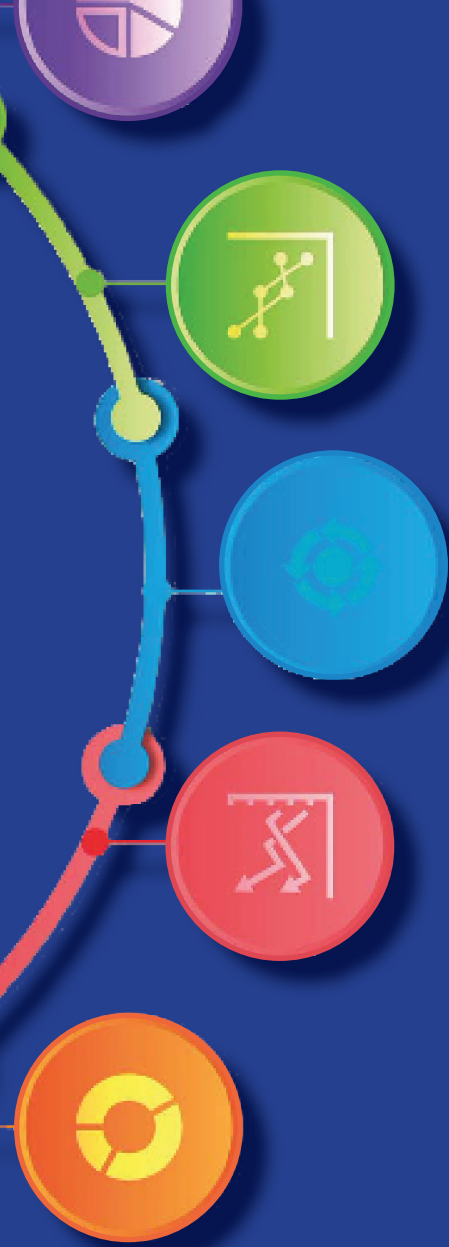




Fundamental Conventions

GAP ANALYSIS MATRIX

DOMINICA



European Union



FOREWORD

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

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

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

Caribbean Employers' Confederation (CEC)
September 2017

Caribbean Congress of Labour (CCL)
September 2017

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

FUNDAMENTAL CONVENTIONS- GAP ANALYSIS MATRIX

Name of the country analysed: Dominica

Disclaimer

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

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

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
Part I. Freedom of association and the effective recognition of the right to collective bargaining				
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)				
Article 2 Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.	[For Articles 2-5 and 7] Q1. Which legislation provides for the rights provided for under Articles 2, 3, 4, 5 and 7 of the Convention? Q2. How is this Article applied in practice? Are there any administrative or other practical elements that may make the application of this Article difficult?	The Constitution of the Commonwealth of Dominica Cap. 1: 01 Section 11 protects the rights of freedom of association and assembly. It provides that without his own consent, a person shall not be hindered in his freedom of assembly and association. It provides that a person has the right to form or belong to Trade Unions or Associations to protect his interests.	Gap identified Section 7 of the Trade Unions Act specifies the minimum membership of seven persons to be registered as a trade union under the Act. This may be problematic for a union at a small enterprise. The fines for contravention of the Industrial Relations Act are too low and should be increased.	Section 7 of the Trade Unions Act should be amended to provide for a minimum membership requirement based on the percentage of represented employees for a union at enterprises and for a sectoral trade union. For sectoral trade unions, the requirement may be based on a minimum number of workers.

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		<u>Private Sector</u> Trade Unions Act Chap. 89:03 This Act does not specify the scope of its application. It merely states it is intended to consolidate the laws relating to trade unions. There are no restrictions on persons who may form trade union save an except in relation to the requirements for registration. It does not preclude the members of the Public service from joining trade unions. Section 7 provides that any seven or more members of a trade union may by subscribing their names to the rules of the union and complying with the provisions of this Act with respect to registration, register the trade union under this Act. Industrial Relations Act Chap. 89:01 This Act applies to all trade unions and has clearly stated	There is not a clear provision that reflects the rights of persons to join a union of their choice in the Trade Unions Act or the Industrial Relations Act	The Trade Unions Act should also provide clearly for the rights of persons to join a union of their choice. The fines for contravention of the Industrial Relations Act are too low and should be increased.

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		that it does not apply to the State. Its main purpose is to treat with and settle trade disputes. Section 20 states that “a trade union claiming to represent a majority of the employees in a bargaining unit may make a claim to the employer of those employees to be recognised as the bargaining agent for the bargaining unit”. Sections 23 and 26 deals with the determination with situations where there are two or more Trade Unions vying to be deemed to be the bargaining unit for a group of employees and the employer writes to the Minister objecting, or where the bargaining agent is unclear. Under these provisions, the Minister can conduct a poll of the employees to get their views as to which Union should be recognised as the bargaining agent for that group of employees.		

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		Section 28 (1) & (2)– Where a aggrieved party alleges that the poll is not conducted appropriately, the party aggrieved may apply to the Tribunal to void the poll. The Tribunal may void the poll and advise the Minister to cause another poll. Section 28 provides that where a poll is held and the majority of workers vote in favour of a particular union to be their bargaining agent the Minister will notify the parties of the results and the employer is required to recognise the bargaining union selected as the bargaining agent for that bargaining unit. Section 68 provides that every employer or trade union who violates or fails to comply with any provision of this Act is liable on summary conviction to a fine of five hundred dollars (approximately 185 USD). Public Sector		

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		Industrial Relations Act Chap. 89:01 Section 2(3) provides that this Act does not apply to the State. However this does not mean that the members of the Public Service can not form Unions. In fact in 1961 the Dominica Public Service Union was registered and in December 18, 1990 the Dominica Association of Teachers was registered as a Trade Union. The Public Service Act Chap. 23:01 Section 2 defines a Public Officer as a person holding an office in the First Schedule. It should be noted that apart from officers in the Civil Service the Schedule includes Firemen, and Prison officers. Thus the provisions of the Public Service Act will also apply to them. There is reference to the Dominica Fire Fighters		

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		Association in news articles from Dominica but its not clear how this association is regulated. The Dominica Public Service Union negotiates with the Government on behalf of the Fire Fighters Association (For instance, see Dominica News online September 4, 2014 dominicanewsonline.com/news/..../news/.../fire-chief-breaks-silence-firefighters-strike/) Section 3 states categorically that this Act does not apply to the Dominica Police Force or to any person holding or acting in an office in the Force. For the police force, see below for the Police Act. Section 16 – the President acting on the advice of the Prime Minister may designate any body to be a representative body representing the interests of public officers or categories of public officers. In practice, the Dominica Public Service Union (DPSU, formerly		

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		known as the Civil Service Association) is designated as a body representing public officers. (See the fourth paragraph of the history section of the DPSU website (http://dpsu.org/history/). Section 23 the Establishment Personnel and Training Department has responsibility to treat with the representative body in relation to matters that fall under section 18 (2) (d) ie classification of offices, grievances, pay and allowances, and terms and conditions of employment including promotion. Any agreement reached would be a collective agreement that applies to all persons in the Second Schedule to the Act which sets out Senior Managers. Section 23(3) provides that agreements can have exceptions, variations, and conditions that would specifically apply to the senior managers listed in the Second Schedule.		

