
Committee on Resources

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Economic Miracle or Economic Mirage?

The Human Cost of Development in the Commonwealth of the Northern Mariana Islands

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Economic Miracle or Economic Mirage?

The Human Cost of Development in the Commonwealth of the Northern Mariana Islands

A systematic pattern of violations of labor rights and human rights is continuing in the U.S. Commonwealth of the Northern Mariana Islands (CNMI) in disregard to concerns voiced by human rights activists, labor unions, religious organizations, federal enforcement and oversight agencies, and the U.S. Congress. While promising to improve conditions, the CNMI government has neither aggressively enforced applicable labor and immigration laws nor investigated and prosecuted labor and human rights abuses. In fact, the local government has rolled-back protections for workers.

The Government of the CNMI heavily promotes its local control over immigration and minimum wage laws in order to lure international business investment. The CNMI Governor has claimed that local control over these laws is paramount for economic success. While these laws have brought economic benefits to a few employers, the policies have facilitated the recruitment, disenfranchisement and exploitation of a large, cheap, foreign labor force that now outnumbers the local population. Governor Froilan C. Tenorio has advocated continued minimum wage and immigration autonomy and requested that the U.S. Congress "leave the territories alone."¹

This report is based on current information provided primarily by federal agencies responsible for overseeing and enforcing federal laws which do apply in the CNMI as well as on local press accounts. The information obtained definitively indicates that, under local control, the CNMI's immigration and labor policies are rife with abuse.

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The U.S. - CNMI Covenant

In the aftermath of World War II, the U.S. won control from Japan of the fourteen islands in the Pacific which compose the Northern Mariana Islands. The Northern Mariana Islands became part of the United Nations Trust Territory of the Pacific Islands and the U.S. was appointed administering authority. The U.S. Navy governed the Northern Mariana Islands until 1962, when the administration of the islands was placed in civilian control under the authority of the Department of the Interior. In 1975, the citizens of the Northern Mariana Islands voted in a plebescite to determine their future political status, and chose to be under the sovereignty of the United States. By an overwhelming margin, the citizens of the Northern Marianas approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (the "Covenant").

The Covenant was approved by the United States Congress in 1976.² This Covenant formally established the Commonwealth of the Northern Mariana Islands under the sovereignty of the United States, and granted United States citizenship to the indigenous people. The Covenant became effective November 3, 1986, by Presidential Proclamation.

Because of its small population and limited economic base at the time of the Covenant negotiations, the U.S. negotiators agreed to allow special privileges for the CNMI in an attempt to spark its economic

growth. Specifically, the U.S. delegated control over immigration and minimum wage laws to the CNMI Government, and extended General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States which provides for duty free imports of products into the U.S. customs territory. The U.S. also allows the CNMI to import products without quotas.

Local Control over Immigration

During the Covenant negotiations, the population of the CNMI numbered just over 14,000, of which 88 percent was indigenous and 12 percent was alien.³ Because of its small population, the CNMI strenuously advocated control over local immigration policies, arguing that U.S. control would lead to an influx of immigrants and upset its unique cultural flavor. The CNMI specified that local control would assure a more restrictive immigration system than allowed by federal immigration law. ⁴ The United States accepted this argument and delegated local immigration policies to the CNMI .

Despite past promises of a restrictive immigration policy, U.S. citizens in the CNMI are now outnumbered by foreign, temporary residents. The population of the CNMI currently numbers over 58,800, having increased by 36 percent during the past five years,⁵ and foreign workers and their U.S. citizen-born children compose the majority of the population.⁶ Rather than preventing an influx of immigrants as had been intended by the negotiators of the Covenant, the CNMI has developed an immigration policy that recruits a low-cost, foreign workforce to operate its expanding garment manufacturing, services and tourism industries.

Although the CNMI claims this supply of foreign labor only supplements its native workforce, the unemployment rate for the native-born U.S. citizen population has reached a staggering 14 percent, compared to a national average hovering around 5 percent.⁷ In fact, as evidence of the CNMI inability to properly manage the rapidly growing alien workforce, unemployment for these alien workers has reached 5%.⁸

The local immigration policy has "no limit; it is wide open, unrestricted," according to the elected Washington D.C. Resident Representative of the CNMI, Juan Babauta.⁹ A September 1996 resolution passed by the CNMI government provides an illustration for Babauta's comments. This resolution would allow over 7,800 new foreign workers to enter the CNMI to work in the twenty-three new garment companies that received operating licenses between January 1995 and May 1996.¹⁰ This influx of workers more than doubles the current number of foreign workers employed in the garment industry.¹¹ In fact, the CNMI reportedly issued 13,000 foreign work permits in 1996, almost twice as many as estimated. Babauta further noted that, in addition to native CNMI residents being outnumbered by immigrants, children of foreign workers (who become U.S. citizens upon birth in the CNMI) are being born "at a rate double and triple the rate of babies born to indigenous parents."¹²

Of the more than 28,000 temporary residents allowed into its borders, the CNMI Department of Commerce estimates that more than 2,000 illegal aliens are present in the CNMI, while other estimates have calculated as many as 10,000 illegal aliens. Yet, local immigration officials have removed only about 200 illegal aliens in the entire last year.

