



Fundamental Conventions **GAP ANALYSIS MATRIX** GUYANA



European Union



FOREWORD

In May 2015, the Caribbean Employers' Confederation (CEC) and the Caribbean Congress of Labour (CCL) entered into a Memorandum of Understanding on joint efforts with respect to the legislative and regulatory framework within CARIFORUM countries. CEC and CCL also agreed that it was necessary to undertake joint efforts to support the understanding, application and implementation of regulatory requirements focusing on the EPA Social Chapter which is in keeping with their commitments under the Project¹ funded by the European Union. In this regard, they agreed to jointly uphold and advocate for the rights and principles enshrined in ILO Conventions addressing the issues of the elimination of child labour, forced labour, discrimination and the right to freedom of association and to bargain collectively.

Most countries of CARIFORUM have ratified all eight of the ILO Fundamental Conventions covering this platform of human rights considered foundational for the realization of Decent Work. Against this backdrop, it was decided to undertake a review of national legislation in force in the region to understand to what extent current legislation was compliant with the obligations undertaken by member States by their ratification of these Conventions.

The gap analyses have been completed on an individual country basis and carried out between March 2016 and March 2017. They will provide the affiliates of the CCL and the CEC with a resource to develop bipartite advocacy and action to reform national legislation where it has been found not to be in strict compliance with the provisions of the respective Conventions. In addition, the gap analyses will provide the CEC and the CCL with a baseline to monitor, assess and advocate for the evolution of legislation within CARICOM and the CARIFORUM countries.

Caribbean Employers' Confederation (CEC)
September 2017

Caribbean Congress of Labour (CCL)
September 2017

¹ The full name of the Project is: Challenges to CARIFORUM Labour, Private Sector and Employers to fulfil their EPA Obligations: Caribbean Employers' Confederation and the Caribbean Congress of Labour Component of the Support to Facilitate Participation of CARIFORUM Civil Society in Regional Development and Integration Process

FUNDAMENTAL CONVENTIONS - GAP ANALYSIS MATRIX

Name of the country analysed: Guyana

Disclaimer

This gap analysis is based on the information publicly available at the time of preparation. The information therefore may not reflect the current situation, and may not have taken into consideration all relevant legislation and practice. In addition, this analysis covers only laws and regulations (mainly Acts), and does not cover decisions or judgments of court(s) or tribunal(s) which may impact the way in which the laws are interpreted or implemented. The results of analysis are not validated by the government.

This analysis should therefore be considered a starting point for consultations and joint action.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
Part I. Freedom of association and the effective recognition of the right to collective bargaining				
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)				
Article 2 Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.	[For Articles 2-5 and 7] Q1. Which legislation provides for the rights provided for under Articles 2, 3, 4, 5 and 7 of the Convention? Q2. How is this Article applied in practice? Are there any administrative	Constitution of the Co-operative Republic of Guyana Cap. 1:01 Section 147 sets out the detailed protection of the right of assembly, association and demonstration (it is a fundamental right). Section 157 provides that if a person's rights are contravened	No gap identified	

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	or other practical elements that may make the application of this Article difficult?	<p>they can pursue action at the High Court.</p> <p>Re: Private sector</p> <p>An indication of how the freedom of association is effected is set out in the Trade Union Recognition Act Cap 98:07 section 21 which sets out the procedure where two or more trade unions are applying for recognition of the same bargaining unit. A secret poll will be carried out and the Union that gets at least the votes of 40% of the workers in the bargaining unit will be recognised. If there is a tie a second secret poll would be carried out.</p> <p>Re: Public sector</p> <p>Public Service Rules 2004 Edition</p> <p>Q01</p> <p>Subject to the provisions of Article 147(2) of the Constitution of the Co-operative Republic of Guyana, Public Servants have the right to</p>		

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		<p>assemble freely and associate with other person and to form or belong to Trade Unions or Staff Associations for the protection of their interests</p> <p>Further the Trade Union Recognition Act Cap 98:07 section 2(1) includes in the definition of “employer” public corporation, public authority, or the State who or which has entered into a contract to employ any person.</p> <p>Prisons Act Cap 11:01 has the Prison Officers’ Association Rules</p> <p>Section 3 provides for The Prison Officers’ Association for the purpose of enabling the members of the subordinate staff to consider and bring to the notice of the Director and the Minister matters affecting their conditions of service. The association can not be associated with any prohibited association which section 2 defines as trade unions.</p>		

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		<p>Defence Act Cap 15:01</p> <p>There is no provision in this act for freedom of association.</p> <p>There is a Guyana Defence Board (section 9(1) that is responsible for command, discipline and administration fo the force</p> <p>Scetion 172, if an officer feels wronged by a superior officer the matter can be brought before the Defence Board.</p> <p>Re Public employees</p> <p>Labour Act Cap.98:01</p> <p>Section 28C deals with employees in the public sector (employees of the government or corporations where the government has a controlling interest) . It provides for the Trades Union Congress and the Government to make an agreement or arrangement in writing with respect to any of the</p>		

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		<p>matters in respect of which a collective agreement may be made.</p> <p>Notwithstanding the provisions of the Labour Act above, the Guyana Public Service Union (GPSU) negotiates for the public sector. (The negotiation should be guided by the Memorandum of Agreement mentioned in Appendix Q of the Public Service Rules).</p> <p>GPSU is a registered NGO and established Trade Union representing and negotiating for public servants rights, working conditions, wages an salaries . Since it is a registered trade union it will fall within the parameters of the Trade Union Act and the Trade Union Recognition Act.</p>		
<p>Article 3 1. Workers' and employers' organisations shall have the right to draw up their</p>	<p>[See under Article 2]</p>	<p>Re: Private and public sectors (see aunder Article 2 as to how the public sector is covered)</p>	<p>The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)</p>	<p>The Public Utility Undertakings and Public Health Services Arbitration Act and the</p>

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<p>constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.</p> <p>2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.</p>		<p>Trade Unions Act Cap. 98:03</p> <p>Section 25 requires that all Trade Unions that are registered must have the rules set out in the First Schedule. The rules are standard and are consistent with other countries. The rules are guidelines of the information required by the Registrar.</p> <p>There does not seem to be any interference from the public authorities.</p> <p>Re: Public sector</p> <p>Public Utility Undertakings and Public Health Services Arbitration Act (Chapter 54:01)</p> <p>Section 19 of the Act confers on the Minister broad powers to refer a dispute in the services listed in the schedule to a tribunal for compulsory arbitration and the sanction (fine or imprisonment) imposed on</p>	<p>recommended to amend section 19 and the schedule of the Public Utility Undertakings and Public Health Services Arbitration Act and the Public Utility Undertakings and Public Health Services Arbitration (Amendment) Bill 2006. It reminded that by conferring on the Minister broad powers to refer to compulsory arbitration disputes in services, not all of which are essential (i.e. those services the interruption of which would endanger the life, personal safety or health of the whole or part of the population), and by providing for sanctions in the event of an illegal strike, the Public Utility Undertakings and Public Health Services Arbitration Act and the Bill would compromise the workers' right to strike which the Committee considers to be one of the essential means available to</p>	<p>Bill should be amended in line with the recommendation by the CEACR.</p>

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		<p>workers who take part in an illegal strike.</p> <p>The schedule lists the essential services (which may be revised at the discretion of the Minister) that contains dockage, wharfage, discharging, loading or unloading of vessels, the services provided by the Transport and Harbours Department and the National Drainage and Irrigation Board.</p> <p>Public Utility Undertakings and Public Health Services Arbitration (Amendment) Bill 2006</p> <p>Section 19 sets higher fines than those provided for in the previous Act and maintains the imprisonment for those workers who take part in an illegal strike.</p>	<p>them to protect their interests.</p> <p>(See the CEACR’s comment at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3082935)</p>	

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Article 4 Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.	[See under Article 2]	Re: Private sector Trade Unions Act Cap. 98:03 Section 27 provides for cancellation or withdrawal of the Union's certificate of registration. It would be done at the request of the Union or on proof that the registration has been obtained by fraud or mistake, or that the registration of the union has become void under section 15 (if any one of the purposes of that union is unlawful), or that the union has wilfully and after notice from the Registrar violated any of the provisions of this Act. Under section 24 the registrar may withdraw the certificate of registration of any registered union if the constitution of the union has been so altered that, in his opinion, its principal objects are no longer statutory objects The Union has the right to appeal to the High Court the withdrawal or cancellation on every occasion.	Gap identified. The Registrar has discretion to decide whether the union has violated any of the provisions of the Trade Union Act.	While the union can appeal against the decision of the Registrar, the discretionary power of the Registrar should be limited. In this respect, consideration may be given to defining clearly in the legislation the precise conditions which trade unions must fulfil in order to be entitled to registration and on the basis of which the registrar may refuse or cancel registration, and of prescribing specific statutory criteria for the purpose of deciding whether such conditions are fulfilled or not. (See paragraph 302 of "Digest of decisions and principles of the Freedom of

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		<p>Re: Pubic sector</p> <p>The Trade Union Recognition Act Cap 98:07 section 2(1) includes in the definition of “employer” public corporation, public authority, or the State who or which has entered into a contract to employ any person thus section 27 of the Trade Union Act will apply to Unions representing the Public sector. There is no reference as to how the association sare to be treated.</p>		<p>Association Committee of the Governing Body of the ILO” available at:http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf</p>
<p>Article 5</p> <p>Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.</p>	<p>[See under Article 2]</p>	<p>There is no express provision in the legislation that Workers' and employers' organisations shall have the right to establish and join federations and confederations.</p> <p>However, there are currently two workers' federations:</p> <p>Guyana Trades Unions Congress (TUC) and the Federation of Independent Trade Unions of Guyana (FITUG).</p>	<p>While there seems to be no actual restriction on the unions or employer organisations to establish and join federations and confederations and international organisations, there is no express legal provision guaranteeing their rights in this regard.</p>	<p>Theres should be express legal provisions guaranteeing employers' and workers' organizations to establish and join federations and confederations and international organisations.</p>

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		The Consultative Association of Guyanese Industry (CAGI) was established in 1962 to represent the interests of employers in the resolution of labour relations issues. It was soon recognized as the national Employers' Organization on labour, social policy and human resource development agenda, and as the counterpart of trade unions and trade union centres.		
<p>Article 7</p> <p>The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.</p>	[See under Article 2]	<p>Re: Private and public sectors (see under Article 2 as to how the public sector is covered)</p> <p>Trade Unions Act Cap. 98:03</p> <p>Section 13 provides for a Registrar of trade unions</p> <p>Section 24 the Registrar will not register a union under a name identical or similar with any other existing trade union that has been registered to prevent the public from being deceived. The registrar will not register any union or withdraw the certificate of registration of any</p>	<p>No gap identified.</p> <p>Acquisition of legal personality is not required for registration or operation as a trade union.</p>	

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		<p>registered union if the constitution of the union has been so altered that, in his opinion, its principal objects are no longer statutory objects</p> <p>Where a union applying to be registered has been in operation for more than a year before the date of the application, the union has to deliver to the Registrar before the registration a general statement of its receipts, funds, effects, and expenditure.</p> <p>Section 16 Trade Unions may , using trustees, purchase or lease land not exceeding one acre. They can mortgage, sell or rent out land.</p> <p>Section 17 – All movable and immovable property of the Union is vested in the trustees.</p> <p>Section 20- the trustees or persons authorised by the Union can bring or defend, or cause to be brought or defended, any action, suit, prosecution, or</p>		

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		<p>complaint in any court of law or equity, touching or concerning the property, right, or claim to property of the union.</p> <p>Thus it appears that the Union has a legal personality. Their appears to be no restriction on their rights re owning property or bringing legal action to pursue a claim.</p>		
<p>Article 9</p> <p>1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.</p>	<p>Q. How does the national legislation regulate freedom of association with respect to the armed forces and the police?</p>	<p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 2 (2) excludes members of the disciplined force from the definition of “workers” ergo provisions that apply to workers re trade unions do not apply to them.</p> <p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 154 defines the disciplined force as naval, military, para-military or air force, police force, prison service and fire service.</p>	<p>The national legislation does not treat separately civilian personnel of the police or the military.</p> <p>While Convention No. 87 leaves it to each State to decide on the extent to which it was desirable to grant members of the armed forces the rights covered by the Convention (see Paragraph 224 of “Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO” available</p>	<p>Though the Convention does not require, consideration may be given to the possibility of legislating the right to freedom of association to civilian members of the armed forces, with a view to limiting the exemption.</p>

