



# Fundamental Conventions

# **GAP ANALYSIS MATRIX**

# JAMAICA



European Union





# FOREWORD

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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 Project<sup>1</sup> 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

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<sup>1</sup> 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 analyzed: *Jamaica***

### 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
<b>Part I. Freedom of association and the effective recognition of the right to collective bargaining</b>				
<b>Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</b>				
<b>Article 2</b> 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 or other practical elements that may make the application of this Article difficult?	<b>General provisions</b> <b>The Constitution of Jamaica, as amended by the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011</b> (hereinafter referred to as 'the Constitution'), provides in section 2 for the repeal and replacement of Chapter III of the Constitution which stipulates the fundamental rights and freedoms of all persons in Jamaica. Chapter III, Section 13 (3) (e) provides the right to	Gap identified  Workers in the private and public sectors have the right to join trade unions, however the right of persons employed in the essential services with respect to taking industrial action is restricted pursuant to section 9, particularly 9(5) of the LRIDA.  The CEACR in Observation adopted 2015 noted that the	The list of essential services set out in the First Schedule of the LRIDA should be amended to remove the petroleum sector and the loading and unloading of ships at the Ports, as they would not endanger the life and health of persons, in accordance with paragraph 587 of the Digest of decisions and principles of the

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		<p>freedom of peaceful assembly and association.</p> <p><b>Private and public sectors</b>  <b>The Labour Relations and Industrial Disputes Act, 1975 (LRIDA)</b> The term ‘worker’ in the LRIDA, section 2, means an individual who has entered into or works under a contract under the supervision and control of the employer regarding hours, nature of work and discipline. The term ‘employer’ is similarly wide and is defined as a person for whom one or more workers work or have worked or normally work or seek to work. Workers in the private sector are therefore covered by the provisions of the LRIDA.</p> <p>Section 25 of the LRIDA states that with the exception of the Jamaica Defence Force, the Jamaica Constabulary Force, the Island Special Constabulary Force and the Rural Police, 25(2), the Act applies to Government workers. By virtue of 25(3)</p>	<p>exercise of legitimate trade union activities should not be dependent upon registration, as currently so provided under Section 6 of the Trade Union Act, and that, therefore, penalties should not be imposed upon workers for their membership and participation in an unregistered trade union.</p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254776">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254776</a></p>	<p>Freedom of Association Committee (CFA) of the Governing Body, 2006 (the 2006 Digest).</p> <p>The Trade Union Act should be amended to remove the penalty on members who continue to participate in a trade union which has been denied registration or had its registration cancelled in line with the comments of the CEACR.</p> <p>The situation in EPZs should be examined.</p>

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		<p>sections 5 and 5A (do not apply to Government workers and section 12 (5) and (9) do not apply to the Government. Sections 5 and 5A deal with the determination of the bargaining unit and by ballot if necessary, and the right to bargain collectively in good faith, respectively. Section 25(4) states that sections 5 and 5A do not apply to the Kingston and St. Andrew Corporation or any Parish Council or to workers employed by any Parish Council.</p> <p>By virtue of these provisions the LRIDA applies to both the private and public sectors except for the armed forces and the police forces.</p> <p>The LRIDA provides in section 4 that every worker shall have the right to be a member of such trade union as he may choose, to take part in trade union activities and not to be a member of a trade union. Section 4(2) states that any person who prevents or</p>		

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		<p>deters a worker from exercising any of the rights conferred by this section or dismisses, penalizes or discriminates against a worker for exercising any of these rights is liable on summary conviction before a Magistrate to a fine not exceeding \$500,000.00 JMD (approx. \$3, 900.00 USD).</p> <p>Section 9 of the LRIDA deals with industrial disputes arising in the essential services and provides that a report of a dispute be made to the Minister, who has 10 days within which to give directions to the parties for furthering attempts to settle the dispute or refer the dispute to the Industrial Disputes Tribunal for settlement. If no report is received by the Minister he may still take action to direct the parties to explore settlement or refer the matter to the Industrial Disputes Tribunal for settlement. Under 9(5) industrial action in an essential service is unlawful unless the Minister did not act to give the parties directions or</p>		



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		<p>refer the matter to the Tribunal for settlement.</p> <p>The Industrial Disputes Tribunal is established under section 7 of the LRIDA to deal with industrial disputes.</p> <p>The essential services are set out in the First Schedule of the LRIDA and include; Water, Electricity, Health, Hospital, Sanitary, Fire, Correctional, Civil Aviation and Overseas telecommunication services. It also includes services connected with loading and unloading ships and oil refining and transport or retailing of fuel for motor vehicles and aircraft.</p> <p>Section 6 of the <b>Trade Union Act Cap. 389</b> requires that within 30 days of the establishment of a trade union the management shall make an application for registration of the union. Failure to comply with the requirements of the section can result in conviction to a fine not exceeding \$10,000.00 JMD (approx. 77.6</p>		

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		<p>USD). Section 6(4) stipulates that where an application for registration has not been made in accordance with the section or if registration has been refused or cancelled, every member of the union who continues to be a member and participates in the proceedings of the union knowing that it is not registered, is liable on summary conviction to a penalty not exceeding \$500.00 JMD (approx. \$4.00 USD)</p> <p>An ITUC CSI IGB (International Trade Union Conferderation) Survey of violations of Trade Union Rights conducted on Jamaica, last updated February 2014, draws attention to the practice in the Export Processing Zones (EPZs) for companies to create pro-employer “worker-councils” which interfere in complaints but do not engage in collective bargaining on behalf of the workers. It is stated that no unions have been able to form so far in the EPZs.</p>		

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		<a href="http://survey.ituc-csi.org/Jamaica.html?lang=en#tabs-3">http://survey.ituc-csi.org/Jamaica.html?lang=en#tabs-3</a>		
<p><b>Article 3</b></p> <p>1. Workers' and employers' organisations shall have the right to draw up their 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>	[See under Article 2]	<p><u>Trade union rules</u></p> <p>Section 14 of the <b>Trade Union Act</b> requires that the rules of a trade union shall adhere to the matters set out in the Second Schedule to the Act, which include the objects for which the trade union is to be established, conditions of membership, the appointment and removal of officers and the keeping of accounts and investment of funds.</p> <p>Under 16(1) of the Act, to submit to the Registrar annual statements of account, audit certificates, membership lists and changes to the rules and officers of the trade union, the Registrar may, under section 16(2), at any time, request the treasurer or any trade union member to provide detailed accounts of the revenue, expenditures, assets, liabilities and funds of the trade union in respect of any specified period.</p>	<p>Gap identified</p> <p>With respect to industrial action, reading relevant provisions in conjunction, it is understood that industrial action is possible by workers and employers, but in a very restricted manner. In fact there are more restrictions on the use of industrial action than provisions allowing it.</p> <p>In Observation of the CEACR adopted 2015, the Committee, referring to sections 16(2) of the Trade Union Act, indicated that control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports, and that the discretionary rights of the authorities to carry out inspections and request information at any time</p>	<p>The Trade Union Act should be amended to remove this wide discretion of the Registrar to require the detailed accounts of the trade union under section 16 (2) in line with the recommendation of the CEACR. 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</p>

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		<p>Section 24 provides for an appeal to a Judge in Chambers by a trade union aggrieved by the refusal of the Registrar to register the union or by the cancellation of registration of a trade union.</p> <p><u>Industrial action</u></p> <p>There is no clear provision in the <b>LRIDA</b> which states that workers have the right to take industrial action, however, the term ‘industrial action’ is defined as part of section 2 and there is no blanket prohibition against all industrial action.</p> <p>Sections 5B, 9, 10, 11A, 12 and 13 of the LRIDA impose restrictions on the conduct of industrial action.</p> <p>Section 5B requires that a notice be sent to the Minister not less than 72 hours prior to taking any industrial action in the sectors listed in the Fifth Schedule, which includes banking, bauxite and</p>	<p>entails a danger of interference in the internal administration of trade unions <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254776">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254776</a></p> <p>The Minister exercises wide power to refer an industrial dispute to arbitration under sections 9, 10 and 11(A) of the LRIDA. In its Observation adopted 2011, the Committee recommended that the Government amend the LRIDA, taking into account that compulsory arbitration to end a collective labour dispute is acceptable only at the request of both parties or in instances where a strike may be restricted or even banned, i.e. in the event of a dispute in the public service involving public servants exercising authority in the name of the State, or in essential services in the strict sense of the term, namely services the</p>	<p>conditions are fulfilled or not. (See paragraph 302 of “Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO” available at: <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf</a>)</p> <p>The LRIDA should be amended inline with the Committee’s comments with respect to sections 9, 10 and 11A.</p>

