

Beneath the American Flag: Labor And Human Rights Abuses in the CNMI

A report by Congressman George Miller and
Democratic Staff of the House Committee on Resources

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BENEATH THE AMERICAN FLAG

Summary

At the invitation of Governor-elect Pedro Tenorio, Congressman George Miller (D-California), traveled to the U.S. Commonwealth of the Northern Mariana Islands (CNMI) to attend inaugural ceremonies January 11-15, 1998.

While in the CNMI, Congressman Miller conducted a series of meetings with members of the new Administration, legislative leaders, representatives from the business community, garment factory owners, foreign and indigenous workers, federal labor and law enforcement officials, religious leaders and many others. Mr. Miller spent dozens of hours in official meetings, inspection tours, and discussions about immigration, law enforcement, infrastructure needs, and worker rights.

At the conclusion of his fact-finding mission, Mr. Miller expressed great concerns about the CNMI immigration policy, citing its inability to control illegal entries, provide employment guarantees, conduct criminal background checks, and halt drug trafficking, characterizing it as a "major breach in the integrity of the American immigration system." Similarly, Mr. Miller asserted that he remains "deeply troubled by the poor record of the Commonwealth government in enforcing labor laws."

Based on his investigations in the CNMI, Congressman Miller concludes that the existing economy built upon foreign, contract labor constitutes not only a scheme to circumvent the intent of federal trade

policy, but is furthermore a system of indentured labor that is prohibited by federal law. The existing exclusion of CNMI-produced garments from U.S. quota and duty obligations is harmful to American garment workers and their industry. In fact, an estimated 66,400 jobs in the apparel industry in the U.S. mainland have been lost to the CNMI. It does not serve the intended purpose, under the Covenant, of encouraging the growth of indigenous industry to promote employment among the CNMI's permanent citizen population. Combined with the exclusion of those foreign workers from basic safeguards of U.S. labor and immigration law, described later in this report, the current arrangement constitutes an unacceptable breakdown in our system of controlling unfair foreign labor competition.

Congressman Miller calls upon the appropriate federal and local law enforcement officials to take immediate action against practices that chronically place the CNMI's contract work force in this position of exploitation. Mr. Miller's recommendations for immediate remedial action both for the CNMI government and the federal government appear at the conclusion of the report.

Background

The Northern Marianas is a chain of fourteen islands in the North Pacific about one hundred miles north of Guam. Following World War II, the islands were recognized as a Trust Territory of the United Nations and the United States was designated as the administrator of the Trusteeship Agreement.

In a 1975 plebiscite, the citizens of the Marianas voted by an overwhelming margin to become a Commonwealth of the United States. Representatives from the Marianas Islands and the United States negotiated the terms of their relationship in the “**Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States.**” The “Covenant” was approved by the U.S. Congress in 1976 (Public Law 94-241) and became fully effective by Presidential Proclamation November 3, 1986, when CNMI was removed from Trust Status by the United Nations.

The Covenant extended U.S. citizenship to the indigenous people of the CNMI, delineated the responsibilities of the federal and local government, and clarified how provisions of U.S. law would be extended to the CNMI. While most federal laws apply to the CNMI, the Covenant identifies the few which were not immediately applied: the minimum wage provisions of the Fair Labor Standards Act, most immigration provisions of the Immigration and Nationality Act, and the Jones Act restricting the transport of American goods on foreign vessels. Following the termination of the trust status, the Covenant stipulated that the U.S. Congress would retain authority to apply these laws to the CNMI in the future.

As in the case of other U.S. territories, the federal government chose not to apply the federal minimum wage to the CNMI at the outset of the Commonwealth arrangement. This exemption was permitted in order to promote economic growth and to attract business investments. As the economy developed, the local minimum wage was

expected to increase until it matched the federal level. However, the CNMI has made little effort to raise its minimum wage, which has increased only from \$1.35 per hour in 1979 to \$3.05 today, which is equivalent only to the increase in inflation during the intervening years. By contrast, the Commonwealth’s economy has grown substantially, demonstrated by the surge of business gross receipts from \$224 million in 1985 to \$2 billion in 1996.

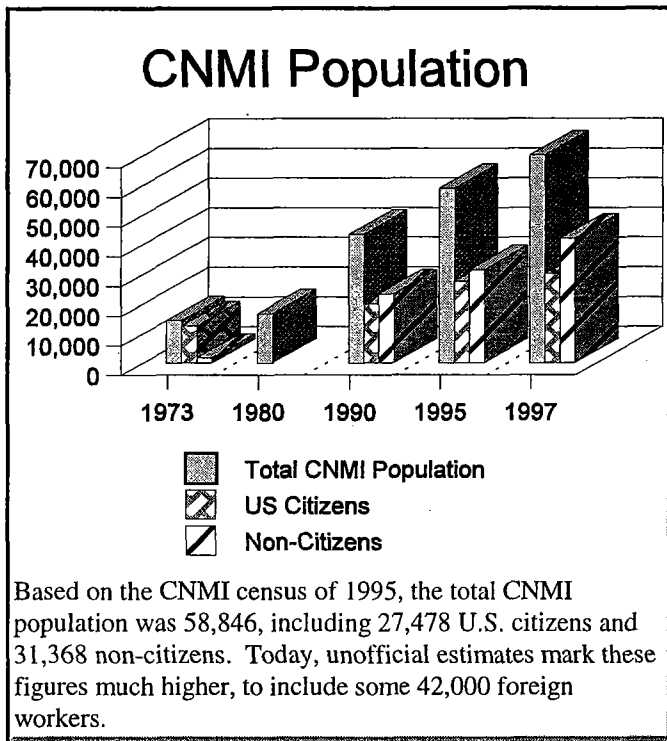
The CNMI was granted temporary authority over its immigration policy because the territorial government sought standards of immigration more stringent than those imposed by the U.S. Immigration and Nationality Act (INA). At the time of the Covenant negotiations, only 15,000 residents lived in the CNMI, and Commonwealth negotiators expressed the fear that application of the INA would allow too many aliens into their borders, undermining their island culture. According to the recent report of the U.S. Commission on Immigration Reform, CNMI residents were concerned that the high level of Asian immigration permissible under the immigration laws of the United States could “irretrievably [alter] the native culture and community.”¹ The CNMI exception was provided to permit the local government “to cope with the problems unrestricted immigration may impose upon small island communities.”² The authority to later bring

¹ U.S. Commission on Immigration Reform, **Immigration and the CNMI**, January, 1998, at 3 (hereinafter “Commission Report”).

² Report of the Committee on Interior and Insular Affairs (Senate Report 94-433)

the CNMI under the national immigration policy was left to the discretion of the federal government.

Contrary to the initial expectation that local management of immigration would ensure tight control over the influx of foreigners, the CNMI immigration policy has led to an aggressive expansion of non-immigrant foreign contract labor whose presence creates serious economic, legal and cultural



problems. Today, unofficial estimates place the total population at nearly 70,000, of whom, 42,000 are foreign workers (the largest portion of the growth in the number of U.S. citizens is due to births to alien workers). Recent reports place the number of foreign workers employed in the Commonwealth's garment industry at

to accompany H.J.Res. 549.

20,000 despite a legal limit of 11,000.³ The current number of foreign workers in the CNMI is at least 2,000 more than the total number of jobs available in the territory - including government jobs that are mostly filled by U.S. citizens.⁴

During the next year, an additional 6,000 to 8,000 foreign workers will be recruited to the island of Tinian to staff the growing casino industry. Tinian currently has an indigenous population of just 4,000 and current foreign worker population of 2,000.

Congressman Miller's Inspection Tour

Congressman Miller is the former Chairman and now the senior Democratic member of the House Committee on Resources, the committee with jurisdiction over U.S. territories. He has long advocated reforms in the CNMI's labor and immigration policies. As Chairman, Rep. Miller conducted hearings on the issue of contract labor and a variety of other concerns involving the use of federal funding provided to the CNMI. In July, 1992 Congressman Miller convened a hearing on the garment industry at which he stated his "grave concerns" about aspects of the industry and conditions of alien workers.⁵ Mr. Miller

³CNMI On Line, March 12, 1998.

⁴ CNMI On-Line "Alien Worker Population in CNMI Exceeds Number of Jobs Available," March 3, 1998.

⁵ Committee on Interior and Insular Affairs, Oversight Hearing, **Policies Related to the Controversial Garment Industry in**

questioned whether the CNMI was enforcing local labor laws and whether the CNMI Department of Commerce and Labor was aggressively seeking violators, noting that “the record would appear to cast doubt that it is.”⁶ Mr. Miller voiced concern about the treatment of foreign workers stating, “I am concerned by the attitude that it is acceptable to underpay and mistreat alien workers who are willing to accept substandard conditions in the CNMI that are better than their homeland. It is unacceptable when U.S. farmers abuse Mexican field workers, and it is unacceptable when the CNMI garment manufacturers abuse Chinese workers. It cannot be tolerated anywhere.”⁷

Mr. Miller’s concerns at the 1992 hearing mirrored concerns about immigration and labor conditions expressed by both the Reagan and Bush Administrations. In 1986, President Reagan’s Interior Assistant Secretary of Territorial and International Affairs recommended the CNMI take “timely and effective action to reverse” the current immigration system and proposing a ceiling of 1,200 foreign workers for the garment industry. Today, there are 20,000 people, mostly foreign contract workers, employed in the garment industry in the CNMI. Under President Bush, the Assistant Secretary for Territorial and International Affairs testified before Congress that “growth in the CNMI has been largely built with (one), alien labor, (another) CNMI minimum and subminimum wages,

the Northern Mariana Islands, July 30, 1992, Serial No. 102-95.

