

Committee of Experts on the Application
of Conventions and Recommendations
(CEACR)

Observations 2019

Regional file by country -

North America and the Caribbean

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

Article 1(a) and (b) of the Convention. Work of equal value. The Committee previously noted that section E8(1) of the Labour Code of 1975 did not give full legislative expression to the principle of the Convention. Noting that the National Labour Board had reviewed the Labour Code and that a report had been submitted to the relevant authority for action, it requested the Government to report on the progress made in this regard. In its report, the Government indicates that it is envisaged that the revised text of the Labour Code will set out the principle of equal remuneration for men and women for work of equal value, which should not only provide for equal remuneration for men and women working in the same occupations, but also for equal remuneration for work carried out by men and women that is different in nature but of equal value. Upon revision by the National Labour Board, the upgraded text of the Labour Code will be subject to amendment after the process of public consultation is completed. The Government adds that the National Labour Board will ensure that the Labour Code does not contravene this Convention. **The Committee requests the Government to provide information on the progress made towards the amendment of the Labour Code to give full legislative expression to the principle of the Convention and, in the meantime, on any measures taken or agreements and policies adopted providing for equal remuneration for men and women for work of equal value.**

Remuneration. In its previous comments, the Committee noted the use and definitions of the terms “wages”, “gross wages”, “remuneration” and “conditions of work” in sections A5, C3, C4(1) and E8(1) of the Labour Code. It noted that, while the definition of “gross wages” appeared to be in accordance with the definition of remuneration set out in *Article 1(a)* of the Convention, it remained unclear whether section C4(1) prohibiting sex discrimination with respect to wages covered the gross wage. It noted the Government’s indication that the terms “wages”, “gross wages” and “remuneration” were used interchangeably in practice, but emphasized that these various terms were often understood to have distinct meanings, thus potentially giving rise to confusion. Noting the ongoing review of the Labour Code, the Committee requested the Government to ensure that the revised text would harmonize the provisions of the Labour Code relevant to wages and remuneration, and include a clear definition of “remuneration” in accordance with *Article 1(a)* of the Convention. The Committee notes the Government’s indication that the National Labour Board will consider a definition for the term “remuneration” (as opposed to the interchangeable use of the terms “wages” and “gross wages”), which will cover not only the ordinary, basic or minimum wage or salary, but also any additional emoluments payable directly or indirectly, whether in cash or kind, by the employer, in accordance with *Article 1(a)* of the Convention. This will ensure that there is no potential for confusion. **The Committee requests the Government to provide information on the progress made in the amendment of the Labour Code in order to include a clear definition of remuneration in accordance with Article 1(a) of the Convention.**

The Committee is raising other matters in a request directly addressed to the Government.

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2019

Article 1(1)(a) of the Convention. Grounds of discrimination – National extraction and social origin. For a number of years, the Committee has been noting the absence of an explicit prohibition of discrimination on the basis of national extraction and social origin in the national Constitution and the Labour Code. The Committee has been asking the Government to ensure that workers are protected in law and in practice against direct and indirect discrimination on the basis of national extraction and social origin, in all aspects of employment and occupation, and to monitor emerging forms of discrimination that may result in or lead to discrimination in employment and occupation on the basis of these grounds, and to report in detail on the progress made. The Government indicates in its report that the process of revising the Labour Code is still ongoing and the National Labour Board is currently considering provisions aimed at defining and prohibiting direct and indirect discrimination, as well as including all grounds of discrimination, namely race, colour, sex, religion, political opinion, national extraction and social origin. The Government adds that, once finalized, these proposals will be made available for public consultation. **The Committee firmly hopes that the amendments to the Labour Code will be adopted in the near future and will include specific provisions ensuring and promoting the protection of workers against direct and indirect discrimination in all aspects of employment and occupation, and with respect to all the grounds of discrimination set out in Article 1(1)(a) of the Convention.**

Article 2. General observation of 2018. Regarding the above issues and more generally, the Committee would like to draw the Government’s attention to its general observation on discrimination based on race, colour and national extraction adopted in 2018. In the general observation, the Committee notes with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and differences in remuneration for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, and remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. **The Committee draws the Government’s attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.**

Equality for men and women. Access to education, vocational training and employment. In its previous comments, the Committee urged the Government to take concrete steps to collect, analyse and provide statistical information, disaggregated by sex, on the participation of men and women in education and the various vocational training courses offered, as well as statistics on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee also urged the Government to provide detailed information on recent initiatives to promote women’s participation in courses and jobs traditionally held by men, including up-to-date information on the courses offered by the Gender Affairs Department and the Ministry of Education, as well as the Institute of Continuing Education. The Committee notes the Government’s indication that a comparative analysis was done on the participation of men and women in various vocational training courses in institutions such as the Ministry of Education, the Antigua and Barbuda Institute of Continuing Education (ABICE), the Antigua State College (ASC), the Directorate of Gender Affairs, the Antigua and Barbuda Hospitality Training Institute (ABHTI), the Department of Youth Affairs (DYA) and the Gilbert Agricultural Rural Development (GARD) Centre. The Government states that statistics indicate that there is still a striking disparity in the participation of women in professions traditionally occupied by men. However, women are slowly participating to a greater extent in technical and skilled occupations. It is envisaged that the institutions mentioned above will endeavour to engage in strategic planning that will encourage more women to access training so as to enter technical professions which are traditionally occupied by male workers. Currently, most institutions are actively involved in open-day activities geared towards attracting persons to the programmes provided and in spending time in counselling persons to access the training that best suits them. However, the Government states that there is little initiative specifically designed to encourage women to participate in areas traditionally dominated by men. The Committee notes that in its 2019 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommended adopting effective measures to combat horizontal and vertical occupational segregation in both the

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public and private sectors, including through professional training and incentives for women to work in traditionally male-dominated fields of employment (CEDAW/C/ATG/CO/4-7, 14 March 2019, paragraphs 36(a) and 37(a)). *The Committee asks the Government to provide statistics, disaggregated by sex, on the participation of men and women in education at all stages and the various vocational training courses offered, as well as on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee hopes that the Government will be in a position to provide information in its next report on the manner in which it promotes women's participation in courses and jobs traditionally held by men.*

The Committee is raising other matters in a request addressed directly to the Government.

C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

Observation 2019

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5(1) of the Convention. Effective tripartite consultations. The Government indicates in its report that the National Labour Board is currently engaged in the revision of the Labour Code. The Committee notes that the Government envisages establishing a subcommittee composed of members of the National Labour Board, along with representatives of workers and employers, to review international labour standards, engage the public in consultations when necessary and to make recommendations to the Minister on actions to be taken. The Committee notes, however, that once again the Government's report does not contain information with regard to tripartite consultations on the matters related to international labour standards covered by *Article 5(1)* of the Convention. *Recalling its comments since 2008 concerning the activities of the National Labour Board, and noting that section B7 of the Labour Code, which establishes the Board's procedures, does not include the matters set out in Article 5(1) of the Convention, the Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters related to international labour standards covered by the Convention. It further requests the Government to identify the body or bodies mandated to carry out the tripartite consultations required to give effect to the Convention. The Committee reiterates its request that the Government provide precise and detailed information on the content and outcome of the tripartite consultations held on all matters concerning international labour standards covered by Article 5(1)(a)–(e) of the Convention, especially those relating to the questionnaires on Conference agenda items (Article 5(1)(a)); reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and proposals for the denunciation of ratified Conventions (Article 5(1)(e)).*

Article 5(1)(b). Submission to Parliament. The Government reiterates information provided in April 2014, indicating that the 20 instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted to Parliament on 11 March 2014. It adds that a request would be made to the Minister by 15 November 2017 via the Labour Commissioner and Permanent Secretary concerning submission of the instruments to Parliament. *The Committee refers to its longstanding observations on the obligation to submit and once again requests the Government to indicate whether effective consultations leading to conclusions or modifications were held with respect to the proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the above-mentioned instruments, including information regarding the date(s) on which the instruments were submitted to Parliament. In addition, the Committee requests the Government to provide information on the content, agenda, discussions and resolutions and on the outcome of the tripartite consultations held in relation to the submission of instruments adopted by the Conference as of 2014: the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.*

Article 5(1)(c). Examination of unratified Conventions and Recommendations. The Government reports that the unratified conventions noted in its report were submitted to the National Labour Board on 11 November 2017 for re-examination with the social partners. *The Committee requests the Government to provide updated information on the outcome of the re-examination of unratified Conventions, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14); the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to which Antigua and Barbuda is a State party); and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108), that has also been ratified by Antigua and Barbuda).*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C151 - Labour Relations (Public Service) Convention, 1978 (No. 151)

Observation 2019

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 4 and 5 of the Convention. In its previous comments, the Committee had requested the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference, and had requested the Government to provide information on cases concerning anti-union discrimination. The Committee notes the information contained in the Government's report that there are no cases to report with regard to anti-union discrimination and that the Antigua and Barbuda Constitution grants inalienable rights to citizens. *The Committee once again requests the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference and requests the Government to provide information of any cases concerning anti-union discrimination (especially with respect to the procedures and sanctions imposed).*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations received on 1 September 2014 and on 1 September 2016 from the International Organisation of Employers (IOE), which are of a general nature.

The Committee notes the Government's indication that the most recent amendment to the 2001 Industrial Relations Act (IRA) occurred in 2012. The Committee observes with *regret* that the Industrial Relations (Amendment) Act, 2012, did not address the concerns raised in its previous observation and notes the Government's statement that discussions to this end continue.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee had previously noted that the IRA does not apply to the prison service (section 3). In this respect, the Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules 2014, which allowed for the establishment of the Bahamas Prison Officers Association (BPOA). ***Noting the limited scope of sections 39 and 40 of the abovementioned Rules, the Committee requests the Government to specify the manner in which prison staff and the relevant organization(s) enjoy the rights and guarantees enshrined in the Convention.***

Right of workers and employers to establish organizations without previous authorization. In its previous comments, the Committee noted that, under section 8(1)(e) of the IRA, beyond consideration of the specific requirements for registration, the Registrar shall refuse to register a trade union if he/she considers that the union should not be registered. Moreover, according to section 1 of the Schedule of the IRA, in applying the rules for the registration of trade unions, the Registrar shall exercise his/her discretion. ***The Committee requests the Government once again to take the necessary measures to review section 8(1)(e) of the IRA so as to limit the discretionary power conferred upon the Registrar in relation to the registration of trade unions or employers' organizations.***

Article 3. Right of workers' and employers' organizations to draw up their constitutions and rules and to elect their representatives in full freedom. In its previous comments, the Committee noted that section 20(2) of the IRA, under the terms of which a secret ballot for election or removal of trade union officers and for the amendment of the constitution of trade unions shall be held under the supervision of the Registrar or a designated officer, is contrary to the Convention. ***The Committee once again expresses the hope that specific measures will be taken for the amendment of section 20(2) of the IRA with a view to ensuring that trade unions can conduct ballots without interference from the authorities.***

Right of organizations freely to organize their activities and to formulate their programmes. In its previous comments, the Committee had noted that, when a strike is organized or continued in violation of the provisions concerning trade dispute procedure, excessive sanctions, including imprisonment for up to two years are provided (sections 74(3), 75(3), 76(2)(b) and 77(2) of the IRA). The Committee recalls once again that no penal sanction should be imposed against a worker for having carried out a peaceful strike and that therefore measures of imprisonment should not be imposed on any account. Such sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights have been committed, and these sanctions are imposed pursuant to legislation punishing such acts. ***Therefore, the Committee once again requests the Government to amend the abovementioned sections of the IRA to ensure that no penal sanctions may be imposed for having carried out a peaceful strike.***

Article 5. Right to affiliate to an international federation or confederation. The Committee had previously noted that, under the terms of section 39 of the IRA, it shall not be lawful for a trade union to be a member of any body constituted or organized outside the Bahamas without a licence from the minister, who has discretionary power in this regard. In this respect, the Committee notes the Government's indication that although the process requires ministerial approval, these approvals are generally granted and do not represent a challenge. ***The Committee requests the Government to take measures to align national legislation with the current practice and repeal section 39 of the IRA in order to give full effect to the right of workers' and employers' organizations to affiliate with international organizations of workers and employers.***

The Committee reminds the Government that, if it so wishes, it may avail itself of the technical assistance of the Office.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee welcomes the adoption of the National Tripartite Council Act, 2015, aimed at improving the collective bargaining machinery and efficiency of collective agreements, as well as the first meeting of the National Tripartite Council, in which the Government and the social partners discussed matters pertinent to the welfare of workers.

The Committee notes the Government's indication that the most recent amendment to the Industrial Relations Act (IRA) occurred in 2012, and observes with *regret* that it does not address the concerns raised in its previous observation.

Article 2 of the Convention. Adequate protection against acts of interference. In its previous comments, the Committee requested the Government to take the necessary measures for the adoption of legislative provisions to protect workers' and employers' organizations against acts of interference by each other or each other's agents, accompanied by effective and sufficiently dissuasive sanctions. The Committee notes that the Government merely reiterates that the IRA is designed to prevent the risk of interference and provide protection to workers and union organizations against such acts. ***The Committee requests the Government to take the necessary measures to review the IRA with a view to giving effect to Article 2 of the Convention without further delay, and to provide information on any developments in this regard.***

Article 4. Representativeness. The Committee had previously commented on the requirement to represent 50 per cent of workers of the bargaining unit to be recognized for bargaining purposes (section 41 of the IRA). The Committee reiterates that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all the unions in the unit, jointly or separately, at least on behalf of their own members. ***The Committee requests the Government once again to take the necessary measures to review the IRA so as to bring it into line with the Convention.***

Right of prison guards to bargain collectively. In its previous comments, the Committee requested the Government to indicate whether the Bahamas Prison Officers Association (BPOA) enjoyed the collective bargaining rights under the Convention, and, if so, to provide a copy of a collective agreement to which this organization was a signatory or to indicate whether discussions or negotiations were under way. The Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules, 2014, which allow the BPOA to make representations to the Commissioner of the Department of Correctional Services in matters relating to the conditions and welfare of officers as a group (Sections 39–40). Noting that these provisions do not appear to provide collective bargaining rights to the BPOA, the Committee recalls that the right to bargain collectively also applies to prison staff, and that under this Convention the establishment of simple consultation procedures for public servants who are not engaged in the administration of the State is not sufficient. ***The Committee requests the Government to take the necessary measures, including legislative, to ensure that prison guards can fully enjoy the rights and***

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*guarantees set out in the Convention and provide information on any developments in this regard.
The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) received on 10 September 2014, concerning matters examined under this comment, as well as other allegations of violations of the Convention in the law. *The Committee requests the Government to provide its comments in this respect.* The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee recalls that it has been requesting the Government since 1998 to provide information on developments in the process of reviewing legislation regarding trade union recognition. The Committee notes that the Government indicates that there are no further developments in the process of reviewing legislation regarding trade union recognition, and that a number of the observations made by the ITUC refer to issues concerning trade union registration.