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		Section 24 – where there is no agreement the matter can be referred by either party to a Board of Arbitration, whose details are provided in Section 31. Section 25(2) & (3) provides that the parties are required to negotiate in good faith for a settlement of a collective agreement. Or they can also refer the matter to a conciliator nominated by them. Section 28 provides that a collective agreement is binding on the Government the representative body and the public officer. Section 28(2) provides that subject to section 23(3) the collective agreement shall not apply to a person holding an office listed in the second schedule (i.e. senior managers). That is where there are specific exceptions, variations or		

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		conditions that apply to persons listed in the Second Schedule. Police Act Cap 14:01 Section 33(1) provides for the establishment of a Police Welfare Association for subordinate officers and corporals to bring to the Commissioner and the Minister matters that affect their welfare and efficiency . There is no standing army Dominica since 1981. Defense is the responsibility of Regional Security System (RSS). The civil Commonwealth of Dominica Police Force includes a Special Service Unit, Coast Guard. In the event of war or other emergency, in accordance with the Police Act, section 13 and if proclaimed by the authorities, the Police Force shall be a military force which may be employed for State defence. Education Act No. 11 of 1997		

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		Section 132(j) provides that a teacher can be a member of a representative body or association to engage in lawful activities of that body or association. There is the Dominica Association of Teachers which is a registered Trade Union since December 18 1990. In Summary: With respect to the private sector, save and except for the Constitution, there is no specific provision in the Trade Unions Act or the Industrial Relations Act that explicitly provides for freedom of association . However the freedom is implied by the provisions in those Acts that allow registration of trade unions and that protect the employee engaged in union activities. As regards the public sector generally, the Trade Union Act has no restrictions in relation to the Public Service forming or		

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		joining Unions. In fact there is a Dominica Public Service Union registered as a trade union.. The Industrial Relations Act does not apply to the state. Thus any disputes in the public Service (except Police) would go to the Board of Arbitration. Teachers can be a member of a representative body or association, and there is the Dominica Association of Teachers, a registered trade union. There is a Police Welfare Association and a Dominica Firefighter Association, both of which are not registered as trade Unions, but represent the interests of respective groups of officers..		
Article 3 1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in	[See under Article 2]	Industrial Relations Act Chap. 89:01 It should be noted that by virtue of sections 59 and 61 of the Act, in relation to a dispute in the	Gap identified The CEACR of the ILO, in its comments published in 2016, reiterated its hope that the Industrial Relations Act would	The Industrial Relations Act should be amended in line with the recommendation of the CEARC of the ILO.

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full freedom, to organise their administration and activities and to formulate their programmes. 2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.		essential services, there is no option for conciliation and it goes straight to the Arbitration Tribunal. Once it is before the tribunal the employees can not strike. Once the matter is before the Arbitration Tribunal all strikes and lockouts in progress must cease (section 60 (2)). The essential services set out in the schedule are the Banana Industry, The Citrus Industry, The Coconut Industry, Electricity Services, Health Services, Hospital Services, Prisons Services Sanitary and Water Services, Port Services, Fire Services, Telecommunications. Private Sector Trade Unions Act Chap. 89:03 Section 14 provides that the rules of the trade union shall contain provisions in respect of the matters mentioned in the	be amended so that the banana, citrus and coconut industries, and the port authority be removed from the schedule on essential services. The Committee also requested to amend sections 59(1)(b) and 61(1)(c) of the Act on the power of the minister to refer disputes to compulsory arbitration, as compulsory arbitration to end a collective labour dispute and a strike is acceptable only if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted or prohibited (i.e. public servants exercising authority in the name of the State, or in essential services in the strict sense of the term). (See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3250953) The Trade Union Act lacks provisions on the rights of	The Trade Union Act should state categorically all of the rights of trade union re owning property, being sued and suing. However, these rights are implied in the Act and does not appear to have affected the Trade Unions in practice in relation to their internal management. So it might not be worthwhile to pursue an amendment in this regard.

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		Schedule of the Act. The Schedule states that the rules shall contain the name of the trade union, the objects for which the Union is established, the manner of altering, amending and rescinding rules, the appointment and removal of the general committee of management and the treasurer and other officers, method of keeping full and accurate accounts by the treasurer, investment and deposits of funds, audits of accounts and inspection of books and records and the manner of dissolving the trade union. These are the standard requirements for a trade Union. Section 9 The application and its rules has to be sent to the Registrar with copies of the rules and a list of the titles and names of the officers of the trade union. Once the Registrar is satisfied that they have met the requirement he can give a certificate of registration. If any	trade union re owning property, being sued and suing.	

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		one of the purposes of the trade union is unlawful the registration shall be void. The Registrar will not register a trade union where it has a name which is identical to another Union, where it is not authorised to apply for registration, where the application is not in conformity with the Trade Unions Act. Section 10- When the Registrar refuses to register a trade union he has to inform the applicants immediately in writing of the grounds of his refusal. An appeal shall lie to the High Court from a refusal of the Registrar to register a trade union and on the appeal the High Court may make any such order as it thinks proper, including any directions as to the costs of the appeal. Any such order of the High Court shall be final. Public Sector		

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		There was no reference to provisions for rules in the Public Service act. The Constitutions of the Public Service Union as well as of the Dominica Association of Teachers are therefore indicated here to show that even though there was no reference to rules they do have constitutions which are consistent with the rules. Dominica Public Service Union has a Constitution which provides for all of the matters referred to in the Trade Union Act. The Constitution provides that any person employed in the public service as defined by the laws of Dominica or the wider public sector, including local government statutory corporations, public utilities, and government-assisted institutions or in any business operation, offering a service to the public		

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		shall be eligible to make application for membership in the Union. The Supreme Authority of the Union shall be vested in the General Membership Meeting. The Executive Committee shall comprise of the Officers of the Union and six committee members. All members of the Executive Committee shall, as soon as practicable after their election to office, subscribe to the oath of office set forth in the Bye-Laws. The Executive Committee shall also have the power to make policy decisions for the direction of the activities of the Union as a whole, subject to the provisions of the Constitution and Bye-Laws. The Officers of the Union shall comprise of the President, the Vice President, the General Secretary, the Treasurer, the Assistant Treasurer, the Recording Secretary and the Assistant Secretary who shall be elected at the Biennial Delegates Conference.		

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		By November 1 of the year preceding the year in which a Biennial Delegates Conference is to be held, the Executive Committee shall appoint a Nomination Committee..composed of five (5) members. The Chairman of the Nominating Committee must be a member of the Executive Committee, but the other members may be drawn from the Union’s general membership. By January 15 of the year in which the Biennial Delegates Conference is to be held, the The Nominating Committee must present a slate of candidates for each of the Union’s Officer positions. The slate of nominations must be published to the general membership no later than January 31. The election for the Officer positions will be held during the Biennial Delegates Conference and will be conducted by secret ballot. Unless a nominee is present at the Biennial Delegates Conference, his/her name will be		

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		stricken off the ballot. A nominee who has obtained advance approval from the President for his/her absence may remain on the ballot. Dominica Association of Teachers Also has a Consitutiton Constitution which is along the lines of the requirements of the Trade Union Act. Some of the objects of the Union are tTo organize and unite the Teachers of Dominica working within and without established educational institutions of the country.To represent and defend the interests of Teachers by ensuring the payment of fair wages and the provision of proper working conditions and terms of employment, by monitoring Trade Union legislation to see that the right of Teachers are not violated; by rendering advice, assistance and protection to financial members. Membership in the Association is open to all persons in Dominica in		

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		the Teaching Profession at any level in any recognized educational institution, and to any other persons recognized by the Association of Teachers. The Association operates with The Biennial Convention, National General Meeting, National Executive, Secretariat and Branches. The supreme authority of the Association shall be vested in the Biennial Convention which shall be held every two years during the school vacation in the month of April. The Biennial Convention shall be open to all members of the Association (Full, Associate, Honorary) but only Full members shall be permitted to vote and hold office. A quorum for the Convention will be one quarter of financial membership. The manner for voting at National and Branch levels for the election of officers shall be by ballot only. Elections of officers to the National Executive shall take place at the Biennial Convention. Any Full member shall be entitled to vote and to hold office of the		

