burma/marching-student-protestors-pause-exams.html> (accessed May 9, 2015); Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*, March 2, 2015, <http://www.irrawaddy.org/multimedia-burma/authorities-letpadan-block-student-protest-march.html> (accessed May 9, 2015).

33 Nobel Zaw, “Marching Student Protestors Pause for Exams,” *Irrawaddy*.

34 Although the protesters failed to comply with this law, the law itself falls short of meeting international standards by imposing undue requirements and restrictions on the right to peaceful assembly. See, Chapter IV of this report, “Legal Framework and Analysis.” See also, Article 19, “Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law, Legal Analysis,” August 2015, <http://www.article19.org/data/files/medialibrary/37666/14-08-01-LA-myanmar-assembly.pdf> (accessed May 9, 2015); “Burma: ‘Peaceful Assembly Law’ Fails to End Repression,” Human Rights Watch news release, January 26, 2015, <http://www.hrw.org/news/2015/01/26/burma-peaceful-assembly-law-fails-end-repression>. “Student Protest March Continues Despite Opposition from Local Officials,” *Irrawaddy*, January 26, 2015, <http://www.irrawaddy.org/burma/student-protest-march-continues-despite-opposition-local-officials.html> (accessed May 13, 2015); Nan Myint, “Police warn education law marchers need permission to protest,” *Mizzima*, January 26, 2015, <http://archive-3.mizzima.com/mizzima-news/myanmar/item/17217-police-warn-education-law-marchers-need-permission-to-protest/17217-police-warn-education-law-marchers-need-permission-to-protest> (accessed May 13, 2015).

35 “Opposition, Rights Group Urge Myanmar to Probe Crackdown on Student Protesters,” *Radio Free Asia*, March 11, 2015, <http://www.rfa.org/english/news/myanmar/probe-03112015160013.html> (accessed August 10, 2015).

36 See Andrew D. Kaspar and Lawi Weng, “EU Says Police Training ‘Still Needed’ after Crackdowns Draw Criticism,” *Irrawaddy*, March 11, 2015, <http://www.irrawaddy.org/burma/eu-says-police-training-still-needed-after-crackdowns-draw-criticism.html> (accessed August 10, 2015).

On June 18, Myanmar's Parliament passed a law amending the National Education Law that, according to student leaders and activists, did not reflect their demands or the agreements reached during the four-party talks in February.³⁷

On July 28, Myanmar human rights lawyer Robert Sann Aung filed a lawsuit at Thayawaddy Township Court on behalf of students and protesters against two police officers in Letpadan, alleging they were responsible for holding detainees in custody for more than 24 hours without filing charges, a violation of Myanmar's Criminal Procedure Code.³⁸ On August 11, the court rejected the case.³⁹

After receiving complaints from petitioners, the MNHRC conducted an investigation on July 13 – 15 into the treatment of detainees and conditions of detention in Thayawaddy Prison and a separate investigation in August regarding the events of March 10.⁴⁰ In a statement issued on September 11 regarding the second investigation, the MNHCR found that the police used excessive force to prevent the movement of the protesters and recommended action against police personnel who failed to follow proper riot-control procedures.⁴¹

37 "Myanmar Students Vow Continued Reform Push After Passage of Education Law," *Radio Free Asia*, June 19, 2015, <http://www.rfa.org/english/news/myanmar/reform-06192015175225.html> (accessed August 1, 2015); Yen Snaing, "Most Student Demands Unmet as MPs Pass Amended Education Law," *Irrawaddy*, June 19, 2015, <http://www.irrawaddy.org/burma/most-student-demands-unmet-as-mps-pass-amended-education-law.html> (accessed August 1, 2015).

38 Nobel Zaw, "Lawyer Sues Letpadan Police for Violating Due Process," *Irrawaddy*, July 29, 2015, <http://www.irrawaddy.org/burma/lawyer-sues-letpadan-police-for-violating-due-process.html> (accessed August 10, 2015).

39 Yen Snaing, "Court Rejects Lawsuit Against Letpadan Police," *Irrawaddy*, August 11, 2015, <http://www.irrawaddy.org/burma/court-rejects-lawsuit-against-letpadan-police.html> (accessed August 10, 2015).

40 Myanmar National Human Rights Commission, "Statement with Respect to the Students and Supporters Detained in Thayarwaddy Prison," Statement No. 09/2015, July 20, 2015. Myanmar National Human Rights Commission, "Statement with Regards to the Apprehension and Detention of the Demonstrators Protesting for the Reform of National Education Law at Letpadan on 10 March 2015," Statement No. 12/2015, September 11, 2015.

41 MNHRC, "Statement with Regards to the Apprehension and Detention of the Demonstrators Protesting for the Reform of National Education Law at Letpadan on 10 March 2015."

II. HUMAN RIGHTS ABUSES IN LETPADAN, BAGO REGION

Fortify Rights and the Clinic documented violations of international law and standards by Myanmar authorities in Letpadan on March 10 and in the days leading up to March 10, including restrictions on the rights to freedom of peaceful assembly and freedom of expression and the excessive use of force by police officers.

Restrictions on the Rights to Freedom of Peaceful Assembly and Freedom of Expression

Myanmar authorities issued explicit orders calling for the protesters in Letpadan to disband, enforced a blockade to prevent the protesters from continuing their peaceful march to Yangon, and imposed restrictions on the forms of protest that could be exercised by the protesters. Together, these restrictions violate the rights to freedom of peaceful assembly and freedom of expression under international law. Although states may place restrictions on these rights, such restrictions are only permissible in exceptional circumstances to protect vital state interests and must be proportional to those interests.⁴² When considered in light of the facts relating to the student-led protests, none of the justifications offered by the Myanmar Government—such as claims to be acting to preserve “state security” or “regional peace”—satisfy these requirements.



On February 28, the Home Affairs Ministry issued a statement ordering the protesters in Letpadan to disband.⁴³ The statement read, in part:

If [students] again proceed to march towards Yangon, it would not be an attempt to amend the National Education Law but would aim to shatter state stability and peace. So please stop protests. If protests continue, action will be taken under existing laws [safeguarding] state security, rule of law and regional peace.⁴⁴

⁴² See Chapter IV of this report, “Legal Framework and Analysis.”

⁴³ Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

⁴⁴ *Ibid.*

Fortify Rights and the Clinic also obtained an undated document addressed to “student demonstrators and those who support the student demonstrators” and signed by the Letpadan Township Administration Officer. It references the order given by the Home Affairs Ministry and reads, in part:

The demonstrators aim to go to Yangon and would like to continue their demonstration. That kind of demonstration and going to Yangon can produce instability, threaten the security of the state, disturb the rule of law, and threaten the peace and development of the region . . . The demonstrators should stop their actions. If the student demonstrators don't follow this announcement, we will take action according with the existing law. We already made this warning. However, the student demonstrators continue to attempt to go to Yangon Region. They are intentionally gathering, walking, protesting, talking, shouting, and mobilizing in Letpadan Township. These actions breach the state's declaration and announcement. These actions are disturbing the rule of law and the stability of the region. For these reasons, we have to take action against the student demonstrators under the existing law, so please go back to your homes. We remind you of this.⁴⁵

Fortify Rights and the Clinic were unable to confirm if and when this document was delivered to the protest leaders.

On the morning of March 2, as the protesters prepared to leave Letpadan and resume their march to Yangon, police officers and vehicles surrounded the monastery, preventing the students and their supporters from departing.⁴⁶ Following negotiations with Bago Region Security and Border Affairs Minister Col. Thet Htun, the student leaders agreed to postpone their departure until the next morning.⁴⁷ The protesters unilaterally announced that they would march to Thayawaddy, a town ten miles to the south of Letpadan, before proceeding to Yangon in a convoy of vehicles.⁴⁸

45 Undated document signed by the Letpadan Township Administration Officer, on file with Fortify Rights and the Clinic.

46 Interview with A.C., Yangon, March 2015; Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

47 Interviews with A.C., A.H., and A.J., Yangon, March 2015; Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

48 Interview with A.H. and A.J., Yangon, March 2015; Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

On March 3, the protesters remained surrounded by police as student leaders engaged in further negotiations with government and police officials, including Col. Thet Htun.⁴⁹ The talks failed to result in an agreement that would allow the protesters to continue their march. The police withdrew to a position approximately 500 feet south of the monastery, blocking access to the main road leading out of Letpadan towards Thayawaddy and Yangon.⁵⁰ Students confronted police at the blockade.⁵¹ The police demanded that the protesters disperse by 4 p.m.⁵² However, the students and their supporters did not comply with this order and the deadline passed without incident.⁵³

From March 3 to March 10, the protesters refused to leave their position on the road directly in front of the police blockade.⁵⁴ During this period, the protest group comprised approximately 200 people, including students, non-student members of student unions, supporters from civil society, and members of the public.⁵⁵ The protesters slept on the road, returning to the monastery in small groups to bathe, eat, and rest.⁵⁶

Beside the protesters and very near the police barricades, journalists established a “media corner.” The police permitted journalists to cross the police lines after registering and showing credentials.⁵⁷ The police similarly permitted supporters from NNER and other civil society organizations to cross the police lines and visit with students after registering with the police.⁵⁸ Others circumvented this procedure by sneaking into the area occupied by the protesters clandestinely.⁵⁹

In the first few days after establishing their position in front of the police blockade, some protesters initiated a hunger strike. The strike was discontinued after a few days, in part due

49 Interview with A.C., Yangon, March 2015.

50 Interview with A.C., A.E., A.I., A.J., and C.B., Mandalay and Yangon, March 2015.

51 Interview A.J., Yangon, March 2015; “Student Protestors in Myanmar Threaten to Go on Hunger Strike to Protest Police Block,” *Radio Free Asia*, March 3, 2015, <http://www.rfa.org/english/news/myanmar/students-protest-police-block-03032015165543.html> (accessed May 9, 2015).

52 Ibid.

53 Ibid.

54 Interviews with A.B., A.C., and A.H., Yangon, March 2015.

55 Interview with A.J., Yangon, March 2015; Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

56 Interview with A.H., Yangon, March 2015.

57 Interviews with A.C., A.H., and C.C., Mandalay and Yangon, March 2015; photograph M2.

58 Interviews with A.B., A.J., C.C., C.D., C.E., and C.F., Mandalay and Yangon, March 2015.

59 Interviews with A.C., A.G., C.A., and C.B., Mandalay and Yangon, March 2015.

MARCH 5: VIOLENT CRACKDOWN ON SOLIDARITY PROTEST IN YANGON

On March 5, police officers violently dispersed a solidarity protest held in Yangon to support the movement for education reform and the protesters in Letpadan.⁶⁰ Police arrested eight protesters.⁶¹ During the March 5 crackdown in Yangon, civilians wearing red armbands bearing the Burmese word for “duty” reportedly instigated the initial conflict with protesters. Moments later police officers intervened and beat protesters with batons.⁶² The plainclothes civilians with red armbands also assisted in making arrests.⁶³

In response to questions about the arm-banded civilians, a local government official pointed out that Myanmar’s Criminal Procedure Code allows civilians to be deputized to assist in dispersing unlawful assemblies.⁶⁴ The Director of the President’s Office Zaw Htay later posted an image on Facebook of the relevant section of the Criminal Procedure Code without comment, implicitly defending the actions in Yangon.⁶⁵

In response to public pressure, President Thein Sein appointed a Commission of Inquiry to investigate the crackdown.⁶⁶ On March 31, the commission submitted its report to the president.⁶⁷ Independent Member of Parliament Daw Nyo Nyo Thin publicly called for the president or the commission to release the report to the public.⁶⁸ At the time of writing, the report has not been published.

60 Kyaw Zwa Moe, “Throwback Thursday, Flashback Friday: Repression Redux in Burma,” *Irrawaddy*, March 6, 2015, <http://www.irrawaddy.org/commentary/throwback-thursday-flashback-friday-repression-redux-in-burma.html> (accessed May 9, 2015).

61 Ibid.

62 “Plainclothes Vigilantes Make a Comeback in Rangoon,” *Irrawaddy*, March 5, 2015, <http://www.irrawaddy.org/burma/plainclothes-vigilantes-make-a-comeback-in-rangoon.html> (accessed May 9, 2015).

63 Ibid.

64 “88GPOS meet govt officials, Letpadan sit-in goes on,” *Democratic Voice of Burma*, March 9, 2015, <http://www.burmanet.org/news/2015/03/10/democratic-voice-of-burma-88gpos-meet-government-officials-letpadan-sit-in-goes-on/> (accessed May 9, 2015); Yen Snaing, “Rangoon Govt Defends Plainclothes Force as Lawful,” *Irrawaddy*, March 9, 2015, <http://www.irrawaddy.org/burma/rangoon-govt-defends-plainclothes-force-as-lawful.html> (accessed May 9, 2015); The Code of Criminal Procedure, 1898, art. 128.

65 Ye Mon, “Crackdown investigation to miss deadline,” *Myanmar Times*, March 31, 2015, www.mmmtimes.com/index.php/national-news/13828-crackdown-investigation-to-miss-deadline.html (accessed July 25, 2015).

66 Sean Gleeson, “Naypyidaw Orders Rangoon Protest Crackdown Inquiry,” *Irrawaddy*, March 11, 2015, <http://www.irrawaddy.org/burma/naypyidaw-orders-rangoon-protest-crackdown-inquiry.html> (accessed July 18, 2015).

67 Ye Mon, “Report on Attack Against Protesters Submitted,” *Myanmar Times*, April 1, 2015, <http://www.mmmtimes.com/index.php/national-news/13846-report-on-attack-against-protesters-submitted.html> (accessed July 18, 2015).

68 Ibid.

to health concerns among some of the strikers.⁶⁹ During this time, local support for the protesters grew considerably, with Letpadan residents gathering beyond the police lines to demonstrate solidarity with the students.⁷⁰

On March 8, student leaders in Letpadan issued a statement demanding that they be allowed to continue their march on March 10 or the “Government will have to take responsibility for the consequences.”⁷¹ The students decided that if no agreement was reached, they would attempt to march through the police lines at 10:10 a.m. on March 10.⁷² By dawn on the morning of March 10, no agreement had been reached concerning the onward progress of the protesters.

As their 10:10 a.m. deadline neared, the protesters still faced rows of police officers behind wood barricades covered with barbed wire.⁷³

At approximately 9 a.m., Col. Thet Htun summoned the protest leaders to a small building behind the police barricade.⁷⁴ An NNER member who attended the meeting told the research team that Col. Thet Htun stated that the police would allow the protesters to pass the police blockade.⁷⁵ According to the NNER member, Col. Thet Htun additionally promised to communicate with local government officials in Yangon to request a guarantee of their security when they arrived in the city.⁷⁶

69 Interviews with A.C. and B.J., Mandalay and Yangon, March 2015. See also, “Student Protestors in Myanmar Threaten to Go on Hunger Strike to Protest Police Block,” *Radio Free Asia*.