⁶ Id. at 38

⁷ Id. at 38-39.

(another) General Headnote 3(a) [favorable tariff treatment on goods from the CNMI entering the U.S.], as well as the tax breaks and rebates, and finally the Federal financial assistance.”⁸

Although Administrations and Members of Congress have harbored serious concerns about policies in the CNMI since the 1980’s, the annual payment of mandatory funds pursuant to the Covenant continued to be provided the CNMI government for capital improvement projects and government operations. Mr. Miller led the effort in the House during the consideration of the 1993 Omnibus Reconciliation legislation (HR 2264) to reduce the \$27.7 million in annual federal payments in response to the CNMI’s refusal to address widespread abuses of foreign workers or to alter its immigration and labor policies. Although Mr. Miller’s effort passed the House, it died in the Senate. A reduction in Covenant funding was ultimately achieved following the passage of Public Law 104-134, which decreased annual payments to the CNMI from \$27.7 million to \$11 million annually and required a 100 percent local match on these funds which are to be used for infrastructure improvements.

Despite several requests during the 105th Congress by Congressman Miller to Chairman Don Young to hold hearings on problems in the CNMI and continue the oversight he began in the 1990’s, hearings have not been scheduled. In 1997, the Democratic staff of the House Resources Committee prepared and released a report on the long record of continuing labor and human rights abuses associated with the

⁸ Id. at 289.

extensive reliance on foreign contract labor in the CNMI.⁹ During 1997, a number of reports were published detailing serious problems in the Commonwealth's administration of its labor and immigration policies. With the exception of a report by the Washington-based Hay Group, commissioned by the CNMI government at a reported cost of \$1.48 million, all were highly critical of conditions and advocated a variety of sweeping reforms.

President Clinton informed then-CNMI Governor Froilan Tenorio on May 30, 1997, of the Administration's concerns about the labor and immigration policies of the Commonwealth in a letter stating "certain labor practices in the islands . . . are inconsistent with our country's values."¹⁰ In July 1997, the Clinton Administration issued its own inter-agency report that corroborated the conclusions in Rep. Miller's earlier study and likewise called for federalization of labor and immigration laws.¹¹

Official concerns about conditions over the past year in the CNMI have been matched by increasing news media attention to the unceasing allegations of labor and human rights abuses, housing conditions, and efforts by the local government to influence

⁹ **Economic Miracle or Economic Mirage?** (1997).

¹⁰ Letter to the Honorable Froilan C. Tenorio from President Bill Clinton, May 30, 1997,

¹¹ **Federal-CNMI Initiative on Labor, Immigration and Law Enforcement in the CNMI**, July, 1997, (hereinafter "CNMI Report").

the U.S. Congress to ignore corrective legislative actions.¹² The government of former Governor Froilan Tenorio [1994-1998] engaged a Washington, D.C. law firm to conduct various activities on behalf of the CNMI to avert federalization, including the sponsorship of trips by nearly 100 congressional staff (and some Members of

¹² **20/20 ABC News**, March 13, 1998 (Is This the USA?); **The Hill**, March 25, 1998 ("Memo Raises Questions about Marianas Lobbying"); **Journal of Commerce**, March 6, 1998 ("Saipan in Midst of Textile Conflict"); **Philadelphia Inquirer**, February 8, 1998 ("For Workers, Island Jobs can be a Losing Proposition" and "Your Pricey Clothing is their Low-Pay Work"); **Time Magazine**, February 2, 1998 ("Give Me Your Tired, Your Poor, and the Northern Marianas - A U.S. Possession - Will Put them to Hard Labor"); **New York Times**, January 22, 1998 ("Congressional Fact Finding in Saipan: They Came, They Saw, they Golfed"); **Gannett News Service**, January 16, 1998 ("Made in USA May Come from Mariana Sweatshops"); **Roll Call**, January 8, 1998 ("DeLay, Family Latest Visitors to Marianas"); **AP Report**, January 5, 1998 ("NMI Finds Economic Loophole"); **Houston Chronicle**, January 5, 1998 and December 24, 1997 ("Mexican Guest-Worker Plan in U.S. is Pushed by DeLay" and "Conservative Lawmakers Flocking to Pacific Island"); **National Journal**, December 13, 1997 ("American Dream or Pacific Nightmare?"); **Washington Post**, April 2, 1996 ("Steering Clear of Issues on Saipan"); **Readers Digest**, June 1997 ("Shame on American Soil").

Congress) to the Commonwealth to meet with various officials and private citizens. Few of these visitors were from Congressional committees with oversight responsibilities for U.S. territories or possessed any substantial knowledge about the CNMI. At last report, the local government had expended \$4.25 million to the law firm, a substantial sum considering the reported \$35 million debt of the CNMI government. Additional sizeable retainers were paid to lobbyists and consultants, including former Secretary of the Interior Manuel Lujan, Jr. (\$208,000) and the law firm of former Governor John Waihee of Hawaii (\$258,000).

The CNMI held an election in November, 1997, which resulted in the overwhelming defeat of the incumbent administration and its replacement with Governor Pedro P. Tenorio (who previously had served two terms as Governor from 1982-1990) and Lieutenant Governor Jesus Sablan. In response to an invitation from the governor-elect, Congressman Miller visited Saipan to attend the inaugural ceremonies and to discuss the various issues of concern with a wide range of public officials (both local and federal) and private individuals.¹³

¹³ The delegation included Congressman Miller, John Lawrence, Democratic staff director of the Committee on Resources, and Marie Howard Fabrizio, Democratic territorial affairs specialist for the Committee. Substantial preparation for the investigatory trip was performed by Democratic Committee legislative assistant Carrie Moore. The inspection visit was entirely financed by federal funding through the Department of Defense/Air Force. Major Douglas Wreath, USAF, served as military

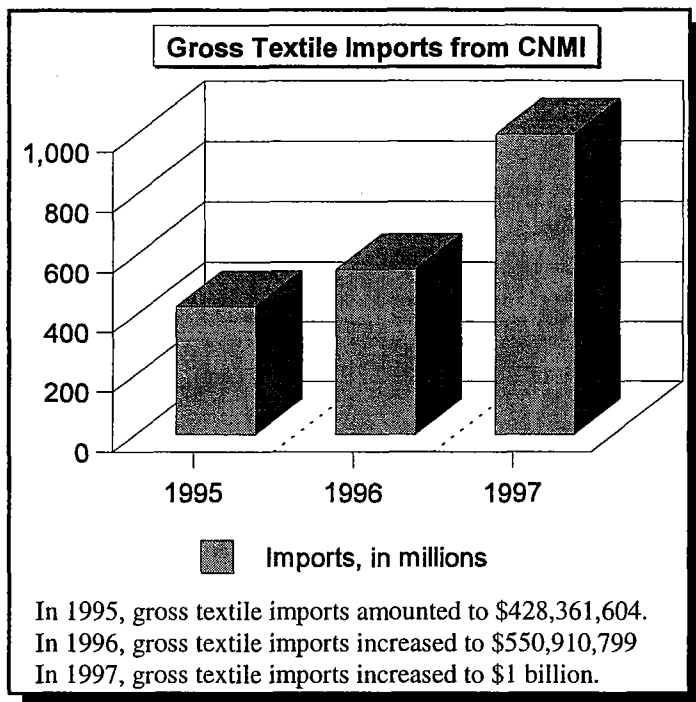
CNMI Is Scheme for Averting U.S. Textile Quotas and Duties

Although the CNMI technically is outside the U.S. customs territory, products manufactured there enter the United States duty and quota-free under General Note 3(a)(iv) of the Harmonized Tariff Schedule, a privilege that commonly is extended to U.S. territories

As a result, garment manufacturing in the CNMI, to the detriment of the mainland garment industry and its employees, enjoys maximum benefits of its membership in the United States family, while simultaneously enjoying multiple competitive advantages of lesser developed trading partners. Originally intended both to provide a large domestic market for CNMI products and to create local jobs for U.S. citizens, the current arrangement provides goods manufactured in this territory full and unhampered access to our domestic market although they are only marginally, at best, American-made products.

Of the 29 operating garment factories in CNMI, at least 19 (nearly 70 percent) are owned by foreign interests, and only 9 have any U.S. shareholders. The remainder are owned by interests in Korea, Hong Kong, Japan, Thailand, and China, including the Chinese government. The CNMI government actively solicits foreign investment to take advantage of its unique trade arrangement with the rest of the United States, advertising the litany of special

liaison. A list of many of those with whom the delegation met is contained in Appendix I.



substantial increase in the past five years. The CNMI now outproduces and out-exports countries such as Jamaica and Malaysia, nations with populations as much as 1,900 times larger than the Marianas. If, instead of enjoying duty-free treatment, CNMI manufactured garments paid the duty normally charged foreign-manufactured clothing, by conservative estimates the U.S. Treasury would collect almost \$1 billion over the next five years. Indeed, the President's FY 1999 budget assumes revenues of this amount from CNMI imports if legislative changes he has recommended to modify the duty-free status of CNMI products are adopted by the Congress.

