



Submission to the Universal Periodic Review of the People's Democratic Republic of Algeria

March 2022

China Labor Watch

## Introduction

China Labor Watch (CLW) submits the following information regarding Algeria's implementation of the recommendations of its 2017 Universal Periodic Review (UPR). This submission focuses on human trafficking.

In addition to its national laws, Algeria has human rights obligations as a result of accession to<sup>1</sup> or ratification of the International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW),<sup>2</sup> the United Nations Convention against Transnational Organized Crime (UNTOC),<sup>3</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children,<sup>4</sup> and the Forced Labor Convention.<sup>5</sup>

CLW commends Algeria for introducing human trafficking and smuggling of migrants as offences punishable under the Criminal Code,<sup>6</sup> and for setting up the ad hoc national body to monitor such problems.<sup>7</sup> However, Algeria has introduced limited measures, and no national action plan, to enforce or promote these new laws or the national body.

## Human Trafficking

Algeria has obligations to protect the victims of transnational trafficking in persons, ensure that its domestic legal or administrative system contains measures that provide assistance to victims of trafficking in persons, consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, and establish comprehensive policies, programs and other measures to prevent and combat trafficking in persons and to protect victims of trafficking in persons from revictimization.<sup>8</sup>

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<sup>1</sup> "accession" is "whereby a State establishes on the international plane its consent to be bound by a treaty." United Nations, Vienna Convention on the Law of Treaties, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, Articles 2(1)(b) and 15

<sup>2</sup> UN Treaty Body Database, Ratification Status for Algeria, available at: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=3&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=3&Lang=EN) (accessed February 24, 2022)

<sup>3</sup> UN Treaty Collection, CHAPTER XVIII PENAL MATTERS, available at: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=en) (accessed December 17, 2021)

<sup>4</sup> *ibid*

<sup>5</sup> Ratifications of C029 - Forced Labour Convention, 1930 (No. 29), available at: [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312174](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174) (accessed January 3, 2022)

<sup>6</sup> Law No. 09-01 of 25 February 2009

<sup>7</sup> UNGA, Report of the Working Group on the Universal Periodic Review: Algeria, UN Doc A/HRC/36/13, para 17

<sup>8</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Algeria also has obligations to prohibit private individuals, companies or associations from hiring individuals using coercion, abduction, fraud or deception.<sup>9</sup>

With reference to the International Labor Organization's indicators of trafficking in persons,<sup>10</sup> CLW has found evidence of multiple indicators of trafficking among Chinese workers in Algeria for labor. This submission focuses on deceptive recruitment, coercive recruitment, and coercion at destination, in addition to violations of labor rights and other human rights.

### Deceptive Recruitment

Algeria's ratification of the Forced Labor Convention<sup>11</sup> requires it to take rigorous actions to eliminate practices of involuntary employment within its territory. Nevertheless, there is evidence of trafficking in persons in Algeria today. The relevant indicators of deceptive recruitment are deception about content and legality of work contract, legal documentation or obtaining legal migration status, wages or earnings, and travel and recruitment conditions.<sup>12</sup> Algeria also has obligations to protect foreign migrant workers from forced labor, in accordance with national law.

Algeria has an obligation to protect migrant workers from compulsory labor<sup>13</sup> and the national law requires that all foreigners hold valid residence permits and employers to report the employment relationship with foreign workers to the local authorities.<sup>14</sup> However, these measures are insufficient to address transnational labor trafficking in Algeria.

At a construction site near Algiers, only ten percent of the Chinese migrant workers that CLW spoke to had valid work permits, and most of them arrived in Algeria on business or tourist visas. They were not aware of the illegality of their status until they realized they had been deceived about the working conditions, after arriving in Algeria.

