



Economic and Social Council

Distr.
GENERAL

E/1978/8/Add.27

11 October 1979

ORIGINAL: ENGLISH

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

Reports concerning rights covered by articles 6 to 9 of the
Covenant, submitted by States Parties to the Covenant in
accordance with Council resolution 1988 (LX)

JAMAICA 1/

[20 September 1979]

ARTICLE 6. THE RIGHT TO WORK

A. In practice, the position in Jamaica has been that all Jamaican nationals have the right to work. It would seem that this right in Jamaica is so fundamental that it was not deemed necessary for it to be provided in the Constitution.

The right of foreign nationals to work in Jamaica is governed by the Foreign Nationals and Commonwealth Citizens (Employment) Act, 1964.

B(1) The right of everyone to gain his living by work which he freely chooses or accepts without discrimination has been the policy of succeeding Jamaican Governments and has been restated by the present Government under their ideology of democratic socialism.

In national practice there is freedom from compulsion and from discrimination in the choice of and access to employment. These rights are implied under the Constitution of Jamaica.

1/ The documents referred to in this report are available for consultation in the files of the Secretariat. The list of reference material is attached to this report.

B (2) Policies and techniques for economic, social and cultural development and full and productive employment ...

It should be noted that in keeping with its declared policy of democratic socialism, Jamaica has ratified the International Labour Convention (No. 122) concerning Employment Policy. This Convention is designed to ensure that member States which ratify it "shall declare and pursue as a major goal an active policy intended to promote full productive and freely chosen employment with a view to stimulating economic growth and development in the related areas".

The policies and techniques pursued in this direction and the related areas are those contained in the Five-Year Development Plan (1978-1982). This Plan is a continuation and expansion (with strategy adjustments) of policies previously established by Government for structural reform and social change. These policies are aimed at the redistribution of income and economic benefits and the participation of all groups in the social, economic and political life of the country, as well as securing greater economic self-sufficiency.

The broad policy objectives are:

- (i) Consolidation and development of the mixed economy in which the State dominates basic industries and the private sector is regulated by controls and incentives in the national interest;
- (ii) Economic policy aimed at:
 - (a) Adequate supply and effective and equitable distribution of necessities to the masses (in respect of food, housing, clothing, employment, education, medical care etc.);
 - (b) Reduction of the present structural dependency of the economic system by developing linkages between and within the major producing sectors
- (iii) Social policy aimed at supplying adequate social services and promoting social justice in the widest and deepest sense, i.e. social and economic egalitarianism and the promotion of participatory forms of social, economic, and political organization, e.g. worker participation;
- (iv) Spatial and physical planning conditioned by the need to integrate the economic and social aspect of development and to reconcile these with the objectives of promoting a balanced regional growth;
- (v) Foreign relations policy to limit dependence on capitalist countries and to widen relations with socialist and other third world countries.

The main overriding constraint of the Five-Year Plan, was, and is, the acute foreign exchange shortage. Because of this, since early 1977, the capacity to import has been severely restricted and this resulted in falling output and employment in several critical areas of the economy.

During 1977/78, in an effort to resuscitate the economy, the Government launched the Emergency Production Plan and made a three-year Agreement with the International Monetary Fund.

The Emergency Production Plan aimed at identifying available domestic resources which could realize maximum production subject to the foreign exchange constraint. The IMF Agreement was later to assist in relieving the foreign exchange "bottleneck" thus facilitating the Production Plan not only in increasing the level of production but also of employment opportunities. The Government's Special Employment Programme (SEP) through labour intensive projects was a major instrument in the creation of employment.

In addition a general policy on prices and incomes was formulated in order to permit greater operating surpluses to be generated for investment. Corrective fiscal and foreign exchange measures were also taken.

To date these measures have resulted in:

An appreciable reduction in the balance of trade and the budget deficit;

Significant growth in real output in domestic agriculture and in the bauxite/alumina sector.

Notwithstanding the measures adopted, inflation spiralled during 1978, resulting in a decline in employment.

A number of specific target areas have been now identified where new employment can be generated taking into account the present financial constraints.

These are:

Through the reinvestment of the surpluses resulting from application of the prices and incomes policies, in the better utilization of existing capital stock and in labour-using rather than labour-saving technologies;

Sector plans to take specific account of the need for new sources of job creation, e.g., the Pioneer Farms Programme and plans for small business manufacturing and craft development (designed to increase job opportunities for low-income groups);

Development of small community and co-operative enterprises in both urban and rural areas.

(The Community Council is recognized (legally) as the primary unit of social and political organization at this level).

Government sector

In the government sector there is expected to be reorganization of the entire structure aimed at increasing productivity and effectiveness.

Human and natural resources

Policy will be concerned with the management of and provision for, the accelerating number of young persons within the 15-19 age group (25.2 per cent in 1975 and a projected 32 per cent in 1983) and the continuation of measures to control population growth.

Priority will be given to the development and expansion of educational facilities (including the literacy programme), training and employment for youth and health care and adequate nutrition for all.

In addition, the supportive programmes for special groups such as the very young, the aged and the handicapped will be further developed.

A new concept related to social defence and rehabilitation of prisoners has become operative.

Social policies are implemented through the following national authorities:

Social Development Commission (Ministry of Youth and Community Development)

Ministry of Education

Ministry of Social Security

Ministry of Health and Environmental Control

Ministry of National Security

Ombudsman's Office.

Cultural

Since 1976, the cultural development programme has been increasingly projected with a view to reaching the society as a whole and encouraging them to participate more fully in, and contribute to, the social and economic development.

One of the major strides made in this direction was in the successful establishment of a Cultural Training Centre in October 1976.

The major objectives of the cultural programme are to increase cultural exchange and development through:

- (a) Educational institutions
- (b) The community
- (c) Preservation of national patrimony
- (d) International exchange.

