

01

WHAT IS FORCED LABOUR?

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

(ILO Forced Labour Convention 1930 No.29)

AN INDIVIDUAL CAN BE CHARGED

under the Penal Code, Employment Act and Anti-Trafficking in Persons and Smuggling of Migrants Act, a company director, manager or any officer who is responsible for management of a company can be held liable for offences committed by a "body corporate" under the ATIPSOM.

“ Forced labour is not only socially and morally wrong, but is a serious violation of human rights and a criminal offence in Malaysia.

A THREATS AND PENALTIES

is means of coercion used to impose work on worker against a person's will, such as

- No access to passport
- Loss of all due wages
- Work permit renewal by employer
- Threat against worker/relatives
- Cannot go to another employer
- Physical, sexual or psychological violence

Note: This list is non-exhaustive and enforcement authorities could use the MAPO National Guidelines on Human Trafficking Indicators in identifying cases for forced labour.

02

Indicators of Forced Labour and what company should do?

Retention of passports and personal belongings

- Return all documents and belongings of workers.
- Secure an accessible storage areas may be provided, but workers should not be required to keep their passports and belongings there. The keys should be with workers if they do use the lockers.

Unclear debt, unfair deductions, and withholding of wages

- Avoid withholding or delaying payment of wages.
- Provide pay slips with accurate calculations.
- Any deduction, loan or advancement should be legal and agreed in advance and documented.
- Keep records of wage payment and calculations.

Debt and fees payable to recruiters

- A due diligence procedure for recruitment agencies and subcontractors should be conducted so that they do not charge workers with any recruitment fees.

Threat/act of termination of employment

- Workers should be able to leave employment with due notice in accordance with their contract of employment.

Contract substitution/ deception

- Provide all workers with contracts in their language and explain the terms of employment.
- Make sure to respect the terms of employment the worker has agreed to.

Abuse, harassment and violence

- Introduce and provide training on policies on the prevention of harassment and abuse.
- Introduce and implement workers' access to remedy and grievance procedures.

B INVOLUNTARINESS

refer to any work taking place without the free and informed consent of the worker, such as:

- Forced overtime (beyond 12 hours a day, compensated and non-compensated), that which the worker was forced to accept
- Worker did not agree to the working conditions (hazardous work, illicit activities, sub-standard living and/or working conditions)
- Worker was deceived about the nature of the work or the identity of the employer
- Working hours longer than agreed
- Wage lower than agreed
- Isolated with no access to outside world
- Under constant surveillance

Restriction of movement - confinement/locking in of workers to avoid them leaving

- Provide decent working conditions to workers. Ensure security measures do not prevent workers to leave premises.

For more information about the ILO indicators of forced labour, please log on to ilo.org