Chinese workers in Shandong Jiaqiang, a Chinese corporation in Algeria, are also victims of deceptive recruitment. Prior to departing for Algeria, their employers lied about contract, legal documents and wage conditions. Workers were promised a minimum monthly wage of 10,000 RMB (approximately US\$ 1,500) per month, but the actual wages were often arbitrarily determined and not close to the promised minimum monthly wage.<sup>15</sup> Moreover, the living conditions were much worse than what they were promised.<sup>16</sup> Workers were told that they

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<sup>9</sup> International Labour Organization, 4 May 2009, Operational indicators of trafficking in human beings, available at: [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_105023/lang-en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_105023/lang-en/index.htm)

<sup>10</sup> Ibid, pp 4-6

<sup>11</sup> Ratifications of C029 - Forced Labour Convention, 1930 (No. 29), available at: [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312174](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174) (accessed January 6, 2022)

<sup>12</sup> Ibid

<sup>13</sup> ICRMW art 11.2

<sup>14</sup> Law 08-11 of 25 June 2008

<sup>15</sup> Radio Free Asia, January 15, 2022, 独家揭秘一带一路：工人血泪不归路（一） | 新闻追击:

<https://www.rfa.org/mandarin/duomeiti/xinwen-zhujiji/xwzj-01152022084033.html?encoding=simplified&encoding=traditional> (accessed March 1, 2022)

<sup>16</sup> Ibid

would arrive in Algeria and be issued valid work permits, but they were in shock when they realized the employer only applied for temporary business visas after they arrived and the workers subsequently became undocumented when their visa expired.<sup>17</sup> Deng, another Chinese worker, said “we were cheated . . . and ended up becoming illegal migrants” and “they don’t care whether the workers live or die.”<sup>18</sup> Many Chinese workers are deceptively recruited into working in Algeria, an indicator that they are victims of human trafficking.

Workers who wish to return China must also pay a “gate pass fee,” which means that those stranded with illegal immigration status must pay a fine to Algerian customs, public security bureau, and the court to receive a clearance for departure.<sup>19</sup>

Zheng, a Chinese worker, described this process of the “gate pass fee” to CLW, explaining that this is a very common tactic used by Chinese employers to circumvent Algeria’s immigration regulations. Zheng was first sent to the airport by his employer with his passport to purchase a flight ticket and went to the immigration counter as requested by airport staff. Once the immigration officers found he did not possess a legal residence permit, he was detained at the airport and was sent to the court. After he paid the court-issued fines (“gate pass fee”), he received legal temporary resident status and documents needed to clear the airport departure process. Zheng told CLW that the length of detainment by the authority varies, ranging from a few hours to several days. This is another example of deceptive recruitment, an indicator of human trafficking, as the worker was not aware of their illegal status before working in Algeria. This information should not be withheld by the employer, who should have also applied for the worker’s legal work permit, rather than putting the worker in a vulnerable situation without assistance.

Additionally, CLW found that many Chinese migrant workers in Algeria arrived without signing an employment contract beforehand. Zheng told CLW that the employer and private employment agencies deceived him regarding the working conditions and wages in Algeria, which he only realized after arriving in Algeria. This is also deceptive recruitment.

Another Chinese worker, Li, told CLW that he was deceived by an employment agency in China. He signed a one-year work contract at the agency, and he was told that he could earn more monthly wages through doing overtime shifts, and could return to China whenever he wanted to quit the job. However, after he arrived in Algeria, the team leader at the construction site told him that they would not recognize the contract signed in China, and all workers were required to work for two-years at the construction site instead of one-year, which implied that the work relationship was indefinite. His passport was confiscated by the employer, and the employment agency refused to refund his monetary security deposit. When he called the employment agency, the agency changed their promises to align with the team leader’s. Li felt

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<sup>17</sup> Radio Free Asia, January 21, 2022, 独家揭秘一带一路：工人血泪不归路（二） | 新闻追击：  
<https://www.rfa.org/mandarin/duomeiti/xinwen-zhuiji/xw-01212022193047.html> (accessed February 27, 2022)

<sup>18</sup> The Washington Post, April 30, 2021, Chinese workers allege forced labor, abuses in Xi’s ‘Belt and Road’ program: [https://www.washingtonpost.com/world/asia\\_pacific/china-labor-belt-road-covid/2021/04/30/f110e8de-9cd4-11eb-b2f5-7d2f0182750d\\_story.html](https://www.washingtonpost.com/world/asia_pacific/china-labor-belt-road-covid/2021/04/30/f110e8de-9cd4-11eb-b2f5-7d2f0182750d_story.html) (accessed February 27, 2022)

<sup>19</sup> 独家揭秘一带一路：工人血泪不归路（二） | 新闻追击

he was a victim of trafficking because of the collusion between the team leader and the employment agency. Li added that he felt that the local government did not care much about the malpractice of labor conditions in these construction sites and Li feared seeking help from local authorities may lead to unwanted attention because most of the workers were staying in Algeria without legal paperwork, nor could he seek help from local attorneys due to the language barrier.