Immigration Computer Tracking Initiative

In December 1994, the Department of Interior provided \$1.5 million to the CNMI to fund the development of a major computerized immigration tracking system. This system would allow the CNMI government to monitor the entry and exit of foreign workers and to enforce violations of work visas. One of the most positive components of the new immigration system is its ability to produce plastic identification cards for

each alien upon entry that include the individual's name, employer and occupation. Ideally, these cards will allow accurate and uncomplicated enforcement. Under CNMI law, if a worker is not carrying his card or if any of the information on the card is no longer accurate, that worker may be deported. These identification cards are a much needed improvement in the CNMI's ability to track foreign workers.

In the long term, the system would provide a database of permits and identification cards issued. Were this system fully operative, it would demonstrate a positive step on the part of the CNMI toward controlling and monitoring its immigration. However, due to an unnaturally high rate of turnover on the CNMI project development team and other factors, this needed system has yet to become entirely functional.

Continued Exemption from Federal Immigration Law

Noting that the CNMI immigration policy does little to preserve the Commonwealth's cultural identity as originally intended and has instead ushered in a high number of foreign workers and illegal aliens, questions are naturally raised about permitting the CNMI Government a continued exemption from federal immigration controls. The annual report issued by the Department of the Interior as part of the Federal-CNMI Initiative recommends an increased "federal role in local immigration" if the CNMI does not demonstrate effective management over its program.¹³ The CNMI has responded to this suggestion by claiming that federal control of its immigration policy would result in economic disaster, greatly diminishing its employee pool and negatively affecting the CNMI's competitiveness in the Pacific region. However, without reform, the current immigration policy will allow the continued influx of a large, disenfranchised underclass of foreign workers into the manufacturing, service and construction industries.

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Poor Working Conditions

Health and Safety Violations

Hazardous working conditions, particularly among industries staffed by foreign workers, continue to be reported and investigated by federal officials. The U.S. Occupational Safety and Health Administration (OSHA) estimates that as many as 40,000 foreign workers live in 5,000 registered labor camps in Saipan where conditions are reported by the media and foreign workers to be unsanitary and dangerous.

During June and July 1996, OSHA conducted a major effort to enforce federal requirements for workplace health and safety. OSHA inspected 64 of the 5,000 labor camps, finding 178 violations including blocked exits, fire hazards, nonworkable and unsanitary restroom facilities, no refrigeration for food storage, and exposed and frayed wiring. As a result of these inspections, OSHA made 20 referrals of possible violations to the Wage and Hour division of the Department of Labor.

During the same time period, OSHA conducted inspections of 26 garment manufacturers and found 63 violations in 18 companies. Over one-half of these violations were characterized as "serious" in that they could cause death or significant injury. OSHA proposed total penalties for these violations in the amount of \$121,995. While the leader of the OSHA team noted a "marked improvement" in this effort over past inspections, OSHA has since commented that these violations represent just the "tip of the iceberg" and that dangerous conditions likely exist in some of the smaller living barracks that tend to be hidden from view and are much more difficult to find and inspect.

OSHA also made numerous inspections within the construction industry to determine federal health and

safety compliance. In November 1996, OSHA issued citations and assessed penalties totaling \$281,500 against one construction company for multiple violations of health and safety laws. Among those violations cited against the Shimizu Corporation was the willful failure to provide protection, such as basic safety nets to catch laborers who fall from scaffolds and other heights.¹⁴ This violation was characterized by OSHA as "willful" because the employer knew the condition existed, but failed to correct it.

Early in 1997, the CNMI Department of Labor and Immigration filed a complaint against the garment company, Eurotex Inc, for health and safety violations including "the possibility of loss of human life."¹⁵ In addition to the safety hazards listed in the complaint, Eurotex was charged with failure to provide "adequate and safe" barracks for at least 220 workers.

Labor Rights Violations

Foreign workers from the Philippines and other Asia countries who enter the CNMI on a one-year contract compose the primary workforce for many local industries.

