



CHINA

“One Year of My Blood”

Exploitation of Migrant Construction Workers in Beijing

HUMAN
RIGHTS
WATCH

Summary and Recommendations



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Migrant construction workers walk past a billboard advertising the 2008 Beijing Olympics. Migrant workers are laborers who have moved from China's rural areas to its cities in search of work.



“ONE YEAR OF MY BLOOD”

Photographs by Kadir van Lohuizen/NOOR



Beijing, the capital of the People's Republic of China, is undergoing an unprecedented transformation. The Chinese government is spending around US\$40 billion to remake the city into a modern symbol of China's rising international stature and growing economic strength. This investment is transforming Beijing from a traditionally low-rise city of narrow alleys and *hutong* courtyard homes dating from imperial times to a city of broad avenues lined with newly built skyscrapers and countless building sites. As many have commented, the 2008 Olympics is to be Beijing's coming-out party.

The engine behind the creation of the new Beijing is the estimated one to two million construction workers who toil on the city's building sites. The efforts of that largely invisible army are too often rewarded by wage exploitation resulting from unfair or non-existent contracts and the denial of basic public social services. Workers routinely endure dangerous work environments and lack any safety net, including medical

Above: Migrant construction workers walk past a billboard depicting the new Beijing which they are building, often under harsh conditions and brutal wage exploitation. These workers constitute up to 50 percent of all migrant workers in China, a number officially estimated at 150 million but which may be higher.

and accident insurance. A dysfunctional government system of redress for workers' grievances puts those who protest such injustices under threat of sometimes deadly physical violence.

Chinese government authorities are well aware of the abuses migrant construction workers face and have begun to make the necessary policy adjustments in certain areas. A detailed survey conducted by the Chinese Academy of Social Sciences (CASS) issued in June 2007 and a report issued by the Chinese government's own State Council in April 2006 pinpoint many of the problems and show how extensive the



That money is one year of my blood, how can you not give it to me?

Beijing-based migrant construction worker.

abuses are. But our research shows that a lack of rigorous implementation of existing policies have created critical policy gaps which leave migrant workers vulnerable to suffer a range of serious human rights abuses.

This report addresses the abusive conditions endured by Beijing's migrant construction workers, detailing their exploitation by employers and the failure of the Chinese government to effectively address these violations. It draws on interviews with migrant workers, analysis of Chinese government studies not available in English academic research, studies by other international organizations, and published accounts in Chinese domestic and international media.

Chinese labor law provisions apply to both migrant and non-migrant workers. Yet despite vocal government assurances that it recognizes the problems faced by migrant construction workers and repeated official promises of long-term systemic solutions, employers of migrant construction workers still flout legal requirements that those workers be paid each month in-full. Instead, migrant construction workers must routinely wait until the end of the year to receive a pay packet that is almost invariably smaller than

Above: Demolition of a *hutong* in central Beijing. Hutongs are traditional Chinese neighborhoods, though the term can also refer to narrow alleys within these neighborhoods.

originally agreed. In some instances, they do not get paid at all.

Migrant workers in China, and construction workers in particular, are also vulnerable to high rates of injury and death in working environments in which the majority of employers fail to pay legally-required medical and accident insurance.

While China's Labor Law stipulates that there is medical and accident insurance for all workers, China's official household registration system, or *hukou*, specifically excludes workers who are not originally from Beijing from public social welfare benefits including medical care. China's government has yet to clarify which of those laws take precedence in determining the allocation of public social welfare benefits, including medical care,

Below: Many hutongs are being demolished to make way for high-end residential communities, shopping malls, golf courses and, more recently, Olympic venues, with many of their residents evicted without consultation or fair compensation.



compounding the risks and potential financially ruinous expenses of on-the-job accidents for migrant construction workers.