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		<p>The members of the Police Force are allowed to be part of an Association.</p> <p>Police Act Cap. 16:01</p> <p>Section 43 (1)- there is established a Police Association to bring to the notice of the Commissioner and the Minister matters affecting the general welfare and efficiency of members of the police force.</p> <p>Section 43(2)- The Association has no power to make representations in relation to any matter of discipline, promotion, transfer or leave or any other matter affecting individuals.</p> <p>Section 46 (1)- It shall not be lawful for any member of the Force to be or to become a member of any prohibited association and this includes trade unions.</p> <p>Section 46 (2)</p> <p>If any member of the Force, becomes a member of a</p>	<p>at:http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf), consideration may be given to the possibility of legislating the right to freedom of association to civilian members of the armed forces (see Paragraph 223 of the Digest).</p>	

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		<p>prohibited association, such member of the Force, the association, and every officer of the association who is knowingly a party to the admission shall be liable, on summary conviction, for each offence to a fine of nine thousand seven hundred and fifty dollars.</p> <p>Prisons Act Cap 11:01 has the Prison Officers’ Association Rules</p> <p>Section 3 provides for The Prison Officers’ Association for the purpose of enabling the members of the subordinate staff to consider and bring to the notice of the Director and the Minister matters affecting their conditions of service. The association can not be associated with any prohibited association which section 2 defines as trade unions.</p> <p>Defence Act Cap 15:01</p> <p>There is no provision in this act for freedom of association.</p>		

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		<p>There is a Guyana Defence Board (section 9(1) that is responsible for command, discipline and administration fo the force</p> <p>Scetion 172, if an officer feels wronged by a superior officer the matter can be brought before the Defence Board.</p>		
<p>Article 11</p> <p>Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.</p>	<p>Q. Does the national legislation guarantee the right to organize without any distinction, including managerial and executive staff and employers?</p>	<p>Re: Private sector</p> <p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 2(1) has an extensive definition of “ worker”. A worker can be anyone who works under a contract to do technical , manual, clerical , skilled, or unskilled work. The only exception listed is persons employed in the Disciplined forces. Thus even though managerial and executive staff are not specifically mentioned, it is possible to argue that they could fall within the parameters of worker.</p>	<p>Gap identified-</p> <p>There should be a provsion that treats specifically with managerial and executive staff and how they would be treated with re the bargaining unit.</p>	<p>The legislation should have a provision that deals with managerial and executive staff. It should make it clear that persons who are responsible for the policy and direction of the organisation may not necessarily be considered a “worker” under the Act as their may be aclear conflict of interest. There could also be a provision for different bargaining units to deal with the managerial class.</p>

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		<p>Re: Public sector</p> <p>Trade Union Recognition Act Cap. 98:07 also applies to employees of the state.</p> <p>section 2(1) includes in the definition of “employer” public corporation, public authority, or the State who or which has entered into a contract to employ any person .</p>		
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)				
<p>Article 1</p> <p>1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.</p> <p>2. Such protection shall apply more particularly in respect of acts calculated to--</p> <p>(a) make the employment of a worker subject to the condition that he shall not join</p>	<p>Q1. Are there any provisions in the national legislation that would prohibit denial or cancellation of employment due to trade union membership of a worker?</p> <p>Q2. Does the national legislation provide for protection from any</p>	<p>Q1.</p> <p>Re: Private sector</p> <p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 26(1)</p> <p>Clearly states that a worker can not be dismissed or have his employment adversely affected because he is an officer, delegate or member of a trade union.</p> <p>Q2</p> <p>Section 26(2) of the Act goes on to make it clear that an employer</p>	No gap identified	

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<p>a union or shall relinquish trade union membership;</p> <p>(b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.</p>	<p>other types of anti-union practices?</p> <p>Q3. How is this Article of the Convention applied in practice? Are there any administrative or other practical elements that may make the application of this Article difficult?</p>	<p>can not do anything to affect the employment of the person because he is a member of or participating in union activities. The Employer can not make employment conditional on the person not joining a union. The worker can not be dismissed or prejudiced in any way by any union activities he may be involved in outside of working hours. Further the worker's employment can not be prejudiced by evidence he has given in relation to a breach of this legislation.</p> <p>Re: Public sector (see also under Article 2 of Convention No. 87 as to how the public sector is covered)</p> <p>While there is no specific provision that deals with anti union practice the Public Service rules makes it clear that the Permanent Secretaries /Heads of' Departments/ Regional Executive are required</p>		

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		<p>to meet and treat with the Unions and associations Moreover, there is no restriction on public service bodies being joining unions save an except for the disciplined forces so the Trade Union Recognition Act also applies to employees of the state. Public Service Rules 2004</p> <p>Rule Q02 requires Permanent Secretaries /Heads of Departments/ Regional Executive officers to treat courteously with officials and representatives of recognized trade Unions and staff associations. To furnish them with information they require that would help them carry out their functions more efficiently once it is not against the public interest.</p> <p>Rule Q03 requires that Permanent Secretaries /Heads</p>		

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		<p>of' Departments/ Regional Executive have regular meetings with Unions and Association to discuss grievances or matters of mutual interest to the parties.</p> <p>Further rule Q07 allows for secondment of officers to Unions and association son a fulltime basis.</p> <p>Q3</p> <p>The Employer who breaches this provision is liable on summary conviction to a fine of twenty-eight thousand dollars; and the magistrate making the order for conviction shall also order that the worker be reimbursed any wage lost by him and direct that, notwithstanding any rule of law to the contrary, the worker be reinstated in his former position or in a similar position with terms and conditions of employment no less favourable.</p>		

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		<p>The only real issues with enforcement would be the delays in having the matter heard in the magistrate court.</p> <p>Section 33 of the Trade Union Recognition Act Cap. 98:07</p> <p>no prosecution would be commenced for an offence under this Act unless authorised by the Trade Union Recognition and Certification Board.</p> <p>This requirement could also cause delays.</p>		
<p>Article 2</p> <p>1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.</p> <p>2. In particular, acts which are designed to promote the</p>	<p>Q1. How does the national legislation ensure that workers' and employers' organization do not interfere each other, by, among others, prohibiting any measures that would limit independence in finance or operation?</p>	<p>There are no provisions in the relevant legislation to ensure that workers' and employers' organizations do not interfere with each other, by, among others, prohibiting any measures that would limit independence in finance or operation.</p>	<p>Gap identified-</p> <p>There is no express provision in the legislation to ensure that workers' and employers' organization do not interfere with each other, by, among others, prohibiting any measures that would limit independence in finance or operation.</p>	<p>There should be a provision that makes it clear that employees' organisation / trade unions shall not be under the domination of an employer or employers' organisation nor should an employer's organisation be allowed to support an employees' organisations by financial or other means with the object of placing that organisation under the</p>

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establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.	Q2. How is this Article of the Convention applied in practice? Are there any administrative or other practical elements that may make the application of this Article difficult?			control of employers' or employers' organisations. There should also be penalties for a breach of this provision and trade unions should not be registered where they receive financial support from an employer.
Article 3 Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.	Q1. Are there any bodies that would discuss and promote the right to organize? Are they tripartite? Q2. What are the measures envisaged under the national legislation that would be taken if the right to organize is violated?	There is no provision in the legislation for the formation of tripartite bodies. However, the Ministry of Social Protection had some facts on it. In January 1993, Guyana established a National Tripartite Committee (NTC) comprising of 18 members, 6 from each of the social partners under the Chairmanship of the Minister of Labour to deal with a National Labour Policy. The Committee established 6 sub-committees with two nominees from each of the social partners	Gap identified No legal provision in the legislation for a tripartite body	There should be a provision in the to establish a tripartite body in an appropriate law (existing or a new one).

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		<p>on each sub-committee.</p> <p>The chairs of the sub-committees were drawn from the main committee, two from each of the social partners as follows:-</p> <ul style="list-style-type: none"> * Minimum Wage & Legislation - Government representative as the Chair * Industrial Disputes - Labour representative as the Chair. * ILO Matters - Labour representative as the Chair * Social Services - Government representative as the Chair. * Occupational Safety & Health - Employer representative as the Chair. * Training & Placement - Employer representative as the Chair <p>Subsequently, there was merging of some sub-committees.</p>		

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		The NTC played a role when a Decent Work Country Programme for Guyana (2012-2015) was adopted (For the text of the DWCP, visit http://www.ilo.org/public/english/bureau/program/dwcp/download/guyana.pdf).		
<p>Article 4</p> <p>Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.</p>	<p>Q. How, through legal or other means, voluntary negotiation between employers and workers is encouraged and promoted?</p>	<p>Re: Private sector</p> <p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 20(2) of the Act provides for the recognition of only those unions claiming 40 per cent support of the workers as the recognized majority union for that unit.</p> <p>Section 23 (1) provides that where a trade union gets recognition as the union and the employer shall bargain in good faith and enter into negotiations with each other for the purpose of collective bargaining.</p>	<p>Gap identified</p> <p>With respect to section 20(2) of the Trade Union Recognition Act, the CEACR indicated that if no union covers more than 40 per cent of the workers in the bargaining unit, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). (See the CEACR's comment at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:</p>	<p>Trade Union Recognition Act may be amended in line with the suggestion of the CEACR.</p>

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		<p>Section 23 (2) provides that where a Union fails to negotiate with the employer it is liable on summary conviction to a fine of twenty-eight thousand dollars.</p> <p>Section 23(3) provides that where an employer fails to negotiate he would be liable on summary conviction to a fine of twenty-eight thousand dollars and in addition, to a fine of five hundred dollars for every day the breach continues until the employer has complied with such provisions.</p> <p>Re: Public sector</p> <p>Public Service Rules 2004</p> <p>Rule Q02 requires Permanent Secretaries /Heads of' Departments/ RegionalExecutive officers to treat</p> <p>courteously with officials and representatives of recognized trade Unions and staff associations. To furnish them with information they require</p>	<p>3251035; the General Survey of 1994 is available at http://www.ilo.org/public/libdoc/ilo/P/09661/09661%281994-81-4B%29.pdf).</p>	

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		<p>that would help them carry out their functions more efficiently once it is not against the public interest.</p> <p>Rule Q03 requires that Permanent Secretaries /Heads of' Departments/ RegionalExecutive have regular meetings with Unions and Association to discuss grievances or matters of mutual interest to the parties.</p> <p>Rule Q 05 sets out the grievance procedure to be followed and appendix Q has the memorandum of Agreement which delays the many stages of discussions before a dispute is sent to the tribunal. When the matter is not resolved at one stage it moves on to the other. There are six stages of the grievance procedure. Stage 1 is meeting with worker (union re presence is optional) and section head, Stage II meeting with Head of Personnel unit for Ministry or Department and Branch grievance committee of</p>		

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		Union . Stage III Branch Secretary or General Secretary of Union meets with Permanent Secretary/ Head of Department . Stage IV Permanent Secretary/ Head of Department meets with Grievance Committee of Union. Stage V – Minister of Labour for conciliation and Stage VI Arbitration Panel.		
<p>Article 5</p> <p>1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.</p>	<p>Q. How does the national legislation regulate the issues of the right to organize and to collective bargaining with respect to the armed forces and the police?</p>	<p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 154 defines the disciplined force as naval, military, para-military or air force, police force, prison service and fire service. Clearly these categories of persons can not form or be part of trade unions.</p> <p>However, the members of the Police Force are allowed to be part of an Association.</p> <p>Re: Private and public sectors (see under Article 2 of</p>	<p>The legislation of Guyana does not treat civilian staff of the police or the military separately.</p>	<p>N/A</p>

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		<p>Convention No. 87 as to how the public sector is covered)</p> <p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 2 (2) excludes members of the disciplined force from the definition of “workers” ergo provisions that apply to workers re trade unions do not apply to them.</p> <p>Police Act Cap. 16:01</p> <p>Section 43 (1)</p> <p>- there is established a Police Association to bring to the notice of the Commissioner and the Minister matters affecting the general welfare and efficiency of members of the police force.</p> <p>Section 43(2)- The Association has no power to make representations in relation to any matter of discipline, promotion, transfer or leave or any other matter affecting individuals.</p>		

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		<p>Section 46 (1)- It shall not be lawful for any member of the Force to be or to become a member of any prohibited association and this includes trade unions.</p> <p>Section 46 (2)</p> <p>If any member of the Force, becomes a member of a prohibited association, such member of the Force, the association, and every officer of the association who is knowingly a party to the admission shall be liable, on summary conviction, for each offence to a fine of nine thousand seven hundred and fifty dollars.</p> <p>Prisons Act Cap 11:01 has the Prison Officers' Association Rules</p> <p>Section 3 provides for The Prison Officers' Association for the purpose of enabling the members of the subordinate staff to consider and bring to the notice of the Director and the Minister matters affecting their conditions</p>		