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		<p>telephone services. If no notice is given the action is deemed unlawful.</p> <p>Section 9 requires that an industrial dispute in an essential services be reported to the Minister who has the authority to refer the matter to the Tribunal for settlement.</p> <p>Under section 10 the Minister can make an order that industrial action taken or contemplated is injurious to the national interest and either refer the dispute back to the parties to explore settlement or refer the matter to the Tribunal for settlement.</p> <p>Section 11 A empowers the Minister to refer a dispute to the Tribunal for settlement if in his opinion the circumstances of the dispute are urgent and exceptional and it would be expedient to do so.</p> <p>The Tribunal, after a dispute has been referred to it, has the</p>	<p>interruption of which could endanger the life, personal safety or health of the whole or part of the population (para. 564 of the 2006 Digest refers).</p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698703">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698703</a></p>	

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		<p>power under section 12 (5) to order that any industrial action taken or contemplated be stopped.</p> <p>Section 13 prescribes offences in connection with unlawful industrial action.</p> <p>The <b>Labour Relations Code</b>, clause 20 (b)(iv) also states that parties should use a procedure for dispute settlement which precludes industrial action until all other procedures are exhausted without success.</p>		
<b>Article 4</b> Workers' and employers' organisations shall not be liable to be dissolved or	[See under Article 2]	Under section 22 of the <b>Trade Union Act</b> the Registrar has the power to withdraw or cancel the registration of a trade union either at the request of the union	See under Article 3 concerning section 16(1) of the Trade Union Act. Reading this provision in conjunction with section 22 of the Act which	Trade Union Act may be amended to limit the discretionary power of the Registrar.

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suspended by administrative authority.		<p>or on proof to the satisfaction of the Registrar that the registration has been obtained by fraud or mistake or that the union has wilfully violated the Act or has ceased to exist. Section 22 also provides that a trade union whose registration has been cancelled shall, subject to an appeal being filed, ceases to enjoy the privileges of a registered trade union but is still subject to liabilities incurred.</p> <p>Section 24 of the Trade Union Act provides a person aggrieved by the refusal to grant, withdrawal or cancellation of the registration of a trade union by the Registrar to an appeal, within 21 days after being informed of the decision of the Registrar. This appeal is made to a Judge in Chambers.</p>	grants the Registrar discretion to determine whether the registration has been obtained by fraud or mistake, or whether the union has violated the Act, the Registrar is considered to have a wide-ranging discretionary power.	See also under Article 3 concerning the power of the Registrar.
<b>Article 5</b> Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such	[See under Article 2]	While no legislative provisions were found with respect to the right to establish and join federations or affiliate with international organizations, in Jamaica, there is the Jamaica	No gap identified	

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organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.		Confederation of Trade Unions (JCTU) which is affiliated to the International Trade Union Confederation, and the Jamaica Employers' Federation (JEF).		
<b>Article 7</b> 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.	[See under Article 2]	There is an obligation pursuant to section 6 of the Trade Union Act, for the registration of the trade union by its management within 30 days of its establishment. The registration requirements are outlined in section 13 and also contained in the Second Schedule. There is no requirement for the trade union to have legal personality as a prerequisite for registration.  In fact, section 5 of the Trade Union Act states that the Companies Act, the Friendly Societies Act and Industrial and Provident Societies do not apply to trade unions. The trustees of a trade union derive their ability to enter into transactions on behalf of the trade union from sections 7 to 9 of the Trade Union Act.	No gap identified.  Acquisition of legal personality is not required for registration or operation as a trade union.	
<b>Article 9</b>	Q. How does the national legislation	Section 25 of the LRIDA states that the Act does not apply to the	No gap identified	Though the Convention does not



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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.	regulate freedom of association with respect to the armed forces and the police?	<p>Jamaica Defence Force, the Constabulary Force, the Island Special Constabulary Force or to the Rural Police.</p> <p>The members of the Constabulary Force can through the Police Federation established under section 67 of the <b>Jamaica Constabulary Force Act, Cap. 72</b>, bring to the notice of the Commissioner of Police all matters affecting their welfare and efficiency, but not matters relating to discipline, promotion, transfer or leave, section 67(2). Section 67(3) mandates that this Federation shall be independent and unassociated with any body outside the Force. The Federation is the only means prescribed for Constabulary members to treat with their terms and conditions of employment, albeit in a limited way, as they are prohibited, by virtue of section 68 of the Constabulary Force Act from becoming members of a trade union on pain of being expelled</p>	<p>However, 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 at:<a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf</a>), consideration may be given to the possibility of legislating the right to freedom of association to civilian members of the armed forces (See Paragraphs 227-229 of the Digest).</p>	<p>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>from the force and losing pension entitlements.</p> <p>The Island Special Constabulary Force governed by the <b>Constables (Special) Act</b>, is similarly structured, as they too by virtue of section 27 of that Act, are prohibited from joining trade unions and may only bring to the attention of the Commissioner of Police under section 26, matters affecting their general welfare and efficiency through the Special Constabulary Force Association. Like the members of the Constabulary, no representations can be made on matters of discipline, promotion transfer or leave.</p> <p>The <b>Constables (District) Act</b> governs the Rural Police however no provisions were found which provide for the negotiation of terms and conditions of employment. Section 3 of the Act states that the Minister can make regulations for duties and rates of pay.</p>		

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		<p>In practice, the officers in this Force have made complaints that they do not receive the same benefits as constables of the Constabulary, see, <a href="http://www.jamaicaobserver.com/news/DCs-angry----16-wed_7414396">http://www.jamaicaobserver.com/news/DCs-angry----16-wed_7414396</a></p> <p>The <b>Defence Act</b> is silent with respect to any avenue for organization or representation of the members. Unlike the police force, there is no association dedicated to their welfare.</p>		
<p><b>Article 11</b> 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>The term “worker” in the LRIDA is defined as, “an individual who has entered into or works or normally works (or where the employment has ceased, worked) under a contract, however described, in circumstances where that individual works under the direction, supervision and control of the employer regarding hours of work, nature of work, management of discipline and such other</p>	<p>Gap identified</p> <p>With respect to managerial staff, while there is no specific inclusion or exclusion of this category of worker from the definition of worker in the LRIDA, the test of control referred to in the definition of the term “worker” in the LRIDA may be applied to determine whether the person is a worker for the purposes of the legislation.</p>	<p>Consideration may be given to clearly afford workers in management positions to form and join their organizations.</p>

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		conditions as are similar to those which apply to an employee.”	Also, the Labour Relations Code of Jamaica, made pursuant to section 3 of the LRIDA, states at Article 6(ii) that the legal relationship between employer and worker is determined by the individual contract of employment. The question of whether management and executive staff are included in the provision of the rights and benefits of the LRIDA will therefore be a question of fact in each instance.	
<b>Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</b>				
<b>Article 1</b> 1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.  2. Such protection shall apply more particularly in respect of acts calculated to-- (a) make the employment of a worker subject to the	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?  Q2. Does the national legislation provide for	Section 4 of the LRIDA sets out the right of a worker to trade union membership and to participate in trade union activities. Section 4(2) makes it an offence punishable by a fine not exceeding \$5000.000 JMD (approx. \$40 USD) for any person to prevent or deter a worker from exercising his rights or who dismisses, penalizes or	No gap identified  According to the ITUC (International Trade Union Confederation) Survey of violations of Trade Union Rights conducted on Jamaica, last updated February 2014 there are instances of anti-union practices, the Bustamante Industrial Trade Union and the National	The fine under Section 4 of the LRIDA should be updated to retain its dissuasive effect, and ensure the enforcement of the law.  It is recommended that the labour inspection function be cloaked with the

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<p>condition that he shall not join 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>protection from any 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>discriminates against a worker by reason of the exercise of rights.</p> <p>Section 4(3) states that it is to be regarded as discrimination by the employer where the employer offers and bestows a benefit on a worker as an inducement for refraining to exercise rights under the Act and that benefit is not offered or bestowed upon workers who do not agree to refrain from the exercise of their rights.</p>	<p>Workers' Union warned that the China Harbour Engineering Company were dismissing workers who insisted on their right to union membership. See <a href="http://survey.ituc-csi.org/Jamaica.html?lang=en#tabs-3">http://survey.ituc-csi.org/Jamaica.html?lang=en#tabs-3</a>. This may suggest a gap in the enforcement of the provisions in the LRIDA and the Trade Unions Act against anti union activity. Offences arising out of anti-union activities are prosecuted in a summary manner before a Resident Magistrate, section 19 of the Trade Unions Act refers. This usually involves a complaint to be laid by a police officer.</p>	<p>authority to lay a complaint and pursue matters of anti-union activities before the Summary Court by inclusion of the LRIDA in the Schedule of the Labour Officers (Powers) Act.</p>
<p><b>Article 2</b></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>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</p>	<p>No legislative provisions were identified which relate to the prevention of workers' and employers' organizations' interference in each other's activities.</p>	<p>Gap identified</p> <p>There is an absence of legislative protection for both workers' and employers' organisations to guard against interference in the activities of each other.</p>	<p>The law, in particular the LRIDA, may be amended to include provisions to protect against interference by workers' and employers' organisations in each other's activities.</p>