Both Li and Zheng gave evidence of deceptive recruitment, an indicator of trafficking for labor exploitation. Algeria has an obligation to monitor and prevent human trafficking and provide accessible help to victims of human trafficking.

### Coercive Recruitment

Chinese workers also face debt bondage. In addition to the intermediary fee for the employment agencies, which might cost thousands of dollars, workers can also be asked to pay “liquidation damage” if they wish to return to China before the written or verbal contract ends. If unpaid, the employer may not return the workers’ passports to allow them to return to China. Therefore, workers are forced to perform the same amount of work for debt payments so they could one day be finally allowed to return home. Multiple workers in Algeria told us that they were forced to perform unpaid labor in order to make up for “debts” ranging from 17,000 RMB (approximately US\$2,630 to 35,000 RMB (approximately US\$5,420).<sup>20</sup> This is another indicator of trafficking for labor exploitation.

### Coercion and Abuse of Vulnerability at Destination

Li also said his wage was routinely manipulated and withheld by his employer. When the contracting company promised to pay 1000 RMB (approximately US\$150) per day, the workers would normally receive 200 to 300 RMB (approximately US\$30 to 50), and the remaining amount would likely be taken by the managers.

Zheng and Cheng from nearby construction sites in Algier also told CLW that wages usually arrived three months late. This is a common tactic used by employers to force the exploited workers to remain on construction sites, because the workers are unlikely to receive the wage arrears if they quit.

All Chinese workers CLW interviewed said they did not have any health or social insurance from companies. They were told they had to be responsible for their own health and even had to pay medical fees by themselves when injured at work. One worker, Cheng, told CLW that his colleague fell over and broke his legs, but the worker could not get any medical care or surgery. After extensive arguing, the company agreed to pay him 50,000 yuan (about US\$7840). However, he only received 40,000 yuan (about US\$6272) and the rest of the money was taken away. Many workers were not provided with enough protection while they were working,

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<sup>20</sup> China Labor Watch, *Silent Victims of Labor Trafficking: China’s Belt and Road workers stranded overseas amid Covid-19 pandemic*, pp 11, 20-21 <https://3on4k646b3jq16ewqw1ikcel-wpengine.netdna-ssl.com/wp-content/uploads/2021/04/Overseas-Chinese.pdf>

increasing the risk of work injury. This is evidence of coercion at the destination, another indicator of human trafficking. Furthermore, the workers are denied safe working conditions and access to healthcare.

Some workers reported that they only received their wages every six months and had to apply for cash advances from the next wage. Furthermore, when workers want a cash advance, they need to do a currency conversion through the company, where the company uses a very high rate. In this way, the company can take money from the workers.<sup>21</sup> Some Chinese workers' wages have been withheld for years; a worker said his employer was withholding 30% of his wages until the end of the two-year contract. Even though many workers have worked for three to four years after their original contract expired, they still have not received the full wages and must stay and keep working at their worksites to wait for their withheld wages.<sup>22</sup> This is exploitation in addition to coercion and abuse of vulnerability and destination, all indicators of human trafficking.

All workers that CLW interviewed had their passports taken away by their employer the moment that they landed in Algeria, and employers refused to return the passports. The employers explained that this was because the workers had not fulfilled their contractual obligations, despite workers arriving in Algeria without signing a contract. Li told CLW that his employer often asked locally hired security guards to physically assault anyone who refused to collaborate with the employer's demands. This is evidence of coercion of destination abuse of vulnerability, indicators of human trafficking.

When workers need to leave the gated construction complex, they have to ask their supervisor for permission and to obtain their passport.<sup>23</sup> Two workers reported that they felt “abandoned” and “stuck” in Algeria because their passports were withheld, and because they could not seek legal assistance from local authorities due to language barrier and fear of fines.<sup>24</sup> This is also evidence of coercion of destination abuse of vulnerability, indicators of human trafficking.

