

## The Investigation Into Thailand's Backpacker Slayings Is Officially a Farce



Two Burmese workers, wearing helmets and handcuffs, suspected of killing two British tourists on the Thai island of Koh Tao last month, stand near Thai police officers during a re-enactment of the alleged crime on Oct. 3, 2014, on the spot where the bodies of the tourists were found on the island  
Reuters

### Allegations of torture, procedural irregularities and wild speculation in the press: Thai authorities are botching a high-profile murder probe

Murdered British backpacker Hannah Witheridge was finally [laid](#) to rest in England on Friday. But 6,000 miles away in Thailand, the investigation into her tragic death, and that of her friend David Miller, whose funeral took place Oct. 3, spiraled further into farce.

The main suspects in the killings, which took place on the Thai Gulf island of Koh Tao, have reportedly claimed that they were [tortured](#) into a confession, and public prosecutors rejecting the police report.

“The two victims and their families deserve justice, which will only be possible if there is a fair and transparent process,” says Kingsley Abbott, Bangkok-based adviser for the International Commission of Jurists. Above all, he adds, “the burden of proof rests on the prosecution,” as the “two men must be presumed innocent until proven guilty.”

On Sept. 15, the bloodied bodies of Witheridge, 23, and Miller, 24, were discovered on the island that is famous among scuba divers and sandal-clad tourists for its pristine beaches and coral reefs.

Burmese nationals Zaw Lin and Win Zaw Htun, both 21, were arrested last Friday and quickly confessed to the double murder. They had apparently worked illegally on the island for a number of years and were driven, say police, by a desire to rape Witheridge after seeing the young British couple canoodling on the white sand.

The Thai authorities then dragged the two suspects to the rocky outcrop where the tourists' bodies were found for

a [grisly re-enactment](#). Wearing helmets and body armor, they demonstrated for assembled media how the bludgeoning, using a garden hoe and wooden stake, took place and prayed for forgiveness. Both could face a death sentence if convicted.

Yet a litany of questions and inconsistencies hang over the investigation. Other than the apparent retraction, proffered by an official at the Burmese embassy, there has been a [rejection](#) of the police's investigation report, with public prosecutors on Wednesday asking the authors to supply "more crucial information," "fix certain flaws" and make the 850-page document "more succinct."

Numerous character witnesses have come out to defend Zaw Lin and Win Zaw Htun and they have no criminal record. Essentially, the case against them hinges on five strands of evidence:

1. **Their Confessions.** The most damning evidence in any case is a confession. However, reports have since emerged that Zaw Lin and Win Zaw Htun were beaten and threatened with electrocution during interrogation. (Other irregular workers questioned have [alleged](#) they were alternately offered bribes and doused with boiling water.) It also emerged that the translator used was a Rohingya — a member of a distinct Burmese ethnicity that suffers periodic pogroms at the hands of west Burma's Rakhine majority, to which the accused both belong. There are unconfirmed rumors that the interpreter, who has since even given [interviews](#), actually participated in the beatings. In addition, upon initially being picked up, neither the accused were apparently provided with a lawyer as they were being questioned under the Immigration Act rather than as part of a murder inquiry. (It is unclear at what stage a legal counsel was eventually provided.)
2. **Three DNA Samples.** These were found on two cigarette butts close to the crime scene, two of which — from Zaw Lin and Win Zaw Htun — are purportedly matches for samples recovered from Witheridge's body. The third is apparently that of Maung Maung, a friend of the accused who says he was with them drinking beer and playing guitar on the beach shortly before the attack. However, Dr. Pornthip Rojanasunan, director general of the Central Institute of Forensic Science and the country's leading forensics authority, on Thursday [decried](#) the collection of evidence as a "weak point" and said the police committed a major error when they failed to involve a forensic pathologist.
3. **Maung Maung's Testimony.** This forms the third strand of evidence, although it is no slam dunk. He admits being with his two friends on the beach but leaving them at around 1 a.m. They wanted to keep on drinking, he said, so he went to see his girlfriend. He claims not to have seen any evidence of a crime, [according](#) to media reports.
4. **CCTV Footage.** This shows the three Burmese riding a motorbike by a convenience store, where they apparently bought cigarettes and three bottles of beer. It corroborates Maung Maung's version of events, but is circumstantial at best.
5. **Miller's Cell Phone.** It was [discovered](#) at lodgings of Zaw Lin, according to police. The device, a black iPhone 4, was apparently smashed and discarded as it did not work inside Thailand. But why would Zaw Lin do that when he could have sold it for at least a month's salary? And if he was concerned about possible incrimination, why keep it at home?

But there are numerous other threads to tug. Given that Burmese migrants were in the [spotlight](#) from the outset, and this pair were well-known on the island and frequently seen in the vicinity of the crime scene, why were they not hauled in for DNA tests and questioning sooner?

In addition, there have been significant procedural irregularities, including allowing tourists into the crime scene before all evidence was collected. CCTV footage has been produced, but with significant gaps, and only from a selection of the many sources available. The defense team will want to examine this all. There is also no complete, undisputed timeline of Witheridge and Miller's movements prior to the attack. Considering the notoriety of the case, and the victims' sociable nature in this small community, that is very odd.

Finally, there has been rampant press coverage of the unsubstantiated remarks made by local officials. In the latest, the chief of the prison where the suspects are being held [told](#) a reporter Thursday he "is afraid they may commit suicide" because they are "feeling guilty for the crime."

Thailand does not have jury trials and so the press has free reign to report on ongoing investigations, with the presumption that the sitting judge will be able to discount all speculation and concentrate on the evidence in hand. Even so, it is clearly prejudicial to the suspects to have individuals from such diverse sources as Burmese embassy, the Myanmar Migrant Labour Association and the Thai police, among others, talking openly to the media about what the suspects supposedly think and feel.

“That all these people are coming out and making these statements is incredibly detrimental to a fair trial,” says British labor-rights activist Andy Hall, who, as part of a monitoring mission, has met with the accused, the police, the prosecution team and British Ambassador Mark Kent.

Abbott agrees that normal procedure for a defense counsel would be to stop any further comment. “Our primary concern at this stage is to ensure the two suspects are provided with the assistance of a competent lawyer of their choosing,” he says, adding that whoever is chosen must have “adequate time and facilities to review the evidence.”

Otherwise, we may have to mourn not two, but four lives senselessly lost that night on Koh Tao.