Caribbean work safety: Trends and challenges*

Caribbean countries are making much-needed improvements to their workplace health and safety legislation. The ILO’s input has been influential.

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With one exception, all the ILO member states covered by its Caribbean multidisciplinary team (CAMAT) were formerly British colonies.

In those countries, safety and heath legislation was modeled on the British Factories Act and generally came into effect in the mid-1940s and early 1950s. As such, it covered only those areas that were defined in the legislation as factories. Mining was included in this category. In the former Dutch colony of Suriname, the safety and health legislation brought in during the late 1940s was similarly limited in scope, and has so far remained so.

As these Caribbean states began to move from total dependence on agriculture towards a more diversified and industrialized economy, it became clear that occupational health and safety urgently needed better legislation and better enforcement. At the same time, both employers and workers lacked proper training on safety and health.

Trade unions began agitating for modern legislation. This was no doubt partly the result of the awareness-raising that took place during the national and sub-regional seminars conducted on a regular basis throughout the region by the ILO/DANIDA Project on occupational safety and health.
New Caricom model – with ILO help

Governments and some employers also began to react positively, and the Caribbean Community (CARICOM) sought the assistance of the ILO Caribbean Office in drafting model safety and health legislation.

The draft which was produced follows closely Convention 155 on Occupational Safety and Health and the Working Environment especially and other relevant ILO Conventions. This was circulated to CARICOM member states for their guidance. It is this Model that has shaped recent safety and health legislation in the region.

The Model moves away from the concept of a “Factories Act” with very limited application to one of “occupational safety and health and the working environment”. It also developed a comprehensive list of definitions for terms such as:

- Branches of economic activity
- Joint Workplace Committees
- Domestic worker
- Homework
- Occupational disease
- Work-related disease
- Workers - including full and part-time, apprentices and trainees
- Workplace.

These were significant departures from what was contained in the existing factories legislation. The following examples illustrate the differences:

- Workers in the public service were excluded from the coverage of the factories legislation, whereas “branches of economic activity” in the Model means “all branches in which workers are employed including the public service”.
• Provisions were made for the establishment and functioning, on a tripartite basis, of a National Advisory Council on Occupational Safety and Health and joint safety and health committees at the workplace.

• Domestic workers and home-workers were also included for coverage in the Model.

• The Factories legislation concentrated on accidents and paid little attention to diseases. The Model rectified this glaring omission by proposing a definition of “occupational disease” and “work-related disease”.

• Coverage for part-time workers and persons working from home was provided for under the Model. This is an important recommendation taking account of the emergence of a large body of workers in contract, part-time, temporary, home-working and shift-working relationships.

• The Model set out the duties of employers, workers, supervisors and owners of workplaces, occupiers and suppliers.

• The Model contained a clause on refusal to work: “A worker may refuse to work or do a particular job where he or she has reasonable justification to believe that the equipment, machine, device or article presents an imminent danger to the life or health of himself or to another worker.”

• The Model proposed to prohibit the employer from taking disciplinary action against a worker who refuses to work under the terms and regulations under this section of the Act.

• The Model required the employer to provide the worker with hazardous chemical identification and safety data sheets.

• The Model stipulated that employers must make arrangements for the safe and efficient disposal of wastes and effluents resulting from any process and that such arrangements shall be designed so as to ensure that disposal does not result in any danger to persons, property or the environment – an important provision in the tourism-dependent Caribbean.
Examples from existing or proposed legislation in Caribbean countries

Guyana
Guyana is the first ILO Caribbean member state to have introduced completely new safety and health legislation drafted along the lines of the CARICOM Model.

The Occupational Safety and Health Act, 1997, applies to “existing industrial establishments” (including shops and offices) and to any agricultural undertaking, construction site or logging operation. Its provisions on accidents and diseases also apply to persons employed in any department of government except the police and armed forces.

The Act defines occupational disease and work-related disease, and it set up a National Advisory Council on Occupational Safety and Health to advise the minister and promote public awareness of occupational safety and health.

The Occupational Safety and Health Authority established under this legislation has the responsibility for designating inspectors to ensure the application of the Act.

The minister is also given the power to appoint an Occupational Safety and Health Commissioner, who “shall have all the powers of an arbitration tribunal to which the provisions of the Labour (Arbitration Procedure) Regulations apply”. This reflects the past difficulties in getting the Factories Act enforced. The 1997 Act gives the court wide powers to impose penalties.