Implementation of (a)

The Ministry of Education has been requested to identify its needs in terms of training in arts and their future buildings and expansion plans should include performance areas for the students.

Implementation of (b)

The Jamaica Festival Commission (to be renamed the Community Cultural Development Commission) is the organization which carries out activities designed to stimulate the development of local talent and it has been reorganized to more effectively meet this responsibility.

The Cultural Training Centre, with its emphasis on certain skills in the school of art, is providing in-depth training which will eventually result in a new body of persons within the communities who will be able to operate as self-employed persons in various crafts.

Implementation of (c)

Among the main institutions involved in this programme are the Institute of Jamaica and the Jamaica National Trust Commission. The Cultural Training Centre also conduct compulsory courses in Caribbean studies. The Institute of Jamaica, consisting of 11 divisions or sections, has been expanded and reorganized in keeping with government policy. In addition, it is proposed to establish a Museum of Man as a means of developing the Jamaican heritage.

Implementation of (d)

There will be an ongoing programme of cultural exchange within the limitations of the budget.

General

The Government has established a Ministry of Mobilisation Information and Culture which will interrelate with the various organizations responsible for implementing its cultural policies.

B(3) Measures to ensure the best possible organization of the employment market are effected through the Ministry of Labour as well as private employment agencies and the open labour market. The Ministry of Labour administers the following services:

- (i) Local employment services;
- (ii) The Overseas Employment Service;
- (iii) Foreign Nationals and Commonwealth Citizens (Employment) Act (Work Permits).

Citizens (Employment) Act (Work Permits)

The main objective of the services at (i) and (ii) is to provide free of charge, a means of exchange between employers and those seeking employment. Regarding (iii) legislation is presently being considered with a view to the abolition of work-permit fees.

The only criteria for selection and placement is the applicant's capabilities in relation to the job requirement.

/...

A brief summary of the services offered is given below:

Local employment

This service operates on an island-wide basis and is comprised of 8 branch offices and 16 registration centres which undertake registration, classification and placement of Jamaican citizens seeking local employment.

It seeks to provide facilities for the guidance of young people into suitable employment (hence a separate Youth Employment Section) and operates a Job Promotion Unit, a skill and trades testing service as well as a Seaman's pool.

Economic recession has caused a decrease in employment opportunities, with the result that the expansion in this service which was envisaged in 1976 did not materialize.

However, it is hoped that activities in this area will accelerate following implementation and consolidation of the employment policies contained in the Five-Year Development Plan (1978-1982).

Private development agencies

These agencies operate under licence granted by the Licensing Authority appointed by the Minister of Labour in accordance with the Employment Agencies Regulation Act. The Minister is also empowered to appoint inspectors for the purpose of investigating complaints and otherwise securing the proper observance of the provisions of this Act. (A copy of this Act is with the ILO).

The Overseas Employment Service

This Division is responsible for the selection, processing and transportation of contract workers for overseas and for providing the secretariat for the administration of the following labour programmes and any others which may arise:

- (i) Agricultural workers for the United States of America;
- (ii) Hotel waiters for the United States of America;
- (iii) Fishermen for Panama City, Panama and Florida, United States of America;
- (iv) Miscellaneous categories for Guantanamo Bay (United States Naval Base - Cuba);
- (v) Agricultural factory workers for Canada. Recruitment programmes in recess since 1976 are household helps for Canada and coopers for the United States of America. (There is a possibility that these may be revived).

The agricultural (farm work) programme has shown an increase in the number of workers recruited during 1977 and 1978 while the Guantanamo Bay programme reflected a decrease in 1977 but an increase in 1978. The hotel waiters' and fishermen's programmes have maintained a steady pace.

Foreign Nationals and Commonwealth Citizens (Employment) Act (Work Permits)

The section administering this Act is responsible for controlling the employment of foreigners and commonwealth citizens; ensuring a progressive reduction of the reliance of the economy on foreign expertise and skills and correspondingly ensuring job opportunities for Jamaicans.

Manpower planning

Procedures in connexion with the above are dealt with by the National Planning Agency as part of the development plan. This involves the development of manpower balance-sheets, employment and unemployment trends and surveys to determine and project training needs.

The Department of Statistics conducts biannual surveys which provide information on employment and unemployment by age group, sex, income, occupation and by industry etc., as well as data on levels of training and education.

The Ministry of Labour has established a Research and Planning Division embodying a Statistical and Analysis Unit to collect and analyse employment statistics and co-ordinate with the National Planning Agency in developing manpower plans.

B(4) Technical and vocational guidance and training programmes are provided by:

1. The Ministry of Youth and Sports and Community Development

This Ministry is responsible for the implementation of policies relative to non-formal technical and vocational guidance and training.

Trade training for the public and private sector is provided by the Vocational Training Division of this Ministry which comprises:

- (a) The Vocational Training Development Institute for training instructors and upgrading the skills of workers;
- (b) The Technical Support Services (includes in-plant training of workers);
- (c) The Apprenticeship Section (to promote apprenticeship training);
- (d) Industrial Training Centres (skill training for youth);
- (e) The Jamaica/German Automotive school (a specialist institution providing training for the automotive industry);
- (f) The Garment Training School (a specialist institution catering to the needs of the garment industry).

Additional training activities under the portfolio of the above-named Ministry are as follows:

(g) A network of eight youth community centres operated by the Social Development Commission, which provides remedial education and pre-vocational training. (Three of these centres are residential with a productive farm programme);

(h) Agricultural training programmes provided by the 4-H Clubs organization. Full time courses and short seminars are conducted.

All the programmes listed above include a component of vocational guidance, counselling and job placement, although to a large extent job placements are done by the Employment Service of the Ministry of Labour.

The programme also affords opportunities for retraining of workers made redundant by technological or other industrial changes.