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		Association. All candidates nominated for office at the National Executive must be delegates from the branches. Police Act Cap 14:01 The Police Welfare Association Rules are set out as subsidiary legislation to the Act (47/1976) . On the point of non interference by public authority : Trade Unions Act Chap 89:03 Section 18 (1) and (2)- makes it clear that the Court will not interfere in the internal management of the Trade Union, except for matters concerning the property or rights of a trade union. Section 2 definition of “trade Union” also makes it clear that nothing in the Act will affect any agreement between partners as to their own business; any agreement between an employer and those employed by him as to such employment; any		

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		agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft; and the Act will not preclude any trade union from providing benefits for its members.		
Article 4 Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.	[See under Article 2]	<u>Private sector</u> Trade Unions Act Chap. 89:03 The Act gives the registrar a discretionary power to refuse registration of a trade union if he or she is of the view that the purpose of the trade union is unlawful (Article 9), but the union aggrieved can appeal to the High Court (Article 10). Section 11 The Registrar may cancel the registration of any trade union at the request of the trade union or on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that the trade union has wilfully,	Under the Trade Union Act, the Registrar, an administrative organ, has discretion to cancel trade union registration, but the union affected can appeal to the High Court.	While the union can appeal against the decision of the Registrar, the discretionary power of the Registrar should be limited. In this respect, consideration may be given to defining clearly in the legislation the precise conditions which trade unions must fulfil in order to be entitled to registration and on the basis of which the registrar may refuse or cancel registration, and of prescribing specific statutory criteria for the

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		and after notice from the Registrar, violated any of the provisions of this Act or has ceased to exist. The Registrar has to give the Trade Union not less than two months previous notice specifying briefly the grounds of the proposed cancellation unless the Union had ceased to exist. The Union can appeal to the High Court about the decision of the Registrar. Industrial Relations Act Chap. 89:01 Under Section 42(1) The recognition of a Trade Union as the bargaining agent for a particular bargaining unit can be terminated by the Minister where an employee applies to the Minister to have a poll taken as to whether the Trade union should be the bargaining agent for that unit and the Trade Union relinquishes its recognition as the bargaining agent for		purpose of deciding whether such 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: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_090632.pdf)

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		the bargaining unit or a poll was held pursuant to section 41 and the majority of the employees in the bargaining unit voted against the trade union continuing to be their bargaining agent. <u>Public Sector</u> There is no reference to the cancellation of the registration of a Union or Association in the provisions relating to the Public Service or in the Police Act		
Article 5 Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.	[See under Article 2]	Industrial Relations Act Chap. 89:01 Section 2(1) defines "employers' federation" means any organisation representative of employers. Under section 4(2)(b) the Minister appoints four representatives of the employers' federation to form the employer's panel on the the Industrial Relations Board. Thus it is clear there is nothing precluding employers from joining together. In practice, the Dominica Employers' Federation	There is no specific provision that allows workers' and employers' organisations to establish and join federations but in practice they are part of federations and are affiliated with international organisations.	For legal certainty, the IRA may expressly provide for employers' and workers' organizations to establish and join federations, and for such federations to affiliate with international organizations.

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		operates. It is also a member of the International Organisation of Employers (IOE). (Visit http://www.dominicaemployers.com/ for further information.) There is no specific provision allowing for establishing or joining federations or confederations of trade Unions. Section 51 of the Industrial Relations Act Chap. 89:01 only recognises the possibility of a merger or amalgamation of trade unions. Trade Unions Act Chap. 89:03 Regulation 23 sets out the procedure to be followed where two or more Trade Unions become amalgamated. In practice, the Dominica Amalgamated Workers' Union, National Workers' Union and the Waterfront and Allied Workers' Union are all affiliated with the International Trade Union Confederation.		

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		Further all these Unions including the Dominica Public Service union are part of the Caribbean Congress of Labour.		
Article 7 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]	Trade Unions Act Chap. 89:03 See under Article 3 concerning section 9 of the Act. The Registrar has a discretionary power to refuse registration of a trade union, but such power may be exercised if he or she is of the view that the purpose of the trade union is unlawful. The acquisition of legal personality is therefore not prerequisite for registration.	No Gap identified	
Article 9 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 freedom of association with respect to the armed forces and the police?	See under Article 2 Police Act Cap 14:01 Section 33(1)	See under Article 2	See under Article 2
Article 11 Each Member of the International Labour Organisation for which this	Q. Does the national legislation guarantee the right to organize without any distinction,	Private Sector Industrial Relations Act Chap. 89:01	No gap identified.	

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
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.	including managerial and executive staff and employers?	This act draws a distinction between regular employee and managerial employees but allows regular employees as well as managerial employees to be represented by a bargaining body. Section 2 (1)- “bargaining agent” is defined as meaning a trade union that is recognised by an employer as the bargaining agent for a managerial employee employed by the employer; Section 33- A trade union claiming to represent any managerial employee employed by an employer may make a claim to the employer to be recognised as the bargaining agent for that managerial employee. Section 61(2) which is headed “Managerial Trade Dispute” states “No trade union [representing managerial employees] shall declare or authorise a strike, no employee shall participate in a strike, and no employer shall declare or authorise a lockout, in		

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
		respect of a trade dispute that concerns the interpretation, application, administration or alleged violation of an industrial agreement.” Save and except for the above, the managerial dispute would follow all of the usual procedures for a trade dispute. Public Sector See Under Article 2. The Public Service Act does not distinguish public employees and employers in relation to their rights to be represented.		
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)				
Article 1 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--	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?	Industrial Relations Act Chap. 89:01 Section 65 (1) prevents the Employer from making a condition of employment that the person does not join a union or ceases to be in a union. The section also precludes the employer from discriminating against an employee because he	Gap identified The fines for breach of the Industrial Relations Act are too low . With respect to section 70 of the Industrial Relations Act, the requirement that all matters relating to a breach of	There should be an increase in the fines for breach of the Industrial Relations Act . The act should review the manner in which prosecutions are pursued.

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
(a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; (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.	Q2. Does the national legislation provide for protection from any other types of anti-union practices? 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?	is a member of a trade union or an officer, representative or delegate of a trade union or has participated in union activities outside working hours or, with the express or implied consent of the employer, during working hours or has appeared as a witness or has given any evidence in a proceeding before the Tribunal or has made an application to the Tribunal. Under this provision the Employer is precluded from using intimidation, threat of dismissal or any other kind of threat, to induce or compel any person to refrain from becoming or to cease to be a member, officer, representative or delegate of a trade union; from freely exercising his right to participate in a poll for union recognition; from appearing as a witness or giving evidence before the Tribunal or from making an application to the Tribunal. Further, an employer may not participate in or interfere with the formation or administration	the IRA has to go to the Director of Public Prosecutions before being prosecuted is very restrictive and could cause delays.	

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
		of a trade union or the representation of any employee or managerial employee by a trade union. Section 65(2) prevents an Employer from suspending, discharging or imposing any financial penalty on or take any other disciplinary action against the managerial employee for absenting himself from work to carry out his duties or exercising his rights as an officer or delegate of a trade union where the managerial employee had applied for leave and the Employer had granted the leave or unreasonably refused to grant the leave and the Employee has absented himself from work to carry out those duties. Section 68 provides that every employer or trade union who violates or fails to comply with any provision of this Act is liable on summary conviction to a fine of five hundred dollars (approximately 185USD).		

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
		Section 69 provides that -Where the person who is guilty of an offence under this Act is a company, every director, manager, secretary and other officer of the company is guilty of the like offence and liable to the like punishment unless he proves that the act or omission constituting the offence took place without his knowledge or consent. Section 70 provides - Except with the consent of the Director of Public Prosecutions, no prosecution shall be instituted in respect of an offence under this Act.		
Article 2 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.	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	Industrial Relations Act Chap. 89:01 Section 66(a) provides that - No trade union and no person acting on behalf of a trade union shall participate or interfere with the formation or administration of an employer's organisation.	Gap identified The Industrial Relations Act only provides for non-interference by a trade union with an employer's organization, and not vice-versa.	The Industrial Relations Act should be amended to prohibit interference by an employer's organization with a trade union.

