

McGill University

**Growth-friendly policies to protect the
working poor in Barbados**

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Institute for Health and Social Policy Case Study 3

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Abstract

Barbados stands out, across Latin America and the Caribbean, for both its economic success and the quality of life for lower-income, lower-skilled workers. This case study examines policy initiatives in Barbados in the sectors of education, social security and labor that promote economic competitiveness while ensuring quality of life. The study will examine the social initiatives that support Barbados's workers: the free, universal education system and the government-run social safety net, including the only unemployment insurance scheme in the Caribbean. It will also examine the system of non-binding, informal collective agreements between employers and unions and their effect (both historically and during the economic crisis of the 1990s and late 2000s) and recent moves to consider more conventional labor legislation to protect individual worker rights. Academic and Government studies were collected on-site in Barbados from June to July 2007. As well, a series of semi-structured, face-to-face interviews were conducted with key stakeholders representing the government, the unions, the employers and the judicial system, regarding policies that affect the country's lower-skilled, lower-income workers.

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1. Introduction

Barbados has achieved both high economic and high human outcomes, making it a potentially interesting reference for other developing states that are working to reconcile GDP growth with protection of the most vulnerable participants in their economies. This case study examines a variety of Barbadian policy initiatives – in education, social security and labor – that promote economic competitiveness while ensuring the quality of life of lower-income, lower-skilled workers.

The Barbadian situation presents an unusual combination of progressive overarching social legislation and minimal legal recognition of workplace norms. Following a brief outline of relevant national statistics (Section 2) and the methods employed for the present case study (Section 3), this report discusses two large-scale social initiatives that undergird the success and safety of Barbados's workers: the free, universal education system (Section 4.1); and a government-run social safety net, tailored to the island's cyclical, tourism-oriented economy, that includes the only unemployment insurance scheme in the Caribbean (Section 4.2).

Beyond these foundations, labor law proper is purposely slight. Barbados has traditionally endorsed maximum freedom of action for both its employers and unions, who negotiate collective agreements but have not accepted that these should be legally binding. This informal arrangement, known as voluntarism, is addressed in Section 4.3. It has been made possible in part by the island's small, homogenous, mutually acquainted population, and also because employers and unions are well-balanced at the negotiating table. Historically, voluntarism appears to have provided a flexible response to economic downturns and helped Barbados preserve its overarching social policies through the economic crisis of the 1990s (Section 4.3.4). Defending employment standards via a culture of fair play rather than rigidly codified laws may have evolved as a way to steer a small, open economy through external shocks. This said, Barbados's increasing regional integration is now prompting it to step outside its local traditions and consider a range of more conventional labor legislation focused on individual rights (Section 4.4). The discussion in Section 5 highlights questions that this transition has raised. Section 6

presents an addendum on how the Barbadian policy environment responded to the recession of the late 2000s.

2. Background

Barbados stands out, across Latin America and the Caribbean, for demonstrating that exemplary economic success can go hand in hand with safeguarding the well-being of the country's population. Barbados is a small, densely populated island in the Eastern Caribbean, whose 430 km² in total land area¹ are home to 274,000 inhabitants,² 93% of whom are Black.³ Throughout the region, only the Bahamas have a higher GDP per capita (\$18,380 vs. \$17,297, PPP US\$),⁴ and only Chile is ranked higher on the Global Competitiveness Index (26th vs. 50th).⁵ At the same time, Barbados has the highest Human Development Index ranking of any country in Latin America and the Caribbean (31st),⁶ which places it third in the Americas after Canada and the United States. This is due to high outcomes for knowledge and education. Barbados has an adult literacy rate of 99.7% and 88.9% combined gross enrolment for primary, secondary and tertiary school. It ranks second for enrolment in Latin America and the Caribbean after Argentina at 89.7%.⁷ Life expectancy at birth is 76.6 years, second in the Caribbean after Cuba at 77.7 years, and fourth in Latin America and the Caribbean after Costa Rica at 78.5 years and Chile at 78.3 years.⁸

Reflecting the equitable distribution of the benefits of economic growth, Barbados scores the lowest Human Poverty Index value (3.0) out of 108 developing countries.⁹ Individual income inequality steadily decreased from 1950–54 to 1979–81, as GDP per capita rose.¹⁰ At the time of the last poverty survey in 1997, 8.7% of households, or 13.9% of the population, lived under the relatively high poverty line of B\$5,503/year (roughly US\$7.54/day).¹¹ When the conventional US\$1/day cutoff is applied to poverty during the period from 1980 to 1989, urban poverty declined from 5% to 2%, while rural poverty rose from 11% to 21%.¹² Barbados and the Bahamas are the only Caribbean countries that have recently maintained an unemployment rate below 10%: average unemployment between 1996 and 2005 was 9.8%.¹³

3. Methods

Academic and government studies were collected on-site in Barbados from June to July 2007. During this time, semi-structured face-to-face interviews were also conducted with key stakeholders regarding policies that affect the country's lower-skilled, lower-income workers. Government interviews included a roundtable discussion with the Permanent Secretary of the Ministry of Labour and Civil Service, the Chief Labour Officer of the Labour Department, and their staff (interview G1)¹⁴; as well as individual interviews with a former Prime Minister of Barbados (G2); a former Permanent Secretary of Labour (G3); and representatives of the National Insurance Office: an actuarial analyst (G4), the Chief Legal Officer (G5) and the Senior Clerk of the Severance Payment Section (G6). Employers are represented by the Executive Director of the Barbados Employers Confederation (E1). Union interviews were given by the Deputy General Secretary of the Barbados Workers Union (U1), by the President and Deputy General Secretary of the National Union of Public Workers (U2), and by the National Union of Public Workers Acting General Secretary (U3). Finally, a long-time labor lawyer and judge provided his views on how Barbadian laws protect low-income workers (J1).

4. Findings

Many interviewees, throughout the government, the unions and the private sector, volunteered the view that a comprehensive study of protections for Barbados' working poor should cover a wide cross-section of social policies. The country's free education, free healthcare, and National Insurance Scheme were the most consistently cited examples.

Edla Lowe, the Labour Department's current Chief Labour Officer, highlights the contributions of the Ministries of Finance and Housing, and of National Insurance and free healthcare, to the well-being of Barbados' lower-income workers:¹⁵

A lot of the protection and the benefits of the lower-income people in Barbados don't come through Labour, but they'll come through more economic and social policy ... so what they don't get in earnings, they are supplemented by all the social services that are provided.¹⁶

Carston Simmons, current Permanent Secretary of the Ministry of Labour and Civil Service, mentions the work of the Ministries of Education, Health, Housing, Finance,

Economic Affairs and Social Transformation in this connection.¹⁷ Ellsworth Young, who has served as both Chief Labour Officer of the Labour Department and Permanent Secretary of the Ministry of Labour, cites education, health policy, National Insurance and public transport as related mechanisms for social protection.¹⁸

In organized labor, Robert Morris, the Deputy General Secretary at the Barbados Workers Union, credits health, the National Insurance Scheme and cost-free primary, secondary and university education, rather than industrial relations, for raising the majority of low-income workers into the middle class.¹⁹

In the private sector, Harry Husbands, the Executive Director of the Barbados Employers Confederation, argues that formal labour rights are not the reason for Barbados' appeal to workers : “The best place in the Caribbean for workers' rights is Guyana! But you wouldn't want to live there ... Every Guyanese worker would like to work in Barbados”.²⁰ Instead, he stresses the “basic floor of rights” afforded by informal collective agreements and the National Insurance Scheme: “Our National Insurance Scheme is like none in the developing world, actually. That's where our labor law is strong”.²¹ High education, which from a worker's perspective is a means to prosperity, is seen by employers through the lens of competitiveness. “The challenge I think we face is, our people are relatively well-educated. And finding enough jobs, particularly from foreign direct investment, for people who are as well-educated as they are, and then the ability to get them a wage that is - in a sense, I suppose, we are now victims of our success”.²²

In line with the above perspectives, this case study will focus both on labor policy proper and on Barbadian achievements in education and social security. This case study will begin by examining the impact that free education has had on the working conditions for low-income Barbadians. Then, under “Flexicurity,” the case study will demonstrate how National Insurance benefits combine with unregulated job dismissals to ensure combined worker security and labor flexibility.

4.1 Free education

Robert Morris of the Barbados Workers Union stresses the importance of free education in Barbados: “I am very, very convinced that what makes Barbados different

from Jamaica, or Guyana, or any of them, is our insistence that people must be educated. It must be free, meaning that the parent doesn't have to go and pay the money, but paid in taxes".²³ Education in Barbados is free at the primary, secondary and tertiary levels. This section focuses on the universalization of primary and secondary education, which has been shown to benefit workers' prosperity.