Finally, on-site housing provided by employers to migrant construction workers is of poor quality, overcrowded and often lacks washing facilities. Workers say the quantity of food which employers provide in exchange for daily wage deductions of seven to 10 Yuan (US\$0.93 to US\$1.33) is inadequate for their needs and often inedible.

A series of often insurmountable obstacles prevent many workers from seeking redress for these violations through legal channels. Migrant construction workers who are victims of wage exploitation and other abuses are entitled to redress, a process that begins with mediation, moves to arbitration if mediation is unsuccessful, and then concludes with lawsuits against employers should arbitration fail. In practice, however, most workers are stymied in their efforts to pursue such redress due to their lack of legal residency status in Beijing, lack of contractual proof of their claims, or both. Workers seeking government assistance to obtain their unpaid wages complain of sluggish bureaucracy, high legal costs, and long waits.

Migrant construction workers in Beijing, where the ratio of available jobs is usually outstripped by the number of job-seekers constantly flowing in from the countryside, are faced with the choice of moving to new construction sites where conditions will likely be similar, or continuing

to work for an exploitative employer in the hopes that wages will eventually be paid. The alternative—to quit their jobs unpaid and return to the poverty of the countryside—is unthinkable for the majority of such workers as their families rely on them to return with desperately-needed cash to pay otherwise unaffordable costs such as medical expenses and their children's tuition fees.

China's labor laws forbid workers to form and join independent unions or conduct collective bargaining outside the state-affiliated All-China Free Trade Union (ACFTU). The vast majority of migrant construction workers are not members of the ACFTU due to the ACFTU's traditional focus on recruiting non-migrant workers to fill its ranks. Research





indicates that the ACFTU has failed to adequately address the problems of migrant construction workers. In face of such constraints, migrant construction workers often respond with protests or strike actions which put them at risk of harassment and arrest by police or violent retribution by hoodlums hired by the workers' employers. In July 2007 a migrant construction worker was murdered by a group of dozens of hoodlums hired as strike breakers at a building site in Guangdong province where striking workers had gone unpaid for four months.

The Chinese government has publicly recognized the plight of migrant construction workers who are cheated or face delayed payment of their wages. Senior policymakers have made annual high-profile appeals for employers to end such

Above: Residents of a *hutong* undergoing demolition. In violation of official regulations, the amount of compensation paid to those evicted is sometimes decided unilaterally by the developers or demolition companies, and is far less than the actual market value. Evicted residents have limited means of redress.

abuses. The central government has also produced recommendations for long-term resolution of the problem based on the findings of several research reports by institutions including the State Council, China's cabinet. But the failure to enforce key provisions of China's Labor Law designed to protect workers from wage and other forms of exploitation by their employers renders those recommendations and rhetoric meaningless.



The Chinese government should back up its recognition of the rampant wage exploitation and other abuses of migrant construction workers through the following measures:

- Enforcing existing rules, including the existing Labor Law of the People's Republic of China and new Labor Contract Law of the People's Republic of China which went into effect on January 1, 2008, to ensure victims are fairly compensated and abusers are punished.
- Blacklisting firms guilty of wage exploitation and other abuses from tendering for state-financed construction projects.
- Targeting executives of companies found guilty of embezzling migrant construction workers' wages with meaningful legal penalties designed to provide a deterrent effect for the industry.



Left: The buses are crowded with men who generally rarely see their families. Many only return to their home towns or villages once a year for the Chinese New Year's holiday.



Above: Other migrant workers live in dingy dormitories such as this one near the Olympic village in Beijing. The rooms are generally unheated, and many are crammed with a dozen bunk beds.

- Imposing minimum, enforceable standards for workers safety, housing and food and institute a system of random spot checks to ensure that those standards are met.
- Dropping an official prohibition against the formation of independent trade unions and ratify international instruments protecting workers' rights, including those of migrants.

While this report does not focus on Olympics building sites per se—access to such sites is strictly controlled, making on-site research by Human Rights Watch impossible—it is clear that Olympics sites are plagued by the same problems addressed here.