Hoping that it will be able to observe progress in the near future, the Committee requests the Government to provide information on any development in the legislative review process and it recalls that the Government may avail itself of the technical assistance of the ILO in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C097 - Migration for Employment Convention (Revised), 1949 (No. 97)**Observation 2019**

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 7 and 9 of the Convention. Free services and assistance and transfer of remittances. In its previous comments, the Committee considered that the requirement for migrant workers participating in the Canada–Caribbean Seasonal Agricultural Workers Programme “the Farm Labour Programme” – to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs of the Programme, could be contrary to the spirit of *Article 9* of the Convention. The Committee had also taken note of the concerns expressed by the Congress of Trade Unions and Staff Associations of Barbados that this requirement, together with the immediate deduction of certain costs such as airfares, pension and medical contributions from the workers' pay, created hardship for the workers, and the Programme needed to be reviewed. The Committee also drew the Government's attention to the fact that charging workers for purely administrative costs of recruitment, introduction and placement is prohibited under the Convention (General Survey of 1999 on migrant workers, paragraph 170).

The Committee notes the Government's indication that arrangements are made for a percentage of the earnings of the workers on overseas programmes to be remitted back to the country for them to access upon return and that workers travelling on the overseas programmes are required to sign an “agreement” (contract of employment) which allows for the deduction of 20 per cent of their wages to cover administration costs and national insurance contributions. According to the Government, upon arrival in Canada the workers are met by the Barbados liaison officers and in Barbados the employment services to migrants are rendered free of charge by the National Employment Bureau, which oversees the preparation and departure of workers. The Committee notes that the “Agreement for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers – 2013” provides that the worker agrees that the employer shall remit to the government agent 25 per cent of the worker's wages for each payroll period and that “a specified percentage of the 25 per cent remittance to the government agent shall be retained by the Government to defray administrative costs associated with the delivery of the programme” (section IV, paragraphs 1 and 3). The worker also agrees to pay to the employer part of the transportation costs and the employer, on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent (section VII, paragraphs 3–4). *The Committee requests the Government to clarify why it is considered necessary to require migrant workers under the Farm Labour Programme to remit 25 per cent of their wages to the liaison service for mandatory savings, including for administrative costs, and to indicate whether the liaison service has a role in the recruitment, introduction and placement of migrant workers and whether any of the administrative costs retained by the liaison service relate to recruitment, introduction or placement. The Committee also requests the Government to take the necessary measures to ensure that migrants for employment are permitted to transfer their earnings or such part of their earnings and savings as they desire, and to provide information on any steps taken, in cooperation with the workers' and employers' organizations, to review the impact of the Farm Labour Programme on the situation of Barbadian migrant workers.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**Observation 2019**

The Committee had noted the comments made by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. *The Committee requests once again the Government to provide its comments in this respect.*

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. The Committee had previously noted that the new Employment Rights Act (ERA) only covered cases of anti-union dismissals (section 27) and limited this protection to employees continuously employed for a period of over one year. The Committee had recalled that the Government had adequate protection against acts of anti-union discrimination which should not be confined to penalizing dismissal on anti-union grounds, but should cover all acts of anti-union discrimination (demotions, transfers and other prejudicial acts) at all stages of the employment relationship, regardless of the employment period, including at the recruitment stage, and had therefore requested the Government to amend the new Act so as to bring it into conformity with the Convention. The Committee notes that the Government reiterates that section 40A of the Trade Union Act provides protection against acts of anti-union discrimination stating that an employer who dismisses a worker or adversely affects the employment or alters the positions of a worker to his prejudice because that worker takes part in trade union activities is guilty of an offence. The Committee welcomes the Government's indication that under the proposed Employment (Prevention and Discrimination) Act, which is currently in an advanced stage of preparation, a person discriminates against another when that person on a ground specified (subsection (2)) creates an exclusion or shows a preference, the intent or effect of which is to subject the other person to any disadvantage, restrictions or other detriment, and that the Government will take immediate steps to include “trade union membership or trade union status” as a ground established in subsection (2). The Government further indicates that under the proposed Act, the Employment Rights Tribunal will have the power to make a range of orders, including paying to the complainant a compensation in an amount that may include exemplary damages. *The Committee trusts that the new legislation will soon be adopted and will ensure adequate protection against all acts of anti-union discrimination. It requests the Government to provide information on any progress made in this respect.*

In its previous comment, the Committee had further noted that while sections 33–37 of the new ERA provided for the possibility of reinstatement, re engagement and compensation, the maximum amount of compensation awarded to workers who have been employed for less than two years is five-weeks wages, which, depending on the number of years of continuous employment, is increased by between two-and-a-half and three-and-a-half weeks wages for each year of that period (Fifth Schedule). The Committee had considered that the prescribed amounts do not represent sufficiently dissuasive sanctions for anti-union dismissal, and had therefore requested the Government to take the necessary measures to amend the Fifth Schedule of the new ERA so as to bring the compensation amount to an adequate level. The Committee notes the Government's indication that it is proposing an amendment to the ERA that: (i) would allow the Chief Labour Officer to lodge cases before the Employment Rights Tribunal which may include persons employed for less than one year and where anti-union discrimination is being alleged; and (ii) gives power to the Tribunal to order an amount not exceeding 52 weeks' wages. The Committee recalls that the compensation envisaged for anti-union dismissal should: (i) be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal; and (ii) be adapted in accordance with the size of the enterprises concerned (it has considered, for example, that while compensation of up to six months' wages may be a deterrent for small and medium-sized enterprises, that is not necessarily the case for highly productive and large enterprises). *The Committee trusts that the Government will take all the necessary measures to amend the ERA in line with the principles set out above, and requests the Government to provide information on any development in relation to the envisaged legislative amendment and its application in practice.*

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. In previous comments, the Committee noted the absence of a legislative framework supporting the right to equal remuneration for men and women for work of equal value. Having noted also that the existing mechanisms for collective bargaining and wage councils for wage determination did not seem to promote and ensure effectively this right, the Committee requested the Government to take measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes from the Government's report on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) that the draft National Gender Policy, which includes a section on employment, is currently being reviewed by the relevant ministries but that the Employment (Prevention of Discrimination) Bill is yet to be adopted. The Committee once again recalls the particular importance of capturing in legislation the concept of "work of equal value" in order to address the segregation of men and women in certain sectors and occupations due to gender stereotypes. *In light of the ongoing legislative and policy developments on gender equality and non-discrimination, the Committee asks the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value will be fully reflected in the National Gender Policy and in the Employment (Prevention of Discrimination) Bill, and to provide a copy of the policy and the new legislation, once adopted.*

Gender earnings gap and occupational segregation. The Committee notes from the statistics published by the Barbados Statistical Service (Labour Force Survey) that of all women employed in 2015, 52.4 per cent earned less than 500 Barbadian dollars (BBD) per week compared to 41.8 per cent of all men employed in that same year. Among those earning between BBD500 and BBD999 per week, men represented almost 56 per cent and women only 44 per cent. Among those earning between BBD1,000 and BBD1,300, women represented 46.6 per cent and men 53.1 per cent. Men also account for a little more than half of the workers (52.5 per cent) in the highest earnings group (over BBD1,300). The Committee further notes from the Labour Force Survey data for 2015 the persistent occupational gender segregation of the economy with women mostly employed as service workers and clerks while men are mostly employed as craft and related workers or plant and machine operators. When looking at economic sectors, women workers are highly represented in "Accommodation and Food Services", and their numbers sometimes more than doubles or triples the number of male workers in "Finance and Insurance", "Education" and "Human Health and Social Work". Women are also over-represented among household employees. In contrast, men largely predominate in the "Construction" and "Transportation and Storage" sectors. The Committee further refers to its comments on Convention No. 111. *The Committee asks the Government to take measures to reduce the earnings gap between men and women and to increase the employment of women in jobs with career opportunities and higher pay. Recalling that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee also asks the Government to provide information on the results achieved under the National Employment Policy and the National Gender Policy, once adopted, to address occupational gender segregation and to increase the employment of women and men in sectors and occupations in which they are under-represented.*

The Committee is raising other matters in a request directly addressed to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2019

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1–3 of the Convention. Legislative protection against discrimination. The Committee had previously noted that the Employment Rights Act 2012, while protecting workers against unfair dismissal on all the grounds enumerated in *Article 1(1)(a)* and certain additional grounds under *Article 1(1)(b)* of the Convention, did not ensure full legislative protection against both direct and indirect discrimination for all workers in all aspects of employment and occupation. The Committee previously asked the Government to address the protection gaps in the legislation. The Committee notes that the Government in its report merely restates the constitutional provisions on equality, and the protections afforded by the Employment Rights Act 2012. The Government also maintains that no distinctions, exclusions, or preferences based on the prohibited grounds set out in *Article 1(1)(a)* or on any additional grounds determined in accordance with *Article 1(1)(b)* exist in the country, and that no discrimination cases have been reported. Regarding the presumed absence of discrimination, the Committee considers that it is essential to acknowledge that no society is free from discrimination, and that continuous action is required to address discrimination in employment and occupation, which is both universal and constantly evolving (see 2012 General Survey on the fundamental Conventions, paragraphs 731 and 845). *Noting that the Employment (Prevention of Discrimination) Bill 2016 is still in draft form, the Committee urges the Government to take steps, without further delay, to address the protection gaps in the legislation, and to ensure that the anti-discrimination legislation expressly defines and prohibits direct and indirect discrimination in all aspects of employment and occupation, for all workers, and on all the grounds set out in the Convention. The Committee also repeats its request to the Government to provide information on the steps taken to ensure that all workers are being protected in practice against discrimination not only with respect to dismissal but with respect to all aspects of employment and occupation, on the grounds set out in the Convention. Such measures could include public awareness raising aimed at, or in cooperation with, workers and employers and their organizations, or the development of codes of practice or equal employment opportunities guidelines to generate broader understanding on the principles enshrined in the Convention. Noting with regret that for several years the Government has not provided any*

information on the action taken to promote and ensure equality of opportunity and treatment with respect to race, colour and national extraction, and to eliminate discrimination in employment and occupation on these grounds, the Committee urges the Government to provide such information without delay, including any studies or surveys on the labour market situation of the different groups protected under the Convention.

Article 1(1)(a). Discrimination on the grounds of sex. Sexual harassment. The Committee previously noted the absence in the Employment Rights Act 2012 of provisions protecting workers against sexual harassment. The Committee notes the Government's indication that the proposed Sexual Harassment in the Workplace Bill will define and prohibit both quid pro quo and hostile environment sexual harassment and provide for a tribunal to hear complaints and determine matters related to sexual harassment. *The Committee urges the Government to take steps to ensure that the draft Sexual Harassment in the Workplace Bill is adopted speedily and that it will define and prohibit sexual harassment (both quid pro quo and hostile environment harassment) in all aspects of employment and occupation, and asks that the Government provide a copy of the latest version of the Bill, or as enacted, with its next report.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C118 - Equality of Treatment (Social Security) Convention, 1962 (No. 118)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

With reference to its previous comments, the Committee notes with *satisfaction* the adoption of the National Insurance and Social Security (Benefit) (Amendment) Regulations, 2006 (SI 2006 No. 130), by which section 59 of the principal Regulations of 1967 was replaced by the new text which permits payment of benefits abroad to persons who are residing in another country, in accordance with *Article 5 of the Convention*. *The Government is invited to provide information in its next report on actions taken to implement the new Regulations, including any related judicial or administrative decisions.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Compulsory arbitration. The Committee recalls that in its previous comments it had requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), as amended on several occasions, which empowers the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike in services that cannot be considered essential in the strict sense of the term, including the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector. The Committee notes with *regret* from the information provided by the Government that while the Schedule to the SDESA was amended twice in 2015, the long-standing comments of the Committee were not addressed. Instead, the two amendments expanded the field of application of the SDESA and added to its Schedule the "port services involving the loading or unloading of a ship's cargo", which are also services that do not constitute essential services in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. *The Committee requests the Government to amend the Schedule to the SDESA so as to permit compulsory arbitration or a prohibition on strikes only in services that are essential in the strict sense of the term, and to provide information on all progress made in this regard.*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee had noted the observations of the International Trade Union Confederation (ITUC) in 2014. The Committee notes with *regret* that the Government has not yet replied to these observations and requests it once again to provide its comments in this respect.

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, following the 2011 ITUC observations regarding those two sectors, the Committee had requested the Government to provide statistics on the number of acts of anti-union discrimination that are reported to the authorities in the banana plantation sector and in export processing zones and on the outcomes of the denunciations in this respect. The Committee notes that the Government indicates that during the reporting period (July 2013 to June 2017) no acts of anti-union discrimination were denounced to the authorities in these sectors. *Highlighting that the absence of anti-union discrimination complaints may be due to reasons other than an absence of anti-union discrimination acts, and recalling the specific allegations raised by the ITUC, the Committee requests the Government to take the necessary measures to ensure that, on the one hand the competent authorities take fully into account in their control and prevention activities the issue of anti-union discrimination, and that on the other hand, the workers in the country are fully informed of their rights regarding this issue. The Committee requests the Government to provide information on measures taken in this regard, as well as any statistics concerning the anti-union discrimination acts reported to the authorities.*

Article 4. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to take measures to amend section 27(2) of the Trade Unions and Employers' Organizations (Registration, Recognition and Status) Act (TUEOA), which provides that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, as this requirement of an absolute majority may give rise to problems given that, if this percentage is not attained, the majority union would be denied the possibility of bargaining. In its latest comment, the Committee noted the Government's indication that: (i) the Tripartite Body and the Labour Advisory Board had engaged in discussions on a possible amendment to the Act; and (ii) based on these consultations, it had been recommended to reduce to 20 per cent the trade union membership threshold required to trigger a poll, while retaining the requirement of a 51 per cent approval of those employees voting and to require a turnout at the poll of at least 40 per cent of the bargaining unit. The Committee notes that the Government indicates that section 27(2) of the TUEOA has not been amended but that discussion continues among the social partners in this regard. *The Committee requests the Government to continue promoting social dialogue in order to bring section 27(2) of the TUEOA into conformity with the Convention and to provide information on any developments in this respect. The Committee reminds the Government that it may avail itself of technical assistance from the Office.*

Promotion of collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)**Observation 2019**

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1(c) and (d) of the Convention. Penalties involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes. For many years, the Committee has been referring to section 35(2) of the Trade Unions Act, under which a penalty of imprisonment (involving an obligation to perform labour, by virtue of section 66 of the Prison Rules) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may, by proclamation, be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that section 2 of the Settlement of Disputes (Essential Services) Act, Statutory Instrument No. 92 of 1981, declared the national fire service, postal service, monetary and financial services (banks, treasury, monetary authority), airports (civil aviation and airport security services) and the port authority (pilots and security services) to be essential services, and Statutory Instrument No. 51 of 1988 declared the social security scheme administered by the Social Security Branch an essential service.

