

## **Abuse of maid highlights Hong Kong's poor treatment of migrants**

### **Indonesia desk, AHRC**

A 23-year-old Indonesian domestic worker in Hong Kong, Erwiana was repeatedly assaulted by her employer during her eight month stay in Hong Kong. She did not receive any salary for the eight months in which she worked and was only given HKD 100 when her employer quietly sent her back to Indonesia on 9 January 2014.

After considerable media outcry, the Hong Kong police investigated her case, resulting in the arrest of Erwiana's employer, 44-year-old Law Wantung. She was found to have abused several other helpers as well. She was brought to Kwun Tong Magistracy Court on 22 January 2014 and charged with wounding, common assault, assault occasioning actual bodily harm, and criminal intimidation.

Four officials from Hong Kong's crime squad went to Indonesia to record her testimony, and Erwiana will apparently file a civil suit in Hong Kong to obtain compensation. She received medical treatment at a public hospital in Sragen, Central Java, and was discharged on 5 February 2014. The doctor diagnosed her with, among others, brain concussion and old nasal as well as maxillary bones fractures.

Her injuries come from the daily beatings she endured at the hands of her employer. She was beaten with various objects, including a vacuum cleaner pipe, a clothes hanger and a mop, mainly on her head, but also the rest of her body. Her employer was also reported to have thrown hot water at her. Erwiana was denied medical treatment, even though she was suffering from an allergy and injuries received from the repetitive assaults. Towards the end of her enforced stay, Erwiana noted that her wounds began to ooze blood and pus, which were staining her employer's carpet, despite her wrapping them in bandages and plastic bags. It was then that her employer sent her back to Indonesia, warning her not to speak to anyone regarding her abuse in Hong Kong.

Furthermore, Erwiana was only provided with a small portion of bread and rice everyday, and only allowed to consume tap water. She was not allowed to sleep at night and could only take a nap for four hours, between 1—5pm in the afternoon. Erwiana's passport was confiscated and even though she had applied for a Hong Kong Identity Card (HKID), she was not given the chance to collect it. Erwiana was thus only holding a temporary HKID during her stay in Hong Kong.

After working for one month without pay and under such poor conditions, Erwiana managed to escape from her employer's house. She contacted her employment agency, Chan's Recruitment Agency, but the agency sent its staff to take Erwiana back to her employer's house instead of providing her any assistance. The agency argued that Erwiana could not leave her employer as she had not finished paying off her placement fee. Following Erwiana's attempt to escape, the employer decided to lock the front door at all times, and it was then that the beatings began.

On 9 January 2014, Erwiana was bought a ticket on a midnight flight to Indonesia and warned that her family there would be killed if she spoke to anyone about what had happened to her. Another Indonesian worker on the same flight, Ms R, noticed the severe injuries and wounds suffered by Erwiana; her face was swollen, the skin on her legs and arms was peeling and she was unable to walk on her own. Ms R also learned later that Erwiana was wearing a diaper, allegedly forced on her by her employer.

## **Migrant workers in Hong Kong**

Migrant domestic workers groups in Hong Kong held a peaceful protest in front of the Indonesian Consulate in Hong Kong on 12 January 2014, demanding the Indonesian government to urge its Hong Kong counterpart to ensure a criminal investigation against Erwiana's employer takes place. Indonesian Consul Chalief Akbar Tjandradiningrat promised to provide legal counsel for Erwiana and to demand her employment agency in Indonesia PT Graha Ayu Karsa to cover the cost of her medical treatment. He also promised to push for a criminal investigation into the case in Hong Kong.

Under the Foreign Domestic Helper policy, employers of migrant domestic workers in Hong Kong are obliged to provide them with, amongst other things, a wage not less than the Minimum Allowable Wage (HKD 4,010, approximately USD 517 or IDR 6,410,000), food or food allowance, and free medical treatment. The employers are also obliged to allow their workers a rest day that is not less than 24 continuous hours. All of these obligations were violated by Erwiana's employer.

The Hong Kong police had initially refused to initiate a criminal investigation into the allegations of abuse, categorizing it as a miscellaneous crime. Only after protests from migrant workers groups did a police spokesperson claim on 15 January 2014 that the case had been transferred to Kwun Tong district crime squad for further investigation. Physical abuse is a crime under Hong Kong law; there are thus no grounds for the police not to conduct an investigation into the matter. 'Lack of evidence' cannot be used as any logical or legitimate reason to dismiss the case, as the purpose of investigation itself is to gather evidence.

Criminal investigations should not only be directed against Erwiana's employer, but also her employment agency, Chan's Recruitment Centre, for complicity. Rather than providing assistance to Erwiana on the one occasion that she managed to escape and contact them, the agency instead took her back to her employer.