As can be seen from Figure 1, gross primary school enrolment has been universal since at least 1960 (gaps in the data series reflect a lack of census information for the relevant years). Like other developing countries with strong education records, Barbados had already attained high primary school coverage by the early 20th century.²⁴ As early as 1938, primary schooling was entirely government-financed and had achieved a net enrolment ratio of 88%, despite the fact that attendance was not compulsory. This compares favorably with Jamaica and Trinidad and Tobago, which had achieved net primary enrolment ratios of approximately 80% under systems of compulsory attendance.²⁵ The disaggregated data in Table 1 shows that gender disparity in access to primary school was rapidly eliminated. Barriers to elementary education were further minimized by the introduction of a school lunch program (1963) and of transportation assistance. The Education Act of 1975 made education compulsory between the ages of five and 16.²⁶ Table 2 demonstrates growth in secondary school enrolment from 1960 to 2005.

Bishop et al. outline a series of factors that facilitated the achievement of universal primary schooling and subsequent expansion of higher-level education:²⁷

- *Physical features* – The small size and flat terrain of Barbados facilitate the delivery of Government services.
- *Early development of primary education* – In the years leading to emancipation, humanitarians in the Anglican Church became heavily involved in providing educational facilities. The first school for the sons of slaves opened in 1818. The Government came to see education as a means of preserving law and order.
- *Growing demand* – Riots in 1937 led to a commission that recommended a comprehensive program of social welfare reform, which was gradually implemented after World War II.

- *Political commitment* – Beginning with the advent of universal suffrage in 1951 and continuing through independence from Britain in 1966, Barbadian politics have been dominated by two left-leaning parties, the Barbados Labour Party and the Democratic Labour Party, which have sought votes by competing to expand social services.
- *Social stability* – Barbados has a homogeneous, cohesive society with a peaceful Anglican tradition, and has not been affected by upheavals that may have impeded the development of its social program.
- *Macroeconomic trends* – The sugar boom following World War II helped fund social projects in the 1950s and early 1960s.

After the universalization of elementary coverage by mid-century, the same factors facilitated the expansion of secondary education beginning in 1952. In the 1950s, a total of four secondary modern schools for boys and girls were built in urban and rural areas, with curricula providing technical and vocational training as well as traditional academic education. Enrolment at the first two schools was 1,500 in their first year, compared to approximately 3,000 in all previously existing Government-assisted secondary schools.²⁸ In 1962, tuition fees were abolished in Government secondary schools, and the expansion program accelerated through the 1960s.²⁹ Increases in current expenditure on education, from B\$3.6 million (1960–61) to B\$305.2 million (1999–2000),³⁰ coincided with a rise in gross secondary school enrolment from 39% in 1960 to 100% at the end of the century (see Figure 1). Table 3 shows that during the 1980s and 1990s the number of workers with a secondary education continued to replace those with only a primary education, as most new entrants into the workforce now possessed a secondary education. By 1995, 79.9% of workers had secondary level education, compared to only 48.3% in 1985.

A working paper by the Central Bank of Barbados analyzes the impact of this investment in labor capital on Barbadian workers and the Barbadian economy.³¹ First, its findings suggest a large benefit to workers. In 1963, 64.1% of workers had only a primary education and commanded an average real wage of B\$3,500. By 1990, a comparable percentage of workers (65.9%) now possessed a secondary or technical

education, and commanded an average real wage over twice as large (B\$7,800). Second, there was a significant simultaneous benefit to the economy. Labor input is estimated to have accounted for nearly 50% of economic growth between 1964 and 1993 (see Figure 2), and human capital deepening alone is estimated to have accounted for 30% of total growth.

Having already achieved exemplary literacy rates through universal primary education, Barbados' attainment of universal, vocationally-oriented secondary education during the last half of the 20th century helped protect the country's low-income workers by increasing their skills and making higher-paid jobs available to them. At the same time, this investment in human capital proved to be an effective means of stimulating economic growth.

Throughout the 2000s, Barbados was engaged in reform of primary and secondary education under its Education Sector Enhancement Programme.³² Among the challenges to be addressed was poor secondary school achievement: despite near-universal attendance and a negligible drop-out rate, some 75% of students who sat for the 2006 Caribbean Secondary Education Certificate examinations failed to receive passes in four subjects, the number required for university admission or public-sector employment. Each year, an average 18% of students leave secondary school without certification in any subject.³³ The reform program, scheduled for completion by 2009, included rehabilitation of physical facilities, computerization, teacher training, curriculum reform and evaluation infrastructure. Universal, voluntary, early childhood education is also being promoted; a pilot program made 245 places available at 11 primary schools as of 2005³⁴ and pre-primary enrolment grew to 6,560 children by 2007 (88% net enrolment).³⁵

4.2 Flexicurity

In Barbados, unregulated job dismissal and a comprehensive social safety net combine to ensure labor flexibility and worker security, which are of critical importance to ensure that all workers are able to maintain a basic year-round standard of living in the country's cyclical, tourism-oriented economy. This section examines the interaction

between dismissal law and National Insurance benefits, including severance pay and the only unemployment insurance scheme in the Caribbean.

4.2.1 Dismissal law

Robert Morris of the Barbados Workers Union draws a distinction between the absence of statutory law on unfair dismissal and the case law that does exist concerning unfair dismissal. Such case law has created a body of common law precedent on just cause for firing employees: “If you went to court, the courts might determine, well, that’s not a good enough reason to fire the person, so pay the person damages. But there’s no such statutory law to do that”.³⁶ Leroy Inniss, who represented many low-income clients as a labor lawyer before he became a judge, specifies that even when workers are found to have been unjustly dismissed, they will be paid damages rather than reinstated: “We have no legislation for reinstatement. Absolutely none. As a matter of fact, we have cases which tell you it is illegal to make a person work for anyone he doesn’t want to work for, or employ anyone he doesn’t want to employ! ... You can get rid of any worker you want to get rid of, but you must give him compensation”.³⁷ Barbadian employers thus have a wide latitude to hire and fire their workers, which helps maximize the productivity of their workforce during both high and low tourism seasons on the island.

4.2.2 National Insurance Scheme

The compensation granted to involuntarily separated workers is governed by the National Insurance Scheme (NIS), created by the National Insurance and Social Security Act of 1966 following independence.³⁸ The multi-billion dollar National Insurance Fund provides for a range of benefits to all workers in the formal sector, including the only unemployment insurance scheme in the Caribbean. The scheme is administered and enforced by the parastatal National Insurance Board, which includes representatives from Government, unions and employers. Table 4 lists the benefits administered by the National Insurance Scheme by year of introduction: Pension, Sickness, Funeral and Survivors’ Benefit, Employment Injury, Severance Pay, Maternity and Unemployment.

Salaried workers are required by law to participate and must contribute 1.5% of their wages, matched by their employer. Since the 1970s, the self-employed may also

enroll and are eligible for most benefits, with the exception of injury and unemployment (see Table 4 for a list of NIS benefits by year of introduction). Nationals and non-nationals working in Barbados are given equal coverage. Barbadians working abroad may also make claims under the scheme. Table 5 indicates the number of workers paying into the scheme in 2004: 83% of the total labor force had made at least one contribution that year, equivalent to 92% of the employed labour force. National Insurance Scheme reports do not break down participation by income level.

Young describes the National Insurance Scheme is described as a “billion-dollar industry”.³⁹ Morris describes it as the most important creator of wealth in the Barbadian economy: “So much money goes into that, you can then take it out and use it for other purposes: lending to put up housing.... But at the same time, protecting the rights of people when the time comes to get a pension, sickness benefits and so on”.⁴⁰ By 2006, the National Insurance Fund had grown in excess of B\$2.3 billion.⁴¹ Table 6 provides a comparison of contribution figures for 1968 and 2004.