A joint safety and health committee at the workplace is provided for under the 1997 Act, with the following functions:

- To identify situations that may be a source of danger or hazard to workers
- To make recommendations to the employer and the workers for the improvement of the health and welfare of workers
• To recommend to the employer and the workers in the establishment, maintenance and monitoring of programmes, measures and procedures respecting the safety of workers
• To obtain information from the employer respecting: (1) the identification of potential or existing hazards of materials, processes or equipment and (2) safety and health experience and work practices and standards in similar or other industries of which the employer has knowledge
• To obtain information from the employer concerning the conducting or taking of tests of any equipment, machine, physical agent or biological agent in or about a workplace for the purpose of occupational safety and health
• To be consulted about, and have a designated member representing workers be present at, the beginning of testing conducted in or about the workplace to ensure that valid testing procedures are used and that the test results are valid.

Prior to this legislation, trade unions in Guyana had fought for, and had obtained through collective bargaining, the establishment of joint safety and health committees at a number of workplaces. The Act therefore strengthened and extended the scope of a system that was already functioning.

A new provision is included that allows a worker to refuse to work or do particular work where he has reasonable justification to believe that:

• Any equipment, machine, device or article the worker is to use or operate presents an imminent and serious danger to the life or health of himself, or another worker
• The physical condition of the workplace or the part thereof in which he works or is to work presents an imminent and serious danger to life or health.

In this situation, the worker must immediately report the circumstances of his refusal. It shall be investigated in his presence or in the presence of a worker member of the safety and health committee. The worker must be paid for the time he is off and no disciplinary action can be taken against him.
The Act places considerable responsibility on the Occupational Safety and Health Authority to ensure that adequate provisions are made for the safe use, handling, storage and disposal of hazardous substances. An employer must maintain an inventory of hazardous chemicals and all hazardous physical agents in the workplace. He should also ensure that a hazardous data sheet is maintained and all such dangerous substances are labeled.

The employer is required to notify the Safety and Health Authority of any accident which causes loss of life or disables a worker for more than one day.

Every qualified medical practitioner who believes a patient to be suffering from an occupational disease contracted in the course of his employment is required to send full details to the Authority.

**Trinidad and Tobago**

For the last 25 years, Trinidad and Tobago has been making efforts to modernize its safety and health legislation. This country has the most diversified economy in the Caribbean and its legislation is very deficient. One of the main reasons for the slow progress seems to be low priority which labour gets in national affairs. However, within the last two years, there has been a concerted attempt to put the legislation in place. The new Occupational Safety and Health Bill, when it finally passes Parliament, will replace the 1948 Factories Ordinance. Essentially, it follows closely the CARICOM Model and the country has had the benefit of inputs from the ILO Caribbean Office. Some of the new features will include the creation of an Occupational Safety and Health Authority with advisory and policy-making responsibilities and an Occupational Safety and Health Authority with responsibilities for operations and enforcement.

In spite of the lack of adequate supporting legislation, the trade unions have been doing a most commendable job in ensuring that workers are protected as much as possible. There
are active safety and health committees at major industrial establishments and unions have regular training programmes to sensitize their members and especially for those who sit on joint safety and health committees. Employers, through the Employers’ Consultative Association (ECA), also conduct training programmes for their members.

**Jamaica**
Jamaica may adopt later this year a new Occupational Safety and Health Act that will replace the 1949 Factory Ordinance.

The new legislation will follow the CARICOM Model closely. Some of the significant features will be:

- The rights of workers, including:
  - participating in decisions on the use of substances at the workplace
  - refusing to work in situations where it is believed that there is danger to life or limb
  - knowing all information about processes and substances used in the workplace

- Establishment of joint safety and health committees at the workplace
- Establishment of a National Advisory Council on Safety and Health
- Improved penalties and inspection
- Inspectors being able to issue contravention tickets on the spot to companies
- Immediate compliance by the employer with the Inspector’s order, failing which, the offender can be taken to court
- Liability of suppliers, manufacturers and importers
- Employers to provide hazardous chemical danger sheets for workers and to keep an inventory of such chemicals
- Prohibition of reprisals by employers against workers who refuse to work in situations where they consider the job to be dangerous to life or limb
- Duty of workers to cooperate with the employer in ensuring a safe and healthy working environment
- The establishment of a National Safety and Health Policy
- Requirement for the certification of safety and health committee representatives.

**Saint Lucia**
The government in St. Lucia is developing in collaboration with the social partners - employers and trade unions - a Labour Code which will address occupational safety and health as one of the issues. Here again, the CARICOM Model is being used as a guide and the ILO Caribbean Office is providing technical assistance.