In January 2006, the Beijing city government announced that it had fined 12 unidentified companies contracted to build Olympics-related projects for withholding wages to their workers. While we have no specific information about those Olympic venues, the consistency of abuses across other sites





Migrant workers at a construction site near the Olympic stadium "Bird's Nest." They are racing against the clock to meet the deadline of the Beijing Games' opening ceremony. In October 2007, Sun Weijia, an official at the Beijing Organizing Committee for the Olympic Games, assured journalists that "It can be done... The workers labor in shifts around the clock, seven days per week."



in Beijing, regardless of the location, type and size of project, should raise concerns about Olympic sites.

The International Olympic Committee (IOC), whose selection of Beijing in 2001 to host the 2008 Olympic Games has helped to spur the construction boom, should ensure that migrant construction workers employed on Olympics-related projects are treated in accordance with Chinese law and thus paid in a fair and timely manner. The IOC should:

- Ensure that workers on Olympic venue projects are protected by their employer's implementation of legally-stipulated workplace safety standards and receive adequate housing and food from their employer.
- Seek independent certification that all workers employed to construct venues for the 2008 Olympic Games in Beijing have not been the victims of wage exploitation, inadequate safety standards and other abuses. This certification is particularly urgent after the



Left: A migrant worker walking home to his dormitory, carrying a young child. The skyline reflects Beijing's building boom—it is estimated that more than 10,000 sites are currently undergoing construction or renovation in the capital, contributing to intense pollution.

Below: Many migrant workers live in overcrowded, makeshift shelters near the construction sites. Washing facilities are a rarity. Workers are often obliged to go to a public bathhouse to pay for the privilege of cleaning themselves.



Chinese government in January 2008 admitted that six workers had been killed in workplace accidents at Olympic venues over the past three years just days after the Beijing Organizing Committee for the Olympic Games had denied media reports of at least 10 any such fatalities in the same period.

If the IOC fails to act, spectators at the 2008 Olympic Games in Beijing should be made aware that the venues in which they are watching the Games may have been built by workers who were mistreated, never paid or paid late for their labors,

or faced dangerous and unsanitary conditions, with tragic consequences for some. Spectators should also know that the IOC never made a serious effort to ensure more humane treatment for such workers.



Above: Migrant workers at the construction site of Beijing's new National Stadium, also known as "the Bird's Nest," where the opening ceremony of the Beijing Games will take place on August 8, 2008. The stadium was designed by the Chinese artist Ai Weiwei, in collaboration with the Swiss firm Herzog & de Meuron.

METHODOLOGY

Human Rights Watch conducted research for this report in Beijing between January and March 2007, and in follow-up interviews through early March 2008. We spoke with a wide variety of sources, including construction workers on nine building sites in central Beijing. These workers detailed their experiences ranging from their motivations and experiences in coming from the countryside to work in the capital to their working and living conditions in the city. As noted below, the report also draws on Chinese government reports, academic research, studies by international labor organizations, and news stories in domestic and international media.

The Chinese government strictly limits civil society and nongovernmental organizations on a variety of subjects including labor rights. Human Rights Watch's research in Beijing required a high level of sensitivity to the security of both researchers and interviewees. The majority of interviews took place in the late evenings, when security at building sites tends to be looser and researchers could enter and leave at will without being noted by security guards. Interviews were conducted under the condition of strict anonymity, as

interviewees may be susceptible to reprisals from their employers or government agencies. For this reason we have also chosen not to name the nine sites.

The direct interviews that Human Rights Watch was able to conduct for this report, while limited, are fully consistent with other research findings—including a nationwide survey by the Chinese Academy of Social Sciences—showing that the problems described here are systemic, likely affecting hundreds of thousands of workers in Beijing alone each year.