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		<p>of service. The association can not be associated with any prohibited association which section 2 defines as trade unions.</p> <p>Defence Act Cap 15:01</p> <p>There is no provision in this act for freedom of association.</p> <p>There is a Guyana Defence Board (section 9(1) that is responsible for command, discipline and administration fo the force</p> <p>Scetion 172, if an officer feels wronged by a superior officer the matter can be brought before the Defence Board.</p>		
<p>Article 6</p> <p>This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.</p>	<p>Q1. How does the national legislation regulate the issues of the right to organize and to collective bargaining with respect to civil servants employed in government ministries</p>	<p>Re Public servants</p> <p>Public Service Rules 2004</p> <p>Rule Q01 provides that subject to section 147 (2) of the Constitution, Public Servants have the right to assembly freely and to associate with other persons and form and belong to trade unions and staff</p>	<p>No gap identified</p>	

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	<p>and other comparable bodies?</p> <p>Q2. How is this provision of the Convention applied in practice? Are there any administrative or other practical elements that may make the application of this Article difficult?</p>	<p>associations for the Protection of their interests.</p> <p>Rule Q02</p> <p>Permanent Secretaries and Heads of Department and Regional Executive Officers are required to be courteous to the representatives of the staff associations and unions and provide them with information relevant to issues they have provided it is not detrimental to the public interest and to provide whatever facilities they need to perform efficiently.</p> <p>Rule Q03 - requires the Permanent Secretaries and Heads of Department and Regional Executive Officers to meet with the trade unions and staff association on a regular basis to discuss grievances and other matters of interest.</p> <p>Re Public employees</p>		

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		<p>Labour Act Cap.98:01</p> <p>Section 28C deals with employees in the public sector (employees of the government or corporations where the government has a controlling interest) . It provides for the Trades Union Congress and the Government to make an agreement or arrangement in writing with respect to any of the matters in respect of which a collective agreement may be made.</p> <p>Notwithstanding the provisions of the Labour Act above, the Guyana Public Service Union (GPSU) negotiates for the public sector (The negotiation should be guided by the Memorandum of Agreement mentioned in Appendix Q of the Public Service Rules).</p> <p>GPSU is a registered NGO and established Trade Union representing and negotiating for public servants rights, working</p>		

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		<p>conditions, wages and salaries . Since it is a registered trade union it will fall within the parameters of the Trade Union Act and the Trade Union Recognition Act.</p> <p>Trade Union Recognition Act Cap. 98:07</p> <p>Section 35 provides that the State is not liable for prosecution under this act but the aggrieved party can apply to the High Court for a declaration of the right.</p>		
Part II. Elimination of all forms of forced or compulsory labour				
Forced Labour Convention, 1930 (No. 29)				
<p>Article 1</p> <p>1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.</p>	<p>Q. Are there any national legislation, policy and/or programme to suppress the use of forced or compulsory labour?</p>	<p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 140 sets out one for the fundamental rights , that is protection from forced labour.</p> <p>The Combating of Trafficking in Persons Act Cap. 10:06</p>	<p>Gap identified.</p> <p>The national legislation does not deal specifically with matters related to forced labour.</p>	<p>The Labour Act Cap.98:01 should be amended to refer specifically to forced labour.</p> <p>The Combating of Trafficking in Persons Cap. 10:06 should also be amended to include a provision that deals</p>

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		Refers to forced labour, servitude, slavery and debt bondage in section 2, its interpretation section, however forced labour is not dealt with specifically in the actual body of the legislation. It is treated with under the rubric of “trafficking in persons”.	<p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Forced labour, Servitude slavery and debt bondage is in the interpretation section of the Act but these issues are not specifically dealt with in the body of the Act. It falls within the rubric of trafficking in persons and exploitation.</p> <p>The Labour Act Cap.98:01 does not have a specific section prohibiting forced labour.</p> <p>The Constitution does provide for forced labour but the remedy for the infringement of a fundamental right is the High Court and it is unlikely that any person who is in this kind of situation would be able to seek redress for the infringement of their fundamental rights.</p>	specifically with forced labour and slavery.

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<p>Article 2</p> <p>1. For the purposes of this Convention the term forced or compulsory labour shall mean 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.</p> <p>2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--</p> <p style="padding-left: 40px;">(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;</p> <p style="padding-left: 40px;">(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;</p> <p style="padding-left: 40px;">(c) any work or service exacted from any person as a</p>	<p>Q1. If a national legislation, policy and/or programme to suppress the use of forced or compulsory labour exist, how do they define the term “forced or compulsory labour”?</p> <p>Q2. Does the national legislation contain any exemption in this regard?</p>	<p>Q1</p> <p>Combating of Trafficking in Persons Act Cap. 10:06</p> <p>Section 2</p> <p>“forced labour” means labour or services obtained or maintained through force, threat of force, or other means of coercion, or physical restraint;</p> <p>“Servitude” is also defined as a condition of dependency in which the labour or services of a person are provided or obtained by threats of serious harm to that person or another person, or through any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labour or services, that person or another person would suffer serious harm;</p>	<p>See under Article 1.</p>	<p>See under Article 1.</p>

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<p>consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;</p> <p>(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;</p> <p>(e) minor communal services of a kind which, being performed by the members of the community in the direct</p>		<p>“slavery” means the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised;</p> <p>“debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;</p> <p>“Trafficking in persons” means the recruitment, transportation, transfer, harbouring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the</p>		

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<p>interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.</p>		<p>giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation”.</p> <p>It is used as a catchall phrase for all elements of trafficking including forced labour.</p> <p>Q2. Constitution of the Co-operative Republic of Guyana Cap. 1:01 Section 140(3) Forced labour is not defined per se except to state its exceptions. That is what would not constitute forced labour. The exceptions to forced labour are persons serving a sentence, labour that is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he or she is detained, labour required of a member of the disciplined force, labour required during any period when</p>		

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		Guyana is at war or in the event of any hurricane, earthquake, flood, fire or other like calamity that threatens the life or well-being of the community to the extent that the requiring of such labour is reasonably justifiable.		
Protocol of 2014 to the Forced Labour Convention, 1930				
<p>Article 1</p> <p>1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.</p>	<p>[For Articles 1-3]</p> <p>Q1. If a national legislation, policy and/or programme to suppress the use of forced or compulsory labour exist, do they contain measures to:</p> <p>(i) prevent and eliminate its use;</p> <p>(ii) provide to victims protection and access to</p>	<p>Q1.</p> <p>(i)</p> <p>The Combating of Trafficking in Persons Act Cap. 10:06 Part V deals</p> <p>Specifically with the prevention of trafficking.</p> <p>Section 30 (1) states that the President establish an inter agency task force to develop and implement a National Plan for the</p> <p>Prevention of Trafficking in Persons. The task force will deal with all aspects of trafficking</p>	<p>Gap identified –</p> <p>There is no comprehensive law or plan of practical action (including awareness-raising and educational activities) to suppress forced or compulsory labour in collaboration with the social partners. The only available national plan is specifically on trafficking in persons.</p>	<p>Labour Act should be amended to treat with forced labour specifically and to include inspections for situations of forced labour and it should also include very large fines for breaches of the Act so that they would be a clear deterrent.</p> <p>A comprehensive national plan of action should be adopted. This plan should contain practical and specific actions for the purposes provided for in this Article of</p>

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<p>2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.</p>	<p>remedies (e.g. compensation-also relevant to Article 4 of the Convention); and</p> <p>(iii) sanction the perpetrators</p> <p>(iv) educate and inform people who may become victims of forced or compulsory labour;</p> <p>(v) educate and inform employers about forced or compulsory labour practices;</p> <p>(vi) ensuring that legislation relevant to the prevention of forced or compulsory labour is applied to all workers and all economic sectors, and that its</p>	<p>including labour trafficking. The task force will ensure that statistical data is collected on trafficking, law enforcement, immigration, and other relevant officials will be trained to deal with trafficking There will be public awareness programmes designed to educate potential victims of trafficking in persons and their families of the risk of victimization.</p> <p>The last national Plan on Trafficking in persons was in 2005 and The Ministerial Task Force on Trafficking in Persons released a 2014- 2015 Action Plan and held a series of talks to educate communities on human trafficking.</p> <p>The US Department of State Office to Monitor and combat trafficking in persons report of 2015 on trafficking in persons stated as follows:</p> <p>, The government did not demonstrate overall increasing anti-trafficking efforts compared</p>	<p>The inspections should be for all types of complaints not just wages issues .</p> <p>The labour representatives does not seem to be involved in the trafficking task force. The representatives from the labour and from the employers should be involved.</p>	<p>the Protocol. Such action plan should be developed and implemented in collaboration with employers' and workers' organizations.</p>

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	<p>application is enforced through labour inspection;</p> <p>(vii) protecting persons particularly vulnerable to forced or compulsory labour, particularly migrant workers;</p> <p>(viii) establishing and enforcing procedures and mechanisms necessary to prevent and respond to forced or compulsory labour; and</p> <p>(ix) studying the root causes of forced or compulsory labour and reflecting the results to legislation, national policies or programmes.</p>	<p>to the previous reporting period;. Guyana was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, and it has committed to devoting sufficient resources to implement that plan. The government released its anti-trafficking action plan in June 2014; however, the government made uneven efforts to implement it during the reporting period. (ii)</p> <p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Section 6- Every person convicted of trafficking in persons shall have to pay restitution to the victims. Restitution is meant to compensate the victim for medical and psychological treatment, costs of physical and occupational therapy and</p>		

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	<p>Q2. What are the progress and results achieved by these measures?</p> <p>Q3. Are employers’ and workers’ organization involved in implementing measures mentioned under Q1 above? If so, how are they involved?</p>	<p>rehabilitation, transportation, childcare, lost income, attorney’s fees, emotional distress, pain and suffering, and any other losses suffered by the victim.</p> <p>Section 13- Investigative, prosecutorial, and other appropriate authorities shall take all steps necessary to identify victims of trafficking. Once victims are identified, these authorities shall provide reasonable protection to victims of trafficking to prevent recapture by the traffickers. They are also required under to act to protect the families of the victims.</p> <p>Section 16- The Minister of Home Affairs will inform victims of trafficking, in a language they can understand, of their legal rights and the progress of relevant court and administrative proceedings.</p>		

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		<p>Section 17- The court shall provide an opportunity to a victim of trafficking with an opportunity to present his/her views and concerns at appropriate stages of criminal Proceedings.</p> <p>Section 18- the government will ensure that the victims are provided with adequate housing (safe conditions for sleeping, food and personal hygiene), psychological counselling, medical and legal assistance and employment, educational, and training opportunities.</p> <p>(iii) Combating of Trafficking in Persons Cap. 10:06 Section 3(1) Person who engages in or conspires to engage in, or attempts to engage in or</p>		

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		<p>organizes or directs other persons to engage in “trafficking in persons” on summary conviction will be sentenced to not less than three years nor more than five years imprisonment. In the case of conviction on indictment, the sentenced is not less than five years or to life imprisonment. In both summary and indictable convictions the person will also have their property forfeited and have to pay restitution to the victims.</p> <p>Section 34(3)</p> <p>every person who is a trafficker of persons or there is reason to believe is a trafficker of persons shall not receive an entrance or transit visa and where they already have a visa it will be revoked (section 34(3)).</p> <p>(iv) and (v)</p> <p>Combating of Trafficking in Persons Cap. 10:06</p>		

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		<p>Section 33 (1) &(2)- provides for an awareness programme for the victims, advising of how trafficking can occur and the types of recourse a person who is trafficked would have , ie legal assistance and protection. Pamphlets, brochures, posters, advertisements in mass media, and any other methods will be used that is appropriate for reaching victims of trafficking.</p> <p>Section 33(3) seeks to inform persons who might engaged in trafficking as to the effect of it on individuals as well as warnings of the potential for criminal consequences for taking part in trafficking.</p> <p>(vi)</p> <p>Combating of Trafficking in Persons Act Cap. 10:06</p> <p>Section 35 provides for border inspection to screen persons coming in or leaving the country to ensure that they are not trafficked persons.</p>		