70 Interviews with A.C., B.B., C.B., and C.D., Letpadan, Mandalay, and Yangon, March 2015; “Student Leaders Blocked From Parliamentary Hearing On National Education Law,” *Radio Free Asia*, March 4, 2015, <http://www.rfa.org/english/news/myanmar/student-protestors-in-letpadan-03042015154435.html> (accessed May 9, 2015).

71 Nobel Zaw, “Standoff Continues at Letpadan After Govt Ignores Students’ Demands,” *Irrawaddy*, March 9, 2015, <http://www.irrawaddy.org/burma/standoff-continues-at-letpadan-after-govt-ignores-students-demands.html> (accessed May 9, 2015); Interviews with A.C., A.I., and B.I., Mandalay and Yangon, March 2014.

72 Interviews with A.C., A.I., and B.I., Mandalay and Yangon, March 2014.

73 Interview with C.A., Mandalay, March 2015. See, for example, photographs B5, H1, L33, L38, L40, U6, and U10; video 18.

74 Interviews with A.C., A.E., A.J., A.H., A.I., B.H., C.B., and C.F., Mandalay and Yangon, March 2015.

75 Interview with A.J., Yangon, March 2015. Aung Mhine San and Phyo Phyo Aung were in custody at Thayawaddy Prison from March 10 until the publication of this report and therefore unavailable to speak to the investigation team about the events of March 10.

76 Interview with A.J., Yangon, March 2015.

The understanding among protesters was that they would be able to march to the main highway—a distance of approximately a quarter mile—and then proceed by car to Yangon.⁷⁷ At this point, the students believed they would be allowed to continue their march to Yangon.⁷⁸ A male journalist covering the protest told the research team:

Originally, the students wanted to march to Thayawaddy . . . But the student leader Ko Aung Mhine San came up with the idea to march on foot to the entrance of Letpadan and from there go to Thayawaddy by car . . . It was around 10 a.m., and the students were celebrating because they thought that their demands were met.⁷⁹

Shortly after the meeting, police removed two of the barbed wire barricades from the front of the police line, but multiple lines of police officers remained, blocking the road out of Letpadan.⁸⁰

At approximately 10:30 a.m., student leaders were called to another meeting with Col. Thet Htun.⁸¹ In the meeting, Col. Thet Htun affirmed that the protesters would be permitted to travel to Yangon, but told the students and their supporters they would be required to board vehicles in Letpadan and those vehicles would depart separately rather than in a group.⁸²

The research team obtained partial video footage of the second meeting with Col. Thet Htun on March 10. In the video, Col. Thet Htun says:

The car will park here. Six or seven people will get on and then it will drive away. That is all we give permission for you to do . . . Park the car here, get on, and then drive away. That is all.⁸³

Additionally, Col. Thet Htun told the protesters they would not be permitted to carry flags or banners, chant, or sing songs as they departed Letpadan.⁸⁴ He was filmed saying:

77 Interviews with A.C., A.H., A.I., B.I., B.J., C.B., C.E., and C.F., Mandalay and Yangon, March 2015.

78 Interviews with A.H., A.J., C.B., and C.E., Mandalay and Yangon, March 2015; video 18.

79 Interview with A.H., Yangon, March 2015.

80 Interviews with A.E., A.J., and C.B., Mandalay and Yangon, March 2015.

81 Interviews A.I., A.J., B.G., B.I., and C.D., Letpadan, Mandalay, and Yangon, March 2015; photographs N1, N2, N18, and N32 (pictures are time stamped at 10:37 am and show student leaders emerging from a house on Lanmadaw Road, where the meeting with Col Thet Htun allegedly occurred).

82 Ibid.

83 Video 22.

84 Ibid. See also, interview with B.G., Letpadan, March 2015.

You don't get permission to raise flags and such . . . One car will come and you get on and don't raise any flags, just drive away, ok? Then comes the next car, you get on and drive away. Raising flags or shouting slogans—don't do these things. Here you just get on and leave immediately. Finished! That is what we permit, ok?⁸⁵

According to an NNER member present in the meeting, the student leaders responded that they could not accept or reject these demands unilaterally, but would deliver Col. Thet Htun's message to the rest of the protesters.⁸⁶

Student leader Min Thwe Thit announced the new demands to the students and their supporters by loudspeaker only meters away from the police lines.⁸⁷ The investigation team reviewed an incomplete video of Min Thwe Thit making this announcement to the students. He said:

The Government has agreed for us to walk until [the junction with the highway] and from [there] we have to get into cars. Each car will carry five to ten students and each car will be separate from the others. I think we have no problem with these demands. But my concern is also that they are saying to us that we must put down our flags, which are our symbols. I want to know, what do you all think of this?⁸⁸

The protesters rejected the Government's demands.⁸⁹

Two student protesters said that Min Thwe Thit continued by stating that anyone who disagreed with the group's decision to reject the Government's proposed restrictions could stand up and leave.⁹⁰ According to these individuals, everyone remained sitting.⁹¹ A 45-year-old man from Mandalay who traveled to Letpadan to support the protesters was behind the police lines, but could hear what happened:

85 Video 22.

86 Interview with B.G., Letpadan, March 2015. See also, Interviews with A.C., A.D., A.H., A.I., A.J., B.G., B.H., B.I., B.J., C.B., and C.D., Letpadan, Mandalay, and Yangon, March 2015.

87 Interviews with A.C., A.G., A.H., A.I., A.J., B.I., B.H., and C.D., Mandalay and Yangon, March 2015.

88 Video 13.

89 Interviews with A.C., A.G., A.H., A.I., C.B., C.D., B.I., and B.H., Mandalay and Yangon, March 2015.

90 Interviews with A.I. and B.H., Mandalay and Yangon, March 2015.

91 Ibid.

When [the student leaders] got back, a student leader made an announcement that said, “The Government does not want us to carry our flags or chant our slogans. Can we accept this or not?” I heard the students reply, “No!” It was like hundreds of people shouting. We could not see the students but we could hear them.⁹²

According to students and their supporters, the ability to carry their flags and banners was non-negotiable, and conceding on this issue would, in their opinion, have signaled the termination of their protest effort.⁹³

At that point, the student leaders issued an ultimatum by loudspeaker: If the protesters were not allowed to pass the police blockade by 11:45 a.m., they would attempt to march through the police lines.⁹⁴

Excessive Use of Force by Police

Following a weeklong peaceful standoff with the police in Letpadan, the protesters were left with a decision whether to disband their demonstration or defy government-imposed restrictions on their rights. On March 10, they sought to exercise their protest rights by passing through the police lines and continuing their march to Yangon. The police initially responded by physically resisting the protesters while maintaining their blockade. However, approximately one hour after protesters began pushing against the police line, police and others standing behind the police lines began to throw rocks, batons, and other objects at the protesters. A violent crackdown by the police quickly ensued.

The research team collected 39 photographs and 10 videos from the protest showing police officers kicking or hitting protesters and others with batons or bamboo sticks.⁹⁵ The identities of many police officers using excessive force against protesters are clear in video footage and photographs reviewed by the research team. In addition to abusing protesters, police officers also beat at least two journalists, a monk, and bystanders with no affiliation or involvement in the protests, including at least one youth under the age of 18 years old.⁹⁶ In several photographs and videos analyzed by the research team, and corroborated by eyewitness testimony, multiple police officers surrounded and beat unarmed individuals.

92 Interview with C.D., Mandalay, March 2015.

93 Interviews with A.D., A.H., and C.B., Mandalay and Yangon, March 2015.

94 Interviews with A.D., A.E., A.G., A.H., A.J., B.H., B.I., B.J., C.B., C.C., and C.D., Mandalay and Yangon, March 2015; video 18.

95 Photographs A1, A4, A5, A8, B1, B7, B9, C5, C6, C12, D1, D4, F8, H3, J2, J10, J18, J21, J31, J35, J42, J46, J49, J52, K2, K17, N68, P1, P8, Q4, U8, U25, and V161-167; videos 1, 3, 7, 8, 9, 10, 12, 17, 19, and 22.

96 Interviews with B.A. and B.B., Letpadan, March 2015.

The weight of evidence collected by the research team refutes the Government's claims that the police officers' actions on March 10 were justified in order to respond to violence by protesters and to preserve public order.⁹⁷

At least 13 protesters—in jail at the time of writing—reported injuries from beatings, including injuries to their ribs, heads, and backs.⁹⁸ Lt. Col. Nanda Win, Commander of Police Battalion 11, claimed 80 police officers were injured.⁹⁹ The research team could not obtain or review any evidence to support the claim of police injuries.

Under international law, law enforcement may use only such force as is necessary and proportionate to maintain public order or other vital state interests. Despite claims by the Government and police that the use of force was justified in order to disperse the protesters, international law holds that force should not be used to disperse assemblies that overall are peaceful in nature. Force should also only be applied after all other alternatives have been exhausted. The Myanmar police not only lacked a legitimate aim in using force but also resorted to unlawful tactics—throwing rocks and other objects and beating unarmed protesters, journalists, and bystanders—during the crackdown in Letpadan, in violation of international law.



MARCH 10 EVENTS IMMEDIATELY PRECEDING THE CRACKDOWN

At 11:45 a.m., the police blockade remained in place. Eyewitnesses estimated that there were approximately 200 or 300 police officers immediately in front of Lanmadaw Road, the main road leading out of Letpadan to the highway to Thayawaddy and Yangon.¹⁰⁰ Photographs reviewed by the research team confirm that at least 150 police officers were present, although no single photograph showed all of those present and the total number of officers present was likely 180 or more.¹⁰¹ This number included regional police forces as well as officers from “police battalions”—generally referred to as “riot police” or *Lon Htein*, the official Burmese

97 See Chapter III of this report, “Responsibility for Abuses.”

98 All Burma Federation of Student Unions, “List of Students and Activists Injured at Letpadan,” July 18, 2015, on file with Fortify Rights and the Clinic.

99 “Letpadan Standoff: Student Demonstration Ends,” *Myanmar International Television*, March 10, 2015, <https://www.youtube.com/watch?v=3mYQEtVB3dY> (accessed May 9, 2015) (translation by Myanmar International Television). Evidence of the crackdown collected and reviewed by Fortify Rights and the Clinic calls into question the Government claim regarding injuries.

100 Interviews with A.I., A.J., and C.C., Mandalay and Yangon, March 2015.

101 See, for example, photographs J27 (143 police officers visible, others concealed or out of frame), J29 (148 police officers visible, others concealed or out of frame), and V35 (148 police officers visible, others concealed or out of frame).

name for riot police under past military regimes—brought in from other parts of the country.¹⁰² According to those who spoke with the investigation team, the first line of police officers was primarily from the regional forces, and more regional officers and “battalion” officers were behind them.¹⁰³ In pictures, police trucks are clearly visible behind the police lines.¹⁰⁴ An unknown number of officers—likely several hundred or more—manned police barricades on Lanmadaw Road to the east and west of the junction, and patrolled nearby areas.¹⁰⁵

Before the protesters attempted to march through the police lines, student leader Min Thwe Thit used a loudspeaker to inform the police of their plans.¹⁰⁶ According to those present, he announced that they would attempt to cross the blockade in groups of four and would peacefully submit to arrest.¹⁰⁷ A 43-year-old NNER representative present at the protest described what Min Thwe Thit said to the police:

[Min Thwe Thit] told the police, “The students will try to cross the line group-by-group, four in each group. While the students try to cross the line, the others will wait.” He requested the police to let them go and to not push back. He said to the police, “You can do your duty, and you can arrest the students if you must arrest them. After you arrest the first group, another group will come. If you arrest the students, please at least respect our flags.”¹⁰⁸

A 49-year-old female civil society representative, who was also present at the protest, similarly recalled:

The [protesters] were very polite, saying, “We will not use any violence. If you do not like it, you can arrest us, but please don’t beat us. The first four people will carry flags. Please respect our flags if you arrest us.”¹⁰⁹

102 Interviews with A.F., B.J., and C.D., Mandalay and Yangon, March 2015; photographs G5, K12, U1, U5, U6, U13, U20, V35, and V44; videos 10, 12, 13, and 18.

103 Interviews with A.F. and C.C., Mandalay and Yangon, March 2015. See also photographs F4, G1, G5, J7, J28, J36, K4, U1, and U10.

104 See, for example, photographs G3, J29, K4, K7-9, and O1-4.

105 See, for example, photographs N56, V13-33, and V224-241; video 6.

106 Interviews with A.C., A.E., A.H., A.J., B.H., B.I., C.C., and C.D., Mandalay and Yangon, March 2015.

107 Ibid.

108 Interview with A.J., Yangon, March 2015.

109 Interview with A.C., Yangon, March 2015.

The research team reviewed a video in which a student leader, not visible in the video, asks the police through a loudspeaker to open their lines and not use violence. The protest leader states that the students will attempt to physically push through the police if they are not allowed to pass.¹¹⁰

When the first group of protesters reached the police lines, the officers in the front line of police, tightly stacked back-to-chest, pushed back the group and stopped their progress.¹¹¹

A male student from Yadanarborn University described the situation: "We were face-to-face with the police and started to push. The police said, 'It is our duty to stop you, but if you can push through us, you can go.' . . . When we started pushing, [we were lined up] four in a row, but it didn't work."¹¹²

The 49-year-old female civil society representative described how the police pushed the protesters, many of whom were carrying overturned alms bowls used by Buddhist monks as a symbol of protest:

At this time, I was standing by the barrier on the same side as the students. The students went to the police carrying the alms bowls. The students began pushing the first line of police. Another group of students was just sitting and shouting their slogans only. The first group of four got very tired, so they went back, and then four others continued to push.¹¹³

While some protesters pushed against the police lines, others began to remove the barbed wire barricades.¹¹⁴ Photographs taken at the scene show protesters attempting to wrest control of the barricades from police officers by force.¹¹⁵ Eventually, the protesters managed to remove all of the barricades.¹¹⁶

A male journalist situated at the media corner directly beside the police lines described the struggle to remove the barricades:

110 Video 18.

111 Interviews with A.C., A.E., A.G., A.H., A.I., A.J., B.H., B.I., B.J., C.C., and C.D., Mandalay and Yangon, March 2015; photographs C6, C9, C14, D2, F3, F4, G1-5, H2, J13, J27, J28, J34, J36, J39, J41 N63, O1, O2, U1, U3, U5, U7, U12, U15, U20, U21, and U24; videos 1, 3, 6, 10, 12, 13, 14, 18, and 19.

