

ANNEX 2: KEY DEFINITIONS

TERM	DEFINITION
Forced labour	<p>Defined in International Labour Organisation (ILO) Forced Labour Convention, 1930 (No.29) as <i>“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.”</i></p> <p>Malaysia’s Employment Act (Employment (Amendment) Act 2022) regulates <i>“Any employer who 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, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand Ringgit or to imprisonment for a term not exceeding two years or to both.”</i></p>
Forced labour of children	<p>The ILO¹ defines the four dimensions of forced labour of children as:</p> <ol style="list-style-type: none"> 1. Unfree recruitment of children covering both forced and deceptive recruitment. 2. Work and life of children under duress covering adverse working or living situations imposed on a child by the use of force, penalty or threat of penalty. 3. The impossibility for children to leave their employer. 4. Coercion of children.
Forced labour remediation	<p>The terms “remediation” and “remedy” refer to the processes of providing remedy for an adverse impact and to the substantive outcomes (i.e. remedy) that can counteract, or “make good”, the adverse impact². The UN Guiding Principles on Business and Human Rights³ specifies that “remedy” may include various forms of redress such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive measures (including criminal or administrative sanctions, such as fines). It can also involve the prevention of harm through actions such as injunctions or guarantees against recurrence.</p> <p>For the purposes of this guideline, forced labour remediation refers to two main aspects:</p> <ul style="list-style-type: none"> • The remedial actions to restore affected workers to a situation that is equivalent or as close as possible to what it would have been had forced labour not occurred. • The corrective actions that companies take to prevent similar incidents from recurring in the future.

¹ ILO’s Hard to See, Harder to Count. Survey Guideline to Estimate Forced Labour of Adults and Children.

² OECD Due Diligence Guidance For Responsible Business Conduct (2018)

³ United Nations Human Rights Office of The High Commissioner, Guiding Principles on Business and Human Rights (2011)

TERM	DEFINITION
Human trafficking (Trafficking in persons)	<p>Defined by the United Nations Protocol⁴ and the United Nations Convention against Transnational Organized Crime, 2000 (UN Protocol), the term “human trafficking” encompasses three key elements:</p> <ul style="list-style-type: none"> • Acts: This includes the recruitment, transportation, transfer, harbouring or receipt of persons. • Means: The methods used to accomplish one of the prohibited acts, which include the use of threats or of force, coercion, abduction, fraud, deception, abuse of power, exploitation of a person’s vulnerability, or the giving or receiving of payments or benefits to obtain consent from someone in control of another person. • Purpose: The act must be conducted with the purpose of exploitation. “Exploitation,” at a minimum, encompasses the exploitation of prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. <p>In Malaysia, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (Amendment) Act 2022 [Act A1644] defines “trafficking in persons” to include all actions of recruiting, conveying, transferring, acquiring, maintaining, harbouring, providing, or receiving a person for the purpose of exploitation, using the following means:</p> <p>(a) Threat or use of force or other forms of coercion; (b) Abduction; (c) Fraud; (d) Deception; (e) Abuse of power; (f) Abuse of the position of vulnerability of a person to an act of trafficking in persons; or (g) Giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person.</p>
Migrant workers	<p>Per the ILO Guideline on Business Responsibility on Preventing and Addressing Forced Labour in Malaysia, people who move from their home country to another country to pursue work and not to stay permanently. In Malaysia, migrant workers are commonly referred to as foreign workers.</p>
Undocumented migrant workers	<p>Per the ILO Guideline on Business Responsibility on Preventing and Addressing Forced Labour in Malaysia, migrant workers who lack the legal documentation required to work in the country in which they are not a national. In Malaysia, undocumented migrant workers are referred to as illegal foreign workers.</p>

Funding for the MY Voice project is provided by the United States Department of Labor under cooperative agreement number IL-373221-21-75-K. 100% of the total costs of the project is financed with USG federal funds, for a total of \$5,000,000 dollars. This material does not necessarily reflect the views or policies of the United States Department of Labor, nor does it mention of trade names, commercial products, or organisations imply endorsement by the United States Government.

⁴ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, and the United Nations Convention against Transnational Organized Crime, 2000 (UN Protocol)