Since January, 1976 these programmes have been expanded in some areas, as limited funds permitted, but there has been no increase in the number of operative industrial training centres. Presently, there are 31 such centres (four mobile) offering training in 17 industrial and commercial occupations and it is anticipated that five other centres will be opened in September, 1979.

The Five-Year Development Plan provides for further expansion in the area of training. Special emphasis is being placed on vocational training for the agricultural sector and also on training opportunities for women.

Allied to the Ministry of Youth and Community Development is the Jamaica Youth Corps whose function includes the development of youth and the enhancement of their contribution to national life through meaningful service and productive employment.

2. The Ministry of Education

This Ministry is responsible for vocational and pre-vocational training at the formal level.

Training at varying levels is provided in nearly all secondary schools (technical, vocational high, traditional high, and comprehensive), community colleges, Jamaica School of Agriculture, College of Arts Science and Technology, the University of the West Indies, Teacher Training Colleges, etc.

Following on the launching of the Government's Production Plan in 1977, these training programmes have been intensified with emphasis being placed on agriculture. Training in this respect will be made available through:

The five existing technical/vocational schools which specialize in agriculture;

The Jamaica School of Agriculture;

Two United States AID-financed agricultural schools (now under construction);

/...

Ten special agricultural schools (proposed in the Education Plan).

The focus of the programmes in the agricultural training centres will be on the training of production-oriented farmers.

Other programmes which have been accelerated are the home economics, industrial arts, arts and crafts and business training.

In addition, the following projects have been expanded:

(a) The Work Project (applicable to new secondary and technical schools). Under this project students are expected to work on a project as a business venture (i.e., they are supplied with the necessities and a certain amount of money and left on their own to produce, with arrangements being made for the purchase of their products).

(b) Work experience project. Under this programme, grade 11 secondary students are assigned for about three weeks to work stations to gain first-hand experience of an employment situation related as closely as possible to their vocational areas of study.

(c) Work training project. This programme is geared for the grade 11 secondary-school-leavers and is intended to "bridge the gap" into the "world of work". These students are assigned to the work place (public and private sector) for approximately one year, during which they are given an allowance by the Ministry. A number of them have been retained in full-time jobs in organizations where they served their "apprenticeship".

3. Sectoral training

In addition to training under the formal education system and the vocational training programmes aimed primarily at youth outside the formal system, there are a number of training programmes designed to meet the needs of specific sectors and special areas in relation to objectives and targets of the Plan.

Principal among these are:

Agriculture: (under the Ministry of Agriculture)

The Training Division of this Ministry is responsible for the training of extension service officers and of existing (working) farmers. These programmes are being expanded and further training programmes incorporated relative to pioneer farms, (soil conservation) cattle and fishing.

Co-operative principles and management (under the Co-operative Department and Co-operative Development Centre)

Ongoing training in this area is of particular relevance to the pioneer farms and fishing industries.

Tourism (under the Tourism Product Development Company)

Priority training in this area is being geared towards the employees of national hotels and properties but it will be open also to private hoteliers. Training will be done locally as far as possible but will also be provided overseas by technical assistance agreements.

Construction and manufacturing

Expansion of on-the-job training programmes.

Managerial personnel

In addition to the main institutions (CAST and the UWI) the Government has established recently a staff Administrative College under the portfolio of the Ministry of the Public Service.

Proposals are to expand and strengthen these institutions.

Management training is also offered to the general public through the organization of courses under the auspices of the private sector e.g. Jamaica Institute of Management.

4. Other important training programmes

The Government has also undertaken training in the accounting, secretarial and dental fields through the establishment of the Finance College (FACT), the Government Secretariat College, and the Dental Auxiliary School.

Training institutions were established many years ago to provide skills in areas such as nursing, bacteriology and public health (and pensions). There have been no dramatic changes in these areas since January 1976.

B(5) The Government is at present re-examining the possibility of extending the provisions of the Act to protect workers against arbitrary termination of employment.

The Employment (Termination and Redundancy Payments) Act of 1974 provides for a statutory period of notice to be given on the termination of contracts of employment, for certain employees the right of certain facilities for returning to their homes on the termination of their contracts and for the making by employers of payments to employees dismissed by reason of redundancy.

Administration of the above-mentioned legislation is the responsibility of the Pay and Conditions of Employment Branch of the Ministry of Labour. Routine inspections and investigation of complaints of breaches under the various laws and regulations are conducted by inspectors at the work-place where the employers' records are examined and workers interviewed to verify the findings of the inspectors.

B(6) Protection against unemployment

The Jamaican economy cannot support such measures at the present time.

C. Please see statistical reports at appendix I. 1/

The difficulties affecting the degree of Realization of the right to work are based on the following factors:

Shortfall in respect of vocational training and job opportunities due to insufficient resources and facilities;

High rate of population growth and resulting preponderance of youth: 15-29 years 25.5 per cent (1975) projection 32 per cent (1983);

High rate of illiteracy;

Shortage of skilled workers and surplus of low-skilled and unskilled;

Relatively low level of labour-intensive activities.

Since 1976 significant improvement has been effected in respect of illiteracy while at the same time the Government has initiated special labour intensive programmes (Special Employment Programmes (SLP)).

Under the current Five-Year Development Plan there will be a high degree of expansion in remedial and continuing education and vocational training. The over-all aim is continuity from early childhood through to primary and secondary education with vocational training being a part of the core of the curriculum in all secondary schools.

Government's programmes are being geared towards activities where labour output ratios are higher than the national average such as in agriculture and in government services.

