

Testimony of Bonifacio V. Sagana
President, The Dekada Movement, Inc.
to the
Subcommittee on Insular Affairs
Committee on Natural Resources
U.S. House of Representatives
Field Hearing
Saipan, CNMI
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Chairwoman Christensen, Honorable Committee Members, Distinguished Staffers and Others in Attendance. It is a distinct honor and privilege to be allowed to appear here before this distinguished committee and speak on behalf of long-term alien residents of the Commonwealth of the Northern Mariana Islands and, particularly, the organization of which I am President, The Dekada Movement, Inc.

When I speak of DEKADA, I am speaking of our organization, but I am also speaking of something more. For DEKADA truly is a movement, not just an organization with the word "movement" in its name.

It is my honor and privilege today, as the one representative of foreign contract workers invited to testify, to also recognize and speak on behalf of other organizations that have now joined Dekada in the quest for improved status and working conditions. I am proud to convey the support of the Human Dignity Act Movement, the Pilipino Contract Workers Association, Inc. (Pilco), and the Multi-Sectoral Overseas Workers Movement (MOVER) for this legislation, and the greetings and appreciation of these organizations and their members to the Committee.

DEKADA was born of the frustration of long-term alien contract workers with a CNMI labor and immigration system that failed to recognize their years of economic productivity, ties to the commonwealth, and contributions to the community, subjecting them instead to the uncertainty of annual renewals and effectively indentured to their employers.

In early 2004, a group of Filipino workers, taking heart in remarks by a prominent local official reported in the February 27, 2004 *Marianas Variety*, began a signature campaign for permanent residency, also known as the Isang Dekada Movement. Board of Education member and President of the 1985 and 1995 Northern Marianas Constitutional Conventions Herman T. Guerrero (brother of current Saipan Chamber of Commerce President Juan T. Guerrero) had observed that workers who had been living in the CNMI for 15 to 20 years would have already gotten permanent residency status if they were in the United States. He stated, "We need to address this issue. We cannot continue to disenfranchise them."

From the signature campaign came an association, and then The Dekada Movement, Inc. received formal corporate existence on October 12, 2004. From the very earliest days, Dekada counted its members and supporters at around 3,000 alien workers, although less than a third of these were formally enrolled as members and fewer still had fully paid their membership dues and registration fees.

Resistance was swift and opposition vocal. Much of the response was aimed at weakening Dekada by discouraging alien workers from contributing financial support to the organization and efforts to obtain improved status for long-term alien residents of the CNMI.

We were told that Dekada had “no chance” of obtaining U.S. permanent residency, or “green cards,” for our members and that the U.S. Congress could only grant citizenship, not permanent residency. Dekada’s leadership, though our legal counsel, of course knew better, but it is hard to get the correct information out to the mass of workers.

Public statements were made cautioning alien workers against giving money to anyone “promising” green cards. Of course, Dekada had always been careful never to suggest that payment of the registration and membership fee would assure them of a “green card.” It was very clear that the purpose of the money was to support the quest for improved immigration and other status for long-term alien residents and that “green cards” for long-term alien residents was just one way to achieve this, one thing (perhaps the most important thing to some) for which Dekada was campaigning. Many, if not most, of our members and supporters, however, made it clear that they would be satisfied with an improved immigration status short of admission to lawful permanent residency under U.S. immigration laws.

Recently, Dekada was accused (without a shred of evidence to support it) of orchestrating a text message campaign calling for a boycott of businesses owned by Chamber of Commerce President Juan T. Guerrero on account of his opposition to the immigration benefits for long-term alien contract workers in S. 1634 and H.R. 3079. Individuals passing on this baseless allegation would say that some alien contract worker had told them that Dekada was behind the text campaign.

Given the similarity between these false aspersions and other persistent disinformation campaigns against Dekada, we cannot help but wonder if the text campaign is not the work of *agents provocateur*, carrying it out for the principal purpose of blaming it on Dekada. We observe that a prominent radio commentator on Saipan uses a similar tactic of defaming Dekada through “information” purportedly provided by a nameless contract worker source. For example, he has repeated said on the air that he was told (by this unnamed, alleged contract worker) that Dekada officers, allegedly on instructions of their legal counsel, were promising workers “green cards” if they would pay \$100.

This, of course, was and is absolutely untrue. To the best of the knowledge of Dekada’s officers and counsel, no one associated with Dekada has ever promised anyone a

“green card” (with or without payment). Dekada has always been very clear about the purpose of the \$100 combined registration fee and membership dues: to pursue improved status for long-term alien residents of the CNMI.

