

# Making the Invisible Visible: The Garment Industry's Dirty Laundry

JULIE A. SU

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I COME from California, the state that gave birth to and then passed Proposition 187—saying that anyone *suspected* of having entered the country without proper documents should be told to “go home”—and a state that, by constitutional amendment, eliminated affirmative action in public employment and contracting, outlawing one of the few tools to fight discrimination and exclusion.

What many of you may *not* know is that California—specifically, Los Angeles—is also the garment industry capital of the United States.<sup>1</sup> This is the story of some garment workers who were enslaved in El Monte, California. From their homes in impoverished rural Thailand, these workers dared to dream the immigrant dream, a life of hard work with just pay, decency, self-sustenance for themselves and their families, and hope. What they found instead in America was an industry—the garment industry—that mercilessly reaps profits from workers and then closes its eyes, believing that if it refuses to see, it cannot be held responsible. What these workers also found were government agencies so inhumane and impersonal that they confuse their purpose to serve the people with a mandate merely to perpetuate themselves.

## The Thai Workers

On August 2, 1995, modern slave labor in America emerged from invisibility with the discovery of seventy-one Thai garment workers, sixty-seven of them women, in El Monte, a suburb of Los Angeles. These workers were held in a two-story apartment complex with seven units where they were forced to work, live, eat, and sleep in the place they called “home” for as long as seven years. A ring of razor wire and iron inward-pointing spikes, the kind usually pointed outward to keep intruders out, surrounded the apartment complex, insuring that the workers could not escape.

They were warned that if they tried to resist or escape, their homes in Thailand would be burned, their families murdered, and they would be beaten. As proof, the captors caught a worker trying to escape, beat him, and took a picture

1 J. GENDER, RACE, & JUST. 405 (1998). Copyright © 1998 by the Journal of Gender, Race, & Justice. Reprinted by permission.

of his bruised and battered body to show the others. They were also told that if they reported what was happening to anyone, they would be sent to the Immigration and Naturalization Service (INS).<sup>2</sup> The workers were not permitted to make unmonitored phone calls or write or receive uncensored letters. Armed guards imposed discipline. Because the workers were not permitted to leave, their captors brought in groceries and other daily necessities and sold them to the workers at four or five times the actual price. When the workers were released and we first took them to the grocery store, they were shocked by the low prices of toiletries, toothpaste, shampoo, fruits, and vegetables. They had, of course, no way to know that they had been price-gouged at the same time that they were making less than a dollar an hour for their eighteen-hour work days.

Hundreds of thousands of pieces of cloth, spools of thread, and endless, monotonous stitches marked life behind barbed wire. Labels of brand-name manufacturers and nationwide retailers came into El Monte in boxes and left on blouses, shorts, shirts, and dresses. Manufacturer and retailer specifications, diagrams, details, and deadlines haunted the workers and consumed their lives.

Though eighteen-hour days were the norm, the Thai workers sometimes labored more depending on how quickly the manufacturers and retailers wanted their orders. The workers had to drink large quantities of coffee or splash water on their faces to stay awake. When finally permitted to go upstairs to sleep, they slept on the floor, eight or ten to a bedroom made for two, while rats and roaches crawled over them. Denied adequate medical attention, including care for respiratory illnesses caused by poor air, they suffered eye problems including near blindness, repetitive motion disorders, and even cancerous tumors. One extracted eight of his own teeth after periodontal disease went untreated. Today, we are still dealing with many of the health effects of the long years of neglect and physical and psychological torture. Freedom from imprisonment has not meant freedom from its many tragic effects.

Once the El Monte complex was discovered, however, the workers were not freed. Instead, INS immediately took them and threw them into detention at a federal penitentiary where they found themselves again behind barbed wire and forced to wear prison uniforms. "Due process" consisted of reading an obscure legal document that the workers were compelled to sign, making them deportable. Each day, an INS bus shuttled the workers, shackled like dangerous criminals, back and forth from the detention center to the downtown INS facility, where they waited interminably in holding tanks that felt like saunas.

