



Forced Labour and Debt Bondage

DEFINITIONS & LEGAL BACKGROUND – NATIONAL (MALAYSIA)

There is no forced, trafficked labour or debt bondage

Workers are employed of their own free will and all workers have a signed contract and understand the terms and conditions of their contract. These conditions must comply with basic labour standards such as minimum wage and standard working hours. The right to freedom of movement is not restricted in any way. Where advances and loans are used these are legal, transparent, in the interests of workers and the repayment terms are fair.

- [EF Respect for Workers Principle, Principle 4](#)

As of 1 January 2023, the [Employment \(Amendment\) Act 2022](#) includes under section 90B a definition of **forced labour**, where:

“Forced labour is said to be committed when an employer threatens, deceives or forces an employee to do any activity, service or work and prevents that employee from proceeding beyond the place or area where such activity, service or work is done.”

DEFINITIONS AND LEGAL BACKGROUND – INTERNATIONAL

Forced labour is defined as:

“...all work or service exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily.”

- [ILO Forced Labour Convention \(1930\)\(C29\), Article 2\(1\)](#)

The International Labour Organization (ILO) has developed a list of indicators to show what elements suggest a worker is in a situation of forced labour.

The **11 indicators** are:

- Abuse of vulnerability;
- Deception;
- Restriction of movement;
- Isolation;
- Physical and sexual violence;
- Intimidation and threats;



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- Retention of identity documents;
 - Withholding of wages;
 - Debt bondage;
 - Abusive working and living conditions;
 - Excessive overtime.

On a case-by-case basis, there could be one or more indicators present in a forced labour situation. For more information on these indicators, please refer to the [ILO Indicators of Forced Labour](#).

Debt bondage is defined as:

“... the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”

- United Nations - [Supplementary Convention: Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery \(1956\)](#)¹, Article 1(a).

LEGAL BACKGROUND – MALAYSIA

Other national laws or regulations that are related to issues of forced labour in Malaysia include:

- [Passports Act 1966 \(Revised 1974\)](#)
- [Anti-Trafficking in Persons and Smuggling of Migrants Act 2007 \(Act 670\) \(ATIPSOM, Amendment Act 2022\)](#)
- [Employees' Minimum Standards of Housing, Accommodations and Amenities \(Accommodation and Centralized Accommodation\) Regulations 2021](#)

Passports Act 1966 (Revised 1974)

A passport is a document issued by a sovereign nation in the name of its citizen. The Passports Act 1966 outlines that only those with lawful authority (an immigration officer, police officer or officer of customs) can hold the passport issued in the name of another person.

Passport retention is an offence under Section 12(1)(f):

“Any person who, without lawful authority, has in his possession any passport or travel document issued for the use of some person other than himself; ... shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit (RM10,000) or to imprisonment for a term not exceeding five (5) years.”

The Ministry of Human Resources (MOHR) has also developed the [Employers Undertaking Form](#), which outlines the legal obligations of employers of migrant workers. Part (vi) of the Undertaking requires that employers do not hold and keep the passports of migrant workers in accordance with the Passports Act 1966 (Revised 1974) [Act 150].



Anti-Trafficking in Persons and Smuggling of Migrants Act 2007 (Act 670) (ATIPSOM, Amendment Act 2022)

Trafficking victims can also become victims of forced labour when they are placed in exploitative work situations. Under Section 2 of this act, **trafficking in persons** is defined as:

“...all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, conveying, transferring, providing or receiving, a person, for the purpose of exploitation (sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs), by one or more of the following means:

- (a) threat;*
- (b) use of force or other forms of coercion;*
- (c) abduction;*
- (d) fraud;*
- (e) deception;*
- (f) abuse of power;*
- (g) abuse of the position of vulnerability of a person to an act of trafficking in persons;* or
- (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person.*

Employees’ Minimum Standards of Housing, Accommodations and Amenities (Accommodation and Centralized Accommodation) Regulations 2021

Employers are to provide lockers at employees’ accommodation for personal passport safekeeping, where the regulation under Section 4 (1)(c) states that:

“Any employer...shall provide an accommodation...with the following basic amenities which shall not be shared...A locked cupboard of not less than 0.35 metres length, 0.35 metres width and 0.9 metres height, for the safe custody of the employees’ valuables including passport which may be accessible by the employees at any time.”

National Action Plan

Malaysia has also committed to several national action plans aimed at combating forced and bonded labour, such as:

Third National Action Plan on Anti-Trafficking in Persons 2021-2025 (NAPTIP 3.0)

On 31st March 2021, the Ministry of Home Affairs launched NAPTIP 3.0 to eradicate human trafficking in the country. NAPTIP 3.0 comprises of four pillars - prevention, prosecution and enforcement, protection and partnership. It consists of the joint efforts of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO), as well as all government agencies, non-governmental organisations, Madani Community Association and international organisations.



National Action Plan on Forced Labour (NAPFL) 2021-2025

MOHR also launched the NAPFL which focuses on awareness, enforcement, as well as access to remedy and support services with the aim to eliminate forced labour in Malaysia by 2030. The NAPFL sets out actions to be carried out by government, employer and worker organisations as well as civil society. Legal compliance and enforcement related to forced labour will be improved and migration management, including recruitment practices, strengthened. Victims of forced labour will be provided with improved access to remedy, support and protective services. In addition, awareness and understanding of forced labour will be enhanced amongst workers, employers and the government, young people and the general public.

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