

Marianas lawsuits put spotlight on DeLay's support for slave labor

by Carl Osgood

On Jan. 13, three lawsuits were filed, two in Federal court and one in California state court, seeking an end to the horrendous labor conditions in garment factories on the island of Saipan, one of 14 islands that make up the Commonwealth of the Northern Marianas Islands (CNMI), a U.S. territory located about 100 miles north of Guam in the Western Pacific. The lawsuits target a contract labor system that imports immigrant workers, mostly from China, to work in sweatshop conditions; gives workers quotas that are impossible to meet, for low pay and often unpaid overtime; and leaves workers living in squalor, in company barracks surrounded by barbed wire and armed guards.

The two Federal filings, one in California and the other in Saipan, are class action suits on behalf of some 50,000 workers who have labored in the factories over the last ten years. The suits name 23 garment factories on Saipan, and 17 major U.S.-based retailers, including The Gap, J.C. Penney, J. Crew, The Limited, Sears Roebuck, Tommy Hilfiger, and Wal-Mart. The suits charge the retailers and their contractors with a "racketeering conspiracy" to avoid U.S. labor laws in order to maximize profits. The California state filing, by the Union of Needletrades Industrial and Textile Employees (UNITE) and three human rights organizations, charges the retailers with deceptive business practices and with trafficking in "hot goods" manufactured in violation of U.S. labor laws.

News of the filing of the lawsuits prompted a near-unanimous outcry from local politicians and residents who benefit from the system. The *Saipan Tribune*, owned by Hong Kong businessman Willie Tan, called the lawsuits a "dastardly trick," and a spokesman for Tan's Tan Holdings Corp., which owns three of the factories named in the lawsuits, said the suits are "a political maneuver by the Clinton administration, Democrats, and labor unions to destroy the Northern Marianas."

One week after the suits were filed, five officials from the U.S. Department of the Interior's Office of Insular Affairs, which has jurisdiction over matters pertaining to all of the U.S. island territories, visited Saipan, under the auspices of section 902 of the covenant that brought the CNMI into the United States, to try to come to a negotiated agreement whereby the CNMI government would give up its exemptions from Federal minimum wage and immigration laws, exemptions granted in the covenant. On Jan. 19, delegation chief

Edward B. Cohen said, "While I arrive with high hopes, I also have profound concerns. The strains that have developed between the Federal and CNMI governments are acute. I recall vividly when I was growing up in Washington, the conflict between the Federal government and certain Southern states over the issue of racial segregation. It was a painful period. Frankly, as I reflect on the relationship between the Federal government and the CNMI government, I have that same painful feeling." To no one's surprise, the 902 consultations, as the meetings were known as, ended in failure and acrimony.

What could be the source of so much tension between this far-flung group of islands in the Western Pacific and the U.S. Federal government? What could cause a Federal official sent there to address labor problems to invoke the image of Alabama Gov. George Wallace standing in the doorway at the University of Alabama to block Federal enforcement of civil rights laws in 1963? Even more, why is this issue so important to the Conservative Revolutionaries in the U.S. Congress, such as, most significantly, but not limited to, House Majority Whip Tom DeLay (R-Tex.)?

Political protection for sweatshops

The Northern Marianas Islands are well known for the gigantic naval and amphibious battles fought there during World War II. The island of Tinian is burned into American history because it was the base from which the atomic bombings of Japan were launched in 1945. Today, these islands have become a bitter battleground of a different sort.

The battle concerns the future of a contract labor system that brings primarily unskilled workers from China, Thailand, Bangladesh, the Philippines, and elsewhere to the CNMI to work in the garment, construction, and hotel industries. Because of exemptions in the covenant that brought the CNMI into the United States in 1986, Federal minimum wage, customs, and immigration standards do not apply. The reason given for the exemptions in 1986 was the fear that if the CNMI did not control its own immigration, the local population of 15,000 would be overwhelmed by immigrants seeking employment at the U.S. minimum wage. What has happened, instead, is that while the local population has grown to around 28,000, a contract labor force which did not exist in 1986 has mushroomed to around 42,000 workers. Some 11,000 of these



House Majority Whip Tom DeLay (R-Tex.) hails the allegedly “miraculous” economy of the islands, and claims, incredibly, that there is no evidence that workers in the Marianas are being “abused.”

workers are employed in largely foreign-owned garment factories that produced about \$1 billion worth of clothing for the American market in 1998, clothing that is shipped to the United States with “Made in the U.S.A.” labels and free of duties and import quotas.