Because many of these workers want to stay beyond this one-year term, employers can exercise tremendous influence over their employees through their power to decide which contracts to renew and which contracts not to renew, the latter action subjecting workers to deportation. Some CNMI employers use threats of contract non-renewal to silence employees from reporting violations of labor laws, such as illegally withheld wages or the prevention of employees from unionizing.¹⁶

The right of employees in the United States to form unions for collective bargaining is guaranteed under the National Labor Relations Act, the law governing the relationship between labor unions and businesses. However, this right is not fully recognized in the CNMI. Recently, CNMI Governor Froilan C. Tenorio stated "The CNMI is no place for labor unions."¹⁷ In the CNMI, employees who are labor union sympathizers are considered troublemakers by their employer and are generally candidates for deportation. While a few workers have successfully formed labor unions, grievance reports filed with the National Labor Relations Board (NLRB) demonstrate that many employers refuse to recognize this right.

Many CNMI employers strongly oppose labor unions, although the U.S. law protecting the right to form a union applies to all workers in the Commonwealth, regardless of their citizenship. Since the NLRB has established a presence in the CNMI, labor grievances have been submitted by employees in various sectors including the hotel, garment, restaurant, night club and construction industries. According to grievances filed, employers have attempted to discourage employees from forming unions by threatening to fire union sympathizers, closing the businesses or imposing enormous fines on employees who challenge the status quo.

The June 1996 report issued by the Federal - CNMI Initiative states that over the past 12-16 months, 60 unfair labor charges were filed against CNMI employers and employees, affecting an estimated 1,500 to 2,000 employees, primarily non-residents. Since this report was issued, 23 more grievances have been filed,¹⁸ nine of the most recent against the Sako Corporation, a garment factory in Saipan. The grievances against the Sako Corporation allege that employers have threatened to close the company if the employees unionize and that union supporters were denied overtime wages. Additionally, the Sako employees claim to have been locked in their barracks by their employers, a standard practice thought to have been discontinued some years ago.¹⁹

The NLRB anticipates a continually increasing caseload for two reasons: its presence in the CNMI has been a source of encouragement to the foreign workers who previously had no avenue to pursue claims of unfair labor practices, and the unabated immigration into the CNMI will increase the number of employers

and employees to whom U.S. labor laws apply.

Response to Labor Conditions by Countries of Origin

In September 1994, the CNMI and the Philippine Government entered into a formal Memorandum of Understanding (MOU) outlining conditions under which the Philippine Government would allow the deployment of its citizens to work in the CNMI. The MOU specified that the CNMI would "exert (its) utmost efforts to guarantee observance of its applicable labor and employment laws. . . . for the protection of Filipino contract workers."²⁰ In return, the Philippine government agreed to "ensure the deployment of qualified Filipino workers to protect the interest of employers in the Commonwealth."²¹

A few months later, in March 1995, in response to a number of cases of wage violations, poor working conditions and physical abuse, the Philippine government took the drastic step of imposing a moratorium on the deployment of Filipino workers -- the CNMI's largest foreign workforce -- to the CNMI. This moratorium specifically covered all household workers, farmers, waitresses and bar and nightclub employees.²² In May 1995, the moratorium was expanded to include all female non-professional workers.²³ The Philippine Government's decision to protect its citizens by preventing them from coming to the CNMI is the first such decision by a foreign government in U.S. history.

In response to the moratorium, representatives from the CNMI and the Philippine government met to negotiate conditions under which the ban would be lifted. Later in May 1995 and following promises of improved conditions, the Philippine government lifted the moratorium and resumed sponsoring workers to the CNMI at full speed. In the last three months of 1996 alone, 3,074 Filipino workers entered the CNMI.²⁴

Philippine Labor Attache Jesus Varela recently reported that his government again has serious concerns, particularly about Filipina entertainers in the CNMI, after recent reports that many are forced to dance nude in nightclubs.²⁵ Varela stated that the Philippine government may prohibit female entertainers from being deployed to the CNMI in the future as a response to these reports. Further, Varela noted that the arrival of large numbers of female workers for domestic and other positions may have to be closely monitored, as it may "usher in a new trend in rights violations in the CNMI."²⁶

Low Local Minimum Wage

During the Covenant negotiations over twenty years ago, the CNMI was granted an exemption from the federal minimum wage provision of the Fair Labor Standards Act (FLSA) to promote economic growth and to attract business investments. The understanding reached during the negotiations was that, as its economy grew and prospered, the CNMI would raise its minimum wage until it met the federal level. However, unlike any other U.S. territory, including its neighbor Guam, and despite significant economic progress, the CNMI has made little effort to increase its minimum wage to the federal level or to establish a policy to implement automatic, regular wage increases.

In the last decade, economic growth for some in the CNMI has skyrocketed, producing what some observers have termed an "economic miracle." Total reported business gross revenue has increased from \$224 million in 1985 to nearly \$1.5 billion in 1995.²⁷ Yet, the low local minimum wage, which is paid primarily to those foreign workers most responsible for this economic growth, remains far below the current federal level of \$4.75.²⁸ Foreign workers typically enter the Commonwealth with a one-year work permit and are paid a minimum wage of only \$2.90 or \$3.05, depending on the occupation. Farmers, fishermen and domestic workers work at least 72 hours per week and earn a monthly salary of only \$200 to \$300, or about \$0.69 to \$1.00 per hour.