112 Interview with B.I., Mandalay, March 2015.

113 Interview with A.C., Yangon, March 2015.

114 Interviews with A.G., A.H., A.I., A.J., C.B., and C.C., Mandalay and Yangon, March 2015.

115 Photographs C9, J7, N63, U5, U7, U15, U21, and V37-147; videos 10, 11, 13, 14, and 22.

116 Interviews with A.G., A.H., A.I., and C.B., Mandalay and Yangon, March 2015.

There were 13 barricades. First, students began removing the barricades, and the police hung onto them so there was a tug-of-war. The students had more manpower because they were supported by the local people, and they were able to take all 13 barricades with the help of the locals . . . I saw blood on the students' faces and hands. I asked them if there was a confrontation, and they said honestly, "No, it is only from the barricades."¹¹⁷

The organized effort to use consecutive groups of four to push against the police lines quickly broke down. Protesters began pushing against the lines of police independently or in larger groups.¹¹⁸ A male student from the Technological University of Mandalay explained: "We were four in a row and the four in the front tried to push through the police. At first we were pushing four by four, but when it didn't work we pushed with a larger group of students."¹¹⁹

During this period of intensive physical contact, there appear to have been few police or protesters who resorted to violence. Photographs and video taken near the police lines during this period show police officers exercising significant restraint, with their hands gripping each other as they largely stay in formation and resist the student encroachments with their bodies.¹²⁰

Many eyewitnesses also recalled student leaders repeatedly urging the protesters to refrain from violence.¹²¹ A video reviewed by Fortify Rights and the Clinic shows student leaders Phyo Phyo Aung and Min Thwe Thit attempting to calm a student protester and telling her, "Students will never choose the violent way."¹²²

Photographs and videos taken during this period show protesters largely refraining from violence as they attempt to push through the lines with their bodies. In one video, a masked protester unsuccessfully tries to slap police officers in the first row of the blockade.¹²³ It appears as though other protesters then push this individual away from the front line.¹²⁴ In another video, a protester—partially obscured by the crowd—swings his arms with unclear

117 Interview with A.H., Yangon, March 2015.

118 Interviews with A.C., A.G., A.I., A.J. B.H., and B.I., Mandalay and Yangon, March 2015; photographs C6, C9, C14, D2, F3, F4, G1-5, H2, J13, J27, J28, J34, J36, J39, J41 N63, O1, O2, U1, U3, U5, U7, U12, U15, U20, U21, and U24; videos 1, 3, 6, 10, 12, 13, 14, 18, and 19.

119 Interview with B.H., Mandalay, March 2015.

120 See, for example, photographs B2, C1, F3, F4, G1-3, H2, J7, J13, J27, J36, J38, O1, O2, U1, and U12; videos 1, 6, 11, 13, 14, 18, and 19.

121 Interviews with A.J., B.E., B.I., and C.B., Mandalay and Yangon, March 2015.

122 Video 18.

123 Video 6.

124 Ibid.

intent near police officers, or perhaps throws an object.¹²⁵ Beyond these two videos, the research team did not find any evidence that suggests that the protesters struck or assaulted officers.¹²⁶

Two photographs of more than 500 reviewed by the research team show individuals— identified by the photographers as Letpadan residents—carrying rudimentary weapons: a slingshot in one case and a large stick or club in the other. In these photographs, the protesters in question appear to be approximately 150 feet from the police and in a different location than the main group of protesters.¹²⁷ The individuals are not among a crowd of protesters and the surroundings in the photo allowed the research team to determine that the pictures were taken hundreds of meters from the main area of the protest and on the opposite side of the police lines. The research team reviewed hundreds of photographs and dozens of videos that were definitively taken near the main protest area. None of those photographs or videos show individuals, other than police officers, with any form of weapon.

Some protesters said they were concerned about unknown civilians among their group, suspecting that they might not share the protesters' nonviolent objectives and could instigate violence.¹²⁸ Given past experiences with student protests in Myanmar, these concerns were not unwarranted. Myanmar has a history of plain-clothed government agents or paramilitary forces disrupting protests, instigating violent confrontations, and cooperating with authorities to beat and disperse peaceful assemblies.¹²⁹ A male journalist recalled:

I even saw some fights break out between the locals and the students, because they couldn't distinguish who was whom. Before the march, there was a small protest on March 5 that was dispersed by *Swan Arr Shin* ["Masters of Force"; a militia traditionally affiliated with the military and the ruling Union Solidarity and Development Party] with red armbands, and [the student leaders in Letpadan] were really worried that they might have these kinds of people infiltrating their ranks. The students couldn't tell who were genuine supporters and who were government spies that were planted within their ranks.¹³⁰

125 Video 3.

126 See Interviews A.C. and B.H., Mandalay and Yangon, March 2015.

127 Photographs B16 and J20.

128 Interviews with A.D., A.H., and B.J., Mandalay and Yangon, March 2015.

129 See Fink, *Living Silence*, p. 57; Human Rights Watch, *Crackdown*, pp. 5-14, 105-11; Human Rights Documentation Unit, *Bullets in the Alms Bowl*, pp. 11, 32, 35, 51-8, 60-3, 66, 75-6, 84, 95, 100, 108, 114, 141, 143, and 146; Sean Gleeson, "Naypyidaw Orders Rangoon Protest Crackdown Inquiry," *Irrawaddy*.

130 Interview with A.H., Yangon, March 2015.

As the protesters continued to push against the police lines, the police set up additional blockades to the east and west of the main police lines, expelling bystanders from the area in between.¹³¹ Student leaders tried to enlist local residents to join the protest outside of the east barricade.¹³² A group confronted the police manning that barricade, resulting in the arrest of at least five individuals.¹³³ The police also beat several individuals during this time.¹³⁴

At one point the protesters took a break from pushing against the police lines and then began again, with larger numbers pushing simultaneously.¹³⁵ These efforts were also stymied and the encounter soon escalated significantly.

THE START OF THE CRACKDOWN

Shortly after the protesters resumed pushing against the police lines, police officers initiated a brutal crackdown. Fortify Rights and the Clinic could not establish what triggered the sudden abandonment of restraint by police forces.¹³⁶ Further investigation is necessary to determine whether there were orders or instructions given to police officers prior to and during the crackdown, and if so, what the orders were.¹³⁷

Individuals near the police lines when the crackdown began told the research team that police officers or others located behind the police lines threw rocks and other objects at the protesters before breaking their lines and initiating an attack on the group.¹³⁸ The research team interviewed two students who were struck by stones.¹³⁹ Many of those who were part of

131 Interview with C.D., Mandalay, March 2015.

132 Interviews with C.A. and C.D., Mandalay, March 2015.

133 Interviews with A.D., A.E., B.J., C.A., C.B., C.E., C.D., and C.F., Mandalay and Yangon, March 2015.

134 Interviews with A.E. and C.B., Mandalay and Yangon, March 2015.

135 Interviews with A.E., A.G., A.H., A.I., A.J., and C.C., Mandalay and Yangon, March 2015.

136 Several protesters said someone within the protester's ranks threw an object—identified by some as a water bottle—towards the police. Two people said tensions and impatience escalated on both sides as protesters attempted to breach the police blockade. Two others said police officers used physical force against a group of female students, triggering an altercation that escalated quickly. Interviews with A.C., A.D., A.E., A.J., and B.J., Mandalay and Yangon, March 2015. Those who saw something being thrown from this protesters side of the police lines indicated that the person or persons throwing the objects were not known members of the protest group. They expressed concern that the police or the Government may have planted these people to instigate a crackdown. The use of plainclothes operatives to initiate violence during the March 5 crackdown on protesters in Yangon, and a history of such tactics, likely heightened these concerns. Further investigation into the use of plainclothes agents in Letpadan by Myanmar authorities is merited. Interviews with A.C., A.D., A.E., A.G., A.I., A.J., B.I., and B.J., Mandalay and Yangon, March 2015.

137 Interviews with A.G. and A.I., Yangon, March 2015.

138 Interviews with A.C., A.D., A.E., A.F., A.H., A.I., A.J., A.G., A.H., B.I., B.J., and C.C., Mandalay and Yangon, March 2015.

139 Interviews with A.D. and B.I., Mandalay and Yangon, March 2015.

the main group of protesters said that they could not see who threw rocks prior to the crack-down, but confirmed that rocks were being projected from behind the police lines.¹⁴⁰

A 43-year-old male NNER representative present when the crackdown started said:

There were about three or four stones about this big [shows six inches in diameter with hands] that were thrown. I didn't see who threw those stones. I just saw that they came from the police side . . . At the side of the road, there was a bridge that was a little bit higher. I went there. Another police group from the back ran to the front and threw stones. I saw the police throwing the stones. A chair was also thrown and fell beside me.¹⁴¹

A male journalist also present at the time told the research team:

The students rested for about 20 minutes. After 20 minutes they began their second wave of pushing. At that time, I saw rocks coming from the side of the police. I was standing by the students' truck. The truck was just a few feet away from the police line. Later the Government reported that it was the students who began throwing rocks. I don't know if that's true or not, but all of the rocks I saw were coming from the police [side]. I didn't see who was throwing the rocks.¹⁴²

The research team reviewed nine videos that show police officers throwing rocks or other objects in the direction of protesters.¹⁴³ Two videos show an individual in civilian clothing and at least five police officers throwing rocks at protesters from behind the police lines.¹⁴⁴ Seven additional videos show police officers throwing a barrage of rocks, batons, and other objects toward protesters.¹⁴⁵ In these videos, the air is filled with flying objects, including large, unidentifiable objects, thrown by police officers.¹⁴⁶ One video shows rocks simultaneously striking several protesters, who flinch, cover their faces, and run away from the police lines.¹⁴⁷

Some of those present described that some objects—a water bottle and perhaps rocks—were also thrown by individuals standing in or near the protesters before the assault by police

140 Interviews with A.D., A.E., A.F., A.H., A.I., A.J., B.I, B.J., and C.C., Mandalay and Yangon, March 2015.

141 Interview with A.J., Yangon, March 2015.

142 Interview with A.H., Yangon, March 2015.

143 Videos 2, 3, 5, 6, 13, 14, 15, 16, and 19.

144 Videos 2 and 6.

145 Videos 3, 5, 13, 14, 15, 16, and 19.

146 Ibid.

147 Video 14.

officers.¹⁴⁸ The research team reviewed one video showing an individual in an ABFSU T-shirt throw a water bottle towards the police lines.¹⁴⁹ Another video depicting a large crowd involved in the efforts to push against the police lines appears to show an object projected from the side of the protesters, although the identity and source of the object is not possible to ascertain.¹⁵⁰ One individual described a student stopping to throw a rock as the students fled en masse from onrushing police officers.¹⁵¹ However, no one else present at the time when rocks were being thrown—neither students, journalists, nor civil society representatives—recalled seeing individuals from the main protest column throwing rocks at the outset of the police crackdown.¹⁵² No pictures or videos reviewed by the research team show individuals from the main protest column holding or throwing rocks.

BEATINGS AND OTHER ABUSES

Soon after they threw rocks at protesters, police officers rushed forward and began to beat protesters and their supporters, including many who were taken into police custody and posed no threat to the officers.¹⁵³ The research team collected 39 photographs and ten videos showing the police beating and kicking individuals.¹⁵⁴ In almost all of those photographs and videos, multiple police officers are beating unarmed individuals.¹⁵⁵ None of the available photographs or videos show students violently resisting police officers or threatening them.

Videos reviewed by the research team show the initial moments of the crackdown, as officers charged protesters with their batons raised from the left side of the police blockade.¹⁵⁶ As the protesters turned and fled in the opposite direction down the road, police officers beat those they caught. In many cases, multiple police officers surrounded and beat single unarmed protesters.¹⁵⁷

148 Interviews with A.D., B.I., B.J., and C.C., Mandalay and Yangon, March 2015.

149 Video 3.

150 Video 3.

151 Interview with C.C., Mandalay, March 2015.

152 See interviews with A.H. and A.G., Yangon, March 2015 (affirmatively stating that students weren't involved in throwing stones).

153 Interviews with A.C., A.D., A.E., A.G., A.H., A.J., B.H., B.I., B.J., C.B., C.C., C.D., and C.F., Mandalay and Yangon, March 2015.

154 Photographs A1, A4, A5, A8, B1, B7, B9, C5, C6, C12, D1, D4, F8, H3, J2, J10, J18, J21, J31, J35, J42, J46, J49, J52, K2, K17, N68, P1, P8, Q4, U8, U25, and V161-167; videos 1, 3, 7, 8, 9, 10, 12, 17, 19, and 22.

155 Ibid.

156 Videos 3, 5, 13, 15, and 16.

157 Interviews with A.H., A.J., B.A., B.B., B.C., B.E., B.H., B.I., B.J., C.B., and C.C., Letpadan, Mandalay, and Yangon, March 2015.

The research team spoke with ten individuals beaten by the police on March 10—some of whom were beaten while in police custody at the protest site.¹⁵⁸ A female student from East Yangon University described how the attack began:

After the rock throwing, [the police] started beating all the students. Some of the students ran back to the monastery, but others remained and were beaten severely . . . I heard someone shout, “Don’t let them get away, beat them all!” . . . I heard shouting [from the police] about not letting the students get away. They said, “We can’t stop now, we must arrest them all.”¹⁵⁹

A student from Yadanaborn University told the research team:

I was holding the [pro-democracy fighting peacock] flag, and I didn’t feel that the flag should go backwards, so I stayed there and the police started beating me. Ten or 15 police beat me. I fell down, but I was trying to keep the flag up. The police tried to kick me in the face and the head. The police said to me, “Do you want to hold the flag now?” Some more police came and they stood above me and beat me even more.¹⁶⁰

Another student from Yadanarborn University described what happened when police officers caught him:

I was running back to the monastery when the police caught me and beat me. There were five or six of them. They hit me five times on the head and in the back with a rock. They also beat me with their police batons. When they hit me on the head, I fell down. When I was able to stand up again, I ran to the monastery.¹⁶¹

The research team documented many cases in which multiple police officers beat a single unarmed protester.¹⁶² A male journalist who was standing near the police lines told the research team:

158 Interviews with A.D., A.E., A.F., A.H., B.A., B.C., B.E., B.H., B.I., B.J., and C.B., Letpadan, Mandalay, and Yangon, March 2015.

159 Interview with A.E., Yangon, March 2015.

160 Interview with B.J., Mandalay, March 2015.

161 Interview with B.I., Mandalay, March 2015.

162 Interviews with A.H., A.J., B.A., B.B., B.C., B.E., B.H., B.I., B.J., C.B., and C.C., Letpadan, Mandalay, and Yangon, March 2015.