4.2.3 Severance Payment

The Severance Payment Act was proclaimed in 1973 to compensate private-sector workers for involuntary, permanent job loss due to redundancy.⁴² Workers do not contribute toward the Severance Fund, but employers contribute an amount equivalent to 1% of the employee’s salary and can claim a rebate on eventual severance payments.⁴³ The scheme currently provides 2.5 weeks of salary for each year of service between two and 10 years, two weeks of salary for each year of service between 10 and 20 years, and 3.5 weeks of salary for each year of service between 20 and 33 years.⁴⁴ The Head Clerk of the Severance Payment Section at NIS believed that this was more generous than any other model in the United Kingdom or the Caribbean.⁴⁵ The same calculation is applied by the common law courts to obtain the minimum damages that should be paid in the event that a low-income worker is unjustly dismissed:

The Severance Payment Act does not deal with wrongful dismissal. It deals with redundancy only. But there’s one section of the Act that tells you that if you are wrongfully dismissed, that your damages must not be any less than if you were made redundant ... Common law damages tend to be higher for higher wage earners. Lower wage earners, it is generally better to go for severance payment.⁴⁶

The process of appealing to the Magistrates Court is designed to be as friendly as possible to low-income workers. Losing claimants are charged no more than B\$250 in fees, and in cases of wrongful dismissal, the small-claims jurisdiction of approximately B\$10,000 is waived, allowing the magistrate to award indefinite damages. The employer bears the onus of proving that termination is not due to redundancy, in the case of a severance pay claim, or that dismissal is not wrongful, in the case of a claim to equivalent damages.⁴⁷

4.2.4 Unemployment

The other NIS benefit available to terminated workers is Unemployment Insurance, launched in 1981 based on United Kingdom, U.S. and German models.⁴⁸ Barbados' unemployment scheme, offers a generous 60% of salary for a moderate 26 weeks per year. In consideration of the seasonal island economy, it may be paid non-continuously, including on alternating weeks. Women are equitably represented, at 49% of claims (1995–2000), partly because the program extends to part-time and private household employees. In 1996, 54% of female claimants earned B\$101–350/week, just above the official poverty line of B\$5,503/year. The median salary of female claimants was \$101–200, compared to \$251–350 for men.⁴⁹

Together, severance pay and Unemployment Insurance allow tourism-sector employers to maximize the number of workers on their payroll, because these social security benefits will supplement staff incomes during seasonal lows (via temporary unemployment insurance) or long-term industry downturns (via severance payments). At one pair of Barbadian hotels, for example, virtually no attrition was reported when workers were rehired each year. In spite of the lay-offs that staff underwent each year, they were able to live on the bridging funds provided by social support, and made careers lasting several decades under this arrangement. This adaptation to regional realities stands in contrast to other unemployment insurance regimes, which impose a lengthy disqualifying period that discourages seasonal use.⁵⁰ As will be discussed in greater detail under Section 4.3.4 (Social Partnership) and Section 6 (Update: 2008–09 Financial Crisis), such policies have weathered the most severe economic downturns. With other

aspects of labor relations governed by relatively fluid consensus rather than codified law, the country has been able to implement emergency measures such as wage freezes or reductions while maintaining essential protections.

4.2.5 Future directions for NIS

Employers do not support further expansion of social support where they will be directly responsible for payment, such as the union proposal to add paternity leave clauses to their collective agreements.⁵¹ But they have not pushed to reform existing NIS benefits, even where programs such as Unemployment Insurance may be seen as placing them at a competitive disadvantage with countries that have lower labor costs. In general, the Barbadian private sector relies on NIS to provide a wide range of benefits that are shouldered directly by private companies in other countries.⁵²

Recent benefit reforms have been spearheaded by the government. For example, in 2002, concern over the country's aging society prompted rationalization of the pension system.⁵³ Previously, pension rates had been adjusted based on political expediency in attracting voters rather than fluctuations in cost of living:

Up to the time of pension reform, all increases were done in various different years, on no structural basis ... If for example it was a general election coming up, when in order for the particular party to get back in power, they might promise that it would increase the benefits we're paying.⁵⁴

The amendment that introduced annual actuarial review of pension rates created a precedent for updating other benefits as well. Rates were increased on a range of benefits in 2006, and maternity benefits that had been available only to the woman or through her wedded husband were now made available through common law husbands as well. A different initiative is the Welfare to Work Programme, which is designed to decrease dependency on the unemployment scheme, but so far is training only a small fraction of unemployment insurance claimants: just over 500 people (2007) as compared to 15,188 approved claims (2005), with only a 40% job placement rate (2007).⁵⁵

4.3 *Social dialogue*

Social dialogue plays a critical role in defining the rights of the working poor in Barbados. While a basic body of labor legislation dates from the colonial and post-colonial eras, Barbadians traditionally govern labor conditions to the largest extent possible through informal negotiation between unions and employers, a system referred to as “voluntarism.” This section describes the main features of the voluntaristic approach, followed by the union strength that has made it workable; the alternatives open to workers with grievances, who may either seek redress through informal voluntaristic channels or formal legal action; and the unique system of Social Partnership between Government, unions and employers that has grown out of this tradition at the national level since the economic crisis of the 1990s.

4.3.1 Voluntarism

Labor relations in the British West Indies gave workers and employers the freedom to form and join trade unions or employer associations of their choice, and to regulate most of their own relations.⁵⁶ The ILO Caribbean Office describes the principles that formed the basis for this voluntaristic approach:

The Caribbean adopted and kept the voluntary system of industrial relations, which is premised on fundamental freedoms – freedom of contract, freedom of association, freedom to engage in industrial action, and freedom to bargain collectively.⁵⁷

Today, Barbados is the largest of four Caribbean economies that preserve the voluntaristic tradition.⁵⁸ Despite the gradual accumulation of acts governing, for example, holidays with pay (1952), workplace safety and health at factories (1984) and minimum wage for shop attendants (1985), collective bargaining remains the preferred method for setting wages, work hours and various conditions of employment, as well as resolving labor disputes and even negotiating union recognition. According to Morris (BWU), by the 1980s poor workers enjoyed a basic foundation of legal rights, outside of which they were now best served by informal union representation, with Government mediation in the event of disputes with employers:

In the post-1980 period, I believe it's almost true to say that ... it was also a concern about becoming too regulated. Because I think the planners preferred a voluntarist mode, where the less regulation – except in fundamental areas – the better the system would be. In that if you encourage a mature private-sector organization, a mature trade union, and you have your Ministry of Labour, Department of Labour, as a referee, a regulator, a conciliating mediator in cases, etc., that will be a better system than if everything was regulated right down. So I think there was a recession in the passage of labor legislation.⁵⁹

In 1998, government, unions and employers issued a joint statement, popularly known as the Fourth of February Accord, reaffirming their commitment to voluntarism and, in particular, voluntary recognition of union representation and Labour Department conciliation. This action was taken in response to arguments by an offshore company that it need not follow conventional Barbadian practice in the absence of legal codification.⁶⁰

In Barbados, collective agreements do not represent legally enforceable contracts. The Trade Unions Act (1964, last amended 1988) explicitly states that nothing in the Act shall affect “any agreement between an employer and those employed by him as to such employment”⁶¹ or “enable any court to entertain any legal proceedings instituted with the object of directly enforcing or recovering damages for the breach of any agreement”.⁶² Although the Trade Disputes Arbitration and Inquiry Act (1939, last amended 1967) allows for legal arbitration of industrial disputes via Boards of Inquiry, this requires the agreement of both unions and employers, who have preferred direct negotiations aided by non-binding conciliation from the government. The Labour Department attempts to referee an agreement acceptable to both parties; should the impasse continue, mediation falls to the Minister of Labour and ultimately the Prime Minister. The Minister of Labour is more likely to be called on in disputes involving key economic sectors such as the sugar, hotels and tourism, and the port. Where a strike appears inevitable, the dispute may go to the Prime Minister.⁶³ In regard to this tiered system of conciliation, Prime Minister Sir Lloyd Erskine Sandiford (1987–94) notes that the Labour Department has “never been as strong as it should be,” and that unions regard the Labour Department and the Minister of Labour to be “only stations on the way towards getting the matter resolved at the level of the Prime Minister”.⁶⁴

If either the union or employer refuses to abide by the conventions of voluntarism, there is by definition little recourse to the law. Judge Leroy Inniss recounts the case of a

local supermarket owner who rejected unionization at his stores and fired two workers for joining the Barbados Workers Union, paying them the amount that they would have received for redundancy:

...the Union brought a case against them, that it was in breach of the Constitution and all other things. But the court found that once he paid the two what was theirs, that he could dismiss who he wants to dismiss. Because anybody can say who we want to associate with. Now, in Britain, for example ... if you dismiss a person for joining a trade union, the penalties are greater than if you dismiss them for just other misconduct. But if you dismiss them for joining a trade union, it's the same thing as dismissing you for cursing the boss ... or not turning up for work.⁶⁵

In spite of the risk that unions may be excluded from the industrial relations process in this way, they remain vocal supporters of the voluntary system. The means by which they maintain their negotiating power are discussed below.