When the Clinton administration and Congressional Democrats threatened to impose Federal immigration and minimum wage standards on the islands, which the covenant allows the U.S. Congress to do, the CNMI government turned to the Conservative Revolutionaries in Congress and the Seattle-based law firm of Preston, Gates, Ellis & Rouvelas Meeds for help. Throughout 1997, on the advice of Preston, Gates, the CNMI government plied several members of Congress, including Reps. DeLay, Dana Rohrabacher (R-Calif.), Phil Crane (R-Ill.), Phil English (R-Pa.), and Brian Bilbray (R-Calif.), and dozens of staffers, with all-expenses-paid trips, at \$4-6,000 a head, to the islands. House Majority Leader Dick Armey (R-Tex.), another enthusiastic defender of the contract labor system, though himself not making the long journey, was represented by members of his staff.

None was more enthusiastic than DeLay, however. In a statement inserted into the *Congressional Record* on March 19, 1997, DeLay described the “miraculous” economic transformation of a place where, in 1970, the government was almost the only employer, to today, where some 23,000 people are employed in the private sector. He attributed this “transformation” to the “pro-growth” policies of the local administration, which dropped laws restricting foreign investment, reduced regulatory burdens on businesses, and reformed its tax system. DeLay also attacked the efforts to extend Federal minimum wage and immigration standards to the CNMI, saying that imposing the minimum wage “would kill jobs, growth, and opportunity.”

Prosperity or slave labor?

There is another side to the story, however. On March 31, Rep. George Miller (D-Calif.), testifying to a hearing of the Senate Energy and Natural Resources Committee, said, “Foreign workers totally dominate the private sector, leaving few, if any, employment opportunities for U.S. citizens. These foreign workers arrive in Saipan [the largest island of the CNMI] deeply in debt to recruiters, loan sharks, and even their communities. They earn subminimum wages. They are forced to work for uncompensated hours. Many are forced to pay to live in company barracks ringed with barbed wire, devoid of fresh water or clean facilities. They are a disgrace and a danger to their inhabitants.” Miller complained that he had to air his views in the Senate, because “the House has refused to give any consideration to this matter in any form or substance.”

Criticism of the CNMI is not limited to Democrats. Committee Chairman Frank Murkowski (R-Alaska) reported that when he and Sen. Daniel Akaka (D-Hi.) visited the islands in 1996, “We saw living conditions that simply should not exist in the United States. . . . I also met with workers who had been induced to come to the Marianas, had not been paid, and seemed to have no legal recourse.” He said the living conditions of women in one of the company barracks he visited “are almost like living in large baby cribs. . . . There is no running water, no workable toilets, no electricity.” Murkowski tended to be more critical of Federal enforcement efforts than the Democrats, however.

The Committee also heard horror stories from human rights activists and from garment workers themselves, who travelled to Washington for the hearing. Their testimony tended to back up the statements of Miller, Murkowski, and other critics of the CNMI.

Aggressive lobbyists

Also coming under fire were the lobbying efforts by the Preston, Gates firm on behalf of the CNMI government. During 1997 alone, the CNMI government paid out nearly \$2 million to Preston, Gates, and reportedly as much as \$5.6 million total by the end of 1998, making the CNMI government Preston, Gates’ largest client. Interior Secretary Bruce Babbitt complained that Allan Stayman, the Director of the Office of Insular Affairs, had been “subjected to a massive campaign of intimidation, much of it being orchestrated by the paid lobbyists for the government of the Northern Marianas.” During the hearing, Murkowski noted that a report prepared by the lobbyists seemed to be aimed more on behalf of the owners of the garment factories rather than the lobbyists’ paying client, the CNMI government.

The strategy of the lobbyists was revealed by an e-mail memo, written by lead lobbyist Jack Abramoff, which was leaked to the *Seattle Times* about a week before the hearing. The strategy included such tactics as “stacking public hearings” with friendly workers; attacking the islands’ critics, to

include an effort to persuade Congress to “defund, or more likely, to severely limit the activities of the Office of Insular Affairs”; and providing all-expenses-paid trips to members of Congress and their staffs to the islands. “There is no doubt,” Abramoff wrote, “that trips are one of the most effective ways to build permanent friends on the Hill.”

Tom DeLay was one of the beneficiaries of Abramoff’s strategy. He, along with his wife and three staffers, made a trip to the islands over the 1998 New Year’s holiday. He came back not only singing the praises of the CNMI’s economy, but also proposing a similar system for bringing Mexican “guest workers” into the mainland United States to take jobs that Americans don’t take, at “whatever wage the market will bear.”