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
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?	See under Article 1 concerning Section 68 of the IRA on the fines and Section 70 re prosecutions.		
Article 3 Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.	Q1. Are there any bodies that would discuss and promote the right to organize? Are they tripartite? Q2. What are the measures envisaged under the national legislation that would be taken if the right to organize is violated?	See under Articles 1 and 2.	Same comment as in Articles 1 and 2	Same comment as in Articles 1 and 2

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
Article 4 Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.	Q. How, through legal or other means, voluntary negotiation between employers and workers is encouraged and promoted?	Industrial Relations Act Chap. 89:01 Section 45 states “Where a trade union is recognised by an employer as the bargaining agent for a bargaining unit or for a managerial employee, the trade union and the employer shall, in good faith, treat and enter into negotiations with each other for the purpose of collective bargaining in respect of that bargaining unit or managerial employee”.	No gap Identified	
Article 5 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?	See under Article 2 of Convention No. 87. Police Act Cap 14:01 Sections 33(1) & 13 There is no standing army in Dominica since 1981. Defense is the responsibility of the Regional Security System (RSS). The civil Commonwealth of Dominica Police Force includes a Special Service Unit, Coast Guard.	See under Article 2 of Convention No. 87.	See under Article 2 of Convention No. 87.

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
Article 6 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 application of this Article difficult?	See Article 2 of Convention No. 87 for the legislation regulating the public sector.	See under Article 2 of Convention No. 87.	See under Article 2 of Convention No. 87.

Part II. Elimination of all forms of forced or compulsory labour

Forced Labour Convention, 1930 (No. 29)

Article 1 1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or	Q. Are there any national legislation, policy and/or programme to suppress the use of forced or compulsory labour?	The Constitution of the Commonwealth of Dominica Chap. 1: 01 Schedule 1 Section 4 provides that no person shall be held in slavery or	Gap identified There is no legislation which comprehensively deals with prohibition of all aspects of forced labour.	There should be legislation which comprehensively deals with prohibition of all aspects of forced labour. The Labour Standards Act, 1977,
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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
compulsory labour in all its forms within the shortest possible period.		servitude or be required to perform forced labour. Section 4(3) indicates that forced labour does not include: -labour required in consequence of the sentence or order of a court; -labour while he is lawfully detained; - any labour required of a member of a disciplined force or in the case of a conscientious objector any labour he is required to perform in place of military duties; -any labour required during any period of public emergency or in the event any other emergency or calamity that threatens the life or well-being of the community. Transnational Organized Crime (Prevention and Control) Act 13 of 2013 Section 2 (b) “exploitation” includes –forced labour, slavery, servitude or similar practice.	There is no detailed provisions on forced labour in the Transnational Organized Crime (Prevention and Control) Act 13 of 2013, while the term “exploitation” used in the Act includes forced labour. The CEACR of the ILO, in its comment published in 2016, indicated that section 35(2) of the National Service Act, 1977 was not in conformity with the Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which specifically prohibits the use of forced or compulsory labour “as a means of mobilizing and using labour for purposes of economic development”. The Committee requested that measure would be taken to formally repeal the Act, which has been omitted from the Revised Laws of Dominica,	Chap. 89:05 may be revised in this regard. There should be greater emphasis on forced labour in the Transnational Organized Crime (Prevention and Control) Act 13 of 2013 and there should be more specific provision on forced labour. The National Service Act, 1977 should be formally repealed, as recommended by the CEACR of the ILO. Section 49(1) of the Small Charges Act should be amended or repealed, as recommended by the CEACR of the ILO.

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
		There is no definition of forced labour. Section 8 (1) provides that -A person who, for the purpose of exploitation of another person organizes or facilitates – the entry or proposed entry of the other person into Dominica; the exit or proposed exit of the other person from Dominica; or the receipt of the other person into Dominica, commits the offence of trafficking in persons. Section 8(3)) provides for a situation where a person deceives another person about the fact that the entry or proposed entry or receipt of the other person or any arrangements for the stay of the other person in Dominica will involve – the provision by the other person of sexual services; the exploitation or debt bondage of the other person. The person who practices the deception commits the offence of trafficking in persons.	1990, and which is not applied in practice. (See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3250916) The CEACR of the ILO, in its comment published in 2016, requested the Government to amend or repeal section 49(1) of the Small Charges Act. (See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3250920)	

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
		Section 8(4) provides for a situation where a person arranges or knows of an arrangement for the other person to provide sexual services or to provide forced labour, slavery, servitude or a similar practice and deceives the other person about the nature of the sexual services to be provided or whether the person would be free to leave the area whether the sexual services are being provided or whether the person would be able to stop providing the sexual services commits the offence of trafficking in persons. Section 8(5) A person who for the purpose of exploitation, recruits, transports, transfers, harbours or receives a person by any means set out in the act commits the offence of trafficking in persons. Section 13(1)(b) Where a person is convicted of the offence of trafficking in persons under section 8 and the victim of the		

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
		offence – is not a child, that person is liable on conviction on indictment to a fine of \$2,000,000 (approximately 740,740 USD) or to imprisonment for 15 years or to both. National Service Act, 1977 Section 35(2) provides that persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment. The objective of national service is defined to mean “to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State”. Small Charges Act		

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
		Section 49(1) provides that any person being able wholly or in part to maintain himself by work or by other means, and willfully refusing or neglecting to do so, is deemed an idle and disorderly person and may be imprisoned for a term of up to one month.		
Article 2 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. 2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include-- (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;	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”? Q2. Does the national legislation contain any exemption in this regard?	See Article 1	Same comment as article 1	Same comment as article 1

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; (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; (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of				

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
the whole or part of the population; (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.				
Protocol of 2014 to the Forced Labour Convention, 1930				
Article 1 1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as	[For Articles 1-3] Q1. If a national legislation, policy and/or programme to suppress the use of forced or compulsory labour exist, do they contain measures to: (i) prevent and eliminate its use;	Q1 Transnational Organized Crime (Prevention and Control) Act 13 of 2013 (i) Section 2(b) of the Act provides protection for persons who fall under the definition of “exploitation” which includes forced labour. It is anticipated	Gap identified As a general point, there is no comprehensive legislation on forced labour. The Transnational Organized Crime is primarily on trafficking in persons. There is no policy and no data available on forced labour.	There should be a comprehensive law, policy, programme of action, and and researches and data available on forced labour. See also under Article 1 of Convention No. 29 for recommended solutions. Re inspectors- the fines for

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
compensation, and to sanction the perpetrators of forced or compulsory labour. 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.	(ii) provide to victims protection and access to remedies (e.g. compensation-also relevant to Article 4 of the Convention); and (iii) sanction the perpetrators (iv) educate and inform people who may become victims of forced or compulsory labour; (v) educate and inform employers about forced or compulsory labour practices; (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	that the penalties imposed would prevent it's use. However, the Act does not contain detailed provisions on forced labour. (ii) Section 13(3) Where a person is convicted of the offence of trafficking in persons, the court may, in addition to any penalty imposed under this section, order that person to pay restitution to the victim. Section 13(4) states that restitution must compensate, where applicable, for any of the following –costs of medical and psychological treatment; costs of physical and occupational therapy and rehabilitation; costs of necessary transportation, temporary housing and child care; lost income; attorney's fees and other legal costs; compensation for emotional distress, pain and suffering; any other losses suffered by the victim which the court considers applicable.	Re inspectors- the fines for breach of the Labour Standards Act are too low.. There is no provision in relation to educating and informing people who may become victims of forced or compulsory labour or employers.	breach of Labour Standards Act should be. There should be a publicity campaign to provide information and advice to prospective victims of forced labour and employers.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
	through labour inspection; (vii) protecting persons particularly vulnerable to forced or compulsory labour, particularly migrant workers; (viii) establishing and enforcing procedures and mechanisms necessary to prevent and respond to forced or compulsory labour; and (ix) studying the root causes of forced or compulsory labour and reflecting the results to legislation, national policies or programmes. Q2. What are the progress and results achieved by these measures?	Section 13(5) also provides that where the property of a person convicted under this Act is forfeited, restitution shall be paid to the victim as far as possible, from that property or the proceeds thereof. (iii) Section 13(1) (b) – See under Article 1 of Convention No. 29. (iv) & (v) The Act itself has no provisions about educating and informing people who may become victims of forced or compulsory labour, or employers about forced or compulsory labour but in Schedule 2 of the Act refers to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Transnational Organized Crime (Prevention and Control) Act is not specific, but it appears that		