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2. In particular, acts which are designed to promote the 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.	limit independence in finance or operation?  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?			
<b>Article 3</b> 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?	The ILO on its Social Dialogue page, speaking about the developments in social dialogue in the Caribbean refers to the sectoral partnerships in Jamaica, see <a href="http://www.ilo.org/caribbean/areas-of-work/social-dialogue/lang-en/index.htm">http://www.ilo.org/caribbean/areas-of-work/social-dialogue/lang-en/index.htm</a> .  In the absence of a specific body which discusses and promotes the right to organize Jamaica does have the Labour Relations	No gap identified	

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		<p>Code made pursuant to section 3 of the LRIDA which sets out principles and guidelines for good industrial relations, including freely conducted collective bargaining. Article 16 of the Code provides that collective bargaining may be done at an industry as well as at an enterprise level.</p> <p>See Article 1 with respect to section 4 of the LRIDA which refers with regard to sanctions for violation of the right to organize.</p>		
<p><b>Article 4</b> 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</p>	<p>Q. How, through legal or other means, voluntary negotiation between employers and workers is encouraged and promoted?</p>	<p>Section 5 of the <b>LRIDA</b> provides for taking a ballot as decided by the Minister, to determine the question as to which trade union the workers wish to have bargaining rights in relation to them, or which of two or more unions claiming bargaining rights would be recognized to bargain for the workers. Section 5(5) states that the trade union chosen by the majority of the workers who were eligible to vote</p>	<p>Gap identified</p> <p>The CEACR in Observation adopted 2015 requested to amend section 5(5) of the LRIDA and section 3(1)(d) of its regulations to ensure the right to collective bargaining by: (i) lowering the percentage of workers in the bargaining unit the union must represent in order to be an exclusive bargaining unit (currently 40</p>	<p>The LRIDA should be amended in line with the comments of the CEACR.</p>

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employment by means of collective agreements.		<p>shall be recognized by the employer as having bargaining rights for those workers and any bargaining unit in which they are included.</p> <p>In this connection, the <b>Labour Relations and Industrial Disputes Regulations</b>, 1975, in regulation 3(1)(d) states that the Minister may cause a ballot to be taken under section 5 of the LRIDA if he is satisfied that not less than forty per centum of the workers in relation to whom that request has been made are members of the applicant trade union. The Regulations can be found at <a href="http://blue.lim.ilo.org/cariblex/jamaica_act8.shtml">http://blue.lim.ilo.org/cariblex/jamaica_act8.shtml</a></p> <p>Section 5A of the LRIDA prescribes that where a trade union has been recognized as having bargaining rights in respect of a group of workers, both the union and the employer have an obligation to conduct negotiations in good faith and</p>	<p>per cent) , or granting collective bargaining rights to all the unions if no single union obtains 50 percent of the votes of the total number of workers in a ballot for determinings an exclusive bargaining agent; and (ii) making a ballot is made possible when one or more unions are already established as bargaining agents and another union claims that it has more affiliated members.</p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254783">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254783</a></p>	



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		<p>make every effort to conclude a collective agreement.</p> <p>The <b>Labour Relations Code</b> was legislated in accordance with Section 3 of the Labour Relations and Industrial Disputes Act that requires the minister to lay down guidance for promoting good labour relations. The Code provides in Part IV for Workers Representation and the Collective Bargaining Process. Clause 14 of the Code states that notwithstanding the conditions for taking a ballot in accordance with the LRIDA, employers and workers may voluntarily determine claims for bargaining rights of workers where there is one trade union claiming representation and the employer is satisfied that the majority of workers in the proposed bargaining unit are members of that union. Clause 16 of the Code states that collective bargaining should be conducted in an atmosphere of reasonableness and good faith, peacefully and</p>		

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		orderly with due regard for the interest of the community.		
<b>Article 5</b> 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.	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?	Section 25 (2) of the <b>LRIDA</b> makes it very clear that the Act does not apply to employment in the Defence and Police forces in Jamaica. See under Article 9 of C. 87.	No gap identified	
<b>Article 6</b> 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.	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 and other comparable bodies?  Q2. How is this provision of the Convention applied in practice? Are there any administrative or other practical elements that may make the	Government employees do fall within the definition of “worker” in the <b>LRIDA</b> , however under section 25 they are excluded from certain provisions which operate to determine the bargaining rights of workers. The workers’ right to choose the trade union which should have recognition to bargain on their behalf and with which the Government as employer would be bound by virtue of section 5A to bargain in good faith is thereby curtailed.  Section 25(3) of the LRIDA exempts the Government as employer from liabilities for action taken otherwise than in	Gap identified  The restrictions placed upon employees of the Government are placed on all Government employees, from the lowest rank to the policy makers, and local public service employees, contrary to the Convention as expressed in paragraph 230 of the 2006 Digest, <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf</a>	The LRIDA should be amended to remove the restrictions imposed on the ability of employees of the Government to establish and join trade unions of their own choosing and exercise to the fullest extent their right to organize. Consideration may be given to limiting the application of the general restriction of these rights to certain categories of public servants, taking into consideration, for

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	application of this Article difficult?	<p>accordance with the Act. Employees of the Government are placed in a much less favourable position than their counterparts in the private sector as a result of the above mentioned provisions of the LRIDA.</p> <p>According to Orville W. Taylor, in The Employment Relationship, National Study 2001 (Jamaica), p. 31 ,the right of association does not automatically translate into a right to collective bargaining, unless an individual is a worker as defined under the LRIDA and is a member of a union that has gained bargaining rights. In practice therefore a person who does not fit the definition outlined in the Act has no access to the tangible benefits of the right to freedom of association. See <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/genericdocument/wcms_205368.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/genericdocument/wcms_205368.pdf</a></p>		instance, of paragraph 230 of the Digest of Decisions of the CFA.

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<b>Part II. Elimination of all forms of forced or compulsory labour</b>				
<b>Forced Labour Convention, 1930 (No. 29)</b>				
<b>Article 1</b> 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.	Q. Are there any national legislation, policy and/or programme to suppress the use of forced or compulsory labour?	<b>The Constitution</b> of Jamaica in Chapter III sets out the fundamental rights and freedoms to be enjoyed by every person in Jamaica, which includes at section 13 (3) (a) the right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal offence of which the person has been convicted. There are no provisions in the Constitution which speak directly to the prohibition of slavery or forced labour.	Gap identified  There are no laws that comprehensively and expressly prohibit forced labour.	Legislation that comprehensively and expressly prohibits forced labour should be adopted.
<b>Article 2</b> 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.	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”?	<b>The Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007</b> ( the Trafficking Act) defines the term ‘forced labour’ as any work or services exacted from a person by threat of penalty and for which the said person did not offer himself to provide such work or services voluntarily’. Section 2	Gap identified  The CEACR, in its Direct Request adopted 2012 referred to the existence of the Correctional Services Production Company (COSPROD). (No information on COSPROD could be found.) The	The Correctional Institutions legislation should stipulate clearly and specifically the conditions under which prisoners may engage in work for private enterprise either inside or outside of the prison. The

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<p>2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--</p> <p>(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;</p> <p>(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;</p> <p>(c) any work or service exacted from any person as a 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</p>	<p>Q2. Does the national legislation contain any exemption in this regard?</p>	<p>also defines ‘<b>servitude</b>’ as a relationship of dependency in which the labour or service of a person is provided or obtained by threats of harm or death to that person or another person, or though any scheme, plan or pattern intended to cause the person to believe that if he does not perform such labour or service he or another person will suffer harm or be killed’. includes at (b) compelling or causing a person to provide forced labour and (c) keeping a person in a state of slavery or servitude;’ Also, section 2 states that the definition of ‘<b>exploitation</b>’ includes ‘compelling or causing a person to provide forced labour, and keeping a person in a state of slavery or servitude.’ ‘Slavery’ is defined as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised by another, and includes practices similar to slavery, such as bondage and serfdom.’</p>	<p>Committee noted the Government’s statement that, under this programme, some inmates had been working under the conditions of a freely accepted employment relationship, with their formal consent and subject to guarantees regarding the payment of normal wages. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3057156:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3057156:NO</a></p>	<p>approval of officials required in section 60 can be bolstered with more specific conditions to safeguard against exploitation of prisoners.</p> <p>In this connection, paragraph 291 of the 2012 General Survey provides guidance. It states that work by prisoners in private enterprise is not contrary to the Convention once the necessary safeguards exist to ensure that the prisoners are giving their labour freely and with informed consent without the threat of any penalty.</p>

