

Personal Statement from Saw Kyaw Kyaw Min

On 23 October 2008 I went to Hlaingtharya Township Court to defend 11 clients, including Thant Zin Myo and Yan Naing Tun. Ko Nyi Nyi Hlaing, Ko Nyi Nyi Htwe and I were the defence lawyers in the case. The court hearing started that day. Although defendant Yan Naing Tun's defence lawyer Ko Nyi Nyi Hlaing couldn't come to court, the judge started to hear the case anyway. The judge instructed defendant Yan Naing Tun to question the prosecuting police officer himself. After Yan Naing Tun had asked three or four questions, he said, "Although I respect the judge, I don't trust this unfair trial process." He turned his back to the court because he wanted to boycott the court. Even though the judge forbid Yan Naing Tun from turning his back to the court, defendants Aung Min Naing aka Mee Thwe and Myo Kyaw Zin said the same as Yan Naing Tun, and also turned their backs to the court. So the judge instructed me and the other defence lawyer Ko Nyi Nyi Htwe to forbid the defendants from behaving like that in court. So we both said to the judge, "We don't want to forbid our clients from doing anything, because we are defence lawyers and we act according to our clients' instructions." The judge stopped the proceedings and set another court hearing date in November.

On 24 October 2008 Ko Nyi Nyi Htwe and I were served a court summons by Northern District Court, informing us that the judge from Hlaingtharyar Township Court was prosecuting us under Section 228 of the Penal Code. We found out that our case number is 111/08, and that we have to face trial on 27 October 2008. Although Ko Nyi Nyi Htwe and I went to the Northern District Court, Insein Township, on that day, the judge from Northern District Court had a meeting so the assistant judge set a new court hearing for 30 October 2008.

On 29 October 2008, I went to Insein Township Court to defend Ko Yan Shwe and Ko Zaw Zaw Aung. Insein Township Court is located upstairs and Northern District Court is located downstairs in the same building. The court clerk called me to the Northern District Court. When I went with him, the judge from Northern District Court wasn't there but the assistant judge was there (the judge who had set the new court hearing date of 30 October 2008 on 27 October). The assistant judge was hearing another case, but stopped the proceedings and called me over. I saw a female police officer (captain rank) whisper to the assistant judge. The assistant judge instructed the court clerk to bring her the case file. The judge showed the case file to the female police officer, who whispered to her again. The assistant judge said, "That's good," and turned to me and said, "The authorities have ordered your arrest." I replied, "Today is not the date I am due in court, and the other defendants are not in court. My new court hearing is on 30 October 2008. I am ready to face that case tomorrow. We were accused under Section 228 and according to that section of law we are entitled to a guarantor, or we can defend ourselves. Today I am not ready because today is not the day I am due in court. I don't accept this unfair trial process." The assistant judge said she was going to make a phone call and that I should wait for her, and she entered her chambers. I realised that I would soon be arrested and so I ran away.

Statement about the difficulties faced by lawyers defending political prisoners

1. In order to apply for permission to have power of attorney for political prisoners, defence lawyers need to send a letter to the director of the prison where political prisoners are held. There are lots of delays with the process.
2. Before the trial starts, the client and defence lawyer meet to discuss the case so that the client can instruct his or her lawyer. These meetings usually happen at police custody centres, where political prisoners are transferred when they are due to appear at court. Police officers and members of Special Branch are present and watch these meetings, so there is no privacy for the client and his/her lawyer to discuss the case.
3. Sometimes defence lawyers are not properly informed at which court their clients are due to appear, and so they need to investigate to find out this information.
4. Once the trial starts, the judge, the prosecution lawyers, the prosecuting officers, and prosecution witnesses follow SPDC instructions.
5. At the trial some questions asked in court by defence lawyers are deemed inadmissible by the judge, and so are not officially recorded in the court transcript.
6. Court authorities never inform the defence lawyers of the time they are due to appear in court. Sometimes they have to wait all day, only to find out at the end of the day that a new trial date has been set.
7. When defence lawyers arrive at court for the court hearing, they report to the judge. On many occasions, the judge will then call prosecution lawyers, prosecuting officers, and prosecution witnesses and they agree between themselves to postpone the court hearing, according to instructions they receive from military intelligence and Special Branch.
8. Sometimes if defence lawyers are late to the court hearing, for example because they are busy with another court hearing on the same day, or because they have not been informed of the exact start time for the hearing, the court clerk officially records in the court transcript that the lawyer is absent for the day. The trial continues that day without the defence lawyer. When political prisoners complain and say that they don't want their trial to continue without a defence lawyer, their complaints are dismissed. Sometimes political prisoners choose to defend themselves for that day.
9. According to Burmese law, defence lawyers are entitled to a copy of the case file. They need to make an application to the court to get the case file. In criminal cases permission is normally granted in one day, but in political cases this takes much longer, for example at least a week or even longer.

Saw Kyaw Kyaw Min Biographical Information

Saw Kyaw Kyaw Min was born on 14 April 1980. He studied law at Dagon University, and graduated in 2005. He joined the National League for Democracy (Youth) in November 2001 and became one of the leaders of NLD Youth in Insein Township. At the time he was a first year university student.