I saw . . . five or six policemen beat a single student . . . The police were hitting [people] all over. They hit people in the heads, in the legs, in the arms. If someone fell over, they would gather and beat him wherever they could. I saw four police officers corner one man and beat him with batons. They also had bamboo sticks that were three times longer than their batons. They beat people with those sticks.¹⁶³

A male NNER representative told the research team that he saw the police beat a monk who was hiding in a car and described how police used batons and bamboo sticks to beat protesters:

I saw the police beating about six students. About 15 or 20 police beat one student . . . They beat [a student named Min Min Zaw] who I knew very well. I had a tear in my eye because I was very close to him, but I couldn't do anything. Some of the police ran and kicked him while the others held him.¹⁶⁴

A male student from the Technological University of Mandalay said he also saw the police beating Min Min Zaw. He told the research team:

Before I was put in the truck, I could see other people being beaten. I saw three police officers arrest one of the students. On the way [to the police truck], four or five police officers beat him a lot. Other police came and kicked him in the stomach. His name is Min Min Zaw. He is still in prison.¹⁶⁵

The police did not spare students who had already been injured or were ill.¹⁶⁶ A 27-year-old male journalist witnessed police officers beating a sick student in an ambulance. He told the research team:

I also saw a group of police attacking the ambulance. They destroyed the ambulance and were beating a student who was in the ambulance. Since before the crackdown, this student had a serious health condition. He had difficulty breathing and was in the ambulance.¹⁶⁷

163 Interview with A.H., Yangon, March 2015.

164 Interview with A.J., Yangon, March 2015.

165 Interview with B.H., Mandalay, March 2015.

166 Interviews with A.H., B.H., and C.C., Mandalay and Yangon, March 2015.

167 Interview with C.C., Mandalay, March 2015.

Another male journalist told the research team:

I saw injured students lying in a truck and six or seven police on the truck beating the students. There were about 20 police around the truck guarding the truck. I didn't dare to take photographs. They were yelling, "It is you students, what animals are you?" "Is the peacock [the pro-democracy icon] blood still red?" The students had already fallen down and they were dragged onto the trucks. They were in very bad condition . . . In this area, I saw the police beating 15 students. I feel horrible and depressed thinking about it.¹⁶⁸

Protesters were not the only persons that police abused during the crackdown. The research team also spoke with three individuals from Letpadan who were beaten despite claiming to have no affiliation or involvement with the student protests.¹⁶⁹ In each of the three cases, the individuals arrived near the scene of the crackdown on motorbikes.¹⁷⁰ Police apprehended and severely beat the young men, confiscated their motorbikes, and detained them in police trucks.¹⁷¹ They were later taken to Thayawaddy prison with detained protesters and held for two weeks before being released.¹⁷²

One Letpadan resident told the research team how he arrived at the protest site by motorbike with his father. He described how the police confiscated the motorbike and then apprehended and beat him while his father tried to retrieve their motorbike. He said:

The police yelled "Get him, get him." Then they started beating me, saying, "Are you a tough guy from Letpadan? Are you?" There were about 20 police. All 20 of them beat me. They beat me with their batons . . . I put my hands over my head and they hit me on the back. I was standing up and was hit about 20 times before they hauled me off to the truck.¹⁷³

168 Interview with C.B., Mandalay, March 2015.

169 Interviews with B.A., B.C., and B.E., Letpadan, March 2015.

170 Ibid.

171 Ibid.

172 Ibid.

173 Interview with B.A., Letpadan, March 2015.

A line of police held back his father, preventing him from aiding his son.¹⁷⁴ The father described seeing the police drag his son away:

The police formed a line, and I could not get through the line, but I could see the police beating my son. I said, “No, don’t beat my son!” But they said, “We’re not beating your son.” First, when they took him to the truck, they slapped him on the head, knocking his bike helmet off. Then they hit him while they took him to the truck. I was panicking, so I could not see how many police were hitting my son. I felt outnumbered.¹⁷⁵

Fortify Rights and the Clinic also documented two instances in which police beat journalists despite knowledge that they were journalists.¹⁷⁶ Two individuals described to the research team how police severely beat a male journalist from *Unity Journal*—a national publication from Myanmar—despite the fact that he wore prominent press credentials.¹⁷⁷ A 45-year-old male bystander explained:

When we were near the bridge, we saw a [journalist] running, and he dropped his camera. His *longyi* [traditional male garment] was falling off, and the police were chasing him. The police also came from the side of the bridge. Then the two groups of police, in total about 20 people, surrounded him. I saw a woman trying to go there to save him. She was shouting, “Don’t do it, we are all Burman.” [A journalist] ran up and said, “He is media, don’t do this to him.” The guy who fell had a very big media card, like two-thirds of an A4 [sized paper]. We put him in a house nearby. He had many injuries, so we treated him.¹⁷⁸

However, most journalists were not subjected to violence and were not primary targets of the attack. Many photographs and videos show individuals carrying photographic and video equipment walking freely among police officers during the crackdown on protesters.¹⁷⁹ Moreover, videos by professionals and amateurs at the outset of the crackdown show police officers rushing past the media corner while pursuing those in the main protest column.¹⁸⁰

174 Interview with B.B., Letpadan, March 2015.

175 Ibid.

176 Interviews with A.E., A.I., A.H., C.B., C.C., and C.D., Mandalay and Yangon, March 2015.

177 Interviews with C.B. and C.D., Mandalay, March 2015.

178 Interview with C.D., Mandalay, March 2015.

179 Photographs C3, I1, J21, T7, and T9; videos 40, 41, 42, 43, and 44.

180 Videos 3, 5, 13, 15, and 16.

Several individuals also described how police officers destroyed the students' "information truck"—a vehicle that carried supplies for the students and was equipped with loudspeakers to make announcements—with batons, shattering the windshield and damaging the exterior.¹⁸¹ Numerous photographs and videos captured these actions.¹⁸²

POLICE PROTECTING PROTESTERS

The research team documented the involvement of both regional and battalion police officers in the crackdown. However, not all police officers at the scene participated in the crackdown.¹⁸³ Several protesters told Fortify Rights and the Clinic how police officers actively protected them during the violence.¹⁸⁴

For example, a male student from Technological University of Mandalay told the research team:

[The police] just arrested me and put . . . me in the truck. At that time, some other police were coming and tried to beat me, but the police officers holding me tried to protect me, so I didn't get hit on the head, just a little bit on the body. I was hit in the back, near the ribs. It did not produce a visible scar, but it still hurt. None of those ten or 15 police officers that first grabbed me beat me. Another officer came to beat me, but these ten or 15 protected me.¹⁸⁵

A male journalist filming the crackdown said that some police were themselves beaten while they tried to protect the protesters.¹⁸⁶ He said:

[I]n my video clips, some of the police are saying, "Stop, stop," but then still others were running in and beating the students. I also saw that some of the police were trying to cover the girls with shields, but other police were coming in to try to beat them.¹⁸⁷

181 Interviews with C.B. and C.D., Mandalay, March 2015.

182 Photographs A1, B9, C15, F1, H3, J21, J30, J31, J43, J46, J50, K5, P8, U8, and V263-273; videos 1, 3, 5, 8, 9, 13, 16, 19, and 21.

183 See, for example, interviews with A.F. and C.B. Mandalay and Yangon, March 2015; photographs A1 and B1; videos 9, 12, and 17.

184 Interviews with A.F., B.H., B.J., and C.B., Mandalay and Yangon, March 2015.

185 Interview with B.H., Mandalay, March 2015.

186 Interview with C.B., Mandalay, March 2015.

187 Ibid.

Videos reviewed by the research team confirm that some officers proactively defended protesters after the police brought the protesters into custody.¹⁸⁸ Some of the videos show officers using shields to protect students while others run in to attack them with batons.¹⁸⁹

Many witnesses told the investigation team about a lack of order within the police force once the officers began attacking the students.¹⁹⁰ Nevertheless, the research team collected significant information suggesting that senior officers failed to effectively intervene to prevent the excessive use of force. For example, a Myanmar journalist, age 28, described seeing a senior police officer tell other officers to stop beating students but then fail to intervene when the beatings persisted: “He just pointed to where students were being beaten, and said, ‘It’s too much.’ But then the police just kept beating them.”¹⁹¹

Abuses in Police Custody

According to the Assistance Association for Political Prisoners—Burma (AAPP-B), the police arrested 127 individuals in Letpadan on March 10.¹⁹² The police arrested many people, including student leaders, journalists, and local bystanders, during the crackdown at the protest site. However, the police apprehended the majority of these individuals in the Aung Myay Baik Mann monastery—the location where approximately 80 people fled when the crackdown against the protesters began.¹⁹³

Police officers physically and verbally abused protesters and others after they were taken into police custody, including by beating individuals whose hands were bound and placing detainees into a severely overcrowded police truck. The abuse of these individuals in police custody constitutes excessive use of force in violation of international standards.

Immediately after the onset of the crackdown, students and others retreated to the nearby monastery. Soon after, police surrounded the monastery and issued violent threats against

188 Videos 1, 3, 6, 7, 9, 12, 17, and 22.

189 Videos 6, 7, 9, 12, 17, and 22.

190 Interviews with A.D., A.E., A.F., A.H., A.I., A.J., C.B., and C.C., Mandalay and Yangon, March 2015.

191 Interview with C.B., Yangon, March 2015.

192 Assistance Association for Political Prisoners (Burma), “LPT The List of remaining in Tharawaddy Prison (updated on 4 Apr 2015), April 4, 2015, <http://aappb.org/wp-content/uploads/2015/04/LPT-The-list-of-remaining-in-Tharawaddy-prison-updated-on-4-Apr-2015.pdf> (accessed May 9, 2015); Assistance Association for Political Prisoners (Burma), “LPT Released list from Tharawaddy prison updated on 2 Apr 2015,” April 2, 2015, <http://aappb.org/wp-content/uploads/2015/03/LogoLPT-Released-list-from-Tharawaddy-prison-updated-on-2-Apr-20151.pdf> (accessed May 9, 2015).

193 Interview with A.I., Yangon, March 2015. See also, photographs R1 and R2.

those inside.¹⁹⁴ A male ABFSU member, age 26, who was in the monastery recalled: “[The police] were yelling, ‘Come out, or we will kill you! Come out you cowards!’ At first, I was afraid of them. They were throwing rocks at us in the building at that time.”¹⁹⁵

Student leaders and monks from the monastery subsequently negotiated with the police and agreed that the individuals in the monastery would submit to arrest so long as the police promised not to use violence against them.¹⁹⁶

A male Burmese journalist, who was also in the monastery, recalled:

It was a two-story monastery. The students locked the door. But student leader Ko Aung Mhine San was outside assessing the situation. Police Chief Nanda Win approached him and wanted to have a talk with him. Aung Mhine San came back and said that everyone in the compound must be arrested, and they should yield to the arrest. All of the students agreed that they would. I heard Ko Aung Mhine San telling the students that the police would arrest them with the agreement that the police would not hit them.¹⁹⁷

According to those who were in the monastery, the student leaders asserted that they should not resist arrest and those present agreed to this arrangement.¹⁹⁸

Upon entering the monastery, the police officers separated the men and women, forcing them to sit in a covered area outside the main monastery building.¹⁹⁹ The police told the men to sit in three rows, each with his knees around the person in front of him, and to keep their heads down.²⁰⁰ The police similarly arranged the women into two rows.²⁰¹ The police used plastic ties to bind the hands of some of the men and most or all of the women.²⁰²

194 Interviews with A.E., and A.I., Yangon, March 2015.

195 Interview with A.I., Yangon, March 2015.

196 Interviews with A.D., A.E., A.H., A.I., and B.I., Mandalay and Yangon, March 2015.

197 Interview with A.H., Yangon, March 2015.

198 Interviews with A.D., A.I., and B.I., Mandalay and Yangon, March 2015.

199 Photographs R1 and R2.

200 Interviews with A.D., A.H. and B.I., Mandalay and Yangon, March 2015.

201 Interview with A.E., Yangon, March 2015; photograph R2.

202 Interviews with A.E., A.H., and B.I., Mandalay and Yangon, March 2015; photographs R1 and R2.

Photographs taken at the monastery compound corroborate these testimonies and show men and women sitting in rows on the ground and surrounded by police officers.²⁰³

Witnesses and survivors told the research team that the police kept them seated for approximately one hour and that the police beat all of the detainees.²⁰⁴

A female student from East Yangon University described her experience, saying:

We had to spread our legs and put our heads down. They put plastic ties around our wrists. The ties were about as thick as a pinky finger and very tight; they cut off the blood flow . . . The police hit students on the knees if they couldn't put their knees flat. Some of the police slapped the women on the heads. I was hit on the knee with the baton and on the head with a hand.²⁰⁵

A male ABFSU member, age 26, also described how the police beat him:

We went outside of the building to a place covered by a roof. We were forced to sit in a queue . . . We had to bow our heads. They beat all of us. There were many police at that time . . . Sometimes they beat us for straightening our legs. I was kicked in the ribs and beaten in the head . . . I was only beaten a little bit. I was beaten five or six times. Because I can remember how much I was beaten, that means I was only beaten a little bit. But others can't remember because they were beaten so much.²⁰⁶

Police officers singled out particular protesters and subjected them to additional beatings.²⁰⁷ The ABFSU member commented:

There were many police at that time. They came and looked at us. They shouted, "Where is such-and-such a guy?" They said, "Here is the guy who took this photo!" and then they beat him more. When they remembered a person, they beat the person more to feel satisfaction. A journalist was seated behind me,

203 A photograph obtained by Fortify Rights and the Clinic shows 14 female detainees with hands bound, being watched over by at least six female police officers. Another shows approximately 45 male detainees seated, most with unbound hands placed upon their heads, as "battalion" police officers surround them. These photographs do not completely show the respective groups of female and male detainees, which appear to continue outside of the frame of the photographs. Photographs R1, R2, T4, and T6.