ARTICLE 7. THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A.1 Remuneration

The right to fair remuneration is provided through the Collective Bargaining Process and the National Minimum Wage Act. In certain areas collective agreements cover entire industries e.g. bauxite, building, sugar, banana, petroleum and leather. Additionally, under the Minimum Wage Act, special orders have been promulgated for the following trades, etc.:

- (a) The Catering Trade Order, 1965 and amendments of 1966 and 1972;
- (b) The Hotel Trade Order 1970;
- (c) The Dry Goods Trade Order 1971 and amendments of 1973;
- (d) The Printing Trade Order 1973;
- (e) The Retail Petrol Trade Order 1974;

- (f) The Bread, Bun and Cake Baking Trade Order 1974;
- (g) The Garment Making Trade Order 1974;
- (h) The National Minimum Wage Order 1975;
- (i) The Industrial Security Guards Order 1976;
- (j) The Laundry and Dry Cleaning Trade Order 1977;
- (k) The National Minimum Wage (Amendment) Order 1978;
- (l) The Public Passenger Transport (Rural Areas) Order 1978.

Under the Labour Relations and Industrial Disputes Act, where collective bargaining breaks down and a dispute ensues, such dispute may be referred to the Industrial Disputes Tribunal, for final settlement.

A.2 The principal methods used for fixing wages are the minimum-wage-fixing machinery, collective bargaining, conciliation and arbitration and statutory regulations (e.g. The Civil Service Establishment Order made under the Civil Service Establishment Act).

The principal agency in the minimum-wage-fixing machinery is the Minimum Wage Advisory Commission, which was established in 1974.

The functions of the Commission are:

- (a) To consider and to advise the Minister on all matters relating to National Minimum wages.
- (b) To obtain and record information in relation to wages and other remuneration, terms and conditions of work and other factors affecting the circumstances of employment of various categories of workers, to keep such information under continuous review and advise the Minister from time to time as regards the categories of workers in relation to which a Minimum Wage should be fixed, the wage to be fixed and other matters;
- (c) To keep under review all minimum wages fixed by the Minister and the terms and conditions in relation thereto, to make recommendations to the Minister if there are any variations;
- (d) The Commission also recommends to the Minister the fixing of minimum wages in specified trades.

Rural Transport workers were excluded from the National Minimum Wage order when it was first made in 1974, but this exclusion was removed by an Amendment Order and minimum wages have now been fixed for this group under the Minimum Wage (Public Passenger Transport) (Rural Area) Order, 1978.

In the case of workers who are represented by trade unions the fixing of remuneration and other terms and conditions of employment is usually made by collective bargaining and the matters agreed between the parties are finalized by a collective agreement. This type of wage-fixing includes collective bargaining (a) at local level; (b) at industry-wide level (through Joint Industrial Councils); (c) where settlements of dispute are made by conciliation at the Ministry of Labour or by arbitration.

In recent times, the trend is for the top administrative officers in the private sector to organize themselves for the purposes of collective bargaining either by staff associations affiliated to trade unions or by direct membership with the trade unions.

The common practice is for the agreements to be done either on a one-year or two-year basis. In accordance with Government's latest wage guidelines a pay period of two years is, however, the prescribed minimum period for which wages should be now fixed.

Statutory regulations

The fixing of wages in statutory bodies is done by collective agreements (where the workers are unionized). In other cases, it is done in accordance with the Central Government's Classification and Pay Plan or by direct agreement between the employer and the worker.

A.3 Information regarding the components of workers' remuneration (other than regular wages) is just being developed through the Pay Monitoring and Research Unit which was recently established in the Ministry of Labour, and sufficient information is not yet available.

A.4 Please see information at appendix II. 1/

A.5 The provisions of this right are ensured by the following: The Employment (Equal Pay for Men and Women) Act, which became operative on 1 December 1975. This Act prohibits discrimination on the grounds of sex in relation to remuneration for similar or substantially similar work performed for one employer by male and female employees alike.

The Ministry of Labour has had no reports of contravention of the Act but provision is made in the Act for investigation and the settlement of such complaints before the matter becomes the subject of court proceedings.

A.6 With reference to the Equal Pay Act, Jamaica does not have a national classification of jobs. The International Labour Organisation's standards are widely used but there are jobs which do not fit into that four-digit standard. The Government has requested an international agency to provide a consultant to work with Ministry of Labour's personnel in the Central Statistical and Analysis Unit to carry out an objective appraisal of jobs.

B.1 Safe and healthy working conditions

Laws and regulations.

The principal law, the Factories Act provides in general for:

- (a) The definition of factory;
- (b) The appointment of a Chief and other factory inspectors;
- (c) The supervision of factories and machinery;
- (d) The constitution and functions of the Factories Appeal Board;
- (e) The registration of factories;
- (f) The approval of building plans for proposed factories or buildings appurtenant to factories;
- (g) The making of regulations to give effect to safety, health and welfare provisions;
- (h) The inspection of factories and medical examination of workers;
- (i) The reporting of accidents and industrial diseases;
- (j) The prosecution of offending factory operators;
- (k) Penalties for breaches of the Act and regulations;
- (l) The requirement that certain processes be discontinued where the condition of the premises is inimical to safety and well-being.

Regulations

Regulations in force include:

The Factories Regulations, 1961

The Building Operations and Works of Engineering

Construction (Safety, Health and welfare)

Regulations, 1968

The Docks (Safety, Health and Welfare) Regulations, 1968.

The above-mentioned Regulations provide for minimum standards of safety, health and welfare for workers engaged in manufacturing and other factory operations, as well as those engaged on sites of building operations and the loading and unloading and fuelling of ships.

B.2 Enforcement of legislation

The Industrial Safety Division, Ministry of Labour is responsible for the enforcement of legislation by way of supervision. This is undertaken by industrial safety inspectors and it is the policy of the Division to have every factory inspected at least once annually and in the case of high-risk industries, inspections are made more frequently as each case warrants. Within particular industries safety supervision should be undertaken by an appointed supervisor as provided for in the Regulations.