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<p>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 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>The <b>Trafficking in Persons (Prevention, Suppression and Punishment) (Amendment) Act, 2013</b> (the 2013 Amendment) introduces the offence of ‘debt bondage’ which refers to the status or condition of a debtor arising from a pledge or the use by the debtor of his personal services or those of a person under his control as security for payment of a debt..... The definition of ‘exploitation’ under the Trafficking Act has also been extended to include ‘keeping a person in debt bondage’.</p> <p><b>The Corrections Act, 1985</b> under section 58 allows the development of training and work release schemes which detained persons may participate in upon the approval of the Commissioner.</p> <p>Section 60 states that the Minister may establish programmes where prisoners may be directed by the Superintendent of an adult</p>		

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		<p>correctional centre and who is appointed by the Governor General under section 7 ,to undertake work in any company or organization approved by the Commissioner, subject to provisions for their employment, discipline and control. The wages earned by a detained person under such a scheme are remitted to the Superintendent and are credited to the detained person at rates approved by the Minister, section 61 refers.</p> <p>In accordance with sections 2, 7 and 8 of the Act, a Superintendent is appointed by the Governor-General to be in charge of administration of an adult correctional centre.</p>		
<b>Protocol of 2014 to the Forced Labour Convention, 1930</b>				
<b>Article 1</b> 1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each	[For Articles 1-3]  Q1. If a national legislation, policy and/or programme to	Q 1. (i) Section 3 of the <b>The Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007 (“Trafficking Act”)</b>	Gap identified  No comprehensive action programme to prevent and eradicate forced labour, and	Comprehensive programme of action should be established and implemented to prevent and eradicate

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<p>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>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>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 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>states that the object of the Act is to prescribe measures to prevent and combat trafficking in persons with particular regard to women and children, by protecting and assisting victims, investigating cases and punishing offenders and also promoting co-operation between Jamaica and other states in order to prevent and suppress trafficking in persons.</p> <p>Section 4 of the Trafficking Act establishes the offence of trafficking in persons and section 5 makes the management of a body corporate involved in the commission of a trafficking offence liable once their participation can be shown. The 2013 Amendment extends the application of the offence of trafficking established in section 4 to 4A which lists the aggravating circumstances under which the Court can impose an additional term of 10 years imprisonment.</p> <p>(ii)</p>	<p>to treat victims appears to be in place.</p> <p>The current legislation only deals with trafficking in persons. In this area, collaboration with workers' and employers' organizations in the area of forced labour currently appears weak. They are not represented at the National Task Force Against Trafficking in Persons (NATFATIP).</p>	<p>forced labour and to treat victims of forced labour.</p> <p>In the area of trafficking of persons, collaboration with workers' and employers' organizations in the area of forced labour should be strengthened. For instance, they should be represented at the National Task Force Against Trafficking in Persons (NATFATIP).</p>



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	<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 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 selecting the results to</p>	<p>The Trafficking Act in section 6 provides that a person convicted of the offence of trafficking shall pay, upon the order of the Court, restitution to the victim which is intended to compensate the victim for inter alia, medical and psychological treatment, physical and occupational therapy, housing, transport, emotional distress, pain and suffering and attorney's fees and legal costs. Section 8 grants immunity to victims of trafficking for offences committed as a result of the offence of trafficking committed against them. Sections 9 and 10 provide protection and assistance to victims including protection against recapture, language interpretation, safe shelters, living expenses and in obtaining relevant documents and information to assist with legal proceedings.</p> <p>(iii) By virtue of the <b>2013 Amendment to the Trafficking Act</b>, the term of imprisonment for</p>		

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	<p>legislation, national policies or programmes.</p> <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>committing the offence of trafficking under section 4 is increased from ten to twenty years. The Court may also impose a fine on perpetrators.</p> <p>Section 6 of the 2013 Amendment amends section 6 of the Trafficking Act to provide for forfeiture of the property of persons convicted of trafficking under the Proceeds of Crime Act and payment of restitution to the victim from such property.</p> <p>Section 10 (2) of the Trafficking Act states that the Government in consultation with approved non-governmental agencies shall establish and carry out programmes to support victims by assisting in integration and resettlement of victims. Sections 12 and 13 provide for the return of victims to their home country.</p>		
<b>Article 2</b> The measures to be taken for the prevention of forced or		(iv) and (v) There is established in Jamaica The National Task Force Against Trafficking in Persons (NATFATIP)	See under Article 1	See under Article 1

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<p>compulsory labour shall include:</p> <p>(a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;</p> <p>(b) educating and informing employers, in order to prevent their becoming involved in 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>under the Ministry of National Security. Its mandate is to enhance national capacity to deal with human trafficking; develop and implement Jamaica's legislative and institutional framework for the elimination of trafficking in persons and coordinate and implement the National Plan of Action 2012-1015. This plan constitutes a robust approach to dealing with Human Trafficking and is organised under three areas, consistent with the Trafficking Act. These areas are Prevention, Protection and Prosecution. The Task Force has also reported conducting public awareness campaigns and training for related agency officers.</p> <p><a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a></p> <p>(vi) The Trafficking Act applies to all persons in Jamaica as the term "victim" as contained in section 2, means "a person against whom the offence of trafficking in</p>		

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<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 respond to risks of forced or compulsory labour; and</p> <p>(f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.</p>		<p>persons has been committed.” Under section 3 special reference is made to the prevention of the offence with regard to women and children. The labour inspection function as exists in the Labour Officers (Powers) Act, 1943 does not include policing the matters contained in the Trafficking Act.</p> <p>(vii) The Trafficking Act provides no special safeguards for protection of women, children and migrant workers from becoming victims of trafficking. The Act focuses on protecting these persons once they become victims.</p> <p>(viii) Section 14 of the Trafficking Act as amended by the 2013 Amendment, provides for the entry, search and seizure by a constable under a warrant of premises where a trafficking offence is suspected. A person who obstructs a constable in his duties in this regard is liable upon</p>		

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		<p>summary conviction to a fine or up to 6 months imprisonment.</p> <p>(ix) NATFATIP, as recorded in the Jamaica Information Service, is calling for a global and university-based study on the state of human trafficking. <a href="http://jis.gov.jm/national-task-force-trafficking-persons-calls-global-study/">http://jis.gov.jm/national-task-force-trafficking-persons-calls-global-study/</a></p> <p>Q2. The NATFATIP reports that for the period 2012 to 2013 213 raids were conducted, 23 victims were rescued and 4 arrests up to March 2013. <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a> <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a></p> <p>The US Department of State 2016 Trafficking in Persons Report for Jamaica states that the Government has developed a national action plan for 2015-</p>		

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		<p>2018, prosecuted 9 trafficking cases against 14 alleged offenders and out of 52 suspected child trafficking cases identified 4 confirmed victims.  <a href="https://www.state.gov/document/s/organization/258880.pdf">https://www.state.gov/document/s/organization/258880.pdf</a></p> <p>A Trafficking in Persons Unit in the Jamaica Constabulary Force is also established.  <a href="http://moj.gov.jm/sites/default/files/TOR%20-%20TIP%20CONSULTANT.pdf">http://moj.gov.jm/sites/default/files/TOR%20-%20TIP%20CONSULTANT.pdf</a></p> <p>The Gleaner published an article entitled ‘Tackling Human Trafficking’ on February 15, 2015,  <a href="http://jamaica-gleaner.com/gleaner/20150215/news/news3.html">http://jamaica-gleaner.com/gleaner/20150215/news/news3.html</a></p> <p>In this article the NATFATIP charged that Jamaica has done more to combat human trafficking than was acknowledged by the US State Department in its report. As reported in the article Justice Gloria Smith representing the Chief Justice lamented the</p>		