204 Interviews with A.D., A.E., A.H., A.I., and B.I., Mandalay and Yangon, March 2015.

205 Interview with A.E., Yangon, March 2015.

206 Interview with A.I., Yangon, March 24, 2015.

207 Interviews with A.E., A.H., A.I., and B.J., Mandalay and Yangon, March 2015.

and he was beaten more because he was a journalist. That journalist had his hands wrapped with plastic rings.²⁰⁸

The research team also spoke with the journalist referenced by the ABFSU member.²⁰⁹ He told the research team:

I tried to show my card showing I was a journalist to [Police Chief] Nanda Win. Nanda Win himself ordered the police to arrest me. Nanda Win said, “We can’t let journalists off the hook either, arrest him.” . . . While I was being handcuffed, I asked why I was being arrested. Nanda Win said, “You are not the one that is writing. You are the one that is spreading nonsense.” Also, the policewoman beside me told me that I was really being dishonest with the news. “You are probably trying to stir up controversy and start riots.” They put plastic handcuffs around my wrists and bound my hands behind my back.²¹⁰

Two individuals who spoke with the research team identified Nanda Win, a police chief, and other senior police officers, as being present in the monastery while they were being detained and beaten.²¹¹

The journalist went on to describe how the police singled him and others out for beatings. He said:

They beat us for no reason whatsoever. It was like they were targeting specific people. The police could remember who said things to them earlier, and they targeted them. They also targeted the locals. They said, “It is you who are supporting the protesters,” and beat them. I was hit about 30 times. They hit me with batons and bamboo sticks and with their hands. Someone slapped me on the back of my head. Even now, my right ear hurts. They hit me on the head with a baton. Another police officer gave me a strong kick in the ribs.²¹²

The police also threatened and verbally harassed the protesters being held at the monastery.²¹³ A male student from Yadanarborn University recalled:

208 Interview with A.I., Yangon, March 2015.

209 Interview with A.H., Yangon, March 2015.

210 Ibid.

211 Interviews with A.H. and A.I., Yangon, March 2015.

212 Interview with A.H., Yangon, March 2015.

213 Interviews with A.E., A.H., and B.I, Mandalay and Yangon, March 2015.

At the monastery, the police said, “You are doing this because the political party told you to do this. What do you hope to accomplish? Why don’t you stay in your own university?” They also said, “The peacock [pro-democracy symbol] blood is not red, but your head will be red with blood. We joined the police force because we wanted to kill people like you.”²¹⁴

Another female student from East Yangon University said: “They called us prostitutes, and they said bad things about our parents. They were referring to the fact that we were with the male students. Both male and female officers were saying these things to us.”²¹⁵

When police trucks arrived at the monastery to take the prisoners to Thayawaddy prison, the police officers loaded the men into one truck and the women into another.²¹⁶ Protesters detained at the monastery told the research team that the police beat them as they made their way to the trucks.²¹⁷ The female student from East Yangon University described the situation: “After 45 minutes or so, the jail trucks arrived. [The police officers] formed two lines, and the students had to go one-by-one between the officers. Then the police would beat them as they were put onto the truck.”²¹⁸

Several people, including those arrested by the police at the monastery as well as those arrested at the protest site, told Fortify Rights and the Clinic about being herded into transport trucks, which became overcrowded.²¹⁹ According to those who were apprehended, the police packed 50 to 70 people into a single truck, far exceeding its maximum capacity.²²⁰ Several people described being packed into the trucks in “layers” and struggling to breathe from a single row of small windows at the top of the chamber.²²¹

214 Interview with B.I., Mandalay, March 2015.

215 Interview with A.E., Yangon, March 2015.

216 Interviews with A.E., B.A., and B.I., Mandalay and Yangon, March 2015.

217 Interviews with A.E., A.H., B.C., and B.I., Mandalay and Yangon, March 2015.

218 Interview with A.E., Yangon, March 2015.

219 Interviews A.E., A.F., A.H., B.A., B.C., B.I., and C.C., Letpadan, Mandalay, and Yangon, March 2015.

220 Interviews with A.H., B.A., B.C., and B.I., Letpadan, Mandalay, and Yangon, March 2015. Fortify Rights and the Clinic were unable to determine the capacity of the Hino KM-300 trucks used to transport the protesters to Thayawaddy Prison. Those inside suggested a design capacity of approximately 20. Fortify Rights and the Clinic believe that this estimate could be slightly low but that design capacity would not exceed 30.

221 Interviews with A.H., B.A., B.C., and B.I., Letpadan, Mandalay, and Yangon, March 2015.

A male Letpadan resident arrested at the protest site said:

[T]hey shoved me in the truck. There were three or four lines of people stacked one above another. There were about 70 people in the truck. They opened the door and then kicked me into the back of the truck. In the process I tripped over the other prisoners and the ones on the bottom groaned because they were stacked three or four layers deep. It was very hot outside and very sweaty in the inside of the truck. Some people were lying on the floor and others were in a squatting position. Others were stacked on top of people. I was on the top, and my feet were on people [who were beneath me].²²²

Photographs reviewed by the research team show men, some with hands bound by plastic ties, pressing their faces to the high windows of a police truck.²²³

In some cases, the police continued to beat people inside the trucks.²²⁴ Two individuals who spoke with the research team described how one female detainee was repeatedly slapped in the face after she was placed in a police truck.²²⁵

Some of the detainees told the research team that the police drove them around for a period of up to one hour before they were taken to Thayawaddy Prison.²²⁶

Upon arriving at Thayawaddy Prison, police unloaded the detainees from the police trucks, searched them, and placed them into separate cells for men and women.²²⁷ The prison staff ensured that some detainees with injuries received medical attention in the prison that evening.²²⁸

222 Interview with B.C., Letpadan, March 2015.

223 Photographs B14, C4, F4, F5, J1, J4, J8, J12, J51, and V223-262.

224 Interviews with A.E., A.F., and B.I., Mandalay and Yangon, March 2015.

225 Interviews with A.E. and A.F., Mandalay and Yangon, March 2015.

226 Interviews with A.E., B.A., B.C., B.I., and C.C., Letpadan, Mandalay, and Yangon, March 2015.

227 The police confiscated some possessions including mobile phones from the detainees. Interviews A.E., A.H., B.A., B.C., B.E., and B.J., Letpadan, Mandalay, and Yangon, March 2015.

228 Interviews with B.H. and B.J., Mandalay, March 2015.

III. RESPONSIBILITY FOR ABUSES

Security Forces and Civilian Involvement in Crackdown

The Myanmar Police Force is under the control of the Ministry of Home Affairs.²²⁹ The Minister of Home Affairs is one of three ministers who are active duty military officers selected by the Commander-in-Chief of the Myanmar Defence Services.²³⁰ Fortify Rights, the Clinic, and others have linked the current Home Affairs Minister Lt. Gen. Ko Ko to grave human rights abuses.²³¹

The police officers involved in the blockade of the protesters in Letpadan and the subsequent violent crackdown included: (1) regional officers from nearby township or district police stations and (2) officers from Police Battalions Command, also known as *Lon Htein* or “riot police.”

Regional officers—often referred to as “normal police” by those who spoke with the research team—are assigned to police stations associated with a particular district, township, or, in some cases, village.²³² Eyewitnesses as well as photographs and videos taken in Letpadan on March 10 confirm the involvement of large numbers of regional police officers in the crackdown.²³³ However, the research team was unable to determine from which police stations these officers were deployed.

229 Andrew Selth, “Police Reform in Burma (Myanmar): Aims Obstacles and Outcomes,” Regional Outlook Paper, No. 44, Griffith Asia Institute, 2013, http://www.griffith.edu.au/__data/assets/pdf_file/0009/512379/Regional-Outlook-Paper-44-v.2-Selth.pdf (accessed May 9, 2015), p. 14.

230 Constitution of the Republic of the Union of Myanmar, 2008, art. 232(b)(ii).

231 In November 2014, the Clinic identified Lt. Gen. Ko Ko as one of three commanders responsible for war crimes and crimes against humanity committed in eastern Myanmar in 2005 and 2006. See Harvard Law School International Human Rights Clinic, “Legal Memorandum: War Crimes and Crimes against Humanity in Eastern Myanmar,” November 2014, <http://hrp.law.harvard.edu/wp-content/uploads/2014/11/2014.11.05-I-HRC-Legal-Memorandum.pdf> (accessed October 20, 2015). Lt. Gen. Ko Ko has been named as the defendant in a lawsuit filed by monks who were injured during a violent crackdown on peaceful protesters near a copper mine in Sagaing Region. See “Buddhist Monks Sue Myanmar Gov’t Minister for 2012 Crackdown,” Associated Press, March 16, 2015, http://www.nytimes.com/aponline/2015/03/16/world/asia/ap-as-myanmar-monks-lawsuit.html?_r=0 (accessed July 19, 2015). In February 2014, Fortify Rights linked Lt. Gen. Ko Ko to restrictions imposed on Rohingya Muslims in Myanmar’s Rakhine State that underpin abuses that constitute crimes against humanity. See Fortify Rights, “Myanmar: Abolish Abusive Restrictions & Practices Against Rohingya Muslims,” Press Release, February 25, 2014, <http://www.fortifyrights.org/publication-20140225.html> (accessed July 19, 2015).

232 Regional officers wear the badge of the Myanmar Police Force on their right shoulders and wear a badge with a white six-pointed star on their left shoulders. These badges are clearly visible in many photographs taken on March 10. Andrew Selth, “Burma’s Police Forces: Continuities and Contradictions,” Regional Outlook Paper, No. 32, Griffiths Asia Institute, 2011, http://www.griffith.edu.au/__data/assets/pdf_file/0008/372761/Selth-Regional-Outlook-Paper-32.pdf (accessed May 9, 2015), p. 7.

233 Interviews with A.F., B.J., and C.D., Mandalay and Yangon, March 2015; photographs G5, K12, U1, U5, U6, U13, U20, V35, and V44; videos 10, 12, 13, and 18.

Police battalions under the Police Battalions Command are headquartered in various bases around the country and are deployed nationwide to respond to situations requiring crowd control operations.²³⁴ Those who spoke with the research team often called these officers “riot police” or *Lon Htein*, an official term for crowd control police used under past military governments and still widely used.²³⁵ Photographs reviewed by the research team show Battalions 1 and 11 involved in the crackdown on protesters in Letpadan on March 10.²³⁶

Regional police officers and battalion police officers were deployed simultaneously in Letpadan on March 10. Photographs and videos taken on March 10 show that both regional and battalion police officers were involved in resisting protesters’ attempts to push through the police lines, beating protesters, and arresting protesters at the protest site and at the monastery.²³⁷ Moreover, officers from both groups also defended protesters from attacks by other officers.²³⁸

Three individuals who spoke with the research team witnessed a large rotation of police units at approximately 11:30 a.m.²³⁹ At this time, battalion police—estimated by one witness to be about 200 in number—replaced many regional officers.²⁴⁰ The research team viewed photographs purportedly taken during this rotation and time-stamped around 11:30 a.m.²⁴¹ The presence of large numbers of battalion police officers during the crackdown is significant because national level authorities are responsible for dispatching them, indicating a certain level of central planning.

The research team obtained a confidential document containing notes from a debriefing of a Myanmar Police Force officer with an international law enforcement specialist.²⁴² The officer alleged that the violence employed at Letpadan was the result of a breakdown in

234 Ibid.

235 Battalion officers wear the Myanmar Police Force badge on their right shoulders and a badge showing a crossed spear and sword on their left shoulders. They also wear distinctive red scarves bearing the number of the battalions to which they are assigned.

236 See, for example, photographs A8, B1, B8, F3, G4, G5, H1, K15, N29, V47, and V200. Two individuals who spoke with the investigation team also stated that Battalion 10 was involved in the crackdown. Interviews with A.D., B.J., and C.B., Mandalay and Yangon, March 2015. There were no visible emblems of Battalion 10 in pictures reviewed by the investigation team.

237 See, for example, photographs A1, A4, B1, B7, D1, E1, F4, F8, G1, G5, J7, J28, J36, K4, R1, R2, U1, and U10; videos 1, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, and 22.

238 Interviews with A.F., B.H., B.J., and C.B., Mandalay and Yangon, March 2015; videos 1, 3, 6, 7, 9, 12, 17, and 22.

239 Interviews with C.C., C.D., and C.F., Mandalay, March 2015.

240 Ibid.

241 Photographs N50, N51, and N54.

242 Confidential document on file with Fortify Rights and the Clinic.

discipline after a protester fired a rock with a slingshot, hitting an officer in the head.²⁴³ He acknowledged that some officers engaged in abusive conduct while others maintained order or attempted to restore order among their ranks.²⁴⁴ The officer cited a lack of training—including in the use of barriers and crowd-control methods—as contributing to the abuses in Letpadan.²⁴⁵

The research team was unable to ascertain the precise orders and rules of engagement given to the different units involved in the crackdown on March 10. Further investigation is needed into whether and how orders or instructions may have contributed to the use of violence. In particular, there should be an independent and impartial investigation into the orders that were given to the battalion police forces that arrived on the scene shortly before the conflict turned violent.

The research team collected several videos showing individuals in plainclothes operating alongside police officers during the crackdown.²⁴⁶ In two videos non-uniformed men throw stones at the protest column alongside police officers.²⁴⁷ In another, a man in plainclothes picks up a large stick and enters a crowd of officers who are violently beating an unseen individual.²⁴⁸ Another video shows a group of more than five individuals in plainclothes—two carrying large sticks—who appear to be helping to direct police officers in their search for protesters during the crackdown.²⁴⁹ Further investigation is needed into the identity and role of these plainclothes individuals as well as whether, and how, the Myanmar Police Force or Myanmar Government used civilians to instigate or perpetrate violence on March 10.²⁵⁰

243 Ibid.

244 Ibid.

245 Ibid.

246 Videos 2, 6, 40, and 44.

247 Videos 2 and 6.

248 Video 44.

249 Video 40.

250 The research team spoke with several individuals who suspected that civilians, firefighters, or soldiers put on police uniforms and participated in the crackdown on the protesters. Often their suspicions were based on overheard conversations. The research team was unable to confirm these allegations, which also merit further investigation. Several protesters indicated the presence of individuals in civilian dress who they suspected as being planted within their ranks to instigate violence and disrupt the protest—a situation that has a long history in Myanmar. Interviews A.F., A.I., B.J., C.B., C.C., and C.F., Mandalay and Yangon, March 2015.

Government Response

Despite overwhelming evidence of the restriction of the rights to freedom of peaceful assembly and freedom of expression and the excessive use of force by police officers in Letpadan on March 10, the Myanmar Government has taken no known steps to hold accountable those responsible for the violent crackdown. Rather, to date, the Government has blamed protesters for instigating violence on March 10 and, at the time of writing, continues to detain 50 people taken into custody at Letpadan.²⁵¹ More than 150 students and protesters face charges for their involvement in protests in Letpadan and elsewhere.²⁵²

Immediately after the crackdown, Lt. Col. Nanda Win, Commander of Police Battalion 11, defended the actions of the police officers during the Letpadan crackdown. Speaking to *Myanmar International Television* on March 10, Lt. Col. Nanda Win said:

We've made several negotiations with them and they started removing the barricades . . . [inaudible] . . . took off the helmets of the police members and they even hit us and threw at us with water bottles in cooperation with non-students, so we had to control the situation. We used the least number of police members. Eighty of us were wounded . . . During their demonstration, we let the media crews cover the news and around 60 parents and donors visited the students and took care of their health every day. This morning, we let them go home if they do not go in the form of a demonstration, saying we will not take any action.²⁵³

On March 11, Myanmar Information Minister Ye Htut called the crackdown a “sorrowful incident,” but defended the actions of police officers, saying, “Despite requests for peaceful negotiations, student protesters tried to penetrate the police blockade and the police were legally obligated to disperse them.”²⁵⁴

In a March 24 interview with the *BBC*, President Thein Sein went further, alleging that the protesters were the ones who used violence:

251 Assistance Association for Political Prisoners (Burma), “LPT List in Tharawaddy Prison and Facing Trial Updated on 11 Sep 2015,” September 11, 2015, <http://aappb.org/political-prisoner-data/> (accessed September 15, 2015).