The Committee has recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention. It has noted that section 35(2) of the Trade Unions Act refers not only to injury or danger but, alternatively, to grave inconvenience to the community, and applies not only to essential services, but also to other services, such as most employment under the Government or a municipal authority and most banking, postal and transport services.

The Government indicates in its report that one of the main tasks of the newly revived Labour Advisory Board is the revision of the national legislation, and that the Board has regrouped the legislation under revision into six topics, including trade unions' rights. The Government also states that, although trade unions'

legislation has not yet been covered, the intention is to revise it in order to bring it into conformity with the international labour Conventions, and that the Committee's concern regarding section 35(2) of the Trade Unions Act will definitely be taken into consideration. *While taking due note of this information, the Committee trusts that the process of the revision of the Trade Unions Act will be completed in the near future, so as to ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C115 - Radiation Protection Convention, 1960 (No. 115)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes the information in the Government's current report that the National Occupational Safety and Health (NOSH) Bill does take into consideration all the Committee's observations as it ensures the effective protection of workers exposed to ionizing radiation in the course of their work. The Committee also notes from the Government's report that provisions have been made in the NOSH Bill for maximum permissible doses of ionizing radiation, alternative employment (especially for pregnant women) and the prevention of occupational exposure during an emergency. Furthermore, according to available information, the NOSH Bill has not yet been adopted due to concerns that it may be burdensome to employers. The Committee notes that, in spite of its previous request, the Government has not provided a detailed report as requested by the Committee. The Committee wishes to emphasize that the indication that the new legislation is in the process of adoption does not free the Government from the obligation to ensure the application of the provisions of the Convention during the transition period and to provide such information in its report. *The Committee requests the Government to supply detailed information on the application of the Convention, including new legislation, if adopted, and where it has not been adopted, the manner in which the Government ensures the application of the provisions of the Convention in practice. It also reiterates its request to the Government to respond in detail to its previous observation which reads as follows:*

Articles 3(1) and 6(2) of the Convention. Maximum permissible doses of ionizing radiation. With reference to its previous comments, the Committee notes the Government's response indicating that on 13 March 2009, the Labour Advisory Board was re-activated and that its main duty is the revision of national labour legislation. The Committee notes that the Ministry is currently in the process of identifying a consultant that will work with the Labour Advisory Board to conduct the revision of the legislation, and that comments made by the Committee will be submitted to the Board. *The Committee hopes that in the course of the ongoing revision of national labour legislation due account will be taken on the exposure limits adopted by the International Commission on Radiological Protection, in order to ensure the effective protection of workers exposed to ionizing radiation in the course of their work.*

Article 14. Provision of alternative employment. The Committee notes the Government's response indicating that there is no provision in the Labour Act for the transfer of pregnant women from their work involving exposure to ionizing radiation to another job. The Committee notes, however, the Government's statement that the National Occupational Safety and Health Policy, adopted by Cabinet on 9 November 2004, can provide a suitable framework for drafting legislation that could make provision for such transfer and that legislation is drafted in consultation with the Labour Advisory Board. *The Committee hopes that in the course of the ongoing revision of the national labour legislation due account will be taken of the need to ensure that suitable alternative employment opportunities, not involving exposure to ionizing radiations, be provided for workers having accumulated an effective dose beyond which detriment to their health considered unacceptable is to arise, as well as for pregnant women, who may be faced with the dilemma that protecting their health means losing their employment.*

Occupational exposure during an emergency. The Committee notes that there is currently no provision within the Labour Act laying out the circumstances in which exceptional exposure is authorized. *The Committee requests the Government, in the course of the ongoing revision of the national labour legislation, to take due account of the need to determine circumstances in which exceptional exposure is authorized, and to make protection as effective as possible against accidents and during emergency operations, in particular with regard to the design and protective features of the workplace and the equipment, and the development of emergency intervention techniques, the use of which in emergency situations would enable the exposure of individuals to ionizing radiations to be avoided.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2019

The Committee notes the observations of the Canadian Labour Congress (CLC) received on 31 August 2019, concerning issues examined in the present observation.

Article 2 of the Convention. Right to organize of certain categories of workers.

Province of Alberta. The Committee recalls that it had previously requested the Government to provide information on the outcome of the technical discussions with respect to the application of the Labour Relations Code (LRC) to agricultural workers, as well on the outcome of the review of the LRC and the Post-secondary Learning Act with respect to architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel and higher educational staff in Alberta. The Committee notes that the Enhanced Protection for Farm and Ranch Workers Act came into effect in January 2018, and that with this act, waged, non-family farm and ranch employees have the same statutory rights as most of the employees in Alberta, regarding the opportunity to be represented by a bargaining agent. As to the extension of full associational and collective bargaining rights to academic staff at Alberta's post-secondary institutions, the Committee notes that following the review of the Post-secondary Learning Act, both academic and non-academic staff at post-secondary learning institutions have a statutory right to organize and enjoy the freedom of association rights. Regarding the other categories of workers mentioned above, the Government indicates that nothing prevents them from associating and organizing. ***While noting that nothing impedes architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel from associating and organizing, the Committee requests the Government to specify under which legislative provisions the above-mentioned categories enjoy their right to organize as well as other rights recognized under the Convention.***

Province of Ontario. The Committee notes that the Agricultural Employees' Protection Act (AEPA) was amended in order to expand its scope to ornamental horticulture starting on 3 April 2019. As to the exclusion of agricultural workers from the Labour Relations Act (LRA), the Government once again indicates that the AEPA protects the right of agricultural workers in Ontario to form and join associations. The Committee notes however that, according to the Changing Workplaces Review final report (CWR), commissioned by the Ministry of Labour and released in 2017, the AEPA does not clearly state that such employees have the right to join a trade union and participate in lawful activities, and neither does it provide agricultural workers with the right to strike nor any alternative dispute resolution. The Committee further notes that the Government once again indicates that it does not have any statistics on the number of workers represented by an employee association or trade union. ***Recalling the value of statistical information for assessing the effective implementation in practice of the Convention, the Committee requests the Government to gather and provide information on the number of workers represented by an employee association or trade union under the AEPA. It also requests the Government to take any additional measures to guarantee that agricultural workers enjoy the right in law and in practice to establish and join organizations of their own choosing, as well as other rights recognized in the Convention.*** With respect to the other excluded categories of workers (architects, dentists, land surveyors, lawyers, doctors, engineers, principals and vice-principals in educational establishments, community workers and domestic workers), the Committee had previously noted that the above exclusions of the LRA were going to be considered by the ongoing review of Ontario's labour and employment legislation. In this respect, the Committee notes that despite the recommendations of the Special Advisers leading the CWR with regard to the repeal of those exclusions, no changes were made during the 2016–19 period. The Committee notes, furthermore, the Government's indication that labour laws are not appropriate for non-industrial settings, such as private homes and professional offices. ***While taking due note of the final report of the CWR and the Government's statement on the inadaptability of the labour laws to non-industrial settings, the Committee invites the Government to take all necessary measures, in consultation with social partners, to ensure that the above categories have the right in law and in practice to establish and join organizations of their own choosing, as well as other rights recognized under the Convention.***

Province of New Brunswick. The Committee notes that the Government acknowledges the negative effect of excluding domestic workers from the scope of the Employment Standards Act and that consultations were held in September 2016 regarding possible amendments to the aforementioned Act, which encompasses repealing the exclusion. The Government further informs that it is currently conducting a technical review of the Domestic Workers Convention, 2011 (No. 189). ***The Committee hopes that the consultations and the technical review will be finalized in the near future and that all necessary measures will be taken to ensure that domestic workers enjoy the right to organize and other guarantees under the Convention. The Committee requests the Government to keep it informed on any development in this regard.***

Other provinces. Nova Scotia, Prince Edward Island and Saskatchewan. With regard to the exclusion of architects, dentists, land surveyors, doctors and engineers, the Committee notes that: (i) in Nova Scotia, although no legislative changes were made, doctors are de facto represented by Doctors Nova Scotia, an association bargaining with the Government on behalf of doctors and residents; (ii) in Prince Edward Island, no information was provided by the Government regarding the above exclusions; and (iii) in Saskatchewan, the above categories are not explicitly excluded from being certified as a bargaining unit and therefore do have the right to organize, for example, lawyers at the provincial Legal Aid Commission are unionized. With regard to the exclusion of domestic workers in Saskatchewan, the Committee notes the Government's indication that some categories of workers, including domestic workers, face a practical limitation on organizing as a result of the definition of "employer", defined as "an employer who customarily or actually employs three or more employees", with the purpose of ensuring viability of the bargaining unit. ***While noting that nothing impedes architects, dentists, land surveyors, doctors, and engineers from associating and organizing, the Committee requests the Government to specify under which legislative provisions the above-mentioned categories enjoy their trade union rights as well as other rights recognized in the Convention. Regarding the practical limitation to unionization faced by domestic workers, the Committee invites the Government to take all necessary measures, in consultation with social partners, to ensure that domestic workers enjoy, in law and in practice, the right to organize, as well as other rights under the Convention.***

Article 3. Right of employers' and workers' organizations to organize their activities and to formulate their programmes. Essential services. Economic Action Plan (Bill C-4). In its previous comments, the Committee had noted that the adoption of the Economic Action Plan Act in 2013 permitted the federal government the exclusive power to determine and designate unilaterally the essential services for the safety and security of the public and impose arbitration as the dispute resolution mechanism in cases where 80 per cent or more of the positions in a bargaining unit were deemed essential. The Committee notes with ***satisfaction*** that on 26 November 2018, Bill C-62 "An Act to Amend the Federal Public Sector Labour Relations Act and Other Acts" received royal assent and, as a result, the employer no longer has the exclusive right to determine which services are essential and designate positions necessary to deliver these services. The Committee further notes that, as a result, when a conciliation/strike has been selected by the bargaining agent as the dispute resolution mechanism in collective bargaining, the employer and the bargaining agent must collectively negotiate essential services and conclude an Essential Services Agreement.

Province of Saskatchewan. Employment Act. In its previous observations, the CLC expressed concern that the Saskatchewan Employment Act increased the number of employees not eligible for trade union membership by declaring their job duties confidential. On that occasion, the Committee pointed out that the definition of "employee" excluded anyone exercising authority and performing managerial or confidential functions, and that the term "union", "labour organization" and "strike" were defined in the Act with reference to the term "employee". The Committee notes the Government's indication that there were extensive consultations in 2012 when considering the labour relations sections (Part IV) of the Employment Act and that some provisions in the Act required a review within a revolving ten-year period and therefore another review of the labour relations provision would occur around 2024. The Committee refers to its previous recommendations, in which it reminded the Government that although it is not necessarily incompatible with *Article 2* to deny workers who perform managerial functions or are employed in its confidential capacity to belong to the same trade unions as other workers, this category should not be defined so

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broadly as to weaken the organizations of other workers in the enterprise or branch of activity by depriving them of substantial proportion of their present or potential membership. *The Committee hopes that the Government will take all appropriate measures in a near future to ensure the review of The Saskatchewan Employment Act, in consultation with social partners, with a view to bringing it into full conformity with the above-mentioned considerations. The Committee also requests the Government to provide information on the number of employees declared "confidential" and thus not eligible for trade union membership, disaggregated by enterprises or branches of employment.*

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 1(1) and 2(1), (2)(a) and (d) of the Convention. National service obligations. Over a number of years, the Committee has been requesting the Government to repeal or amend the National Service Act, 1977, under which 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 (section 35(2)). The Committee observed that, contrary to the Government's repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which "shall be 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". The Committee pointed out that the above provisions are not in conformity with the present 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 Government indicates in its report that the item concerning the amendment of the legislation has been included in the Decent Work Agenda, and that the necessary measures will be taken to address the requests in relation to compliance with the Conventions with the technical assistance of the ILO. *While having noted the Government's indications in its earlier reports that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, and that section 35(2) of the Act has not been applied in practice, the Committee trusts that appropriate measures will be taken in the near future in order to formally repeal the above Act, so as to bring national legislation into conformity with Conventions Nos 29 and 105 and that the Government will provide, in its next report, information on the progress made in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 3, 6, 7, 10 and 16 of the Convention. Numbers, conditions of service and functions of labour inspection staff. Number of labour inspection visits. The Committee notes from the Government's report that the Labour Department cannot increase its staff and that inspectors operate in all areas of labour administration. The Government also declares that every attempt is made to ensure that inspectors are professional in their conduct. *The Committee requests once again the Government to indicate the criteria and process for the recruitment of labour inspectors, and to specify the training activities provided to them upon their entry into service and in the course of employment. Please also indicate how it is ensured that the conditions of remuneration and career development of labour inspectors reflect the importance and specificities of their duties, and take into account personal merit.*

The Committee asks the Government to provide information on the time and resources spent on mediation/conciliation of industrial disputes in relation to their primary duties of inspection established under this Convention. It asks the Government to take the necessary measures to ensure that, in accordance with Article 3(2), any duties which may be entrusted to labour inspectors in addition to their primary functions shall not be such as to interfere with the effective discharge of the latter. It also asks the Government to provide information on the measures taken to ensure that all workplaces are inspected as often and as thoroughly as necessary in line with Article 16 of the Convention.