4.3.2 Union strength

Barbados' union density has been estimated at 36% (50,000 unionized workers out of a total labor force of 135,000). Union density rises to roughly 52% when calculations include both unionized and non-unionized workers at unionized workplaces, all of whom benefit from the provisions of the collective agreements negotiated by their bargaining unit.⁶⁶ The negotiating power of this base is magnified by a tradition of respect for the labor movement, the cohesion of organized labor and its judicious use of industrial action in key arenas such as the port. It is believed that wage settlements negotiated in unionized workplaces impact positively on workers at non-unionized workplaces as well, by setting a point of reference for fair wages and employment conditions.⁶⁷ Young adds the caveat that while this type of informal standard-setting may function in a small community, the need for competitiveness in the global economy and the emergence of a pool of Guyanese migrant labor create increasing incentives for employers and workers to adopt lower standards in workplaces not protected by union representation.⁶⁸

Judge Leroy Inniss lists several factors that contribute to the power of unions in Barbados, the first of which is societal support: "Number one, you wouldn't like to be deemed as anti-union. It doesn't go down well in society if you are anti-union."⁶⁹

Illustrative of this attitude is the fact that of the 10 National Heroes named in 1998, five

were active in organized labor: Charles Duncan O’Neal, founder of the Working Men’s Association (1926), the forerunner of today’s unions; Clement Payne, a pioneer in the Caribbean trade union movement; Sir Grantley Adams, first Premier of Barbados, president of the Barbados Workers Union (1941–54) and a founder of the International Confederation of Free Trade Unions; Sir Hugh Springer, first General Secretary of the BWU (1940–47) and later Governor-General of Barbados; and Sir Frank Walcott, General Secretary of the BWU (1948–91) and former MP and senator.⁷⁰

Unions also present a largely unified front in negotiations. Inniss states: “We’ve done for a long time without laws, but that ... takes a strong trade union, and one of the things that probably worked for us is that we have one, all-purpose trade union.”⁷¹ Young concurs: “...fortunately for us, we’ve had one behemoth. One big union in the private sector.”⁷² The ILO also echoes this analysis, attributing the relative success of the Barbadian industrial relations system to an absence of strong competition between unions and to the dominant position of the BWU, especially in the private sector, where it has exclusive coverage.⁷³ In 2001, over 70% of the estimated organized workforce was concentrated in the BWU (39,000 members) and two smaller unions: the public-service National Union of Public Workers (5,000 members) and the Barbados Teachers Union (3,000 members).

A final strategic advantage for labor is the unionization of the port and other essential services. In the event of an industrial dispute anywhere in the country, the BWU has the right to call for a third-party strike by its members in these areas. Although the BWU does not often abuse this ability, the possibility provides it with significant bargaining leverage. Inniss describes two of the strike options available to the BWU:

...we also have this secondary strike, where two people have a dispute, and if it gets big enough, the Union just calls on the port workers. The port is not involved in the dispute, but it brings out sympathetic workers. Not only the port, sometimes they’ll ... pull out the sanitation workers, for example.⁷⁴

The Barbados Employers Confederation mentions that, in addition to striking, the BWU has the option to boycott businesses at the port:

...the unions, through their power and so on and so forth, can enforce recognition through strikes or whatever. We don’t have any laws that governs third-party boycotts, so if you’re involved in a dispute with the Union, the Union is powerful at the port. If your business depends on importation of materials and so on, they

can enforce a boycott of your activity at the port, and virtually cripple you ... if you're powerful, you really don't need a rule-bound system.⁷⁵

Commentators generally agree that the unions have used their strength responsibly, and indeed have spearheaded many of Barbados's social advances, such as the NIS. The ILO reports that the BWU has for the most part taken "an enlightened position on major labor issues, accepting that its action and position must reflect the overall interests not only of its members but also of society at large."⁷⁶ Inniss believes that the voluntaristic system owes its long success to the fact that unions have not abused their ability to call crippling third-party strikes,⁷⁷ and Young similarly credits the functioning of the system to the responsibility of the BWU leadership:

...they espouse what they would call responsible trade union behavior, which is a predisposition for discussing issues over the bargaining table. So the system here functions primarily because of a responsible union, and a mature and trained trade union leadership.⁷⁸

Young further supposes that because past and present BWU General Secretaries have held senior positions in the ILO, the attention of the international community requires them to set an example for trade union behavior.⁷⁹ The Union describes its current stance as a conscious reaction to the relative militancy of the 1970s and 1980s, when "enough time was never, ever spent on discussing, analyzing, and trying to get answers to solutions, and therefore once we used the strike action, sometimes you were only suppressing the problem from coming up another time, and so on."⁸⁰ For example, it now ascribes some responsibility for the economic crash of 1993 to its refusal to back down from negotiated wage increases, with the result that "the trade union has become a lot more wary, a lot more unwilling to press in the way they pressed back in the 90s, and so on. Because right at this particular point in time, the cost of living is moving pretty high and so on, but the trade unions aren't pushing."⁸¹ Since 1974, the BWU has also run a Labour College, at which union members are able to take leave from work in order to deepen their understanding of industrial relations.⁸²

One measure of the resulting stability of industrial relations is the extent to which collective agreements have been negotiated between unions and employers without recourse to mediation by the Department of Labour. From 1985 to 1992, 81% of 385 agreements were concluded without the need for mediation; from 1994 to 2002, the

percentage of agreements concluded without mediation rose to 89%, of a total of 396.⁸³ Barbadian employers, who historically were reluctant to recognize trade unions, have come to support the voluntaristic approach to collective bargaining for its effective assistance in avoiding costly labor conflicts.⁸⁴

Young cautions against interpreting the low level of disputes and strikes as evidence of maturity in the industrial relations system as a whole:

My friends in trade union movement I guess, and others, might say yes, the system works in Barbados, because of the low level of outright disputes between unions and employers. That, to my mind, could justify a claim on the assumption that the industrial relations system here is mature, has matured. You could say that based (on) the low level of strikes, but if you went to work – enterprise-level now, workplace-level – and spoke to employees, you may get a different reply, depending on who you spoke to, especially in the public sector. We've had some unrest in the public sector for the last five years: wildcat strikes, sick-outs, go-slows and so on.⁸⁵

Sir Lloyd Sandiford also suggests that the high number of work stoppages are one failing of the current system.⁸⁶ The annual number of work stoppages has risen steeply even as demand for mediation by the Department of Labour has declined. From an average of nine per year between 1985 and 1992, stoppages rose to an average of 19 per year between 1994 and 2002.⁸⁷ In 2004, the number of stoppages had climbed to 25, and in 2005, it was higher still at 40. This reflects the growing popularity of walk-offs, especially among public-sector employees, to express dissatisfaction with particular company actions. Although such stoppages are not protected by law, tacit support from the BWU ensures that wildcat strikers are not fired for breach of contract.⁸⁸ In most cases, the Union and management enter negotiations within a few hours of the strike, at which time workers return to their posts in anticipation of a resolution.⁸⁹ This practice explains, in part, why the number of work days lost due to stoppages declined slightly from 2,640 in 2004 to 2,606 in 2005, even as the number of stoppages increased by 160%.⁹⁰

4.3.3 Two paths to address worker grievances

When workers have a grievance, they generally have the option to address it through either the voluntaristic or the legal system, which represent two largely parallel

and mutually exclusive channels. On the voluntaristic side, unionized employees are able to draw on union representation, both during scheduled negotiations of collective agreements and throughout the year. The Department of Labour offers similar conciliation services that extend to non-unionized workers as well, intervening with employers and negotiating remuneration for unpaid holiday pay, wages, notice pay, severance payments and the like. In 2005, the Department of Labour received 2,124 complaints and collected approximately \$97,600 in remunerations.⁹¹

Depending on the situation, workers may alternatively opt to take their complaints to the courts, where relevant laws apply. Judge Inniss recounts a case in which a restaurant fired one of its union delegates who refused to work an overtime shift: “We went to court, and we won. Because although she had been part of the machinery that negotiated that overtime was necessary, she said, ‘I’m not bound by that. I have my individual rights!’ And at common law, nobody’s bound to work overtime.”⁹² In this instance, the worker weighed her rights under the voluntaristic and the legal systems, and chose the course of action that was most personally advantageous, regardless of her strong union ties. Despite the strength and flexibility of voluntarism, especially as it ensures the well-being of the workforce as a whole, the rights of individual workers may always be shored up by clear laws, which have remained rudimentary. The following section describes how Barbados depended on its voluntaristic approach to navigate the grave economic crisis of the 1990s. Section 5 follows with a catalogue of the country’s evolving labor legislation.