While admitting that there are “problems,” DeLay claimed that he found no evidence of worker abuse and that most of the workers he spoke with during his visit “were reasonably satisfied” with their work, in spite of being paid only \$3.05 per hour. He described the Saipan garment industry as a “glowing example” of “free market success,” precisely because it does not have to abide by U.S. wage and labor laws and other regulations. While in Saipan, DeLay was feted at a reception hosted by Willie Tan, the owner of some of the largest businesses on the islands, including the largest garment factory. (In 1992, Tan was forced by a Department of Labor lawsuit to pay \$9 million in back wages and overtime pay to workers whom he had not been paying.) There was also plenty of time, between official business, for games of golf at some of Saipan’s numerous resorts.

Labor and immigration issues in the CNMI are not the only connection between Tom DeLay and Jack Abramoff, however. Abramoff is also a friend and supporter of Tom DeLay. Abramoff and his wife contributed \$8,000 to DeLay’s 1996 and 1998 re-election efforts, and another \$10,000 to DeLay’s political action committee, Americans for a Republican Majority. Nor is Abramoff the only connection between Preston, Gates and DeLay. One of DeLay’s staffers, William Jarrell, left DeLay’s office in May 1997 to go work with Abramoff in Preston, Gates’ D.C. office. While DeLay’s office denied that Jarrell would be lobbying DeLay or working on the CNMI contract, Preston, Gates’ 1997 lobbying disclosure filings listed Jarrell as working on behalf of the CNMI, among other clients.

There are also strong political connections between some of the defendants and the Republican Party. According to Federal Election Commission data compiled by the Center for Responsive Politics, three of the defendant companies have contributed significant amounts of money to various Republican committees. These include Dayton-Hudson, which owns department stores Target, Mervyn’s, Dayton’s, and Hudson’s, and contributed \$180,000 to various Republican committees from 1996 to 1998. May Department Stores gave \$150,000 from 1995 to 1998. Warnaco, a manufacturer of men’s and ladies’ underwear, gave \$102,500 to the Republican Party during the same time period. Warnaco chairman

Linda Wachner, known in Britain as the “bra queen,” is also a close friend of *New Republic* owner and Al Gore mentor Martin Peretz.

The lobbying effort was aimed at stopping a bill sponsored by Miller in the House and Murkowski and Akaka in the Senate, that would have imposed Federal minimum wage and immigration standards on the CNMI. Miller complained on several occasions that it was DeLay who succeeded not only in blocking consideration of the bill, but also preventing a hearing in the House Resources Committee, chaired by Don Young (R-Alaska). After the lawsuits were filed, Miller said, “For years, the government of the Northern Marianas Islands has conspired with local contractors and foreign companies to deceive and exploit poor working men and women brought over from Asia. Many have gotten rich off the backs of these abused workers. As we exposed their illegal and reprehensible practices, they have sought, and found, protection for their corrupt system from Republican leaders of Congress who have blocked bipartisan reform legislation, refusing even to hold hearings on well-documented exploitation and serious damage to our domestic garment industry.”

Miller added that the lawsuits might have been unnecessary “had the CNMI government and Congress taken the necessary and proper steps to rein in the abuse, rid the islands of the sweatshops and make the Northern Marianas a legitimate production site rather than a renegade outpost that better resembles a prison labor camp than a factory site making clothes bearing the ‘Made in the U.S.A.’ label.”

Further confrontation looms

Local CNMI government officials at both the March 31 Senate hearing and the more recent 902 consultations insisted that they were working to address the labor abuses. Indeed, the change of administration in the CNMI that occurred in January 1998 would, at first, seem to indicate a different policy direction. One of the most visible changes that occurred was the end of the Congressional junkets. Whether that decision was the result of the \$35 million budget deficit that Gov. Pedro Tenorio inherited from the previous administration (headed by his nephew Froilan Tenorio), or the bad publicity from the junkets, was never said. In addition, the Saipan Garment Manufacturers Association instituted a code of conduct, and on Jan. 21 suspended two of its members. Executive Director Richard Pierce told the *South China Morning Post* on Jan. 24, that the association had also hired top auditing firms to audit wages, and added that the lawsuits are based on out-of-date allegations.

Nonetheless, the CNMI government and the garment manufacturers are still waging a fierce battle to avoid the imposition of Federal minimum wage, customs, and immigration standards. Despite the budget deficit, the CNMI government continues to retain the services of Preston, Gates, and paid hundreds of thousands more dollars for its services during 1998. The customs exemptions saved the garment manufacturers \$200 million in duties that they would have paid

were they located in their home countries, and the garment manufacturers exercise considerable clout with the local government, because the bulk of the CNMI's tax revenues come from those factories. This has been even more the case since the global economic crisis broke out in Asia, which hit Saipan's tourist business hard.

