THE DEVELOPMENT OF TURKISH TRADE UNIONISM

A STUDY OF LEGISLATIVE AND SOCIO-POLITICAL DIMENSIONS

By TOKER DERELİ, M. S., Ph. D.

FACULTY OF ECONOMICS, UNIVERSITY OF ISTANBUL

Sermet Arkadaş
SERMET MATBAASI
İstanbul — 1968
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FOREWORD

This book aims to provide introductory knowledge on the Turkish industrial relations system with special reference to the development of trade unionism. Since this seems to be an area where literature in the English language is very limited - and almost non-existent as far as post-1960 developments are concerned -, the Faculty of Economics of the University of Istanbul has come to the decision that the publication of Dr. Dereli’s study could meet certain demands of the English-reading foreign experts interested in various aspects of the industrial relations system and trade unions in Turkey.

The present study has grown out of a Master of Science thesis submitted by the writer to the Faculty of the Graduate School of Cornell University in June 1964. However, Dr. Dereli has revised and brought his thesis up to date before its publication. Moreover, Chapter VII is a completely new section covering the developments which have taken place since 1964. Thus, in its present form, the study includes all the major developments until the end of March 1968.

Chapter I has been devoted to the delineation of an introductory and theoretical framework, but though the following chapters try to elaborate on that social science-oriented approach under separate headings, readers who are more interested in the practical aspects of the topic could perhaps skip Chapter I without actually running into difficulty at later stages.

The essential character of the study is historical in the sense that, after a brief sketch of the basic elements of the Turkish social and political system in Chapter II, Chapters III and IV elaborate on the characteristics of Turkish trade unionism during the pre-1960 period while Chapters V, VI and VII discuss the post-1960 developments both from a legalistic and socio-political perspective. Readers interested only in the present structure and operation of the industrial relations system and trade unions in Turkey could therefore focus their attention on these latter chapters.
The study does not treat in any extent economic subjects such as the relationship of bargained wages and inflation, trade unionism and economic development or unemployment in Turkey. Nevertheless, even with its rather legalistic and socio-political approach, the book has been a useful contribution to the literature on Turkish trade unionism and labor-management relations. Furthermore, having been written in a language known as having a large audience, we hope it will prove to be useful for the purposes of foreign readers interested in the development of trade unionism and labor-management relations in this country.

Dr. Orhan TUNA, Professor, Chair of Social Policy, Faculty of Economics
AUTHOR’S ACKNOWLEDGEMENTS

There are many people to whom I feel indebted for the interest they have shown in the preparation and publication of this book. It should be pointed out first that this study grew out of a thesis presented to the Faculty of the Graduate School of Cornell University in June 1964 for the Degree of Master of Science. The Master’s thesis, titled «the Development of Turkish Trade Unionism: the Effects of Legislation and Culture,» was prepared under the guidance of Professors Lawrence K. Williams and William H. Friedland who were then the members of my Special Committee at the New York State School of Industrial and Labor Relations at Cornell University. They have contributed valued suggestions and encouragement to the original form of this study, and I am grateful to them both as a student in their courses and for their criticism during the preparation of the manuscript.

The original study has been thoroughly revised and brought up to date before its publication. Had the Administrative Committee of the Faculty of Economics and particularly Professor Orhan Tunac from the labor relations chair not considered the work worthy of publication, however, my study would probably not have been completed in this form. To them, I therefore express my gratitude.

Thanks also go to the staff of the Institute of Economics and Sociology, University of Istanbul, and to Türk-İş and various other trade union circles, for their valuable assistance in providing me with material on developments in the Turkish labor scene while I was in the United States. I am especially appreciative of the help extended to me by Beycan Tavus who, as the research director of Türk-İş then, has kept me informed on recent developments in Turkey by sending material to the United States on changes taking
place during the 1962-1964 period. Finally I wish to express my genuine gratitude to the staff of Sermet Matbaası to whom I really feel indebted for the great care they have taken in printing the book in a foreign language. I think that, with typographers who do not know the English language, the workmanship they have demonstrated deserves a great deal of appreciation.

Istanbul, April 1968

Token DERELİ
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Chapter 1

AN INTRODUCTORY AND THEORETICAL FRAMEWORK

The objective of this study is the analysis of the Turkish industrial relations system with special reference to the impact of legal forms on the trade union movement. The study is intended to contribute to the understanding of the past and present state of the Turkish trade union movement, to make some predictions about its future, and to arrive at a number of overall statements applicable in similar situations in general.

1. INTRODUCTION

The phenomenon called «social change» occurs within a wide range of forms, one of which appears to be the adoption of new elements and/or foreign institutions within a legislative framework. Whatever the internal and external forces leading to the introduction of such elements into the indigenous culture may be, the receiving agents, especially in the newly industrializing countries which feel themselves rather compelled to introduce change urgently and rapidly, frequently try to legitimize these new elements through the adoption of legislative acts by the authorized bodies concerned. In most cases, whether the introduction of the new element or institution is destined to meet an already emergent need within the indigenous culture or not, it is adopted legally and imposed on a particular setting without much elaboration to adapt it to the preexisting cultural matrix. One aspect of this change phenomenon is the introduction of new forms of labor organizations, new institutions of labor protest and conflict settlement, etc., within a legal framework. Without ignoring the point made by Clark Kerr and his colleagues that these institutions are shaped by unique cultural patterns and the industrializing elites in each society, at least in