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		<p>unwillingness of victims to participate in the judicial process. It was reported that there is an ongoing campaign to bring persons from the various arms of the Judiciary together on the topic of trafficking and to establish a victim's shelter in Negril.</p> <p>Q3. The composition of the NATFATIP does not include representatives of workers' and employers' organisations. See <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a></p>		
<p><b>Article 3</b> 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.</p>	(See under Article 1)	<p>See under Article 1 with reference to Q.1 (ii). In addition, section 8 of the <b>Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007 ("Trafficking Act")</b> provides immunity from prosecution of victims of trafficking for offences relating to immigration or prostitution committed as a result of the offence of trafficking.</p>	<p>No gap identified.</p> <p>In its Observation adopted 2012, the CEACR encouraged the Government to step up action to ensure thorough 35 investigation and prosecution of offenders, and to strengthen efforts to ensure that victims are provided with protection and assistance.</p>	

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		<p>The NATFATIP, under its Prevention/ Public Education initiatives undertook a public awareness programme which included radio shows and town hall meetings. The Task Force also states that a TIP shelter was opened and operational as at March 2013 and that training for stakeholder organisations has been conducted. See <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a></p>	<p><a href="http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3057160">http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3057160</a></p> <p>A copy of the National Plan of Action for combating Trafficking in Persons in Jamaica was not found.</p>	
<p><b>Article 5</b> 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</p>	<p>Section 3 of the <b>Trafficking in Persons (Prevention, Suppression and Punishment) Act, 2007 (“Trafficking Act”)</b>, in listing the objects of the Act states in (d) promoting co-operation between Jamaica and other states in order to prevent and suppress trafficking in persons and to punish offenders.</p> <p>The report ‘Combating Trafficking in Persons in Jamaica’ on the website of the Ministry of Justice</p>	<p>No gap identified.</p>	



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	achieved by these measures?	<p>states, in seeking to improve coordination between Caribbean countries in relation to trafficking in person, a delegation from the Taskforce to include the ODPP, Victim Support Unit, Ministry of Justice and Ministry of Foreign Affairs and Foreign Trade, participated in a five country (Antigua and Barbuda, Aruba, Jamaica, St. Vincent and the Grenadines, and Trinidad and Tobago) coordination meeting hosted by the International Organization for Migration in January 2013. The seminar presented a critical opportunity for the gaining of knowledge and capacity building in the area of screening methodology, data collection, sharing methodology and the acquisition of desired data.</p> <p>A Memorandum of Understanding is currently being developed, with necessary</p>		

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		consultations from key stakeholders, aimed at establishing a standard protocol to govern TIP data collection and information sharing among key stakeholders such as the Jamaica Constabulary Force (JCF), Centre for Investigation of Sexual Offences and Child Abuse (CISOCA), CDA, Office of the Children's Advocate (OCA) and the Sex Offenders' Registry. See <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a> .		
<b>Abolition of Forced Labour Convention, 1957 (No. 105)</b>				
<b>Article 1</b> 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-- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or	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?  Q2. How is this provision of the	Section 32 under Part IV of the <b>Corrections Act</b> states that a person serving a term of imprisonment in an adult correctional centre shall do such work as may be assigned to him by the Superintendent or as may be prescribed in the Correctional Institution Rules. Section 33 provides that a prisoner may engage in work outside of the	Gap identified  The CEACR in its Observation adopted 2012 noted the provisions in the Shipping Act under which penalties of imprisonment can be imposed and which would involve an obligation to perform labour under the Corrections Act, for desertion, absence without leave or disobedience, and	The Shipping Act should be amended in line with the comments of 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>views ideologically opposed to the established political, social or economic system;</p> <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>Convention applied in practice?</p>	<p>prison once approved by the Commissioner.</p> <p>No provisions were found in the labour legislation which seeks to punish the use of industrial action with imprisonment, rather the saction of a fine is prescribed.</p> <p><b>The Shipping Act, 1999</b> prescribes a term of imprisonment for offences as follows;</p> <p>Section 178 (1) (b) (c) and (e) – wilfully disobeying a command, neglect of duty and impeding the navigation of the ship or progress of the voyage; Section 178 (2) exempts a seaman from liability only if his refusing duty is part of a lawful strike after his ship has arrived in Jamaica.</p> <p>Section 179 (a) and (b) for desertion and refusing to join his ship or proceed to sea in his ship and absence without leave.</p>	<p>that these are not in conformity with the Convention. Only sanctions relating to acts that are likely to endanger the safety of the ship, or the life or health of persons (e.g. as provided for in section 177 of the 1998 Shipping Act) have no bearing on the Convention.</p> <p><a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3076061:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3076061:NO</a></p> <p>In addition, paragraph 312 of the 2012 General Survey also refers. See <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf</a></p>	
<b>Part III. Effective abolition of child labour</b>				
<b>Minimum Age Convention, 1973 (No. 138)</b>				

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><b>Article 2</b></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 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</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 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>Section 25 of the <b>Child Care and Protection Act, 2004</b> states that for the purposes of Part II, which includes sections 33 and 34, 'employment' means employment in any undertaking, trade or occupation, carried on for profit or gain, irrespective of whether the employment is gratuitous or for reward.</p> <p>Jamaica, upon ratification of the Convention, the Government specified the minimum age for admission to employment as 15 years. The Government indicated that the requisite provisions were sections 33 and 34 of the Child Care and Protection Act, which prohibits the employment of children under 13 years and section 34 provides that no person shall employ a child who has attained the age of 13 years but is still under 15 years of age in the performance of any work other than light work as considered appropriate by the Minister of Labour. See <a href="http://www.ilo.org/dyn/normlex/">http://www.ilo.org/dyn/normlex/</a></p>	<p>No gap identified.</p> <p>However, to avoid ambiguity a definitive provision should be implemented in the Child Care and Protection Act stating that in Jamaica the minimum age for the admission to employment is 15 years.</p>	<p>To avoid ambiguity a definitive provision should be implemented in the Child Care and Protection Act stating that in Jamaica the minimum age for the admission to employment is 15 years.</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
organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.		<a href="http://en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103236">en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103236</a>  Q3. <b>Education Act 1965</b> The definition of ‘compulsory school age’ in section 2 which means in relation to any compulsory education area, the ages between which all children residing in such area are declared to be of compulsory school age. Section 20, which stipulates that the Minister may declare an area a compulsory school and the the compulsory school age in relation to that area.  According to the Government’s initial report to the Committee on the Rights of the Child (CRC/C/8/Add.12; paragraph 17), which is cited in the CEACR’s Direct Request published in 2006, the minimum school leaving age declared by the Minister under the Education Act is 14 years, which is lower than the minimum		

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		age for the admission to employment. See, <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2256204">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2256204</a>		
<p><b>Article 3</b></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</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>Section 34 (3) of the <b>Child Care and Protection Act</b> states that no person shall employ a child in the performance of any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual or social development; or in night work or in an industrial undertaking. The term 'industrial undertaking' is defined in section 25 and includes a mine, quarry, brewery, factory, harbour, construction work and transportation.</p> <p>Section 25 defines 'night work' as work between the hours of ten o'clock in the evening and five o'clock in the morning.</p> <p>Under section 39 of the Child Care and Protection Act</p>	<p>Gap identified.</p> <p>No list of employment hazardous for children has as yet been legislated in Jamaica.</p> <p>The CEACR has noted in Observation adopted 2015 that while the Government has advised that a draft list of types of hazardous employment or work prohibited for persons below the age of 18 has been developed in consultation with the social partners it is intended to be adopted in the new Occupational Safety and Health Act when it is enacted. <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801</a></p>	<p>The earliest enactment of the Occupational Safety and Health Act is recommended.</p>

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this Article, national laws or regulations or the competent authority may, after 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.		employment of a child in a nightclub or in any manner contrary to decency and morality is prohibited.  The International Trade Union Confederation Report for the WTO General Council Review of the Trade Policies of Jamaica, noted that the Government consulted with social partners and other parties on establishing a list of hazardous occupations to which admission to work for children should be prohibited. This list is meant to be part of the Occupational Safety and Health Act of Jamaica when enacted. See <a href="http://www.ituc-csi.org/IMG/pdf/FINAL_Jamaica.pdf">http://www.ituc-csi.org/IMG/pdf/FINAL_Jamaica.pdf</a> .		
<b>Article 4</b> 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	[For Articles 4-6 and 8]  Q. Does the national legislation exclude: (i) any categories of workers and/or (ii) certain industries from the scope of application	The <b>Shipping Act</b> in section 127(1) states that no person under the age of 16 shall be employed in any Jamaican ship. By virtue of 127(2) persons between 16 -18 years of age can be employed where the master of the ship is in receipt of a medical	Gap identified.  Section 38 of the Child Care and Protection Act is not sufficiently specific with respect to the conditions under which the type of labour described is to be	Section 38 of the Child Care and Protection Act should be more detailed with specific working conditions under which the types of work mentioned may be carried out.