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
	Q3. Are employers' and workers' organization involved in implementing measures mentioned under Q1 above? If so, how are they involved?	the protocols set out in Schedule 2 is expected to apply as part of the Act. It is referred to in section 2 (i.e. definition of terms) that the main purpose of the legislation is to enforce these instruments. Article 9(1) of the Protocol requires States Parties to establish comprehensive policies, programmes and other measures: to prevent and combat trafficking in persons; and to protect victims of trafficking in persons, especially women and children, from re-victimization. Paragraph 2 of the Article provides that States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons. Paragraph 3 provides that policies, programmes and other measures established in		

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
		accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society. There appears to be no policies on trafficking adopted and implemented. It is unclear that the articles in the Schedule has the same legal effect as the actual provisions in the Law. (vi) & (viii) The Transnational Organized Crime (Prevention and Control) Act 13 of 2013 contains provisions that impose penalties for recruits who are brought in to Dominica by force or by deception. See under Article 1 of Convention No. 29. (vii) The Act itself has no provisions about migrant workers		

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
		(ix) There is no evidence that the root cause of forced labour was studied. Q2 There is no information as to the the progress and results achieved by these measures as there was no data available. Q3. There is no information as to whether employers’ and workers’ organization involved in implementing measures mentioned under Q1 above.		
Article 2 The measures to be taken for the prevention of forced or compulsory labour shall include: (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;		Article 1 above refers (Schedule 2 of the Transnational Organized Crime Act of 2013).	Gap identified There is no programme that sets out the specific steps and timelines to educate and inform persons about forced labour	There should be a programme that sets out the specific steps and timelines to educate and inform persons about forced Labour. There should be the collection of statistics that is readily available.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
(b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices; (c) undertaking efforts to ensure that: (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 (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened; (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process; (e) supporting due diligence by both the public and private sectors to prevent and				

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
respond to risks of forced or compulsory labour; and (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.				
Article 3 Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.	(See under Article 1)	See Article 1 concerning section 13(4) and (5) of the Transnational Organized Crime (Prevention and Control) Act.	See under Article 1.	See under Article 1.
Article 5 Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.	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?	Transnational Organized Crime (Prevention and Control) Act 13 of 2013 Section 16 indicates that the Mutual Assistance in Criminal Matters Act (Chap. 12:19), which concerns assistance in relation to criminal matters (ie investigations, evidence, witnesses etc), applies to this Act in relation to an offence under this Act as if the offence were a serious offence; and the	No gap identified with respect to trafficking in persons, but the national legislation lacks a comprehensive law on forced labour.	Comprehensive law on forced labour should be developed and implemented.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (Please include name of the law and section number) – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
	Q2. What are the progress and results achieved by these measures?	assistance to be afforded may be requested for any of the purposes specified in Article 18 of the United Nations Convention against Transnational Organized Crime (i.e. of mutual legal assistance in investigations, prosecutions and judicial proceedings).		
Abolition of Forced Labour Convention, 1957 (No. 105)				
Article 1 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 views ideologically opposed to the established political, social or economic system; (b) as a method of mobilising and using labour for	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 Convention applied in practice?	There is no definition of forced labour in the Transnational Organized Crime (Prevention and Control) Act 13 of 2013 . It is treated with as part of “exploitation”. Thus it fall within this legislation. See under Article 1 of the Convention No. 29 The Constitution of the Commonwealth of Dominica Chap. 1: 01 Schedule 1 Section 4(3) See under Article 1 of Convention No. 29	See under Article 1 of Convention No. 29.	See under Article 1 of Convention No. 29.

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations <u>(Please include name of the law and section number)</u> – National policies – National practices etc.	Gaps identified: – Description of gaps etc.	Recommended solutions in national law and/or practice
purposes of economic development; (c) as a means of labour discipline; (d) as a punishment for having participated in strikes; (e) as a means of racial, social, national or religious discrimination.				

Part III. Effective abolition of child labour

Minimum Age Convention, 1973 (No. 138)

Article 2 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. 3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less	Q1. What is the legal minimum age for admission to employment? What provisions of the national legislation provide for it? 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?	Employment Of Women, Young Persons and Children Act Chap. 90:06 Section 2- "child" means a person under the age of fourteen years; "young person" means a person who has ceased to be a child and who is under the age of eighteen years, Section 4 (1) –provides that no child shall be employed or work in any public or private industrial undertaking, or in any branch of it, other than an undertaking in which only members of the same family are employed, and any person who employs any child	Gap identified- The general minimum age for employment appears to be 16 by virtue of the Education Act, but the government declared the minimum age of 15 years upon ratification of Convention No. 138. Uncertainty therefore exists. This point was raised in the comment of the CEACR of the ILO in its comment published in 2016 (http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3251522).	The general minimum age for employment should officially be raised to 16 based on the provision of the Education Act. Generally, different laws provide for different definitions of "child", which result in confusing or conflicting regulations. This point should be streamlined.
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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
than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. 4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.	Q3. What is the age of completion of compulsory schooling? What provisions of the national legislation provide for it?	or permits him to work is guilty of an offence. That is a person under 14 years Section 4(2) provides an exception ie the above rule will not apply to the exercise of manual labour by any child under order of detention in a reformatory or industrial school, or by any child receiving instruction in manual labour in any school, provided that the work is approved and supervised by public authority. Section 5- No child shall be employed or work on any ship other than a ship upon which only members of the same family are employed.. Employment of Children (Prohibition) Act. Chap. 90:05 Section 2 "child" means a person who in the opinion of the Court, in a prosecution for an offence		

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		against this Act, is under the age of twelve years; Section 3-No person shall employ in any occupation whatsoever any child; but a child may be employed in the domestic work or agricultural work of a light nature at home by the parents or guardian of the child Labour Contracts Act Chap. 89:04 Section 7(1)-Only persons eighteen years and over the capacity to enter into a labour contract. Section 7(2) a person under the age of eighteen years may enter into a labour contract only with the written consent of a parent or guardian of the person or, where that person has no parent or guardian, the written consent of the Labour Commissioner or the police officer in charge of the district in which the labour contract is to be made or performed.		

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		Education Act No 11 of 1997 section 2 -School age is 5 to 16 years). Section 27 makes it clear that every child must attend school until the age of 16 or when he obtains the school leaving certificate or diploma Section 46 (1)- a person who employs a child of school age during the school year is guilty of an offence and is liable on summary conviction to a fine of two thousand dollars(approximately 740USD). Section 46(2) If a body corporate commits the offence of employing an underage person in addition to the corporation, every director and officer who authorises it or permits it is liable on summary conviction to the same penalty as the corporation.		