1. Clark Kerr, et al., Industrialism and Industrial Man, pp. 47-76.
the short run there appears to be a tendency to introduce these changes without further elaboration as to whether these readily made institutions are suited to this specific culture or not. Usually an element or institution, regardless of its foreign nature, is adopted by a country without much effort to adapt it to the preexisting situation and emergent needs, partly because it is extremely difficult to make the necessary adaptations in the short run and partly because borrowing it is regarded in most situations as a sign of social progress and modernism. As one student of this phenomenon has pointed out:

The adaptation of the salient features of human organizations is so difficult and the result so unpredictable that the key elements—structural forms, technologies, hierarchical systems, functions and goals—are often exported and implanted almost in their original form. Furthermore, the original form is as a rule deemed the most appropriate one, for the attitude of «absolute universalism», as Georges Fischer terms it, is indeed widely prevalent.3

These legally adopted forms, however, have a long-run impact on the particular feature of the culture to which they have been directed, and affecting and being affected by an intertwined network of factors operating at a certain time, they lead to what we call «social changes», to various forms of institutions, structures and processes originally anticipated or unanticipated by the legislature. The study of these legal dimensions in terms of their interaction with the cultural and social patterns, therefore, can serve as a tool for analyzing their past and present consequences, and for making predictions about their future implications.

The industrial relations system is a subsystem of the social system at large. As Professor Dunlop has pointed out, it comprises three principal sets of «actors.» These are «(1) a hierarchy of managers and their representatives in supervision, (2) a hierarchy of workers (nonmanagerial) and any spokesmen, and (3) specialized governmental agencies (and specialized private agencies created by the first two actors) concerned with workers, enterprises, and their relationships.»4 However, this study is aimed at exploring the impact

of labor legislation mainly on the second of the components of the industrial relations system, that is, the hierarchy of workers, and particularly on trade unions as their spokesman. On the legislative side, it will focus only on certain dimensions of labor legislation, namely, provisions in the labor law concerning the channelization and legitimization of the worker protest, such as collective bargaining or compulsory arbitration, and legislation concerning the trade unions themselves. This has been preferred for two reasons. First, although one can find many pieces of legislation scattered here and there that are somewhat related to the regulation of labor-management relations in a broad sense, the above-stated two dimensions seem to be closely related to and account for much of the institutionalization of the protest movement in a particular form rather than following a different pattern. Second, dealing with a limited number of factors obviously helps to narrow the subject matter and facilitates the understanding of complex problems. And yet, for the sake of the study, other pieces of legislation that are closely connected with the subject matter have been handled as well, wherever their inclusion has seemed necessary and relevant.

It is interesting to observe, in the first place, that Turkey has been a country prohibiting the «right to strike» for a long period of time. The trade union movement has thus been deprived of probably its most important weapon necessary for effective collective bargaining. However, trade unions as economic and social institutions are a comparatively recent phenomenon in Turkey. The legislature did not make the establishment of unions possible until 1947, and, thus, caused a lag in the formal institutionalization of labor protest. Within the framework of authoritarian practices and state paternalism that has made efforts to organize and administer labor-management relations by legislation from the very beginning even before industrial conflict emerged as a real problem in Turkey, the predominant end to which the government, management and labor have committed themselves has been the strong desire for the economic and social development of the nation as a whole. Although the Constitution of 1924 had included the right of individuals to assemble and form associations or mutual aid societies, the forming of associations based on class distinctions, particularly trade unions, was severely restricted by subsequent legislation. When the legislature repealed the so-called restrictions and enacted a «trade unions
law» in 1947, the emergence and proliferation of unions at various levels got under way. However, the prohibition of the right to strike which hindered the development of a collective bargaining system in Turkey was not removed until 1960 when, following a revolution, the legislature included it in the new Constitution. The 1961 Constitution says:

Article 47- In their relations with their employers, workers are entitled to bargain collectively and to strike with a view to protecting or improving their economic and social status.

The exercise of the right to strike, and the exceptions thereto, and the rights of employers shall be regulated by law.4

In line with the statement of the new Constitution, a special law embodying mechanisms permitting the exercise of the right to strike accompanied by certain limitations was enacted on July 15, 1963. Another act supplanting the previous «Trade Unions Law» was also passed on the same date. The promulgation of this legislation marked the end of an old era of industrial relations in Turkey. It is for this reason that this study is designed to cover two subsequent periods in terms of labor legislation and its impact on the trade union movement and industrial relations system of Turkey. The first part analyzes the era of labor relations and trade unions prior to the enactment of the legislation in 1963. The second part explores the future implications of the new legislation in the light of past and present empirical data. In addition, the analysis and interpretation of the problem will be fitted into a theoretical and conceptual framework, as explained in the subsequent sections of this chapter.

2. OUTLINE OF THE STUDY

This first introductory chapter lays down the theoretical and conceptual framework of the study without reference to Turkey. It has been devoted to the delineation of the basic factors that have a bearing on the institutionalization of the labor protest. Various dimensions of labor legislation are treated as independent factors; their effect on the structure, activities, membership and leadership of trade unions, on the relationships among trade unions, management, government and political parties are the dependent factors

4. «Turkish Constitution», Part I, Section 111, Article 47.
that the study has aimed to predict. Reference is made to the preexisting cultural patterns and the characteristics of the socio-political environment as conditioning factors, without, of course, ignoring the fact that an interaction prevails between them and the legislative process, which, in turn, may effect the dependent factors. Changes in these conditioning elements and several intervening factors may operate in a given direction to give rise to new legislation.