The Commerce Department concludes that 85% of the apparel imported into the U.S. from the CNMI -- such as

privileges granted to investors in the CNMI: "Export duty free to the United States - Headnote 3(A) duty free status for manufactured products"; "Favorable tariff treatment... to the international market"; "Visa free borders," and "exempt from U.S. minimum wage laws."¹⁴

The U.S. apparel industry has lost 66,400 jobs between 1990-1996 in the manufacturing of products produced in the CNMI.

shirts, blouses and suits - is considered to be "sensitive apparel," the manufacture of which is facing significant decline in the U.S. due to heavy import penetration.¹⁵ In the continental United States, the apparel industry has lost 205,800 jobs since 1996, and the segments of the industry that produce products which are manufactured in the CNMI by foreign labor have lost over 66,400 jobs between 1990 and 1996.¹⁶ This dramatic negative impact on apparel industry jobs in California, New York and Texas, where the largest number

All garments manufactured in these CNMI facilities are sent to the U.S. mainland for sale. During 1997, exports to the U.S. amounted to nearly \$1 billion (wholesale value) worth of garments, a

¹⁴ Internet at <http://www.saipan.com/gov/branches/executive/invest.htm>

¹⁵ Congressional Record, Statement by Senator Akaka, July 31, 1997, at S8553.

¹⁶ CNMI Report at Appendix VII.

of apparel workers are employed, perhaps could be rationalized were other Americans acquiring the jobs, as anticipated in the U.S.-CNMI Covenant. But virtually all of the jobs in the Commonwealth's garment industry are occupied by foreign, temporary, labor working under 1 or 2 year contracts that often are extended for years.

The foreign garment industry has chosen to locate in the CNMI to circumvent U.S. duties and quota restrictions. Foreign manufacturers could easily produce identical clothing products in their home nations, using the same foreign cloth, the same foreign factory managers, and the same foreign workforce they now export to the CNMI. Moreover, they could do so substantially cheaper than the cost of producing garments in the CNMI where the subminimum wage is still higher than wages paid in China, Korea or Thailand. The *only* advantage of locating the cutting and assembly phase of the garment manufacturing process in the CNMI is to take advantage of the duty and quota exemptions provided to the CNMI by the U.S.

Garments so manufactured in the CNMI are entitled to carry a "Made in USA" label and in some cases, use a label stating "Made in Northern Mariana Islands, USA." On factory tours, the Miller delegation witnessed the manufacturing of garments from such U.S. companies including Gear, The Gap, Liz Claiborne, Banana Republic, Old Navy, J.C. Penny, Ralph Lauren, St. Johns Bay, Champion, Abercrombie & Fitch, Herman Geist, Cabin Creek, High

Sierra and, Brooks Brothers.

Consumers are easily deceived by CNMI labeling practices into believing that they have purchased a garment manufactured by U.S. workers and in compliance with all U.S. labor laws and legal protections to which every worker in the United States has a right. Those standards include compensation at the federal minimum wage, appropriate payment for overtime work,

clean and safe workplaces, and full protection of their civil and constitutional liberties.

American consumers are rightfully shocked to learn that these labels are regularly affixed to millions of garments produced in the foreign-owned and foreign-staffed garment factories in the CNMI. Indeed, very little is

The only advantage of locating foreign garment factories in the CNMI is to benefit from the duty and quota exemptions



This label denoting "Made in USA" is used on garments manufactured in the CNMI

"American" about these garments when they enter our markets and directly compete with legitimately labeled domestic textile products.

Historically, the integrity of the “Made in USA” label has been fiercely protected by the U.S. Congress. When the Federal Trade Commission was considering a proposal in 1997 to reduce the percentage of domestic content allowed in products that could bear this label, the Congress quickly and strongly objected. In both the House and Senate, widely-supported resolutions to maintain the current standard for the label were introduced.¹⁷ In addition, a bicameral and bipartisan letter was sent to the Chairman of the Federal Trade Commission, in which Congress reiterated its stance that “neither we nor the American people will tolerate any lowering of the standard for the “Made in USA” label.”¹⁸ The proposal to weaken the “Made in USA” label was quickly scuttled.

Contract Labor in CNMI Violates US Law

The foreign contract labor system widely used in the CNMI appears to violate the Trade Act of 1930 (19 USC Sec. 1307) by importing to the United States products manufactured by indentured labor. Evidence of the status of indenture abounds:

- **Workers who are recruited for jobs in garment factories and other private employment in the CNMI must pay, in nearly every case, fees as high as \$7,000 to recruiters as a pre-condition of employment.**
- **Workers are obliged to remain in employment, including**

prostitution and other immoral activity, against their will in order to repay fees.

- **Under CNMI law, workers are unable to change employers.**
- **Workers have little freedom of movement. They are prohibited from or advised against leaving their barracks and other residences where they are under the constant supervision of employers.**
- **Workers sign contracts with recruitment agencies and with employers that restrict their freedom of speech, freedom of religion, ability to seek alternative employment, engage in social activities, and other common and protected behavior.**

While federal legislation extending U.S. labor and immigration law to the CNMI is urgently needed, it is indisputable that the financial and managerial arrangements that characterize not only the garment industry but all other forms of private sector employment of foreign workers in the CNMI cannot be reconciled with either the U.S. Constitution or federal statutes.

Raising the minimum wage, imposing U.S. immigration controls and improving labor law enforcement will have beneficial impacts on both foreign and indigenous labor, and Congress should pass pending legislation without further delay. However, even if those changes in law are not achieved, the Department of Justice and the Customs Service, as well as private parties with standing should initiate appropriate legal actions against both the government of the CNMI and private employers and recruiters to compel immediate changes in

¹⁷ H. Con. Res 80 and S. Con Res. 52

¹⁸ See Congressional Record October 30, 1997, page S11445.

the recruitment system and the labor conditions that are commonplace in the Commonwealth, as well as actions to challenge the admissibility to the United States market of products manufactured under conditions that clearly constitute indentured labor.

Conditions in Garment Factories and Barracks

The quality of working and living conditions in CNMI garment factories and barracks is varied. The CNMI caters to factories that are crowded, unsanitary and noncompliant with Occupational Safety and Health Administration (OSHA) regulations. CNMI government authorities fail to rigorously enforce adherence with proper conditions to discourage companies from skirting the law.

Arguments by CNMI officials and business leaders that local enforcement has remedied past problems are not borne out by the facts.

Previous local inspections and fines are intermittent and ineffective. Violations of OSHA rules have been

frequent and numerous; during the first half of FY1997, OSHA sent four inspection teams to the CNMI and found over 500 violations in labor barracks and nearly that same number in the construction industry, which is similarly populated by contract foreign labor. During the most recent inspections in February 1998, the OSHA Regional Administrator noted in an interview with the local news that working conditions are worsening and more workers are living in poor conditions. Inspectors

In a recent OSHA inspection, the Regional Administrator noted that working conditions are worsening and more workers are living in poor conditions

found that workers barracks are unhealthy, with overcrowding, unsanitary facilities, dirty and inoperable toilets, dirty kitchens, and electrical hazards.¹⁹ Further, he noted workers being abused or fired for complaining about poor facilities.

Following these federal OSHA inspections and three weeks before hearings in the U.S. Senate on labor and immigration conditions in the CNMI, the local government has embarked upon surprise inspections of its own at various garment factories to check for illegal workers and safety violations. At Marianas Fashion Inc, inspectors found the emergency exit nailed shut and tape covering smoke detector sensors.²⁰ Advance Textile Corporation was cited for electrical wiring problems and dysfunctional air conditioning, and at a Tan Holdings Corporation's factory, an unlicensed nurse and illegal medical clinic was discovered.²¹ CNMI government officials have stated that a different garment factory will be targeted

for inspection each day, because the garment industry has failed to adequately police itself for violations.

Congressman Miller toured several garment factories in Saipan. Some factories appeared clean and well-ventilated. The codes of conduct from

¹⁹ Marianas Variety, "Labor Camps Worry OSHA," February 23, 1998.

²⁰ Marianas Variety, "Garment Raids Start," March 11, 1998.

²¹ Pacific Daily News, "CNMI Crackdown," March 13, 1998.

each contract were posted in only some of the factories, while workers' rights and safety rules were posted in some others. These messages were printed both in English and the local languages of the workers. Other signs, such as those in barracks indicating the freedom to use restroom facilities during the course of the work day, were written only in English and obviously designed for the sole benefit of U.S. visitors. Some factories were dimly lit, and had large amounts of waste material on the floor, exposed wiring and blocked exits.