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		<p>Section 36- requires the Minter with responsibility for labour to investigate complaints re labour and for the working conditions to be that of the standards set.</p> <p>(vii) Recruiting of Workers Cap.98:06 Provides for the protection of workers who are recruited from elsewhere.</p> <p>Section6 a person who is recruited has to be medically examined and brought before an an officer appointed by the Minister, to ensure that person was not subjected to pressure or recruited based on a misrepresentation or mistake.</p> <p>Section 7 - The expenses of the journey of recruited workers and their families to the place of employment has to be borne by the recruiter or the employer.</p>		

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		<p>Section 8- where a worker is found to be unfit for the job or becomes ill or dies or has been brought in by mistake or misrepresentation , the recruiter or the employer is responsible for the costs of returning the worker and the family to his home.</p> <p>Combating of Trafficking in Persons Act Cap. 10:06</p> <p>Section 36(2) The Minister responsible for Labour shall investigate complaints of unlawful working conditions without regard to the immigration status of complainants and without regard to the nature of the work or services involved.</p> <p>viii) & (ix)</p> <p>Combating of Trafficking in Persons Act Cap. 10:06</p> <p>Section 31(3)</p> <p>The Act provides for the Minister of Home Affairs to make the best efforts to collect information</p>		

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		<p>relevant of tracking progress on trafficking. That is, statistical information on the number of arrests, prosecutions, and successful convictions of traffickers, the number of victims, including age, method of recruitment trafficking routes and patterns (country of origin, transit countries), method of transportation (car, boat, plane, on foot); border crossing without legal travel documents. This information would help with creating policies and legislation that would effectively treat with trafficking.</p> <p>Section 36 provides for standards of working conditions and the Minister of labour investigating complaints of unlawful working conditions</p> <p>Q2</p> <p>US Department of State Office to Monitor and Combat Trafficking</p>		

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		<p>in Persons 2015 Trafficking in Persons Report stated as follows</p> <p>Guyana is a source and destination country for men, women, and children subjected to sex trafficking and forced labor. Women and children from Guyana, Venezuela, Suriname, Brazil, and the Dominican Republic are subjected to sex trafficking in mining communities in the interior and in urban areas.</p> <p>Victims are subjected to forced labor in the mining, agriculture, and forestry sectors, as well as in domestic service and shops.</p> <p>The Government of Guyana does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Guyana is placed on Tier 2 Watch</p>		

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		<p>List for a third consecutive year. Guyana was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, and it has committed to devoting sufficient resources to implement that plan. The government released its anti-trafficking action plan in June 2014; however, the government made uneven efforts to implement it during the reporting period. The government convicted only one trafficker—a police officer. The judiciary initially demonstrated positive progress in denying the trafficker’s bail request; however, upon the trafficker’s appeal of his sentence, it subsequently approved the bail request and released the trafficker. Government efforts to</p>		

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		<p>investigate, prosecute, and convict traffickers and identify and assist victims remained limited. The government provided insufficient support to NGOs that identified and assisted a significant number of victims.</p> <p>Weak law enforcement efforts hindered the process of holding traffickers accountable. (A copy of the report is attached) .</p> <p>Q3</p> <p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Section 30(2) sets out the persons who would be in the task force appointed by the President to deal with the development and implementation of a National Plan for the Prevention of Trafficking in Persons.</p> <p>The task force, includes the Ministers of Legal Affairs, Foreign Affairs, Labour, Human Services and Social Security,</p>		

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		Amerindian Affairs, Home Affairs, other appropriate high level government officials including officials with responsibility for law enforcement, immigration, and human and social services and appropriate non-governmental organizations. There is no direct reference to the employers’ or –workers’ organisations.		
Article 2 The measures to be taken for the prevention of forced or compulsory labour shall include: (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour; (b) educating and informing employers, in order to prevent their becoming involved in		See responses in Article 1 Q1(iv) &(v), (vi) (vii) & (ix)	Same gap as in Article 1	Same recommendation as in Article 1

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<p>forced or compulsory labour practices;</p> <p>(c) undertaking efforts to ensure that:</p> <p>(i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and</p> <p>(ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;</p> <p>(d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;</p> <p>(e) supporting due diligence by both the public and private sectors to prevent and</p>				

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
respond to risks of forced or compulsory labour; and (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.				
Article 3 Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.	(See under Article 1)	Combating of Trafficking in Persons Act Cap. 10:06 Section 6- Every person convicted of trafficking in persons shall have to pay restitution to the victims. Restitution is meant to compensate the victim for medical and psychological treatment, costs of physical and occupational therapy and rehabilitation, transportation, childcare, lost income, attorney’s fees, emotional distress, pain and suffering, and any other losses suffered by the victim. Section 13- Investigative, prosecutorial, and other appropriate authorities shall take all steps necessary to identify victims of trafficking. Once	The national legislation or policies does not deal with forced labour comprehensively, which detailed provisions exist in the Combating of Trafficking in Persons Act.	Same recommendation as Article 1

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		<p>victims are identified, these authorities shall provide reasonable protection to victims of trafficking to prevent recapture by the traffickers. They are also required under the act to protect the families of the victims.</p> <p>Section 16- The Minister of Home Affairs will inform victims of trafficking, in a language they can understand, of their legal rights and the progress of relevant court and administrative proceedings.</p> <p>Section 17- The court shall provide an opportunity to a victim of trafficking with an opportunity to present his/her views and concerns at appropriate stages of criminal Proceedings.</p>		

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		<p>Section 18- the government will ensure that the victims are provided with adequate housing (safe conditions for sleeping, food and personal hygiene), psychological counselling, medical and legal assistance and employment, educational, and training opportunities.</p> <p>Section 20 provides for assistance to be given to victims who are residents of other countries or Guyanes citizens who have been trafficked abroad. The assistance is in relation to understanding the laws of the foreign country to which they have been trafficked obtaining emergency services replacement or provision of passports and other travel documents material assistance in returning to their last place of residence in Guyana.</p> <p>Section 22(1) deals with plans for the safe return of victims to their place of residence, country of</p>		

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		citizenship or a country in which they hold permanent residency.		
<p>Article 5</p> <p>Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.</p>	<p>Q1. If a national legislation, policy and/or programme to suppress the use of forced or compulsory labour exist, do they provide for cooperation with other countries or with other relevant regional and international organizations?</p> <p>Q2. What are the progress and results achieved by these measures?</p>	<p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Section 30 (3) (e) requires the task force for the prevention of trafficking to identify and engage in efforts to facilitate cooperation with foreign countries, particularly those which are significant source of victims, transit location, or destination of victims. This cooperation shall aim to strengthen bilateral, multilateral, local and regional capacities to assist trafficking victims, prevent trafficking, prosecute traffickers, and assist in the appropriate reintegration of victims of trafficking.</p> <p>In September 2014, Guyana participated in the First Meeting of the Working Groups of the XVIII Inter-American Conference of Ministers of Labor to foster continued dialogue and cooperation on labor issues</p>	<p>The national legislation or policies does not deal with forced labour comprehensively, which detailed provisions exist in the Combating of Trafficking in Persons Act.</p>	<p>Same recommendations as Article 1</p>

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		throughout the Americas. Held in Bridgetown, Barbados, these discussions promoted the exchange of information on policies and programs that seek to formalize the informal sector, uphold workers' rights, and prevent and eliminate child labor. Guyana has also ratified the ILO conventions.		
Abolition of Forced Labour Convention, 1957 (No. 105)				
<p>Article 1</p> <p>Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour--</p> <p>(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;</p>	<p>Q1. What national legislation provides for prohibition of the use of forced or compulsory labour as means as provided for in this Article of the Convention?</p> <p>Q2. How is this provision of the Convention applied in practice?</p>	<p>Q1</p> <p>There is no national legislation that undertakes to suppress and not to make use of any form of forced or compulsory labour for the situations referred to in Article 1 save and except for the general principles established in Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 140 deals with Protection from slavery and forced labour; Section 145 deals with freedom of conscience</p>	<p>Gap identified – there is no reference to forced labour in the Labour Act nor to any of the issues set out in Article 1.</p>	<p>The Labour Act Cap. 98:01</p> <p>Should include a provision dealing with forced labour which would encompass all the circumstances that could result in forced labour that is prohibited. There should be significant penalties imposed for breaching these provisions .</p>

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<p>(b) as a method of mobilising and using labour for purposes of economic development;</p> <p>(c) as a means of labour discipline;</p> <p>(d) as a punishment for having participated in strikes;</p> <p>(e) as a means of racial, social, national or religious discrimination.</p>		<p>Section 146 deals with freedom of expression.</p> <p>However, there is no direct link except for the Constitutional links and forced labour. Further the only reference to forced labour is in the Combating of Trafficking in Persons Cap. 10:06</p>		
Part III. Effective abolition of child labour				
Minimum Age Convention, 1973 (No. 138)				
<p>Article 2</p> <p>1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to</p>	<p>Q1. What is the legal minimum age for admission to employment? What provisions of the national legislation provide for it?</p> <p>Q2. If the minimum age is 14, was there a consultation with employers' and workers' organization in</p>	<p>Q1</p> <p>Employment of Young Persons and Children Act Cap. 99:01</p> <p>Section 2</p> <p>“child” means a person under the age of fifteen years;</p> <p>Section 3 states:</p> <p>No child shall be admitted to employment or work in any occupation.</p> <p>Under section 3(1) no child (person under 15 years) will be</p>	<p>No gap identified.</p>	

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<p>employment or work in any occupation.</p> <p>3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.</p> <p>4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.</p>	<p>accordance with Article 2, paragraph 4 of the Convention?</p> <p>Q3. What is the age of completion of compulsory schooling? What provisions of the national legislation provide for it?</p>	<p>allowed to work in any industrial undertaking. Industrial undertaking includes mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication.</p> <p>Section 3(2) provides that No young person shall be employed at night in any industrial undertaking except in accordance with the Convention set out in Part I of the Schedule to the Act.</p> <p>Part I of the Schedule to the Act (i.e. the excerpt of the Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (not ratified by Guyana) provides in Article 2 that Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking unless it is a family concern(they are employed with their family).</p> <p>Education Act Cap. 39:01</p>		

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		<p>Section 17 provides that no person shall employ a child under the age of fifteen. There is an exception - where the service is rendered by the child to its parents there is no breach unless the service is rendered during school hours.</p> <p>Occupational Safety and Health Act Cap. 99:06 Section 2(1) defines the term “child” to mean a person under the age of fifteen. Section 41 provides that no child shall be employed in any factory or any business or trade ancillary to the business of a factory.</p> <p>Q2. Not applicable</p> <p>Q3 Constitution of the Co-operative Republic of Guyana Cap. 1:01 Section 38E provides that Formal education is compulsory up to the age of fifteen years.</p>		

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<p>Article 3</p> <p>1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.</p> <p>2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.</p> <p>3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after</p>	<p>Q1. Does the national legislation provides for a higher minimum age for admission to any employment which likely to be hazardous to young persons? If so, what is that minimum age?</p> <p>Q2. If the higher minimum age is 16, was there a consultation with employers’ and workers’ organization with specific reference to Article 3, paragraph 3 of the Convention?</p>	<p>Q1.</p> <p>The national legislation deals with night work and hazardous work. For such work, a higher minimum age of sixteen is set for night work in industrial undertaking, and eighteen for hazardous work.</p> <p>Employment of Young Persons and Children Act Cap. 99:01</p> <p>Section 2 defines the term “child” to mean a person under the age of fifteen.</p> <p>Section 2 also defines a “young person” as a person who has ceased to be a child and who is under the age of sixteen years.</p> <p>Section 3(2) provides that No young person shall be employed at night in any industrial undertaking except in accordance with the Convention set out in Part I of the Schedule to the Act.</p> <p>Part I of the Schedule to the Act (i.e. the excerpt of the Night</p>	<p>While Article 3(2) of the Convention requires that hazardous work must be determined by national laws or regulations, or by the competent authority, section 17 of the OSH Act leaves it to the opinion of the Occupational Safety and Health Authority or of an OSH inspector.</p> <p>In its comment on the applicaiton of Convention, the CEACR recommended the Government to amend section 6(b) of the Employment of Young Persons and Children Act, which grants the minister discretion to authorize young persons between 16 and 18 years of age to engage in hazardous work. The Committee referred to paragraph 381 of the 2012 General Survey on the fundamental Conventions (available at</p>	<p>List of hazardous work should be adopted by amending the OSH Act, issuing relevant regulations or by determination by the OSH Authority.</p> <p>Section 6(b) of the Employment of Young Persons and Children Act should be amended in line with the recommendation of the CEACR.</p>