The following section of this introductory chapter deals with the exposition of the theoretical and conceptual framework of the study. This is followed by a section disposed to give the reader an overall idea about the value judgments and biases of the writer. And then, as a final stage, a section is devoted to the description of the methodology employed in analyzing the various dimensions of this study.

In the second chapter, the conditioning elements of the study are developed from the standpoint of the Turkish society to the extent that they relate to the subject matter of the dependent factors that the study is aiming to explore.

The third chapter deals specifically with legislation, and presents certain dimensions of the labor and trade union legislation descriptively. This covers the period up to the 1960 Revolution which marks the beginning of a new era.

In the fourth chapter, the impact of these legislative dimensions - being shaped and modified by already-analyzed conditioning factors - on the industrial relations system and trade unions is scrutinized analytically. This chapter, covering the era up to 1960, is a study of the actual situation in terms of the imposed legislation. It tries to shed light on the extent to which the legislature was successful in realizing its objectives, what discrepancies occurred between the aims involved in imposing these laws and the actual trade union structure and activities, etc., due to the effect of various factors.

In the fifth chapter, attention is first paid to the emergence of changes in the cultural and socio-political aspects of the social system and to certain elements intervening in the situation which also account for the unexpected outcome of labor and trade union legislation. The second half of this chapter analyzes the recent changes in legislation, such as new methods of dispute settlement, new ways
for the expression of conflict, legislation aimed to restructure and reorganize the trade union movement, etc.

In the sixth chapter, the possible impact of these changes is analyzed to arrive at some conclusions about the future development of Turkish trade unionism and the relationships among the units of the industrial relations system.

The seventh chapter is a completely new section in the study evaluating some of the recent developments that have occurred since 1964.

The eighth chapter tries to establish a few generalizations derived from the analysis of empirical data in earlier chapters. These are statements not particularly related to Turkey, but perhaps applicable also in similar situations.

3. A THEORETICAL AND CONCEPTUAL FRAMEWORK

A. An Overview

As mentioned above, the study aims to explore the interplay of certain dimensions from the standpoint of a theoretical orientation, namely, Merton's functional analytic framework. This section is based primarily on the first chapter of Merton's *Social Theory and Social Structure*, and is intended to be a summary of his model combined with the basic elements of this study.

According to Merton, «the concept of function involves the standpoint of the observer, not necessarily that of the participant. Social function refers to *observable objective consequences*, and not to *subjective dispositions (aims, motives, purposes).*» And throughout this study, «function» will be used to refer to these observable objective consequences of legislative action, except in a few cases where it will be used in its mathematical connotation to make propositions of relationships among two or more variables, the value of one of which depends on the other or others, and in this sense is a dependent variable.

As will be indicated below, there may be a correspondence between these subjective dispositions and the objective consequences of a structure, practice or process, etc. But, we must also keep in mind that there may not be such a coincidence at all. The observed categories of consequences—which are objective in terms of an observer, social system at large or an assumed entity, etc.—should be distinguished from the subjective dispositions of various subsystems, with which they may coincide or from which they may diverge. A given item or activity may be meeting the needs or purposes of some of these subunits, but may as well be diverging from the purposes and needs of some others. «The two (objective consequences and subjective dispositions) vary independently.»

B. The Unintended Consequences of Legislation

Since specific dimensions of labor and trade union legislation are treated as independent variables as far as the design of this study is concerned, their impact on the industrial relations system and trade unions will be analyzed in terms of the objective consequences that emerge through the application of these, what we may call, legislative rules.

The industrial relations system is, by itself, a subsystem consisting of other interrelated subunits. The social system at large, of which it is a part, includes other subsystems such as the public, various legislative, executive and judicial bodies, social and cultural organizations, political parties, etc.

The legislature is distinguished here from «government» in the sense that the two may coincide with each other or be different units. In a political system where classical democracy is embodied in the separation of legislative, executive and judicial powers, government corresponds to the executive power charged with applying the laws enacted by the legislative body, that is, the Parliament. For the purposes of this study, we have generally tended to refer to legislation as laws passed through the legislative organ in a multi-party political system. These laws may be the product of various pressures, external and internal social forces, and the demands of several subsystems at a given time. They have consequences for

7. Ibid., p. 25.
labor, management, government, public, etc. These are objective consequences that may be discerned by an observer, and can therefore be referred to as the functions of the legislative acts. The fact that the legislative body has been distinguished from government does not necessarily preclude the application of the same reasoning in one-party systems or in settings where these powers have not been separated. In political systems where there exists no separation between executive and legislative (or even judicial) powers, consequences arise for the social system as a whole, and for these above-stated subsystems, among which is government itself too. The same reasoning may also apply to systems with a federal structure. On the other hand, however, it may not seem feasible to conceive of the formal legislative body as the only agent empowered to make laws. The government may also issue regulations to supplement these laws (like the decrees of the Ministry of Labor), or the judiciary may make decisions in cases where an existing law needs to be reinterpreted and extended to similar situations, or where no act exists to settle a dispute, etc. These may assume the power of law in varying degrees, and in the same manner, bring about objective consequences for the parties concerned. Therefore, to the extent that they lead to such consequences, they can be regarded as legislation. Thus, treating the concept of legislation at such a broader level in terms of its consequences, as something that commands what is contemporarily perceived to be right and prohibits what is thought to be wrong, and aims to bind the parties, is perhaps more realistic. As one author has put it, «if the functionalists are correct, the meaning of a definition is found in its consequences.»