4.3.4 Social Partnership

Barbados has increasingly formalized its voluntaristic tradition in the form of a tripartite Social Partnership between the government, the union coalition (Congress of Staff Associations and Trade Unions of Barbados, or CTUSAB) and the Barbados Employers Confederation (BEC). Ad hoc consultations have been common especially since the 1970s, and economic crisis in the 1990s created the conditions for an institutionalized forum for social concertation, cooperation on austerity measures, and new tripartite mechanisms such as the National Productivity Council. The Social Partnership is credited for having enabled Barbados to weather the crisis, preserving

fundamental social securities without submitting to IMF and World Bank decrees. It has outlasted the recession and is now being written into a new draft of the Barbados Constitution. Nevertheless, some parties remain critical of an undemocratic imbalance of power in its current functions.

According to Young, the aspect of Barbadian labor relations that best serves as a model for other countries is the ability that the government, the unions and the business sector have shown to reach consensus on common issues at the national level:

...there's a built-in conflictual dimension, or factor, or phenomenon, in employer–employee relations. But for some reason, despite that fundamental, endemic conflict, capital and labor in Barbados seem to have the ability to reconcile their divergent interests and to understand where the employers and the unions are coming from, and what their objectives are, and they'll try to reach an accommodation.⁹³

Particularly since the 1970s, Government has called on both unions and employers to serve in an advisory capacity on economic and labor market issues. For example, informal correspondence has been solicited regarding the position of the social partners on the ratification of ILO conventions, and in 1986 the Minister of Labour established a broad-based consultative committee to address unemployment. In 1990 a National Economic Consultative Council, comprising the government, the BWU, the BEC and other private sector organizations such as the Chambers of Commerce, was formed to advise on the nation's emerging economic troubles. Such ad hoc fora continue to be an important feature of industrial relations.⁹⁴

Barbados' small, open economy makes it vulnerable to international economic fluctuations, and as suggested by Figure 2, downturns in tourist arrivals resulted in two large falls in GDP between 1980 and 1995, which combined to deplete foreign currency reserves and raise unemployment to a record 24.3% by 1994. In 1991, unions responded to the imposition of a Government austerity plan⁹⁵ by organizing protests, which increased the number of work days lost from 643 in 1991 to 36,473 in 1992⁹⁶ and grew to involve employers' organizations and civil society groups.⁹⁷ In 1993, the tripartite partners shifted their consultative strategy from an advisory approach to a joint, collective initiative, which permitted agreement on an innovative Protocol for the Implementation of a Prices and Income Policy (1993–1995) and the introduction of structural adjustment

support by the IMF.⁹⁸ This Protocol reflected the partners' pact to avoid currency devaluation, the IMF and World Bank strategy accepted by Guyana, Suriname, Jamaica and Trinidad and Tobago,⁹⁹ and instead respect a two-year wage freeze in both the public and private sectors at all organizational levels. At the same time, at least one member of each family affected by a layoff program would retain their job, and businesses agreed not to increase prices except as a result of imported inflation.¹⁰⁰

Under the 1993 Protocol, any wage increases were linked with productivity or profit-sharing schemes. In this connection, the Government was mandated to create a National Productivity Board (now Council) under a tripartite executive, which would encourage productivity measures, develop assessment tools and operate a Policy Research Centre. Although the National Productivity Council remains in operation, businesses have negotiated few productivity-based agreements, with the high point occurring during the wage freeze in 1994–95. The ratio of real (constant price) GDP to number of persons employed indicates that economy-wide labor productivity trended slightly downward between 1989 and 2001.¹⁰¹ At the BWU, Morris notes that productivity improvements are “not moving as quickly as we would like ... Because once you are out of a crisis, people are willing to pay.”¹⁰²

Although the 1993 Protocol did not have a lasting impact on worker productivity, the Barbadian economy returned to a moderate rate of growth, and the Social Partners decided to extend their tripartite compact by drafting a second protocol to cover the years 1995–97. The government at this juncture was under the Barbados Labour Party, which carried forward the initiative of the Democratic Labour Party that had been responsible for the original Protocol. Under Protocol 2, the wage freeze provision was revised to refer to wage restraint, and items were inserted in support of small-business development, job retraining and price-monitoring associations. An addendum on job security addressed consultations on lay-offs, job enrichment and alternatives to severance.¹⁰³ Whereas under Protocol 1, the Social Partners pledged to meet no less than four times a year, with the Prime Minister serving as chair; Protocol 2 provided for an additional subcommittee, chaired by a Government minister, that would meet monthly as a first line of consultation on the implementation of the agreements.¹⁰⁴ Protocols 3 (1998–2000), 4 (2001–04) and 5 (2005–07, extended to the present) have tended to depart from the fiscal focus of the first

two Protocols, adding social objectives such as reducing social disparities through increased employment, reducing discrimination against persons with disabilities and HIV/AIDS, and preventing environmental degradation.

The ILO's interview-based evaluation of the first three protocols concludes that while they are not wholly responsible for the ensuing economic stability, there is clear evidence that they contributed.¹⁰⁵ Sir Lloyd Sandiford echoes the assessment of the Social Partners, comparing the success of the Social Partnerships in Barbados and Ireland:

[The Irish] are claiming that it is responsible for their 'economic miracle,' they call it. Their economic miracle in the European Union. And certainly we claim, here, that our tripartite approach, and our Social Partnership, has been responsible for the consecutive years of growth that we have seen in our economy.¹⁰⁶

At the BEC, Husbands asserts that the key benefit of the Social Partnership is not quantitative, but procedural:

...if you go to any business place out there, the management will probably tell you that the Social Partners thing has benefited the workers. And the workers will probably say to you the Social Partnership has benefited employers. But I think that debate kind of misses the point. The Social Partnership has the potential to broaden and deepen democracy and participation in a way that the original framers didn't perceive could happen. For example, there was a time when the Minister of Finance made his budget statement in the English tradition of displaying a black box before he goes into Parliament to make the budget speech. Because of the dynamics involved in the Social Partnership, the Minister of Finance now consults with the private sector and the unions separately about what it is they would like to see Government policy address. We make a formal submission, go to Government headquarters and meet with the Government, the Minister of Finance, who in this case happens to be the Prime Minister. I don't see a time in the near future when that – although it's not enshrined in any law anywhere – I don't see a time in the near future when an activity like that is not part of the normal way of doing business.¹⁰⁷

Husbands notes that the unions currently make greater use of the Social Partnership to promote their agenda, stating that they use it “in a political way that the private sector does not ... The private sector may use its political clout more on one-to-one with these Government officials, but they use it very much in a political sense, you know, to get this done or to get that done.”¹⁰⁸ From 2005–07, subcommittee meetings were attended by an average of five private-sector representatives, as compared to two dozen union

representatives. However, at two occasions when large companies wished to lay off a portion of their workforce, a private-sector delegation comparable in size to the union side attended the subcommittee to state its case and engage in voluntary negotiations.¹⁰⁹ The BWU confirms the impact that the Social Partnership has had on lay-offs in particular:

That Protocol has really worked fairly successfully, that where people want to lay off, they have to come and talk to the Union, etc., and justify. It seems to me that we have not lost – if there's one outstanding thing I can see coming out of those Protocols, and there may be many other things – but certainly one of the most outstanding things has been the reduction in layoffs in Barbados.¹¹⁰

In a letter to CTUSAB dated August 25, 2005, Deputy Prime Minister Mottley stresses her work “to ensure that the Social Partnership becomes embedded in this new draft Constitution which I have the responsibility of preparing”¹¹¹ and suggests that the tripartite model will continue to occupy an important place in Barbadian industrial relations.