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Convention limited categories of employment or work in respect of which special and substantial problems of application arise.	of the minimum age legislation, in particular young persons engaged in vocational educational training programmes approved by the competent authority, or young persons participating in artistic performances? If so, what are the excluded categories of workers and industries?	practitioner's certificate stating that the person is fit to be employed. Section 127(4) states that no person shall be employed in the engine room of a ship unless as an apprentice under supervision.  Section 38 of the <b>Child Care and Protection Act</b> states that the limitations on the employment of a child contained in sections 33 an 34 do not apply to work performed by a child under order of detention in a juvenile correctional centre or community service order or as part of the child's instruction in a school once such labour is not likely to be hazardous or to interfere with the child's education, health, physical and mental and social development.	conducted and is in the absence of the approval of an appropriate authority.	
<b>Article 5</b> 1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers	(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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<p>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 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.</p>				
<p><b>Article 6</b> 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</p>	<p>(See under Article 4)</p>	<p>The <b>Education Regulations, 1980</b> made under the Education Act prescribes at section 24 for the minimum ages for admission as a student of a public educational institution eg. Primary (6 years), technical (13 years) and vocational school (15 years).</p>	<p>No gap identified.</p>	

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<p>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--</p> <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><b>The National Youth Service Act, 1999</b> as stated in section 3, is an Act to facilitate the provision of work experience to young persons with a view to their employment, to encourage a sense of responsibility and respect, discipline and cooperation. It defines ‘approved employment’ as employment approved by the Minister responsible for youth in respect of a participant and section 5 speaks to development of training and employment programmes for participants.</p> <p>Section 23 provides that any person between the ages of 17 and 24 years who applies and is approved by the National Youth service Board is eligible to be a participant under the Act.</p> <p><b>The Apprenticeship (Motor Mechanic Trade) Order, 1959</b> made under section 5 of the Apprenticeship Act states in Clause 3 that no person shall be</p>		

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		employed as an apprentice in the trade unless he has attained the age of 15 years.		
<p><b>Article 7</b></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 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</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 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</p>	<p>Q.1</p> <p><b>The Child Care and Protection Act, 2004</b> states at section 33 that no person shall employ a child under the age of 13 in the performance of any work. Section 34 provides that a child between the age of 13 and 15 can be employed in occupations as set out in subsection (2,) which includes light work as the Minister of Labour considers appropriate. The Minister will also specify the hours and conditions governing the employment.</p> <p>Section 34 provides that a child between the age of 13 and 15 can be employed in occupations as set out in subsection (2,) which includes light work as the Minister of Labour considers appropriate. The Minister will also specify the hours and conditions governing the</p>	<p>Gap identified.</p> <p>There is at present no legislated list of light work which can guide the application of section 34 of the Child Care and Protection Act.</p>	<p>The list of occupations constituting light work envisaged for inclusion in the new Occupational Safety and Health Act should be enacted as soon as possible.</p>

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<p>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 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>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>employment. Section 25 of the Act states that for the purposes of Part II, which includes sections 33 and 34, ‘<b>employment</b>’ means employment in any undertaking, trade or occupation, carried on for profit or gain, irrespective of whether the employment is gratuitous or for reward.</p> <p>The approved list of light work for children mentioned in section 34 is not yet legislated.</p> <p>Q2. No conditions with respect to schooling are placed on the ability of children over 15 years who are allowed to work in the areas permitted under the Child Care and Protection Act.</p> <p>Q3. The CEACR in Observation adopted 2015 noted that the Government of Jamaica indicated that a draft list of occupations constituting light work was being considered for inclusion in the new Occupational Safety and</p>		

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		Health Act, which is to be enacted. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801</a>		
<p><b>Article 8</b></p> <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>	(See under Article 4)	<p>Section 35 of the <b>Child Care and Protection Act, 2004</b> provides that the Labour Minister may on the advice of the Council, permit a child to be employed for the purpose of participating in artistic performances. The authorization is to stipulate the hours and condition of work for the child.</p> <p>Information on the composition of the Advisory Council under the Act was sought but not found.</p>	No gap identified	

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<p><b>Article 9</b></p> <p>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.</p> <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>Q1. What penalties (fines, imprisonment, etc.) does the national legislation provide for in case of failure to apply the minimum age legislation?</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>Q1. Section 36 of the <b>Child Care and Protection Act</b> states where a child is employed in contravention of any of the provisions of sections 33 to 34 any person to whom the contravention is attributable is liable to a fine not exceeding \$500,000.00 JMD (approx.. \$4000.00 USD) or imprisonment for a term not exceeding 6 months or both. In section 39 a person can face up to one million dollars (JMD) (approx.. \$8,000.00 USD) or imprisonment for up to one year for employing a child in a nightclub or using a child for a purpose contrary to decency or morality.</p> <p>Q2. Investigations of breaches under the <b>Child Care and Protection Act</b> are contained in section 37 are require a warrant authorizing a constable to conduct enquires.</p>	<p>Gap identified</p> <p>The CEACR in its Observation adopted 2015 noted that labour inspections are confined to the formal sector and that detection is lacking and that inspection in the informal economy is required. The Government has indicated that the new Occupational Safety and Health Act to be enacted will address the deficiencies in inspection and in the framework for dealing with child labour.</p> <p>See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254801</a></p>	<p>The Occupational Safety and Health Act should be brought into force.</p>

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<b>Worst Forms of Child Labour Convention, 1999 (No. 182)</b>				
<b>Article 2</b> For the purposes of this Convention, the term <b>child</b> shall apply to all persons under the age of 18.	Q. How does the national legislation define the term “child”? Could there be different, or even conflictual definitions in different laws and regulations?	<b>The Child Care and Protection Act</b> defines ‘child’ as a person under the age of 18 years.  The term ‘child’ in the <b>Education Act</b> refers to a person who has not attained the age of 15 years.  <b>In the Trafficking in Persons (Prevention, Suppression and Punishment) Act</b> ‘child’ means any person under 18 years of age.	Gap identified  The same term is defined differently in different laws.	The definitions should be streamlined.
<b>Article 3</b> For the purposes of this Convention, the term the worst forms of child labour comprises: (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;	[For Articles 3 and 4]  Q1. How does the national legislation define the term, “child labour”? Does it specify “worst forms of child labour”?  Q2. Does the national legislation contain any exemption in this regard?	Q1. The legislation does not use the term ‘child labour’ or ‘the worst forms of child labour’. <b>The Child Care and Protection Act</b> does however prohibit the employment of a child in hazardous work or work that interfere’s with the child’s education, health, physical, mental or spriritual or social development or in night work or an industrial undertaking under section 34. Section 39 prohibits	Gap identified  The CEACR in its Observation adopted 2015 noted the absence in the Sexual Offences Act of the prohibition of the <i>use</i> of a person for the purpose of prostitution and requested that the Government make the adjustment in the legislation to prohibit the use of a child for the purpose of prostitution in accordance	It is recommended that the Trafficking in Persons (Prevention, Suppression and Punishment) Act makes this prohibition recommended by the CEACR.  A list of work hazardous for children should be developed to include the use of a

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<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>(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>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>the employment of a child in a nightclub, or uses a child for a purpose contrary to decency or morality.</p> <p>The <b>Sexual Offences Act</b> section 2 defines "child" as a person under the age of 18. Part IV of the Act, which deals with sexual offences against children and indecent assault, prescribes that for the purposes of Part IV "child" means a person under the age of 16 years. Section 18 deals with the offence of 'Procuration' but does not specifically treat with the offence of use of a child for prostitution.</p> <p><b>The Trafficking in Persons (Prevention, Suppression and Punishment) Act</b> (the Trafficking Act) defines that any person under the age of 18 is a child. Section 2 of the Act defines 'child pornography', the offences of 'exploitation', 'sexual exploitation' which includes the production of child pornography, and 'forced labour'. Section 4</p>	<p>with the Convention. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805:NO</a></p> <p>In the absence of a legislated list of hazardous work with respect to children Article 3 (C) of the Convention is not adequately dealt with. See the comments of the Committee in Observation adopted 2015, <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805:NO</a></p>	<p>child in the production or trafficking of drugs.</p>



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		<p>which sets out the offence of trafficking in persons states at subsection (3) ‘... a person who recruits, transport, transfers, harbours or receives a child for the purpose of exploitation of that child commits the offence of trafficking in persons.’ All of the offences created in the Trafficking Act apply where the victim is a child, and this is considered an aggravated circumstance in the context of 4A of the <b>Trafficking in Persons (Prevention, Suppression and Punishment) (Amendment) Act, 2013</b> (the 2013 Amendment), which carries harsher penalties. Section 4 (3) states notwithstanding the absence of the threat of force, abduction, deception, benefit or abuse of power under subsection (2) a person who recruits, transports, harbours or receives a child for the purpose of exploitation commits the offence of trafficking in persons.</p> <p>Q2.</p>		

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		<p>Light work is exempted for children aged between 13 and 15 under Section 34 of the Child Care and Protection Act.</p> <p>While section 39 of the Act prohibits the employment in a night club, under 39(2), the owner escapes liability if the owner can prove to the Court that all reasonable steps were taken to ascertain and it was reasonably believed that the person was not a child during employment.</p> <p>Q3. See Article 3 under Convention No. 138.</p>		
<p><b>Article 4</b></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</p>	[See under Article 3]	See Article 3 under Convention No. 138.	See Article 3 under Convention No. 138.	See Article 3 under Convention No. 138.