A NOTE ON TERMINOLOGY

International law defines the term “migrant worker” as a person who does “remunerated activity in a State of which he or she is not a national.” However, the United Nations Educational, Scientific and Cultural Organization (UNESCO) notes that “this may be a too narrow definition when considering that, according to some states' policies, a person can be considered as a migrant even when s/he is born in the country.”

This is the case in China, and both the Chinese government and the International Labor Organization refer to individuals in China who migrate internally from the rural countryside to find work in China's cities as “migrant workers,” and thus Human Rights Watch has likewise adhered to that terminology to describe the workers who are the focus of this report.

RECOMMENDATIONS

TO THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

- **Aggressively investigate and prosecute employers who withhold wages, deny workers legal contracts, do not provide adequate food and housing and fail to deliver workers' medical and accident insurance in violation of China's labor law. End the de facto impunity enjoyed by companies who abuse workers' rights by imposing meaningful and consequential penalties for such abuses.**
- **Establish minimum standards for company-provided dormitories and food for migrant construction workers to ensure that workers who live on worksites are guaranteed adequate shelter and sufficient quality and variety of food necessary for long hours of hard physical labor.**

Violations of worker rights are made possible by the government's failure to adequately hold responsible those construction companies guilty of such transgressions. The government should bar firms guilty of wage exploitation and other abuses from tendering for state-financed construction projects. The government should ensure that government investigators and labor protection bureaus are allocated sufficient personal and budgets to effectively prosecute abuses of China's Labor Law. Construction firms found to violate the law should be subject to substantial penalties in order to create a deterrent effect, including prosecution of senior executives found guilty of embezzling migrant construction workers' wages. The Chinese government should disclose details of these prosecutions and any resulting convictions through domestic media in a bid to increase transparency about problems affecting migrant workers to maximize the deterrent effect of such legal action. The Chinese government should also implement the Committee's recommendation to ratify the ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce.

There are currently no such standards for employers to refer to, which results in intolerable conditions for many migrant construction workers. The lack of standards also makes it harder for labor protection officers to regulate the miserable living conditions and food quality for migrant construction workers. The government should deploy adequate resources for random inspection of company-provided dormitories and canteens to ensure that employers are complying with legal standards. It should impose penalties on those who fail to comply in amounts sufficient to deter future violations.

- **Take immediate action to inform and educate migrant construction workers arriving in China's cities of their rights under Chinese law.**

A large percentage of migrant workers have relatively low levels of education and are unaware of their rights under Chinese law. The government should ensure that migrant workers on every construction site are provided with information on China's Labor Law and explained their rights both verbally and in writing. The government should also ensure that workers are aware of and capable of accessing official mechanisms to seek redress for grievances.

- **Respect the right of freedom of association as set out in article 8 of the International Covenant on Economic, Social and Cultural Rights, and ratify the International Labour Organization's Conventions No. 87 and No. 98 on freedom of association and collective bargaining. Amend Chinese labor law to incorporate the protections of all these conventions' into domestic law.**

Chinese law strictly limits all union activity and collective bargaining to activities by the state-affiliated All-China Federation of Trade Unions (ACFTU). Any and all labor organizing outside the ACFTU is forbidden. Chinese law does not guarantee workers' right to strike. Those deprivations of workers' rights severely handicap the capacity of workers to seek legal redress for violations by their employers. Chinese labor law should be amended to comply with international standards and explicitly provide for the formation of independent unions free from employer and government interference and allow workers the right to strike. Free formation of unions should be legalized and those unions should empower workers to effectively and efficiently represent workers, draw up their rules, elect their representatives, and operate in full freedom. All workers should have the right to join independent trade unions of their choice and be allowed to participate fully and have active representation and voting rights.

- **Establish an independent commission to investigate and publicly report on the situation of migrant workers in the country, particularly those in the urban construction industry.**

The government of the People's Republic of China should directly confront and seek to address the abuse of migrant construction workers in the country. The first such step should be an independent inquiry into these abuses by an independent commission.