Now, with the lawsuits, the fight against the sweatshop operations is on two tracks. Democrats in both houses of Congress have introduced bills to increase the U.S. minimum wage from the current \$5.15 an hour, to \$6.15, and, at the behest of Rep. George Miller, both the House and Senate versions of the bill have a provision to make the Federal minimum wage law applicable to the CNMI. This is an open challenge to DeLay, who otherwise has made no known public comment on the issue since April 1998. However, a spokesman for DeLay did tell *Newsweek*, after the lawsuits were filed, that he was "unaware" of any changes in DeLay's views. The irony is, that Hong Kong, now under the administrative control of the People's Republic of China, is becoming more far-sighted on this issue than is the United States, because the Hong Kong owners of some of Saipan's garment factories are becoming an embarrassment in Hong Kong. The Jan. 25 *South China Morning Post* quoted Lee Cheuk-yan, general secretary of the Hong Kong Confederation of Trade Unions, saying, "It's no surprise that Hong Kong employers mistreat Chinese workers in Saipan, because they do it in Hong Kong."

Documentation

Here are excerpts from the lawsuit filed in U.S. District Court for the Central District of California, by the law firm of Milberg, Weiss, Bershad, Hynes and Lerach LLP, on Jan. 13:

Summary of allegations

... [T]he CNMI garment industry now relies almost exclusively upon more than 15,000 "guest workers" who come primarily from the People's Republic of China ("China"), the Philippines, Thailand and Bangladesh, notwithstanding a 14% unemployment rate among the CNMI's native-born population. Many of these "guest workers" must agree to pay a "recruitment fee" of up to \$7,000 for a one-year contract (the maximum contract duration permitted under the CNMI law to work in a CNMI garment factory). The recruiters who work for the CNMI garment factories solicit new garment workers by painting a rosy picture of what life will be like working "in the U.S.A." Recruiters tell these workers they can expect high-paying jobs that will easily cover these substantial recruitment fees and provide money to support the worker's family, that they will work in clean and safe factories manufacturing expensive high fashion clothing, receive decent food and live in clean, comfortable, air-conditioned quarters.

Upon their arrival in Saipan, however, these workers dis-

cover they are the victims of a cruel hoax. Workers are uniformly forced to work in unsafe conditions which have repeatedly been found to violate Occupational Safety and Health Act ("OSHA") regulations for excessive hours and are routinely cheated out of their rightfully-owed regular and overtime premium wages. Unrealistic production quotas are regularly imposed upon these workers and if unmet, require hours or days of "volunteer work" for no pay.

Documented hazardous "sweatshop" conditions abound in the CNMI garment factories, including a lack of safety equipment on sewing machines, fire exits that are either blocked or chained shut, extreme heat with poor ventilation, hazardous fire conditions, and air choked with dust, synthetic and cotton fibers from cutting machines, with no dust masks supplied. For example, in June and July 1996, OSHA inspected 64 of the CNMI's labor camps, finding 178 violations including blocked exits, fire hazards, unsanitary restrooms and exposed wiring. At the same time, OSHA inspected 26 garment factories, finding 63 violations in 18 garment factories operated by many of the companies named as defendants herein. Over one-half of these violations were characterized as "serious" because they could result in death or significant injury. Since 1993, there have been over 1,000 reported OSHA violations at these factories, with most of these violations listed as either "recurring" or "serious."

In addition to being required to pay exorbitant recruitment fees, members of the Class sought to be represented in this action also must pay their employers up to \$100 each month to live in what in fact are overcrowded, vermin- and insect-infested barracks maintained by the CNMI garment factories, with sometimes six or eight workers to a room, little access to running or drinking water, barely operable toilets, showers or electricity and no air conditioning or adequate ventilation despite sweltering tropical heat. Many of these prison-like barrack complexes are two and three stories high, secured by guards and surrounded by inward pointing razor-wire-topped fences. At night, many workers are either not allowed to leave the barracks or must return by a specific curfew or suffer disciplinary action. These workers are also required to pay up to \$100 each month for food, but workers often go hungry or are fed insufficient quantities of poor quality, poorly prepared, unhygienic food.

Between these exorbitant recruitment fees and the amounts charged for food and housing, at a minimum wage of \$3 hourly, workers are barely able to break even during their one-year stay in the CNMI. They therefore become financially bound to their employers as without such employment they can be left unable to repay their recruitment fees, send money home, or even purchase daily necessities. As these workers typically work 70-hour weeks in the above-described sweatshop conditions, these economic and physical conditions are far removed from what was promised, and, in fact, create a system of peonage, indentured servitude and, in some cases, a sacrifice of basic human rights bordering on false imprisonment.