Article 15. Duty of confidentiality. Referring to the Committee's previous comments on this issue, the Committee notes from the Government's report that there has not been any change in legislation to give effect to this Article of the Convention and that the issue is to be addressed by the Industrial Relations Advisory Committee. The Government also reports that the department and labour inspectorate have always maintained strict confidentiality. *The Committee once again requests the Government to take steps to ensure that the legislation is supplemented so as to give full effect to Article 15 of the Convention and to keep the Office informed of all progress in this respect and to send copies of any relevant draft or final texts.*

Articles 5(a), 17, 18, 20 and 21. Cooperation with the justice system and enforcement of adequate penalties. Publication and content of an annual report. The Committee notes from the Government's report that steps will be taken to improve the quality of the annual report on inspection services. *The Committee hopes that the Government will make every effort to ensure that an annual report on the work of the labour inspection services is elaborated and published and that it contains information on all the items listed in Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed as well as industrial accidents and cases of occupational disease.* The Committee draws the Government's attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), as to the type of information that should be included in the annual labour inspection reports.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 6 of the Convention. Legislation giving effect to the Convention. The Committee notes that the Government has never supplied any information of a practical nature concerning the application of the Convention. *It would therefore be grateful if the Government would collect and transmit together with its next report up-to-date information on the average number of public contracts granted annually and the approximate number of workers engaged in their execution, extracts from inspection reports showing cases where payments have been retained, contracts have been cancelled or contractors have been excluded from public tendering for breach of the Fair Wages Rules, as well as any other particulars which would enable the Committee to have a clear understanding of the manner in which the Convention is applied in practice.*

Moreover, the Committee understands that the Government has entered into a World Bank-financed technical assistance project for growth and social

protection with a view to improving, among other things, the transparent operation and the efficient management of public procurement. *In this connection, the Committee would appreciate receiving additional information on the implementation of this project and the results obtained, in particular as regards any amendments introduced or envisaged to public procurement laws and regulations which might affect the application of the Convention.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 2(2) of the Convention. Raising the initially specified age for admission to employment or work. Noting that the Government initially specified a minimum age of 15 years upon ratification, the Committee observes that the Education Act of 1997 provides for a minimum age for admission to work of 16 years of age. *In this regard, the Committee takes the opportunity to draw the Government's attention to the provisions of Article 2(2) of the Convention which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. This allows the age fixed by the national legislation to be harmonized with that provided for at the international level. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office.*

Article 3(1). Minimum age for admission to hazardous work. The Committee previously noted that, according to section 7(1) of the Employment of Women, Young Persons and Children Act, no young person (under 18) shall be employed or work during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. However, the Committee observes that there is no other provision which prohibits the employment of young persons in work which is likely to jeopardize their health, safety or morals. *In this regard, the Committee requests the Government to take the necessary measures to ensure that the performance of hazardous work is prohibited for all persons under 18 years of age.*

Article 3(2). Determination of types of hazardous work. The Committee notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), in 2009 that the social partners will be consulted for the determination of the list of types of hazardous work. *Recalling that, pursuant to Article 3(2) of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, the Committee requests the Government to provide information on any progress made with regard to the determination of the list of types of hazardous work to be prohibited for persons under 18 years.*

Article 7(3). Determination of types of light work. The Committee notes that while section 46(3) permits children from the age of 14 to be employed during school vacations (i.e. in light work), but observes that there does not appear to be a determination of the types of light work permitted for these children. In this regard, the Committee recalls that, pursuant to *Article 7(3)* of the Convention, the competent authority shall determine what light work is and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. *The Committee therefore requests the Government to provide information on any measures taken or envisaged to determine the hours during which and the conditions in which light work may be undertaken by children above the age of 14 during vacations from school, pursuant to Article 7(3) of the Convention.*

Article 9(3). Keeping of registers. The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists by the employer of all persons employed who are less than 16 years of age. In this regard, the Committee recalled that *Article 9(3)* of the Convention requires the keeping of such registers for all persons who are less than 18 years of age. *Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to ensure that registers be kept and made available by the employer in respect of all children under 18 years of age. It requests the Government to provide information on any measures taken in this regard.*

Application of the Convention in practice. The Committee notes the Government's statement in its report submitted under Convention No. 182 in 2009 that measures will be taken to broaden the existing mandate of the national inspectorate in order to cover child labour issues, in consultation with the social partners. *The Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons, extracts from the reports of inspections services and information on the number and nature of violations detected involving children and young persons.*

The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C147 - Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 2 of the Convention. Implementing legislation. The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. *The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C081 - Labour Inspection Convention, 1947 (No. 81)**Observation 2019**

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 20 and 21 of the Convention. Establishment, publication and communication to the ILO of annual inspection reports. In its previous comments, the Committee noted that despite its reiterated comments on this subject, no annual labour inspection reports had been communicated to the ILO since 1995. It notes that the Government underlines the importance of establishing, publishing and transmitting annual labour inspection reports, but that it indicates that the annual reports as currently prepared do not contain all of the subjects as required under *Article 21*. ***The Committee urges the Government to indicate the measures adopted or envisaged to ensure that annual inspection reports are published and transmitted to the ILO in accordance with the requirements of Articles 20 and 21. The Committee reminds the Government, once again, that it may avail itself of technical assistance for this purpose.***

The Committee requests the Government in any event to provide statistical information that is as detailed as possible on the activities of the labour inspection services (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of industrial accidents and cases of occupational disease, etc.) to enable the Committee to make an informed assessment on the application of the Convention in practice.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)**Observation 2019**

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Effective tripartite consultations. The Committee recalls that, in its previous comment, it had requested the Government to provide detailed information on each of the tripartite consultations held on matters concerning international labour standards covered by the Convention. The Government indicates in its report that tripartism is working well in the country to the extent that it has moved towards establishing a Committee of Social Partners. The said Committee includes civil society organizations and the conference of churches; it is responsible for the monitoring of the IMF Structural Adjustment Programme 2014–16 in Grenada, including labour reforms. Additionally, the Government specifies that a comprehensive review of the Labour Code was conducted during the 2014–15 period. Moreover, the Government recalls that, pursuant to section 21(2) of the Employment Act, the functions of the Labour Advisory Board reflect the provisions of *Article 5(1)* of the Convention. ***The Committee requests the Government to provide detailed information on the activities of the Labour Advisory Board on the tripartite consultations on international labour standards covered by the Convention, including full particulars on the consultations held on each of the matters listed in Article 5(1) of the Convention. The Government is also requested to indicate the intervals at which the abovementioned consultations are held, and the nature of the participation by the social partners during these consultations.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**Observation 2019**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with *deep concern* that the Government's report contains no reply to its previous comments.

In its previous observation, the Committee referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act. The Committee takes note of the Government's statement that, at the request of the Trades Union Congress, the Trade Union Recognition Act provided for the recognition of unions that were recognized prior to the Act without having to prove that they had majority support (section 32). All unions benefited from this provision which the Government says is no longer applicable as all certificates applicable under this section have been issued. Given that the representativeness of unions might change, the Committee recalls once again that, if no union covers more than 40 per cent of the workers in the bargaining unit, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). *The Committee hopes that significant progress respecting this issue will be made in the near future and requests the Government to provide information on the results of the consultative process.*

Collective bargaining in practice. The Committee requests the Government to provide information on the measures taken, in conformity with Article 4 of the Convention, to promote collective bargaining as well as to provide information on the number of collective agreements concluded and in force in the country, indicating the sectors concerned and the number of workers covered.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C100 - Equal Remuneration Convention, 1951 (No. 100)**Observation 2019**

Articles 1 and 2 of the Convention. Legislation. Since 1998, the Committee has been referring to the need to amend section 2(3) of the Equal Rights Act No. 19 of 1990 which provides for "equal remuneration for the same work or work of the same nature" in order to bring it into conformity with the provisions of the Convention and align it with the Prevention of Discrimination Act No. 26 of 1997 (section 9(1)), therefore reflecting the principle of equal remuneration for men and women for work of equal value. The Committee notes once again with *regret* that no progress has been reported by the Government in its report. The Committee recalls that it considers that the coexistence of the two different concepts in the current legislation has the potential to lead to misunderstanding in the application of the principle of the Convention. *The Committee urges the Government to take steps to amend section 2(3) of the Equal Rights Act No. 19 of 1990 with a view to bringing it into conformity with the principle of the Convention and aligning it with the Prevention of Discrimination Act No. 26 of 1997 so as to remove any legal ambiguities.*

Article 2. Minimum wage. The Committee notes that the Government indicates that the National Minimum Wage Order which was adopted in July 2013 does not provide for a distinction of rates of pay on the basis of sex or gender. The Committee notes the adoption in October 2016 of a new Labour (National Minimum Wage) Order which raised the minimum wage in the private sector from 35,000 to 44,000 Guyanese dollars (GYD) per month (around US\$210.50 dollars). The Committee also notes from the speech on the budget made by the Minister of Finance in November 2018 that "the Government has also raised the minimum basic salary for each public servant to GYD64,200 per month" (paragraph 3.30). The Committee wishes to point out that as women predominate in low-wage employment, and that a uniform national minimum wage system helps to raise the earnings of the lowest paid, it has an influence on the relationship between men and women's wages and on reducing the gender pay gap (see General Survey of 2012 on the fundamental Conventions, paragraph 683). *The Committee asks the Government to provide information on the proportion of men and women workers, disaggregated by sex, to which the new national minimum wage in the private sector and the minimum basic salary in the public sector apply. The Committee asks the Government to provide any information available, including studies, showing the impact of the introduction and increase of the national minimum wage and the increase of the minimum basic salary on the earnings of women in both the public and the private sectors and the gender pay gap.*

Articles 2(2)(c), 3 and 4. Collective agreements and cooperation with employers' and workers' organizations. Objective job evaluation and wage determination. In its previous comments, in order to facilitate the application of the principle of the Convention and to ascertain whether jobs done traditionally by women are undervalued in comparison with jobs done traditionally by men, the Committee asked the Government to indicate whether objective job evaluations were undertaken or envisaged in the public and private sectors and, if so, to specify the method and the evaluation criteria used. The Committee notes the Government's indication that rates of remuneration are fixed through the collective bargaining and negotiation process, without due regard to the differences in sex or gender. While noting this information, the Committee recalls that men and women tend to perform different work using different skills. Therefore, for the purpose of ensuring equal remuneration for men and women for work of equal value and avoiding an undervaluation of work traditionally performed by women, the Committee wishes to emphasize the importance of evaluating each job concerned on the basis of criteria free from gender bias, such as skills/qualifications, effort, responsibilities and working conditions, when determining rates of remuneration. *The Committee asks the Government to take concrete steps to raise awareness among workers' and employers' organizations about the principle of equal remuneration for men and women for work of equal value and the need to use objective job evaluation methods and criteria to avoid undervaluation of jobs traditionally performed by women when fixing rates of remuneration. The Committee asks the Government to provide detailed information on the manner in which rates of remuneration are determined by the social partners, including on the method and criteria used. The Committee further asks the Government to indicate whether rates of remuneration are determined by collective bargaining in the public sector.*

Statistics. The Committee recalls that appropriate data and statistics are crucial for determining the nature, extent and causes of unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures and make any necessary adjustments in order to better promote the principle of equal remuneration for men and women for work of equal value. *Therefore, the Committee asks the Government to provide any statistical data available, disaggregated by sex, on the distribution of men and women in the various economic sectors and occupations, and on their corresponding earnings, in both the public and private sectors.*

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**Observation 2019**

The Committee notes with *regret* that the Government's report does not contain information in reply to its previous comments.

Articles 1 and 2 of the Convention. Equality of opportunity and treatment for men and women. In its previous comments, the Committee asked the Government to provide information on the specific measures taken in the framework of the five year Strategic Plan of the Women and Gender Equality Commission of the National Assembly to promote gender equality in employment and occupation, including vocational training, and to enhance women's access to all jobs, including those in non-traditional areas and decision-making positions in both the private and public sectors. The Committee notes that, in its ninth periodic report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) (2018), the Government provided detailed

information on the situation of women, but the information provided did not contain answers to the questions raised by the Committee of Experts. According to the Government's report to the CEDAW, "it is estimated that women's share of the workforce is 34.6 per cent and that 65.4 per cent of these women are not engaged in the formal economy. The national census (2012) noted that the majority of these women (48.6 per cent) are engaged in unpaid work (home duties), while others pursue educational advancement (8.0 per cent) and the remainder (7.1 per cent) are women retirees. The Government adds that, according to the World Bank's Enterprise Survey (2010), mentioned in the Government's report to the CEDAW, women are under-represented in the top management of private sector firms with a mere 17 per cent as managers. However, female participation in ownership of private firms is significantly higher with 58 per cent (CEDAW/C/GUY/9, 10 July 2018, paragraph 89). The Government's report to the CEDAW further indicates that women in unionized agricultural production comprise 20 per cent of the workforce. It adds that temporary special measures have been implemented to address discrimination against women in the fields of microcredit, as well as education and training. The Committee welcomes the Government's indication in the above report that "gender parity has been achieved in primary education at the national level". However, the report adds that, despite significant progress in the promotion of women in traditionally male dominated sectors (engineering, electrical and construction), the overall enrolment in technical and vocational education and training in 2011–14 for women was 38 per cent compared to 62 per cent for males. The Committee notes that, according to the report to the CEDAW, "consistent efforts have been made to reverse and eliminate the persistence of gender stereotyping, negative cultural attitudes and other discriminatory practices" (CEDAW/C/GUY/9, paragraphs 48, 78 and 91). The Committee further notes from the ILO 2018 Country Report on Guyana (*Gender at work in the Caribbean*) that the Ministry of Social Protection also collaborates with international agencies to execute projects that can assist women in vulnerable situations to address systematic barriers to their participation and performance in the labour force and their ability to carry out caring work, particularly in relation to poverty and HIV stigma and discrimination. The Government also has instituted several training programmes with job skills for women, with a focus on single parents, who often face special difficulties in accessing the labour market and finding jobs. ***The Committee asks the Government to continue taking active steps to remove obstacles that hinder women's access to, and advancement in, employment and occupation, including awareness-raising measures to combat any gender stereotypes and patriarchal attitudes that assume that the burden of domestic and caring responsibilities must be borne by women. The Committee asks the Government to clarify the status of the National Gender and Social Inclusion Policy and, if adopted, to provide specific information on the steps taken in practice to implement it, and particularly details on the results achieved in employment and occupation. The Government is also asked to provide information on the activities of the Women and Gender Equality Commission (WGEC), including the results achieved in the framework of the above-mentioned five-year Strategic Plan, and on the activities of the Gender Affairs Bureau (GAB).***

Article 1(1)(a). Multiple discrimination, including discrimination based on race. Persons of African descent, in particular women. The Committee notes from the Report of the United Nations Working Group of Experts on People of African Descent following its mission to Guyana (from 2 to 6 October 2017) that the Government has not developed a specific national action plan to combat racism, racial discrimination, xenophobia or other forms of intolerance. It further notes the indication that "Afro-Guyanese women often face inequalities and multiple forms of discrimination on the grounds of their race, colour, gender and religious belief" and that, although the participation of women in the labour force is rising, women are also increasingly concentrated in low-paying jobs. The Committee notes the concern expressed by the Working Group at the high drop-out rates of girls (A/HRC/39/69/Add.1, 13 August 2018, paragraphs 30 31). ***The Committee asks the Government to provide information on the steps taken in practice to address discrimination faced by persons of African Descent, in particular women and girls, with respect to access to and advancement in education and employment and occupation. The Government is also asked to provide any available information on the situation of men and women of African descent in employment and occupation, in particular in rural areas.***

Indigenous peoples. The Committee notes from the ILO 2018 Country Report mentioned above that the original peoples (Amerindians) represent 10.5 per cent of the population. The Committee notes from the website of the Ministry of Indigenous Peoples' Affairs that, over the past three years, 2.3 billion Guyanese dollars (GYD) have been devoted to hinterland youth empowerment, which has resulted in the establishment of 2,054 successful businesses. The youths were trained under the Hinterland Employment and Youth Service (HEYS) programme, which succeeded the Youth Entrepreneurship and Apprenticeship Programme (YEAP), that targeted approximately 4,000 youths in the 215 indigenous villages and communities across the country. ***The Committee asks the Government to continue taking steps promoting a wide range of training and employment opportunities for members of indigenous peoples and to provide information on the development and results of the HEYS programme. The Committee also asks the Government to provide any available information, disaggregated by sex, on the situation of persons from indigenous peoples in employment and occupation, including in entrepreneurship and traditional activities. The Government is asked once again to provide detailed information on the activities carried out by the Ethnic Relations Commission and the Indigenous Peoples Commission and their impact in the fields of education, training, employment and occupation.***