Some observers remain cautious regarding perceived undemocratic tendencies in the Social Partnership model. Sandiford summarizes:

I don't think that they are really doing the job that they should be doing, in terms of keeping a delicate balance among these three entities ... I was aware that the trade unions sometimes became pretty grandiose in the roles that they should play, and I was also aware that private sector representatives also were seeking to enhance their participation in governmental activities ... And it's something we still have to worry about, because there were parliamentarians who began to notice that issues were being shunted into the Social Partnership before they were sent to Parliament, and Parliament looked as though it was only a rubber stamp, and losing its primacy of place in the constitutional arrangements in this country. And that was never envisaged. So when once you get the diminution in the role of parliament, your democracy becomes even more fragile.¹¹²

Representatives of the public-service National Union of Public Workers (NUPW) believe that the government hampers the effectiveness of the Social Partnership. NUPW Deputy General Secretary Derek Alleyne argues that Barbados has “never had a real private sector,” with much business consisting of monopolies or of the government functioning as both employer and regulator, and that “the Social Partnership reflects that ... employers don't bring ideas to the table.”¹¹³ NUPW President Walter Maloney adds:

Sometimes we get the impression that the government just sets this up to sell the model to the world, when in fact it doesn't work ... I cannot remember the private sector bringing any issues to the Social Partnership, but we in the organization believe we should continue the partnership and try push it in the right direction.¹¹⁵

Finally, because the Social Partnership is concerned primarily with national macroeconomic issues, a 2004 assessment of the first four Protocols reports limited “buy-in” by the general public, who tend to view the Social Partnership and Protocols as an arrangement between the leaders of the respective parties rather than the constituents they represent. The proposed addition of a secretariat to the Social Partnership mechanism should aid in the information-sharing and consultative measures required to address this issue.¹¹⁶

4.4 Labor legislation

As discussed, Barbados has sought to establish a basic floor of labor standards while allowing the majority of industrial relations to be resolved via informal, local collective bargaining. This section provides an overview of current formal labor law and Labour Department capacities, followed by discussion of three pieces of proposed regulation: the Safety and Health at Work Act, the Employment Rights Bill and a proposed universal minimum wage.

4.4.1 Current labor law

Barbados has ratified the eight core conventions of the ILO, but it has no unified Labour Code and lacks legislation on universal minimum wage and union recognition, in addition to unfair dismissal. Labor law, policed by the Labour Department and enforceable by the courts, currently consists of the following: the Shops Act, which sets a sectoral minimum wage for shop assistants; the Factories Act, which defines industrial workplace safety but does not cover all workers; and the Domestic Hours law, which set a sectoral minimum wage for housekeepers but is now defunct (see Table 7).

The Labour Department is authorized to perform unscheduled workplace inspections to ensure the execution of labor law, but because of modest staffing, work conditions often depend on independent arrangements between workers and employers. In 2005, the Factory Inspectorate carried out 164 routine inspections.¹¹⁷ Nia Salankey, a Labour Department health inspector, reports that the recent increase in inspection personnel may be insufficient to cover the forthcoming increase in the number of workplaces governed by health and safety law:

...the occupational safety and health section of the Labour Department, from January this year [2007] we got an additional four persons to operate within the section. We previously had four inspectors ... However, we had legislation, which we call the Factories Act, which governed safety and health within the factory-type or factory-defined operations in Barbados. The new legislation which was passed in Parliament in 2005, now, is the Safety and Health at Work Act, which covers all workplaces except the military and armed forces ... So, hence, now we cover the entire workforce, more or less. So the additional persons really may not be adequate, but still, it's a bit more to oversee safety and health.¹¹⁸

4.4.2 Pending labor policy reforms

Lawmakers are currently working on a variety of new labor legislation. Explanations for this activity include the need for Barbados to adapt to international regulatory standards as it integrates with foreign markets, as well as political attention to working-class issues. The globalization argument appears in a 1999 ILO employment policy report, which notes the tension between expectations of foreign investors and the local Social Partners:

Since the beginning of the 1990s there has been growing consensus on the need to adapt the voluntaristic nature of industrial relations in Barbados with respect to trade union recognition and unfair dismissals. The trade unions and the employers' organizations expressed the view that if there was a need to formalize institutions and procedures through labor legislation, it should be accomplished without upsetting voluntarism in the system. Regulation should reflect the established industrial relations practice and not impose provisions. The need for such adjustment is likely to be associated with the development of the international business sector and the influx of foreign investors who are less accustomed to the voluntaristic traditions and more likely to recognize only clear legal requirements.¹¹⁹

Acting NUPW General Secretary Dennis Clarke similarly believes that employment law reform is returning to prominence because of Caribbean economic integration: "with CSME [CARICOM Single Market and Economy] coming onstream, you've got to deal with it. Because it's a question of how are you going to do a deal, then, with freedom of movement. And you want to have codified labor legislation across the Caribbean."¹²⁰

Young says that political considerations are driving the increase in legislative reform: "And there's a theory around here, that whenever the Barbados Labour Party is in power, it seeks to pass progressive labor legislation to curry the favor of the working class ... Hence the spate of legislation that is now being recommended."¹²¹ In addition to the three pieces of labor legislation described below, Young mentions a proposed policy on sexual harassment, a flexibilization proposal and a draft bill on compulsory trade union recognition.¹²²

4.4.2.1 Safety and Health at Work Act

A Safety and Health at Work Act, which expands on the provisions of the Factories Act and extends them to all workplaces except those of the military and police, was first prepared in 1989–90, reportedly with uncompromising BWU support.¹²³ It has been passed by Parliament, and is awaiting official proclamation as of late 2009.¹²⁴ The new legislation brings Barbados law in line with ILO Occupational Safety and Health Convention 155, adopted in 1981, and addresses the fact that at least 80% of the workforce is estimated not to be covered by occupational safety and health legislation.¹²⁵

The Safety and Health at Work Act increases governmental regulation over workplace conditions by granting the Labour Department more power to enforce

provisions. Labour Inspector Salankey explains how the new Act changes the party responsible for bringing breaches to court, from the Labour Department who reports the offence to the employer who wishes to dispute it:

Previously, under the Factories Act, if there was a breach, the Labour Department would have to proceed by going through the magistrative courts. But the legislation, the Safety and Health at Work Act, will now give the inspectors and Chief Labour Office the power to issue notices of improvement, prohibition notices, which would indicate that corrections must be done in a specified period of time. Or work, if it is considered to be inherently hazardous, to stop immediately until it can be corrected. If the employer has some concern with the issuing of any of those notices, then they would have to proceed through a court of law, as opposed to the inspectors having to go through that process. So it does give inspectors, and the Department in general, greater powers in terms of enforcing the legislation.¹²⁶

The consensual tradition can still be found in the bipartite Safety Committees that monitor workplace safety and in the Labour Department's position as first conciliator. The second resort, however, will now be a tripartite tribunal with the power of law.

Associated regulations are still under discussion. For example, the implementation of the right to refuse unsafe work, which the BWU describes simply as "good protection,"¹²⁷ continued to pose a problem for the BEC as of 2007. The employers argued that while the right to refuse unsafe work cannot be challenged, there remained too much latitude in the legislation: "a person could essentially say, 'I'm not doing that because it's unsafe,' and not have to do anything, really, to prove. So, I mean, a bus driver can decide: 'This bus is unsafe, I'm not driving (the) bus today.' But he doesn't have to report that to anybody. He doesn't have to take any action... to justify his claim."¹²⁸ It is felt that the wait before proclamation is allowing companies to prepare for the standards in good time, rather than demanding a large outlay of government money to implement them at once. In the interim, each of the Social Partners is also holding training and information seminars on the coming changes.¹²⁹

4.4.2.2 Employment Rights Bill

An Employment Rights Bill, formalizing unfair dismissal, itemized pay statements and the like, was forwarded to Cabinet for approval in late 2009.¹³⁰ The Labour Department had submitted an earlier draft to Parliament in the 1990s, but this was

not passed due to provisions found unacceptable by employers and the BWU.¹³¹ The Ministry of Labour was required to adjust the bill's content in consultation with the other Social Partners.¹³²

Morris explains how common law has previously served in the stead of an employment rights bill:

We would have gone from a Master and Servants Act, which would have been rescinded in the 1940s, and it's never been replaced by an Employment Rights Bill. So that a lot of employment rights that might be there in the common law, and might have been guaranteed at the common law through court cases and so on, have not been codified and put into a body of law to protect the worker. For instance, there's nothing that says right now that if somebody wants to terminate anybody in Barbados, that they have to give them the reason in writing. So right now, somebody can fire you without telling you why. When you go to court, the law courts are going to say, well, tell us the reason so we can say whether it's right or wrong. But there's no law that that person has broken by not giving you that. So the Employment Rights Bill will say that in order to terminate somebody, you will have to give them notice in writing, setting out the reasons and so on.¹³³

In spite of BWU support for formalization of such worker rights, Morris reports that labor scuttled the original legislation in part because the draft simultaneously attempted to formalize collective bargaining:

I think that people wanted to tie it at one time – if you want to get these new rights created, they want to tie that to other things that the employers wanted for a long time. Like they wanted, for instance, to make the collective agreement a document at law. They wanted to get legislation on recognition. In order to get recognition for a bargaining unit, they wanted some kind of legislation saying you had to get 50% + 1 and all that. But the Union has been saying no, if you want to give us the Employment Rights Bill, it comes without having it hooked onto, and tied to, and allied to all these different things.¹³⁴

Young notes that the original draft further attempted to regulate union power by instituting an employment rights tribunal:

...I get the distinct impression that the Government of Barbados is quietly regulating the area through the back door. In fact, one of the provisions in the Employment Rights Bill, the first draft provided for the establishment of a tribunal and even people working at the contracts collective agreements, they're represented by union, could take disputes to the tribunal, bypass the union and go to tribunal. If you can get that kind of defiance, it is saying to me, that it would question the validity of the existence of the trade union.¹³⁵

The revised bill reportedly retains an employment rights tribunal, with wide powers to award compensation and order reinstatement or re-engagement of unfairly dismissed employees, but stipulates that complaints must first be referred to the Chief Labour Officer for an opportunity at voluntary conciliation. The resulting legislation apparently seeks to blend voluntaristic flexibility with legal guarantees, along the same lines as the tribunal envisioned by the Safety and Health at Work Act.