B.3 Measures not yet fully implemented

It is recognized that workers' health and safety have been at risk for many years in the processing or handling of substances such as asbestos, lead, carcinogens. Therefore, steps had been taken to effect improvement in working conditions in such factories which include the making of asbestos cement, pipes, paint manufacture and rubber processing. However, full implementation of measures has not been achieved as the means whereby the industrial environment may be monitored is not now readily available. Some degree of biological monitoring is being done but this is not considered adequate as invariably damage to workers would have been done to varying degrees prior to detection.

B.4 Accident statistics

Statistics available on accidents occurring in industry, are not necessarily accurate, as there is a high incidence of under-reporting. However, the statistics available as at 1977 are as follows:

Total number of accidents reported	148 or less than 3 per 1,000 workers
Fatal accidents	5
Permanent disability	-
Permanent partial disability	4
Temporary disability	139

Other information

Please refer also to reports for 1977 and 1973 made by the Government of Jamaica in accordance with Article 22 of the ILO Constitution on the measures taken to give effect to the provisions of the Labour Inspection Convention No. 81, 1947.

C.1-3 Equal opportunity for promotion

Please see appendix III. 1/

D.1 Rest, leisure, limitation of working hours and holidays with pay

Legislation relating to rest, leisure, limitation of working hours and holidays with pay which are also administered by the Pay and Conditions of Employment Branch of the Ministry of Labour include:

- (i) The Minimum Wage Act and Orders promulgated under the Act;
- (ii) Holidays with Pay Act and Order of 1973;
- (iii) The Shops and Offices Act and Regulations;
- (iv) The Women (Employment of) Act.

D.2 (i)-(ii) The Minimum Wage Act and Orders provide for each employee to be given a weekly rest day. They prescribe a national minimum remuneration for hourly and weekly workers in occupations, generally for waiting time, work done at single time, overtime, on rest days and proclaimed public holidays.

(iii)-(iv) The Holidays with Pay Act and Orders provides for two weeks holiday with pay (and sick leave).

The Holiday with Pay Act and Regulations 1966 also provide that all workers be paid for public holidays not worked and that public holidays shall not be reckoned in any holiday with pay entitlement.

Provision is also made for the payment to casual workers of a gratuity at the end of each qualifying year.

D.3 The Shops and Offices Act and Regulations make provisions for the following:

Hours of opening on weekdays, on Sundays, and on proclaimed public holidays;

For the employment of persons outside prescribed hours of business;

The payment of overtime wages, provision of meal intervals and adequate seating in shops for use by the employees.

The Women (Employment of) Act provides that women should not work in the night except in certain trades and where they do their hours of work should be limited.

ARTICLE 8. TRADE UNION RIGHTS

A. The right to form trade unions has long been provided in the Statutes of Jamaica, and exercised by Jamaican workers. It was in the 1940s, however, with the increase in the growth and influence of the trade union movement, that this right became a significant factor in the political, social and economic life of the country.

The principal law relating to trade union rights is the Trade Union Act, which came into force on 25 October 1919.

Section 23 of the Constitution of Jamaica, which came into force in 1962 when Jamaica gained independence, provided for the right of the worker to form and belong to trade unions.

Section 4 of the Labour Relations and Industrial Disputes Act of 1975, provided for the right of a worker as against his employer to join a trade union of his choice.

This Act also provided for:

- (a) Compulsory balloting to determine a claim by a trade union for representational rights (Sect. 5);
- (b) Compulsory recognition of a trade union by an employer (Sect. 5);
- (c) Compulsory recognition of joint bargaining agents by an employer (Sect. 5).

There are administrative practices relating to the rights of trade unions to operate in the public service.

The form and making of collective agreements between trade unions and employers are not regulated by Law. However, recent legislation has provided for:

- (a) The fixing of the period or periods within an existing collective agreement within which a challenging trade union may claim for bargaining rights;
- (b) The reporting to the Minister of Labour by an employer of all collective agreements made by him after 30 April 1978.

B.1-2 Right to form and join trade unions

As stated before, every person has the right to form or belong to a trade union, under Section 23 of the Constitution, and every worker has the right as against his employer to belong to the trade union of his choice.

Section 23 of the Constitution also provides for restriction of its right with respect to public officers, police officers and members of the defence force.

The Labour Relations and Industrial Disputes Act also excludes from the application of its provisions, persons employed in the Constabulary Force or the Defence Force.

The Constabulary Force Act provides for police officers to join a Police Federation for the protection of their interests. There is no similar provision for the members of the Defence Force.

In practice, the Government treats with the following organizations of workers with respect to claims and other matters on behalf of workers in the Public Sector:

The Jamaica Civil Service Association (which is not registered as a trade union) with respect to public officers as a whole;

The Jamaica Union of Public Officers and Public Employees with respect to prison warders;

The Union of Technical Administrative and Supervisory Personnel with respect to medical technologists.

C. Right of trade unions to federate

Labour legislation in Jamaica is silent with respect to the right of trade unions to federate.

However, this right is implied from the provisions of Section 23 of the Constitution.

The reality of Jamaican trade unionism is that the trade unions do not appear to be moving towards a national federation, although in recent times they have tended to consult each other, and to speak with one voice on matters relating to the interests of trade unions especially since the enactment of recent labour legislation, and the establishment of government wages guidelines.

There is a small federation of trade unions - Independent Trade Union Action Council (ITAC) - but its total membership is not large and its influence not great.

Some trade unions, particularly the Bustamante Industrial Trade Union and National Workers Union, are affiliated with several international trade union organizations.

D.1-2 Right of trade unions to function freely

This is a right which is also implied by the Constitution (Sect. 23).

The Labour Relations and Industrial Disputes Act provides for a trade union to be recognized as having bargaining rights (Sect. 5).

In the public service, where Government does not grant recognition by law to trade unions, there are administrative rules allowing for all workers to be represented by trade unions.

The only notable exception is the Jamaica Defence Force, where it would appear the officers and soldiers have by their traditions not tested those rules.