As it turns out, what happened to Erwiana is not an isolated case. Soon after Erwiana's case surfaced, another Indonesian named Susi spoke to the media about her previous experience working for Law Wantung. During her 11-month employment with Law Wantung, Susi was repeatedly beaten, had her hair pulled, and was prohibited from leaving the house or talking to other Indonesians. Susi was also only permitted to use the toilet twice a day. As in the case of Erwiana, Susi was not paid her salary. Another Indonesian currently residing in Singapore has also claimed that she was employed and abused by Law Wantung.

The cases of abuses against migrant domestic workers have tarnished Hong Kong's image as a modern city based on the rule of law. Moreover, Hong Kong's rules place migrant domestic workers in a vulnerable position. Erwiana's case must therefore be seen as a reminder for the Hong Kong policy makers to revise their infamous 'live-in' rule, which requires domestic workers to live with their employers. The Hong Kong government is also urged to repeal the 'two-week' rule, which requires domestic migrant workers whose contract has been terminated to find new employment within two weeks, or to leave Hong Kong.

(Migrant workers demanding a criminal investigation in Erwiana's case and the repeal of policies such as the 'live-in' and 'two-week' rules. Source: Justice for Erwiana and All Migrant Domestic Workers Committee)

## Indonesia's responsibility

While the Indonesian Consulate General in Hong Kong has promised to blacklist Erwiana's employment agency in Hong Kong, there has been no sign that any investigation will take place into her employment agency in Indonesia, PT Graha Ayu Perkasa, to assess whether it could also be held responsible for the abuse. The Indonesian government should treat this case as a timely reminder to review and revise its current law and policy on migrant workers, in accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), to which it is a state party.

In 2004, Indonesia enacted a law on the placement and protection of Indonesian workers abroad. Despite its promising title, the law contains provisions that leave workers abroad at risk of being abused. For instance, the law—and its organic regulation, PER-18/MEN/IX/2007—obliges workers to pay onerous fees to the recruitment agency, putting them in severe debt to the agency. As a result, the workers can hardly refuse the agency's directives, even if they are to stay with an abusive employer, as happened in Erwiana's case.

Leaving their recruitment or employment agency is not an option for Indonesian migrant domestic workers. The 2004 law prohibits direct hiring, meaning it is illegal for an Indonesian migrant domestic worker to be employed without any intermediary such as a recruitment or employment agency. EIAV8N1P03-2.jpg For Indonesian migrant workers in Hong Kong, leaving their current employment agency and joining another one is not permitted unless the workers have surpassed a period of two years.

The practice of overcharging not only places the Indonesian migrant workers in severe debt with the agency, but also results in their underpayment. According to a decree issued by the Minister of Manpower in 2012, an Indonesian worker in Hong Kong, such as Erwiana, shall be charged with a total fee of IDR 14,780,400 or HKD 13,436 by the employment agency. The fee includes the cost of work training, insurance, medical examination, and travel document application. In practice, however, Indonesian workers employed in Hong Kong are asked to pay a total fee of HKD 21,000, deducted from the workers' salary in their first seven months. Since HKD 3,000 is deducted from their HKD 4,010 monthly salary, Indonesian workers in Hong Kong typically receive slightly above HKD 1,000 in their first seven months of employment.

Although Indonesia became a state party to the ICMW in April 2012, little has since been done by the government to enhance the protection of Indonesian domestic workers abroad. While the Indonesian parliament is currently revising the aforementioned 2004 law on migrant workers, there are no substantial changes in the revision draft to help minimise the risk of workers abroad being abused. As in the existing law, direct hiring remains an illegal act instead of an option the workers can consider. The revision draft also fails to address the heart of the issue of overcharging and debt widely experienced by Indonesian domestic workers.

In her 2004 report, the UN Special Rapporteur on migrant workers, Ms. Gabriela Rodriguez Pizarro, expressed her concern on the issue of overcharging experienced by migrant domestic workers. In her recommendations she called for the government to "take initiatives so as to avoid the indebtedness of migrant domestic workers, including agreements which provide that their recruitment costs be covered by the employer and/or recruitment agencies and State credit programmes for migrant women".

Under article 66 of the ICMW, the government of Indonesia is obliged to effectively regulate and monitor recruitment agencies and other intermediaries. The revision draft of the 2004 law on migrant workers should also focus on improving the current inadequate government scrutiny over employment agencies. At the moment, the government supervision only takes the forms of licensing approval and renewal, as well as the imposition of sanctions. In accordance with the Committee on Migrant Workers's General Comment No. 1, the revision of the migrant workers law should enable transparent inspection by relevant government agencies.

### **Conclusion**

The abuse faced by Erwiana, as well as her silence and the lack of support mechanisms that she could access, indicates the grave problems in the realization of the rights of migrant workers. It also points to the discrimination and prejudice prevalent within Hong Kong. The Hong Kong government needs to carefully consider its policies towards migrant domestic workers, as well as admit the value of their work, upon which the city's economy is dependent. Towards this end, not only should it increase support for migrant workers, it should also step up education and awareness campaigns to prevent discrimination within the wider society. How a city treats its migrant workers is a good indication of its respect for human rights, dignity and freedom.