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		Section 46(3) a person may employ a student over 14 years during the school holidays and if the employment of the student is part of the school programme to prepare the student for future employment. In summary By virtue of the Education Act, the general minimum age for employment is 16. This, however, is different from the minimum age declared upon ratification: 15 years. See under Convention No. 138 in the list of Conventions ratified by Dominica (http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103311). By virtue of the Employment Of Women, Young Persons and Children Act, a person under 14 years can not work in any industrial undertaking or on a ship, unless it is a family venture. The Education Act allows a child over 14 to work, but only during		

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		the school vacations or on school programmes. The Employment of Children (Prohibition) Act further provides that a Child (defined as someone under 12) is allowed to do domestic or agricultural work of a light nature but only at home. Thus it seems that a person over 14 can work in certain types of jobs and only during school holidays up to the age of 16, but cannot enter into labour contracts as provided under the Labour Contracts Act.		
Article 3 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. 2. The types of employment or work to which paragraph 1 of	Q1. Does the national legislation provide 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? Q2. If the higher minimum age is 16, was there a consultation	Q1 As stated in Article 2, the Employment Of Women, Young Persons and Children Act Chap. 90:06 Section 4 (1) – provides that no child shall be employed or work in any public or private industrial undertaking, in accordance with this act a child is a person under 14 years.	Gap identified- Young persons over 14 years of age may work in industrial undertaking, which include workplaces which may be hazardous such as mines and construction sites. Young persons over 16 years may work at night in industrial undertakings which must operate continuously day and	A list of hazardous work should be adopted. There should be provisions to protect the health and safety and morals of the young person over the age of 16 working on the “night” shift.

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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. 3. Notwithstanding the provisions of paragraph 1 of 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.	with employers' and workers' organization with specific reference to Article 3, paragraph 3 of the Convention?	Section 2 defines industrial undertaking as :mines, factories, construction sites, and transport of goods or passengers by vehicle. Section 7 (1) provides that no young person (i.e. over 14 and under 18 ears) shall be employed or work during the night (i.e. a period of at least eleven consecutive hours including the interval between 10 p.m. and 5 a.m.) in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. There is an exception to that Section 7 provides that: Young persons over the age of sixteen years may be employed during the night in the industrial undertakings required to be carried on continuously, namely: manufacture of raw sugar; and any other undertaking specified by Order of the Minister	night, and there are no provisions that indicate that during the “night” shift there is protection for the health safety and morals of the young person. A list of work considered hazardous in accordance with paragraph 1 of this Article of the Convention does not seem to have been adopted yet. However the US DEPARTMENT OF LABOR BUREAU OF INTERNATIONAL LABOR AFFAIRS report on the Findings on the Worst Forms of Child Labor: Dominica 2015 stated “During the reporting period, the Government held consultations with labor unions and employers to discuss drafting a list of hazardous occupations for children.”	

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		(paragraph 2); and in cases of emergencies (paragraph 3). In Summary: The law provides that no young person (over 14 and under 18 years) can be employed or work during the night in any public or private industrial undertaking. However, persons over the age of sixteen years may be employed or work during the night in work which is required to be carried on continuously day and night even if that is an industrial undertaking. Also, person over 16 can work at night in cases of emergency.		
Article 4 1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in	[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 of the minimum age legislation, in particular	See the information on exceptions under Article 2.	See under Article 2.	See under Article 2.

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respect of which special and substantial problems of application arise.	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?			
Article 5 1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention. 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	(See under Article 4)	Optional clause of the Convention – The national legislation does not make use of this option.	N/A	N/A

Main provisions of the fundamental Conventions (Not all Articles of the Conventions are mentioned)	Questions for analysis to consider gaps between the Convention and the existing national legislation and/or practice	Current situation: – National laws or regulations (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
communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.				
Article 6 This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of-- (a) a course of education or training for which a school or	(See under Article 4)	Education Act Section 46(3) - a person may employ a student over 14 years during the school holidays and if the employment of the student is part of the school programme to prepare the student for future employment.	Gap identified- There appear to be no conditions for work which may be performed by students over 14 years of age in an educational or training programme.	Conditions for work which may be performed by students over 14 years of age in an educational or training programme should be adopted.

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training institution is primarily responsible; (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.				
Article 7 1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is-- (a) not likely to be harmful to their health or development; and (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	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? 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	Q1 Employment of Children (Prohibition) Act. Chap. 90:05 Section 3 - No person shall employ in any occupation whatsoever any child (i.e. under 12 years of age); but a child may be employed in the domestic work or agricultural work of a light nature at home by the parents or guardian of the child. Q2 Education Act No 11 of 1997	Gap identified There are no working conditions set out for light work nor is there criteria set out in relation to persons being employed during the school holidays.	There should be working conditions set out for light work and criteria set out in relation to students being employed during the school holidays.

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benefit from the instruction received. 2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article. 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. 4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the	the national legislation provide for it? Q3. In cases mentioned under Q1 and Q2 above, has the competent authority adopted a list of permitted activities and working conditions including hours of work? Q4. Are the options provided for under Article 7, paragraph 4 of the Convention used in the national minimum age legislation?	Section 46(3) – See under Article 6. This is more of an issue of young persons in vocational education or training. Q3 The scope of section 3 of the Employment of Children (Prohibition) Act is limited in terms of types of activities, but does not provide for working conditions. Q4 The options provided for in Article 7, paragraph 4 of the convention are not referred to in the national minimum age legislation.		

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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.				
Article 8 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. 2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.	(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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Article 9 1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention. 2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention. 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.	Q1. What penalties (fines, imprisonment, etc.) does the national legislation provide for in case of failure to apply the minimum age legislation? Q2. Are contraventions of the minimum age regulations often reported by the labour inspectorate? Any statistical information available, including any sanctions imposed?	Employment Of Women, Young Persons and Children Act Chap. 90:06 Section 16- Any person guilty of an offence against this Act or any Rules made thereunder for which no penalty is expressly provided is liable on summary conviction to a fine of two hundred and fifty dollars (approximately 92USD) and in the case of a second or subsequent offence to a fine of five hundred dollars (approximately 185 USD). Section 8 (1) requires every employer of an industrial undertaking and every shipmaster to keep a register of all persons under the age of sixteen years employed by him. Failure to keep a register and to have it available for inspection is an offence and liable on summary conviction to a fine of one thousand dollars (approximately 370USD). Education Act No 11 of 1997	Gap identified – The penalties for breach of the various pieces of legislation are too weak.	The penalties imposed for breach of the various pieces of legislation should be increased.

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		Section 46 (1)- a person who employs a child of school age during the school year is guilty of an offence and is liable on summary conviction to a fine of two thousand dollars(approximately 740USD). Employment of Children (Prohibition) Act. Chap. 90:05 Section 4- Any person who contravenes this Act is liable on summary conviction to a fine of five hundred dollars(approximately 185 USD).		
Worst Forms of Child Labour Convention, 1999 (No. 182)				
Article 2 For the purposes of this Convention, the term child 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?	Transnational Organized Crime (Prevention and Control) Act 13 of 2013 Section 2 - “child” means a person under the age of 18 years; Employment Of Women, Young Persons and Children Act Chap. 90:06 Section 2 - "child" means a person under the age of fourteen years;	Gap identified Defination of the term “child” is conflicting among laws.	Defination of the term “child” should be harmonised

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		"young person" means a person who has ceased to be a child and who is under the age of eighteen years, Employment of Children (Prohibition) Act. Chap. 90:05 Section 2 - "child" means a person who in the opinion of the Court, in a prosecution for an offence against this Act, is under the age of twelve years; Labour Standards Act Chap. 89:05 Section 2 "juvenile" means any person over sixteen years of age and under eighteen years of age; Sexual Offences Act 1 of 1998 Section 2- minor means a person under 18 years. In Summary: Most of the pieces of legislation define a child as under 14 and a young person between 14 and under 18. However, the Employment of Children		

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		(Prohibition) Act. Chap. 90:05 defines a child as someone under 12 years.		
Article 3 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; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (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;	[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? 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.	Q1 The Constitution of the Commonwealth of Dominica Chap. 1: 01 Schedule 1 provides in Section 4 that no person shall be held in slavery or servitude or be required to perform forced labour. See under Article 1 of Convention No. 29 for details. Apart from this general provision, there is no law comprehensively dealing with child labour or the worst forms of child labour. There are laws that deal with certain issues related to the worst forms of child labour. Transnational Organized Crime (Prevention and Control) Act 13 of 2013 deals with trafficking in persons. The provisions apply to the person (	Gap identified There are only laws that deal with trafficking in persons and prostitution of children. Therefore the legislation currently does not protect children from pornography, pornographic performances, or illicit activities, including the production and trafficking of drugs. The CEACR of the ILO, in its comment published in 2016, indicated that section 51 of the Offences against the Persons Act only prohibit the abduction of girls under 18 years of age for sexual purposes. It therefore requested to amend the Act to cover both boys and girls. (See http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:	The laws should include protection for children in relation to pornography, pornographic performances, or illicit activities, including the production and trafficking of drugs. Or there could be a law that comprehensively deals with child labour. The Offences against the Persons Act should be amended in line with the recommendation of the CEACR of the ILO.