Numerous garment workers provided Congressman Miller with alarming testimony about frequent overtime violations, including the common practice of working "off the clock" without pay. Workers who made a mistake during regular working hours are sometimes required to correct the mistake through uncompensated labor, a violation of local and federal labor law. Rep. Miller was told of another local factory that is open 24 hours each day where workers regularly toil 12 hours daily, seven days a week with just one day off every three months. Other workers are compelled by factory management to work 10 hours a day, even though an inspection of their time cards showed they only worked eight. The last two unpaid hours are considered "contributions to the company," involuntary donations that occur 2-3 days each week. New employees, the delegation was told, must contribute several days to the company. In one of the factories visited by the Miller delegation, managers asserted that workers did not labor more than 10 hours daily, although an examination of their time cards clearly indicated that 12 hour days and more were frequent. The delegation also was informed that a factory that claimed to halt work at 7 p.m. actually recalled its workers

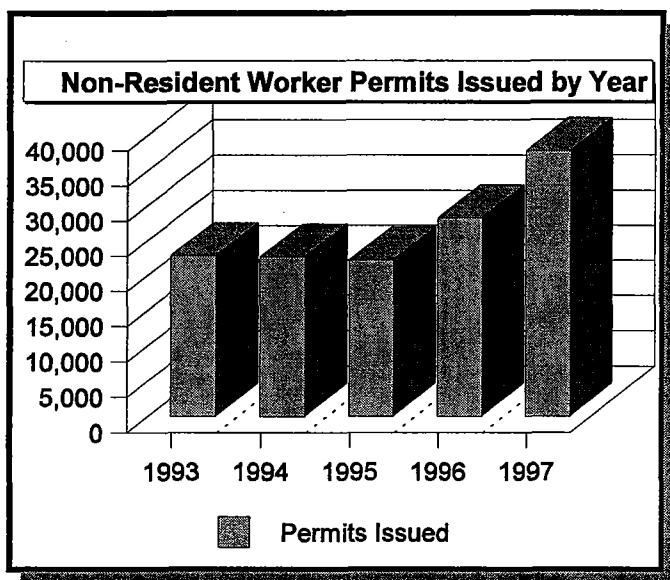
to resume work after the delegation had completed its inspection tour.

Most factories provide housing for their workers, either on site or nearby. Employers charge each employee up to \$100 per month for housing and another \$100 monthly for food, the maximum rates allowed. The conditions of the company housing vary greatly. Congressman Miller visited the barracks for one of the largest factories in Saipan owned by a highly profitable company. The living quarters barracks were crowded, and the lighting both indoors and outside was poor. As witnessed by staff who arrived several days prior to Rep. Miller, portions of the barracks had been repainted only a day or two in advance of Miller's well-publicized visit to the CNMI, but electrical wiring was exposed and rubble remained strewn throughout the area. No drinking water is provided in these barracks, a clear violation of health and safety rules. Instead, workers must haul water to their living quarters from the nearby factory. The kitchen consisted of a hotplate. Even for these degrading accommodations, the workers are each charged \$100 every month.

By contrast, another employer maintains modern, clean, and reasonably roomy barracks for his employees. Recently constructed of pre-fabricated materials, these facilities also offer clean recreation and dining rooms. It was instructive that employees at this facility are charged the same rate as that charged employees at the dilapidated barracks described above.

There are disputes about the ability of guest workers to leave the barracks where they live, which often are surrounded by barbed wire and are always guarded. In the recent

past, employees were prevented from leaving the premises, a practice that was relaxed after federal officials warned employers that workers kept within the



factory grounds after work hours were considered “working” and therefore owed overtime pay. Congressman Miller received numerous reports of workers being restricted from leaving the grounds, of names being kept of those who left the barracks, and of requirements that workers return at precise hours or face reports to management. Foreign workers are kept largely isolated and are largely invisible to CNMI visitors and residents behind factory walls and barbed wire enclosures.

Immigration

The inapplicability of United States immigration law and the ineffective enforcement of CNMI statutes is at the heart of many of the most serious problems affecting the territory. Despite the expenditure of millions of federal and local

dollars, advice from the INS, and promises of improvement, the local immigration policy and enforcement is a shambles, facilitating the exploitation of foreigners aspiring to work in the CNMI. That failure creates a serious breach in our national immigration policy with respect to drug enforcement, the entry of organized, international gang members to the United States, and serious health concerns.

The two-tier society built in the CNMI and the vulnerabilities to exploitation of the foreign workers has been a subject of concern to U.S. administrations since the mid-1980s. As previously noted, President Reagan’s Assistant Secretary of Territorial and International Affairs (Department of the Interior) sent a letter to the CNMI Governor recommending the CNMI take action to reverse the current lax immigration system noting, “I must consider proposing Congressional enactment of U.S. Immigration and Naturalization requirements for the NMI” and proposing a ceiling of 1,200 foreign workers employed in the burgeoning garment industry.²² That recommendation was wholly ignored by the local government, which continued to aggressively recruit the garment industry which almost exclusively employs foreign workers. Today, there are reportedly more than 20,000 foreign workers in the garment industry, and approximately 42,000 in the CNMI overall. In 1997, more than 37,600 work permits for foreign guest workers were issued, including both new admissions and extensions for current employees. Efforts to improve the local immigration system have been weak and predictably unsuccessful.

²² CNMI Report at 3.

Although currently there is in place a legal cap of 11,000 on the number of workers the garment industry may employ, this cap clearly has been ignored. Recent press reports note that the CNMI legislature has passed legislation placing a moratorium on hiring foreign workers for many industries, including the garment industry, although an exemption is permitted to allow the importation of thousands of foreign workers for the new casinos on Tinian.²³ This is an overdue and limited step in the right direction, but only time will prove the commitment of the new Administration to enforcing the moratorium. Governor Tenorio has stated that this action is not in response to concerns by the federal government about the growing number of foreign workers in the CNMI but rather to employ local and foreign workers who have been displaced by the economic slowdown.

Federal officials estimate that as many as 7,000 illegal aliens reside in the CNMI,²⁴ and the U.S. Department of Justice has determined that the level of organized crime is increasing. The existence of dual immigration systems creates, in the view of numerous federal officials who spoke with Congressman Miller, multiple serious enforcement difficulties and encourages deceptive practices aimed at taking advantage of the CNMI's loose immigration system in order to gain entry to the United States.

Far from succeeding in controlling foreign immigration, the local government has fashioned an immigration policy whose

²³CNMI News On Line, March 12, 1998

²⁴ CNMI Report at 12.

major purpose is to *facilitate* the importation of tens of thousands of temporary workers. Indeed, the U. S. Commission on Immigration Reform has concluded that the CNMI's immigration system "is susceptible to human rights and labor abuses that are at odds with the principles ... to which the Commonwealth adhered in becoming part of the United States."²⁵

The local immigration agency lacks adequate controls or capability to enforce what minimal requirements currently exist to protect both local residents and the guest workers. Law enforcement officials have raised concerns about serious corruption in the CNMI's immigration bureaucracy. As a result, these officials, among others, have reported that the influx of drugs and gang members is on the rise, and that few safeguards exist to prevent the abuse of those from abroad who seek work in the CNMI. One federal law enforcement official told the delegation of a specific criminal element who was denied access to the U.S. through Hawaii only to be seen on the streets of the CNMI just weeks later.

Unlike the rest of the United States, the CNMI maintains a system in which the temporary workers are used to fill permanent low-skilled jobs. The Commission on Immigration Reform has concluded the current policy "is antithetical to the principles that are at the core of U.S. immigration policy."²⁶ While U.S. immigration law permits the entry of guest

²⁵ Commission Report at 18.
"[L]arge-scale guest worker programs are inconsistent with the values of a liberal democracy." 20.

²⁶ Commission Report at 4.

workers on a temporary basis to work at seasonal jobs and others for which no domestic employee is available, CNMI policy permits the staffing of major employers in the territory -- garment factories, security companies, the hotel industry -- with a permanent floating army of foreign workers who have no opportunity to become permanent members of the community and who, by nature of their status, culture and powerlessness, are extremely vulnerable to exploitation, pressure and mistreatment.

Despite CNMI laws requiring employers to provide a work contract, a financial bond and a return ticket for each worker, enforcement seems sporadic. Because of the conditions under which these workers enter the CNMI and the tenuousness of their rights to remain, they live in a permanent state of uncertainty and vulnerability to exploitation and abuse. In many cases, employers are insolvent by the time they are supposed to pay the costs of return airfares for their employees, leaving foreigners without resources and unemployed in the CNMI. Congressman Miller was told of many such instances while in the CNMI.

Under federal immigration law, prospective guest workers may not enter the United States without certification that a job actually exists once they arrive. Indeed, a central feature of the U.S. immigration system is the prescreening of anyone seeking to enter the country. Moreover, those arranging for such workers to come to the U.S. on a temporary basis have a high level of legal and financial culpability. By contrast, the CNMI Department of Labor and Immigration (DOLI) does not require a visa or any pre-admission review. Nor, according to the Immigration Commission,

is it likely to develop that capacity since the CNMI lacks overseas embassies and consulates that typically perform these services.²⁷ Prescreening certainly would reduce instances of fraud among the thriving recruitment industry, upon which many employers rely as a source of labor, as the very existence of the promised jobs would have to be first verified.