4.4.2.3 Minimum wage legislation

Young argues that the lack of a universal minimum wage makes the Barbados model inadequate:

...if there's a model at all, it is not satisfactory at protecting the poor, even though government social policy – free education and healthcare and subsidized transportation, public transport and subsidized drugs, the National Drug Service, and the National Unemployment Scheme – would certainly put a different spin on any analysis of real income.¹³⁶

Increasing demand for a universal minimum wage led the Barbados Policy Research Centre, a branch of the National Productivity Council, to undertake a study on the subject in 2006.¹³⁷ The study, prepared by Dr. Andrew Downes at the University of the West Indies, was collated with comments by the Labour Ministry and sent to Cabinet, which referred the issue to the Social Partners.¹³⁸ The findings, combining comparative study of other national minimum wages, statistical analysis of impact and employer interviews, suggest that employers would tolerate a universal, living minimum wage of B\$7.50/h, a large increase over the B\$5.00/h currently guaranteed to shop assistants only.

The BEC indicates that the unions are not eager to promote a formal minimum wage, as it would erode one of their key collective bargaining responsibilities:

...the unions, historically, have not been too enthusiastic about national minimum wages. If they were ... you would have had national minimum wage legislation long ago. But they're not too enthusiastic about that either, because, I mean, they have certainly had the view in the past that minimum wage legislation could actually undermine – national minimum wage legislation – could actually undermine their power to bargain collectively.¹³⁹

By its own admission, the BWU is not currently pushing to address the rising cost of life in Barbados.¹⁴⁰ In regard to a universal minimum wage, it leaves open the question of

whether it should be administered formally under law, or informally through social dialogue:

Is the minimum wage supposed to be legislated? Does Government go into Parliament and say, this is the minimum wage, and then set up a whole system of enforcement? People going around to make sure that it happens, and so on? Are we going to do it that way? Or are we going to do it the same way we did the Social Protocols? Which is not legislated: it is recognized by Parliament, but it is a Protocol between the Social Partners. There is no policing mechanism. It is all dependent on good faith. Is that the way to go? Or it is the third way, which is that you leave it to collective bargaining?¹⁴¹

5. Discussion

Barbados demonstrates that a favorable policy environment can allow a small-island developing state to achieve economic growth, and, simultaneously, high quality of life for its low-skilled, low-income workers. The country's laws and labor relations are suited to a small, open economy that is subject to external shocks. Legally enforced protections tend to be of a general sort that stand workers and the country in good stead though good times and bad: quality education, and an innovative safety net tailored to the tourist cycle. For the rest, Barbados has largely been able to rely on a strong and responsible pairing of business and labor to reach consensus on fair workplace conditions, without over-defining worker privileges in a way that would make these unsustainable during lean years.

Barbados faces growing pressure to formalize its labor relations, as indicated by recent efforts to broaden individual legal protections. Such pressures are both external and internal. From the outside, integration with regional and global economies demands that Barbados distance itself from its unconventional voluntarist system and establish a legal framework that clearly defines the rights and responsibilities of local and foreign stakeholders. For example, a common set of standards will be necessary to meet the CARICOM Single Market and Economy goal of unrestricted labor movement within the Caribbean¹⁴². From within, a working-class desire for stricter legal protections can be detected in cases where workers choose the courts over union representation, in the limited public buy-in regarding the successful tripartite Social Partnership, and in the Barbados Labour Party's regular campaign promises to expand legislation.

In the immediate future, Barbados faces the challenge of grafting a more individually oriented system of worker rights onto a collective approach that has, for decades, made it a regional success story. This case study concludes with three open questions that arise from this shift: Are the pressures of legal formalization compatible with retaining a strong union? How can Barbados balance commitment to tripartite consensus with efficient law-making? Which, if any, elements of the Barbadian labor model are eligible for export?

Are the pressures of legal formalization compatible with retaining a strong union?

The Barbadian labor movement has been a force for progressive, egalitarian policy since independence, yet a shift away from collective bargaining in favor of labor tribunals threatens its position in Barbadian society. The unions especially argue for the benefit of retaining informal industrial relations:

You see, a lot of people, especially in the business sector, have been pushing and trying for us to introduce a labor court here. But if you look, yes we will have our strikes, but our strikes last a two or three-day thing. Hardly a week, okay? And it is because we still operate under a sort of voluntary type of arrangement, and as I said to you, you have the Labour Department who does the conciliation. And it is because of that type of relationship between the three Social Partners that you're able to have matters resolved much more speedily than if you have a court. Because that example, right through the Caribbean, they have all their labor courts, and their codes and everything – but still their strikes are longer, and they're much more frequent than you have in Barbados.¹⁴³

The employers, on the other hand, view increased legislation as a stop on union power:

“...I hold the personal view – I can't speak for the unions – that the unions actually are not too enthusiastic about these new legislative developments. Because if I were in their shoes, I would probably see it as almost like a thinnage, or rather the beginning of the end, really.”¹⁴⁴ Independent observers such as Judge Inniss support the need for change: “I'm very much in favor of the unions. But we need to have balance. Things have changed since the unions have been formed, and we have to change with the times.”¹⁴⁵

As the labor tribunals created by the Safety and Health at Work Act and Employment Rights Bill become active, they will be a testing ground for a new compromise between frontline informal conciliation and a back-up system of legal sanctions.

How to balance commitment to tripartite consensus with efficient law-making?

While the Social Partners are able to collaborate quickly in a national crisis, they appear cautious about signing off on permanent changes to worker rights. As has been seen, a workplace health and safety bill has taken decades to become law. The commitment to consensus decision-making between opposing union and employer interests ensures that the final result will be respected, but in the interim the process can leave significant portions of the workforce without guaranteed protections.

Which, if any, elements of the Barbadian labor model are eligible for export?

Barbados provides further evidence for the social and economic value of a strong education system, as well as an approach to unemployment insurance in developing states. Yet how much has union strength and freedom of action and tradition of conciliation been responsible for making Barbados the third most highly developed country in the Western Hemisphere, and are these elements of the Barbadian model sustainable in an increasingly globalized era, even in a small, peaceful country with shared values?

6. Update: 2007–10 Financial Crisis

After the main body of this case study was researched and written in 2007, the global recession caused by the Financial Crisis of 2007–10 placed renewed pressure on a Barbadian policy environment designed to protect low-skilled, low-income workers while promoting growth. This update briefly surveys the impact of the crisis on the Caribbean in general and Barbados in particular, then situates the Social Partners' responses.