A small group of activists, mostly young Asian Americans, demanded their release.<sup>3</sup> We insisted that the continued detention of the Thai workers was wrong; it sent the message to abused and exploited workers that if they reported the abuse and exploitation, they would be punished—that the INS would imprison and then deport them. We pointed out that sweatshop operators use this fear as a tool for their cruel and unlawful practices, and that garment industry manufacturers and retailers profit by the millions by employing such workers and exploiting their vulnerability.

The INS was not convinced, so we resorted to aggression and street tactics. We set up a makeshift office in the basement waiting room of INS detention. We used their pay phones, banged on windows, and closed down the INS at one or two in the morning, refusing to accept "paperwork" and bureaucracy as an excuse for the continued detention of the Thai workers. By the end of the nine long days and nights before the workers' release, both pay phones were broken, as we had slammed them back onto the receivers in frustration each time we received an unsatisfactory and unjust response.

I am convinced that we succeeded in getting the workers released in just over a week in part because we did *not* know the rules, because we would not accept procedures that made no sense either in our hearts or to our minds. It was an important lesson that our formal education might, at times, actually make us *less* effective advocates for the causes we believe in and for the people we care about.

### The Civil Lawsuit

Soon after the workers were freed from INS detention, they filed a civil lawsuit in federal district court in Los Angeles,<sup>4</sup> charging the operators of the El Monte compound with false imprisonment, civil RICO,<sup>5</sup> labor law, and civil rights violations. They also named as defendants the manufacturers and retailers who ordered the clothes and who control the entire garment manufacturing process from cut cloth to sewn garment to sale on the racks. At the same time, the U.S. Department of Justice, through its Los Angeles office, brought a criminal case against the operators, charging them with involuntary servitude, criminal conspiracy, kidnapping by trick, and smuggling and harboring individuals in violation of U.S. immigration law.

The criminal case was the first of many conflicts I would see between the mandates of traditional legal avenues for achieving justice and the goals of non-traditional political and social activism. Because the workers were the key witnesses in the criminal case, the prosecutors at the U.S. Attorney's office warned them not to speak out about the abuses they had endured. Whereas this restriction may have made sense in the context of the criminal prosecution, it served to silence, indeed make invisible again, the Thai workers at a time when their own voices needed to be heard.

In February 1996, the captors pleaded guilty and were sentenced to prison terms of two to seven years. Yet the workers' struggles were just beginning. Upon conclusion of the criminal case, the workers' civil lawsuit could now proceed. The civil lawsuit is significant simply because workers have won entrée to the legal system. Workers too seldom find the legal system open to them. But it is also significant because it names the manufacturers and retailers whose clothes the garment workers sewed.<sup>6</sup> Rather than limiting its theories of liability to the immediate captors of the Thai workers, this lawsuit seeks to establish corporate accountability.

The theories against the manufacturers and retailers fall into four categories.

First, they are joint employers of the workers, and therefore subject to all federal and state labor laws governing employers. (The manufacturers and retailers respond by insisting that they "independently contract" with sewing shops who make their clothes, insulating them from employer status.) Second, the suit charges that the manufacturers and retailers acted negligently in hiring and supervising the workers. The El Monte operation was structured so that more than seventy Thai workers were held against their will and forced to work eighteen hours a day, while "front shops" in downtown Los Angeles employed seventy some Latina and Latino garment workers in typical sweatshops—the kind that characterize the Los Angeles garment industry. The manufacturers and retailers sent their goods to the front shops for finishing: ironing, sewing buttons and buttonholes, cutting off thread, packaging and hanging and checking finished clothes. The manufacturers and retailers sent quality control representatives to the front shops to ensure that their clothes were being made to specification. The turnaround time the manufacturers demanded was much too fast for the downtown locations to have been furnishing all of the work. Such large quantities of high quality garments could not have been filled by workers making the requisite minimum wage and overtime.

Third, the manufacturers and retailers violated various provisions of state law requiring those engaged in the business of garment manufacturing to register with the California Labor Commissioner and to avoid the use of industrial homeworkers for garment production. Federal law also provides that any person or corporation that places products in the stream of commerce for sale for profit must ensure that its products are not produced in violation of minimum wage and overtime laws. Manufacturers' and retailers' failure to comply with these laws constitutes negligence per se. Fourth, the lawsuit charges that manufacturers and retailers violated California law in engaging and continuing to engage in unfair and unlawful business practices.