Although the CNMI minimum wage is \$2.90 per hour for the construction and garment industries, the garments produced by these foreign workers may carry the "Made in the USA" label and compete directly with garments manufactured on the U.S. mainland by employees earning the federal minimum wage.

The majority of the indigenous, U.S. citizen population is not affected by the low CNMI minimum wage. According to the 1995 CNMI census, well over one-half of the total number of employable persons born in the CNMI work for the CNMI Government, the vast majority of whom earn in excess of \$25,000 annually.²⁹ Currently, the CNMI Government is seeking funds within its budget to cover government employee pay raises. By contrast, almost every Asia-born worker is employed in the private sector, the vast majority of whom earn only \$5,000 to \$7,999 per year.³⁰

The census also notes the unemployment rate among CNMI native citizens has risen to 14 percent, in contrast to the U.S. national average of about 5.3 percent.³¹ Inexplicably, unemployment of Asia born guest workers in the CNMI is at least 4.5 percent, even though these guest workers are only to be legally allowed entry to the CNMI if they already have been hired by an employer for a specific job. Even the unemployment rate in the CNMI's neighbor Guam, which is subject to U.S. immigration and minimum wage laws, is much lower than the CNMI, at 6.7 percent. The high unemployment rate among CNMI native citizens suggests that the indigenous workers would rather wait for a high-paying government job to become available than enter the private sector and earn the depressed minimum wage.

The debate over raising the minimum wage in the CNMI has been a long and contentious one. In 1993, after much prodding from the federal government and the U.S. Congress, and following discussions between the CNMI government and business community, the CNMI approved legislation establishing an annual thirty-cent wage increase until the minimum wage in the CNMI reached the federal level. However, in 1995 the new CNMI legislature and Governor Froilan C. Tenorio enacted an alternative minimum wage law which would impose a one-time increase in the minimum wage of thirty cents per hour for all industries, effective January 1, 1996.

On January 1, however, the wage increase was postponed for six months. Finally, on July 1, 1996, an increase in the minimum wage went into effect, but only for workers who received employment contracts after this minimum wage proposal became law on June 15, 1996.³² Other workers may have to wait as long as a year for the increase and will not get their raise until their employment contract is renewed or July 1, 1997.³³ Additionally, no mention was included of future, scheduled raises, as were previously provided, and the increase for the garment and construction industries was slashed to only fifteen cents per hour.

Although increasing the CNMI minimum wage to the federal level is action that has been supported by the CNMI Chamber of Commerce and both the CNMI Hotel and the Contractors Associations, the influential garment industry continues to strongly oppose any wage hike, despite soaring profits and expansion plans. Due to its enormous influence in the CNMI legislature, the garment industry is credited with successfully reducing the scheduled thirty-cent minimum wage increase to fifteen cents per hour.

In some cases, CNMI employers supply basic benefits such as housing, food and medical care to foreign employees. Opponents of minimum wage increases estimate that the cost to the employer of these additional benefits increases the value of the minimum wage to as much as \$4.68 per hour. While the FLSA does allow certain legal deductions from the minimum wage if the amenities supplied by the employer directly benefit the employee, sources within the Department of Labor question the rationale used by the CNMI to justify this claim of a higher actual wage. If the CNMI claims that the benefits supplied to the employee increase the value of the minimum wage to \$4.68, then under conventional practices, the wage of \$4.68 should be paid to the employee and any legal deductions must be taken from that wage

amount. After deductions, the actual wage paid may be higher than \$2.90 per hour. Of course, even with the questionable justifications by the CNMI, \$4.68 is less than the federal minimum wage.

Opponents of raising the minimum wage to the U.S. level argue that any increase in the minimum wage, coupled with benefits supplied to workers, would be felt throughout the CNMI. For example, opponents claim that a higher minimum wage would increase the cost of living to CNMI residents, discourage foreign investment and reduce the CNMI's competitiveness against other industries throughout Micronesia and Southeast Asia.³⁴ However, the CNMI's neighbor, Guam, has a prospering economy despite the full application of the U.S. minimum wage.³⁵ Further, the Department of the Interior maintains that an increase in the CNMI minimum wage "would stimulate the economy, increase local revenue and provide better paying job opportunities for local workers."³⁶

Wage Violations

With the exception of the minimum wage provision of the Fair Labor Standards Act, the CNMI must adhere to all federal labor laws, including all other components of the FLSA, to guarantee the accurate payment of wages. Illegal wage withholdings, including the non-payment of overtime wages or deductions from an employee's paycheck to cover the employer's cost for airline tickets, uniforms, and "recruitment fees," continue to be reported by foreign workers to employees from the Wage and Hour Division of the Department of Labor. In FY 1996, the Department of Labor recovered \$996,926 in back wages for 997 employees and closed 29 investigations in the garment, construction, security and hotel/nightclub industries. Already in the first quarter of FY 1997, the Department of Labor has closed 10 investigations, and recovered \$50,947 for 356 employees.