There is an inherent conflict in the missions of the two parts of DOLI. The "Labor" portion of the agency is geared to promoting the availability of employees for the rapidly growing garment industry and other aspects of the Commonwealth's business community that is dependent on foreign contract labor. The "Immigration" component is supposed to be concerned about enforcement of the CNMI's controls on those entering the Commonwealth. Not only would separation of these two functions make sense from a policy perspective, but Gov.-elect Pedro P. Tenorio's transition committee stated that the combination of their functions violates "existing [local] immigration laws."²⁸

Finally, it is important to note that the children of foreign workers who are born in the CNMI *are* U.S. citizens, and upon birth

²⁷ See the Immigration Commission report for a discussion of the Labor and Immigration Identification and Documentation System -- LIIDS -- that is being developed with federal financial and technical assistance.

²⁸ CNMI News on Line, "Transition Committee Recommends Elimination of 10 Offices, Privatization of Hospital," February 12, 1998.

become eligible for a wide variety of federal protections and benefits, including Medicaid.²⁹ Congressman Miller was informed that almost one-half of the births in the CNMI are to mothers who were born in Asia, and that a substantial proportion of the growth in the U.S. citizen population is, in fact, attributable to these births.

The Recruitment Scheme

Foreign workers are recruited to labor in the CNMI by agencies operating in the CNMI, China, Bangladesh, Sri Lanka, Korea and elsewhere whose legal and financial connection to the company ultimately employing them in the CNMI is obscured. It is illegal for companies to hire overseas directly, although collusion is likely. The recruiters advertise good paying jobs in the United States, a lure to impoverished men and women living in severely underdeveloped nations.

Each prospective worker must pay a fee ranging from \$2,000 to \$7,000 to the recruiting agency prior to departing for the CNMI. Portions of that fee, it is asserted, finds its way to the local government, the employer and others. Workers told Congressman Miller that they raise this high recruitment fee from a variety of sources:

²⁹ It should be noted that no federal Women, Infants and Children supplemental nutrition program (WIC) currently exists in the CNMI. Many of the children born of foreign workers are extremely poor and potentially at risk. In addition, many employers do not provide pregnancy health benefits to contract laborers and employees sometimes are fired when they become pregnant, terminating any medical coverage they might have enjoyed as an employee.

sale of a family's land, possessions or business; contributions from residents of a village; and from loan sharks charging as much as 5 percent per month interest. Typically, the fee must be repaid in six months although some told Congressman Miller of 3 month timetables. Repayment of this recruitment fee, even if owed to family members, becomes the overriding obligation of each foreign worker entering the CNMI. Returning home without having earned the money to repay this debt is, in most cases, simply untenable.

It appears likely, based on extensive interviews and discussions, that recruitment itself has become a highly lucrative industry, with recruiters, agencies and in some cases employers earning hundreds of thousands of dollars by luring guest workers to the CNMI.³⁰ Victims of fraudulent recruitment schemes, paying exorbitant fees for jobs that either do not exist or were misrepresented. It is common for workers to be recruited for one job but, upon arrival, to be forced to participate in other work. Frequently young women are recruited to be waitresses but are forced into prostitution when they arrive in the CNMI. Federal law enforcement officials have expressed frustration at the difficulty in prosecuting cases against recruiters since they are obligated to demonstrate that there was a false promise of a job to the workers before arriving in the CNMI, a daunting task given the nature of the recruitment practices in Asia. Moreover, the CNMI cannot maintain diplomatic offices in the countries where workers are

³⁰Some asserted that employers know little about the recruitment business, although even one employer making such an assertion did admit attempting to ensure the recruitment fee was "reasonable."

recruited, making enforcement even more difficult. Nevertheless, the CNMI issues entrance and work permits to these workers when they arrive.

Workers thus recruited are supposed to sign a contract with an the employer for whom they have been recruited. Such employers include foreign governments, particularly China, that own garment factories operating in the CNMI. This contract is to stipulate the precise terms of employment including duration, remuneration and obligations of the employer and the employee. Workers from China also reportedly often sign so-called "shadow" contracts that contain strict prohibitions on a number of activities that violate the human rights of that individual and arguably a number of federal laws, including restrictions on the practice of religion, the rights of organization and of free speech.

This contract is supposedly the basis upon which the DOLI issues to each worker, upon his or her entry into the CNMI, a plastic card that identifies both the bearer and the employer who has promised a job. As demonstrated to Congressman Miller, however, such cards are regularly issued by DOLI whether or not a job actually exists. In many cases, even the employer no longer exists or never did. In one case, the individual listed on the entry card as the "employer" was well known in the community to be only an employee in another company with no ability to offer employment to the foreign workers. Several protests by unemployed workers have taken place in the last year, including marches to the offices of the U.S. Department of Labor. However, the federal agency currently has no jurisdiction in such circumstances.

It currently is the responsibility of the CNMI DOLI to monitor recruiters, although the agency does not regularly or successfully prosecute violators. One DOLI official said, "usually what happens is that we finally give a big judgement against them (recruiters) and they disappear."³¹ The official went on to state the CNMI "is an easy place to disappear from and (there is) very little that they can do."

The Chinese construction workers. In a particularly egregious case, Congressman Miller met with several young Chinese men who had been recruited at a cost of \$7,000 apiece on the promise of making \$1,000 a month in the construction industry on Saipan. They were initially denied entry into the CNMI because they were told their prospective employer, JNJ International, a Chinese-Korean partnership, was bankrupt (although there was wide speculation that they were temporarily denied entry because of the presence of federal officials). Although these men asserted they had signed no contract with JNJ, they were admitted one month later to work for the same supposedly bankrupt employer, who abandoned them. Because they were thus abandoned, they were given the right to look for another employer in any field, although the difficulties of doing so given their language barrier, lack of transportation and impoverishment was severely limited. Their legal case was finally resolved in late January, 1998 with a \$1.2 million judgement against JNJ; however, by that time, the responsible company officials allegedly

³¹ Marianas Variety, "DOLI Official Admits Bad Policies," January 29, 1998.

Congressman Miller asked several Chinese construction workers if there was anything he might do to help the men cheated out of thousands of dollars and denied jobs. "Yes," they responded. "Could you help us arrange to sell one of our kidneys so we could have enough money to return home?"

had fled the CNMI and the Chinese men were incapable of recovering their judgement. The men told Congressman Miller they dared not return to China without the money to repay the loan sharks who had advanced them their recruitment fees. In desperation, they asked the Congressman if he could help them arrange the sale of their kidneys to cover their loans and finance their return to China.

The Chinese bar girls. Congressmen Miller met also with several young Chinese women who had paid \$5,000 apiece in recruitment fees to work in restaurants in the CNMI. None reported being shown a contract prior to arriving in Saipan, as is required by law. They were admitted to the CNMI in June, 1997, and were told there were no restaurant jobs available. Instead, they were sent to work at a karaoke bar and told to follow the manager's instructions, which included drinking and engaging in sexual activities with customers, often in small cubicles in the club or in hotels. Destitute and with no way home, the young women had little alternative but to comply with the demands of their new employers. They reportedly received no pay for their

prostitution activities, the money (called "barfines") being paid to the employers. They were told that if they refused, they would be beaten or deported. They reportedly were taunted with threats of how easy it is to kill or beat people. Reportedly, the mother-in-law of the employer's wife was the person who had recruited them in

Several young Chinese women told Rep. Miller that they worked seven days a week for five months without pay, confined to their barracks and forced to participate in prostitution with customers of the bar.

China, and she issued threats that they or other members of their families would be killed if they prematurely returned to China. After working for five months without a day off and with no pay other than occasional tips, living in rooms supplied by the employer where they had to purchase their own food, they sneaked out of the club with an unsuspecting customer. Despite threats, they filed a complaint with the DOLI (thereby virtually assuring them no additional employment in the CNMI). Congressman Miller was told that the agency reportedly investigated their complaint, met with the owners of the club, and took no further action.

The Bangladeshi Men. By most counts, more than 2,000 young men from Bangladesh were living in the CNMI as of January, 1998. Most are abandoned, many never had jobs despite the payment of fees as high as \$6,000 apiece to an agency which provided them an entry permit but no copy of the employment contract they signed prior to departing for Saipan. Upon arrival in the

CNMI, they were issued plastic entry cards by DOLI which included the names of various employers who either did not exist or who denied having jobs for them. Destitute and abandoned, many Bangladeshi men are living in squalid rooms (see photographs), pooling money, food and supplies from those who find occasional work. Many find work temporarily for security companies, but often they are paid late or not at all, for months at a time. The men showed the delegation stacks of bounced checks from a variety of security companies, many of which continue to operate despite their failure to pay wages in accordance with local law.

Other Bangladeshis told Rep. Miller of having been recruited on a promise of working in garment factories and of being told they could take a train from Saipan to Los Angeles. Each paid a recruiter between \$4,500-5,000, and was given an entry card upon arrival that listed "farming" as the job for which they were to be admitted, although there is little farming on Saipan. Instead, they were given jobs as security guards and were paid with checks that regularly bounced from two separate banks. Some reported working as much as 980 hours, over 6 months, without any compensation.