One of the most legally significant, politically important, as well as personally gratifying aspects of the workers' lawsuit is the inclusion of Latina garment workers as plaintiffs. The Latina workers are entitled to redress for the hundreds of thousands of dollars in minimum wage and overtime payments they were denied. While not held physically against their will, they lived in economic servitude. Despite working full-time, year-round, they were still unable to rise above poverty. The inclusion of the Latina workers is also significant for another reason. The discovery of slave labor in the California garment industry had, I feared, set a new standard for how bad things had to be before people would be outraged. We would no longer be horrified by conditions that are standard throughout the garment industry: overcrowded conditions and dark warehouses, endless hours for subminimum wage, constant harassment, and degrading treatment. The reasoning would be, ironically, "at least they weren't held and forced to work as slaves; at least we don't see barbed wire." The workers united in their civil suit send a clear message to garment manufacturers and retailers: This case is not just about slave labor. You are not only responsible for involuntary servitude; this case

is also about the hundreds of thousands of garment workers, primarily Latina, laboring in sweatshops throughout the United States.

The struggle the workers are engaged in challenges us and challenges various elements of our society. It forces us to view abuses such as these not as isolated incidents, but as structural deficiencies. Unless and until corporations are held accountable for exploitation, abuse of workers will continue and sweatshops will remain a shameful reality—the dirty laundry of the multi-billion dollar fashion industry. The second challenge is to workers themselves and to their advocates. The workers have had to learn that even in this country, nothing is won without a fight, no power is shifted without struggle, and no one is more powerful to stand up for them than they themselves. Mere access to the legal system and to lawyers does not ensure that justice will be served. No one will give you a social and economic structure governed by principles of compassion and equality over corporate profit, particularly if you are poor, non-English-speaking, an immigrant, a woman of color, a garment worker—unless you fight for it yourself. It is also a challenge to the workers and their representatives to maintain and build the coalition between Asian and Latina workers. These are workers who share neither a common language nor cultural and national roots. When we have had joint meetings with all the workers, each meeting takes three times as long because every explanation, question, answer, and issue needs to be translated into three languages. But its rewards are precious. A Thai worker says in Thai, “We are so grateful finally to be free so we can stand alongside you and to struggle with you, to make better lives for us all,” and her words are translated from Thai into English, then from English into Spanish. At the moment when comprehension washes over the faces of the Latina workers, a light of understanding goes on in their eyes, and they begin to nod their heads slowly in agreement, you feel the depth of that connection.

Working across racial lines has also posed challenges for me as an Asian American woman. The Latina workers who first came to see me were skeptical and a bit suspicious of me. “*¿Si ayuda los Thaiandeses, porque quiere ayudarnos?*”<sup>7</sup> I answered the best I could in Spanish, “*Porque creo in justicia, y la lucha es muy grande. Si no luchamos juntos, no podemos ganar.*”<sup>8</sup> The industry’s structure magnifies ethnic and racial conflict at the bottom—workers against factory operators. Workers, who are primarily Latino and Latina, see their daily subjugation enforced by factory operators who are primarily Asian; Asian owners transfer the pressure and exploitation they experience from manufacturers and retailers to the garment workers. Ironically, Asian owners learn Spanish to enable them to communicate, but often little more than “*rápido, mas rápido.*” Poverty and helplessness experienced by immigrants, Asian and Latina, combine with language and racial differences to make the garment industry a source of racial tension. Meanwhile, manufacturers and retailers, like puppet masters high above the scene they create and control, wield their power with impunity.

Third, the workers’ struggles and their strength have challenged the government. The workers’ case says to the INS that its way of doing business as usual

is unacceptable. The INS cannot be a tool of exploitive employers to keep workers from bettering their lives. Garment workers' cases are about labor law violations, so they fall under the purview of the Department of Labor. But in the garment industry, where almost all the workers are poor women of color, we have a civil rights problem. Why are manufacturers and retailers not investigated for rampant civil rights abuses? Why is the State Department not concerned, where issues of foreign policy, and manufacturer and retailer conduct in countries around the world, so clearly affect the human rights of poor workers in other countries and immigrant workers in the United States?