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<p>international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.</p> <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><b>Article 5</b> 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>The National Taskforce against Trafficking in Persons (NATFATIP) was established in June 2005 as a multi agency approach to enhance national capacity and to develop and implement Jamaica's legislative, institutional and operational response for combating Trafficking in Persons. This mandate includes trafficking of children for the purpose of forced labour and exploitation. NATFATIP's core emphases are the prevention and suppression of Trafficking in Persons; the prosecution of</p>	<p>Gap identified</p> <p>The NATFATIP lacks the participation of workers' and employers' organizations.</p> <p>With respect to the determination of hazardous work for children there appears to have been consultation between the social partners.</p>	<p>The Government may wish to consider the inclusion of workers' and employers' organizations as members of the NATFATIP.</p>

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		offenders; as well as the protection and provision of assistance to victims of trafficking. The composition of the task force is not tripartite in nature, but made up of several governmental agencies and NGOs. <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a>		
<p><b>Article 6</b></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 views of other concerned groups as appropriate.</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 Article 7, paragraph 2 of the Convention?</p> <p>Q3. Is it adopted and implemented in consultation with</p>	<p>The Government of Jamaica in collaboration with the International Labour Organisation (ILO) / International Programme on the Elimination of Child Labour (IPEC) implemented a country programme to reduce and eliminate child labour in Jamaica. See <a href="http://www.mlss.gov.jm/pub/index.php?artid=24">http://www.mlss.gov.jm/pub/index.php?artid=24</a></p> <p>The TACKLE project was launched in Jamaica in 2009 and according to the IPEC website was active in initiative to combat child labour up to 2013. Information on more recent initiatives was not found.</p>	No gap identified	

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	<p>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>See <a href="http://www.ilo.org/ipec/projects/global/tackle/jamaica/lang--en/index.htm">http://www.ilo.org/ipec/projects/global/tackle/jamaica/lang--en/index.htm</a></p> <p>The United States Department of Labor, Child Labor and Forced Labor Reports, Jamaica, makes reference to a National Action Plan to Combat Human Trafficking for the period 2015 to 2018 which targets law enforcement officials to address the commercial sexual exploitation of children, conduct public awareness and outreach programmes. <a href="https://www.dol.gov/agencies/ila/resources/reports/child-labor/jamaica">https://www.dol.gov/agencies/ila/resources/reports/child-labor/jamaica</a> ,</p> <p>A copy of the National Action Plan to Combat Human Trafficking for the period 2015 to 2018 was not found.</p> <p>The National Task Force Against Trafficking in Persons (NATFATIP) under the Ministry of Justice, commissioned a report done by</p>		

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		<p>Dr. Leith Dunn to improve national capacity of the NATFATIP to collect, analyse and share Trafficking in Persons related data to meet policy and programme needs. The project has helped to research the problem of the Government of Jamaica's lack of an integrated data collection and information system required to enhance its capacity to guide evidence based programme and strategies to prevent human trafficking, prosecute perpetrators and protect victims. See <a href="https://info.undp.org/docs/pdc/Documents/JAM/August%2030%202015%20FINAL%20REPORT%20INTEGRATED%20TRAFFICKING%20IN%20PERSONS%20DATABASE%20STUDY.pdf">https://info.undp.org/docs/pdc/Documents/JAM/August%2030%202015%20FINAL%20REPORT%20INTEGRATED%20TRAFFICKING%20IN%20PERSONS%20DATABASE%20STUDY.pdf</a></p> <p>NATFATIP lists some of its achievements in its report on the Ministry of National Security's website, see <a href="http://moj.gov.jm/content/human-trafficking">http://moj.gov.jm/content/human-trafficking</a> . Some of these are</p>		

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		dated back to 2007 however and there are no updated activities.		
<p><b>Article 7</b></p> <p>1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the 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>Q1. What kind of penalties does the national legislation provide for violation of 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>Q1.</p> <p>See under Article 9 of Convention No. 138.</p> <p>Also, under the <b>Shipping Act</b> for breach of section 127 for employing a person under 16 years of age or under 18 without a medical certificate in the engine room of a ship. The section does not prescribe a specific penalty for these offences. A general penalty is prescribed under section 442 of a fine not exceeding \$100,000.00 (JMD) (approx.. \$800.00 USD) or to imprisonment for 6 months.</p> <p>Under the <b>Sexual Offences Act</b>, the penalty is up to 15 years imprisonment for sexual grooming of a child, section 9.</p> <p>In the <b>Child Care and Protection Act</b> a person who employs a child in a nightclub or in any work likely</p>	<p>Gap identified</p> <p>Jamaica has a wide range of legislation which relates to the area of child labour and the worst forms of child labour, notwithstanding the existence of gaps as identified, a significant flaw in combatting child labour lies in enforcement of the law, especially with respect to detection and prosecution.</p>	<p>The Government may consider bolstering the detection, investigative and prosecutorial function with regard to child labour in Jamaica, by streamlining laws and various entities, and by ensuring the participation of the social partners in relevant entities and activities.</p>

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<p>(c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children 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>To be hazardous under section 34 is liable under section 36 to a fine not exceeding \$500,000.00 JMD (approx.. \$4000.00 USD) or to imprisonment for a term no more than 6 months.</p> <p>Breach of section 4 of the <b>Trafficking Act</b> carries the penalty or a fine and/ or imprisonment of 20 years. Under the 2013 Amendment where the victim is a child up to an additional 10 years imprisonment can be added to the sentence.</p> <p>Q2. In addition to the existence of NATFATIP, the International Trade Union Confederation (ITUC) refers in its Report for the WTO General Council Review of the Trade Policies of Jamaica, 2011, under the heading ‘Child Labour’ to the Child Labour Unit, the Office of Health and Safety of the Labour Ministry and the Child Development Authority (CDA) as being responsible for enforcing the law on child labour. The</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
		Report does mention the severe lack of resources suffered by these agencies. See <a href="http://www.ituc-csi.org/IMG/pdf/FINAL_Jamaica.pdf">http://www.ituc-csi.org/IMG/pdf/FINAL_Jamaica.pdf</a>		
<p><b>Article 8</b> 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>The United States Department of Labor, Child Labor and Forced Labor Reports, Jamaica states that Jamaica is a signatory to the Declaration of the Regional Initiative: Latin America and the Caribbean Free of Child Labour. This Declaration aims to increase regional co-operation on eradicating child labour by 2020 through the efforts of signatories to strengthen monitoring and coordinating mechanisms and government. <a href="https://www.dol.gov/agencies/ila/b/resources/reports/child-labor/jamaica">https://www.dol.gov/agencies/ila/b/resources/reports/child-labor/jamaica</a></p> <p>No information was found on the results of this programme.</p>	<p>Gap identified</p> <p>The CEACR has indicated in its comments that problems of child prostitution continue to exist. It also indicated that a very limited number of child victims assisted through Jamaica's national programmes. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3254805</a></p> <p>Further efforts are therefore necessary.</p>	<p>Efforts for greater regional and international co-operation to combat trafficking of children, which includes for the purpose of forced labour and exploitation need to be undertaken, especially with respect to detection and prosecution of offenders outside of Jamaica.</p> <p>CARICOM can also be used as a regional resource for co-operation in the fight against child labour</p>

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		See also information on ILO programmes for Jamaica mentioned above in Article 6 of this Convention.		and trafficking in persons.