Even the Department of the Interior’s Office of the Labor Ombudsman has been affected by these unwarranted derogatory insinuations. Not long ago that office established a “hot line” for workers to report anyone promising “green cards” in return for a payment of money. This misguided action naturally suggested there might be some merit to the spurious allegations being spread about Dekda. It is telling that the “hot line” never received even a single report of someone promising “green cards” for money. Instead, the hot line was flooded with calls from people wanting to know when federalization would occur and how and when they might be able to apply for an improved immigration status.

Today, over three and a half years after its inception, the DEKADA movement is backed by more than 4,000 Filipinos, Bangladeshis, Nepalese, Chinese, Koreans, Sri Lankans, Indian, Japanese and others who have been lawfully living and working in the CNMI for 5 years or more. They are individuals who have become part of the community, forming and raising families here, whose “born in the CNMI” children have never known any other home, and who daily are lending their backs and hands, minds, skills, talents, experience, and energies to the social, religious, cultural, and economic life of the Northern Mariana Islands and forming pillars that help support the CNMI economy and keep it alive, strong, and vibrant.

That is the way we were able to describe our role back in March of 2005. Today it will be more accurate to speak of our desire and critical place in restoring the strength and vibrancy to the CNMI economy.

Passage of H.R. 3079 is imperative. The bill is acceptable in its present form but still can be improved substantially. This legislation should be made a top priority for the current Congress, finalized and passed as soon as possible.

The CNMI economy cannot begin the road to recovery until certainty and stability in the area of labor and immigration make it possible for businesses to reliably forecast future risks and make confident business decisions to enter, remain, expand, and invest in the Northern Mariana Islands. The current bureaucratic morass of vacillating laws, regulations, policies, and practices must be replaced with labor market in which all workers, citizen and non-citizen, can freely market their skills and economic productivity is maximized both in terms of return to labor and business efficiency. In short, because H.R. 3079 can do a great deal to meet this need, it is good for labor (both indigenous and foreign of long residency) and good for business.

We recognize that some businesses oppose this legislation, particularly certain big businesses and businesses with close ties and business dependencies to other businesses whose management oppose this legislation. A number of factors motivate this opposition, including fear and prejudice. Some business leaders have argued there

should be no federalization of immigration until after studies have been done on what the impact would be, yet these same business leaders have no studies to support their cries that grant of improved status to long-term alien residents would have deleterious affects on the CNMI.

Dekada respectfully observes that all studies merely look at current conditions and data together with information and data from other spatial and temporal milieu and attempt to make an informed guess at what the future impact would be. H.R. 3079 provides for a transition period during which all aspects of the CNMI experience with federalization will be monitored. Dekada respectfully suggests that this is a lot more meaningful way of studying the matter than stalling and delaying to provide time for a static analysis, a snapshot of the CNMI economy as it exists today, and formulation of a set of assumptions – likely subject to dispute – upon which projections can be made. Necessary adaptations and adjustments can be made dynamically along the way, based on actual experience and observation, not esoteric models and abstract academic postulates.

DEKADA strongly supports H.R. 3079 but also urges improvements. Similarly, Dekada expressed its support for S. 1634 – with improvements. H.R. 3079 is a better bill than S. 1634 but more needs to be done. One of the improvements Dekada sought for S. 1634, inclusion of a non-voting delegate in the U.S. Congress for the NMI, has been incorporated into H.R. 3079.

One of the improvements DEKADA believes should be made is incorporation of H.R. 3165. H.R. 3165 makes changes to the local content rules of General Note 3(a)(iv)(A) of the Harmonized Tariff Schedule of the United States that would shore up the shriveling CNMI economy by helping to preserve part of its diminishing manufacturing sector. Maintenance of a healthy manufacturing sector is not just a corporate business interest, it is also a labor interest.

As the CNMI manufacturing sector has declined, retail prices have skyrocketed, to the detriment of all workers and consumers. Part of the reason for this is that ships bring imports to the CNMI must now return to the U.S. mainland largely empty due to the lack of exports. The effect is that CNMI consumers must pay the costs of empty vessels returning, since shippers get no outbound cargo revenue.