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(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.		child and adult equally) the only reference specifically to a child is in relation to the the penalties imposed. Section 2 (b) “exploitation” includes –forced labour, slavery, servitude or similar practice. There is no definition of forced labour. Section 13(1)(a) Where a person is convicted of the offence of trafficking in persons under section 8 and the victim of the offence – is a child, that person is liable on conviction on indictment to imprisonment for life Sexual Offences Act 1 of 1998 Section 2- minor means a person under 18 years. Sections 7, 8 and 10- a person who has sexual intercourse with someone under 14 or over 14 but under 16, or with a minor who is employed by the adult, is guilty of an offence and liable on	13100:P13100_COMMENT_ID: 3251691)	

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
		conviction to imprisonment for 25, 14 or 25 years, respectively. Section 18- A person who procures or cause to procure, or induces a minor to prostitution have sexual intercourse with another person is guilty of an offence and liable on conviction to imprisonment for 25 years. Section 20(1) - A person who detains another against his/her will for prostitution is liable on conviction to 10 years imprisonment. Section 23- a person who is owner, manager or occupier of a brothel and allows a minor under 16 years to be on the premises for sexual intercourse is liable on conviction to 10 years imprisonment. Offences against the Person Act Section 51 makes it an offence to fraudulently lure, take away or		

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		detain a woman under the age of 18 years. Q2 Sexual Offences Act 1 of 1998 The following sections of the Act provide for exemptions. These cases are not considered trafficking in persons under the Act. Section 8- it is a defence to the offence under this section if the other person consented and the person charged was not over 21 years and had the reasonable belief that the other person was over 16 years. Section 10,- It is a defence to an offence under section 10 if the minor was the spouse of of the person charged. Section 23 – it is a defence to an offence under this section if the court holds that the		

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		person charged had reasonable grounds to believe the person was over 16 or the person was the spouse of the person charged. Q3 See Article 3 of Convention No. 138		
Article 4 1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999. 3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and	[See under Article 3]	See under Article 3 of Convention No. 138.	See under Article 3 of Convention No. 138.	See under Article 3 of Convention No. 138.

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revised as necessary, in consultation with the organizations of employers and workers concerned.				
Article 5 Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.	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? Q2. Please provide information on the activities of such body. Any results achieved by the body?	There is no tripartite body to deal with matters provided for in the Convention set out in legislation nor does there appear such an administrative Committee. The United Nations Children's Fund (UNICEF) in its national report for the 19 session for 2014 stated –“In fact UNICEF acknowledged that Dominica had extensive social safety net programmes, which were administered by the Government and non-governmental organizations. However, the existing interventions were not interconnected and operated in isolation, which reduced the potential effect of the programmes”.	Gap identified – There is no tripartite body to give effect to the Convention	There should be a tripartite body to give effect to the Convention.
Article 6 1. Each Member shall design and implement programmes of action to eliminate as a	[For Articles 6; and 7, paragraph 2]	Q1 The following is the information from a report on references to children's rights made during the	Gap identified There should be a programme of action against the worst forms of child labour.	Develop and implement a programme of action to protect children and eliminate the the worst forms of child labour.

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priority the worst forms of child labour. 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.	Q1. Is there a national policy and programme on child labour? Q2. What is its main content? Does it contain time-bound measures addressing issues mentioned under Article 7, paragraph 2 of the Convention? Q3. Is it adopted and implemented in consultation with employers' and workers' organizations and other groups, associations and organizations concerned with child labour? Q4. How is this programme implemented? Are there any results achieved?	Universal Periodic Review by the Human Rights Council on Dominica in 2014. It stated that the fundamental problem in Dominica was that there was no data on working children in Dominica. The ILO Committee of Experts noted the Government's indication that consultations would be held with social partners, but there are currently no policies/programmes with regard to the worst forms of child labour."		
Article 7	Q1. What kind of penalties does the	Q1	Gap Identified	There should be a body specifically dedicated to the

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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. 2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to: (a) prevent the engagement of children in the worst forms of child labour; (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; (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children	national legislation provide for violation of the provisions on child labour? Q2. Is there a public body specifically dedicated to the prevention and eradication of child labour (e.g. a children's authority)?	For penalties prescribed in the legislation, See under Article 3. See also under Article 9 of Convention No. 138. Q2 There is the Child Abuse Prevention Unit which falls under the Ministry of Social Service Family and Gender Affairs The Unit aims at protecting all children in Dominica from all forms of abuse. The Unit also supports abused victims by providing the necessary treatment programs such as counseling, psychological assessments and other services, such as financial assistance. The treatment programs are offered not only to the abused child but also to the family members. There is no organisation which deals specifically with the prevention and eradication of child labour. There does not appear to be a children's authority.	The Child Abuse Prevention Unit is for protection of children, but its area of responsibilities would not cover child labour.	prevention and eradication of child labour, especially its worst forms.

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removed from the worst forms of child labour; (d) identify and reach out to children at special risk; and (e) take account of the special situation of girls. 3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.				
Article 8 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.	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? Q2. If so, has such agreement or programme achieved any results?	In addition to ILO Conventions Nos. 138 and 182, Dominica has ratified: UN Convention on the rights of the child and its Optional Protocols on armed conflict and the sale of children. It has also ratified the Palermo Protocol on trafficking in persons.	No Gap identified	

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Part IV. Elimination of discrimination in respect of employment and occupation				
Equal Remuneration Convention, 1951 (No. 100)				
Article 1 For the purpose of this Convention-- (a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment; (b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.	Q1. Does the national legislation define the term “equal remuneration for men and women for work of equal value”? Q2. Does the national legislation contain any exemption in this regard?	Q1 There is no definition “equal remuneration for men and women for work of equal value” per se but there is a provision. Labour Standards Act Chap. 89:05 Section 24- No employer shall establish or maintain differences in wages between male and female employees employed in the same business who are performing, under the same working conditions, the same or similar work or jobs requiring similar skill, effort and responsibility. Section 25- Payment to male and female employees of different wages does not constitute a violation of section 24 if the difference is based on any factor	Gap Identified – Sections 24 and 25 of the Standards Act do not fully provide for the principle of equal remuneration for women and men for work of equal value, as the Act refers merely to “the same or similar work or jobs”. The CEACR of the ILO, in its comments published in 2016, mentioned the information from the Government that the Industrial Relations Advisory Committee make recommendations consistent with the CARICOM Model Law on Equal Treatment. The Committee expressed its hope for progress in this respect. (See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3252426)	The Labour Standards Act should be amended to fully implement the principle of equal remuneration for work of equal value.