At this point, special attention must also be paid to the fact that a deliberate distinction is made between the concepts of «legislation» and «government intervention.» The lack of such a distinction may also lead to confusion, due to the fact that these two terms have too often been used interchangeably, particularly in Anglo-American literature. In fact, legislation may increase government intervention as well as it may alleviate or completely remove it. The two vary independently.

The consequences of these legislative acts, then, are their implications for the social system at large, for the industrial relations

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system and for the subunits that make up the industrial relations system in a narrower sense. Some, if not all, of these consequences are likely to be undesirable for certain groups, whereas others may be desirable consequences for them in terms of their motives, purposes or needs, in other words, their subjective dispositions. It seems reasonable to assume that, at least in most cases and in the long run, the consequences for the legislature and for the larger social system tend to match each other. In other words, the purposes, motives, needs, etc., of the legislature and the subjective dispositions imputed to the social system at large are, at least theoretically and seemingly, shared dispositions, and, the two entities being thus equated with each other, are exposed to the same consequences. The legislature, by issuing laws, intends to contribute to the social system as a whole. Regardless of the conflicting demands of various subunits, the legislature seems to legitimize certain structures or practices by implicitly or explicitly declaring that the ultimate aim is to contribute to the society as a whole. Of course it is frequently compelled to reconcile numerous conflicting needs or motives of various groups. But some of these are considered predominantly important in contributing to general welfare. These take the form of legislative enactments after some short-term reconciliations and amendments. In this process, however, is inherent a whole network of power relations in society, and the demands of the groups that have power or have gained power are granted formal recognition under the legislation of certain acts. The consequences of legislative acts are, on their face value, intended and anticipated in the sense that almost all parties are getting what they expected from the very beginning, with the difference that some groups have been favored, protected or strengthened whereas others have not. But the interesting point arises when along with these intended and anticipated consequences, some unintended and unanticipated ones both for the legislature and the subunits of the industrial relations system emerge in the course of time. In what way do these unintended consequences arise and why?

Before going into the analysis of this problem, it seems appropriate to comment briefly on a few of the modern theories of bureaucracy that use similar concepts, similar in terms of form, if not of content. The analyses of Merton, Selznick and Gouldner have referred to the concept of "unintended consequences" inherent in bureaucratic
organizations. "They use as the basic independent variable some form of organization or organizational procedure designed to control the activities of the organization members." These organizations or organizational procedures have consequences anticipated by the top levels, but they also lead to unanticipated consequences which may become dysfunctional for the organization.

Although Merton, Selznick and Gouldner have used different sets of variables and theoretical relations, their models are similar in suggesting the dysfunctions of bureaucratic organizations. However, the unanticipated consequences, as envisaged in these models, are not all necessarily dysfunctional. Unanticipated functions arise as well as dysfunctions.

These three models of bureaucracy are similar in terms of an additional hypothesis as well. They have assumed, explicitly in Gouldner's model and implicitly in the other two, that the unintended consequences engendered by bureaucratic organizations result in a continued and increased application of the same bureaucratic techniques.

These models try to delineate the phenomenon of unintended consequences by taking into account the human characteristics of bureaucratic organizations. In our model of the "unintended consequences of legislative action", an analogy is made between the basic form and hypothesis of these theories of bureaucracy and the consequences of legislation. In fact, although levels of analysis are quite different, there is no reason why legislative rules, laws, statutes, decrees, etc., cannot be regarded as having an impact on various interrelated parts of the social system similar to the effect of the general and impersonal rules on bureaucratic organizations. Furthermore, most of these legal rules—such as legislation regulating hours of work or the internal administration of trade unions—can be traced down to the plant or trade union level where they become established bureaucratic rules. As with the bureaucratic organizations, so with the industrial relations system in general; the imposition of general and impersonal legislative rules results in unanticipated and undesired consequences for the system and for the various subunits of

the industrial relations system. This proposition is depicted in Figure 1.

In one of his earlier writings, Merton suggests certain factors that limit the correct anticipation of consequences. These explain, at least partially, the emergence of unanticipated consequences of legislative action. The most obvious of these limitations is the lack of adequate knowledge, a phenomenon also linked with his interpretation of dysfunctional learning in organizational behavior.

In the study of human behavior, there is found a set of different values of one variable associated with each value of the other variable(s), or in less formal language, the set of consequences of any repeated act is not constant but there is a range of consequences, any one of which may follow the act in any given case.11

As a matter of fact, although we act on the assumption that certain past, present and future actions are similar enough to permit us to rely on our experiences, these experiences are in fact differ-

ent. » Thus, our experiences provide us with only a partial knowledge of the real situation, and the partial knowledge the legislature has of the social system and its interrelated parts results in a range of unexpected consequences.