**Saint Vincent and the Grenadines, Antigua and Barbuda, Saint Kitts and Nevis and Suriname**
These countries all still operate under outdated 1940s Factories Acts. However, they have all signified their intentions of modernizing the legislation along the CARICOM Model and have requested technical assistance from the ILO Caribbean Office.

**Dominica**
In 1983, Dominica passed into law the **Employment Safety Act** to provide for:

- re-organizing the system under which safety and health at work is safeguarded and to extend it to cover everyone at work
- the establishment of consultative and advisory committees
- the appointment of safety officers.
It is interesting to note that the Act provides for the appointment of the consultative and advisory committees without any specific involvement of the representative organizations of employers or workers. Furthermore, in the Act there is no provision for the establishment of safety and health committees at the workplace.

The Act also gives the minister powers to make regulations in respect of a wide number of issues, including the protection of employees from exposure to toxic chemicals, fire and explosions.

**Barbados**

Barbados is in a slightly different position from the other countries in the region in that as early as 1984, it sought to modernize its safety and health legislation.

Unfortunately, while in many instances it followed the provisions of the ILO Convention 155 on Occupational Safety and Health at the workplace, it maintained the title of *Factories Act and followed slavishly the structure and themes of the 1943 Factories Act*. The Act also defined those areas of economic activity, including agriculture, that are covered. Interestingly enough, government departments and offices in the private sector are excluded from coverage in the Act.

The trade unions and the employers have complained about the deficiencies in the legislation and have made representation for a new Act. Tripartite discussions have been completed and it is confidently expected that new legislation will soon be forthcoming.

However, in the existing legislation, some new areas include:

- establishment of joint safety and health committees at the workplace
- granting employees’ representatives access to information relating to all workplace hazards and to all reports relating to the workplace environment
• allowing for the taking of samples of, and conducting of tests on, hazardous materials
• prevention of dismissal or disciplining of an employee for requesting an inspection of his workplace by an inspector
• provision for effective arrangements for the disposal of waste and effluents arising out of the manufacturing process carried on in a factory.

Additionally, an advisory committee called the National Advisory Committee on Occupational Safety and Health (NACOSH) has been established.

Other trends
In the region, there is a move towards extending the concerns of safety and health in the workplace beyond the traditional concerns to a more holistic approach that includes issues such as HIV/AIDS, alcoholism, diabetes, stress and violence.

Within the last decade, many of the economies in the Caribbean have been attracting off-shore financial services, call centres and data inputting. Most of the work involves the use of computers. The workers are mainly young women and the growing complaints arising from their work are severe back pains, repetitive strain injuries (RSI) and eye-strain.

Recently, the Jamaica Confederation of Trade Unions, in collaboration with the Chemistry Department of the University of the West Indies, developed a training programme on the safe use, handling and disposal of asbestos. The ILO Bureau for Workers’ Activities (ACTRAV) provided funding for the pilot training project, from which a regional project is expected to develop.

Challenges for the Caribbean member states
From the above, there are a number of issues which emerge as challenges for the Caribbean countries. Among the most urgent are:
• The modernization of legislation on occupational safety and health along the lines of the CARICOM Model. This is especially so in view of the impending realization of the Caribbean Single Market and Economy (CSME).
• Training in occupational safety and health for workers, employers and safety and health inspectors.
• Providing proper remuneration for trained safety and health inspectors, so that an effective inspectorate can be built and maintained.
• Developing awareness among all sectors, and especially the employers, that a holistic approach to workers’ health is important and that a safe and healthy workplace is conducive to increased productivity and improved competitiveness.
• Training and raising of the awareness level of the medical profession on occupational safety and health issues.
• Convincing the insurance industry that it has an important role to play in promoting a safe and healthy working environment.
• Establishing effective safety and health policy-making bodies at the national and enterprise level.
• Developing a close working relationship between the Safety and Health Authorities and the Pesticide Control Boards.
• Linking safety and health at the workplace with the natural environment and ensuring that proper systems are put in place to prevent the discharge of untreated sewerage from damaging the marine eco-systems.
• Developing an appreciation among the workers, employers and the general public for the safe use and disposal of non-biodegradable substances such as asbestos.
• Ensuring that workers use the protective equipment that is provided for them.
• Maintaining proper statistical records on accidents and work-related diseases.
• Maintaining effective recording systems for payments made for occupational accidents and diseases.
• The extension of traditional safety and health issues to include HIV/AIDS, wellness (diabetes, stress, etc.) and violence at the workplace.
Notes bas de première page:

*As this article refers to legislative texts, the pronoun ‘he’ and the pronoun and adjective ‘his’ have been retained. They should be read as referring to both genders. The Editor