General observation of 2018. With regard to the above issues, and in more general terms, the Committee would like to draw the Government's attention to its general observation on discrimination based on race, colour and national extraction which was adopted in 2018. In the general observation, the Committee noted with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continues to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. Furthermore, the Committee considered that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. ***The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.***

Discrimination based on sexual orientation and gender identity. The Committee also notes from the ILO 2018 Country Report that "there are no laws relating to gender identity" although "there are substantial reports of discrimination against transgender persons and other members of the LGBTI community with regard to accessing employment opportunities". In this regard, the Committee further notes from the report of the United Nations Working Group of Experts on People of African Descent that "civil society entities reported that discrimination against lesbian, gay, bisexual and transgender persons and sex workers was widely prevalent". Transgender Guyanese persons in particular are criminalized and stigmatized, and subjected to discrimination because they are more visible than other members of the lesbian, gay and bisexual community (A/HRC/39/69/Add.1, 13 August 2018, paragraph 33). ***The Committee asks the Government to provide information on any steps taken or envisaged to prevent and address discrimination based on sexual orientation and gender identity in employment and occupation, including legislative and awareness-raising measures.***

Enforcement and statistics. The Committee notes from the ILO 2018 Country Report that "it has been reported that the laws to prevent discrimination are not effectively enforced". The Committee notes the Government's indication that the data requested are not available. ***The Committee once again asks the Government to provide information on the enforcement of the legislation prohibiting discrimination on the grounds set out in the Convention and to take active steps to ensure effective access to and the functioning of the enforcement mechanisms dealing with complaints of discrimination. The Government is also asked to take the necessary steps to ensure that it is in a position to collect and compile statistical data, disaggregated by sex, on the participation of men and women, as well as the different ethnic groups, in the various sectors and occupations.***

C138 - Minimum Age Convention, 1973 (No. 138)**Observation 2019**

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy for the elimination of child labour. National action plan. The Committee previously noted that the Government reiterated its commitment to adopting a national policy designed to ensure the effective abolition of child labour in the country since 2001. The Committee also noted that, although the Government undertook a number of policy measures aimed at tackling child labour through education programmes, in particular under the ILO-IPEC project entitled "Tackle child labour through education" (TACKLE project), it continued to indicate that a National Plan of Action for Children (NPAC) was under development. The Committee notes that the Government's report does not contain any new information in this regard. *The Committee therefore once again urges the Government to strengthen its efforts to finalize the NPAC and to provide a copy of it in the very near future. Furthermore, noting the Government's previous indication that the National Steering Committee on Child Labour – which had initiated and drafted a national action plan to eliminate and prevent child labour – is no longer functioning, the Committee requests the Government to provide updated information on the measures taken or envisaged to finalize this process.*

Article 3(3). Authorization to work in hazardous employment from the age of 16 years. In its previous comments, the Committee observed that section 6(b) of Act No. 9 of 1999 on the employment of young persons and children (hereafter Act No. 9 of 1999) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work. The Committee also observed that, although sections 41 and 46 of the Occupational Safety and Health Act, 1997 (OSHA), aim to prevent young persons from undertaking employment activities that could impede their physical health or emotional development, the Government had identified difficulties in monitoring and enforcing those provisions. The Government accordingly indicated that Act No. 9 of 1999 would be amended to ensure that the protections afforded under the Act are extended to all young persons under the age of 18 years.

The Committee noted that the Government's previous report did not contain any new information and merely stated that no ministerial regulations had been issued and that the OSHA provisions ensure that young persons between 16 and 18 years who are employed in hazardous work receive adequate specific vocational training. However, the Committee noted the inadequate measures for monitoring and enforcing the OSHA provisions and that, notwithstanding the significant number of children involved in hazardous work, only three such cases had been reported to the Government's reporting mechanism.

The Committee notes with *deep concern* that the Government's report provides no new information concerning the process of amending Act No. 9 of 1999, despite its repeated commitment over the years to do so. It once again draws the Government's attention to paragraph 381 of the 2012 General Survey on the fundamental Conventions, which stresses that compliance with *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16 to 18 years be authorized only upon the conditions that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training. *The Committee accordingly once again urges the Government to take measures to amend Act No. 9 of 1999 in the near future so as to ensure conformity with Article 3(3) of the Convention by providing adequate protection to young persons between the ages of 16 and 18, and to supply a copy of the amendments once they have been finalized. Moreover, recalling the Government's indication that efforts are under way with the tripartite partners to include additional areas of work on the hazardous work list, the Committee requests the Government to supply a copy of this amended list once it becomes available.*

Article 9(3). Keeping of registers. Following its previous comments, the Committee notes the Government's indication that section 86(a) of the OSHA, Chapter 99:10, provides for the obligation of employers of industrial establishments to record, and keep in a register, the prescribed particulars of all employees under the age of 18 years. *The Committee requests that the Government indicate which provisions establish the same obligation for the employment of young persons under 18 years of age in non-industrial undertakings.*

Labour inspection and practical application of the Convention. The Committee previously noted the results of the Multiple Cluster Indicator Survey identifying a high percentage of working children in the country. The Committee also noted the indication of the International Trade Union Confederation (ITUC) that labour inspectors fail to effectively enforce the applicable legislation and that child labour was particularly prevalent in the informal economy.

In response, the Government simply indicated that its labour inspectors routinely conduct workplace inspections and that there had been no evidence of child labour. Nevertheless, the Committee noted a three-year programme which aimed to, among others, strengthen the capacity of national and local authorities in the formulation, implementation and enforcement of the legal framework on child labour and which would include a focus on child labour in the informal economy. *Noting the absence of information provided in this respect, the Committee once again requests that the Government strengthen its efforts to combat child labour, including in the informal economy, and to provide information on the results achieved in this regard. Furthermore, recalling that the Government is establishing a baseline survey on child labour, the Committee again requests the Government to provide information concerning the results of the survey.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C139 - Occupational Cancer Convention, 1974 (No. 139)**Observation 2019**

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes that draft Regulations on the safe use of chemicals at work of 31 January 2003 are currently being discussed. It notes the Government's statement that these draft Regulations provide protection against occupational cancer and also that it refers to the international exposure limits standard established by the American Conference of Governmental Industrial Hygienists. The Committee further notes that Chapter 3.6 of Annex 2 of the draft Regulations contains rules applicable to carcinogenicity and also notes the Government's statement that these draft Regulations will attempt to provide for medical examinations. The Committee hopes that these Regulations will be adopted in the near future, ensuring the application of the Convention, and that they will also ensure that medical examinations or biological or other tests or investigations are carried out during the period of employment and thereafter, in accordance with *Article 5* of the Convention. *The Committee requests the Government to provide information on measures taken to ensure the application of the Convention and to provide a copy of the Regulations, once they are adopted.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C140 - Paid Educational Leave Convention, 1974 (No. 140)

Observation 2019

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 6 of the Convention. Formulation and application of a policy designed to promote the granting of paid educational leave. The Committee recalls that, for many years, it has been requesting the Government to provide information on the measures taken to give effect to the Convention. In its report, the Government provides summaries of court decisions relevant to the granting of paid educational leave in the public service sector. The Government indicates that training in the private sector is undertaken on the basis of a company's needs, such as succession planning, human resource needs and upgrading of technology, whereas training is implemented through scholarships in the public sector. Training is provided on the basis of the projected labour needs of the Government and training opportunities are advertised within the various Ministries and agencies as well as in national newspapers. The Committee once again recalls that the Convention requires the Government to formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of occupational training at any level, general, social and civil education and trade union education (*Article 2*) in consultation with the social partners (*Article 6*). **Noting that the information provided in the Government's report does not indicate the manner in which Article 2 of the Convention is given effect, the Committee requests the Government to indicate the content and scope of the policy to promote the granting of paid educational leave for the purposes specified in Article 2 of the Convention and to communicate the texts, including government statements, declarations and other documents, in which the policy is expressed. In addition, the Committee once again reiterates its request that the Government provide full particulars on the measures taken or envisaged in order to give effect to these provisions of the Convention.**

Articles 5 and 6. Arrangements for paid educational leave through collective agreements. Consultation with the social partners. The Committee notes the Government's indication that the National Tripartite Committee established in 1993 has constituted a subcommittee to deal with training and placement issues. It adds that there is no information available on the manner in which the public authorities, representative employers' and workers' organizations and institutions providing education or training have been consulted on the formulation and application of the national policy to promote the granting of paid educational leave for the purposes specified in the Convention. The Government states that the social partners make provision for some measure of paid educational leave in the private sector through the bargaining process. **The Committee requests the Government to provide information on the arrangements to enable the participation of employers' and workers' organizations and institutions providing education or training in the formulation and application of the national policy for the promotion of paid educational leave for the purposes specified in Article 2 of the Convention.**

Article 8. Non-discrimination. The Government indicates that training under *Article 2(a)* includes training for apprentices and groups in vulnerable situations. In this regard, the Committee notes that the Industrial Training Act, Chapter 39:01, referenced in the Government's report, regulates apprenticeships, but that section 3(1) of the Act refers only to male apprentices (*boys*). The Government does not provide information regarding training for groups in vulnerable situations. **The Committee requests the Government to provide information, including statistical data disaggregated by sex, on the apprenticeship training opportunities available to boys and girls. Noting that section 3(1) of the Industrial Training Act could be interpreted to exclude girls, it also invites the Government to consider amending the Act to extend apprenticeships to both male and female apprentices. It also requests the Government to provide particulars regarding the measures taken to ensure that groups in vulnerable situations have access to paid educational leave.**

Application of the Convention. Part V of the report form. **The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied, including, for instance, extracts from reports, studies and enquiries, and statistics disaggregated by sex and age on the number of workers granted paid educational leave during the reporting period.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee has been pointing out since 1997 that the Employment (Equal Pay for Equal Work) Act of 1975 does not include the concept of "work of equal value" as required by the Convention. The protection under the current law is narrower than the protection contained in the Convention in that it is limited to requiring the payment of equal remuneration for equal work, which is defined as work performed by men and women alike in which the duties, conditions of work and qualifications are similar or substantially similar, and the differences are not of practical importance and do not occur frequently. The Committee has also emphasized that the application of the concept of "work of equal value" is fundamental to the promotion and achievement of equal pay between men and women in employment and to reducing the gender pay gap. The Committee recalls its previous requests to the Government to review the Act of 1975 in light of the requirements of the Convention and to consider asking for technical assistance from the ILO. It notes from the Government's reply that these requests have not been taken up by the Government. In this regard, the Committee must recall that in previous years the Government had indicated that it intended to review the Act of 1975. ***The Committee urges the Government to undertake a review and to update the Employment (Equal Pay for Equal Work) Act of 1975 to bring its provisions and into full conformity with the Convention by welcoming the principle of equal pay for men and women for work of equal value. It hopes that the Government will consider asking the ILO for technical assistance in this regard. The Committee also asks the Government to report on the steps taken to this end, as well as on any other specific measures taken to examine and address the gender pay gap in the public and private sectors.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2019

Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers. For a number of years, the Committee has been referring to the following provisions of the Jamaica Shipping Act, 1998, under which certain disciplinary offences are punishable with imprisonment (involving an obligation to perform labour under the Prisons Law):

--section 178(1)(b), (c) and (e), which provides for penalties of imprisonment, inter alia, for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage; an exemption from this liability applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica (section 178(2)); and

--section 179(a) and (b), which punishes, with similar penalties, the offences of desertion and absence without leave.

The Committee recalled, referring to paragraphs 179–181 of its 2007 General Survey on eradication of forced labour, that provisions under which penalties of imprisonment (involving an obligation to perform labour) may be imposed for desertion, absence without leave or disobedience, are not in conformity with the Convention. In this regard, the Committee noted the Government's indication that the shipping industry of Jamaica and the country as a whole do not use any forms of forced or compulsory labour, including as a means of labour discipline. Moreover, the disciplinary procedures of the Shipping Association of Jamaica are circumscribed by the Joint Labour Agreement between the Shipping Company and the Unions that represent workers in the Bargaining unit, such as the Bustamante Industrial Trade Union, the Trade Union Congress and the United Port Workers and Seamen's Union. The Government further stated that during the period of review, no decisions had been made by the court of law or other tribunals in relation to the above provisions of the Shipping Act. The Committee urged the Government to take the necessary measures to ensure the adoption of the amendments of the Shipping Act so as to bring the legislation into line with the Convention.

The Committee notes the Government's information in its report that the Policy Unit of the Ministry of Transport and Mining is in the process of preparing a draft Cabinet Submission for seeking Cabinet's approval to amend the provisions of the Shipping Act of 1998 that are in breach of the provisions of the Convention. Referring to paragraph 312 of its General Survey of 2012 on fundamental Conventions, the Committee once again recalls that *Article 1(c)* of the Convention expressly prohibits the use of any form of forced or compulsory labour as a means of labour discipline and that the punishment of breaches of labour discipline with sanctions of imprisonment (involving an obligation to perform labour) is incompatible with the Convention. ***Noting that the above provisions of the Shipping Act have been the subject of comments since 2002, the Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments of the Shipping Act are adopted without any further delay so as to bring the legislation into line with the Convention. It requests the Government to provide information on the progress made in this regard.***

C117 - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

Observation 2019

Parts I and II of the Convention. Improvement of standards of living. In its 2013 and 2018 comments, the Committee requested the Government to provide updated information on how effect is given to *Article 2* of the Convention, so that the improvement of living standards is considered as "the principal objective in the planning of economic development". The Committee also requested information on the measures taken to promote cooperatives and improve the living standards for workers in the informal economy (*Articles 4(e)* and *5* of the Convention). In its report, the Government affirms its continued commitment to programmes that support a stable macroeconomic environment which facilitates the economic growth required for sustainable and inclusive development. The Government indicates that this commitment is expressed through: the development of projects and programmes providing training and apprenticeship opportunities for young persons; the creation of an investment-friendly environment in areas consistent with its growth policy; and the institution of mechanisms aimed at disrupting criminal networks and protecting Jamaica's borders. The Committee notes the measures taken by the Government to improve the standards of living of workers in both the formal and informal economies. In this respect, the Government refers to Vision 2030 Jamaica – National Development Plan (2009) as the guiding social and economic policy framework for the country, which places people at the core of development. The Vision 2030 plan refers to: development of a Social Protection Strategy in 2014 aimed at enhancing social security for the population; the definition of the key elements of a social protection floor to ensure the provision of basic income security and basic social services for all citizens, particularly for people in vulnerable situations; and the development and approval in 2017 of a revised National Policy on Poverty and accompanying National Poverty Reduction Programme. The Government highlights that key tenets of its poverty reduction and social protection strategies include building resilient livelihoods and the extension of social security provisions to persons in the informal economy as well as to workers in non-formal employment relationships. Additional measures include the establishment of a