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<p>consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.</p>		<p>Work of Young Persons (Industry) Convention, 1919 (No. 6) (not ratified by Guyana) provides in Article 2 that Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking unless it is a family concern (they are employed with their family). Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which by reason of the nature of the process, is required to be carried on continuously day and night- Manufacture of iron and steel, Glass works, Manufacture of paper; Manufacture of raw sugar; Gold mining reduction work. Part II of the Schedule to the Act (i.e. the excerpt of Convention No. 138 ratified by Guyana) Article 3 provides that young persons under 18 are not allowed to work in any type of</p>	<p>http://www.ilo.org/ilc/ILCSessions/101stSession/reports/reports-submitted/WCMS_174846/lang--en/index.htm), which stresses that compliance with Article 3(3) of the Convention requires that any hazardous work for persons from the ages of 16 to 18 years be authorized only upon condition that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training. (See the CEACR’s comment at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3251560,103086,Guyana,2015).</p>	

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		<p>employment which is likely to jeopardise the health, safety or Morals of the person.</p> <p>Section 6(b) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work.</p> <p>According to the CEACR, the Government has indicated that the Act would be amended to ensure that the protections under the Act were extended to all young persons under the age of 18 years.</p> <p>Occupational Safety and Health Act Cap. 99:06</p> <p>Section 2(1) defines the term “young person” to mean a person who has ceased to be a child and has not attained the age of eighteen years.</p>		

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		<p>Section 17- Where the Authority or an inspector is of an opinion that the employment of any young person in an industrial establishment, or in any particular process or kind of work in an industrial establishment, is prejudicial to the health of the young person or to the health of other persons, the Authority or inspector can give notice to the employer to stop employing the young person.</p> <p>Sections 41 and 46 aim to prevent young persons from undertaking employment activity that could impede their physical health or emotional development.</p> <p>Q2.</p> <p>There is no reference to consultation with employers’ and workers’ organization with specific reference to paragraph 3 of this Article 3, of the Convention. However the views</p>		

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		<p>of the trade unions can be ascertained by section 28 of the Trade Unions Act Cap. 98:03 which states - A person under the age of eighteen, but above the age of sixteen, may be a member of a trade union.</p> <p>Thus it is evident that the unions are of the view that the acceptable minimum age of employment is 16.</p>		
<p>Article 4</p> <p>1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.</p>	<p>[For Articles 4-6 and 8]</p> <p>Q. Does the national legislation exclude: (i) any categories of workers and/or (ii) certain industries from the scope of application of the minimum age legislation, in particular young persons engaged in vocational educational training programmes approved by the competent authority, or young</p>	<p>Employment of Young Persons and Children Act Cap. 99:01</p> <p>Section 7 (2) the minimum age restrictions does not apply to any employment or work in which only members of the same family are employed.</p> <p>Section 7(3) – it does not apply to any industrial undertaking or apprenticeship (?) of a child who was lawfully employed at the commencement of this Act.</p> <p>Part II of the Schedule to the Act (i.e. the excerpt of the Minimum Age Convention, 1973 (No. 138) ratified by Guyana), in Article 6,</p>	<p>There is no clear limits to the amount of hours a child in an industrial school can work, the types of work he/she may engage in.</p>	<p>Conditions of work performed at vocational and technical education schools should be determined.</p>

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	persons participating in artistic performances? If so, what are the excluded categories of workers and industries?	<p>excludes from the restriction re minimum age, work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned.</p> <p>Education Act Cap. 39:01</p> <p>The Act does not define the term “child”.</p> <p>Section 24(1) provides that</p> <p>Every child attending an industrial school (defined in section 2) may be employed in the vicinity of the school during prescribed hours in agricultural pursuits on any plantation or lands or in any workshop. The section also</p>		

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		provides that the full value of any labour performed by a child after deducting the cost of the instruction and of the food (if any) supplied at the cost of the school to the child shall be paid to the parent of or secured for the child.		
<p>Article 5</p> <p>1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.</p> <p>3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and</p>	(See under Article 4)	Optional clause of the Convention – The national legislation does not make use of this option.	N/A	N/A

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communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.				
Article 6 This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of--	(See under Article 4)	See under Article 4	See under Article 4	See under Article 4

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>(a) a course of education or training for which a school or training institution is primarily responsible;</p> <p>(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or</p> <p>(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.</p>				
<p>Article 7</p> <p>1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is--</p> <p>(a) not likely to be harmful to their health or development; and</p> <p>(b) not such as to prejudice their attendance at school, their participation in</p>	<p>Q1. Does the national legislation allow light work for persons of 13 to 15 years of age? If so, which provisions of the national legislation provide for it?</p> <p>Q2. Does the national legislation permit the employment of persons who are at least 15</p>	<p>Q1.</p> <p>There is no reference to light work. The legislation is clear that a child (under 15 years) is not admitted to employment in any occupation. The only exceptions have been in relation to Children engaged in training (vocational) and Children in Industrial schools.</p> <p>Education Act Cap. 39:01</p> <p>Section 17 provides that no person shall employ a child under</p>	<p>Gap identified.</p> <p>Section 17 of the Education Act does not specify the minimum age for employment of a child in a manner provided therein, while this Article of the Convention that light work may be carried out by a young person of 13 to 15 years of age. The section does not specify types of work the child may engage, the</p>	<p>Section 17 of Education Act should be amended so that even in the case of exception, the minimum age for employment would be 13 years. It should also be amended so that it will specify allowable conditions of employment, such as the types of work,</p>

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<p>vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.</p> <p>2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.</p> <p>3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which</p>	<p>years of age but have not yet completed their compulsory schooling? If so, which provisions of the national legislation provide for it?</p> <p>Q3. In cases mentioned under Q1 and Q2 above, has the competent authority adopted a list of permitted activities and working conditions including hours of work?</p> <p>Q4. Are the options provided for under Article 7, paragraph 4 of the Convention used in the national minimum age legislation?</p>	<p>the age of fifteen. There is an exception - where the service is rendered by the child to its parents there is no breach unless the service is rendered during school hours.</p> <p>Section 13 makes it clear that it the duty of the parents to ensure that the child receives an elementary education and failure to do so could result in penalties being imposed upon them.</p> <p>Q2.</p> <p>There are no provisions concerning employment of persons who are at least 15 years of age but have not yet completed their compulsory schooling. The constitution allows to work after compulsory schooling.</p> <p>Constitution of the Co-operative Republic of Guyana Cap. 1:01 Section 38E provides that</p>	<p>maximum hours that may be worked, or other conditions of employment.</p>	<p>maximum hours of work, etc.</p>

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<p>such employment or work may be undertaken.</p> <p>4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.</p>		<p>Formal education is compulsory up to the age of fifteen years. Thus the person is permitted to work from 15years since it is anticipated they would have completed their compulsory schooling by that date.</p> <p>Q3.</p> <p>Section 17 of the Education Act allows a child under the age of 15 to work if such service is rendered to his/her family. It provides that the work must not be carried out during school hours.</p> <p>Q4</p> <p>The options under paragraph 4 of this Article of the Convention are not utilized..</p>		
Article 8	(See under Article 4)	Optional clause of the Convention – The national legislation does not make use of this option.	N/A	N/A

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.</p> <p>2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.</p>				
Article 9 1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.	Q1. What penalties (fines, imprisonment, etc.) does the national legislation provide for in case of failure to apply the minimum age legislation?	Employment of Young Persons and Children Act Cap. 99:01 Section 3(3), read in conjunction with section 3(2), requires registers to be kept in places where young persons under the age of 16 years are employed.	Gap identified- With respect to sections 3(2) and (3), the CEACR recommended amending these sections of the Act because such register must be kept with respect to young	Sections 3(2) and (3) of the Employment of Young Persons and Children Act should be amended in line with the recommendation by the CEACR.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.</p> <p>3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.</p>	<p>Q2. Are contraventions of the minimum age regulations often reported by the labour inspectorate? Any statistical information available, including any sanctions imposed?</p>	<p>Section 5(1) a person who contravenes the Act and employes someone below the minimum age is liable on summary conviction to a fine of ten thousand dollars, or, in the case of a second or subsequent offence, of fifteen thousand dollars.</p> <p>Section 5(5) if any employer of a young person fails to keep such a register so required is liable on summary conviction to a fine of twenty-one thousand dollars.</p> <p>Section 5(6) a parent who takes a child into employment in contravention of this Act, he shall be liable on summary conviction to a fine of ten thousand dollars or, in case of a second or subsequent offence, fifteen thousand dollars.</p> <p>Section 5(7) where by or with the privity of the parent, child is employed in contravention of the Act based on a false or forged certificate, or on the false representation of his parent that the child is of the requisite age,</p>	<p>persons under 18 years of age, in accordance with Article 9(3) of the Convention. (See the CEACR’s comment at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3251560,103086,Guyana,2015).</p> <p>Statistical information not readily available.</p>	<p>Statistical data should be made available to guide the requisite policies to stem child labour.</p>

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
		<p>that parent shall be liable on summary conviction to a fine of ten thousand dollars.</p> <p>Education Act Cap. 39:01</p> <p>Section 20(1) Everyone who takes a child into his employment, or employs a child in contravention of this Act shall be liable to a fine of one thousand nine hundred and fifty dollars.</p> <p>Occupational Safety and Health Cap. 99:06</p> <p>Section 17- Where the Authority or an inspector is of an opinion that the employment of any young person in an industrial establishment, or in any particular process or kind of work in an industrial establishment, is prejudicial to the health of the young person or to the health of other persons, the Authority or inspector can give notice to the employer to stop employing the young person.</p> <p>section 41 (1) forbids a child from being employed in a factory</p>		

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		<p>or doing work ancillary to factory work.</p> <p>An employer who contravenes section 17 or 41 is liable on summary conviction to a fine of twenty-five thousand dollars, and in the case of continuing offence shall be liable to a fine of one thousand dollars for every day upon which such offence continues after conviction.</p> <p>Q2.</p> <p>Us Department Labor, Bureau of International Labour Affairs</p> <p>2014 Findings on the Worst Forms of Child Labor: stated as follows:</p> <p>In 2014, the Ministry of Labor, Human Services and Social Security employed 18 labor inspectors. Inspectors participated in various training programs related to child labor, including a child labor training workshop in Turin, Italy attended by two inspectors. In commemoration of World Day</p>		

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		Against Child Labor 2014, the MLHSSS hosted a forum to discuss the implementation of systems to combat child labor and raise awareness throughout the country. 2014 funding levels for child labor prevention activities within the MLHSSS were unavailable. However, the MLHSSS stated that funds allocated were insufficient to carry out inspections and that there are sometimes delays in accessing the resources needed to carry out inspections in remote areas where law enforcement presence is low. MLHSSS labor inspectors conducted 597 on-site labor inspections in 2014, but did not assess any fines or penalties, or charge any employers with violations related to child labor.		
Worst Forms of Child Labour Convention, 1999 (No. 182)				
Article 2 For the purposes of this Convention, the term child	Q. How does the national legislation define the term “child”? Could there be	The Employment of Young Persons and Children Act Cap. 99:01, Factories (Hours and Holidays) Cap. 95:02 &	Definition of the term “child” is not consistent in various laws.	The term “child” should be streamlined to improve clarity of

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
shall apply to all persons under the age of 18.	different, or even conflictual definitions in different laws and regulations?	<p>Occupational Safety and Health Cap. 99:06</p> <p>All define a child as a person under the age of fifteen years (Section 2, 2(1) and 2(1) respectively)</p> <p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Childcare and Protection Agency Act Cap. 46:07 & Protection of Children Cap. 46:06</p> <p>All define a child as a person under eighteen years of age (Section 2, 2 & 2(1) respectively). Both the Childcare and Protection Agency Act Cap. 46:07 & Protection of Children Cap. 46:06 extend the definition of child to persons over 18 where they have a disability or special needs. There appears to be no conflict. Where it relates to employment and other labour issues it is the under 15 but where it relates to the protection of the person it is a higher minium.</p>		laws and to facilitate their application.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>Article 3</p> <p>For the purposes of this Convention, the term the worst forms of child labour comprises:</p> <p>(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;</p> <p>(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;</p> <p>(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;</p>	<p>[For Articles 3 and 4]</p> <p>Q1. How does the national legislation define the term, “child labour”? Does it specify “worst forms of child labour”?</p> <p>Q2. Does the national legislation contain any exemption in this regard?</p> <p>Q3. Is there a list of hazardous work as defined under Article 3, paragraph (d) of the Convention? The list may have been adopted as law or regulations, or as an administrative issuance after consultation with employers’ and workers’ organizations.</p>	<p>Q1.</p> <p>There is no reference to the actual term “child labour” or “worst forms of child labour”</p> <p>However,</p> <p>Combating of Trafficking in Persons Cap. 10:06</p> <p>Section 2</p> <p>“forced labour” means labour or services obtained or maintained through force, threat of force, or other means of coercion, or physical restraint;</p> <p>There are also definitions of “Servitude” “slavery” “debt bondage.”</p> <p>“debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward</p>	<p>Gap identified –</p> <p>Section 3(2) of the Employment of Young Persons and Children Act that allow persons who fall within the parameters of “young persons’ to work in certain industries at night including gold mining reduction work and the production of iron, steel, glass, paper, and raw sugar, needs to be revisited and clear guidelines be included as to when and how they would work, the kind of supervision they would have and the training they would receive. It should also limit the amount of hours they can work in these areas.</p> <p>Pornography is referred to under exploitation and in the Protection of Children Act but not dealt with in detail.</p>	<p>The Employment of Young Persons and Children Act needs to be reviewed to put some safety provisions in for “young persons” who are employed in night and day operations. Clear guidelines need to be included as to when and how they would work, the kind of supervision they would have and the training they would receive. It should also limit the amount of hours they can work in these areas.</p> <p>There should more provisions in the Protection of Children Act on pornography and children.</p> <p>The Narcotic and Psychotropic Substances Act of 1988 should be amended in line with the recommendation of the CEACR.</p>