In 2018, tens of Chinese workers initiated a protest at the worksite against Chaabane Belazzoug company, which withheld workers' wage for a year. The wages were 13.88 million RMB (approximately US\$2.19 million) in total. The workers called on the government and the president to take action. They complained that their property was destroyed but they were attacked by local people hired by the company.<sup>25</sup> Since these workers had illegal immigration status, they were vulnerable to labor exploitation and had difficulties to access to legal assistance. These workers' withholding of wages are an indicator of human trafficking. Furthermore, they have the right to peaceful protest. The Algerian government had an obligation

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<sup>21</sup> Radio Free Asia, January 15, 2022, 独家揭秘一带一路：工人血泪不归路（一） | 新闻追击：  
<https://www.rfa.org/mandarin/duomeiti/xinwen-zhuiji/xwzj-01152022084033.html?encoding=simplified&encoding=traditional> (accessed February 27, 2022)

<sup>22</sup> Ibid

<sup>23</sup> 独家揭秘一带一路：工人血泪不归路（二） | 新闻追击：

<sup>24</sup> Chinese workers allege forced labor, abuses in Xi's 'Belt and Road' program

<sup>25</sup> 香港01, July 28, 2018, 中國工人赴阿爾及利亞打工被拖糧逾千萬 地盤門口抗議追討：  
<https://tinyurl.com/2p8b3kxp> (accessed March 15, 2022)

to protect their right to protest and investigate this case to resolve violence and migrants' status.

## **Conclusion**

Although Algeria has a national ad hoc body to monitor human trafficking and smuggling of migrants, workers that CLW interviewed had not heard of it or spoken to them. It is not clear whether this body provides accessible assistance in addition to monitoring, either.

In addition to preventing and supporting victims of human trafficking, Algeria has an obligation to protect migrant workers. This includes ensuring that employers do not confiscate or destroy passports.<sup>26</sup> Algeria should support victims by monitoring the situation of these workers through the national body, provide accessible help, and support victims when they reach out. Algeria also has the obligation to provide protection and prevent abuses of migrant workers employed by private employment agencies placed in its territories.<sup>27</sup>

Moreover, the Algerian national law worsens the situation for victims of human trafficking, rather than supporting them. The treatment of illegal migration as a criminal offense, punishable by expulsion, legal procedures and prison time<sup>28</sup> discourage victims of human trafficking from seeking government help. Similarly, the introduction of illegal exit as a criminal offense that is punishable by prison time<sup>29</sup> exacerbates this situation and traps illegal migrant workers in Algeria, with bribes ("gate pass fee") as the only means of leaving.

Lastly, Algeria's national labor law permits the use of non-written contracts to establish employment relationships. Although this practice is common for local job seekers to establish employment relations with local employers, the use of non-written contracts plays an important role in transnational labor trafficking, it can be an indicator of human trafficking and places foreign migrant workers at disadvantage when employment disputes arise at destination countries.

Algeria's national labor law does not offer migrant workers with sufficient protection against fraudulent recruitment processes as the employers may exploit the legal definitions of the employment relationship, to use un-written contracts to attract migrant workers to come to Algeria, and then exploit the workers' inability to return to their countries of origin for personal gains.

## **Recommendations**

- Regularly inspect labor conditions in construction sites with foreign migrant employers and develop a mechanism to identify and help victims of human trafficking.
- Help migrant workers who overstay his temporary permit and offer translation services at police departments in localities with the most foreign migrant workers.

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<sup>26</sup> ICRMW, art 21

<sup>27</sup> Private Employment Agencies Convention

<sup>28</sup> Law No. 08-11

<sup>29</sup> Law No. 09-06

- Remove fines for victims of human trafficking who have overstayed their visas or are otherwise illegally working in Algeria.
- Improve accessibility to the ad hoc national body to monitor human trafficking and the smuggling of migrants.
- Repeal Law No. 08-11 relating to the entry and residence of foreigners in Algeria as well as Law No. 09-06 which criminalizes the departure from the national territory without travel documentation.
- Amend the labor law to acknowledge the potential role of unwritten contracts in encouraging international labor trafficking and to acknowledge Algeria's obligation to eliminate all kinds of human trafficking.
- Ratify Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organization.
- Enact a penalty mechanism in migrant labor law to prohibit employers from withholding workers passports and related documents.
- Adopt a legislative framework in accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.