In most cases, and especially when we deal with a knowledge of the whole social system, the interplay of new forces entering the situation is so complicated that prediction of them is beyond the reach of the legislature. Using Merton's words, «this area of consequences (which he calls «chance consequences») should perhaps be distinguished from that of «ignorance» since it is related not to the knowledge actually in hand but to certain knowledge which can conceivably be obtained. »12 This point has an important bearing on the evaluation of the conditioning elements inherent in the design of this study. Not only may the legislature be unaware of the interaction of numerous cultural, social, political and economic forces operating among and within the interrelated subsystems at a given time, but a series of intervening factors may enter the interplay of these conditioning factors in the course of time which could not be foreseen by the legislature even though it might have, at least, a partial knowledge of these conditioning factors initially. In one sense, this point can be related to the arguments of Hayek against centralization, as explained by March and Simon. His argument of bounded rationality is based on the assumption that «given realistic limits on human planning capacity, the decentralized system will work better than the centralized. »13 Decentralization becomes imperative because the factors that must be taken into account at a given time are so complicated and numerous that it is almost impossible for a person or board to survey and control all of them. Although this view may have some merit, it is also obvious that some degree of coordination is required especially in cases where a system made of highly interdependent and complex subsystems exists. It may be true that cognitive limits on rationality and lack of adequate knowledge may lead to losses and unintended dysfunctions in the case of centralized decision-making due to the inability to obtain the necessary facts and

12. Ibid., p. 900.
13. March and Simon, Organizations, p. 203. For a detailed account on «Cognitive Limits on Rationality» in organizational behavior, see Chapters VI and VII.
to consider all the interconnections. However, it seems also reasonable to assume that decentralized decision-making may fail to take into account indirect consequences of actions directed toward interdependent subsystems of complex social and economic organizations. The extent to which a decentralized administrative scheme is tolerable seems to be a function of the degree of independence of the subsystems from each other. Since the legislature is, in our case, confronted with a more or less complex social system, it is in one sense performing the task of coordinating and reconciling various demands of various subsystems. However, as noted above, this cannot relieve the legislature entirely of the indirect and unforeseen consequences of its actions. Other things being equal, the more complex the interconnections among subsystems, the more likely will legislation produce indirect and unintended consequences. For the legislature, the definition of the situation represents a simplified, screened and biased model of the objective situation. «We usually act..., not on the basis of scientific knowledge, but opinion and estimate.»

This category of unintended consequences caused by a wrong or insufficient prediction of the conditioning factors can perhaps be better exemplified in systems where the legislative, executive and judicial powers have been separated. The legislature, in this case, is inevitably confronted with the unforeseen consequences of its enactments, either through a different and not initially contemplated interpretation of the laws by the judicial bodies, such as the ordinary courts or the Supreme Court, or through a modified or distorted enforcement of the laws by the executive bodies. In many cases the lack of efficient machinery for enforcing these laws results in unintended consequences. But even when an efficient machinery exists, the interdependent conditioning factors too often limit the operation of legislative structures or practices as desired by the legislature.

Situations which demand immediate action also bar the legislature from a thorough and scientific search for the alternatives available. In addition to this, there are limits to the ability to distribute our economic resources, time and energy in a rational manner. Although the passage of an act often takes a long time and covers a wide range of debates and preliminary studies, the pursuit of

various other goals prevents the extensive investigation of all the factors operating at a given time, and of those that are likely to emerge in the future. On the other hand, excessive forethought aimed at eliminating uncertainty precludes any action at all.16

The second major factor, according to Merton, is error.

We may err in our appraisal of the present situation, in our inference from this to the future objective situation, in our selection of a course of action, or finally in the execution of the action chosen. A common fallacy is frequently involved in the too-ready assumption that actions which have in the past led to the desired outcome will continue to do so.17

This factor overlaps the preceding one to some degree and is again identical with Merton’s reasoning in his interpretation of the dysfunctions of the bureaucratic model. The legislature «fails to recognize that procedures which have been successful in certain circumstances need not be so under any and all conditions.» Also in cases where the actor takes into account only one or some of the dimensions of the problem because of negligence or emotional involvements, unexpected results inevitably follow.

Merton terms the third general factor the «imperious immediacy of interest.» This refers to the fact that, in cases where the actor is concerned with the immediate and foreseen consequences of an act, further consequences that may follow are ignored. Thus, the legislature may act with the immediate concern of responding to an emergent need and may fail to engage in the required calculations as to what other consequences may follow from the enactment of a certain law, to what other areas of values and interests its ramifications may extend. The fixation of the legislature on one or a few dimensions of the basic values to initiate changes may, thus, have repercussions throughout the interrelated parts of the society, and these, in turn, reacting to the initial points where they have been originated, may cause the breakdown of the basic values or the failure of the initial change made. This phenomenon is intensified by the failure of the legislature to foresee the emergence of new factors, or what Merton calls the «chance factors.»

17. Ibid., p. 901.
Merton speaks of another factor that leads to unanticipated consequences. «Public predictions of future social developments are frequently not sustained precisely because the prediction has become a new element in the concrete situation, thus tending to change the initial course of developments.» For instance, a subunit of the industrial relations system that has enough power to control or inhibit the operation of certain legislative dimensions in the way intended by the legislature can manipulate the other subunits in such a way that a number of unanticipated consequences emerge. In some cases, of course, unanticipated consequences are caused not by the parties' manipulation of the future course of events or the environment of the industrial relations system, but by the simple fact that the forecasts of the legislature as to the emergence of new intervening forces have not come true. This, indeed, is a special category of the «error» factor described above.