Fourth, the workers' lawsuit challenges our legal system. It says that our system has to be able to bridge the gap between reality and justice. Manufacturers and retailers cannot simply walk into court and argue they use independent contractors without the court considering the economic and practical reality of their practices. The lawsuit also challenges the legal system's primary focus on lawyers. For one thing, I avoid referring to the workers as "clients." To me, it de-personalizes the workers and places them in a dependent relationship. As "clients," the relationship is defined by my education and skills as their "lawyer"; instead, by referring to them as "workers," their experiences define our work together. I talk with them not just in terms of legal rights, but in terms of basic human dignity. For many people, when language is framed as "law," I have seen an immediate shift in their willingness to engage in the dialogue; many people think the discussion is suddenly taking place in a language they do not and cannot understand. What workers do understand is a language of human dignity. They desire to be treated as human beings, not as animals or machines. Human dignity must be the measure of what we recognize as legal rights.

Finally, the question of not only what particular words we use, but *which* language we use is critical. The workers will often ask me to tell their story for them, both because I can tell it in English and because they believe my knowledge of the law instills in me instant efficacy as a spokesperson. However, they are wrong. Forced into English or into the narrow confines of legal terminology, the workers become speechless. But when I listen to them tell their stories in their own language, listen to them describe their suffering, their pain, their hope through the long, dark days, they become poetic and strong. We as lawyers and advocates must always encourage those who have lived the experiences to tell them, in whatever language they speak.

## NOTES

1. The number of sweatshops has increased in the United States since 1989. The growth has been greatest in Los Angeles. Precise data, however, [are] unavailable due to the lack of systematic enforcement of labor, health, and safety laws in these workplaces. Working conditions continue to be deplorable. Violations include exposed electrical wiring, blocked aisles, unguarded machinery, and unsanitary bathrooms, in addition to rampant nonpayment of minimum wages

and overtime. See U.S. GENERAL ACCOUNTING OFFICE PUB NO. B-257458, GARMENT INDUSTRY: EFFORTS TO ADDRESS THE PREVALENCE AND CONDITIONS OF SWEATSHOPS 1-7 (1994). See also Stuart Silverstein, *Survey of Garment Industry Finds Rampant Labor Abuse*, L.A. Times, Apr. 15, 1994, at D1 [noting that random inspection of 69 garment manufacturers and contractors found all but two breaking federal or state laws or both, and more than one-third had serious safety problems]. A study by the U.S. Department of Labor released in May, 1998 confirmed this rampant level of noncompliance.

2. This is a common weapon used by sweatshop operators to keep workers from organizing and reporting abuses. Manufacturers and retailers, while pleading ignorance, reap profit from the vulnerability of garment workers, a vulnerability exacerbated by the relationship between exploitative employers and INS officials.

3. We worked together under the name Sweatshop Watch, a statewide coalition formed in 1994 dedicated to eliminating sweatshops. Southern California members include the Asian Pacific American Labor Alliance, Asian Pacific American Legal Center, Coalition for Humane Immigrant Rights of Los Angeles, Korean Immigrant Workers Advocates, Thai Community Development Center, and Union of Needletrades, Industrial, and Textile Employees. Northern California members include the Asian Law Caucus, Asian Immigrant Women Advocates, and Equal Rights Advocates.

4. *Bureerong v. Uvawas*, 922 F. Supp. 1450 (C.D. Cal. 1996).

5. The Racketeer Influenced and Corrupt Organization Act (RICO), 18 U.S.C. § 1961 (1994), makes it unlawful to associate for the purposes of engaging in a pattern of racketeering activity, such as a scheme to defraud the workers into captivity, pay them subminimum wages, and use threats to extort from them.

6. The suit, *Bureerong v. Uvawas*, 922 F. Supp. 1450 (C.D. Cal. 1996), names as defendants eight apparel companies: Mervyn's, Montgomery Ward, Hub Distributing dba Miller's Outpost, B.U.M. International, Tomato, L.F. Sportswear, Bigin, and New Boys.

7. "If you are helping the Thai workers, why would you want to help us?"

8. "Because I believe in justice and the struggle is a big one. If we do not fight together, we will not succeed."