Some Concerns Not Adequately Addressed By H.R. 3079

- Current long-term alien residents (five years or more) should be eligible for admission to U.S. lawful permanent residency
 - without having to meet the current income requirements.
- Although Dekada believe U.S. lawful permanent residency should be granted all aliens resident in the CNMI for five years or more, Dekada recognizes Congress may not

- parents of U.S. citizen children.
- long-term alien residents of ten years or more.
- Persons with long-term investor status in the CNMI of 7-10 years or more should be granted either U.S. permanent residency or the same lawful nonimmigrant status established by the bill for long-term alien employees.
- The bill does not address the situation of individuals holding immediate relative status. This is a critical issue affecting families of U.S. citizens, families of citizens of the Freely Associated States, and families of alien workers, both long-term and short-term.
- Recently proposed new CNMI regulations that would degrade the status of immediate relatives of citizens of the Freely Associated States point out the critical need to make this a matter of federal law, beyond the reach of misguided CNMI impulses. The proposed new regulations reflect a drift net and purse seine approach to immigration policy and enforcement, targeting an alleged problem perceived to exist but lacking any documentary or statistical evidence relative to its magnitude, proportion, or any actual adverse impact on the community or the economy, and utterly disregarding the reality of its impingement on the constitutionally protected fundamental right of marriage.
- The foregoing issue also demonstrates the need to ensure that citizens of Freely Associate States have, at a minimum, no lesser rights under the immigration laws of the Untied States than aliens admitted to lawful permanent residency.
- Many foreign workers in the CNMI have labor awards or court judgments in their favor that they never have been able to collect. Such individuals should be granted admission to U.S. lawful permanent residency.
- Long-term alien residents of the CNMI who have recently departed (say within the preceding six, twelve, or eighteen months) should also be eligible for whatever status is granted under the bill.
- The bill requires lawful status in the CNMI to qualify for immigration recognition under the new or transitional regime. Some aliens who have maintained lawful status for a long time recently have fallen out of status as a result of the present economic depression or for other reasons such a family calamity or medical problem. There should be provision for such individuals to qualify for status under federalization notwithstanding a recent loss of status under CNMI law. Perhaps there should be a system of waivers for defects in qualification.
- U.S. lawful permanent residency should be available to long-term alien residents of the CNMI who had marriages of long duration (over 7 or 10 years) but never obtained

“green cards” and unfortunately ultimately had the marriage end in divorce or death of the spouse.

- There is a need to provide U.S. “green cards” and a path to citizenship for those “semistateless” children who were born in the CNMI between the approval of the Covenant and the effective date of Section 501 (individuals who acquired the citizenship of their parents at birth but have known no other home but the CNMI and were not helped by the Sabangan case).
- Legislation should make employers of foreign workers in the CNMI who know at the time of recruitment that the workers are required to pay recruitment fees in their country of origin in order to secure overseas employment legally responsible to the worker for those recruitment fees.
- Nationals of countries that do not have tax treaties with the U.S. are required to have FICA and Medicaid taxes withheld. Such individuals who have been paying into the system for years should either be granted U.S. permanent residency (so they can receive the benefit of their contributions) or should be entitled to refund of their contributions upon repatriation to their home country.

Attachments:

Attachment 1 – Letter from DEKADA leadership to Governor Benigno R. Fitial proposing local legislation to provide improved status for long-term alien residents. Absolutely no action was taken by CNMI elected officials to address this issue, despite potential fiscal benefits to the CNMI government and assurances from the Governor and certain legislative leaders that the proposal would be seriously considered.

Attachment 2 – June 19, 2005 op-ed piece in the *Saipan Tribune* by Bonifacio V. Sagana and Stephen C. Woodruff, “Dekada aspirations equal CNMI’s long-term best interest.”

Attachment 3 – Open letter to Interior Secretary Kempthorne from Human Dignity Act Movement President Engracio “Jerry” B. Custodio published in the June 6, 2007 *Saipan Tribune*, after which Mr. Custodio was given notice that his contract and non-resident worker permit would not be renewed by his employer, in retaliation for Mr. Custodio’s active role in the campaign for improved status for long-term alien workers (and increase in the minimum wage).

Petition Copies for retention in committee files for review and use by the Committee:

Attachment P-1 – July 2007 Statement of foreign contract workers prepared with the assistance of human rights activist Wendy Doromal and submitted to the Senate Committee on Energy and Resources in connection with July 19, 2007 hearing on S.

1634, with 144 pages of signatures supporting, in substance, S. 1634, the Senate counterpart of H.R. 3079.

Attachment P-2 – Eight additional pages of signatures supporting legislation extending U.S. immigration law to the Northern Mariana Islands and improving the immigration status of long-term alien residents of the CNMI, collected or received too late to be included with original submission to the Senate Committee on Energy and Resources.

Attachment P-3 – Final set of 30 pages of additional signatures received or collected too late to be included with original submission to the Senate Committee on Energy and Resources, petitioning the U.S. Congress for extension of U.S. immigration law to the Northern Mariana Islands and improvement of the immigration status of long-term alien residents of the Commonwealth of the Northern Mariana Islands.