These are the main factors; then, that account for the emergence of unintended and unanticipated consequences of legislative action. As Merton suggests, it is also important to note that unintended or unanticipated consequences may be undesired, but are not necessarily undesirable consequences. «The intended and anticipated outcomes of purposive action, however, are always, in the very nature of the case, relatively desirable to the actor, though they may seem axiologically negative to an outside observer.» The consequences that are intended and desirable for the legislature may be undesirable for, say, labor. On the other hand, consequences unintended or unanticipated for the legislature may vary in terms of being desirable or undesirable for different groups and for the legislature itself. These points will be developed further as we go into the analysis of functions and dysfunctions in Merton's paradigm.

C. Criticism of Three Essential Postulates

Merton begins by criticizing three prevailing postulates adopted by functional analysts in anthropology. Because the delineation of

18. Ibid., pp. 903-904.
these points has an important bearing on the subsequent development of Merton's model, a short summary of his criticisms combined here with our scheme of unintended consequences of legislation is considered to be helpful.

The first of these is the «postulate of the functional unity of society.» It assumes that «standardized social activities or cultural items are functional for the entire social or cultural system.» Another assumption has been added to this, claiming that these items are functional also for every member of the society. These assumptions implicitly involve the belief that all societies have a high degree of integration so that the item or unit subserved by the imputed function contributes to the whole society of which it is an integral part. «But not all societies have that high degree of integration in which every culturally standardized activity or belief is functional for the society as a whole and uniformly functional for the people living in it.»21 Especially in complex societies, cultural items may be functional for some groups and dysfunctional for others. In the same manner, it can be stated that in no way can we assume the functional unity of society in terms of the functions imputed to the practices and structures created by legislation. Standardized practices, social structures, etc., created and legitimized by legislation can be functional for certain segments of the society, but dysfunctional for others. A legislative enactment aimed at strengthening trade unions may be functional for labor, but dysfunctional for, say, government and for various other groups at a given time under certain conditions. Thus, such a practice or structure established by legislation may disintegrate the social system as well as integrate it.

The second postulate also widely accepted by social anthropologists asserts that all standardized practices, cultural items, social usages, etc., fulfill positive functions. No cultural item survives unless it performs necessary and useful functions. This postulate, which overlaps the preceding one, ignores the fact that every such item need not be functional in order to survive. As in the case of existing cultural forms, various practices and structures may result in dysfunctions and yet they may persist through time.

22. Ibid., p. 27.
The last postulate assumes that all items are consequently indispensable. It, in fact, contains two related but distinguishable assertions:

First, it is assumed that there are certain functions which are indispensable in the sense that, unless they are performed, the society (or group or individual) will not persist. This, then, sets forth a concept of functional prerequisites, or preconditions necessary for a society. . . . Second, it is assumed that certain cultural or social forms are indispensable for fulfilling each of these functions. 23

These assumptions seem contrary to facts. In the actual situation, it can be argued that alternative social structures and cultural items have served the same functions. In the case of legislation, various institutions, social practices, structures, etc., engendered by subsequent legal enactments have alternated to perform the same functions in the society. On the one hand, the same item may have multiple functions, while, on the other hand, the same function may be diversely fulfilled by alternative items or structures. This leads us to the concept of functional alternatives, or functional equivalents, or functional substitutes. There are cases even where alternative structures and practices created by legislative action survive side by side to meet the same or similar demands. While explaining the functions of a given practice or structure, one has also to take into account why alternative structures have been ruled out by the legislature. Although items and structures become specialized in the course of time, they are by no means irreplaceable.

In our evaluations of the consequences of legislative action, whether they are intended or unintended, we will attempt to ensure that the social units subserved by given functions are specified, since the structures and practices performing these functions may have diverse consequences, that is, functional for some of them, and dys-

23. Ibid., p. 33.
functional or, perhaps, nonfunctional for others. This conclusion is shown in Figure 2.

![Diagram of Standardized Practices, Processes and Structures Established by Legislation](image)

Figure 2. Consequences for the Legislature and the Industrial Relations System.

D. A Paradigm for Functional Analysis

As an approach to codifying functional analysis in sociology, Merton has established a paradigm which contains the concepts and problems central to his thinking. This section is devoted to a summary of this paradigm, the concepts of which are also merged here with the functional analysis of labor legislation.

a) The item(s) to which functions are imputed: The items represent the objects of analysis. These are standardized (i.e., patterned and repetitive) items, practices, institutional patterns, social norms and roles, social structures, devices for social control, etc. In this study, certain legislative dimensions will be regarded as

24. Ibid., pp. 50-55.
standardized practices, structures or devices for social control. Functions are imputed to these structures, practices or processes which the legislature has aimed to establish, rather than to the verbal content of the laws. Since functions are performed for the inclusive social system and for various subunits by these structures and practices rather than by the law itself, we will be referring to the former even when we speak of whether an act has been functional or dysfunctional in terms of different groups.

b) Concepts of subjective dispositions (motives, purposes): The concepts of subjective dispositions are often confused with the objective consequences of action. «The descriptive account should, as far as possible, include an account of these motivations, but these motives must not be confused with (a) the objective pattern of behavior or (b) with the social functions of that pattern.» 25 Our descriptions must also include the «meanings (or cognitive and affective significance)» of the pattern of practice for members of the group. Obviously the meanings attached to certain items may differ from one reference group to another, and these meanings may vary according to the purposes of each reference group. The purposes provide clues for the functional needs of these groups. The purposes held by the legislature may be contrary to the needs of trade unions with regard to one practice or structure, but these same purposes may be highly congruent with the needs of management, and/or government.