In 1992, the U.S. Department of Labor filed suit against five garment factories owned by Mr. Willie Tan, a businessman who owns several companies in the CNMI, for violations of U.S. labor and safety laws. The lawsuit alleged that employees were forced to work 84 hours per week without overtime pay, wages were being paid at a rate much less than the already-low Saipan minimum wage, and employees were locked in their worksites and living barracks. In response to these violations, Mr. Tan paid \$9 million in restitution to 1,200 employees. This fine is the largest ever imposed by the U.S. Department of Labor.

The Wage and Hour division does not have the authority to investigate or prosecute illegal withholdings by companies which do not fall under the jurisdiction of the FLSA, such as small businesses with gross revenues of less than \$500,000 per year or individual households. Federal investigators are frustrated by their lack of authority to enforce FLSA provisions to protect mistreated household help or other workers in small companies where wage violations are known to exist. The authority to enforce fair labor provisions for these companies, and the responsibility to investigate and prosecute them for any wrongdoing, lies with the CNMI government.

Despite periodic reports of "crackdowns" on wage violations by the CNMI in the local press, it appears that very few companies and employers in the CNMI have actually been investigated, prosecuted, fined or closed due to wage and hour violations, and few, if any, foreign employees have received back wages owed. For example, the number of cases of labor violations filed in the Philippine Consulate in the CNMI by Filipino contract workers increased by over 160 percent in the first quarter of 1997 over the same period in 1996.³⁷ Of the 151 complaints and cases filed before the Philippine Consulate, 26 cases were settled by conciliations, and 116 were referred to the CNMI Department of Labor and Immigration for action.³⁸ The CNMI has not disposed of any of the cases referred to it during this time period.³⁹

The CNMI Government has not demonstrated a strong effort to enforce the accurate payment of wages to workers and has, in fact, rolled back wage protections for workers in the CNMI. In October, 1996, the

CNMI government enacted a law to shorten the time period under which workers are allowed to file claims of unpaid wages or overtime compensation.⁴⁰ This law shortened the two year statute of limitations for such action to six months and law states that this "is in the best interest of the Commonwealth."⁴¹

Indentured and Bonded Labor

Despite the questionable working conditions and the low CNMI minimum wage, many foreigners are eager to work in a Commonwealth of the United States in hopes of achieving the American dream. Unfortunately, many workers, particularly Chinese workers, who pay a large cash bond prior to their deployment to the CNMI, find their hopes quashed after they are required to sign "contracts" with the Chinese Ministry of Labor that waive the rights guaranteed all other workers in the United States. These contracts outline conditions the worker must meet while in the CNMI. For instance, under the terms of the contract, a Chinese worker is forbidden from participating in any political activities or marrying while in the CNMI. Another requirement is that the worker must accept any work assignment, without question.

In some Chinese-owned factories in the CNMI, production and adherence to these contracts is monitored directly by a member of the Chinese government. These monitors guarantee that any worker who is caught in violation of the conditions of the contract will be sent back to China and forfeit wages and any other benefits otherwise borne by the employer, such as airfare from China to the CNMI. As stipulated in the contract, if the employee returns to China before the expiration of his contract, he or she risks "suffer[ing] the consequences" and may face civil and labor penalties back in China.⁴²

Effectively, these contracts guarantee that Chinese citizens work as indentured or bonded laborers while in the CNMI. By requiring these contracts to be signed before Chinese workers are deployed to the CNMI, the Chinese Government has delegated the well-being of its citizens to the CNMI employers and silenced their ability to challenge questionable labor practices.

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Increasing Crime

A substantial, recent, increase in criminal activity in the CNMI is directly linked to the CNMI's skyrocketing population and its lax immigration controls. The U.S. Attorney's office has noted an overwhelming increase in the number of criminal matters it has received during fiscal year 1996, including a 171 percent increase in drug cases and a 250 percent increase in violent crime cases.⁴³ Last year, the largest number of murders in Saipan's history occurred. Most of the criminal activity in the CNMI can be attributed to organized crime groups whose members easily enter the CNMI with counterfeit immigration documents. Once in the CNMI, these groups are engaged in promoting prostitution, drug trafficking, public corruption, extortion and even murder.

Prostitution

Members of Chinese organized crime groups are known to force female Chinese garment workers or women who are illegally living in the CNMI to become prostitutes by using intimidation or threats of physical harm.⁴⁴ Women who refuse are kidnaped, raped and tortured.⁴⁵ In fact, last year among those murders reported in Saipan were two young Chinese women, who may have been murdered for refusing to engage in prostitution.⁴⁶ In this climate of fear, these women understandably are reluctant to work with local or federal law enforcement authorities and investigators.