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<p>(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.</p>		<p>the liquidation of the debt or the length and nature</p> <p>“exploitation” means—</p> <p>(i) keeping a person in a state of slavery;</p> <p>(ii) subjecting a person to practices similar to slavery;</p> <p>(iii) compelling or causing a person to provide forced labour or services;</p> <p>(iv) keeping a person in a state of servitude, including sexual servitude;</p> <p>(v) exploitation of prostitution of another;</p> <p>(vi) engaging in any form of commercial sexual exploitation, including but not limited to pimping, pandering, procuring,</p>	<p>The CEACR recommended amending the Narcotic and Psychotropic Substances Act of 1988 so as to penalize the use, procuring or offering of a child under 18 years of age for illicit activities such as the production or trafficking of drugs, as done so with respect to the the possession or trafficking in narcotics, or supply of narcotics to children and young persons under section 6 of the Act (See the CEACR’s comment at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3251738).</p>	

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		<p>profiting from prostitution, maintaining a brothel, child pornography;</p> <p>(vii) illicit removal of human organs;</p> <p>“Trafficking in persons” which means the recruitment, transportation, transfer, harbouring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation”.</p> <p>It is used as a catchall phrase for all elements of trafficking including forced labour.</p> <p>The specific reference to children is in section 3(2) in relation to exploitation and trafficking of</p>		

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		<p>children. Thus anyone who engages a child in forced labour or procures a child or exploits a child for prostitution or engages in child pornography would be liable and would face the penalties set out at section 3(1).</p> <p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 140(3)</p> <p>Forced labour is not defined per se except to state its exceptions. That is what would not constitute forced labour. There is no reference to the child. The exceptions are persons serving a sentence, labour that is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he or she is detained, labour required of a member of the disciplined force, labour required labour required during any period when Guyana is at</p>		

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		<p>war or in the event of any hurricane, earthquake, flood, fire or other like calamity that threatens the life or well-being of the community to the extent that the requiring of such labour is reasonably justifiable.</p> <p>Further Employment of Young Persons and Children Act Cap. 99:01</p> <p>Section 3 states:</p> <p>No child shall be admitted to employment or work in any occupation. It then goes on to state that any person who contravenes the act an employs a child in an industrial undertaking is guilty of an offence. Industrial Undertaking is defined in the Schedule Part I Article1 as including work in Mines, quarries, Manufacturing Industries, shipbuilding, and the generation, transformation and transmission of electricity or motive power of any kind,</p>		

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		<p>Construction, of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or Transport of passengers or goods by road or rail.</p> <p>Children are also precluded from working in factories Section 41(1) Occupational Safety and Health Cap. 99:06 and on plantations section 17 and 18 Education Act Cap. 39:01.</p> <p>Protection of Children Act Cap. 46:06</p> <p>Section 3 sets out the principles that a body or entity that deals with children should follow. The overriding principle is the welfare of the child.</p> <p>Section 50 sets out the penalties for a person who sells or gives a child any drug or who employs a</p>		

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		<p>child for the purpose of prostitution.</p> <p>Narcotic and Psychotropic Substances Act of 1988 Section 6 penalizes any person for the offences related to the possession or trafficking in narcotics as well as supply of narcotics to children and young persons.</p> <p>Q2.</p> <p>Employment of Young Persons and Children Act Cap. 99:01 Section 7 (2) the minimum age restrictions does not apply to any employment or work in which only members of the same family are employed.</p> <p>Section 7(3) – it does not apply to any industrial undertaking or ship of a child who was lawfully employed at the commencement of this Act.</p> <p>Part II Article 6 in the Schedule to the Act excludes from the</p>		

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		<p>minimum age requirement, work done by persons at least 14 years of age, where the work is integral to training or determining future occupation, in undertakings where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned.</p> <p>Education Act Cap. 39:01 section 24(1) provides that Every child attending an industrial school may be employed in the vicinity of the school during prescribed hours in agricultural pursuits on any plantation or lands or in any workshop. The section also provides that the full value of any labour performed by a child after deducting the cost of the instruction and of the food (if any) supplied at the cost of the school to the child shall be paid</p>		

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		<p>to the parent of or secured for the child</p> <p>Q3</p> <p>There is a list of Hazardous Occupation and Processes in Guyana. The CEACR noted that a list of hazardous occupations prohibited to children under 18 years of age was developed in January 2004 at a national meeting on combating child labour organized by the Ministry of Labour in collaboration with the ILO (see the comment of the CEACR at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2309599)</p> <p>Employment of Young Persons and Children Act Cap. 99:01</p> <p>The Act deals with “young person” .</p> <p>Section 2 defines a “young person” as a person who has ceased to be a child and who is under the age of sixteen years. As</p>		

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		<p>section 2 of the Act defines the term “child” as persons under fifteen years of age, young persons are of 15 years of age or above and under 16 years of age.</p> <p>Section 3(2) provides that No young person shall be employed at night in any industrial undertaking except in accordance with the Convention set out in Part I of the Schedule to the Act.</p> <p>Part I Article 2 provides that Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking unless it is a family concern(they are employed with their family).</p> <p>Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which by reason of the nature of the process, is required to be carried on continuously day and night- Manufacture of iron</p>		

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		and steel, Glass works, Manufacture of paper; Manufacture of raw sugar; Gold mining reduction work Part II Article 3 provides that young persons under 18 are not allowed to work in any type of employment which is likely to jeopardise the health, safety or Morals of the person.		
<p>Article 4</p> <p>1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.</p>	[See under Article 3]	See above under Q3 concerning Article 3 of this Convention. There is a list of Hazardous Occupation and Processes in Guyana, which lists occupations prohibited to children under 18 years of age. It was developed in January 2004 at a national meeting on combating child labour organized by the Ministry of Labour.	No gap identified.	

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.</p>				
<p>Article 5 Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.</p>	<p>Q1. Is there a tripartite body to deal with matters provided for in the Convention? If so, what legislative or administrative instrument regulates it? What are the body's core functions? How is the body structured?</p> <p>Q2. Please provide information on the activities of such body. Any results achieved by the body?</p>	<p>According to Findings on the Worst Forms of Child Labor 2014 (By US Department of Labor), Guyana has two relevant obides:</p> <ul style="list-style-type: none"> - Commission on the Rights of the Child (tasked to protect and promote children's rights in accordance with the UN CRC, which includes addressing the worst forms of child labor. - Ministerial Task Force on Combatting Trafficking in Persons (responsible for reporting on the nature and magnitude of trafficking in persons in Guyana, document the Government's response, and carry out public education and prevention measures. Meets regularly; 	<p>Gap – There appears to be no tripartite committee responsible for prevention of child labour.</p> <p>There is the Right of the Child Commission. This can be strengthened.</p>	<p>A tripartite Committee should be set up dedicated to the elimination of child labour. This could be done by strengthening the Commission on the Rights of the Child.</p>

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		<p>chaired by the Minister of Home Affairs.)</p> <p>The Government apparently re-established the National Tripartite Committee (NTC) to address national labor policies and the Commission on the Rights of the Child exists, research found no evidence that these bodies function as coordinating mechanisms to address child labor, including its worst forms.</p> <p>The Ministry of Social Protection also has a Counter Trafficking In Persons (C-TIP) unit, which receives reports of human trafficking and investigates. (See the website of the Ministry of Social Protection, http://www.mlhsss.gov.gy/index.php?option=com_content&view=article&id=706:social-protection-ministry-intensifies-work-to-stamp-out-tip-13-cases-reported-for-2016-&catid=2:news&Itemid=45)</p>		

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		<p>Q2.</p> <p>According to the news report by Kaieteur News on 3 January 2016 (http://www.kaieteurnews.com/2016/01/03/tip-ministerial-taskforce-revamps-programme/), the Ministerial Task Force on Trafficking in Persons is to reconvened.</p>		
<p>Article 6</p> <p>1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.</p> <p>2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the</p>	<p>[For Articles 6; and 7, paragraph 2]</p> <p>Q1. Is there a national policy and programme on child labour?</p> <p>Q2. What is its main content? Does it contain time-bound measures addressing issues mentioned under</p>	<p>Q1</p> <p>On October 3, 2012, with UNICEF support the Right of Child Commission launched its five Year (2012-2016) Strategic Plan: It was guided by the responsibility to promote and advocate for children's rights, monitor them and investigate and make recommendations on policies, procedures and practices of organisations, bodies and institutions.</p> <p>Q2</p>	<p>The Strategic Plan may have expired.</p>	<p>The Strategic Plan should be updated as needed.</p>

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views of other concerned groups as appropriate.	<p>Article 7, paragraph 2 of the Convention?</p> <p>Q3. Is it adopted and implemented in consultation with employers’ and workers’ organizations and other groups, associations and organizations concerned with child labour?</p> <p>Q4. How is this programme implemented? Are there any results achieved?</p>	<p>The policy statements of the Strategic Plan contain the aspirations of the children themselves as well as those of caregivers responsible for them. It has also taken a perceptive account of the various problems that plague children. The plan has four main components, with the first being ensuring that the best interest of children is realised in a legal and policy context. The second component of the plan concerns the Summary Outputs and Expected Outcomes of the plan. The ROCC intends to aggressively spread awareness and promote the rights of children, as well as the work of the ROCC in the hopes that people will be able to identify the violation of rights and will trust the commission enough to report such instances. The third component deals with the Key Strategies of the plan. According to Boston, the ROCC intends to utilise evidence acquired from observation as well as research to</p>		

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		<p>execute part of its objective. Various complaint mechanisms will be put in place to ensure that persons are able to make reports of observed cases of violations, or if they themselves are victims of rights abuse,” The final component of the plan deals with Monitoring, Investigation, and Recommendations.</p> <p>This component will enable the ROCC to determine whether it is making an impact on the problem of rights violations, and what can be done to rectify any inefficiency in its operations.</p> <p>Q4</p> <p>No information was available from the Government website as to how the Startegic Plan was functioning.</p>		
<p>Article 7</p> <p>1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the</p>	<p>Q1. What kind of penalties does the national legislation provide for violation of</p>	<p>Q1</p> <p>Employment of Young Persons and Children Act Cap. 99:01</p> <p>Under section 3(1) no child (person under 15 years) will be</p>	<p>Gap identified.</p> <p>It is not clear whether fines proscribed in some of the laws mentioned here are dissuasive. For instance,</p>	<p>The provisions of the Employment of Young Persons and Children Act should be reviewed, especially sections 3 and 5(1), to</p>

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<p>provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.</p> <p>2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:</p> <p>(a) prevent the engagement of children in the worst forms of child labour;</p> <p>(b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;</p> <p>(c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children</p>	<p>the provisions on child labour?</p> <p>Q2. Is there a public body specifically dedicated to the prevention and eradication of child labour (e.g. a children’s authority)?</p>	<p>allowed to work in any industrial undertaking. Industrial undertaking includes mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication.</p> <p>Section 3(2) provides that No young person shall be employed at night in any industrial undertaking except in accordance with the Convention set out in Part I of the Schedule to the Act.</p> <p>Part I of the Schedule to the Act (i.e. the excerpt of the Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (not ratified by Guyana) provides in Article 2 that Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking unless it is a family concern(they are employed with their family).</p> <p>Under section 5(1) of the Act, a person who contravenes the Act and employs someone below the</p>	<p>15,000 GYD (prescribed in section 5(1) of the Employment of Young Persons and Children Act) is about 72USD. If a person takes a child into employment, the fine is about 48USD. Fines in the Education Act are even cheaper.</p> <p>The CEACR commented that section 5(1) of the Employment of Young Persons and Children Act covers only young persons between 15 and 16 years of age and section 3 of the Act does not provide for any penalties for its violation. (See comments of the CEACR at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3251738,103086,Guyana,2015).</p>	<p>ensure that penalties are dissuasive and cover all relevant contraventions.</p>

