

PRESS RELEASE

Reject Court's Decision to Drop Murder Charge against Adelina Sau's Employer

April 19, 2019, shocking news came from Malaysia. The High Court in Penang dropped the murder charge against Ambika Shan, an employer who abused and tortured her domestic worker, Adelina Sau. Adelina Sau, who came from the Indonesian province of East Nusa Tenggara, sustained multiples injuries all over her body and suffered acute malnutrition when the authority rescued her. She passed away several days after receiving treatment at a Malaysian hospital. Her employer was charged with murder under Article 302 of Malaysian Criminal Law, an offence that carries a mandatory death sentence. The news came out as a 'tragic decision' not only to the Indonesian government and broad public but also to Malaysian parliamentarians.

The Indonesian Consulate General (KJRI) in Penang shared that the evidence presented to the Court was strong, yet no key witnesses had been summoned to provide information until the High Court dropped the murder charge. Meanwhile, the lawyer of alleged perpetrator considered the decision to be based on sufficient evidence. Until today, the Malaysian government, in this case the High Court, has not issued any formal statement regarding the decision. The Indonesian Consulate has sent a formal letter to the vice prosecutor in order to seek clarification and further information pertaining to this case.

There have been some major improvements with regard to the protection of migrant workers. In 2017, the Indonesian government adopted Law No. 18 on the Protection of Indonesian Migrant Workers, replacing Law No. 39 Year 2004. However, the implementation of the Law has not been effective. In the same spirit, the Malaysian government is currently amending its labor law, Law No. 177 Year 1967, yet the Law does not acknowledge domestic workers as workers. In addition, the Law does not regulate the normative rights of domestic workers. At the regional level, the issue of migrant workers has engendered massive waves of debates resulting in the adoption of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers in 2017. However, this document is not legally binding, and its implementation is subject to the national laws of respective countries.

Approaching the International Labour Day on May 1st, the Indonesia-Malaysian civil society coalition believes that both countries must enact a law to bring an end to the acts of violence, persecution and torture.

Therefore, Indonesian and Malaysian civil society urges that:

1. Indonesian and Malaysian government must soon ratify the ILO Convention Number 189 concerning Decent Work for Domestic Workers;

2. Indonesian government must soon make diplomatic efforts urging the Public Prosecutor to appeal against the case of Adelina Sau; and immediately ratify the Draft Law on the Protection of Domestic Workers which has not been approved for 14 years.

3. Malaysian government urgently need to process the trial of Adelina Sau case with integrity, justice and transparency (Fair Trial); and immediately amend the Malaysian Labour Law Number 177 in 1967 by taking into account the fact that Indonesian migrant workers have contributed in economic aspect to Malaysian development and to support the Malaysian reform plan by the new government.

4. Indonesian and Malaysian Government cooperate to establish Fact Finding Team through national commission of human rights and/or law enforcement to seek the truth and justice for Adeline and her family.

5. Indonesian and Malaysian government must immediately implement the ASEAN Consensus on the protection of migrant workers through national laws and migration; and encourage member states to immediately issue Regional Plan of Action as a derivative regulation of the ASEAN Consensus.

Best Regards,

Indonesia-Malaysia Civil Society Coalition – Justice for Adelina Sau

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