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Hong Kong Court Overturns Ruling on Domestic Workers

By KEVIN DREW

HONG KONG — A Hong Kong court on Wednesday overturned a ruling from last year that would have allowed foreign-born domestic workers to apply for permanent residency, the latest decision in a closely watched case.

Chief Judge Andrew Cheung, writing for the three-member panel of the High Court, said that an [immigration](#) ordinance restricting residency rights for domestic workers was constitutional, a decision that strikes down a local court ruling from September.

Mark Daly, a lawyer for Evangeline Banao Vallejos, the Philippine-born domestic worker at the center of the case, said an appeal of Wednesday's ruling to the Court of Final Appeal, Hong Kong's highest court is probable, but a decision had not yet been made.

Many foreign-born residents are eligible to apply for permanent residency after living in Hong Kong for seven consecutive years, a status that grants greater rights, like being allowed to live in the territory without a visa, and access to benefits including public housing and social security.

Ms. Vallejos, a domestic worker who has lived in Hong Kong for more than 25 years, challenged the immigration department ordinance and [won a ruling last Sept. 30](#), when a judge called the department's ruling a violation of the Basic Law, Hong Kong's effective constitution since its return to Chinese rule in 1997.

Domestic workers who look after children and perform household chores form the majority of non-Chinese residents in this territory of seven million. They are generally given room and board, work six days a week and earn a minimum wage of 3,740 Hong Kong dollars, or \$480, a month, below that set for other workers.

Rights advocates said that Hong Kong's guaranteed one day off a week and minimum wage are standards for domestic workers that exceed those of other Asian economies. But they called Wednesday's ruling a missed opportunity for the territory to promote the rights of workers across the region.

“This is an example of where Hong Kong could have sent an example,” said Nisha Varia, a senior researcher in New York for Human Rights Watch. “When workers are on temporary contracts, usually they are at higher risk for discrimination or abuse.”

In its ruling on Wednesday, the three-judge panel said the Basic Law does allow the exclusion of foreign domestic workers from consideration for permanent residency.

“It is a category of exclusion not different in kind, but only in degree, from the pre-existing categories of excluded persons, for instance, Vietnamese refugees and imprisoned or detained persons,” Judge Cheung wrote in the opinion.

Polls late last year showed **broad public concern** that granting domestic workers the right to seek permanent resident status could raise the costs of welfare and medical benefits.

An estimated 285,000 foreign domestic workers, most from Indonesia and the Philippines, were living in Hong Kong at the end of 2010, 117,000 of whom had resided in the territory for at least seven years, according to last September’s court ruling, which cited government figures.

<http://www.nytimes.com/2012/03/29/world/asia/hong-kong-court-overturns-ruling-on-domestic-workers.html>