Women also are brought from the Philippines, China and other Asian countries expressly for criminal sexual activity. Typically, these women are recruited from their home country to work in the CNMI as "waitresses," but are compelled to engage in other activities such as dancing nude or prostitution by their employer after they arrive. Alarming, the Justice Department has qualified current federal investigative efforts as "merely a start in uncovering and prosecuting systematic trafficking of women and minors for prostitution" which includes illegal smuggling, organized crime, immigration document fraud and pornography.⁴⁷

Drug Activity

Members and associates of Japanese organized crime also easily enter the CNMI with falsified immigration documents, and smuggle crystal methamphetamine (or "ice") within their bodies. Ice is also imported from the Philippines. The ice is then sold in Saipan to local businesses, private residences, bars and on school grounds. A source within the U.S. Drug Enforcement Agency noted that the ice trade is not contained, and that with increasing tourism and immigration, drug trafficking is anticipated to continue.

As a component of the federal interagency CNMI initiative, the DEA established an ad-hoc task force with the CNMI to train local law enforcement to more effectively enforce federal drug laws. The DEA has provided the CNMI officers with training, supervision and experience in techniques relating to drug seizures and the cultivation of confidential sources. From January 1, 1996 through December 20, 1996, the task force initiated 20 investigations involving substantial amounts of ice.⁴⁸ These investigations resulted in the arrest of sixteen defendants and ten convictions.⁴⁹ Other grand jury investigations and trials are pending, and additional investigations are ongoing.

Public Corruption

The Department of the Interior Inspector General's Office (IG) has maintained a presence in Saipan to investigate white collar crime and public corruption, including bribery and money laundering. Bribes and kickbacks in connection with immigration permits, health care matters and gambling licenses are common public corruption activities in the CNMI, greatly hampering the CNMI Government's ability to effectively address human rights, labor abuses or other criminal business activity.⁵⁰

Recent evidence of illegal activity within the CNMI Department of Immigration and Labor warrants serious concern. The Marianas Variety reported that the Director of the Immigration Department allegedly raped a female Chinese immigrant while she was being held in an immigration detention area awaiting deportation.⁵¹ The Director was charged with assault and battery, rape, misconduct in public office and more.⁵² The arrested official has plead not guilty to the charges. This same official was charged with rape in 1977 when he was a police officer, however, the case was dismissed.⁵³ Sources note that this is not the first incident of its kind to have taken place by officers within the CNMI Immigration Department.

The number and types of these white collar crime and public corruption investigations have increased over the years, even though the IG has been active in Saipan for a relatively short period of time. While such criminal activity and investigations also occur on the U.S. mainland, the number and depth of investigations in the CNMI is significant in light of the numerically small native population and the disproportionately large government.

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Current Public Relations Efforts

Aware of these continuing problems but fearful of losing control over its immigration and minimum wage laws, the CNMI Government has initiated an extensive public relations campaign to promote its economic achievements. Representatives from consulting firms, think tanks, publications as well as high ranking Congressional staff have traveled to the CNMI as guests of the government.⁵⁴ Few participants have any background in CNMI policies on labor standards and human rights.⁵⁵ The think tanks that have sent representatives to visit the CNMI have long records in opposition to labor law protections, as do some of the legislators whose staffs have participated.

At least one such organization, the Competitive Enterprise Institute, returned from the CNMI and issued a report hailing the CNMI as an economic "success story." The report fails to note that in addition to the CNMI's immigration policy and low minimum wage, the economic success of the CNMI is largely the result of direct federal payments and grants. For instance, during the CNMI's ten year transition from a U.N. Trust Territory to a United States Commonwealth (1976-1986), the federal government invested over \$514 million in direct budget support and new infrastructure and development funds.⁵⁶

Press reports note that the CNMI Government invited these travelers to "educate them on such issues as the economy, labor, immigration and minimum wage" and is providing visitors with deluxe hotel accommodations, dinners and island tours.⁵⁷ In addition, the visitors' schedules include personal guided tours of a garment factory and workers barracks owned by Willie Tan, the businessman who was fined a record \$9 million in 1992 by the U.S. Department of Labor for numerous labor violations.⁵⁸

Governor Tenorio has stated the goals of the trips as "spending money to keep the Congress from doing anything to us. All I want from Congress is to leave us alone."⁵⁹ The Governor reportedly has offered to give up aid from Washington in exchange for no "federal interference."⁶⁰ Yet, the CNMI Government displays no hesitation about applying for or accepting substantial federal grants which provide considerable funding for its schools, roads, sewers, hospitals and improvements to its local immigration system. Based on the most recent information available (FY 96), the CNMI received over \$59 million in various federal grants and direct payments, however some sources claim this figure may be higher. This amount includes a recent \$11 million grant to finance improvements in the CNMI infrastructure to counter dilapidation which is the result of heavy usage by the growing immigrant workforce.⁶¹