There have been recent limitations to the freedom of collective bargaining by the Government wages guidelines, and the powers of the Minister of Labour to refer in certain circumstances any dispute to the Industrial Disputes Tribunal. (Labour Relations and Industrial Disputes Act - Sect. 11A).

E. Right to strike

F-G. Labour legislation does not expressly provide for a right to strike. It has been recognized however that Trade Unions have exercised this right in the legitimate pursuit of their interests and have exercised limitations on this right with respect to:

Strikes in essential services (Labour Relations and Industrial Disputes Act, Sect. 9);

Strikes against the national interests (Labour Relations and Industrial Disputes Act, Sect. 10);

Picketing (Trade Union Act, Sect. 32-33).

It should be mentioned that the legislators, in both the Trade Union Act and the Labour Relations and Industrial Disputes Act have considered this aspect within the broader context of industrial action covering go-slows, lock-outs, etc.

With respect to strikes in essential services, provision is made for compulsory reference to the Industrial Disputes Tribunal, if no settlement can be reached by the parties.

The same applies to a strike in any undertaking declared by order of the Minister to be a strike against the national interest.

Powers are given to the Industrial Disputes Tribunal to order workers on strike back to work (Labour Relations and Industrial Disputes Act, Sect. 12).

With respect to picketing, the provisions of Sections 32 and 33 are made to prevent the use of violence or intimidation during picketing, and also the picketing by persons not parties to the dispute.

Among the difficulties affecting the degree of realization of trade union rights is the competitiveness of the trade union movement, as all unions are competing for the same body of workers.

The absence of a federation has also hindered developments in the adoption of practices from abroad.

On the other hand a salient factor in the progress achieved by labour legislation, and in the advancement of trade union rights, has been translation of top trade union officers in the two major trade unions the National Workers Union and Bustamante Industrial Trade Union to senior positions in the major political parties and the Government.

REPORT ON THE IMPLEMENTATION OF THE RIGHTS COVERED BY
ARTICLE 9 OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

1. Principal laws, administrative regulations, collective agreements, court decisions and other types of arrangements relating to the social security system, including social insurance schemes.

The National Insurance Act

The National Insurance Act, 38 of 1965

The National Insurance (Amendment) Act, 27 of 1970

The National Insurance (Amendment) Act, 25 of 1973

The National Insurance (Amendment) Act, 41 of 1974

The National Insurance (Amendment) Act, 35 of 1975

The National Insurance (Amendment) Act, 17 of 1976

The National Insurance (Amendment) Act, 14 of 1978

The National Insurance (Amendment No. 2) Act, 15 of 1978

Regulations

The National Insurance (Self-Employed Persons' Wage-Related Contributions) Regulations, 1973 L.N.475/73

The National Insurance (Miscellaneous Provisions) Regulations, 1966 L.N.97/66

The National Insurance (Classification) Regulations, 1966 L.N.88/66

The National Insurance (Collection of Contributions) Regulations, 1966 L.N.90/66

The National Insurance (Contributions) Regulations, 1966 L.N.93/66
180/77
78/77

The National Insurance (Workers on Small Farms) Regulations, 1966 L.N.92/66

The National Insurance (Assessment of Wage-Related Contributions (Employed Persons) Regulations, 1966 L.N.91/66

The National Insurance (Voluntary Contributions) Regulations, 1968 L.N.22/68

The National Insurance (General Benefit) Regulations, 1966 L.N.96/66

The National Insurance (Employment Injuries) (Benefit) Regulations, 1970	L.N.285/70 340/73
The National Insurance (Prescribed Diseases) Regulations, 1970	L.N.286/70 384/73
The National Insurance (Employment Injuries) (Claims and Payments) Regulations, 1970	L.N.234/70 337/73
The National Insurance (Claims and Payments) Regulations, 1966	L.N.94/66 274/69 110/77
The National Insurance (Determination of Claims and Questions) Regulations, 1966	L.N.95/66
The National Insurance (Sugar Workers Transitional) Regulations, 1966	L.N.89/66 225/73 436/74
The National Insurance (Employment Injuries) (Medical Certification) Regulations, 1970	L.N.281/70
The National Insurance (Foreign Service Personnel) Regulations, 1970	L.N.282/71
The National Insurance (Mariners and Airman) Regulations, 1970	L.N.283/70
The National Insurance (Self-Employed Persons and Workers on Small Farms) (Entry into Insurance) Order, 1967	L.N.86/67

Arrangements

The National Insurance (Reciprocal Arrangements) (U.K.) Order, 1972 scheduling the agreement on Social Security between the Government of Jamaica and the Government of the United Kingdom of Great Britain and Northern Ireland.	L.N.286/72
The National Insurance (Citizens of the United States of America) Modification Order, 1968.	

2. Main features of the schemes in force for each of the branches of social security listed below, indicating in particular, for each branch, the percentage of the population covered, the nature and level of benefits, and the method of financing the scheme.

- (a) Medical care
- (b) Cash sickness benefits;

- (c) Maternity benefits;
- (d) Invalidity benefits;
- (e) Old-age benefits;
- (f) Survivors' benefits;
- (g) Employment injury benefits;
- (h) Unemployment benefit;
- (i) Family benefits.

The subset of the benefits listed above that are included in the local contributory social security system are:

- (a) Invalidity benefit;
- (b) Old-age benefit;
- (c) Employment injury benefit;
- (d) Survivors' benefit.

Despite the fact that these benefits are payable under the National Insurance Scheme, other provisions exist under the non-contributory Public Assistance Programme for the payment of old-age and invalidity benefits to needy persons who fail to qualify under the National Insurance Scheme. The benefits are described below as they exist under:

- (a) the National Insurance Scheme; and
- (b) Public assistance;

and tables I and II (attached) show respectively, the levels of National Insurance benefits at the end of the years depicted, and statistical data on coverage under the Scheme.