c) Concepts of objective consequences (functions, dysfunctions): Under this heading, Merton refers to two types of confusion which have prevailed in current conceptions of «function»:

(1) The tendency to confine sociological observations to the positive contributions of sociological item to the social and cultural system in which it is implicated; and
(2) The tendency to confuse the subjective category of motive with the objective category of function. 26

With respect to the first point, it is obvious that a given structure or practice may not necessarily have positive consequences. On the contrary, as noted above, the practice or structure may have

25. Ibid., p. 59.
26. Ibid., p. 51.
positive and negative contributions depending on the type of the unit subserved by the function. Having diverse consequences for different groups, it may be functional, dysfunctional or nonfunctional. Thus, Merton discusses *multiple consequences*:

Functions are those observed consequences which make for the adaptation or adjustment of a given system; and dysfunctions, those observed consequences which lessen the adaptation or adjustment of the system. There is also the empirical possibility of nonfunctional consequences which are simply irrelevant to the system under consideration.  

Another concept related to the preceding one is the *net balance of an aggregate of consequences*. Since a structure or practice may have both functions and dysfunctions at any given time as far as diversely situated subunits are concerned, we can speak of a net balance of consequences for the inclusive social system. As the consequences of legislative action become functional for some groups and dysfunctional for others, a net balance of these consequences seems to be an important guide for the formation and enactment of legislative policy.

The second point above leads us to make a distinction between the «cases in which the subjective aim-in-view coincides with the objective consequences, and the cases in which they diverge.» This distinction brings us to the concepts of *manifest* and *latent* functions. Again quoting Merton:

Manifest functions are those objective consequences contributing to the adjustment or adaptation of the system which are intended and recognized by participants in the system;

Latent functions, correlatively, being those which are neither intended nor recognized.  

The inclusion of motives and purposes takes on great importance in distinguishing manifest and latent functions. Not all unintended and unanticipated consequences remain latent necessarily; it is obvious that some of the unintended or unanticipated consequences may become manifest. It is also implicit in the models of bureaucracy described above that bureaucracies react to unintended dysfunctions

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with an increase in general and impersonal rules. How could they react to these unintended consequences unless they became manifest? While all latent functions, by and large, refer to unrecognized and unintended consequences, they can still be considered unintended or unanticipated even after they have been recognized and, thus, become manifest. Therefore, for the sake of clarity, a conceptual modification is made here. The criterion employed in distinguishing manifest and latent functions should, in fact, be applied to distinguish the intended and unintended functions rather than manifest and latent functions. In other words, intended consequences are those in which subjective dispositions of the actor correspond to the objective consequences, whereas unintended or unanticipated functions refer to the consequences in which subjective dispositions diverge from the objective consequences. In fact, this is also implicit in Merton's model:

In short, it is suggested that the distinctive intellectual contributions of the sociologist are found primarily in the study of unintended consequences (among which are latent functions) of social practices, as well as in the study of anticipated consequences (among which are manifest functions).

The first part of this sentence suggests that the «unintended consequences» is a broader concept than merely the «latent functions.» However, the latter part gives an impression that «intended or anticipated consequences» may also involve the «latent functions.»

Both manifest and latent consequences may be functional, dysfunctional or nonfunctional for the groups under study. However, as noted above, the intended manifest consequences for the legislature are presumed to be functional all the time.

29. Ibid., p. 66. Emphasis added.
30. Although in actual situations one can find evidence to substantiate this assumption, it seems that it cannot be very long before these intended but latent (unrecognized) functions become recognized and manifest to all or most parties. As long as they are functional for the legislature, and functional or nonfunctional for other groups, they may not be recognized. But, once dysfunctions for other groups arise as a result of these intended latent functions for the legislature, they can be readily felt and made public. Nonetheless, this category of intended but latent consequences may be considered irrelevant and of little practical value.
Within this framework, then, the distinction between manifest and latent functions will be made in terms of recognition, that is to say, manifest functions, whether intended or unintended, refer to recognized and observed consequences, whereas latent functions are necessarily unrecognized.

d) Concepts of the unit subserved by the function: In our analysis, these units are confined to a limited number: the legislature acting or claiming to be acting in the name of the more inclusive social system, management, labor and particularly trade unions, and government. Nonetheless, another type of subunit, namely, the political parties, will be referred to occasionally throughout the study.

Here, an additional point not explicitly envisaged in Merton's definition and interpretation of manifest and latent functions must be made with respect to the distinction between intended and unintended consequences. It is obvious that, when we are dealing with different subunits subserved by the same function(s), the criterion used in distinguishing the two phenomena, that is, the divergence between the subjective dispositions and objective consequences of legislation, is applicable only to the intended and unintended consequences of legislation from the point of view of the legislature. For though the unintended or unanticipated consequences of legislative action are likely to be those objective consequences which diverge from the subjective purposes of the legislature, there is no reason for assuming that these objective consequences have also to diverge from the subjective dispositions of the other subunits. They may happen to be parallel to their purposes as well as deviate from them. For instance, the objective consequences which diverge from the purposes of the legislature and, thus become unintended, may be quite in line with the purposes and needs of labor. As with the legislature, so with trade unions; they may be functional or dysfunctional, manifest or latent. And yet, they are unintended for trade unions as well. Therefore, for the sake of avoiding confusion, the criterion is confined only to distinguishing subjective dispositions of the actor (the legislature) and the objective consequences of legislative action. Even if we applied the same criterion to make a distinction between manifest and latent functions, we would be led to the same conclusion. Latent functions for the legislature, or the inclusive social system in this case- -representing a divergence between the
purposes of the legislature and the objective consequences—might be quite parallel to the purposes of organized labor. And yet, for labor, they might still be unrecognized consequences. Of course they might as well run counter to the purposes and needs of organized labor and turn out to be unanticipated or unintended latent dysfunctions.