After he graduated, he did his one-year legal traineeship at NLD lawyer U Khin Maung Shein's private law firm. He then applied for his licence to practice law, in accordance with the Burmese legal system. The application took over a year. While he was waiting for his licence, he was involved in NLD activities in his role as the person-in-charge of NLD Youth in Insein Township, Rangoon. From 1 May 2007, he was involved in the May prayer campaign, calling for the release of Daw Aung San Suu Kyi and all political prisoners, together with 28 other NLD Youth members and activists, including Su Su Nway. On 15 May 2007 he was arrested in Insein Township, together with 28 others including Su Su Nway. 11 others were arrested the same day in Hlaingthaya Township. One of his colleagues was badly beaten. Saw Kyaw Kyaw Min was sent to Kyaikkasan interrogation centre with the rest of his colleagues. They interrogated him for two days, and he was held in a small room without a bed or mosquito net.

The authorities separated 9 people into one group, including Saw Kyaw Kyaw Min, and sent them to Mawbi Township police battalion no.3. The other activists were separated into different groups and sent to other police battalions. Saw Kyaw Kyaw Min's 8 colleagues were released just over a month later. At the time some other activists were also released from other police battalions. Some were moved to police battalion no.3 to join Saw Kyaw Kyaw Min, about 15 in total. The 15 people were split into smaller groups and released one group at a time on different days. His group, which included Ko Htin Kyaw, Ko Aye Naing, Ko Aye Lwin, and Ko Thant Zin Myo, was transferred to police battalion no. 6 on 17 July, and was the last to be released. The group was split up and detained in different rooms within police battalion no.6. At about 7pm on 27 July they were all sent to Aungthapyay interrogation centre. Special Branch police officer U Myo Aung told them not to get involved in a prayer campaign like that again. He threatened them, saying that if they got involved in a similar campaign in the future, they would be arrested and sentenced to 9 years and 3 months. They were given a paper to sign stating that they understood the sentence they would face if they got involved in a similar campaign. Saw Kyaw Kyaw Min and his colleagues understood that if they did not sign the paper they would not be released, and would have to face charges.

Saw Kyaw Kyaw Min played a supporting role in the Saffron Revolution movement in September 2007. On 29 September, a few days after the major crackdown by the authorities, he and his colleagues tried to protest again outside the Traders Hotel in central Rangoon, where UN Special Envoy Gambari was due to be staying. About 15 people were arrested on the street. They were slapped and beaten by soldiers. Saw Kyaw Kyaw Min was kicked in the chest. Then they were made to sit down on the pavement by police, and were

interrogated there. 14 were released later that same day, but one was taken into detention. After that Saw Kyaw Kyaw Min went into hiding for several months.

In the first week of January 2008 he returned to Rangoon and immediately resumed his work with NLD Youth. At the end of May 2008 he received his lawyer's licence. He received the licence on a Friday and began working as a lawyer on Monday, defending political prisoners. He worked on 14 different cases until he fled on 29 October 2008.

Saw Kyaw Kyaw Min's cases

1. Ko Tin Win and Ko Nyi Nyi Min at Southern Dagon Myothit Township Court, Rangoon. They were initially charged under Section 505B of the Penal Code, but this was later changed to Section 501 of the Penal Code.
2. Ko Lu Tin Win at Kyauktada Township Court, Rangoon. He was charged under Sections 145 and 505B of the Penal Code.
3. Ko Kyaw Zin Win, Ko Kyaw Kyaw Lin, Ko Nay Zar Myo Win, Ko Aung Zaw Oo and Ma Kyi Kyi War at Kyauktada Township Court, Rangoon. They were involved in 5 different cases, but Saw Kyaw Kyaw Min defended them in one case, Section 6 of the Law Relating to the Forming of Organisations.
4. Ko Myo Kyaw Zin at Hlaingthaya Township Court, Rangoon. He was charged under Section 376/511 of the Penal Code.
5. Ko Thant Zin Myo, Ma Hla Hla Maw, U Tin Yu, U Win Myint, Yan Naing Tun, Myo Kyaw Zin, Aung Min Naing, Soe Min Min, Myo Kyaw Khin, Ko San Win and Ko San Naing at Hlaingthaya Township Court, Rangoon. They were charged under Sections 143, 145, 152 and 505B of the Penal Code.
6. Ko Thant Zin Myo, Than Zaw Myint, Ma Nge, Ko Thike Min at Kamayut Township Court. They were charged under Sections 143, 145, 152 and 505B of the Penal Code.
7. Ko Khin Maung Cho aka Ko Phoe Toat, Khan Myint and Nyunt Win at Kimmendine Township Court, Rangoon. They were charged under Section 505B of the Penal Code.
8. Daw Ni Ni Mar at Dala Township Court, Rangoon. She was charged under Section 353 of the Penal Code.
9. Ko Myo Khin at Southern District Court, Rangoon. He was initially charged under Section 124/A of the Penal Code, but the charges were changed. The details are unknown.
10. Ko Myo Khaing at Southern District Court, Rangoon. He was initially charged under Section 124/A of the Penal Code, but the charges were changed. The details are unknown.
11. Ko Yan Shwe, Ko Zaw Zaw Aung and U Myint Aye at Northern District Court, Rangoon. They were involved in different cases, but Saw Kyaw Kyaw Min defended them in the case relating to Section 3/6 of LAW CONCERNING EXPLOSIVES.
12. U Myint Aye, initially at Shwepyitha Township Court, then transferred to Insein Township Court, Rangoon. He was charged under Section 13/1 of the Immigration Act.
13. Ko Aye Thaung at North Okkalapa Township Court, Rangoon. He was charged under Section 323 of the Penal Code.

14. Ko Ye Zaw Htike and 6 others at Thingangyun Township Court, Rangoon. He was charged under section 13/1 of the Immigration Act, and sections 17/1 and 17/2 of the Unlawful Association Act.

Saw Kyaw Kyaw Min