Despite these conditions, few indicated a willingness to return to Bangladesh until they are able to pay back their recruitment fees, placing them in a long term cycle of indebtedness and vulnerability. Their preference for remaining in the CNMI, despite infrequent work and less frequent pay, was not because they anticipated great opportunities, but because their economic prospects -- and therefore their possibility of repaying their indebtedness -- were even more dismal in Bangladesh. The

Bangladeshis remain a highly visible group in Saipan and are often subjected to racial abuse and violence from local youths, as confirmed by law enforcement officials.

Congressman Miller requested Governor Pedro P. Tenorio to take action on behalf of these men. Destitute and susceptible to further abuse, these men are vulnerable to further employment scams. Due to the significant sums they paid in recruitment fees, they cannot be sent home until they are financially made whole. Considering the local government's culpability in the recruitment scheme, Rep. Miller urged the Governor to explore a means by which the local government could help these men secure full reimbursement for their recruitment fees and lost wages before being repatriated.

The Indian Men. Congressmen Miller met with several Indian nationals who had been recruited by an Indian businessman with a store in the CNMI. They signed blank employment contracts. As in other cases, they were brought into the CNMI under the pretense of working in jobs for which they had no experience (one was hired as a watch repairman, another as a cook) and which did not exist, both violations of CNMI law. Having filed labor protests, they are now restricted to looking for employment in those job classifications, which are both difficult to find and for which they are not trained. The men working in the store worked 12 hours a day, seven days a week, and were not allowed out of the sight of their employer. They were required to live in an apartment above the store for which they each paid \$60 per month. Their wages were kept in a savings account managed by their employer from which they were barred from withdrawing money. Some of their savings

which were supposed to be forwarded to their families in India, was never sent. As in the case of the Bangladeshis and others, the Indians reported physical violence against them and threats against their families in India.

Health Concerns, Drugs and Crime

The immigration system as operated by the CNMI government fails to provide even minimum safeguards against the spread of infectious diseases, drug trafficking, or the influx of gangs and other undesirables. The inapplicability of U.S. immigration law is generally cited by law enforcement officials as a major impediment to effective enforcement of anti-drug and anti-crime laws.

The explosive influx of foreign workers, combined with an inadequate health screening policy has led to a dramatic increase in cases of tuberculosis in the CNMI over the past year. Although a law was enacted in 1997 requiring screening for foreign workers upon their entry into the CNMI, it was not enforced by former Governor Froilan Tenorio.³² As a result, in January 1998, the U.S. Centers for Disease Control reported the high rate of TB has reached "epidemic proportions."³³ The CDC has recommended immediate and strong action to prevent further disease outbreaks of TB, sexually transmitted diseases, and other infectious diseases. Officials in the CNMI now are implementing an emergency

³² Memo to Department of the Interior from Centers for Disease Control.

³³ Pacific Daily News, "High TB Rate Spurs Need for Mandatory Tests," February 24, 1998.

regulation that will require the health of all current and new foreign workers be checked. Although all medical expenses for foreign employees are to be borne by employers as enumerated in CNMI law, employers currently are voicing their opposition to the cost of this requirement.³⁴

Discussions with federal law enforcement officials confirm the absence of such basic requirements of immigration policy as criminal background checks and visas prior to entry into the Commonwealth. These officials noted a significant increase in gang activity as well as the importation of "ice" (methamphetamine) and heroin from various Asian sources. Large numbers of Asian gang members and leaders have been admitted as tourists to the CNMI where they are known as big spenders. Gang-related activities reportedly include drug distribution, prostitution, extortion and threats to local businessmen.

Federal officials have been unwilling to share existing information, including watchlists that could identify crime figures, with CNMI DOLI because of concern about the security of information provided.

Petitions for Asylum Likely to Increase

The CNMI does not now have in place any system for responding to a request for asylum by a foreign national. However, several guest workers told Congressman Miller of potential threats should they return to their native lands. For example, Mr. Miller met with a young Chinese woman who had been fired by her employer after

³⁴ Marianas Variety, "Business: New Regs OK, But Fees Should be Lower," March 4, 1998.

having become pregnant. Her employer offered to fly her home to China. However, she was unwilling because of fears that she would be subjected to an involuntary late-term abortion in China because she was unmarried and because of other factors involving the status of the father of the baby. As a signatory of the United Nations Convention on the Status of Refugees, and pursuant to U.S. law, the U.S. has an obligation to provide asylum under specified conditions. However, the CNMI, while part of the U.S., lacks such procedures.

It is highly likely that legal challenges to this situation will occur which, should they prove successful, could lead to a flood of asylum petitions on behalf of foreign workers in the CNMI. To date, over 200 foreign workers have illegally smuggled themselves to Guam to file petitions for asylum. Most of these people are awaiting asylum hearings. Law enforcement officials told Congressman Miller that it is known which captain and boat is collecting fees and smuggling persons but nothing has been done to stop the activity.

Failure to Enforce Local Laws

Adherence to local immigration and employment laws is episodic at best. Recent steps to increase enforcement of these laws by the government of the newly-installed Gov. Pedro P. Tenorio are welcome, but local attempts to improve enforcement after years of noncompliance will be difficult. Periodic but short-lived efforts to increase local law enforcement during past periods of

congressional scrutiny raise skepticism about the effectiveness and duration of the current “crackdown.”

The CNMI has laws on the books to promote the employment of permanent U.S. citizen residents, however they are widely ignored. Current CNMI law requires that permanent resident workers constitute between 10 and 20% of an employers’ workforce.³⁵

However, the U.S. Commission on Immigration Reform calls this requirement “essentially a sham,” noting that “payrolls from various garment factories included the names of local ‘workers’ who received regular payroll checks but never showed up for work.”³⁶ Although the law allows this requirement on local hiring can be waived by the Director of Immigration, such action is taken frequently so that it is difficult to determine the extent to which employers try to fulfill this requirement. Mr. James Lin, president of the Saipan Garment Manufacturers Association, told Congressman Miller that former Gov. Froilan Tenorio waved that requirement while in office. Mr. Lin also has stated that the government should step in to ensure that

Congressman Miller spoke with a 23-year old pregnant Chinese worker, fired by an employer who wanted her to return to China and an almost certain mandatory abortion.

³⁵ Nonresident Workers Act (3 CMC, Div 4). Citizens from the Federated States of Micronesia, and the Republics of the Marshall Islands and Palau may be considered permanent resident workers under this statute for purposes of meeting the required percentage.

³⁶ Commission Report at 8.

the garment companies comply with local and federal laws on labor.³⁷

The heavy reliance on contract workers may become an additional burden as the garment industry begins to depart the CNMI with the approach of the lifting of restrictions on the international garment trade in 2008. Under the best of circumstances, garment factories are often an ephemeral business as owners seek the cheapest labor market. Many of the foreign-owned factories in the CNMI may abruptly downsize or close with little announcement with employers reneging on their pledges and obligations to repatriate their employees, leaving thousands of destitute workers behind as the responsibility of the local government. The CNMI has had an abysmal record thus far in finding culpable company officials to pay judgments after finding them guilty of abandoning workers.

The CNMI government created an Alien Deportation Fund in 1996 to ensure that the Department of Labor and Immigration had the means to deport overstaying and illegal aliens. The fund is financed by fees from nonresident worker permits. According to CNMI law, if a foreign worker is not working for the employer named on the work contract, that worker is considered illegal and may be deported with these funds. Mr. Miller was informed that this fund is widely abused by employers who intentionally abandon employees (so that they are considered illegal), leaving the cost of the employee repatriation to the CNMI government.

³⁷ CNMI News On-Line, "Industry Leader Bares Continuing Violation of Garment Moratorium," March 9, 1998.

Employers are supposed to provide foreign workers with copies of their employment contracts, are supposed to carry a bond for each worker, and are supposed to provide transportation back to the foreign worker's nation of origin at the end of the contracting period. Should the garment industry engage in a massive exodus as the GATT-mandated end to textile quotas approaches, large numbers of guest workers could be abandoned in the CNMI without any means of purchasing a return ticket home and presenting a substantial financial dilemma to the CNMI government.

On October 1, 1997, DOLI established new procedures for employers seeking overseas workers, including applications by employers for a job vacancy permit and financial information including estimated gross revenues and taxes paid by the employing business. Many of those with whom Congressman Miller met, including members of the business community, acknowledged that many requirements are ignored, and voiced concern about widespread corruption in local immigration and labor agencies. Mr. Miller, in fact, met with guests workers who had never been given copies of their contracts and who were abandoned in the CNMI by their purported employers.

Dependence on Foreign Workforce Threatens Local Economy

The CNMI dependence on foreign workers, and particularly upon the revenues generated by the garment industry, is short-sighted and poor economic policy.

The rapidly growing number of foreign workers has placed a significant burden on the physical infrastructure. Only forty

percent of the CNMI is connected to the local sewage system, built largely with federal funds, that serves most of the hotels and factories, but only a portion of the private residences. Rain is the only source of fresh water and water for households, which was formerly available on a 24 hour a day basis, is now generally only available for 2 hours per day, although large hotels and restaurants normally have water all of the time.