National Social Protection Committee in 2014 and the National Poverty Reduction Programme Committee in 2018, to facilitate multi-sectoral collaboration and partnerships through provision of policy advice and coordination, the approval in 2017 of an International Migration and Development Policy, which addresses a range of labour and social security issues relevant to migrant workers; and the approval of a revised National Policy for Senior Citizens as a Green Paper in 2018, which offers strategies for participation, social inclusion, active ageing and improved standards of living to older people and their families. **Noting that the Government does not provide information on measures taken to promote cooperatives, the Committee reiterates its request that the Government provide detailed information on measures taken to encourage and assist producers' and consumers' cooperatives (Article 4(e)). The Committee further requests the Government to provide detailed updated information, including disaggregated statistical data and copies or extracts of studies or legislative texts, on the impact of the measures taken by the Government to give effect to Article 2 of the Convention, in particular of the Vision 2030 Jamaica –National Development Plan. With respect to Article 3 of the Convention, the Committee requests the Government to indicate the measures taken to study the causes and effects of migratory movements which may cause disruption of family life and other traditional social units and to control those movements.**

Part IV. Article 11. Remuneration of workers. Protection of wages. The Committee once again recalls that, for some years, it has been requesting the Government to provide information on measures taken or envisaged to give effect to *Article 11* of the Convention, in particular *Article 11(8)*. The Government reiterates that it has not adopted legislation directly aiming to ensure the proper payment of all wages earned, as required by *Article 11(1)* of the Convention, but that section 11 of the Minimum Wage Act requires employers to maintain records demonstrating their compliance with minimum wage provisions. The Government refers to section 16(1) of the Employment (Termination and Redundancy Payments) Act, which requires employers to keep records in relation to each of their employees. The Committee notes that this Act relates to redundancy payments and not to wages, and does not give effect to the provisions of *Article 11*. With respect to compliance, the Government indicates that the Pay and Conditions of Employment Bureau (PCEB) of the Ministry of Labour and Social Security is mandated to carry out routine and random inspections in business establishments, and joint (inter-agency) inspections are also carried out. The Committee notes that public employers are required to maintain payroll registers for purposes of calculating monthly remuneration of employees (section 5.13.1.5 as regulated by the Financial Administration and Audit Act, Financial Instructions, Version 1, of 1 January 2017, governing payroll disbursements and allowances). The Committee notes that the Government has not provided information on the manner in which it is ensured that employers issue statements of wage payments to workers which reflect not only the minimum wage, but all wages earned by their employees. Nor has the Government provided information on the measures taken to give effect to *Article 11(8)*, by requiring workers to be informed of their wage rights and to prevent any unauthorized deductions from wages. **The Committee therefore once again requests the Government to provide specific information in its next report on the measures taken to facilitate the supervision necessary to ensure the proper payment of all wages earned, and the keeping by employers of registers to ensure the issue to workers of statements of their wage payments (Article 11), as well as to provide information on the outcomes of inspections. The Committee also reiterates its request that the Government provide specific information on the policies, practices or any other measures adopted indicating, where appropriate, the relevant provisions of legislation and administrative regulations which ensure the proper payment of all wages earned, as provided under each of the subparagraphs of Article 11 of the Convention for both public and private sector employment.**

Article 12. Advances on wages. For a number of years, the Committee has been requesting the Government to supply information on measures taken or contemplated to regulate advances on wages, as required under *Article 12* of the Convention. The Government once again indicates that there is no legislation regulating advances on wages, except in the public service, where the Financial Administration and Audit Act, Financial Instructions, Version 1, of 1 January 2017 regulates advances on wages. **The Committee requests the Government to indicate in its next report the measures taken or contemplated to regulate the advances on wages for workers in the private sector, in accordance with Article 12 of the Convention. Please also indicate the measures taken by the competent authority to make legally irrecoverable any advance in excess of the amount laid down by the competent authority and to prevent such an advance from being recovered by withholding amounts of pay due to workers at a later date.**

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2019

Article 3(2) of the Convention. Determination of hazardous work. The Committee previously noted that the draft list of types of hazardous work prohibited for persons below 18 years of age which was developed in consultation with the social partners would be included in the regulations of the new Occupational Safety and Health Act (OSH Act). It also noted the Government's indication that, pending the adoption of the OSH Act, improvements were being made to this list to make it more comprehensive. The Committee urged the Government to take the necessary measures to ensure the adoption of this list of hazardous work prohibited to children.

The Committee notes the Government's information in its report that the National Steering Committee on Child Labour has finalized the Hazardous Work List in April 2019 and that it is in the final stage of getting appended to the Child Care and Protection Act (CCPA) as well as to the OSH Bill which is currently being considered by a Joint Select Committee of the Houses of Parliament. **Noting that the Government has been referring to the compilation and adoption of this list since 2006, the Committee urges the Government to take the necessary measures to ensure the adoption, without delay, of the list of types of hazardous work prohibited for persons under 18 years of age, either with the CCPA or OSH Bill. It requests the Government to provide information on any progress made in this regard and to provide a copy once it has been adopted.**

Article 7(3). Determination of light work. In its previous comments, the Committee noted that section 34(1) and (2) of the CCPA permits the employment of a child between 13 and 15 years of age in an occupation included in a list of prescribed occupations, consisting of light work considered appropriate by the minister, and specifying the number of hours during which and the conditions under which such a child may be so employed. In this regard, the Government indicated that a draft list of occupations constituting light work was being examined by a panel consisting of safety inspectors, workers' and employers' representatives and would be included in the regulations of the new OSH Act.

The Committee notes the Government's indication that the Light Work List has been finalized through consultations with the members of the National Steering Committee on Child Labour and that amendments to the respective legislation to which it shall be appended will be completed at the soonest possible time. **The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure the adoption of the list of light work activities permitted for children between 13 and 15 years of age. It requests the Government to provide information on any progress made in this regard and to provide a copy once it has been adopted.**

Article 9(3). Registers of employment. The Committee previously noted that the available texts of legislation did not contain provisions requiring an employer to keep registers and documents of persons employed or working under him/her. It noted the Government's indication that the CCPA was being reviewed and would include provisions prescribing employers to keep records of children employed for artistic performances and requiring a person employing a child to notify and provide the Child Labour Unit of the Ministry of Labour and Social Security with relevant details in order to receive the grant of an exemption permit.

The Government states that the CCPA is being amended to include provisions in accordance with *Article 9(3)* of the Convention. **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments to the CCPA will include provisions prescribing registers to be kept by employers hiring children under 18 years of age, in accordance with Article 9(3) of the Convention, and that it will be adopted without delay. It requests the Government to provide information on any progress made in this regard, and to provide a copy once it has been**

adopted.

Labour inspection and the application of the Convention in practice. The Committee previously noted the Government's indication that the draft OSH Act would replace the Factories Act and provide an improved framework for labour inspectors with regard to monitoring cases of child labour in sectors where they hitherto had limited powers, including the informal sector. It also noted the Government's information that in the framework of the adoption of the new OSH Act, capacity-building workshops had been conducted for labour inspectors in order to provide an update on their new roles and responsibilities under the new Act. It noted however that labour officers' powers of inspection are limited to commercial buildings and factories, which greatly restricts their capacity to monitor child labour in the informal economy. The Committee urged the Government to ensure the adoption of the draft OSH Act and to continue to intensify its efforts to strengthen the capacity and expand the reach of the labour inspectorate to informal economy.

The Committee notes the Government's information that the Ministry of Labour and Social Security continues to provide training, workshops and sensitization sessions aimed at preparing labour inspectors to carry out their functions under the impending OSH Act. The Committee however notes from an ILO publication entitled *Child labour and the Youth Decent Work Deficit in Jamaica, 2018*, that expanding the Government's actual capacity to monitor formal workplaces remains a major challenge, and unregistered businesses in the informal economy are largely outside the formal inspection regime. The Committee notes that according to the report of the Jamaican National Youth Activity Survey, 2016, 5.8 per cent of children (38,000) between the ages of 5 and 17 years are engaged in child labour. Among these, 68.6 per cent of children (26,000) are involved in hazardous work. A vast majority of children are employed in private households (50.1 per cent), followed by wholesale and retail (20.7 per cent), and the agriculture and fishing sectors (17.4 per cent). The Committee notes with *concern* that a significant number of children are engaged in child labour, including in hazardous work. ***The Committee accordingly urges the Government to intensify its efforts to ensure the effective elimination of child labour, particularly in the informal economy and in hazardous conditions. In this regard, it strongly encourages the Government to intensify its efforts to strengthen the capacity and expand the reach of the labour inspectorate, including through the allocation of additional resources, in monitoring child labour in the informal economy. It requests the Government to continue to provide information on the measures taken in this regard and the results achieved.***

The Committee expresses the hope that the Government will continue to take into consideration the Committee's comments while revising the CCPA and the OSH Act. It further expresses the firm hope that the revised legislations will be adopted without delay.

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2019

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution. In its previous comments, the Committee noted the various provisions under the Sexual Offences Act which criminalize sexual offences against children, including: section 18(1)(a) which prohibits procuring a child under the age of 18 years for prostitution; and section 10(1) which prohibits any sexual relations with persons under the age of 16 years. The former offence entails a maximum penalty of imprisonment for 15 years and fine and the latter a penalty of life imprisonment. However, the Committee observed that there appeared to be no provision criminalizing the use of a child by a client for prostitution and requested the Government to take the necessary measures to enact provisions prohibiting such offences.

The Committee notes the Government's reference, in its report, to section 39 of the Child Care and Protection Act (CCPA), 2004, which provides for penalties to any person who employs a child under the age of 18 years in a night club or in any manner, uses a child for purposes contrary to decency or morality. Persons committing such offences shall be liable to a fine not exceeding 1 million Jamaican dollars (US\$7,128) or one year imprisonment and revocation of the licence to operate the nightclub. The Government also indicates that the amendments to the CCPA will explicitly address children being used for prostitution. In this regard, the Committee notes that according to the 2018 Report of the National Rapporteur on Trafficking in Persons (2018 Report on TIP), girls are victims of recruitment strategy by traffickers and are exploited in clubs, bars, massage parlours and hotspots for prostitution. ***Recalling that Article 3(b) of the Convention prohibits the use of a child under 18 years of age for prostitution, the Committee expresses the firm hope that the amendments to the CCPA will contain a prohibition on the use of a child under 18 years of age for the purpose of prostitution, in accordance with the Convention and that these amendments will be adopted without delay. It requests the Government to provide information on any progress made in this regard. The Committee further requests the Government to provide information on the application in practice of section 39 of the CCPA, as regards the number of persons prosecuted for the offences related to the sexual exploitation of girls employed in bars and nightclubs, and the convictions and penalties applied.***

Article 4(1). Determination of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

Articles 5 and 7(1). Monitoring mechanisms, penalties and the application of the Convention in practice. Trafficking of children and child prostitution. The Committee previously noted the establishment of the National Task Force Against Trafficking in Persons (NATFATIP) for the effective implementation of the National Plan of Action for Combating Trafficking in Persons; various awareness-raising measures taken to prevent trafficking as well as trainings and sensitization programmes provided to prosecutors, investigators, judges, labour inspectors, social workers and other public officials on trafficking in persons; and the amendments made to the Trafficking in Persons Act (TIP Act) 2009 thereby prescribing aggravating circumstances and stiffer penalties for trafficking of children under section 4A(2)(l). The Committee requested the Government to continue to take measures to ensure, in practice, the protection of children from trafficking and commercial sexual exploitation.

The Committee notes the Government's information that the CCPA was amended in March 2018 in order to increase the penalties of imprisonment for the offences of sale and trafficking of children to 20 years so as to reconcile these with the penalties established under the TIP Act. It notes that from 2015 to 2018, a total of five convictions for trafficking in persons were secured, of which three convictions were made against persons charged with trafficking of children under the age of 18 years. These convicted persons were sentenced to imprisonment from four to 16 years.

The Committee also notes the following information provided by the Government on the measures taken by the NATFATIP to combat trafficking in persons (TIP):

- several awareness-raising activities to provide information and sensitize the public on the common indicators of TIP and on how to prevent TIP and to identify victims of trafficking were undertaken. According to the 2018 Report TIP, 17,000 students, teachers, government officials and community members were sensitized through these initiatives;

- a curriculum on TIP has been developed and introduced in primary and secondary schools; and

- the Anti-Trafficking in Persons and Intellectual Property Vice Squad (A-TIP squad) conducted 78 training sessions and seminars, from 2017 to 2018, for prosecutors, judges, border control personnel and other law enforcement representatives on how to effectively identify and respond to trafficking in persons cases. The 2018 Report on TIP indicates that of the 76 victims of trafficking rescued until January 2018, over 50 per cent were children with the majority being boys who were victims of labour exploitation.

The Committee also notes the information provided by the Government in its report under the Forced Labour Convention, 1930 (No. 29), that a Child

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Protection Compact (CPC), a multi-year plan partnership aimed at reducing child trafficking by building effective systems of justice, child protection, prevention of abuse and exploitation of children was signed with the United States and officially launched on 14th February 2019. The Committee, however, notes that according to the 2018 Report on TIP, the occurrence of child trafficking is far greater in Jamaica than what has been reported. ***While noting the measures taken by the Government, the Committee encourages it to strengthen its efforts to ensure the protection of children from trafficking and commercial sexual exploitation, including through the activities undertaken by NATFATIP and the measures taken within the Child Protection Compact. It also requests the Government to continue to ensure that thorough investigations and prosecutions of perpetrators of the trafficking and commercial sexual exploitation of children are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. Furthermore, the Committee requests the Government to continue to provide information on the measures taken in this respect and on the results achieved, including the number and nature of prosecutions and penalties imposed for the offences related to the trafficking and commercial sexual exploitation of children.***

Article 7(2). Effective and time-bound measures. Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking and prostitution. The Committee previously noted that the National Plan of Action for Combating Trafficking in Persons provides for the establishment of mechanisms for the protection and care of victims with a focus on rescue, removal and reintegration. Noting that a very limited number of child victims were provided assistance, the Committee requested the Government to intensify its efforts to take effective and time-bound measures to ensure appropriate services to child victims of trafficking and commercial sexual exploitation, including child sex tourism, and to facilitate their rehabilitation and social integration.

