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Subject: [MFA members] Sept 30, 2011 Foreign Domestic Workers win landmark Hong Kong residency case

Maids win right to apply for Hong Kong residency

<http://www.bangkokpost.com/lite/news/259043/maids-win-right-to-apply-for-hong-kong-residency>

A Hong Kong court on ruled a law banning foreign maids from settling permanently in the city was unconstitutional, in a landmark case for domestic helpers.

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Filipina and Indonesian Migrant Workers' Union members, seen here leaving the High Court, in support of Evangeline Banao Vallejos, a Filipina maid who has lived and worked in Hong Kong since 1986. The court on Friday ruled a law banning foreign maids from settling permanently in the city was unconstitutional, in a landmark case for domestic helpers.

The High Court on Friday said immigration laws barring maids -- mostly from the Philippines and Indonesia -- from applying for permanent residency violated Hong Kong's mini-constitution, known as the Basic Law.

The legal action, brought by Evangeline Banao Vallejos, a Philippine domestic helper who has lived in Hong Kong since 1986, has cast a spotlight on the financial hub's treatment of its army of 292,000 domestic helpers.

"My conclusion is that on the common law interpretation approach the impugned provision is inconsistent with (Hong Kong's Basic Law)," Judge Johnson Lam wrote in a ruling issued Friday.

"The mere maintenance of (a) link with her country of origin does not mean that (a maid) is not ordinarily resident in Hong Kong."

Activists said the legal challenge -- the first of its kind in Asia -- would entrench domestic workers' right to equality, but opponents fear it will open the floodgates to the immigration of tens of thousands.

Foreign maids win landmark Hong Kong residency case

<http://sg.finance.yahoo.com/news/Foreign-maids-win-landmark-afpsg-3226134704.html?x=0>

afp On Friday 30 September 2011, 12:46

[A Hong Kong court on Friday ruled a law banning foreign maids from settling permanently in the city was unconstitutional, in a landmark case for domestic helpers.](#)

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Vallejos's lawyer Mark Daly hailed the decision as "a good win for the rule of law."

"We spoke to Vallejos -- she said she thanks God and all the people who have helped her, including her employer and her lawyers," he said. "She is busy working so she has no time to be here today."

Activists said the legal challenge would entrench domestic workers' right to equality, but opponents fear it will open the floodgates to new immigrants in an already overcrowded city.

A pro-government political party has warned there would be an influx of as many as 500,000 people -- including children and spouses of foreign maids -- that would cost HK\$25 billion (\$3.2 billion) in social welfare spending.

The Democratic Alliance for the Betterment and Progress of Hong Kong forecast unemployment could jump from the current 3.5 percent to 10 percent.

The government has declined to say how many maids would currently be eligible to apply for permanent residency.

Under Hong Kong law, foreigners can apply to settle in the city after seven years of uninterrupted residency, but maids were specifically excluded.

Vallejos challenged the restriction, saying it was unconstitutional and discriminatory, but the government argued in court it was "appropriate" and that it is empowered to define who is eligible for residency.

Another court hearing will be held on October 26 on whether Vallejos can now be declared a permanent resident, but government lawyers have already said they would appeal any ruling in favour of the maids.

The case could also have implications beyond Hong Kong for other Asian economies that rely on cheap imported labour for cooking, cleaning and care of the young and elderly.

Foreign maids in Hong Kong are entitled to better working conditions than in other parts of Asia -- they are guaranteed one day off a week, paid sick leave, and a minimum wage of HK\$3,740 (\$480) a month.

But rights groups say they still face general discrimination and a lack of legal protection. A maid's visa is tied to a specific employer, leaving her vulnerable to domestic abuse, the activists say.

Without the right to permanent residency, if dismissed by her employer she must find another job in domestic service or leave Hong Kong within two weeks.

H.K. Maids Win Challenge to Ban on Residency

<http://www.bloomberg.com/news/2011-09-30/foreign-maids-win-court-challenge-in-hong-kong-seeking-permanent-residency.html>

By Debra Mao and Sophie Leung - Sep 30, 2011 9:56 AM GMT+0530

Judge Johnson Lam ruled the immigration law that bars foreign domestic helpers from eligibility for permanent residency "derogates" the meaning of the Basic Law. Photographer: Laurent Fievet/AFP/Getty Images

Hong Kong's High Court ruled a law preventing the city's 300,000 foreign maids from gaining permanent residency is unconstitutional, handing a landmark victory to a Philippine worker whose case polarized public opinion over the rights of domestic helpers.

Evangeline Banao Vallejos, who has lived in Hong Kong since 1986, challenged the rejection of her application, asking the court why expatriates such as bankers and cooks could apply for permanent residency after living in the city continuously for seven years. Judge Johnson Lam ruled in her favor today.

Vallejos's victory, if not overturned on appeal, could open the door for Hong Kong's foreign maids, who constitute about 4 percent of the population, to apply for permanent-resident status after seven years. At least three political parties said an influx would strain the Chinese city's health care, public housing and education resources.

"We are disappointed at today's judgment," said Joseph Law, chairman of the Employers of Domestic Helpers Association in Hong Kong. "We can't accommodate such a sudden influx of population as this would impose a profound strain on our resources."

[Imported domestic helpers in the city are required to live with their employers and aren't allowed to accept other jobs.](#) In 2004, the maids contributed HK\$13.8 billion (\$1.8 billion) to the economy, or one percent of Hong Kong's economic output that year, according to a report by the Asian Migrant Centre, a non-governmental organization.

Basic Law

[Judge Lam ruled the immigration law that bars foreign domestic helpers from eligibility for permanent residency "derogates" the meaning of the Basic Law. The Basic Law is the de-facto constitution that Hong Kong adopted after the British handed the city back to China. The city has 7.1 million residents.](#)

[The ruling "will provide more protection and added benefits to our workers there as they enjoy both the benefits of being a Philippine citizen and a Hong Kong resident,"](#) Philippine Labor Secretary Rosalinda Baldoz said by phone.

Charles Chow, a spokesman for the Hong Kong Security Bureau, said the government is still studying the judgment and will say

whether it plans to appeal this afternoon.

“The government needs to appeal this case,” Paul Tse, a lawmaker representing the Hong Kong tourism industry, said by phone. “This could lead to enormous pressure on our medical, educational and welfare system.”

Special Region

Government lawyer David Pannick argued that Hong Kong's Basic Law allows lawmakers to determine the status of foreign residents and that the maid wasn't eligible to apply.

Hong Kong's population is 95 percent ethnic Chinese, according to the most recent census data from 2006. The special administrative region was guaranteed an independent judiciary for 50 years under the "one country, two systems" framework following the handover from British to Chinese rule in 1997.

Hong Kong's Liberal Party and New People's Party leader Regina Ip have previously called on the government to consider seeking an interpretation of the Basic Law by China's Standing Committee of the National People's Congress over Vallejos' case.

The case is Vallejos Evangeline Banao and Commissioner of Registration, HCAL124/2010 in Hong Kong's Court of First Instance.

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