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<p>removed from the worst forms of child labour;</p> <p>(d) identify and reach out to children at special risk; and</p> <p>(e) take account of the special situation of girls.</p> <p>3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.</p>		<p>minimum age is liable on summary conviction to a fine of ten thousand dollars, or, in the case of a second or subsequent offence, of fifteen thousand dollars.</p> <p>Section 5(5) if any ...employer of a young person fails to keep such a register so required is liable on summary conviction to a fine of twenty-one thousand dollars.</p> <p>Section 5(6) apparent who takes a child into employment in contravention of this Act, he shall be liable on summary conviction to a fine of ten thousand dollars or, in case of a second or subsequent offence, fifteen thousand dollars.</p> <p>Section 5(7) where by or with the privity of the parent, child is employed in contravention of the Act based on a false or forged certificate, or on the false representation of his parent that the child is of the requisite age, that parent shall be liable on summary conviction to a fine of ten thousand dollars.</p>		

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		<p>Education Act Cap. 39:01</p> <p>Section 20(1) Everyone who takes a child into his employment, or employs a child in contravention of this Act shall be liable to a fine of one thousand nine hundred and fifty dollars.</p> <p>Occupational Safety and Health Cap. 99:06</p> <p>Section 17- Where the Authority or an inspector is of an opinion that the employment of any young person in an industrial establishment, or in any particular process or kind of work in an industrial establishment, is prejudicial to the health of the young person or to the health of other persons, the Authority or inspector can give notice to the employer to stop employing the young person.</p> <p>section 41 (1) forbids a child from being employed in a factory or doing work ancilliary to factory work.</p>		

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		<p>An employer who contravenes section 17 or 41 is liable on summary conviction to a fine of twenty-five thousand dollars, and in the case of continuing offence shall be liable to a fine of one thousand dollars for every day upon which such offence continues after conviction.</p> <p>Protection of Children Act Cap. 46:06</p> <p>Section 49 – a person who contributes to a child being a child in need of protective intervention commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars or to imprisonment for a term of six months</p> <p>Section 50 (1)- A person who, for the purpose of trafficking gives a child a drug, an obscene book, an obscene picture, photograph, or pornographic material or model available through electronic</p>		

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		<p>means intoxicating liquor or tobacco products, commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars, or to imprisonment for a term of six months.</p> <p>Section 50 920 a person who employs a child on premises that sells intoxicating liquor commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars, or to a term of imprisonment of six months</p> <p>Section 50 (3) A person who employs a child in an establishment to engage in acts of prostitution is liable on summary conviction to a fine of four hundred thousand dollars, together with a term of imprisonment of not less than six months.</p> <p>Combating of Trafficking in Persons Cap. 10:06</p>		

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		<p>Section 3(1)</p> <p>Person who engages in or conspires to engage in, or attempts to engage in or organizes or directs other persons to engage in “trafficking in persons” summary conviction will be sentenced to not less than three years nor more than five years imprisonment. In the case of conviction on indictment, the sentenced is not less than five years or to life imprisonment. In both summary and indictable convictions the person will also have their property forfeited and have to be restitution to the victims.</p> <p>Section 4</p> <p>Any person who for the purpose of trafficking in persons, and acting or purporting to act as another person’s employer, manager, supervisor, contractor, employment agent, or solicitor of clients such as a pimp destroys,</p>		

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		conceals, removes, confiscates, or possesses any passport, immigration document on summary conviction be fined one million dollars together with imprisonment for not more than five years. Section 5(2) Any person who transports or conspires to transport, or attempts to transport any person in Guyana or across an international border for the purpose of exploiting that person’s prostitution is liable on summary conviction to a fine of not less than five hundred thousand dollars and not more than one million dollars and shall be imprisoned for not more than three yearsthe presence of any one of the following aggravating factors resulting from acts of the defendant can permit a longer sentence up to a maximum of five years together with forfeiture of the conveyance used for transporting the victim. One of		

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		<p>the aggravating factors is transportation of one or more children.</p> <p>Section 8(1)</p> <p>Adjustments to the sentence of a person convicted on indictment of the crime of trafficking in persons may apply, among others:</p> <ul style="list-style-type: none"> – if a weapon was used two years may be added to the sentence, – if the trafficked person suffers serious bodily harm, five years may be added to the sentence, – if the trafficked person had not attained the age of eighteen years, five years may be added to the sentence, – if the trafficking occurred as the result of abuse of power or position of authority, including but not limited to a parent or guardian, teacher, children’s club leader, or any other person who has been entrusted with the care or supervision of 		

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		<p>the child, four years may be added to the sentence.</p> <p>Section 34(3)</p> <p>every person who is a trafficker of persons or there is reason to believe is a trafficker of persons shall not receive an entrance or transit visa and where they already have a visa it will be revoked (section 34(3)).</p> <p>Q2</p> <p>The Child Protection Board established under the Protection of Children Act Cap. 46:06.</p> <p>There is also the Commission on Rights of the Child was fully appointed in March 2010.</p> <p>The Child Care and Protection Agency established under the Childcare and Protection Agency Act Cap. 46:07 is also active, though it focuses on child abuse at home. (See a media article at: http://guyanachronicle.com/child</p>		

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		<p>-protection-agency-achieved-much-in-2014-report-shows/).</p> <p>The CEACR noted the results achieved in the context of the ILO–IPEC Tackle Child Labour through Education (TACKLE) project, in which the Government takes part. Through this programme, over 300 school children residing along the Linden/Soesdyke highway, no longer have to trek the 4 kilometres to and from school as they are now provided with free transport. The programme also has a nutrition enhancement component, providing a daily hot meal, an after-care programme which provides children with homework, and parenting workshops and psychosocial support for both parents and students. Since the project began, school attendance has increased from 64 per cent to 94 per cent in the target areas. With the technical support of the TACKLE project, the Education Ministry is</p>		

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		implementing a programme in five schools in three regions of Guyana targeting 3,500 children in secondary school with the objective of enabling them to complete secondary education.		
<p>Article 8</p> <p>Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.</p>	<p>Q1. Does the country under review have any agreement or programme for prevention and eradication of child labour with other countries or with regional and international organizations?</p> <p>Q2. If so, has such agreement or programme achieved any results?</p>	<p>In September 2014, Guyana participated in the First Meeting of the Working Groups of the XVIII Inter-American Conference of Ministers of Labor to foster continued dialogue and cooperation on labor issues throughout the Americas. Held in Bridgetown, Barbados, these discussions promoted the exchange of information on policies and programs that seek to formalize the informal sector, uphold workers' rights, and prevent and eliminate child labor</p> <p>On 14 October 2014 in Lima Peru, Declaration of the Regional Initiative: Latin America and the Caribbean Free of Child Labor</p>	No gap identified.	

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		<p>(2014–2020) was signed by a group of 25 Latin American and Caribbean countries announced the launch of a regional initiative to boost efforts to combat child labour, and achieve the goal of total eradication by 2020.</p> <p>Guyana has also ratified all of the ILO conventions relation child labour</p> <p>Guyana also took part in the ILO–IPEC Tackle Child Labour through Education (TACKLE) project, which ended in August 2013.</p> <p>Q3 No statisticsavailable. The results achieved through the TACKLE project are mentioned above in relation to Article 7 of the Convention.</p>		
Part IV. Elimination of discrimination in respect of employment and occupation				
Equal Remuneration Convention, 1951 (No. 100)				

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<p>Article 1 For the purpose of this Convention--</p> <p>(a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;</p> <p>(b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.</p>	<p>Q1. Does the national legislation define the term “equal remuneration for men and women for work of equal value”?</p> <p>Q2. Does the national legislation contain any exemption in this regard?</p>	<p>Q1</p> <p>Equal Rights Act Cap. 38:01</p> <p>Section 2(3) states :</p> <p>Women and men shall be paid equal remuneration for the same work or work of the same nature.</p> <p>Section 2(10) defines remuneration as “any money or other thing, whether called salary, wage, allowance or by any other name, had or contracted to be paid, delivered or give as a recompense, reward or remuneration for any work or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, and includes merit increment or other increment in such remuneration”.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section 2 Has the same definition of Remuneration as the Equal Rights Act.</p>	<p>The ILO’s CEACR recommended the amendment to section 2(3) of the Equal Rights Act to bring it in line with the provisions of the Prevention of Discrimination Act, which provides for the principle of equal remuneration for work of equal value, emphasizing that the concept of “work of equal value” lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. (See the comment of the CEACR at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3251175,103086,Guyana,2015)</p>	<p>Section 2(3) of the Equal Rights Act should be amended in line with the recommendation of the CEACR.</p>

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		Section 5 (1)- it is unlawful for an employer or a person acting for the employer to discriminate against that other person in relation to recruitment, selection or employment or for purposes of training, apprenticeship or employment in the following ways : advertisement of the job, arrangements made for the purpose of determining who should be offered that employment, in determining who should be offered employment, the terms or conditions on which employment is offered the creation, classification or abolition of jobs, in conditions or work or occupational safety and health measures. provision or facilities denying access, or limiting access to opportunities for advancement, promotion, transfer or training, or to any other benefits, facilities or services associated with employment retrenching or dismissing the employee.		

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		<p>Section 9(1) states</p> <p>Every employer and every person acting on behalf of such employer shall be obligated to pay equal remuneration to men and women performing work of equal value for such employer.</p> <p>Section 9(2)</p> <p>In this section —</p> <p>“equal remuneration” means rates of remuneration that have been established without differentiation based on the grounds of sex;</p> <p>“work of equal value” means work equal in value in terms of the demands it makes in relation to such matters as skill levels, duties, physical and mental effort, responsibility and conditions of work.</p> <p>Section (3)</p> <p>The burden of proof to establish that equal remuneration has been paid shall rest on the employer.</p>		

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		<p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 149F provides that</p> <p>Every woman is entitled to equal rights and status with men in all spheres of political, economic and social life.</p> <p>Q2</p> <p>Equal Rights Act Cap. 38:01</p> <p>Section 2(7) provides that an employer could make special labour and health protection measures for women, or make provision for conditions enabling mothers to work or for material and moral support for mothers and children, including paid leave and other benefits for mothers and expectant mothers.</p> <p>Prevention of Discrimination Act Cap. 99:08</p>		

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		<p>Section 6 list some of the exceptions to the equality of treatment re employment. One is genuine occupational qualification which is where the essential nature of the job calls a for a person of particular race, sex, religion, national extraction, indigenous population, ethnic origin, social origin, disability, pregnancy, family responsibilities, marital status or age for reasons or physiology(excluding physical strength or stamina) or, in dramatic performance or other entertainment for reasons of authenticity, so that the essential nature of the job would be materially different if carried out by a person or the opposite sex. Other exceptions are - In the case of in a religious Institution, the essential nature of the job calls for a particular religious affiliation or belief. Where the job needs to be held by a person of a particular sex to preserve decency or privacy. Where nature or location of the establishment</p>		

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		makes it Impracticable for the holder or the job to live elsewhere than in premises provided by the employer and the premises only cater for one sex and to have the employer put in facilities for both sexes would be unreasonable. Where the job requires a married couple. Where the nature of the establishment requires a particular sex eg prison. Where the holder of the job provides individuals with personal Services. On the grounds of disability where it requires special facilities.		
<p>Article 2</p> <p>1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and</p>	<p>Q. Are there any laws, regulations, wage committes or collective agreements that promote and ensure the application of the principle of equal remuneration for men and women workers for work of equal value?</p>	<p>Equal Rights Act Cap. 38:01</p> <p>As stated above section 2(3) states that women and men shall be paid equal remuneration for the same work or work of the same nature.</p> <p>Section 4 provides that any person who contravenes these provisions is liable on summary conviction to a fine of five</p>	<p>See under Article 1.</p>	<p>See under Article 1.</p>