The Committee notes from the Government's report that a Victim Protection Protocol was established by the NATFATIP to deliver guidelines for the care and protection of victims of trafficking. The Government also indicates that a Draft Protocol to guide Child Welfare Officials in handling victims of trafficking was prepared to guide officers of the Child Protection and Family Services Agency. It notes the Government's information that Shelter Guidelines and Standard Operating Procedures (SOP) were developed and that over 400 healthcare workers and over 30 labour officers and inspectors were provided training on the SOP in 2018. The Committee also notes the information provided by the Government on the support services provided for victims, including provision of shelter, food, clothing, transportation and primary healthcare; psychosocial support, counselling services and therapeutic intervention; legal services, immigration and travel assistance; access to education; and provision of welfare assistance. The Government further indicates that from 2015 to 2018, 11 victims were placed in shelters and five victims were repatriated. ***The Committee once again requests the Government to intensify its efforts, including within the framework of the National Action Plan for Combating Trafficking in Persons, to prevent children from falling victims to trafficking and commercial sexual exploitation and to provide for their removal from such situations and subsequent rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the results achieved in terms of the number of children reached through such measures.***

The Committee is raising other matters in a request addressed directly to the Government.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2019

The Committee notes the information provided by the Government that while the previous draft Labour Code has been withdrawn, new measures have been adopted to prepare a new Labour Code through tripartite consultations and with the technical assistance from the Office.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had requested the Government:

- to take the necessary legislative measures to ensure that workers are granted adequate protection against all acts of anti-union discrimination at the time of recruitment and throughout the course of employment (section 11 of the Protection of Employment Act only refers to protection against termination of employment on the grounds of union membership or participation in union activities); and
- to provide information on any development in relation to the Government's efforts to ensure that the sanctions provided for in the Protection of Employment Act be reviewed so that they are sufficiently dissuasive against all acts of anti-union discrimination.

The Committee notes the Government's indication that necessary changes will be reflected upon completion of the new Labour Code, taking into consideration the Committee's observations, to guarantee adequate protection to workers against acts of anti-union discrimination at all stages of the employment relationship. The Committee further notes the Government's indication that the Department of Labour continues to hold discussions to ensure that the existing sanctions outlined in the Act are increased according to the Committee's recommendations and that this matter will be given full consideration during the consultation of the draft Labour Code, which is being carried out. The Committee observes, however, that the first draft of the new Labour Code, attached to the Government's report, does not include provisions addressing the above-mentioned matters.

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions that would explicitly provide for rapid appeal procedures, coupled with effective and dissuasive sanctions, against acts of interference. While the Committee notes the Government's indication that its observations will be taken into consideration during the consultations on the Labour Code revision exercise and that specific measures will be adopted, it observes that the first draft of the new Labour Code does not include any provision prohibiting any acts of interference and, therefore, neither does it include provisions providing for rapid appeal procedures and sufficiently dissuasive sanctions against acts of interference.

Article 4. Recognition of organizations for the purposes of collective bargaining. In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions to explicitly recognize and regulate in the legislation the right to bargain collectively, in conformity with the Convention. The Committee notes the Government's indication that this matter will be addressed during the consultative phase of the new draft Labour Code, taking into account the Committees' observations. It also notes that the new draft Labour Code is silent in this regard.

In these circumstances, the Committee requests the Government to take all the necessary measures to include provisions in the new draft Labour Code so as to ensure full conformity with the Convention. The Committee trusts that the Government will take full advantage of the technical assistance of the Office and will soon be able to report progress in this regard.

Promotion of collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

Article 1 of the Convention. Work of equal value. Legislative developments. In its previous comment, the Committee requested the Government to give full legislative expression to the principle of the Convention and to take the necessary measures to amend the Equal Pay Act 2012 so that it would clearly set out the principle of equal remuneration between men and women for work of equal value. Noting the Government's statement that the draft Labour Code had been tabled before the National Tripartite Committee, the Committee indicated that it trusted that all efforts would be made to include provisions explicitly guaranteeing equal remuneration for men and women for work of equal value. The Committee notes with *regret* the Government's indication that it was unable to enact the draft Labour Code. It also notes that a new draft has been prepared and was expected to be presented to, after review by the National Tripartite Committee and the holding of national consultations. It also notes that it is expected that new legislation would be enacted at a later stage to cover, inter alia, issues of equal opportunity and sexual harassment. The Committee refers to its previous observation on the issue and emphasizes, once again, the fundamental importance of the full implementation of the principle of equal remuneration for men and women for work of equal value, a concept which is wider than just "equal pay for equal work" and the cornerstone of the Convention. ***In view of the above, the Committee asks the Government to provide information on the obstacles encountered in the adoption of the draft Labour Code and on any developments in that regard. The Committee reiterates its request that the Government give full legislative expression to the principle of the Convention, as soon as possible, and in particular that the new legislation include provisions explicitly guaranteeing equal remuneration for men and women for work of equal value.***

The Committee is raising other matters in a request directly addressed to the Government.

C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

With reference to its previous observation, the Committee notes the reply of the Government that, contrary to *Article 7 of the Convention*, no provision is made in national legislation for the payment of additional compensation for injured workers requiring the constant help of another person; and that compensation for all expenses (medical, surgical or pharmaceutical, etc.) is limited to 20,000 East Caribbean dollars, whereas no such ceiling is foreseen in the Convention in case of occupational accident (*Articles 9 and 10 of the Convention*). The Committee *regrets* to note that since the entry into force of the Convention in 1980 the Government has been unable to bring the provisions of the national legislation in conformity with *Articles 7, 9 and 10 of the Convention*. *In this situation, the Committee deems it necessary to ask the Government to undertake an actuarial study which will determine the financial implications of the introduction into the national insurance scheme of the benefits guaranteed by these Articles of the Convention. The Committee wishes to remind the Government of the possibility to avail itself of the technical assistance of the Office in this respect.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and to join organizations. For several years, noting that the "protective services" – which include the fire services and prison officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures to ensure the right to organize to fire service personnel and prison staff. The Committee notes that section 325 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to organize in the new legislation. *Noting that the Government indicates in its report that the issue of the right to organize fire service personnel and prison staff would be raised with the Minister of Labour, and recalling previous indications that the workers of these services benefit in practice from this right, the Committee once again requests the Government to indicate the manner in which service personnel and prison staff are assured the organizational rights provided in the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 1, 2, 4 and 6 of the Convention. For several years, noting that the "protective services" – which include the fire services and correctional officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures in order to grant fire service personnel and correctional staff the rights and guarantees provided for in the Convention. The Committee notes that the Labour Act 2006, which entered into force on 1 August 2012, repeals the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999. It further notes that section 355 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to bargain collectively in the new legislation. *Noting that the Government indicates in its report that fire service personnel and prison staff benefit in practice from the right to collective bargaining, and that the issue would be raised with the Minister of Labour, the Committee once again requests the Government to take the necessary measures to expressly grant in the legislation the right to collective bargaining to fire service personnel and correctional staff.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1(a) of the Convention. Definition of remuneration. The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term "remuneration". The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of "total remuneration" as "all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment". The Committee notes that section 2 of the Labour Code, continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of "remuneration" in *Article 1(a)* which includes not only "the ordinary, basic or minimum wage or salary" but also "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" (see 2012 General Survey on the fundamental Conventions, paragraph 686). *The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at*

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least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker's employment.

Different wages and benefits for women and men. The Committee notes with regret that despite the Government's previous announcement in this respect, the Labour Code (Amendment) Act No. 6 of 2011 does not repeal the existing laws and regulations establishing differential wage rates for men and women, nor does it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. ***The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Legislation. The Committee notes with interest that an Occupational Safety and Health (OSH) Bill has been developed in cooperation with the ILO, which addresses several of the previous points raised by the Committee (such as the powers of labour inspectors provided for under *Article 13 of the Convention*, the notification of the labour inspectorate of industrial accidents and cases of occupational diseases provided for under *Article 14*, etc.), and that relevant national consultations with various stakeholders, including employers' and workers' representatives, are currently being held. *The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of this Bill and to communicate a copy of the relevant OSH Act, once adopted. It expresses the hope that this OSH Act will give full effect to the Convention.*

Articles 20 and 21 of the Convention. Annual report on the work of the labour inspection services. The Committee notes that, once again, no annual labour inspection report has been received by the Office, nor has any statistical information been communicated by the Government. It notes the Government's indication according to which ongoing technical assistance is provided by the Office for the implementation of the Labour Market Information System (LMIS) which, as the Committee had previously noted, contains statistics on labour inspection and is intended to be used to record and generate reports on labour inspections. It also notes the Government's indications that comprehensive statistical labour inspection reports are expected to be published separately as from 2014, provided that inspection data are correctly and regularly entered in the LMIS database. *The Committee requests the Government to make every effort, including the training of staff in the use and operation of the LMIS, to allow the central labour authority to publish and communicate to the ILO, together with its next report due in 2016, an annual labour inspection report containing full information as required under Article 21(a)-(g) of the Convention.* The Committee recalls also that the Government could make use of the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in a labour inspection report.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1 of the Convention. Work of equal value. The Committee notes with regret the Government's indication that there has been no progress regarding the matter of amending section 3(1) of the Equal Pay Act of 1994, which provides for "equal pay for equal work" and is therefore not in conformity with the principle of equal remuneration for men and women for work of equal value. *The Committee requests the Government once again to take steps to amend section 3(1) of the Equal Pay Act without further delay in order to ensure that the legislation provides for equal remuneration for men and women for work of equal value, as specified in the Convention; and to provide information on any progress achieved in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2019

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2020, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 3(d) and 4(1). Hazardous work. The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age.

The Committee notes the Government's indication that consultation with stakeholders to address the issues related to hazardous work by children will be commenced shortly and a draft report will be prepared by the end of 2013. *The Committee expresses the firm hope that consultations with the stakeholders including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.*

Article 7(1). Penalties. *The Committee requests the Government to provide information on the application in practice of the sanctions established in the Trafficking Act of 2011 for the offences related to the sale and trafficking of children and for the use, procuring and offering of children for prostitution and child pornography.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**Observation 2019**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019, relating to the issues raised by the Committee below.

Articles 2, 3 and 4 of the Convention. Trade Unions Acts (TUA). In its previous comments, the Committee requested the Government to take the necessary measures to amend the following provisions of the TUA so as to bring it into full conformity with the Convention: (i) section 10 that requires unions to register, subjects the registration to the permission of the Registrar and provides that in the event of failure to register, the officers or an unregistered trade union are liable to a fine of 40 dollars for every day for which the union remains unregistered; (ii) section 16(4) that allows the Registrar to order an inspection of the books, accounts, securities, funds and documents of the trade union; section 18(1)(d) that enables the Registrar to withdraw or cancel the certificate of registration on certain grounds; and (iv) section 33 that limits the rights of unions to administer their funds in relation to political activities. The Committee notes the Government's indication that it is currently undertaking a legislative reform project aimed at reviewing and amending the TUA among other pieces of legislation. To that end, the Government is engaging with various stakeholders, including through the National Tripartite Stakeholder Consultation. It adds that the comments of the Committee, as well as of the ITUC, are being reflected in a National Policy Position Paper for the Amendment of the TUA, which will then form the basis of discussions through the National Tripartite Stakeholder Consultation on the TUA. Any additional comments and suggestions emanating from the consultative process will be used to finalize the National Policy accordingly. The finalized National Policy will be submitted to the Cabinet and will be the basis for the formulation of the draft legislation to amend the TUA. **The Committee takes note of these developments and trusts that the TUA will be amended in the near future and requests the Government to provide a copy thereof once adopted.**

Article 3. Right of organizations to organize their activities freely and to formulate their programmes. In its previous comments, the Committee expressed the hope that the amendment of the Industrial Relations Act (IRA) will address its comments related to sections 59(4)(a) concerning the majority required for a strike; 61(d) and 65 concerning recourse to the courts by either party or by the Ministry of Labour to end a strike; and 67 and 69 concerning services in which industrial action may be prohibited. The Committee notes the Government's indication that a Draft Policy Paper for the Amendment of the IRA was submitted to Cabinet in January 2017 as well as to the National Tripartite Advisory Council (NTAC). The Committee **regrets** the lack of progress in amending the IRA. **The Committee firmly expects that the IRA will be amended without further delay and requests the Government to provide information on all developments in this regard.**

The Committee also requested the Government to clarify how the categories of workers excluded from the scope of the IRA pursuant to section 2(3) (members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other managerial responsibilities) enjoyed the rights under *Article 3* of the Convention. The Committee notes the Government's indication that all citizens enjoy the right to freedom of association by virtue of section 4(j) of the Constitution. It also indicates that intrinsic to this right is the freedom of all citizens to form and join trade unions and organize their trade union activities accordingly and that there is nothing in the Constitution, the TUA, or any other law that prevents any person (including those excluded from the definition of workers by virtue of section 2(3) of the IRA) from enjoying their rights under *Article 3* of the Convention. The Government refers to the following examples of trade unions that represent teachers in the country: the Trinidad and Tobago Unified Teacher's Association, which represents approximately 11,000 active teachers and 3,000 retired teachers, has its own rules, drawn up by its members, and holds regular elections; and the West Indies Group of University Teachers, which is recognized by the University of the West Indies as the exclusive bargaining agent for the academic, senior administrative and professional staff.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**Observation 2019**

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019. The Committee notes that, in the first part of its observations, ITUC raises legislative aspects examined by the Committee in the present observation and that, in the second part, ITUC makes reference to allegations of refusal from several employers to negotiate with unions and of anti-union dismissals in a state telecommunications company. **The Committee requests the Government to provide its comments on the observations mentioned above.**

Workers covered by the Convention. In its previous comments the Committee requested the Government to indicate the manner in which the categories of workers excluded from the Industrial Relations Act (IRA), such as members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, members of staff or employee of the Central Bank, and persons in enterprises with policy and other managerial responsibilities, enjoy the guarantees under the Convention. The Committee notes the Government's indication that this matter is present in the New Draft Policy Paper for the Amendment of the IRA, currently under discussion in the Cabinet, as consideration is being given to extend the scope of workers to include classes of persons now excluded by virtue of section 2(3). The Committee further notes the Government's statement that some of the abovementioned categories of workers exercise in practice the right to collective, giving the example of two unions (Trinidad and Tobago Unified Teachers Association, the West Indies Group of University Teachers) that cover members of teaching service or employed in a teaching capacity by a university or other institution of higher learning, and one (Banking Insurance and General Workers Union) which covers workers of the Central Bank of Trinidad and Tobago. **While taking due note of the information provided by the Government, the Committee hopes that the amendment of section 2(3) of the IRA will be completed in the near future so as to bring it into conformity with the Convention.**

Article 4 and 6 of the Convention. Representativeness for the purposes of collective bargaining. In its previous comments, the Committee referred to the need to amend section 24(3) of the Civil Service Act, which affords a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the civil service. The Committee notes the Government's indication that the amendment of section 24(3) of the Civil Service Act along the lines suggested by the Committee could lead to inter-union rivalry, disruption in work and loss of productivity, which could negatively impact the stable industrial relations climate that currently exists, and for this reason is no longer under consideration. **In these circumstances, recalling that the Convention is compatible with systems where the most representative union enjoys preferential or exclusive bargaining rights, the Committee once again underlines that decisions concerning the most representative organization should be made by virtue of objective and pre-established criteria so as to avoid any opportunities for partiality or abuse. Highlighting that the Government may avail itself of the technical assistance of the Office, the Committee thus reiterates its firm hope that, in consultation with the representative unions, section 24(3) of the Civil Service Act will be modified in the near future so as to bring it into conformity with the Convention. The Committee requests the Government to indicate any developments in this regard.**