The commission should investigate the failure of the Chinese government at the central, regional, and local level to enforce the protective provisions of the current legal framework. The commission should be given unfettered access to government records on labor disputes and should be empowered to hold public hearings and collect testimonies from migrant workers and their advocates as well as from regional and international nongovernmental organizations with expertise on migrant workers issues and rights.

- **Establish a provident fund to support migrant construction workers who are unemployed while seeking legal redress for wage exploitation by their employers and other abuses.**

The bureaucratic process of legal redress for violations of the rights of migrant construction workers' is extremely slow and relatively costly. Those factors effectively deter many migrant construction workers from seeking legal redress, allowing unscrupulous employers to avoid answering for such abuses and thus encouraging future such violations due to the lack of serious deterrence.

- **Establish mobile medical inspection teams to make random checks of migrant construction workers' health to ensure that they are getting adequate treatment for workplace-related sickness and injury.**

Mobile medical inspection teams should be given legal authority to enter construction sites at will and should have the power to refer employers who fail to adequately protect the safety and health of their workers to police for legal investigation and, where appropriate, prosecution.

- **Eliminate the discriminatory aspects of the urban household registration permit system which denies migrant construction workers the same basic social welfare benefits, including medical care, enjoyed by urban residents with permanent urban household registration permits.**

The government should either automatically extend permanent household registration status and its associated benefits to all migrant workers in the cities or ensure that temporary urban household registration permits allow migrant workers to access the same social welfare benefits as city residents with permanent household registration permits.

RECOMMENDATIONS

TO THE INTERNATIONAL OLYMPIC COMMITTEE

International organizations which have helped to spur the construction boom in Beijing and other major Chinese cities also have a role to play in ensuring that migrant construction workers employed on Olympics-related projects are paid in a fair and timely manner and not subject to substandard food, housing, and safety standards.

- **Seek independent verification that all workers employed to construct venues for the 2008 Olympic Games in Beijing have not been the victims of wage exploitation and other abuses.**
- **Raise formally with the Chinese government the importance of the establishment of an independent commission to investigate and report on labor-related abuses of migrant construction workers.**
- **Urge China's Ministry of Labor to fully implement and enforce its labor laws and to hold violators fully accountable under its laws.**
- **Request immediate and full disclosure of labor disputes, workplace injuries, and deaths on construction sites for venues of the 2008 Olympic Games in Beijing.**



Above: Migrants workers arrive at their dormitories.

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Exploitation of Migrant Construction Workers in Beijing

Beijing is undergoing an unprecedented transformation. The Chinese government is spending around US\$40 billion to remake the city into a modern symbol of China's rising international stature and growing economic strength. That investment is transforming Beijing from a traditionally low-rise city of narrow alleys and hutong courtyard homes dating from imperial times to a city of broad avenues lined with newly built skyscrapers and countless building sites. The 2008 Olympics is to be Beijing's coming-out party.

The engine behind the creation of the new Beijing is the estimated one million construction workers who have migrated from rural China to toil on the city's building sites. They have provided most of the muscle behind completion of the city's infrastructure, its rising skyline, and new Olympics venues.

The efforts of that largely invisible army are too often rewarded by wage exploitation resulting from unfair or non-existent contracts and denial of basic public social services. Workers routinely endure dangerous work environments and lack any safety net, including medical and accident insurance. A dysfunctional government system of redress for workers' grievances puts those who protest such injustices under threat of sometimes deadly physical violence. These practices violate both Chinese and international law.

“One Year of My Blood” details the abusive conditions endured by Beijing's migrant construction workers and critically examines the Chinese government response. Chinese authorities know about the abuses migrant construction workers face and have begun to make policy adjustments in certain areas, but, as documented here, the reality on the ground is not changing for tens of thousands of workers. Migrant workers are being made to pay far too high a price for the new face Beijing wants to show off to the world.

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Migrant workers wait for buses to transport them
to construction sites in Beijing.*