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Stronger Federal Presence Needed

To attain real human rights, labor and immigration reform, a strong federal presence in the CNMI is necessary. Although the CNMI government has promised to more carefully monitor and address these problems, a pattern of empty promises has emerged over the years. Federal officials, agents and attorneys are needed to ensure that the federal laws protecting the rights of foreign contract workers on U.S. soil are upheld; that foreign workers who speak out against their employers are not immediately sent back to their country of origin; and that workers who attempt to form labor unions are not labeled as troublemakers and denied the renewal of their work permit.

The current federal presence in the CNMI is composed of representatives of those federal agencies involved in an inter-agency task force led by the Department of the Interior. As such, about fifteen federal personnel from the Departments of Interior, Justice, Labor and Treasury are posted in the CNMI to monitor, investigate and prosecute abuses of federal law, as well as to work cooperatively and to train local government officials in these tasks. Based on the severe labor, immigration and crime problems outlined in

this report, the current federal presence in the CNMI is not adequate to enforce the law and protect the human and legal rights of the people there.

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Conclusion

Leading members of the CNMI government assert that the Commonwealth's immigration and minimum wage laws are responsible for its economic progress. Upon closer examination, it is evident that the economic growth of the CNMI is largely due to federal grants totaling hundreds of millions of dollars and the financial success of a few employers who have relied upon the recruitment and sweat of a large, cheap, foreign labor force. This foreign labor force has now grown larger than the indigenous population and is composed of workers who earn salaries far beneath the federal minimum wage. These workers are treated as second-class citizens in the CNMI and have virtually no voice to demand improvements to unsafe or exploitive working conditions. The CNMI government has demonstrated little commitment to investigating human rights and labor abuses suffered by the foreign workers at the hands of their employers. Independent health and safety inspections and criminal investigations by CNMI officials are few and far between.

The majority of the native U.S. citizen population in the CNMI works for the large, local Government and is protected from the artificially low local minimum wage. Likewise, the private employers who utilize the foreign labor make enormous personal profits, but many still illegally withhold wages or provide hazardous working and living conditions.

Because of its Commonwealth status, CNMI garment factories are allowed to sew "Made in USA" labels into its products. However, the men and women who labored to produce these products are being denied the protections of the laws of the United States, such as the U.S. federal minimum wage, the right to collective bargaining and the right to be protected against exploitation to which all other American workers are entitled. Rather, the CNMI Government has failed to implement adequate minimum wage increases as pledged to the U.S. Congress, has refused to enforce accurately and actively its immigration policy and has vocally refused to give a voice to the foreign workers it has recruited.

The CNMI Government's extensive -- and expensive -- recent public relations effort to generate support for the status quo cannot conceal the evidence of ongoing labor and immigration problems. Legislation is needed to bring the minimum wage in the CNMI into conformity with the U.S. federal minimum wage, to ensure that products that carry the "Made in USA" label are made in compliance with all United States laws, and to require that the CNMI's immigration program be administered consistent with federal law and policy. The citizens of the United States, both on the mainland and in the U.S. territories, deserve nothing less.

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Endnotes

1. [Leave the Territories Alone](#), Marianas Variety, July 2, 1996.
2. Public Law 94-241.
3. Testimony of Senate President Joseph S. Inos, before the Subcommittee on Insular and International Affairs Hearing, July 30, 1992. Mr. Inos cites the 1973 population of the CNMI as 14,333, 88% of

which was indigenous and 12% was alien.