Caribbean states consist generally of small islands with open, little-diversified economies, whose heavy indebtedness limits scope for action in the event of global economic downturn.¹⁴⁶ In 2009, Caribbean GDPs shrank by an estimated average of 2.2%: only Cuba, the Dominican Republic and Haiti escaped recession.¹⁴⁷ The Caribbean was impacted especially by declining trade balances and fiscal revenues, resulting from the recession in key U.S., European Union, and Canadian markets; by lower tourist receipts from the same countries; by actions to tighten control of offshore financial services; and by a fall in remittances.¹⁴⁸

In Barbados, the GDP fell an estimated 3.6% in 2009, and unemployment rose to an average of 10.0% in the first half of the year.¹⁴⁹ While the IMF reported in late 2009 that Barbados faces severe recession, it added that the country's healthy institutions, social stability, and high competitiveness positioned it to take decisive fiscal measures. The Social Partnership's track record of reaching consensus at difficult junctures was cited as a particular strength.¹⁵⁰ Barbados is more vulnerable to the global recession than it is to instability in its banking sector. The Governor of the Central Bank of Barbados stated, "Barbadians are not a high risk-taking people and our banks have tended to be risk averse."¹⁵¹ Consistent with this relative security, Prime Minister Thompson stated that Barbados had "a regional obligation, as well as a domestic obligation to seek to stabilize the situation."¹⁵² Barbados joined Trinidad and Tobago and the Organisation of Eastern Caribbean States to raise an \$80 million aid fund in response to the collapse of Trinidad's Clico, an insurance and finance firm with assets equivalent to a quarter of Trinidadian GNP.¹⁵³

Each of the Social Partners has contributed to safeguard the right to decent work during the recession in Barbados. In October 2008, the Government convened a Special Working Group on the economy that includes employers, labor and academics; the Barbados Employers' Confederation reports that it has been meeting monthly. Government has promoted job creation at call centers and in medical transcription, instructed vocational colleges to offer training to displaced workers, introduced waivers on tax interest and penalties for employers and the self-employed, and established a B\$15 million revolving Tourism Industry Relief Fund as well as a Micro Enterprise Assistance Grant Programme. Through the National Insurance Scheme, it has established

an unemployment benefit fund of B\$10 million to support NIS contributors; employers can defer their yearly NIS contribution and use the money as a loan, provided that they maintain current employment levels until it is repaid.¹⁵⁴ The Government's Short and Medium Term Action Plan also reports B\$200–300 million in medium to long-term NIS spending on infrastructure projects.¹⁵⁵

The BEC reports that some employers have sought voluntary wage reductions, in particular a major construction company whose executive staff have agreed to a pay cut in order to save jobs. Some employers in tourism and ancillary services have moved to day on/day off rotations to maintain employment.

The Barbados Workers' Union maintained that hours should be reduced incrementally and with union consultation; on days that workers were not employed they should have access to training programs funded by the unemployment levy and National Insurance.¹⁵⁶ The BWU has also spoken out against the BEC's warning that the minimum wage for shop assistants would be adjusted downward to B\$200/week.¹⁵⁷

The stakeholders appear optimistic that Barbados will recover from the current recession, thanks to its strong ingoing institutional and economic fundamentals. The Social Partners are facing a downturn less severe than the one they weathered in the early 1990s: the current unemployment rate has topped out at roughly 10%, well below the 24.3% registered in 1994. Barbados remains in a position not only to protect its own workforce but to take action in support of its neighbors, such as Trinidad and Tobago. Overall, it would seem that the latest recession will be ridden out by the Social Partners with little immediate adjustment to a Barbadian labor model that served well during previous crises. If anything, the recession may have extended the viability of Barbados's local voluntaristic solution: although greater regional integration – involving a transition to more formalized labor laws at the CARICOM level – may have helped manage certain aspects of the crisis, it has instead “strengthened the view of some governments that deeper regional integration is not appropriate at the present time.”¹⁵⁸

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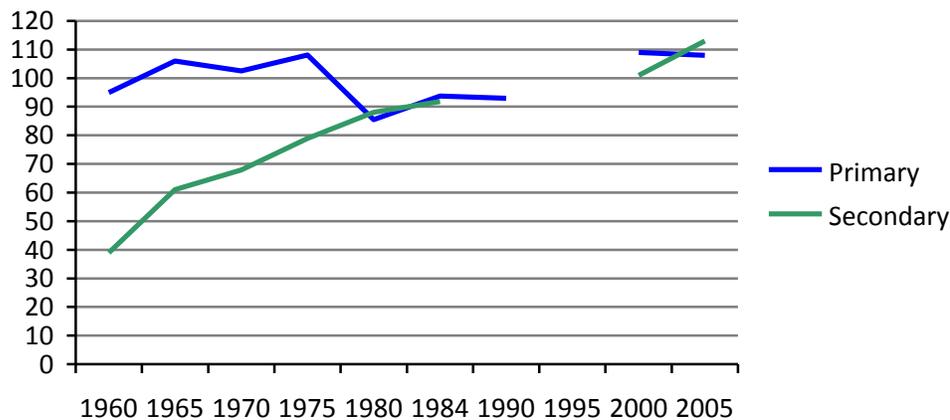
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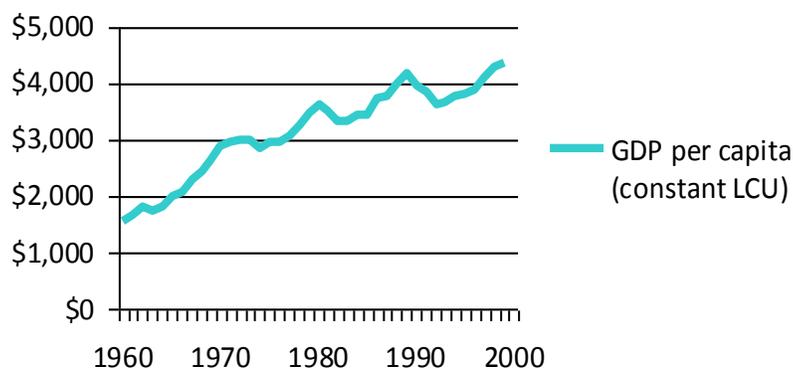
8. Figures

Figure 1. Gross school enrolment by level, 1960–2005.



Sources: UNESCO *Statistical Yearbook 1977*; UNESCO Institute for Statistics online database.

Figure 2. GDP per capita (constant LCU), 1960–99.



Source: WDI online.

10. Tables

Table 1. Gross primary school enrolment by sex (%), 1960–2005.

Year	1960 ^a	1965 ^a	1970 ^b	1975 ^b	1980 ^b	1984 ^b	1990 ^b	1995 ^b	2000 ^b	2005 ^b
MF	95	106	102.5	108.1	85.5	93.7	93.0	..	109	108
M	98	109	103.9	108.3	85.6	96.1	93.0	..	110	108
F	92	104	101.1	108.0	85.4	91.2	93.0	..	108	108

^a Source: UNESCO Statistical Yearbook 1977.

^b Source: UNESCO Institute for Statistics online database, retrieved September 24, 2007.

Table 2. Gross secondary school enrolment by sex (%), 1960–2005.

Year	1960 ^a	1965 ^a	1970 ^b	1975 ^b	1980 ^b	1984 ^b	1990 ^b	1995 ^b	2000 ^b	2005 ^b
MF	39	61	67.9	78.9	88.1	91.8	..	..	101	113
M	46	58	67.0	74.8	88.0	90.5	..	..	99	113
F	33	63	68.8	83.1	88.2	93.2	..	..	103	113

^a Source: UNESCO Statistical Yearbook 1977.

^b Source: UNESCO Institute for Statistics online database, retrieved September 24, 2007.

Table 3. Employment by highest level of education (%), 1985–95.

Level	1985	1991	1995
Primary	38.1	31.4	23.9
Secondary	48.3	66.2	70.9

Source: ILO (1999). *Employment Policy in a Small Island Economy: Barbados*. Port of Spain, Trinidad and Tobago.

Table 4. Benefits administered by National Insurance Scheme, by year of introduction.

1937	Pension (introduced under a prior law)
1966	Sickness, Funeral and Survivors' Benefit
1971	Employment Injury
1973	Severance pay
1976	Maternity
1981	Unemployment (joint fund with severance pay)

Source: http://www.nis.gov.bb/index_.cfm?section=About%20Us&subsection=Creation%20of%20the%20Scheme

Table 5. National Insurance Scheme contributors, 2004.

Year	Active contributors	Total labour force	Employed labour force
2004	121,780	146,300	132,000

Source: NIS Annual Report 04.

Table 6. National Insurance Scheme contributions, 1968/2004.

Year	Contributions (B\$ million)	Fund balance (B\$ million)
1968	5.4	7.8
2004	366.4	1,883.4

Source: NIS Annual Report 04.

Table 7. Current Barbados labor law.

Domestic Hours	Sets a sectoral minimum wage for housekeepers Now defunct, leaving domestic pay to be governed by the market
Employment Exchanges	
Factories Act	Defines industrial workplace safety, but does not cover all workers
Holidays with Pay	
Public Contracts	
Wage Protection	
Radiation	
Recruiting	
Shops Act	Sets a sectoral minimum wage for shop assistants
Trade Disputes	
Unions	
Wage Councils	

Source: <http://www.caricom.org>