#### Part IV. Elimination of discrimination in respect of employment and occupation

##### Equal Remuneration Convention, 1951 (No. 100)

<p><b>Article 1</b> For the purpose of this Convention--</p> <p>(a) the term <b>remuneration</b> 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 <b>equal remuneration for men and women workers for work of equal value</b> 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><b>The Employment (Equal Pay for Men and Women) Act, 1975</b> (the Equal Pay Act) defines ‘equal pay’ as a rate or scale of remuneration for work, in which rate or scale there is no element of differentiation between male employees and female employees based on the sex of the employees;’. The term ‘equal work’ is also defined as work performed for one employer by male and female employees alike in which the duties, responsibilities or services are similar or substantially similar in kind, quality and amount; the conditions and qualifications required for the job are also similar or substantially similar. The term ‘equal remuneration for</p>	<p>Gap identified</p> <p>In its Observation adopted 2013, the CEACR noted the narrow term of ‘equal work’ used in the legislation and that this term does not capture fully the principle of work of equal value which is what the Convention provides. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3143780">http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3143780</a></p>	<p>The Equal Pay Act should be amended to include the concept of equal pay for men and women for work of equal value and give full effect to the requirements of the Convention.</p>
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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
		men and women for work of equal value' is not used in the legislation.		
<p><b>Article 2</b></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 women workers for work of equal value.</p> <p>2. This principle may be applied by means of--</p> <ul style="list-style-type: none"> <li>(a) national laws or regulations;</li> <li>(b) legally established or recognised machinery for wage determination;</li> <li>(c) collective agreements between employers and workers; or</li> <li>(d) a combination of these various means.</li> </ul>	<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>Section 3 of the Equal Pay Act provides that from January 1<sup>st</sup> 1976 no employer shall discriminate between male and female employees employed by him by failing to pay equal pay for equal work.</p> <p>No information was found on collective agreements which promote or include the application of the principle of equal remuneration for men and women for work of equal value. The Agreement for 2012 – 2015 between the Government and the Jamaica Confederation of Trade Unions signed March 2013 was examined however no provision dealing with equal remuneration for men and women for work of equal value was found . See <a href="http://jis.gov.jm/media/Heads-of-Agreement-2012-2015.pdf">http://jis.gov.jm/media/Heads-of-Agreement-2012-2015.pdf</a></p>	<p>Gap identified</p> <p>This section of the Equal Pay Act does not encapsulate the concept of work of equal value as prescribed in the Convention. The legislation should also provide for situations where men and women are employed by different employers and where though the work may be different it is of equal value, paragraph 679 of the General Survey, 2012 refers, <a href="http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf">http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf</a></p>	<p>The recommendation made under Article 1 above refers.</p>

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<p><b>Article 3</b></p> <p>1. Where such action will assist in giving effect to the 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</p>	<p>Q1. Does the national legislation or any administrative 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>No information was found with respect to job appraisal in the meaning of this Article of the Convention in either the public or private sector.</p>	<p>Gap identified</p> <p>No objective appraisal of jobs to measure value of jobs across occupations appears to be provided in law or otherwise.</p>	<p>Objective appraisal of jobs to measure value of jobs across occupations should be developed and implemented.</p>

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and women workers for work of equal value.				
<b>Article 4</b> Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.	Q. Is there a tripartite body established and operating for the promotion and implementation of the principle of equal remuneration for men and women workers for work of equal value?	No information on a tripartite body which promotes the implementation of the principle of equal remuneration for men and women for work of equal value was found.	Gap identified  No body is tasked specifically to promote the principle of equal remuneration for work of equal value.	There should be a tripartite body to promote and implement the principle of equal remuneration for work of equal value in law and practice.
<b>Discrimination (Employment and Occupation) Convention, 1958 (No. 111)</b>				
<b>Article 1</b> 1. For the purpose of this Convention the term discrimination includes-- (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; (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of	[For Articles 1 and 4]  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?  Q2. Does the national legislation make any exemption? In particular,	The <b>Constitution</b> , in Chapter III provides at 3(g) the right to equality before the law; and at (i) the right to freedom from discrimination on the ground of (i) being male or female; (ii) race, place of origin, social class, colour, religion or political opinions. No definition is given for the term 'discrimination'.  The <b>Labour Relations and Industrial Disputes Act, 1975 (LRIDA)</b> in section 4 prohibits discrimination against a worker on the basis of the exercise of trade union membership rights.	Gap identified  In Direct Request adopted 2013, the CEACR noted that the ground of national extraction and social origin are not included in Chapter III of the Constitution. See <a href="http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3143634:NO">http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3143634:NO</a>	Apart from the general provisions in the Constitution, legislation covering the specific grounds of discrimination as contained in the Convention should be developed with appropriate investigative function and penalties.

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<p>opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and 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>in relation to Article 4 of the Convention, does the national legislation consider not discriminatory measures applied to individuals who are involved in activities intended to safeguard the security of the State?</p>	<p>The <b>Labour Relations Code</b> made under the Labour Relations and Industrial Disputes Act (LRIDA) at article 9 recognizes the importance of non-discriminatory employment policies for the efficiency of an undertaking.</p>		
<p><b>Article 2</b> 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 opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.</p>	<p>[For Articles 2 and 3]</p> <p>Q1. Is there a national policy for promotion of equality of opportunity and treatment in respect of employment and occupation?</p> <p>Q2. Does such national policy: (i) seek cooperation of employers' and workers' organizations</p>	<p>The <b>National Policy for Gender Equality</b>, 2011 states as its purpose to mainstream gender within a human rights based framework in all state institutions, private sector and ensure equal access to opportunities for males and females. The policy makes several recommendation for legal reform and other initiatives.</p> <p>The publication 'All Woman' in referring to the United Nations</p>	<p>Gap identified</p> <p>There are no national policy dealing with other prohibited grounds of discrimination other than gender (sex).</p>	<p>With respect to the National Policy for Gender and Equality 2011, the legislative agenda contained in the policy should be implemented.</p> <p>In order to cover other prohibited grounds of discrimination provided for in the Convention, there should be a</p>

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	<p>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>Q3. How is such national policy implemented in practice? Please describe activities undertaken and their results achieved.</p>	<p>Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) meeting with representatives from Jamaica during the 52<sup>nd</sup> session in 2012 noted that women were concentrated in low paying jobs, and that in the public and private sectors women are clustered in the middle management category and remain under-represented in top positions, including Cabinet and Boards of Directors.</p> <p><a href="http://www.jamaicaobserver.com/magazines/allwoman/Low-paying-jobs-for-women-a-concern_12581326#">http://www.jamaicaobserver.com/magazines/allwoman/Low-paying-jobs-for-women-a-concern_12581326#</a></p> <p>The UN International Covenant on Civil and Political Rights for Jamaica, CCPR/C/JAM/CO/4, dated November 2016, also recognized that women are still under-represented in top decision making positions and recommends that the government should strengthen its efforts, including through public gender sensitization campaigns,</p>		<p>comprehensive national anti-discrimination policy.</p>

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		<p>to promote gender equality and female participation in decision-making positions in public and political life, which like . See <a href="file:///C:/Users/Admin/Downloads/G1626053.pdf">file:///C:/Users/Admin/Downloads/G1626053.pdf</a></p> <p>The Gleaner, published December 9, 2015 states that women in Jamaica earn 60% of the pay earned by their male counterparts, and reports that this accounts for the country's fall in rankings to 65 in the Global Gender Gap Report 2015. See <a href="http://jamaica-gleaner.com/article/business/20151209/jamaica-pay-gap-worsens-women-earn-60-male-salary">http://jamaica-gleaner.com/article/business/20151209/jamaica-pay-gap-worsens-women-earn-60-male-salary</a></p>		
<p><b>Article 3</b> 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</p>		<p>The <b>National Policy for Gender Equality (NPGE)</b> states that the Gender Advisory Committee (GAC) was established in 2004 to provide strategic oversight for the development of the policy for gender equality through the Bureau of Gender Affairs. Appedix 3 to the NPGE indicates that the composition of GAC is broad-based and includes, among</p>	<p>Gap identified</p> <p>Workers do not appear to be represented at the GAC.</p>	<p>The membership of the GAC should include representatives from workers' organizations.</p>



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<p>promoting the acceptance and observance of this policy;</p> <p>(b) to enact such legislation and to promote such 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>others, Jamaica Employers Federation, but not expressly workers' organizations. See pages 34-35 of the NGPE (<a href="https://sta.uwi.edu/igds/documents/JamaicaNPGE-JA-FINALwCover21311.pdf">https://sta.uwi.edu/igds/documents/JamaicaNPGE-JA-FINALwCover21311.pdf</a>)</p>		

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<b>Article 4</b> 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]	The <b>Defence Act</b> is silent on this point. This provision, therefore, does not appear to be 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