



*Press Briefing: 27<sup>th</sup> January 2015*

## **Justice: Koh Tao Murder Case – Fundraising Campaign Launched To Support Defendants Fair Trial**

The Migrant Worker Rights Network (MWRN), representing migrant workers in Thailand, has today launched an appeal to support an adequate defense, by appointed lawyers, of two Myanmar migrant workers accused of gang rape and murder of two British tourists on Koh Tao Island, Thailand in September 2014. The fundraising campaign comes amidst widespread concerns regarding the possible arrest of scapegoats in this case who didn't commit acts of murder or rape. Credible information suggests forensic case evidence may have been collected incorrectly. In addition, complaints have already been submitted to prosecution officials alleging torture of the two defendants during detention, prior to sending on for questioning by case investigation officials. MWRN's fundraiser is one essential means to ensure both a fair trial for the accused and justice for all affected in this tragic case.

'A fair trial for Zaw Lin and Wei Phy, the defendants in this case, is essential to ensure with confidence that those guilty of this crime are held accountable and that there is no punishment of the wrong people. It would be a double injustice if lack of a legal defense team to carry out defense work effectively for the defendants meant real killers went free whilst innocent people were jailed or even executed. If the defendants are innocent, no-one wants such a situation to arise. That's why MWRN has set up this fund, to support some of the significant defense related costs in this case,' said Ko Sein Htay, MWRN President.

To make a donation to MWRN's Justice: Koh Tao Murder Case defense fund, supporters can visit <http://www.youcaring.com/nonprofits/justice-koh-tao-murder-case/246839>. All funds raised on the site will be deposited into a Thai bank account specifically opened for the case. Summary reports of spending and case assistance updates will be reviewable by all, published on YouCaring's update section regularly.

**For further enquiries on means to donate or any other information, please contact:**

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### **Case Background**

Hannah Witheridge (23) and David Miller (24) were brutally and tragically murdered on 15<sup>th</sup> September 2014 on Koh Tao, an island popular among tourists in the Gulf of Thailand. The murder investigation that followed the deaths appeared disorganised and chaotic. This investigation was widely criticised both in domestic and international circles due to alleged mishandling of forensic evidence and the alleged systematic abuse both of the two accused and case suspects, particularly migrant workers. The challenges faced to the justice system in this case continue to cast a serious and persistent shadow over the safety of tourism in Thailand.

On 2<sup>nd</sup> October 2014, Myanmar migrant workers Zaw Lin and Wei Phy (both 21), from Rakhine state in Myanmar, were arrested for immigration offences. Following this, additional charges were laid against them for gang rape and also murder. The two accused reportedly confessed during police interrogations. However, on 21<sup>st</sup> October, both men retracted their confessions to lawyers from the Lawyers Council of Thailand (LCT). The

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accused alleged beatings and torture in order to elicit their confessions, which were made involuntarily, and asserted their innocence of all charges. MWRN and other human rights groups called on the LCT to consider providing assistance and lawyers to the accused in defending themselves against the charges. The two accused then called for justice, alleging the torture that forced their confessions. In addition, alleged systematic, cruel, inhuman and degrading treatment of other migrants during the murder case investigations has also been reported and carefully documented by MWRN to be presented during the trial.

Lengthy delays in prosecution officials actually prosecuting the two accused in this case resulted from international media and diplomatic attention, in addition to calls for justice by the accused and their families and multiple challenges to ongoing detention of the accused by their lawyers. However, eventually multiple criminal charges were filed against Zaw Lin and Wei Phyo on 4<sup>th</sup> December 2014 by the Koh Samui prosecutor at Koh Samui Court. Further questioning of the accused revealed that both maintained their innocence of all charges against them. At a case evidence hearing on 26<sup>th</sup> December 2014, 18 full days for witness testimony over 3 months were agreed upon, starting from 8<sup>th</sup> July 2015. Defense lawyers also requested to conduct some witness testimony outside Koh Samui Court at a Bangkok Court. The court disallowed this request but left open the possibility however of witness testimony given via video link from overseas or from Bangkok.

It is critical for both Thailand, families and friends of the deceased, and the accused along with their families that justice is guaranteed in this case. One factor in justice being achieved is a robust defense and accompanying fair trial for the accused. The defense of the accused is an exceptional challenge with more than 100 witnesses and more than a thousand pages of statements/forensic case related evidence to be understood and contested.

Difficulties and costs are enhanced in defending this case as the 18 full days of trial proceedings over a 3 months period will take place on Koh Samui, an expensive and hard to reach tourist island in the Gulf of Thailand, whilst all the main case defense lawyers are based in Bangkok; translation of all case proceedings into three languages is essential for the accused and witnesses; some potential witnesses who need to be questioned and prepared for trial proceedings either in person or via video link live and reside outside of Thailand; and witness protection for essential witnesses is a serious concern that the defense also have to respond for. Without adequate funds, it is highly unlikely that defense witnesses could be successfully brought to court so as to ensure the accused can receive a fair trial. In such situation, a miscarriage of justice could worryingly result.

MWRN already set up a fund in October 2014 that raised almost US\$20,000 which was already spent to support lawyers and activists in the emergency phase of this case. MWRN now seeks phase two support to raise funds to contribute to some of an estimated US\$70,000 needed to cover over 10 months of preparation and then court work for the defense of Zaw Lin and Wei Phyo. In addition to covering expenses for lawyers, a defense support team also requires resources to conduct investigations and liaise with witnesses. Finally, funds are also needed to ensure ongoing support for the accused to more easily adjust to life in Koh Samui prison during their incarceration until such time as the court may order for the defendants to be released.

A case manager must be hired to coordinate and assist the defense team, including lawyers, rights activists and others, during this case. All others working as part of this defense team are doing so free of charge however. But costs to conduct the defense in practice are significant. Costs to be supported by this fundraiser include: direct flights for the defense team to Koh Samui island; island based travel/accommodation for the defense team; prison support costs for the defendants; travel and accommodation costs for expert witnesses; protection, relocation and visa costs for witnesses; and ongoing case investigation and witness liaison work.

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