(A) National Insurance

(i) Old-age pension or grant

This benefit is payable when an insured person reaches retirement age and has satisfied the contribution conditions of at least 156 contributions with not less than an average of 13 over his insurable life. A supplement to this pension is payable for a dependent spouse.

An old-age grant is paid to an insured person who has paid not less than 52 contributions but failed to qualify for old-age Pension.

(ii) Invalidity pension or grant

This benefit is payable when an insured person who has satisfied the contribution conditions and is under retirement age becomes personally incapable of work because of some specific bodily or mental disablement. It is payable after the claimant has been incapacitated for a continuous period of 26 weeks or more, since he last worked. A dependent spouse supplement is also payable with invalidity pension.

An invalidity grant is paid to an insured person who has paid not less than 52 contributions into the National Insurance Fund.

(iii) Employment injury benefit

This is payable to an insured person who is incapable of work as a result of an accident or prescribed disease arising out of or during the course of his employment.

(a) Medical treatment. Includes specialist treatment, treatment as an out-patient or in-patient at a prescribed medical institution, the supply of drugs, artificial limbs, dental treatment, X-rays, EEGs, ECGs, etc.

(b) Employment injury benefit. Payable at a weekly rate equivalent to 75 per cent of the insured person's weekly insurable wages. The benefit is paid for a maximum period of 52 weeks, excepting the first three days of incapacity.

(c) Employment injury disablement pension. This is payable where the insured person suffers from loss of physical or mental faculty, and where the degree of disablement falls between the prescribed 10 per cent-100 per cent.

(d) Employment injury death benefit. This is payable to an insured man's widow. Where there is no widow, or if the insured person was a woman, the benefit is distributable at the Minister's discretion to:

- (i) Any person having the care of any child of the deceased under age 18 years;
- (ii) The mother of the deceased if she was wholly or mainly dependent on the deceased and is over 55 years of age on the date of the insured person's death.

(iv) Survivors' benefits

(a) Widow's pension or grant. This is payable when a male insured person has satisfied the contribution conditions or was a pensioner at the time of death and has left a widow who satisfied other conditions pertaining to duration of the marriage, age, care of children of the household, pregnancy or certified incapacity for work. A special provision was made with effect from April 1972 for paying a pension for a limited period of 52 weeks to a widow who has been married for three years but is under the specified age of 55 years and has failed to satisfy any of the other conditions for benefit. Widow's pension ceases if the widow remarries.

(b) Widower's pension or grant. This benefit is payable when a female insured person who at the date of death has satisfied the contribution conditions, has left a widower who meets the following conditions:

He is 60 years and over, has been married to the deceased for at least five years, has a disability which makes him permanently incapable of work and has no income from any source whatsoever.

Widower's benefit ceases if the widower remarries.

The law recognizes a common-law relationship to qualify for widow/widower's benefits.

(c) Orphan's pension or grant. This benefit is payable to a person taking care of a child whose parents were (or are) married and whose parents are dead and either of whom met the contribution conditions.

(d) Special child's pension or grant. This benefit is payable to a person taking care of a child born out of wedlock who is under the age of 18, whose mother is dead and whose father is either dead or cannot be identified. The mother must have satisfied the contribution conditions.

(e) Funeral grant. This benefit is payable:

- (i) On the death of an insured person, or spouse of an insured person, where the contribution conditions have been satisfied by the insured person; or
- (ii) On the death of an insured person where death results from an employment injury or prescribed disease; or
- (iii) On the death of an old age or invalidity pensioner, or a spouse in receipt of an employment injury death benefit, or widow/widower pension.

(B) Public Assistance

Old-age and incapacity allowances, family benefits

Old-age and incapacity allowances are two of the benefits payable under Public Assistance. The benefits comprise weekly cash allowance payable every four weeks to needy persons over the ages of 65 (men) and 60 (women), who are not in receipt of financial aid from any apparent sources. The amount of each pension has been increased from \$3.00 to \$5.00 per week and payments at the new rate started in July, 1978.

Family allowances are payable to the breadwinner below ages 65 (men) and 60 (women), whose income resources are minimal and need a supplement. Applicants must prove their inability to meet basic needs and maintain and have in their care children under 18 years of age.

All funds for the financing of these benefits are provided from the government budget.

The method of financing the National Insurance Scheme

The "scaled premium" system of financing, which is an intermediate system to the "pay-as-you-go" and the "average premium" systems, has been employed by the National Insurance Scheme. According to this system, for a given financial period - for instance 10 years - the contribution rate would remain unchanged and would be fixed in such a way as to guarantee the financial equilibrium of the Scheme in the period in question and would build up at least a modest reserve.

Sources of income

The principal sources of income for the National Insurance Scheme are:

- (a) Contribution from the employers;
- (b) Contribution from the insured persons;
- (c) Interest on investment; and
- (d) The expenses of administration met by the Government.

3. Factors and difficulties affecting the degree of realization of the right to social security; progress achieved as regards, in particular, the covering of new fields of social security, the extension of existing schemes to further groups of the population and improvements in the level and nature of benefits.

Provisions are made for the realization of rights to social security through national insurance and public assistance benefits. Whereas the national insurance is contributory and a minimum number of contributions, except in the cases of employment injury, is a prerequisite for benefits, the Public Assistance is funded by Government and caters for needy persons who fail to qualify for benefits under the National Insurance Scheme.

Factors and difficulties affecting the degree of realization of the right to social security under:

(A) National insurance

In accordance with the National Insurance Act (Revised Laws 1973) every person who has attained the age of 18 and is under retirement age and is gainfully occupied in Jamaica or in certain employments outside Jamaica is an insured person under the National Insurance Act until he reaches retirement age and has the right to contribute and receive benefit under the Scheme.

The major factor preventing individuals from receiving benefit under the National Insurance Scheme is their failure to satisfy the contribution conditions. This failure, in turn, is usually due to unemployment or non-compliance with the Scheme.