4. Prepared statement of Chairman Ron de Lugo, before the Subcommittee on Insular and International Affairs Hearing, July 30, 1992.
5. CNMI 1995 Census of Population and Housing, Central Statistics Division, Department of Commerce, Commonwealth of the Northern Mariana Islands, December 1996 (Hereinafter "CNMI 1995 Census").
6. Id. The majority of the foreign workers are Filipino. Other nationalities of foreign workers include Chinese, Korean, Japanese, Palauan, and Micronesian. *See also: Labor Issue Resurfaces in CNMI*, Pacific Daily News, December 23, 1996.
7. CNMI 1995 Census at Table 53.
8. CNMI 1995 Census.
9. Testimony of Juan B. Babauta, Washington DC Resident Representative of the CNMI, before the Senate Energy and Natural Resources Committee, June 26, 1996 (Hereinafter "Babauta testimony").
10. Garment Worker Quota Raised, Pacific Daily News, September 19, 1996 (Hereinafter "PDN, September 19, 1996"); More Garment Hiring, Marianas Variety, September 18, 1996.
11. PDN, September 19, 1996. Currently, more than 6,000 foreign workers are employed in the CNMI garment industry. Id.
12. Babauta testimony.
13. In response to concerns stemming from violations of immigration laws, the mistreatment of alien workers, forced prostitution, and increased white collar crime and corruption in the CNMI Government, legislation was enacted in the 103rd Congress, to create a multi-agency Federal Initiative on Labor, Immigration and Law Enforcement in the CNMI. The agencies within the Departments of the Interior, Labor and Justice which compose the Initiative, submit an annual report on their activities and findings to Congress.
14. OSHA News Release, November 18, 1996.
15. Garment Firm Runs Into Court Trouble for Breaches, January 1997.
16. Committee staff conversation with a representative from the National Labor Relations Board, January 14, 1997.
17. Zaldy Dandan, NMI No Place for Unions - Tenorio, Marianas Variety, April 11, 1997.
18. Nine of these 23 grievances have been withdrawn.
19. Locking employees in their living barracks during hours when the employees are off duty largely ended after the U.S. Department of Labor ruled that employees who are unable to leave their worksite must be paid overtime wages for the period for which the barracks are locked.
20. Memorandum of Understanding between the Department of Labor and Employment of the Republic of the Philippines and the Commonwealth of the Northern Mariana Islands, signed September 19, 1994, at 2.
21. Id.
22. Id.
23. Republic of the Philippines, Department of Labor and Employment, Department Order Number 10-A.
24. CNMI Brought in 3,074 Filipino OCWs in 4th Q, Marianas Variety, January 14, 1997. Following the lifting of the moratorium, CNMI Governor Tenorio traveled to the Philippines to discuss labor and trade relations there. During his visit, the Governor met with Philippine President Ramos to formally apologize for past labor abuses. Tenorio: I Apologize, Pacific Daily News, June 19, 1996.
25. Marianas Variety, January, 8, 1997.
26. Marianas Variety, January 14, 1997.
27. Alost Testimony, June 26, 1996.
28. In accordance with Public Law 104-188, the U.S. minimum wage will increase to \$5.15 in September, 1997.
29. CNMI 1995 Census, at Table 144. The average unemployment rate in the CNMI is 7.1 percent.

30. This annual income range is primarily below the poverty line which, the criteria of which for an individual is a salary of \$7,740. Congressional Research Service.
31. CNMI 1995 Census.
32. Gaynor Dumat-Ol, Workers Wait for Wage Increase, Pacific Daily News, July 13, 1996.
33. Id.
34. The CNMI government has contracted with the conservative Washington D.C. consulting firm, Hay Management Consultants, to complete a study on the effects on a minimum wage hike. The results of the study are due in April, 1997.
35. Richard Miller, Critique of Promoting Free Markets in the Commonwealth of the Northern Mariana Islands by Doug Bandow, Office of Insular Affairs, January 28, 1997 (Hereinafter "DOI Critique of CEI Report").
36. Id.
37. Labor Cases Filed in the CNMI, Office of the Labor Representative, Philippine Consulate, First Quarter 1997 Charts and Reports.
38. Id.
39. Id.
40. CNMI Public Law 103-72, passed October 4, 1996.
41. Id.
42. "Translation of Shadow Contract," December 5, 1996.
43. Chart: United States Attorneys - Criminal Caseload Statistics, Northern Mariana Islands, U.S. Department of Justice, December 1996. These increases are particularly compelling in light of the small population and size of the CNMI relative to other United States cities.
44. Id. at 1.
45. Id.
46. Id.
47. Id. at 4.
48. Id.
49. Id.
50. Id. at 1.
51. Deportee Cries Rape, Marianas Variety, December 3, 1996.
52. Id.
53. Ferdie de la Torre, Accused INO Captain Also Charged with Rape in '77, Marianas Variety, December 3, 1996.
54. Over 50 Congressional staff, including a handful of Members of Congress, have traveled to the CNMI as guests of the CNMI Government.
55. Reportedly, these travelers have been selected by the DC lobbying firm of Preston Gates, which was hired last year by the CNMI government for about \$1.1 million. *See: More Congressional Visits Expected*, January 8, 1997.
56. DOI Critique of CEI Report.
57. Tenorio Hopes Image Dividends on Congress Group Sortie, December 11, 1996; Pacific Daily News, December 17, 1996 (Hereinafter "PDN, December 17, 1996").
58. William Branigin, Amid Criticism, U.S. Commonwealth Trying to Win Congressional Favor, Washington Post, February 22, 1997.
59. PDN, December 17, 1996.
60. John Fund, A Tale of Two Islands . . . and Two Clinton Policies, Wall Street Journal, February 20, 1997.
61. CNMI Receives \$13M Grant, Marianas Variety, November 18, 1996. With this new funding, the CNMI now has \$154 million of federal funds available for projects between 1996 and 2002. Federal Gov't Coming Around, Newspaper article.