The garment industry generates a large volume of the island's waste which is shipped to the local Puerto Rico Dump, the only disposal site for garbage in Saipan for more than fifty years. Approximately 60% of the total solid waste volume is generated by the garment factories, although they pay no usage fee for its disposal. The dump is growing rapidly; every day, 130 to 160 tons of garbage are disposed of at this site.³⁸ Because of this rapid increase of garbage and because environmental protections are nonexistent, an alternate disposal method must be found that comports to applicable environmental standards and guidelines. However, cleaning up the dump will be costly. The CNMI government has reported it needs some \$100 million to clean up the site and establish a new landfill, however, budgetary restraints have resulted in an appropriation of only about one-fourth that amount. Inaction on the part of local officials has repeatedly delayed closure of the dump. A representative of Governor Pedro Tenorio assured Congressman Miller that the new administration would begin clean-up of the dump almost immediately and has already selected the site for the

³⁸ Saipan Tribune, "Let's Talk Dirty, 160 Tons of Garbage a Day," March 2, 1998.

landfill.

Schools are seriously overcrowded, necessitating double and triple sessions in at least some of the schools. The transition committee of Governor-elect Tenorio agreed there are major problems in the CNMI's system, beginning with the absence of an overall educational development plan. In addition, the committee found that "public school facilities are not sufficient to provide adequate education [and that] classrooms are poorly maintained," a finding confirmed by a March 1998 news report on the deteriorating condition of classrooms.³⁹ While the San Vicente school visited by Congressman Miller had enthusiastic students and concerned teachers, local reports note the school has the highest student to teacher ratio in the public school system. Estimates that between 1995 and 2000, the number of first graders in the CNMI will double are cause for additional concern. The large number of children born primarily to foreign contract workers will significantly increase the strain on the local school system.

Yet while the need for capital improvement projects is great in large part due to the huge population growth, the CNMI government has been unable to expend \$88 million in federally appropriated dollars because of the failure to provide the statutorily required local match and because the local government has been unable to secure approval of the US Department of the Interior because of federal concerns about the appropriateness of the contracts. This backlog will likely increase due to the annual federal Covenant grants of \$11 million that will expand the total available

³⁹Saipan Tribune, March 12, 1998.

for capital improvements each year. Current economic problems, including a \$35 million government deficit, suggest that the government will have difficulty finding funds to match the local portion in the near future.

The garment industry reportedly provides approximately \$60 million in direct and indirect benefits to the CNMI economy.⁴⁰ However, the impending loss of the garment industry and its financial underwriting of the CNMI government presents an imminent danger to the economic security of the Commonwealth, which reportedly receives substantial, direct revenues from the garment industry. Under the Generalized System of Tariffs and Trade (GATT) textile agreement, all international textile quotas will end by 2005 world-wide, creating an open market for textile producers. The major advantage enjoyed by garment manufacturers in the CNMI -- unfettered access to the domestic U.S. market free of restrictive quotas and duties -- will evaporate. A highly regarded garment manufacturer in the CNMI was clear about the impact of the end of GATT quotas, telling Rep. Miller that after 2003, and perhaps as early as 2000, the garment industry will abandon the CNMI. Indeed, some local garment industry owners are already diversifying into tourism, newspapers, gaming and other activities, while others are contemplating replacing garment factories with electronics and technology opportunities. Nevertheless, the garment industry has continued to expand to enjoy short-term trade benefits, growing by as much as 50% annually in recent years to

⁴⁰ Marianas Variety, "Garment Industry Should be Exempt from Tax, Wage Hikes," February 24, 1998.

benefit from the continued trade advantage offered by the CNMI.

Subminimum Wage Distorts Economy, Discourages Private Sector Employment

The utilization of large numbers of indebted foreign workers to work for little money has created a two-tier, caste system within the CNMI. The upper tier consists of the local Chamorro and Carolinian population and other U.S. citizens who control all of the land as well as the political and financial power in the islands. The bottom tier, composed of alien workers existing outside typical legal and financial protections, is in every sense a secondary population with no opportunity to rise economically, politically or socially. This tier system has had a major impact on the culture and attitudes of indigenous citizens. Nothing could be more antithetical to the American dream than a permanently rooted, politically disenfranchised class of foreign workers.

With the average starting salary for a government worker in the CNMI at \$20,000 per year, more than three times the local starting minimum wage in the private sector of \$3.05 per hour, the discouraging impact of the subminimum wage on local residents' willingness to enter the private sector is obvious. In virtually every fast food restaurant, gas station, shop, and convenience store in the CNMI, jobs that in the rest of the nation would be held by local teens and young adults are instead held by foreign contract workers. Not only do these jobs instill a strong work ethic in the youth of America, they also provide young people with a first opportunity to manage and control money and learn the employment skills needed for life. Because of the policies of maintaining the subminimum

wage of \$3.05 per hour and refusing to raise it as the economy has grown, the CNMI shortchanges its children and renders them unable to compete with the rest of the nation's youth in the job market. .

Poverty among the unemployed local population and the foreign laborers has created acute social inequities.

Approximately 4,000 local residents receive federal food stamps, a significant percentage in a population of just 27,000 U.S. citizens.⁴¹ Even these local poor enjoy certain benefits of a standard of living that places them well above the foreign workers. Indeed, so many local residents receiving food stamps have hired live-in maids (largely young women from the Philippines) that the local government recently passed a resolution prohibiting the practice, although the enforcement of the ban was questioned.

Foreign workers hold over 90 percent of all private sector, subminimum wage jobs in the CNMI, including not only non-technical jobs in the garment, construction and hotel businesses, but also professional positions as teachers, accountants and architects. Even highly educated foreign workers are recruited to fill positions in civil engineering that command a meager salary of \$3.50 per hour, and electrical engineers who are paid \$3.75 per hour. Faced with competing for such potentially attractive positions with contract workers who are paid very low wages has led many of the brightest local residents to leave the CNMI for education and employment elsewhere, creating a drain

⁴¹ CRS. The federal food stamp program operating in the CNMI is slightly different from that elsewhere in U.S. It is a block grant for the CNMI government to distribute to eligible families.

of talent that could prove disastrous for the Commonwealth.

Many people with whom Congressman Miller met voiced concern about the difficulty of enticing local residents to seek employment in the low-paying private sector. Only a few years ago, the CNMI appeared to be looking for ways to make private sector jobs more appealing to permanent residents. In 1993, the local government enacted a law to raise the local minimum wage in thirty-cent, annual increments until it met the federal level. Then-Governor Froilan Tenorio, however, repealed the law in 1995 and implemented an alternative minimum wage increase which called for a single increase in the wage of thirty-cents, to be phased in over two years for the garment and construction industries. Following a six month postponement of the raise, this small increase went into effect in July 1996. As noted previously, this nominal increase merely kept pace with inflation.

Since the repeal of the 1993 law, some in the business community have asserted that future increases in the minimum wage will discourage investment and undermine efforts to build the local economy. This argument is essentially identical to those offered during every congressional debate over increasing the federal minimum wage, and is challenged by historical precedence and contrary to the views of the American people. Passage of the 1993 minimum wage increase did not deter continued business growth in the CNMI during the two years it was in effect. During the time the law was on the books, most industries, the Chamber of Commerce and the Hotel Association voiced support for the higher wages, arguing that increases were "reasonable and that the

law provides needed long-term stability in wage policy.”⁴² Although the garment industry never supported the law and has remained steadfastly opposed to any increase in the wage, it was not adversely affected by the 1993 law. The value of garment imports from the CNMI has increased every year since its inception in 1984, and new factory licenses have continued to be sought and granted even when a wage increase appeared imminent.

Conclusions and Recommendations

Congressman Miller’s meetings with members of the newly elected local government indicated both an understanding of how seriously the federal government views the current situation and an oft-repeated acknowledgment from local officials that serious problems exist and that remedial actions will be forthcoming. These pledges are welcome and both the Clinton Administration and the Congress should closely watch to determine whether effective actions are initiated.

In discussions with CNMI elected leaders, several initiatives were discussed, including placing the functions of the Department of Labor and Immigration under the supervision of the local Attorney General. It is the understanding of Congressman Miller that this action has indeed been taken. In addition, Congressman Miller was informed that a high priority was being given to recruiting a director for DOLI and the Department of Public Safety from off-island to improve accountability, professionalism and independence. Governor Tenorio has nominated a new director of Public Safety,

⁴² CNMI Report at 5.

who is a former Hawaii policeman and who is married to a key policy advisor to the Governor.⁴³ These first steps toward improvement are welcome.

Fundamentally, the CNMI must take action to decisively wean itself from its financial dependence on the garment industry and work with the Federal government to effect the needed changes. Merely replacing the garment industry with electronics or some other highly mobile industry dependent on foreign contract labor is a poor substitute for sound, long-term economic planning. Especially in light of the imminent loss of the garment industry, the CNMI must institute comprehensive planning for a more diversified economy to combat local unemployment. That economy should not be based on the predominant use of low-cost, foreign labor or the ephemeral benefits of unrestricted imports into the United States market. Finally, the CNMI must work to streamline itself, reduce its cost and inefficiency, and particularly address the backlog of infrastructure improvements and federal funding that remains frozen because of inadequate local matching money.