The labour force survey statistics for October, 1976, disclose that 216,400 persons of a total labour force of 895,500 were unemployed.

Many employers and insured persons fail to comply with the National Insurance regulations regarding the submission of annual returns and stamp cards and the payment of contributions. This seriously affects the realization of rights to social security, since benefits are contributory. The problem of non-compliance is even greater among the self-employed persons where much difficulty is encountered in identifying these persons, and consequently, collecting their contributions. The Ministry is currently devising means to promote awareness and acceptance of the Scheme among this segment of the population.

In addition, a large segment of "employed persons" fail to meet qualifying contribution conditions for benefits on account of either underemployment or non-compliance. For example, statistics prepared by the Ministry for 1975/76 reveal that, of 725,000 registered insured persons, approximately 70,000 made under 13 contributions during that year.

(B) Public assistance

Public assistance seeks to be complementary to the National Insurance Scheme by taking care of the residual demand for social security which could not be accommodated under the Scheme. However, a major constraint in carrying out this function is the lack of sufficient budgetary funds.

Progress achieved as regards the extension of the scope of social security

At the inception of the Scheme on 4 April 1966, coverage was available to all employed persons between the ages of 18 and 70 (males) and 18 and 65 (females). Since then, the scope of the Scheme has been significantly extended. On 11 January 1968, voluntary contributors were admitted within the scope of the Scheme. Also on 1 April 1968, self-employed persons and workers on small farms became insured under the National Insurance Act. Presently, almost all the actively engaged population come within the scope of the Scheme.

Extension of existing schemes to other groups of the population

The National Insurance Act has been recently amended to extend coverage to persons who are recruited in Jamaica under government auspices to serve on contracts abroad. At this stage the accent is on providing coverage for approximately 10,000 Jamaican workers on the United States Farm Labour Programme, and some 800 Jamaican workers at the United States Naval Base, Guantanamo Bay, Cuba.

Efforts are also being made to enable migrants to retain their rights to social security through reciprocal agreements in social security. Jamaica is now working towards a multilateral agreement with the Commonwealth Caribbean countries and a bilateral agreement with Canada. Reciprocal agreement has already been reached with the United Kingdom.

Public Assistance, which has residuary application, will decline as the National Insurance Scheme develops and more persons qualify for this type of coverage.

The coverage of new fields of social security

The range of benefits offered under the Scheme was expanded on 1 October 1970, when the employment injury benefits were implemented. The benefits offered in respect of employment injury are:

- (i) Medical care
- (ii) Cash benefits for cases of temporary incapacity
- (iii) Permanent disablement cash benefit if such disablement arises from injury or prescribed disease in employment; and
- (iv) Death benefit arising from death due to injury or prescribed disease in employment.

The Ministry is currently investigating the feasibility of providing new benefits under the Scheme. Preliminary actuarial studies have already been conducted regarding the implementation of sickness benefits. Also, the matter of unemployment benefits is being kept under review.

Improvement in the nature or level of National Insurance benefits

The National Insurance Scheme offers cash benefits to its beneficiaries. Table I shows the levels of benefits at the end of 1966, 1970, 1975 and 1978. The quantum of the benefits offered are continually reviewed for possible increases, usually in accordance with actuarial recommendations.

NATIONAL INSURANCE SCHEME

BENEFITS	1966	1970	1975	1978
Old-age pension (standard flat-rate)	\$2.00	- \$2.30	- \$6.45	- \$7.90
Invalidity (standard flat-rate)	\$2.00	- \$2.30	- \$6.45	- \$7.90
Widow's/widower's pension (standard flat-rate)	\$2.00	- \$2.30	- \$6.45	- \$7.90
Orphan's pension	\$1.00	- \$1.00	- \$3.50	- \$4.50
Special child's pension	\$0.50	- \$1.00	- \$3.50	- \$4.50
Sugar worker's old age pension	\$1.50	- \$1.50	- \$4.00	- \$5.00
Sugar worker's invalidity pension	\$1.50	- \$1.50	- \$4.00	- \$5.00
Unemployment	- Min. of \$3.00, max. \$20.00 p.w. (50% of gross weekly wages prior to accident).	Min. of \$15.00 and max. \$60.00 per week (75% of gross weekly wages prior to accident). Note. Max. insurable wage moved from \$40.00 to \$80.00 per week as of 3/11/75.	Min. of \$15.00 and max. \$60.00 per week (percentage of disability applied to quantum of E.I.B.)	Min. of \$16.00 and max. \$61.00 (75% of weekly wages prior to accident plus \$1.00 supplement but subject to stated maximum).
Employment	- Min. of 60% Injury) max. \$20.00 Disability) p.w. (percent- Pension) age of disability applied to quantum of E.I.B.)	- Min. of \$15.00 Injury) and max. of Death) \$60.00 Benefit) (same as E.I.B.) Funeral) - \$20.00 Grant)	Min. of \$15.00 and max. of \$60.00 75% of gross weekly wages prior to accident).	Min. of \$16.00 and max. of \$61.00 (Percentage of disability applied to quantum of E.I.B. excluding the supplement).

Additionally an allowance of \$1.00 is paid in respect of spouse, where applicable. The current maximum of the wage-related segment is \$4.80 per week.

/...

TABLE II

Types of benefits	Percentage of population covered
Old age	37.55 per cent
Invalidity	37.55 per cent
Employment injury	23.46 per cent
Survivor's benefit	100 per cent

List of reference material attached to this report*

- I. Statistical information on employment and unemployment/related factors
- II. Statistical data on levels of remuneration
- III. (i) Note on equal opportunity for promotion
(ii) Circular on promotions policy
(iii) The performance evaluation programme guides for supervisors
(iv) List of central in-service training programmes

* These documents are available for consultation in the files of the Secretariat.