In its previous comments, the Committee also referred to the need to amend section 34 of the IRA, which provides that in order to be recognized as a collective bargaining agent, a trade union should represent 50 per cent of the workers in the bargaining unit. The Committee recalls that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. The Committee notes the Government's indication that the Industrial Relations (Amendment) Bill, introduced in 2015, lapsed and has been replaced by a new Draft Policy Paper for the Amendment of the IRA, which was submitted to

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Cabinet in January 2017 and is currently under consideration, having been referred to the National Tripartite Advisory Council (NTAC). *Given the time that has elapsed since its first observation regarding this matter, the Committee firmly hopes that the amendment of the IRA will be soon completed taking into account the Committee's observations and that measures will be taken to ensure that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions are able to negotiate, jointly or separately, at least on behalf of their own members. The Committee requests the Government to provide a copy of the Bill and to indicate any progress made in this respect.*

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2019

Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. Recalling that the Equal Opportunity Act, 2000, contains no specific provisions regarding equal remuneration for men and women for work of equal value, the Committee has been requesting for many years that the Government take steps to give full legislative expression to the principle of the Convention. It notes the Government's statement that the Industrial Relations Advisory Committee (IRAC) submitted a policy position paper on the basic terms and conditions of work to the Minister of Labour and Small Enterprise Development in May 2018 (and a revised paper in July 2018) and that national stakeholder consultations on employment standards were held in August and September 2018. These consultations focused on the IRAC's Policy Recommendations on Employment Standards and a proposed list of definitions. The Government adds that it has established gender focal points in each Ministry in order to address issues such as equal remuneration for men and women for work of equal value. The Committee recalls that *Article 2(2)(a)* of the Convention specifies national laws and regulations as a method of applying the principle of the Convention and that guidance provided by the Equal Remuneration Recommendation, 1951 (No. 90) supports legal enactment for the general application of the principle. It emphasizes that legal provisions that are narrower than the principle laid down in the Convention – in that they do not give expression to the concept of "work of equal value" – hinder progress in eradicating gender-based pay discrimination (see 2012 General Survey on the fundamental Conventions, paragraph 679). In this regard, it notes with **concern** the lack of progress towards a full legislative implementation of the principle contained in the Convention. ***In view of the above, the Committee urges, once again, the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress in this regard.***

Articles 1 and 2. Assessing and addressing the gender pay gap. In its previous comment, the Committee, noting the Government's commitment to address the gender pay gap and occupational gender segregation, requested it to provide information on the concrete steps taken and the progress made in this regard. It notes the Government's statement that initiatives aimed at addressing these issues are being developed in the National Policy on Gender and Development, without further details about the nature of these initiatives, their timeframe and the results achieved. It notes, from the statistics provided by the Government on the average monthly income by sex and occupational group that, in 2016, the gender pay gap between men and women ranged from 15.5 per cent (for professionals, down from 21.5 per cent in 2012) and 15.6 per cent (for technicians and associate professionals, up from 10 per cent in 2012) to 38.7 per cent (for service and shop sales workers, down from 41.7 per cent in 2012). The statistics concerning the average monthly income by sex and industry also show a gender pay gap in favour of men (except in electricity and water), ranging from 5.2 per cent in the transport, storage and communication industry (down from 8.6 per cent in 2012) to 30.8 per cent in the wholesale and retail trade, restaurants and hotels (down from 34.9 per cent in 2012). While acknowledging that these statistics do not necessarily compare work of equal value, the Committee underlines that they reflect a predominant gender pay gap in favour of men as well as an occupational gender segregation. ***The Committee asks the Government to provide information on the initiatives developed and the concrete measures taken within the framework of the National Policy on Gender and Development and the results achieved. It also asks the Government to continue to provide detailed statistical data on the earnings of men and women according to occupational group and industry, as well as information on the minimum wage.***

Collective agreements. In its previous comment, the Committee asked the Government to indicate how it is ensured that, in determining wage rates in collective agreements, the principle of equal remuneration for men and women for work of equal value is effectively taken into account by the social partners and applied, and the work performed by women is not being undervalued in comparison to that of men who are performing different work. It noted the continued use of non-gender-neutral terminology to describe certain categories of workers (such as greaseman, watchman, handyman, charwoman, female scavenger, etc.) which may serve to intensify sex segregation of occupations. The Committee notes the Government's reiterated support of the principle in question and its indication that, during the on-going re-grading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation, gender-neutral designation of posts will be given consideration in order to ensure the application of the principle. ***The Committee asks the Government to indicate the results of the re-grading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation. It also asks the Government to indicate how the principle of equal remuneration for men and women for work of equal value is effectively taken into account by the social partners and applied when determining wage rates in collective agreements, in particular in sectors or occupations where women are heavily concentrated.***

The Committee is raising other points in a request addressed directly to the Government.

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2019

Article 1(1)(a) of the Convention. Discrimination based on sex. In a comment adopted in 2015 and repeated in 2017 and 2018, the Committee recalled that for many years, it had been expressing concern about the discriminatory nature of several provisions concerning married female police officers. It noted the Government's indication that Regulation 52 of the Police Commission Regulations, which provides that the appointment of a married female police officer may be terminated on the ground that her family obligations are affecting the efficient performance of her duties, would be put before the Police Service Commission for consideration. The Committee also recalled the potentially discriminatory impact of section 14(2) of the Civil Service Regulations which requires a female officer who marries to report the fact of her marriage to the Public Service Commission. The Committee requested the Government to take the necessary steps to revoke Regulation 52 of the Police Commission Regulations and to provide information on the measures taken to amend section 14(2) of the Civil Service Regulations to eliminate any potentially discriminatory impact. The Committee notes the Government's indication that the request for the revocation of Regulation 52 was submitted to the Police Service Commission and is still ongoing, and that information on the amendment of section 14(2) of the Civil Service Regulations would be transmitted in a subsequent report. The Committee notes with **deep concern** that very little progress seems to have been made with regard to these long-standing issues. ***In view of the above, the Committee is bound to ask, once again, that the Government revoke Regulation 52 of the Police Commission Regulations without further delay and to amend section 14(2) of the Civil Service Regulations in order to eliminate any potentially discriminatory impact, for example by requiring notification of name changes for both men and women.***

The Committee is raising other points in a request addressed directly to the Government.

C125 - Fishermen's Competency Certificates Convention, 1966 (No. 125)

Observation 2019

Implementing legislation on fishers' competency certificates. The Committee had noted in its previous comment the absence of laws and regulations giving effect to the requirements of the Convention and had requested the Government to provide a copy of the Safety of Fishing Vessel Regulations which was under preparation. The Committee *regrets* to note the Government's indication in its report that the regulations governing all aspects of fishing vessel operations, including fishers' certificates of competency, are still being developed. *The Committee therefore urges once again the Government to adopt the necessary measures without delay to regulate fishers' competency certificates.*

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)**Observation 2019**

The Committee notes the observations received from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) on 9 October 2019. *The Committee requests the Government to provide its comments in this respect.*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 4(1), 5 and 7(1) of the Convention. Determination of types of hazardous work, monitoring mechanisms and penalties. Hazardous work in agriculture from 16 years of age. The Committee previously noted that section 213 of the Fair Labor Standards Act (FLSA) permits children aged 16 years and above to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor. The Government, referring to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), stated that Congress considered it as safe and appropriate for children from the age of 16 years to perform work in the agricultural sector. However, the Committee noted the allegation of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) that a significant number of children under 18 years were employed in agriculture under dangerous conditions, including long hours and exposure to pesticides, with risk of serious injury. The Committee also took note of the observations of the International Organisation of Employers (IOE) and the United States Council for International Business (USCIB) that section 213 of the FLSA, which was the product of extensive consultation with the social partners, is in compliance with the text of the Convention and Paragraph 4 of Recommendation No. 190.

The Committee took note that the Department of Labor's Wage and Hour Division (WHD) continued to focus on improving the safety of children working in agriculture and protecting the greatest number of agricultural workers. In addition, the Occupational Safety and Health Administration (OSHA) increased its focus on agriculture by creating the Office of Maritime and Agriculture (OMA) in 2012, which is responsible for the planning, development and publication of safety and health regulations covering workers in the agricultural industry, as well as guidance documents on specific topics, such as ladder safety in orchards and tractor safety.

The Committee also noted the Government's detailed information concerning the intensification of its efforts to protect young agricultural workers' occupational safety and health. While welcoming such measures, the Committee reminded the Government that work in agriculture was found to be "particularly hazardous for the employment of children" by the Secretary of Labor. In this regard, according to the website of the OSHA, agriculture ranked among the most dangerous industries.

The Committee notes the Government's statement in its report that it remains firmly committed to seeking improvements in child labour safety and health, in particular in agriculture, in full compliance with the requirements of Convention No. 182. There have been numerous increases in the protections of children in both law and practice relating to agricultural work. Chief among these efforts, the WHD continues to focus on improving the safety of children working in agriculture, building upon the Agency's long history of protecting workers, especially children, in the industry. One of the WHD's key strategies is to use education and outreach to promote understanding of agricultural employers' and workers' rights and responsibilities alike. For example, the WHD provides guidance on child labour laws to youth, parents, educators and employers through its YouthRules! website, a comprehensive site providing information and resources for youth at work. The WHD provides a variety of fact sheets and e tools to employers and young workers to inform and train employers and young workers in a wide range of occupations, including agricultural occupations. In this regard, both the WHD, OSHA and the National Institute for Occupational Safety and Health (NIOSH), continue to engage in extensive outreach activities to reach young workers, such as career expositions and fairs, training seminars, and youth programmes to keep young persons under 18 safe and healthy on the job and to make them aware of their rights under the OSH Act. For example, OSHA and NIOSH have collaborated to inform young workers about the hazards of tobacco farming, providing information about green tobacco sickness as many young workers work in tobacco harvesting fields in the United States. Information on green tobacco sickness is highlighted on OSHA's primary website for agricultural operations.

With regard to enforcement, the Committee notes the Government's indication that the WHD has opened new offices, hired new inspectors to maintain an inspection force of approximately 1,000 inspectors, and increased the number of outreach and planning specialists to cover nearly all of the agency's 55 district offices. Nearly 700 WHD employees speak a language in addition to English (more than 500 WHD employees speak Spanish). WHD's multilingual employees speak nearly 50 languages.

Moreover, the WHD further strengthened its protection of young workers by making full use of the regulatory tools available to it, including the new "hot goods" provision and the Child Labor Enhanced Penalty Program, which have enabled the WHD to impose increased penalties on violators of child labour law. For example, during the reporting period, the WHD imposed penalties of \$40,000 and \$56,000 on manufacturers in Ohio and Indiana for child labour violations that had resulted in severe injuries to young workers. In December 2015, the WHD assessed a \$63,000 penalty against an Ohio chicken processing facility for violating child labour laws when a 17 year-old was severely injured operating and cleaning hazardous poultry processing equipment. The WHD assessed a nearly \$2 million penalty on a Utah pecan grower for child labour violations in April 2015.

The Committee further notes the Government's statement that the health and safety of all agricultural workers, including children, is further protected through the Environmental Protection Agency's Worker Protection Standard (WPS) (40 C.F.R. Part 170), which protects over 2 million agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply crop pesticides) who work at over 600,000 agricultural establishments (farms, forests, nurseries and greenhouses) from occupational exposure and provides information about avoiding pesticide exposure, what to do in the event of an accidental exposure, and when to stay out of a pesticide-treated area. The Government points out that although previously, there was no federal minimum age for handling agricultural pesticides, this standard has been revised to provide increased protections for workers which take effect in January 2017. In this regard, the Committee notes with interest that, under the revised standard children under 18 are prohibited from handling agricultural pesticides.

The Committee finally notes the Government's information regarding the youth surveys conducted by the US Department of Agriculture's National Agricultural Statistics Service (NASS), which developed a surveillance system to track and assess the magnitude and characteristics of non-fatal injuries to youth on US farming operations. Two types of youth surveys are conducted by NASS for NIOSH, one of which is the Childhood Agricultural Injury Survey (CAIS), which is representative of all farms in the country.

The most recent CAIS collected data for youth and youth injuries that occurred during the 2014 calendar year. For 2014, there were an estimated 892,000 youth under 18 years of age living on (household youth) or hired to work on US farms. Of this total, there were 744,000 household youth under 18 years of age, of which 376,000 (50.5 per cent) were reported to have performed work on the farm during the year. The remaining 148,000 youth were hired to work on these farms. Combining household workers with hired workers resulted in an estimated 524,000 youth under 18 years of age who worked on farms in 2014, down from 854,000 working youth under 18 years of age in 2001. The 2014 CAIS indicates that there were an estimated 10,400 injuries to all youth under 18 years of age on US farms, with 64 per cent of injuries occurring to household youth. An estimated 30 per cent of these injuries were work-related.

The Committee notes the Government's statement that the overall number of injuries to youth under 18 years of age on farms decreased by 63 per cent between 1998 and 2014 (28,100 to 10,400), with work-related injuries decreasing by 70 per cent over the same period. An examination of the combined CAIS estimates from all six years of the survey (2001, 2004, 2006, 2009, 2012 and 2014) finds an estimated 34,000 working youth suffered injuries on US farms, of which 3,600 were under the age of 10 years, 13,900 were between the ages of 10 and 15 years, and 8,400 injuries were youth between 16 and 17 years of age. Lacerations and fractures were the most common types of injuries reported in 2014.

The Committee takes due note of the various awareness-raising, educational, inspection and enforcement initiatives taken by the Government to protect the

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health and safety of young persons working in agriculture and to reduce the number of their work-related injuries on farms. However, the Committee further notes that despite the various government initiatives and programmes to better protect the health and safety of children working in the agricultural industry, a number of children under 18 years still suffer injuries, some serious, while engaged in farm work. In this regard, the Committee recalls that work which, by its nature or the circumstances in which it is carried out was likely to harm the health, safety or morals of children, constitutes one of the worst forms of child labour and, therefore, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. While *Article 4(1)* of the Convention allows the types of hazardous work to be determined by national laws or regulations or the competent authority, after consultation with the social partners, the Committee notes that in practice, the agricultural sector, which is not on the list of hazardous types of work, remains an industry that is particularly hazardous to young persons. *The Committee accordingly encourages the Government to continue taking effective and time-bound measures to ensure that children under 18 years of age only be permitted to perform work in agriculture on the condition that their health and safety are protected and that they receive adequate specific instruction. It requests the Government to pursue its efforts to strengthen the capacity of the institutions responsible for the monitoring of child labour in agriculture, to protect child agricultural workers from hazardous work. The Committee also requests the Government to continue providing detailed statistical information on child labour in agriculture, including the number of work-related injuries of children working in agriculture, as well as the extent and nature of child labour violations detected, investigations carried out, prosecutions, convictions and penalties applied.*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.