Actions by the CNMI Government

The immigration situation is evidence of the failure of the CNMI government to achieve its self-declared goal of managing the influx of foreign workers. The CNMI DOLI must:

- take aggressive action to control its borders and protect foreign workers.
- implement, without further delay, the long-delayed improvements in the

⁴³ Pacific Daily News, “Ex-Hawaii Captain Named CNMI Public Safety Chief,” March 3, 1998.

local Labor and immigration Identification System (LIIDS).

- mandate appropriate controls on businesses that utilize in recruiters to find them employees and on the recruitment agencies.
- ensure that jobs are truly available before prospective workers are recruited, incur substantial debt and are transported to the CNMI. Vigorous prosecution of those who misrepresent the availability of jobs or the nature of jobs is essential, as is enforcement of such existing requirements as bonding of all employees.

The CNMI government must more stringently enforce local and federal labor laws. Specifically, the CNMI must:

- prohibit foreign workers to be bound by provisions of contracts that unconstitutionally restrict their religious practices, or that unjustly restrict their right to engage in social or organizational or other constitutionally or statutorily protected activities.
- enact strong laws to prevent continuing labor abuses, and demonstrate vigilant enforcement of these laws, as well as conduct a thorough and independent review of the labor and immigration bureaucracies to rid them of corruption and inefficiency.
- reinstate laws providing for an increase in the minimum wage so that the wage approaches and matches the federal wage now applied in nearby Guam as well as in the 50 states.

Actions by the Congress

Legislation has been introduced in the U.S. House and Senate to alter the current application of federal minimum wage and immigration laws to the CNMI.⁴⁴ The well-publicized and documented breadth of the problems currently existing in the Commonwealth more than justifies congressional action on these proposals. Without delay, the House Resources Committee should initiate long-overdue oversight hearings to provide a public and thorough review of conditions in the CNMI as is the Senate Energy and Natural Resources Committee on March 31, 1998. Further delays give the appearance of sanctioning the continuation of these gross abuses that persist under the American flag.

While some in CNMI and in the Congress itself may regard such actions as unwarranted interference in local hegemony, it should be noted that federal action to enforce constitutional and legal rights is quite common, as is intervention by states when cities and counties under their jurisdiction fail to take necessary enforcement or administrative actions. Such interventions have occurred with increasing frequency over the years. At least fifty distressed municipalities have become subject to state control and, since 1989, at least twenty school districts have been the subject of such interventions.⁴⁵ The

⁴⁴ H.R. 1450, introduced by Rep. George Miller, has 67 cosponsors and S. 1275 was introduced by Senators Murkowski and Akaka.

⁴⁵ "Takeovers of Local Governments: An Overview and Evaluation of State

Congress itself recently imposed expansive controls and reorganization on the District of Columbia's elected government because of that government's inability to administer its laws effectively.

The CNMI's persistent to adhere to minimal standards of labor and immigration control warrants federal intervention. After all, the CNMI *is* part of the United States and subject to the laws and the authority of the federal government just like every town, city, county, and state. Indeed, with an overall population of 70,000 – fewer than half of whom are permanent residents – the CNMI is a rather small political subdivision which should not be able to assert its Commonwealth status to avert meeting the same responsibilities of membership in the nation that apply to every other political subdivision.

Actions by Federal Agencies

Even if Congress fails to enact legislation this session to provide greater coverage of U.S. labor and immigration laws to the CNMI, federal officials should exercise their existing authority to remedy the kinds of chronic abuses documented in this report and numerous other recent reviews.

Specifically, the federal government must take aggressive oversight and enforcement actions:

- the U.S. Department of Justice should expand its presence in Guam and the CNMI with impartial attorneys with a proven record of

Policies” David Berman, Publius, The Journal of Federalism, Vol.25, No. 3, Summer 1995.

enforcement and case initiation, and should aggressively utilize a number of statutes under which serious local abuses could be prosecuted.

Additional prosecutions could be initiated under the Trade Act of 1930 including 19 USC 1307 (prohibiting the importation of goods made with indentured labor), the Fair Labor Standards Act including 29 USC 207 (relating to overtime violations), 29 USC 215 (prohibiting the sale of “hot goods”), federal anti-racketeering laws (RICO) including but not limited to 18 USC 1952 (foreign travel or transportation in aid of racketeering), 18 USC 1956 (laundering of monetary instruments), and 18 USC 1957 (engaging in monetary transactions derived from unlawful activity); civil rights statutes including 18 USC 241 (conspiracy against rights), 18 USC 242 (deprivation of rights under color of law), 18 USC 245 (federally protected activities), 18 USC 1584 (Involuntary Servitude), 18 USC 1201 (kidnapping); and tort laws, including 28 USC 1350 (aliens' action for tort).

- federal law enforcement officials both at the US Department of Labor and the US Department of Justice should make commitments of supplemental funds and personnel to aggressively initiate such reviews without further delay. increase its vigilance in the CNMI by utilizing more aggressively those tools which currently are available to combat labor, human rights, immigration, drug and other violations of federal law, while continuing to press for the legislative changes endorsed by

- President Clinton.
- the \$100,000 Congress provided in additional law enforcement funding in FY1998 to expand the Victim and Witness Assistance program in the CNMI to provide greater safeguards to workers who feared reprisals from reporting abuses should be committed and necessary support actions taken to ensure that the program is fully functional.⁴⁶

⁴⁶ See P.L. 105-119, enacted Nov. 26, 1997 and Conference Report 105-405.

Appendix 1
MILLER DELEGATION MEETINGS
(partial list to preserve confidentiality of some meetings)

CNMI GOVERNMENT

Mr. Pedro P. Tenorio - Governor
Mr. Jesus Sablan - Lt. Governor
Mr. Michael Sablan - Governor's transition team
Mr. Juan Babauta - Washington Representative for CNMI
Representative Diego T. Benavente - Speaker of the House
Representative Jesus Attau - Vice Speaker of the House
Representative Dino M. Jones - Minority Leader
Representative Manuel Tenorio - Chairman, Committee on Natural Resources
Representative Rosiky Camacho
Representative Melvin Faisao - Chairman, Committee on Federal and Foreign Relations
Senator Paul Manglona - Senate President
Senator David Cing - Senate Minority Leader
Ms. Lana Buffington - Legal Counsel CNMI Senate
Ms. Maya B. Kara - Legal Counsel CNMI Legislative Branch

FEDERAL EMPLOYEES

Terence Trotter - Department of Labor Wage and Hour Division
Michael Bayer - Department of Labor Wage and Hour Division
Tina Kirtley - Department of Labor Wage and Hour Division
Jeff Schorr - Department of Interior
Al Staymen - Department of the Interior, Director of Office of Insular Affairs
Debbie Sabaro Wiggins - Department of Interior, Office of Insular Affairs
George Nolan - Special Agent - Federal Bureau of Investigation Saipan Office
Steve Stokes - Special Agent - Federal Bureau of Investigation Saipan Office
Fred Black - US Attorney for Guam and the CNMI

BUSINESS COMMUNITY

Mr. Joe C. Ayuyu - President (McDonalds of Saipan)
Mr. Tony Pellegrino - Vice President, Saipan Chamber of Commerce
Ms. Kimberly Class - Executive Director, Saipan Chamber of Commerce
Mr. David Wiseman - Director , Saipan Chamber of Commerce
Ms. Kerry McKinney - Secretary, Saipan Chamber of Commerce
Mr. Bob Gardiner (First Hawaiian Bank)
Mr. David Hawkins (Duty Free Shoppers Saipan Ltd.)
Mr. Ron Sablan (President, Hotel Association of Saipan)
Mr. James Lin - Chairman, Saipan Garment Manufacturers Association and President of United
International Corporation (UIC)
Timothy P. Villagomez - Executive Director, Commonwealth Utilities Corporation
Pamela A. Mathis - Special Advisor Corporate Communications, Commonwealth Utilities
Corporation

Mr. William P. Matson - Federal Programs Officer - CNMI State Board of Education
Mr. Jack Peters - Director Business Development Center - Northern Marianas College
Mr. Vic Perez - Hotel Employees and Restaurant Employees, Local 5

RELIGIOUS LEADERS AND ATTORNEYS

Most Reverend Tomas A. Camacho - Catholic Diocese of Chalan Kanoa
Pastor Barbara Grace Ripple, Immanuel United Methodist Church
Spouse of Chinese Minister conducting services in fear - can't use name
Ms. Pamela Brown - Long and Brown
Mr. G. Anthony Long - Long and Brown
Mr. Joe Hill - Hill Law Offices
Mr. John Cool - Former Attorney General for CNMI
Mr. Ken Govendo

SAMPLE OF PLACES VISITED

U.S. Department of Labor
Bangledeshi housing
Five Garment Factories
Various factory worker barracks
San Vincente Elementary School
Immanuel United Methodist Church
Sadog Tasi Sewage Treatment Plant
Saipan Power Plant
Puerto Rico Dump
Cathedral Chalan Kanoa