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What is Forced Labour ?

- Any work a person is required to do against his/her will
- Under threat of any form of penalty if he / she does not comply or cooperate

This includes:

- Work required by civil administration authorities
- Work required by the military or
- Work required by employers in the private sector
- **ALSO INCLUDES** – under-age (less than 18) recruitment (forced or otherwise) into the armed forces.



What is not Forced Labour



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- Minor communal works
- Work / service in case of emergency
- Compulsory military service – when provided in national law
- Prison labour – after conviction in a court of law

Note: Strict conditions apply





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Minor communal works

- Undertaken by members of the community
- Voluntary basis
- Community/ its representatives consult as to the need & timing for such work / services
- The work is perceived by the people as being in their direct interest



Elements of Communal Works



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- Villagers who are requested to perform work have the right to individually agree or disagree to do the work.
- Government personnel have duties which they must perform. Civilians must abide by the law however they do not have a duty to undertake involuntary work.
- It makes no difference if the request includes an offer of payment-they must agree to the request voluntarily without any threat of punishment or other form of menace.
- To refuse to undertake the requested work is ok. It is a breach of the law to respond to such a refusal with any form of punishment.



Forms of punishment / menace making Community Work into Forced labour Include

- **Fine (money or crops or other property)**
- **Being required to undertake another type of labour as punishment**
- **Arbitrary taxation**
- **Banned from using community facilities.**
- **Threatening that they will have to leave the village.**
- **Eviction from land**



Examples of forced labour



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- Requiring farmers to plant new crops or trees on their traditional land under the threat of land eviction.
- Requiring farmers to tend/look after Government owned forests or crops under the threat of exceedingly high taxation or land eviction
- Requiring farmers to grow a mandatory crop with a low, non-negotiable selling price to a monopoly buyer under the threat of land eviction
- Requiring farmers to give part or all of their own farm income to support the growing / extension of mandatory crops elsewhere under the threat of land eviction





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Other Examples of Forced Labour activities

- Sentry Duty
- Porterage (carrying military food ration and ammunition)
- Road repair / beautification
- Authorities' houses repair
- Transportation of construction materials to government project

THESE ARE NOT MINOR COMMUNAL WORKS



Forced / Underage Recruitment



- **Forced recruitment is forced labour - Military instruction 1/131/ye 1 (ka) dated 2 Oct 1997**
- **Myanmar Law - Recruitment of children under 18 into the military is illegal – Directive of the Defence Services Council No. 13/73**
- **An underage person can not voluntarily enter the Military. Cannot agree to break National laws.**



Alleged desertion of a Minor

A child illegally recruited underage cannot legally desert.

If a child under 18 yrs has run away from the army and comes home to your area – you are breaking the law if you help in any way his return to the military.





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Enforcement

- Myanmar law – any illegal exaction of FL shall be punished as penal offences – Order 1/99
- State authorities at all levels are subject to this Order, and its Supplementary Order 27 October 2000
- Supreme court determined section 374 of penal code applies



Supplementary Understanding (SU)



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ILO & the Government of Myanmar agreed to an SU

- Gives right to lodge complaints alleging the use of forced labour to:
 - Any person
 - Resident of Myanmar
 - Genuine victim(s) of forced labour
- Seek redress and / or remedies
- In full confidence – no retaliatory action against complainants or other persons associated with the submission of a complaint.





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How does the SU work?

- Alleged complaint submitted to the ILO
- Objective assessment on facts as submitted undertaken
- If needed, Liaison Officer will undertake an independent assessment mission to the alleged offence location
- If grounds are well-founded, facts & recommendations submitted to the Government Working Group (WG)
- WG order enquiry / verification of facts & recommend action to achieve justice for victim(s) & punishment for perpetrator(s)
- Liaison officer in close contact with the Government throughout the process till case can be closed satisfactorily



Government Commitment under SU

- SU guarantees protection from harassment, prosecution or any other form of reprisal

To complainants, victims & other persons associated with the complaint submission during the implementation of SU or even after its expiration

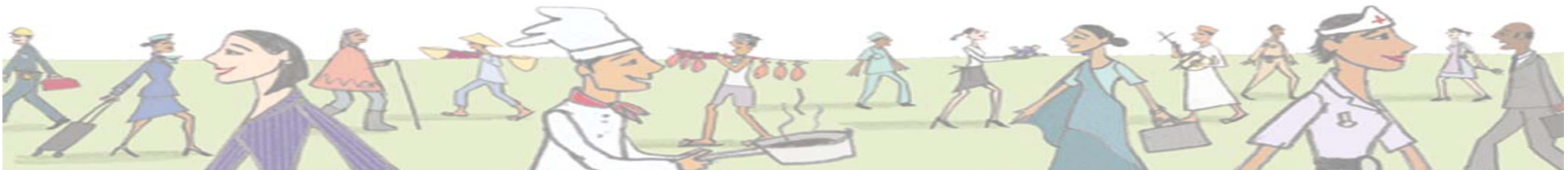
- Liaison Officer has free and confidential access to the victims, complainants, his/ her representatives or any other relevant persons

To verify that no such retaliatory action has been taken against them



What constitutes harassment?

- Continued calling of complainants to the authorities premises for interviews / interrogations
- Repeated requirement to sign confessions and / or acknowledge facts that are not known to the victim
- Detention of victim(s) and / or family members
- Arrest with or without charge & sometimes with numerous remands in custody
- Making pretext or fictional allegations of criminal behaviour
- Destroying the complainants' crop
- Increasing land tax or interest rates of complainants and not others.
- Verbal abuse or threats
- Discriminating against complainants in the application of normal





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ILO Commitment

- Support to Government policy and its application
- Support the application and enforcement of National Law
- Objective assessment of complaints.
- Transparent engagement with the Government
- The fair application of justice under Myanmar Law.
- An evidence based approach (NOT POLITICAL)
- A balanced approach-giving credit when due.
- Prevention preferable to correction-education & policy application.





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If complaint upheld – possible outcomes for the complainant

- Compensation
- Apology
- Assurance of no recurrence of the situation
- Perpetrator has been appropriately punished
- Child discharged from armed forces
- Desertion charges, if any, quashed
- Resumption of normal life.





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If complaint upheld – possible outcomes for the Government

- Human resources development
- Enhance Efficiency
- Quality improvement
- Support Market Economy
- Social Cohesion
- Enhance international credibility