252 Ibid.

253 “Letpadan Standoff: Student Demonstration Ends,” *Myanmar International Television*.

254 “Government sought peaceful protest resolution: Union Information Minister,” *Global New Light of Myanmar*, March 11, 2015, <http://globalnewlightofmyanmar.com/government-sought-peaceful-protest-resolution-union-information-minister/> (accessed May 9, 2015).

Even though you say [the police] violently cracked down on the protesters, it was just a response because they beat the police first. Police just took preventive measures as they were pelted with stones . . . You are one-sided in saying how the police behaved. Thanks to the attack from the protesters, policewomen were hit on their heads by stones, windshields of police vans were smashed, barricades were destroyed. So many things.²⁵⁵

Information Minister Ye Htut later seemed to admit some police misconduct but downplayed its significance:

Even in the U.S., individual police will react under pressure differently. There's reasonable force and excessive force. That's the problem we were facing . . . The actions of some individuals didn't meet the code of conduct, our rules for handling demonstrations. Sometimes there's a very emotional response to a situation. That's why we need more anger management.²⁵⁶

At the time of writing, 50 individuals remain in Thayawaddy Prison of the 127 arrested on March 10, according to AAPP-B.²⁵⁷ A majority of the detainees are facing charges under Myanmar Penal Code sections 143 (unlawful assembly), 145 (joining or continuing in an unlawful assembly, knowing it has been commanded to disperse), 147 (rioting), 332 (voluntarily causing hurt to deter a public servant from his duty), and 505(b) (statements conducing to public mischief). If convicted, they could face up to nine years and six months' imprisonment.²⁵⁸ Protest leaders Min Thwe Thit, Min Min Zaw, Phyo Dana Chit Linn Thike, and Phyo Phyo Aung face additional charges of between one and five counts under Article 18 of the Peaceful Assembly and Peaceful Procession law, potentially adding six months per count to their sentence.²⁵⁹

255 “သမ်မတဦးသိန်းစိန် နဲ့ ဘိဘီအိ အငြုတ်ခံရခြင်း (အပိုင်း ၁),” *BBC Burmese Service*, March 20, 2015, http://www.bbc.co.uk/burmese/burma/2015/03/150320_president_interview1 (accessed May 9, 2015). English language translation in Kyaw Phyo Tha, “In Thein Sein’s BBC Interview, the Apology That Never Was,” *Irrawaddy*, March 24, 2015, <http://www.irrawaddy.org/commentary/in-thein-seins-bbc-interview-the-apology-that-never-was.html> (accessed May 9, 2015).

256 Patrick Winn, “Myanmar is using Ferguson to justify its latest crackdown on protesters,” *GlobalPost*, April 6, 2015, <http://www.globalpost.com/article/6506689/2015/04/06/myanmar-using-ferguson-justify-its-latest-crackdown-protesters> (accessed May 9, 2015).

257 AAPP-B “LPT list in Tharawaddy prison and facing trial updated on 11 Sep 2015.”

258 “Myanmar: End clampdown on student protesters and supporters,” Public Statement, Amnesty International, ASA 16/1511/2015, April 23, 2015, <https://www.amnesty.org/en/documents/asa16/1511/2015/en/> (accessed on May 9, 2015); AAPP-B, “LPT list in Tharawaddy prison and facing trial updated on 11 Sep 2015.”

259 AAPP-B, “LPT list in Tharawaddy prison and facing trial updated on 11 Sep 2015.”

At the time of writing, 77 individuals arrested on March 10 have been released from prison in groups between March and July 2015.²⁶⁰ Of those released, 27 are free on bail and continue to face charges. Some of these individuals are charged only under sections 143, 145, and 147 of the Penal Code and face up to four years and six months imprisonment.²⁶¹

The research team spoke with ten individuals released from Thayawaddy Prison.²⁶² All stated that they had not experienced physical abuse in prison.²⁶³ However, some of those who were injured on March 10 and who are still in detention had not yet received adequate medical treatment at the time of writing.²⁶⁴ Family members and lawyers have also complained about the lack of access to the detainees.²⁶⁵ The police officers and prison authorities asked those being released to sign documents agreeing to not participate in future protests, although the authorities released those who refused to sign without incident.²⁶⁶

In the weeks and months following the March 10 crackdown at Letpadan, authorities arrested additional activists linked to the student movement or involved in subsequent protests. On March 13, the police arrested three ABFSU members during a midnight inspection of the home where they were staying. The inspection was ostensibly conducted to check for unregistered household guests.²⁶⁷ On March 27, the authorities in Yangon and Mandalay Regions arrested students and activists, including prominent student leaders, involved in protesting the continued detention of their colleagues.²⁶⁸ The authorities have made further arrests

260 Ibid.

261 Ibid.

262 Interviews with A.D, A.E., A.F., A.H., B.A., B.C., B.E., B.H., B.I., and B.J., Letpadan, Mandalay and Yangon, March 2015.

263 Ibid.

264 Interview with B.F., Letpadan, March 2015; “Myanmar: End clampdown on student protesters and supporters,” Amnesty International.

265 Interviews with A.G. and B.B., Letpadan and Yangon, March 2015; “Myanmar: End clampdown on student protesters and supporters,” Amnesty International.

266 Interviews with B.A., B.C., B.H., B.I., and B.J., Letpadan and Mandalay, March 2015.

267 International Federation for Human Rights (FIDH), “Burma: Release student demonstrators and hold police accountable for the violent crackdown,” press release, April 10, 2015, <https://www.fidh.org/International-Federation-for-Human-Rights/asia/burma/burma-release-student-demonstrators-and-hold-police-accountable-for> (accessed May 9, 2015). For more information about the law that authorities employed to conduct the search for these activists, see Fortify Rights, “Midnight Intrusions: Ending Guest Registration and Household Inspections in Myanmar,” March 2015, <http://www.fortifyrights.org/publication-20150319.html> (accessed May 9, 2015).

268 Zarni Mann and Nobel Zaw, “Students Hit the Streets, Police Make Arrests,” *Irrawaddy*, March 27, 2015, <http://www.irrawaddy.org/burma/students-hit-the-streets-police-make-arrests.html> (accessed May 9, 2015); “Myanmar: End clampdown on student protesters and supporters,” Amnesty International.

during subsequent weeks and months.²⁶⁹ According to the AAPP-B, more than 150 individuals are currently facing trial for offenses relating to protests against the National Education Law.²⁷⁰ Some of those arrested subsequent to the March 10 crackdown remain in prison, while others have been released but still face charges.²⁷¹

Although the Government has formed a commission to investigate the crackdown against protesters on March 5 in Yangon, it has not established a similar body to look into the events of March 10.²⁷²

At the time of writing, the MNHRC has issued two statements related to the crackdown at Letpadan. On July 8, 18 students involved in the protest at Letpadan—including a 17-year-old high school student—submitted a petition to the MNHRC regarding the treatment of detainees in Thayawaddy Prison as well as the ongoing court trials for those involved in the protests in Letpadan.²⁷³ On July 20, the MNHRC issued a statement describing prison conditions for detainees following a visit by commissioners to Thayawaddy Prison.²⁷⁴

On September 11, the MNHRC issued a second statement based on an investigation into the crackdown, during which the MNHRC conducted interviews with 38 individuals, including police officers and protesters, and reviewed documents, videos, and photographs relating to the crackdown.²⁷⁵ The MNHRC found that police personnel used excessive force to prevent the movement of the protesters and recommended action against police personnel who failed to follow proper riot-control procedures.²⁷⁶

269 See, for example, Zarni Mann, “Students Freed After Letpadan Could Face Trial for Prior Protests,” April 2, 2015, <http://www.irrawaddy.org/burma/students-freed-after-letpadan-could-face-trial-for-prior-protests.html> (accessed May 9, 2015); Nyan Win Aung, “Myanmar Arrests, Charges Student Activists,” *Voice of America*, July 1, 2015, <http://www.voanews.com/content/myanmar-arrests-and-charges-student-activists/2845397.html> (accessed July 31, 2015); Mathieson, “Stifling Student Dissent in Burma,” Human Rights Watch.

270 AAPP-B, “LPT list in Tharawaddy prison and facing trial updated on 11 Sep 2015.”

271 Ibid.

272 “Gov’t forms inquiry commission into protest dispersal in front of Yangon City Hall,” *Global New Light of Myanmar*, March 11, 2015.

273 Yen Snaing, “Victims of Student Crackdown Meet Human Rights Commission,” *Irrawaddy*, July 27, 2015, <http://www.irrawaddy.org/burma/victims-of-student-crackdown-meet-human-rights-commission.html> (accessed July 31, 2015); MNHRC, “Statement with Respect to the Students and Supporters Detained in Thayarwaddy Prison.”

274 MNHRC, “Statement with Respect to the Students and Supporters Detained in Thayarwaddy Prison.”

275 MNHRC, “Statement with Regards to the Apprehension and Detention of the Demonstrators Protesting for the Reform of National Education Law at Letpadan on 10 March 2015.”

276 Ibid.

UN HUMAN RIGHTS EXPERT CALLS FOR INVESTIGATION INTO CRACKDOWN AT LETPADAN

In August, the UN Special Rapporteur on the Situation of Human Rights in Myanmar Yanghee Lee met with authorities in Letpadan and visited five individuals detained in Thayawaddy Prison to discuss the events in Letpadan on March 10. On August 7, she called upon the Myanmar authorities “to conduct a prompt, impartial and independent investigation” into allegations of excessive use of force by police on March 10 in Letpadan. She further stated that protesters were “arbitrarily arrested” and she called for “all charges [to] be dropped against all those arrested in connection with the Letpadan incident.”²⁷⁷

²⁷⁷ UN Office of the High Commissioner for Human Rights, “End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar,” August 7, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16309&LangID=E> (accessed October 20, 2015).

IV. LEGAL FRAMEWORK AND ANALYSIS

Evidence collected by Fortify Rights and the Clinic implicates Myanmar authorities in the violation of international law and standards, including fundamental human rights. The Myanmar Police Force unlawfully imposed restrictions on the rights to freedom of peaceful assembly and freedom of expression, employed excessive force, and subjected protesters to arbitrary arrest and detention. Protesters thus are entitled to effective remedy under international law.

The rights to freedom of peaceful assembly and freedom of expression, the right to freedom from arbitrary arrest and detention, and the right to effective remedy are protected under international law and articulated in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).²⁷⁸ The UDHR represents a statement of fundamental values shared by world governments, and its provisions are generally recognized as binding under customary international law.²⁷⁹ While Myanmar is not a party to the ICCPR, there is agreement that at least some of the provisions of the ICCPR are now customary international law and therefore binding on all nations, including

278 Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 2 (right to a remedy), art. 3 (right to liberty), 19 (right to freedom of opinion and expression), 20(1) (right to freedom of peaceful assembly and association); International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 8 (right to a remedy), art. 9 (right to liberty), art.19(2) right to freedom of expression) and art. 21 (right of peaceful assembly).

The rights to freedom of peaceful assembly and freedom of expression and the right to freedom from arbitrary arrest or detention are also explicitly protected under the Convention on the Rights of the Child (CRC), to which Myanmar is a party. Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (no. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Myanmar July 15, 1991, Art. 13 (right to freedom of expression), 15 (right to freedom of peaceful assembly, 37(b) (right to liberty).

Also, of note, the right to education, including the right of equal access to higher education, is recognized by Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and is at the root of the protest in Letpadan. Myanmar signed the ICESCR on July 16, 2015. International Covenant on Economic, Social and Cultural Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 14531, entered into force January 3, 1976, art. 13(2)(c). See, OHCHR, “Ratification by Country,” http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CESCR&Lang=en (last visited July 22, 2015).

279 See, for example, Montreal Statement of the Assembly for Human Rights, 1968, attached to UN Doc. A/CONF.32/28, pt. I, at 2 (UDHR “constitutes an authoritative interpretation of the Charter of the highest order, and has over the years become a part of customary international law.”); Final Act of the International Conference on Human Rights, para. 2, U.N. Doc. A/CONF.32/41, UN Sales No.E.68.XIV.2 (1968) (UDHR states “a common understanding of the peoples of the world concerning the inalienable and inviolable right of all members of the human family and constitutes an obligation for the members of the international community.”); Henry J Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 2nd ed, (Oxford: Oxford University Press, 2000).

Myanmar.²⁸⁰ Protections against the excessive use of force are similarly enshrined within the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²⁸¹

The Rights to Freedom of Peaceful Assembly and Freedom of Expression

Under international human rights law, states have an obligation to protect the rights to peaceful assembly and freedom of expression. For example, Article 20 of the UDHR and Article 21 of the ICCPR guarantee the right to peaceful assembly. An assembly is considered peaceful if its overall nature is peaceful, despite isolated incidents of violence or unlawful behavior by some individuals.²⁸² Article 19 of the ICCPR expressly protects all forms of expression and the means of their dissemination.²⁸³ The UN Human Rights Committee has elaborated on the different forms of expression that are protected by this right, explaining:

Such forms include spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include books, newspapers, pamphlets, posters, banners, dress and legal submissions.²⁸⁴

The UN Human Rights Committee has further warned against the use of violence to silence expression, stating that under no circumstances “can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with [the freedom of expression].”²⁸⁵

The rights to freedom of peaceful assembly and freedom of expression are qualified, meaning that states may impose restrictions only in limited and exceptional circumstances and only if

280 See, for example, Louis Henkin, *International Law: Politics and Values*. Vol. 18, “Developments in International Law” (Dordrecht: Martinus Nijhoff Publishers, 1995); UN Human Rights Committee, “Issues Relating to Reservations Made upon Ratification of Accession to the Covenant or the Optional Protocols Thereto, or in Relation to Declarations under Article 41 of the Covenant,” General Comment No. 24, U.N. Doc. CCPR/C/21/Rev.1/Add.6 (1994) (stating that some provisions of the ICCPR represent customary international law).

281 United Nations Code of Conduct for Law Enforcement Officials, adopted December 17, 1979, G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979); Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).

282 *Ibid.* at para 25.