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		or factors other than sex that justify such a difference. Similar provisions are in the Labour Contracts Act Chap. 89:04 Section 10 –The Schedule is the basic labour contract which will be applicable to all persons undergoing industrial training in new enterprises and to all workers whose terms and conditions of employment are not the subject of a collective or industrial agreement. Clause 10 of the basic labour contract has exactly the same provisions as sections 24 and 25 of the Labour Standards Act.		
Article 2 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	Q. Are there any laws, regulations, wage committees 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?	See under Article 1.	See under Article 1.	See under Article 1.

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
the principle of equal remuneration for men and women workers for work of equal value. 2. This principle may be applied by means of-- (a) national laws or regulations; (b) legally established or recognised machinery for wage determination; (c) collective agreements between employers and workers; or (d) a combination of these various means.				
Article 3 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. 2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the	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	There is no reference to 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 in the legislation. In fact in the Gender Policy (5.1.4.1) published in 2006 reference was made to the current Labour Standards Act. It said: "Whereas the <i>Labour</i>	Gap identified The legislation, in particular the Labour Standards Act, does not provide for the development, promotion and implementation of an objective job appraisal in the meaning of this Article of the Convention, that is, a method to evaluate values of jobs across occupations.	The Labour Standards Act should be amended to provide for an objective job appraisal to evaluate values of jobs across occupations.

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
determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto. 3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.	manuals or guidelines on the methods for such job appraisal? Q2. How such job appraisal is used in practice?	<i>Standards Act</i> Chapter 89:05 protects against discrimination in pay, the necessary mechanism is not in place to monitor or enforce its applications. It can be said that there is widespread application of the law with reported unofficial violations”.		
Article 4 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?	Labour Standards Act Chap. 89:05 Section 6, the Minister can appoint an advisory Board to guide him in determining the Minimum wage for a category of jobs and the Minister is supposed to ensure that the advisory board is equally representative of employees and employers who are directly concerned with the occupation or category in respect	Gap identified There appears to be no body specifically mandated to promote the principle of equal remuneration for work of equal value.	A tripartite body specifically mandated to promote the principle of equal remuneration for work of equal value should be identified or established.

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
		of which the advisory board is being constituted. Thus the legislation does provide for tripartite consultation. However, the gender policy (5.1.4.1) published in 2006 “advocates the need for a tripartite or multipartite consultation to advise on the way forward on having subsidiary legislation where indications are that levels of violation exist at present e.g. Sexual Harassment Legislation. The existing Labour laws of Dominica need to be reviewed and brought in line with reference to the <i>CARICOM Harmonization of Labour Laws.</i> ”		
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)				
Article 1 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	[For Articles 1 and 4] Q1. How does the national legislation define the term “discrimination”? In particular, what are the effects considered “discriminatory”	Q1 The Constitution of the Commonwealth of Dominica Chap. 1: 01 Schedule 1 Section 13 provides for protection from discrimination . It provides that no person shall be treated in a discriminatory manner.	Gap identified. Section 13(3) of the Constitution does not prohibit discrimination based on national extraction or social origin, as provided for in the Convention.	The Constitution should be amended to include these elements, or, an act could be adopted or amended to provide for all prohibited grounds mentioned in the Convention.

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
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 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. 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.	compared to? What are the grounds on which discrimination is prohibited? Q2. Does the national legislation make any exemption? In particular, in relation to Article 4 of the Convention, does the national legislation consider not discriminatory measures applied to individuals who are involved in activities intended to safeguard the security of the State?	Section 13(3) defines “discriminatory” as affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed whereby persons of one such description is subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description. Q2 The Constitution of the Commonwealth of Dominica Chap. 1: 01 Schedule 1 Section 13(4)- Section 13(3) does not apply to- appropriation for public revenue or other public funds; with respect to persons not citizens of Dominica; adoption, marriage, divorce, burial, devolution of property on death or like matters re the		

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		personal law relating to those types of matter; Section 13(5)- Section 13(3) does not apply to standards or qualifications (not being standards or qualification specifically relating to sex, race, place of origin, political opinions, colour or creed) being required of persons being appointed to or to act in any office of employment. Section 13(6) & (7) – does not apply to anything done in relation to a law, under the authority of law. Section 14- Section 13(3) does not apply to anything authorised by a law enacted by Parliament during periods of public emergency.		
Article 2 Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to	[For Articles 2 and 3] Q1. Is there a national policy for promotion of equality of opportunity and treatment in	There is the “ National Policy on Gender Equality and Equity ” which was adopted by the Government in 2006.	Gap identified Even after 10 years since the adoption of the national gender policy, the acts mentioned (Protection of Employment Act and Labour	Effort should be intensified to implement the national policy on gender and on the Carib people. National policies on other matters dealt with in the

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
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.	respect of employment and occupation? Q2. Does such national policy: (i) seek cooperation of employers' and workers' organizations and of other entities concerned? (ii) identify any new legislation necessary? (iii) identify any existing legislation that needs to be repealed or amended? (iv) cover public sector employment? (v) cover vocational education, vocational training and public employment service? Q3. How is such national policy	Section 6 -the Policy Plan (page 114) refers to Part C Section 5.4 and has as one of its objectives To improve women and men' access to quality vocational training, science and technology and continuing education To develop non-discriminatory education and training. There is no direct mention to public sector employment but the Policy Plan (Section 6) does refer to Section 5.3 and has as one of its objectives equality for men and women in relation to participation in power structures and decision making. One of the strategies is to Commit to the establishment of the goal of gender balance in the governmental bodies and committees, as well as in public administrative entities, and quasi-governmental bodies . Policy changes recommended – -access to credit in banks which underwrite creation of job	Contracts Act) are not yet amended. There appears no policies on other matters mentioned in the Convention, i.e. colour, religion, political opinion, national extraction or social origin.	Convention should be developed and implemented.

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	implemented in practice? Please describe activities undertaken and their results achieved.	opportunities through small business development. Banks still see women as not being able to manage money (section 5.1.4). It has also been recommended that the the <i>Protection of Employment Act</i> Chapter 89:02 and <i>The Labour contracts Act</i> Chapter 89:04 of Dominica need to be reviewed and brought in line with reference to the <i>CARICOM Harmonization of Labour Laws</i>. The policy also indicates at section 5.1.4.2 that <i>The Protection of Employment Act</i> Chapter 89:02 provides protection for all category of all workers, however, Section (4) states, “<i>Part II and III does not apply to or in respect of the employment of a person as a domestic servant.</i>” This means that domestic servants who are predominantly female are excluded from receiving redundancy pay as a result of		

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		termination on the grounds of redundancy. <i>The Labour Contracts Act</i> Chapter 89:04, <i>Section 3</i>, provides that every employer not later than fourteen (14) days after assumption of employment, must enter into a labour contract with employee detailing the terms and conditions of employment. However, <i>Section 2 (3) (g) and (h)</i> excludes home assistants and agricultural workers from this provision. Again, this Section of the law is gender biased as the bulk of persons employed as home assistants and agricultural workers are women. The Carib People Development Plan (January 2003) At section 8.2.1 it states that it is aimed at improving the overall quality of life of the Carib people. It focuses on poverty reduction and increasing economic growth as well as creating and sustaining a positive cultural awareness among the people.		

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		There is also the Carib Reserve Act Chap 25:90 which provides for the establishment of a Body Corporate to manage the carib reserve. Th carib reserve is a land that has been handed over to persons who are caribs. It is intended to allow them to live in their area according to their customs and manage it themselves with a council.		
Article 3 Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice-- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy; (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;		See under article 2	See under article 2	See under article 2

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(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy; (d) to pursue the policy in respect of employment under the direct control of a national authority; (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; (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.				
Article 4 Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that	[See under Article 1]	No provisions found – This Article is not used.	No provisions applying this Article appear to exist, but that would mean measures affecting an individual engaged in activities for the security of the State must also respect and implement the	N/A

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the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.			principle of non-discrimination.	