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<p>women workers for work of equal value.</p> <p>2. This principle may be applied by means of--</p> <p>(a) national laws or regulations;</p> <p>(b) legally established or recognised machinery for wage determination;</p> <p>(c) collective agreements between employers and workers; or</p> <p>(d) a combination of these various means.</p>		<p>thousand dollars and imprisonment for six months and in the case of a continuing offence to a further fine of five hundred dollars for each day, after the first day, during which the offence continues.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section 9 referred to above.</p> <p>Section 25 Any person who contravenes the provisions of this Act is liable to a fine not exceeding twenty thousand dollars.</p> <p>Section 26 the aggrieved person can apply to the Court for damages, an order to be reinstated and any other order that the court may deem to be just and fair.</p>		
<p>Article 3</p> <p>1. Where such action will assist in giving effect to the</p>	<p>Q1. Does the national legislation or any administrative</p>	<p>Equal Rights Act Cap. 38:01</p> <p>Section 5</p>	<p>There is no specific reference to the appraisal of the jobs that would promote the</p>	<p>Methods for objective appraisal of jobs for the purpose of this</p>

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<p>provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.</p> <p>2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.</p> <p>3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.</p>	<p>instrument provide for objective appraisal of jobs to identify the value of jobs for application of the principle of equal remuneration for men and women workers for work of equal value? If so, are there any manuals or guidelines on the methods for such job appraisal?</p> <p>Q2. How such job appraisal is used in practice?</p>	<p>the Minister may make regulations to provide the principles for determining whether any work is of the same nature as any other work, or specifying that any work is of the same nature as any other work.</p> <p>Further, in accordance with the Labour Act Cap. 98:01</p> <p>Section 9</p> <p>Before the Minister makes an order prescribing the minimum rates of wages payable. The Minister will inform the person that would be affected. Persons have 30 days to object to the draft order. The objection must state the specific grounds of objection and the omissions, additions or modifications asked for. Where an objection is made the Minister may appoint a competent person to hold an inquiry with regard to any draft order and to report back to him or the Minister could make further inquiries as he deems necessary either through the</p>	<p>implementation of the principle of equal remuneration for work of equal value.</p>	<p>Convention should be developed and implemented.</p>

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		<p>medium of the Advisory Committee or otherwise. After considering all the objections made and the report of any inquiry held, the Minister may, if he thinks fit, amend the draft order. The inquiry and all proceedings preliminary and incidental to it shall be conducted in accordance with regulations made by the Minister. Witnesses can be called to give evidence under oath .</p> <p>While it is not in keeping with the normal job evaluation exercises. It can be seen as providing an objective analysis of the remuneration and the job.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section 10 treats with professionals in partnerships firms and once the firm has six or more persons it is unlawful to discriminate in relation to who is</p>		

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		<p>made a partner and who is expelled from the firm.</p> <p>Section 11 has similar provisions in relation to trade unions. It is unlawful for a trade union, an organisation of employers, other organisation of employees or other organisation whose members carry on a particular profession or trade for the purpose of which the organisation exists to discriminate against any person by refusing or failing to accept that person's application for membership or on the terms in which they are willing to accept the persons's membership, denying, limiting them access to any benefits or facilities or from acquisition of leadership positions.</p>		
<p>Article 4 Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to</p>	<p>Q. Is there a tripartite body established and operating for the promotion and implementation of the principle of equal</p>	<p>Labour Act Cap. 98:01 Section 7 (2) The Advisory Committee is made up of representatives of employers and employees and</p>	<p>No gap identified.</p>	

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the provisions of this Convention.	remuneration for men and women workers for work of equal value?	such other members as the Minister may deem fit		
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)				
<p>Article 1</p> <p>1. For the purpose of this Convention the term discrimination includes--</p> <p>(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;</p> <p>(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and</p>	<p>[For Articles 1 and 4]</p> <p>Q1. How does the national legislation define the term “discrimination”? In particular, what are the effects considered “discriminatory” compared to ? What are the grounds on which discrimination is prohibited?</p> <p>Q2. Does the national legislation make any exemption? In particular, in relation to Article 4 of the Convention, does the national legislation consider not discriminatory</p>	<p>Q1</p> <p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 149 deals with discrimination.</p> <p>Section 149(2) defines the expression 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their or their parents' or guardians' respective descriptions by race, place of origin, political opinion, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture whereby persons of one such description are subjected to disabilities or restrictions to which other persons of the same or another such description are not made subject or are accorded</p>	No gap identified.	

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<p>workers' organisations, where such exist, and with other appropriate bodies.</p> <p>2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</p>	<p>measures applied to individuals who are involved in activities intended to safeguard the security of the State?</p>	<p>privileges or advantages which are not afforded to other persons of the same or another such description.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section 4 states a person discriminates against another person if the first mentioned person makes, on any of the grounds mentioned in subsection(2), any distinction, exclusion or preference the intent or effect of which is to nullify or impair equality of opportunity or treatment in any employment or occupation.</p> <p>The grounds are race, sex, religion , colour, ethnic origin, indigenous population, national extraction, social origin, economic status, political opinion, disability, family responsibilities, pregnancy, marital status or age (except in relation to restriction on</p>		

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		<p>minmum age of employment and retirement)</p> <p>Q2</p> <p>Section 149 (3) of the Constitution sets out the exemptions to the policy re discrimination- It does not apply -to persons who are not citizens of Guyana,</p> <p>- to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law,</p> <p>- Where persons are subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances is reasonable.</p> <p>Section 149(4) It does not apply to qualifications required of any person who is appointed to any office in the public service, any office in a disciplined force, or any office in the service of a local democratic organ or of a body</p>		

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
		<p>corporate established by any law for public purposes.</p> <p>Section 149(6) does provide reference to all of the sections of the fundamental rights which would not apply in the interests of defence, public safety, public Order. Further section 150 allows for the derogation from the fundamental rights in a case of war or emergency.</p> <p>Section 152 (3) nothing done by the disciplined force would be contrary to fundamental freedoms granted under the constitution if it is done to protect life and prevent inhuman treatment.</p>		
Article 2 Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of	[For Articles 2 and 3] Q1. Is there a national policy for promotion of equality of opportunity and treatment in respect of employment and occupation?	Q1 The legislation which clearly sets out the policy is clear that equality of opportunity and treatment in respect of employment and occupation is promoted.	Gap identified – there is no national policy that covers both public and private sectors prepared and implemented in consultation and cooperation with employers or employees organisations	A comprehensive national policy to promote equality of opportunity and treatment in respect of employment and occupation should be adopted and implemented.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.	<p>Q2. Does such national policy:</p> <p>(i) seek cooperation of employers’ and workers’ organizations and of other entities concerned ?</p> <p>(ii) identify any new legislation necessary?</p> <p>(iii) identify any existing legislation that needs to be repealed or amended?</p> <p>(iv) cover public sector employment?</p> <p>(v) cover vocational education, vocational training and public employment service?</p>	<p>Constitution of the Co-operative Republic of Guyana Cap. 1:01</p> <p>Section 149F</p> <p>States that every woman is entitled to equal rights and status with men in all spheres of political, economic and social life. Any discrimination based on sex is illegal.</p> <p>Equal Rights Act Cap. 38:01</p> <p>Apart from propounding the fact of equality between men and women in relation to remuneration and jobs section 2(4) also makes it clear that :</p> <p>No person shall be ineligible for, or discriminated against in respect of, any employment, appointment or promotion in, or to, any office or position on the ground only of sex.</p> <p>Moreover section 2(6) is even more detailed... it states that it shall be discriminatory against women where, in relation to employment, in arrangements</p>		

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	Q3. How is such national policy implemented in practice? Please describe activities undertaken and their results achieved.	<p>made for the purpose of determining who should be offered employment, the terms on which employment is offered, the refusal or deliberate omission to offer employment, the way access is afforded to opportunities for promotion, transfer or training or to any other benefits, facilities or services, men are afforded more favourable opportunities or conditions than women or preference is given to men.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section 5 it is unlawful for an employer to discriminate against an employee in relation to recruitment ,selection and terms and condtions of employment.</p> <p>Q2</p> <p>There is no reference in the legislation to cooperation or</p>		

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
		<p>consultation with employers or employees organisations.</p> <p>The legislation could be amended to include consultation with employer and employee organisations. There could also be more detail in relation to access to academic, vocational and professional training- that is how schools are universities are required to function. Situations where it would not be discriminatory to treat with only one gender eg all girl and all boy schools or schools of particular faiths.</p> <p>There should be some form of tribunal that is dedicated to dealing with matters of this type urgently. It appears that these matters would go to the Magistrate Court since the penalty is summary conviction. This would be faced with delays.</p> <p>(iv)</p>		

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
		<p>There is no mention of the public service in the legislation. However, the rights against discrimination and equality of persons and women are all part of the fundamental rights enshrined in the Constitution and therefore would apply to public sector employment. Moreover there is nothing in the Equal Rights Act Cap. 38:01 which excludes public sector employees from its coverage. Further section 149 (1) (b) of the Constitution of the Co-operative Republic of Guyana Cap. 1:01 provides no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the Performance of the functions of any public office or any public authority.</p> <p>(v)</p> <p>The Equal Rights Act Cap. 38:01 Section 2(5) (a) provides that no person shall, on the ground only of sex, be denied—</p>		

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		<p>access to academic, vocational and professional training.</p> <p>Prevention of Discrimination Act Cap. 99:08</p> <p>Section13</p> <p>It is unlawful for any association which comprises employers or educational authority to discriminate against any person by precluding then from accessing the training they want whether its is technical or vocational training.</p> <p>The CEACR noted that the Women and Gender Equality Commission (WGEC) of the National Assembly in 2013 developed a five-year strategic plan in collaboration with the United Nations Development Programme (UNDP) that would provide guidance for the execution of the WGEC mandate. (See the comments of the CEACR at: http://www.ilo.org/dyn/normlex/</p>		

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		<p>en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3251257,103086,Guyana,2015).</p> <p>Q3</p> <p>There is no statistical information on the Gouvernement website on how the policy is working .There were statistics from the UN Women Carribbean – Overview of Gender Equality Status – in 2012</p> <p>46% of women compared with 48 % of men had a primary school education. At the secondary school level they men and women had equal percentages 42%. More women had tertiary education than men 1512 women to 727 men.</p> <p>The labour force participation rate for women was 41.8 5 while for men it was 79.1%.</p> <p>There were only 31.3 of women appointed to Parliament compared to 68.7 % of men. .</p>		

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		<p>There were 25% of women Government Ministers to 75% men.</p> <p>From the statistics it is evident that there was still a great deal of gender inequality in 2012.</p> <p>Copy of the abovementioned five-year strategic plan of the Women and Gender Equality Commission is not available.</p>		
<p>Article 3</p> <p>Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--</p> <p>(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;</p> <p>(b) to enact such legislation and to promote such</p>		<p>As indicated under Article 2, there is no comprehensive national policy for the promotion of equality in employment and occupation.</p> <p>The CEACR has commented that: In relation to paragraph (e), the existing constitutional and statutory mechanisms for complaints and redress, which include the Public Service Commission, the Women and Gender Equality Commission, the</p>	<p>Gap – not enough consultation with the employers' and workers' organisations and other appropriate bodies.</p> <p>No programme to ensure that persons are aware of their right to be treated fairly and not be discriminated against.</p> <p>There should be educational programmes to promote equal rights.</p>	<p>There should be more consultation with the employers' and workers' organisations with the relevant statutory bodies such as the Public Service Commission, the Women and Gender Equality Commission, the Ethnic Relations Commission, the Indigenous Peoples Commission and the Ombudsman.</p>

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
<p>educational programmes as may be calculated to secure the acceptance and observance of the policy;</p> <p>(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;</p> <p>(d) to pursue the policy in respect of employment under the direct control of a national authority;</p> <p>(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;</p> <p>(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.</p>		<p>Ethnic Relations Commission, the Indigenous Peoples Commission and the Ombudsman.</p> <p>In relation to para (f), there is insufficient sex-disaggregated data on the labour force participation of men and women and of different ethnic groups in various sectors and occupations.</p>	<p>The functions of the statutory bodies for complaints and redress are not well publicized and therefore people’s access to them may be limited.</p>	<p>There should be educational programmes to promote equal rights.</p> <p>The functions and activities of the statutory bodies for complaints and redress should be better publicized and people’s access to those bodies should be facilitated.</p>

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Article 4 Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.	[See under Article 1]	No provisions found – This Article is not used.	No provisions applying this Article appear to exist, but that would mean measures affecting an individual engaged in activities for the security of the State must also respect and implement the principle of non-discrimination.	N/A