283 ICCPR, art. 19(2).

284 *Ibid.*

285 UN Human Rights Committee, “Article 19: Freedoms of opinion and expression,” General Comment No. 34, U.N. Doc. CCPR/C/GC/34 (2011), para. 23.

certain conditions are met.²⁸⁶ International law permits state authorities to restrict peaceful assembly or freedom of expression only if such restriction is considered “necessary in a democratic society in the interest of national security or public safety, public order (*ordre publique*), the protection of public health or morals or the protection of the rights and freedoms of others.”²⁸⁷ Specifically, international law requires that any restriction imposed on the rights to freedom of peaceful assembly and freedom of expression must be: (1) provided by law; (2) strictly construed with deference to the protection of the rights themselves; (3) applied in a case-by-case basis; (4) necessary for achieving a legitimate aim; and (5) proportionate to the interest to be protected.²⁸⁸

Article 354 of Myanmar’s Constitution similarly protects the rights of every citizen “to assemble peacefully without arms and holding procession” and “to express and publish freely their convictions and opinions.”²⁸⁹ It allows for the limitation of the rights to freedom of peaceful assembly and freedom of expression only by laws “enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality.”²⁹⁰

In 2011, Myanmar’s Parliament passed the Right to Peaceful Assembly and Peaceful Procession Law, which was subsequently amended in 2014.²⁹¹ This law requires would-be protesters to apply for prior authorization or “consent” to protest from the chief of the township police force at least five days in advance of the planned action by providing information about the purpose of the protest, logistics of the event, and identity of the applicant, protest leaders, and speakers.²⁹² The police chief is required to approve the application when “submitted in accordance with the rules for consent.”²⁹³ The ambiguity inherent in this phrase raises concern about the inappropriate discretion given to authorities.²⁹⁴ In practice, this law is frequently used to block assemblies and demonstrations by activists, rights defenders, civil society organizations,

286 See *Ibid.* at paras 21-37; Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 16.

287 ICCPR, art. 19(3) and 21.

288 See ICCPR, art. 19(3) and 21. See also, UN Human Rights Committee, “The Nature of the General Legal Obligation Imposed on States Parties to the Covenant,” General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 6; Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rhein: N.P. Engel, 1993), p. 387-87.

289 Constitution of the Republic of the Union of Myanmar, 2008, art. 354(a) and (b).

290 *Ibid.*

291 The Right to Peaceful Assembly and Peaceful Procession Law, 2011.

292 *Ibid.* at art. 4.

293 *Ibid.* at art. 5.

294 See Article 19, “Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law, Legal Analysis.”

and political parties.²⁹⁵ Protesting without consent from the authorities carries a penalty of imprisonment for up to six months and violating the terms of consent—including by shouting chants “other than the ones approved” by the authorities or spreading “rumors or incorrect information”—can be punished by up to three months imprisonment.²⁹⁶ At the time of writing, approximately 200 Myanmar citizens face charges related to alleged violations of the Peaceful Assembly and Peaceful Procession Law.²⁹⁷

The Right to Peaceful Assembly and Peaceful Procession Law is incompatible with international law as it restricts the rights to freedom of peaceful assembly and freedom of expression in ways that are neither necessary nor proportionate to legitimate state interests recognized under international law.²⁹⁸ In particular, the law’s requirement that protest organizers obtain prior authorization for protests—rather than merely requiring that organizers notify authorities—is incompatible with international law.²⁹⁹ International law also includes exceptions for the notice requirement when the “assembly” comes together spontaneously.³⁰⁰ Regardless, any failure to comply with administrative requirements or holding an unapproved peaceful assembly should not lead to fines or imprisonment.³⁰¹

The student leaders and protesters involved in the marches from Mandalay and other areas of Myanmar did not request or obtain consent to engage in the marches as required by the Peaceful Assembly and Peaceful Procession Law.³⁰² Although the students failed to comply with this administrative requirement, the law itself falls short of meeting international standards by imposing undue requirements and restrictions on the rights to freedom of peaceful assembly and freedom of expression.

In the weeks leading up to the March 10 crackdown at Letpadan, the Ministry of Home Affairs ordered protesters to discontinue their peaceful march because the march to Yangon allegedly threatened “state security, rule of law and regional peace.”³⁰³ Under international law, for a state

295 “Burma: ‘Peaceful Assembly Law’ Fails to End Repression,” Human Rights Watch news release, January 26, 2015, <http://www.hrw.org/news/2015/01/26/burma-peaceful-assembly-law-fails-end-repression>.

296 The Right to Peaceful Assembly and Peaceful Procession Law, 2011, art. 18 and 19.

297 AAPP-B, “LPT list in Tharawaddy prison and facing trial updated on 11 Sep 2015.”

298 See Article 19, “Myanmar: Amended Right to Peaceful Assembly and Peaceful Procession Law, Legal Analysis.”

299 See Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 28.

300 *Ibid.* at para. 29.

301 *Ibid.*

302 “Student Protest March Continues Despite Opposition from Local Officials,” *Irrawaddy*; Nan Myint, “Police warn education law marchers need permission to protest,” *Mizzima*.

303 Yen Snaing, “Authorities in Letpadan Block Student Protest March,” *Irrawaddy*.

to justify restrictions based on national security, there must be “force or a threat of force” against “the existence of the nation or its territorial integrity or political independence.”³⁰⁴ States cannot invoke national security to justify restrictions against peaceful assemblies or expression that pose only local or isolated threats to law and order.³⁰⁵ The nature of the march and protest at Letpadan did not rise to the level of a national security threat as defined by international law. As such, there was no legitimate basis for the dispersal orders issued by the Ministry of Home Affairs.

Restrictions imposed by Myanmar authorities on the protesters’ rights to peaceful assembly and freedom of expression in Letpadan also fail to meet the criteria of a permissible restriction under international law. The police established a blockade and erected a barbed wire barricade to prevent the march from continuing. During negotiations with the student leaders in the lead up to the crackdown, Col. Thet Htun issued restrictions on where and how the protesters could march, telling them they could only march to the nearby highway and continue on to Yangon by car in convoys.³⁰⁶ Moreover, he communicated conditions on the protesters’ movement to Yangon, requiring that there be no flags or banners raised, that students not wear their T-shirts or emblems, and that they not chant slogans or sing. These restrictions and conditions are not related to any legitimate aims provided for by international law and do not comply with the positive obligation to ensure the free exercise of the rights to freedom of peaceful assembly and freedom of expression.

Finally, only *peaceful* assemblies are protected under international law. However, an assembly is still considered peaceful if its overall nature is peaceful, despite isolated incidents of violence or unlawful behavior of some individuals.³⁰⁷ Evidence collected by Fortify Rights and the Clinic suggests that the main group of protesters was unarmed and student leaders took measures to minimize and subdue elements of hostility. While the act of pushing against the police lines was aggressive during the late morning on March 10, the assembly retained its peaceful character considering the general absence of violence and purposeful restraint exercised by protesters.

304 UN Commission on Human Rights, *Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights*, U.N. Doc. E/CN.4/1985/4, September 28, 1984, art. 29-32.

305 Ibid.

306 This condition would limit the “sight and sound” of the protest from the students’ target audience in Yangon and mute its impact. The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has deemed these types of restrictions as inappropriate restrictions on the right to freedom of assembly. Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 40.

307 Ibid. at para 25.

The subsequent violent crackdown by the police resulted in the dispersal and arrest of the protesters, prematurely ending the protest. As mentioned above, international law requires that rights to peaceful assembly and freedom of expression be restricted only when there are no less restrictive alternatives to protect a legitimate state interest.³⁰⁸ The Myanmar Criminal Procedure Code provides that an officer in charge of a police station may order an assembly of five or more persons to disperse if it is “likely to cause a disturbance of the public peace.”³⁰⁹ However, evidence does not suggest that public order was under threat when the police initiated the crackdown in Letpadan. Despite indications of some sporadic and isolated incidents of violence, the crackdown was disproportionate to these incidents, which resulted from violations of the rights to freedom of peaceful assembly and freedom of expression. By imposing illegitimate and inappropriate restrictions on peaceful protesters in Letpadan, the Myanmar authorities failed to meet their international obligations to protect the rights to freedom of peaceful assembly and freedom of expression.

Use of Force

International law provides that police should use force only when strictly necessary and in ways that are lawful and proportionate to the threat at hand. The UN Code of Conduct for Law Enforcement Officials (“Code of Conduct”) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (“Basic Principles”) provide guidelines on police conduct in line with international standards.³¹⁰ Adopted by the UN General Assembly in 1979, the Code of Conduct requires that law enforcement officials “use force only when strictly necessary and to the extent required for the performance of their duty.”³¹¹ Adopted by the UN General Assembly in 1990, the Basic Principles require that law enforcement officials apply non-violent enforcement measures first and, when the use of force is unavoidable, “exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.”³¹² These principles apply even in actions to disperse unlawful peaceful assemblies, during which officers should apply force as a measure of last resort and “restrict such force to the minimum extent necessary.”³¹³

308 Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 39-40.

309 Myanmar Criminal Procedure Code, art. 127.

310 UN Code of Conduct; UN Basic Principles.

311 UN Code of Conduct at art. 3. Commentary (a) to article 3 states: “This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.”

312 UN Basic Principles at art. 4-5(a).

313 *Ibid.* at art. 13.

The Myanmar police failed to comply with international law when they used excessive force to disperse the protesters on March 10 in Letpadan. International law requires that police use force only as a measure of last resort, after exploring alternative options.³¹⁴ Before March 10, the Myanmar authorities negotiated with the student leaders in an attempt to reach a compromise. However, the terms offered by the Myanmar Government included undue restrictions on the protesters' rights to peaceful assembly and freedom of expression, as discussed in the previous section. Despite ample warnings by the student leaders of their intentions to push through the police lines and of their willingness to submit peacefully to arrest, the police failed to coordinate a response that would avoid the unnecessary use of force. Instead, the Myanmar police resorted to force before exploring other means of resolving the situation peacefully.

International law additionally requires that authorities apply force in a manner that is proportional to “the seriousness of the offence and the legitimate objective to be achieved.”³¹⁵ Notably, in instances involving a minority of violent protesters in a crowd of primarily peaceful protesters, police are responsible for ensuring the peaceful protesters are able to continue to exercise their right to peaceful assembly.³¹⁶ Although there may have been isolated incidents of dangerous or unlawful behavior by protesters, Fortify Rights and the Clinic did not document significant violent acts perpetrated by protesters. Rather, at the outset of the crackdown, police began to throw rocks and other objects at protesters. Video and photographic evidence supports testimony collected by Fortify Rights and the Clinic indicating that the police used rubber batons and bamboo sticks to beat unarmed protesters as well as protesters who were already subdued, including those in police custody with their hands bound. While the Myanmar Police Manual authorizes the use of batons to disperse unlawful assemblies, police are instructed to use batons only as necessary and to take care to avoid striking individuals on the head.³¹⁷ Many survivors reported being hit in the head by police batons during the Letpadan crackdown, indicating that the police failed to follow the Manual's provisions with regard to use of batons.

While the Myanmar Police Manual and the Criminal Procedure Code empower police officers to use force to disperse unlawful assemblies, international law requires that both the objective for using force and the means of achieving that objective must be lawful.³¹⁸ As discussed in

314 Ibid. at art. 4.

315 Ibid. at art. 5(a).

316 Human Rights Council, 20th Session, *Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai*, U.N. Doc. A/HRC/20/27, May 21, 2012, para. 33. See also, Anneke Osse, *Understanding Policing: A Resource for Human Rights Activists*, Amnesty International, 2012, p. 142.

317 Myanmar Police Manual, revised 2000, Burmese language version, at art. 1058.

318 Myanmar Police Manual, art. 144, 148, 1056, 1057, and 1058; Myanmar Criminal Procedure Code, art. 127, 128, 131, 132, and 551.

the section above, evidence does not support the suggestion that an overriding public interest existed to justify the dispersal of the protesters. Therefore, the aim behind the use of force—to disperse the protesters—was unlawful. Moreover, the tactics the police used to disperse the protesters—throwing rocks and other objects, beating unarmed protesters, injuring protesters with hard rubber batons and bamboo sticks, as well as targeting journalists, injured protesters, and bystanders—are not considered lawful forms of police conduct. Ultimately, the use of force by Myanmar police officers violated international law and necessitates an appropriate remedy.

Freedom from Arbitrary Arrest and Detention

International law also protects the right to freedom from arbitrary arrest and detention as guaranteed under the UDHR and ICCPR.³¹⁹ Article 9 of ICCPR provides:

Everyone has the right to liberty and security of person. No one will be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by law.³²⁰

Freedom from arbitrary arrest and detention remains one of the most basic individual rights. While law enforcement officials are empowered to restrict this right in specific circumstances, any arrests and detentions that are not in accordance with domestic and international law are considered arbitrary and in violation of international law.

The Myanmar Police reportedly arrested 127 people in Letpadan on March 10, including protesters, journalists, and local bystanders. At the time of writing, 77 men and women arrested in Letpadan—50 of whom remain behind bars—face up to nine years and six months in prison on charges relating to unlawful assembly, rioting, causing harm to public servants, and public mischief. Under international law, an arrest is considered unlawful if a person is arrested for engaging in activity that is protected under international law, such as exercising the rights to freedom of peaceful assembly and freedom of expression.³²¹ Therefore, the arrest and detention of individuals solely for exercising their rights to freedom of peaceful assembly or freedom of expression are arbitrary and violate international law.

319 UDHR, art. 3, ICCPR, art. 9

320 ICCPR, art. 9.

321 UN Human Rights Committee, “Article 9: Liberty and security of person,” General Comment No. 35, U.N. Doc. CCPR/C/GC/35 (2014), para. 17.

The Right to Effective Remedy

The right to remedy is a fundamental premise underlying the international legal framework providing specific rights to a person whose rights or freedoms have been violated. For example, Article 2(3) of the ICCPR outlines the main provisions of the right to remedy, which includes “an effective remedy” determined by a competent authority and a guarantee of enforcement.³²²

These rights extend to individuals harmed by police officers unlawfully exercising the use of force as well as individuals wrongly arrested, detained, and prosecuted by the Government.³²³ At the time of writing, Myanmar authorities continued to detain and prosecute protesters arrested on March 10. The Myanmar Government has not credibly investigated the events of March 10, and no known actions have been taken to hold police officers accountable for the excessive use of force during the crackdown. These actions raise concerns about the right to effective remedy as provided for by international law.

Individuals injured by the excessive use of force by police officers are entitled to effective remedy, and those responsible—including superior officers who ordered or oversaw unlawful conduct—must be held to account.³²⁴ Part of the right to a full remedy under international law includes holding law enforcement officials who use excessive force to account. The Basic Principles call for the criminal punishment of any law enforcement officials responsible for arbitrary or abusive use of force.³²⁵ Police officers are required to submit a detailed report of all “cases of death, serious injury and other grave consequences.”³²⁶ The Basic Principles further stipulate that superior officers must be held responsible “if they know, or should have known” that officers under their command resorted to the excessive use of force.³²⁷

322 The right to remedy concept is reinforced by the UN Basic Principles, which state that “persons affected by the use of force and firearms, their legal representatives and dependents shall have access to an independent process including a judicial one.” UN Basic Principles at art. 23.

323 Ibid.

324 UN Basic Principles at art. 22-26.

325 Ibid. at art. 7

326 Ibid. at art. 22

327 Ibid. at art. 24. See also, art. 25 and 26.

While international law requires the Myanmar Government to hold law enforcement officials accountable for their unlawful conduct, the Myanmar Criminal Procedure Code serves to protect law enforcement officials. Article 132 provides immunity to officers in charge of police stations and their subordinates involved in actions to disperse assemblies when actions are taken in “good faith” under the authority granted by the Code.³²⁸

Regardless, at the time of writing, 50 individuals arrested at Letpadan remained unlawfully imprisoned for exercising their rights to freedom of peaceful assembly and freedom of expression. More than 100 protesters were subjected to excessive force at the hands of police officers on March 10. These individuals have endured human rights violations and are entitled to receive their full remedies under international law.

328 Myanmar Criminal Procedure Code at art. 132. Such immunity from prosecution applies specifically to the officers in charge of police stations empowered to disperse protests and to subordinate officers who obey orders given under such authority. It does not apply to officers not operating according to such orders, to those not operating in “good faith,” or to other senior officers not specifically empowered by the relevant sections of the code.

V. RECOMMENDATIONS

To the Government of Myanmar

- Conduct a prompt, impartial, and independent investigation into the use of force by police, arbitrary arrest and detention, and violations of the rights to freedom of peaceful assembly and freedom of expression in Letpadan on March 10, 2015. The investigation should examine the factors and events that led up to the crackdown on March 10 as well as the Government's actions since the crackdown, including the imprisonment and prosecutions of protesters. The investigation should aim to hold institutions and individuals to account, including those with command responsibility. Any resulting report should be made publicly available. An investigation into the events at Letpadan should consider:
 - Injuries and property damage suffered by individuals present when police violently dispersed the demonstration, including protesters, journalists, bystanders, and members of the Myanmar Police Force.
 - The use of force by police officers on March 10, including equipment used.
 - The identity and role of law enforcement officers and units and other security forces involved in the use of force against protesters on March 10 and the precise orders and rules of engagements given to these units, and by whom.
 - The role of senior officials from the President's Office, Home Affairs Ministry, Border Affairs Ministry, and Myanmar Police Force in overseeing, ordering, and directing the dispersal of protesters.
 - Underlying institutional factors within the Myanmar Police Force and other government institutions that may have contributed to the violent response to student protesters, including lack of training, indiscipline, excessive discretion given to officers, and impunity for abuses by officers.
 - Acts of violence perpetrated by protesters and their supporters.

- Ensure that those imprisoned and charged for actions at Letpadan receive necessary medical treatment and are held in conditions that meet international standards. In accordance with international law and standards, the Government should:
 - Immediately and unconditionally release all individuals wrongfully imprisoned for exercising their rights to freedom of peaceful assembly and freedom of expression in Letpadan and elsewhere and drop all charges against them.
 - Ensure that no charges are pursued absent credible evidence of involvement in an internationally recognizable crime and that any proceedings meet international fair trial standards.
 - Ensure that all individuals imprisoned at Thayawaddy Prison and elsewhere are treated in accordance with the Standard Minimum Rules for the Treatment of Prisoners and that conditions of detention meet the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

- Provide a full remedy to individuals who have experienced rights violations. To provide a full remedy, the Government of Myanmar should:
 - Hold all police officers and other officials, including those with command responsibility, accountable for rights violations, including the excessive use of force in Letpadan and elsewhere, regardless of rank or position.
 - Ensure non-repetition of the violations so that individuals are able to exercise their rights to freedom of peaceful assembly and freedom of expression and not face violent retaliation by authorities. This should include necessary legislative amendments, training, and informing local officials, including law enforcement officials, of their obligation to protect these rights and prevent actions that would interfere with the rights to freedom of peaceful assembly and freedom of expression.

- Publicly affirm the right of Myanmar citizens to exercise the rights to freedom of peaceful assembly and freedom of expression as established by international law, including through engagement with civil society and political organizations.

- Amend laws, codes, procedures, and practices that do not comply with international law and standards. The Government should:
 - Amend laws, including the Right to Peaceful Assembly and Peaceful Procession Law, that violate the rights to freedom of peaceful assembly and freedom of expression, to ensure they comply with international human rights standards. In particular, remove the provisions in the Right to Peaceful Assembly and Peaceful Procession Law that require prior authorization or consent for assemblies and provide penalties of fines and imprisonment for failure to comply.
 - Amend laws, codes of conduct, and standard operating procedures relating to police conduct, including sections of the Myanmar Criminal Procedure Code, to ensure they comport with international standards and best practices as articulated by the UN Code of Conduct and the UN Basic Principles.
- Provide or facilitate training for police officers, security forces, and other relevant officials on international standards and best practices relating to the use of force, crowd control, and overseeing demonstrations and peaceful assemblies.
- Issue a standing invitation to visit Myanmar to UN Special Procedures, in particular the Special Rapporteur on Freedom of Peaceful Assembly and Association and the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.
- Finalize, without delay, an agreement with the UN Office of the High Commissioner for Human Rights to establish a Country Office in Myanmar with a full mandate for human rights protection, promotion, and technical support.
- Ratify the International Covenant on Civil and Political Rights to take on its full obligations and accede to the International Covenant on Economic, Social and Cultural Rights as well as other key human rights treaties.

To Foreign Governments, United Nations Agencies, Nongovernmental Organizations, and the Donor Community

- Urge the Government of Myanmar to conduct a prompt, impartial, and independent investigation into the use of force by police, arbitrary arrest and detention, and violations of the rights to freedom of peaceful assembly and freedom of expression in Letpadan on March 10, 2015 with a view towards holding institutions and individuals to account, including those with command responsibility.
- Urge the Government of Myanmar to immediately and unconditionally release all individuals wrongfully imprisoned for exercising their rights to freedom of peaceful assembly and freedom of expression and drop all charges against them. Call on the Government to ensure that no charges are pursued absent credible evidence of involvement in an internationally recognizable crime and that any proceedings meet international fair trial standards.
- Call on the Government to take demonstrable action to hold police officers and other officials, including those with command responsibility, to account for the use of force in Letpadan and elsewhere.
- Urge the Government to publicly affirm the right of Myanmar citizens to exercise the rights to freedom of peaceful assembly and freedom of expression.
- Engage the Government of Myanmar with clear, time-oriented benchmarks to amend the Right to Peaceful Assembly and Peaceful Procession Law and other laws that violate the rights to freedom of peaceful assembly and freedom of expression to ensure conformity with international human rights standards.
- Actively engage the Government of Myanmar with clear, time-oriented benchmarks to amend laws, codes of conduct, and standard operating procedures relating to police conduct, including sections of the Myanmar Criminal Procedure Code, to ensure they comport with international standards and best practices as articulated by UN Code of Conduct and the UN Basic Principles.

- Provide financial and technical support to promote training for police officers, security forces, and other relevant officials on international standards and good practices relating to use of force, crowd-control operations, and overseeing demonstrations and assemblies.
- Provide financial, technical, and advocacy support to human rights defenders in Myanmar in order to strengthen local responses to human rights violations, end impunity, and ensure accountability for abuses.
- Support the mandate and recommendations of the UN Special Rapporteur on the Situation of Human Rights in Myanmar. Encourage the Government of Myanmar to engage with the UN Special Procedures and support the establishment of a UN Office of the High Commissioner for Human Rights Country Office in Myanmar with a full mandate for human rights protection, promotion, and technical support.

APPENDIX: LETTER TO PRESIDENT THEIN SEIN

July 10, 2015

President Thein Sein
President's Office
Nay Pyi Taw
Republic of the Union of Myanmar

Dear President Thein Sein,

Fortify Rights is a nongovernmental organization based in Southeast Asia that works to prevent and remedy human rights violations through technical support for human rights defenders, independent investigations, and strategic advocacy. Faculty, staff, and students at the Harvard Law School International Human Rights Clinic (IHRC) work to protect the human rights of clients and communities around the world. Fortify Rights and the IHRC have worked on human rights issues relating to Myanmar for many years.

In March and April of this year, Fortify Rights and the IHRC conducted an investigation into the crackdown on protesters at Letpadan, Bago Region on March 10, 2015. The investigation team spoke with 25 eyewitnesses to the events of March 10 and analyzed more than 500 photographs and 40 videos taken in Letpadan on that day. The investigation team, through intermediaries, requested a meeting with Bago Region Deputy Police Chief Win Sein. The request was declined. Fortify Rights and the IHRC will publish a report describing the findings of the investigation in the coming weeks.

Fortify Rights and the IHRC are concerned by the Myanmar authorities' efforts to restrict protesters' rights to freedom of assembly and expression at Letpadan and elsewhere. Fortify Rights and the IHRC are also deeply concerned by the excessive use of force by officers of the Myanmar Police Force in Letpadan and the lack of accountability for police officers who participated in, or presided over, violence directed at protesters on that day. We ask that you support a prompt, credible, and independent investigation into the crackdown at Letpadan and ensure that those responsible for the excessive use of force are held accountable.

Based on the findings of our investigation, Fortify Rights and the IHRC have concerns about the ongoing prosecution of more than 70 students arrested on March 10. Although the Myanmar Government has the right to prosecute protesters who engaged in violent actions, charges should only be brought against such persons after a credible and independent investigation has been conducted. Protesters should not be prosecuted solely for exercising their rights to freedom of assembly and expression, and no charges should be pursued absent clear and convincing evidence of involvement in specific acts of violence. All prosecutions should conform with the rights to equality before the law and a fair trial, which are well established in customary international law and numerous international treaties.

We would like to discuss these matters with your office prior to the publication of our report. In particular, we seek clarification regarding the following:

- The justification of the Myanmar authorities for imposing a police blockade on protesters at Letpadan;
- The justification of the Myanmar authorities for imposing preconditions—including that protesters travel by car and not raise flags, chant, or sing songs—on the protesters' continued progress from Letpadan to Yangon;
- The precise orders given to police officers prior to and during the crackdown at Letpadan on March 10, and who gave such orders;
- Evidence in the possession of the Myanmar Government or authorities, if any, justifying the criminal prosecution of individuals arrested on March 10; and
- Efforts by the Myanmar Government to investigate the events of March 10 or to hold accountable those responsible for the excessive use of force.

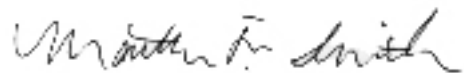
Since the conclusion of our investigation, we have noted, with great concern, the Myanmar Government's ongoing efforts to obstruct peaceful protest activities in the country. We are deeply concerned about the recent arrest, detention, and prosecution of student leaders and activists, including Confederation of University Student Unions leader Zeya Lwin, arrested earlier this week following a peaceful commemoration event at Yangon University.

We would appreciate the opportunity to meet with a representative of your office to discuss these matters. Please feel free to contact us to schedule a meeting or provide further information regarding the crackdown at Letpadan and ongoing prosecution of protesters.

Sincerely,



Tyler Giannini
DIRECTOR, Human Rights Program, Harvard Law School
DIRECTOR, International Human Rights Clinic
+1.617.496.7368
giannini@law.harvard.edu



Matthew Smith
EXECUTIVE DIRECTOR, Fortify Rights
+66.85.028.0044
matthew.smith@fortifyrights.org

COPIED TO:

Lieutenant General Ko Ko, MINISTER OF HOME AFFAIRS
Tun Tun Oo, CHIEF JUSTICE OF THE UNION
Dr. Tun Shin, ATTORNEY GENERAL OF THE UNION
Win Mra, CHAIRMAN OF THE MYANMAR NATIONAL HUMAN RIGHTS COMMISSION

ACKNOWLEDGMENTS

This report is the product of a collaborative effort by Fortify Rights and the Harvard Law School International Human Rights Clinic. The research and writing team comprised lead researcher Matthew Bugher, researcher with Harvard Law School International Human Rights Clinic and consultant with Fortify Rights; Matthew Smith and Amy Smith, co-executive directors of Fortify Rights; and Tyler Giannini, co-director of the Human Rights Program at Harvard Law School and co-director of the International Human Rights Clinic at Harvard Law School. Myanmar nationals, unnamed here for security reasons, provided primary research support and other assistance. The All Burma Federation of Student Unions facilitated research by organizing interviewees. Students from the Clinic—Roni Druks, Courtney Svoboda, Matthew Thiman, Yao Yang, Roi Bachmutsky, and Sharon Yuen—provided additional support in reviewing evidence and editing the report. Katie Jennings Design provided layout and production assistance. Steve Tickner, Sai Zaw, Paul Mooney, and La Pyae provided photographs.

We extend special thanks to Myanmar’s human rights defenders and all the organizations and individuals who aided in this research, generously sharing their time, energy, and experiences with Fortify Rights and the Clinic.

CRACKDOWN AT LETPADAN

Excessive Force and Violations of the Rights to Freedom of Peaceful Assembly and Expression in LETPADAN, BAGO REGION, MYANMAR

In early March 2015, Myanmar authorities prevented a group of protesters from continuing a peaceful march from Mandalay to Yangon by imposing a police blockade at the small town of Letpadan in Myanmar's Bago Region. The protesters were part of a nationwide movement opposing the newly passed National Education Law. On March 10, police officers violently attacked the group, severely beating the protesters and other bystanders. Police arrested 127 protesters, journalists, and onlookers, abusing dozens who were taken into police custody. At the time of the writing of this report, 77 men and women arrested in Letpadan continued to face up to nine years and six months imprisonment—or more—and 50 remain behind bars for their involvement in the protest. No known disciplinary or other action has been taken against any police or commanding officers engaged in the violent crackdown at Letpadan.

Crackdown at Letpadan: Excessive Force and Violations of the Right to Freedom of Peaceful Assembly and Expression in Letpadan, Bago Region, Myanmar describes how Myanmar authorities violated the protesters' human rights to freedom of peaceful assembly and freedom of expression by imposing unjustified restrictions on their protest activities. Additionally, the report describes how police officers used excessive force against protesters, journalists, and onlookers. Researched and written by Fortify Rights and the Harvard Law School International Human Rights Clinic (IHRC), the report draws from eyewitness testimony and analysis of more than 500 photographs and 40 videos taken by protesters, journalists, and bystanders at the protest in Letpadan.

OCTOBER 2015



FORTIFY
RIGHTS

FortifyRights.org

INTERNATIONAL HUMAN RIGHTS CLINIC
HUMAN RIGHTS PROGRAM AT HARVARD LAW SCHOOL

hrp.law.harvard.edu