e) Concepts of functional requirements (needs, prerequisites): As noted when the postulate of indispensibility was discussed above, the argument that certain functions, along with certain items or structures to perform these functions, are indispensable for a social system is debatable. This concept necessitates the careful establishment of types of functional requirements and procedures for validating the assumption of these requirements. In terms of the limits of this study, such a classification of universal versus specific functional requirements is extremely difficult. Especially when there is no chance of rigorous experimentation, we have to be content with a few assumptions concerning the universal functional needs of the social system and the specific functional prerequisites of the sub-systems under study.

As an initial approach to «functional requirements» from the standpoint of this study, a few such needs can be mentioned here. It is assumed that the legislature performs the task of shaping and legitimizing certain practices, processes or structures to meet certain functional needs of the inclusive social system and of the various sub-units. Therefore, all the rules and regulations it sets forth are, in one way or another, aimed at formalizing and legitimizing these structures to meet such pre-existing or emergent requirements. It is for this reason that a close relationship between the purposes of the legislature and the functional requirements of the inclusive social system is assumed to prevail. From these needs proliferate a large number of purposes.

One of these functional requirements to be met is the need for handling conflict and social strain within the society. As one student has pointed out, «every society confronts the problem of dealing with strain or protest. If a society is to continue functioning, in-
ternal conflicts must be reconciled in some way. Various societies handle such strains in different ways.»

In more or less complex societies, there are «needs to create specialized institutional mechanisms in the form of separate bodies which fulfill the functions of channeling dissatisfaction, conflict or strain.» Trade unions are one of the institutionalized forms «for the expression of social dissatisfaction. They are, however, among the most important because they handle some of the fundamental problems of strain in modern society: inequities in the distribution of the nation’s wealth, threats to the submergence of the individual by the machine, etc.»

There are, of course, numerous other functional requirements of this universal kind for which various other social structures have been established and legitimized by the legislature. Government, management and political parties can be viewed as organizations designed to meet such demands in the society. Since we are dealing mainly with one universal functional need, that is, the handling of conflict and protest, there is perhaps no need to delineate in detail other universal requirements of the social system. However, the subunits do have specific functional requirements among which are those that reflect upon the above-mentioned universal need but represent it from the standpoint of their own frame of reference and interests. However contradictory to each other they may be, they are often attributed to the society at large and claimed to be contributing to the general well-being. Thus, the government, representing the executive body in charge of enforcing the laws, faces the functional need of maintaining social order, a requirement also imputed to the social system. The government, therefore, may, at times, approach the trade unions as devices for social control and try to play a mediating role in the management of conflict. Management has functional requirements too, such as the need to survive and, hence, to increase the profitability and productivity of the firm. Productivity increases and capital accumulation are asserted to be

32. Ibid., p. 134.
33. Ibid., p. 135.
contributing to the general welfare, often combined with the arguments of economic development, which is also a functional need for the more inclusive social system to survive. Unions, like any organization, are also confronted with the need to survive. They try to meet an additional functional requirement of redistributing the nation's wealth in favor of their members by improving the working conditions, legitimizing protest, channeling and handling conflict. The specific purposes of these subunits are largely affected by such needs, and, because these needs overlap and even contradict each other on certain points, «the management of protest is frequently competed for by various groups.» As Kerr and his associates have pointed out, «there are rival contenders in the struggle to direct, control, suppress or manage labor protest. Among these contenders are employers, union officials, political leaders, government administrators, military sects and the leaders of religious sects.»

f) Concepts of the mechanisms through which functions are fulfilled: From the standpoint of the present analysis, these mechanisms are «legislative enactment» and «insulation of institutional (or subunit) demands.» The latter logically precedes the former mechanism through which change takes its final legal form. However, as we shall see, there may be cases in which legislative action occurs without an apparent process of the «insulation of institutional demands.»

g) Concepts of functional alternatives (functional equivalents or substitutes): Different practices or structures, created either as a response to the insulation of institutional demands or by mere legislative enactment, can, simultaneously or subsequently fulfill the same functions.

h) Concepts of structural context (or structural constraint): As noted earlier, one of the causes that gives rise to unintended consequences is the failure of the legislature to foresee the implications of a change in one of the subsystems for the interconnected and mutually sustaining parts of the social system. «The interdependence of the elements of a social structure limits the effective possibilities of change or functional alternatives.» The functionalist

orientation, therefore, must aim to study the groups in the social
system in structural terms, from the standpoint of their intercon-
nected standing in the society, of the types and rates of interaction
among themselves, and between them and the legislature.

In our scheme of analysis, a number of elements which are part
of this structural context operate as conditioning factors: social and
political organization, statutes and group affiliations of the partici-
pants in the subunits of the industrial relations system, character-
istics of the labor force, pre-existing norms in regard to the
channelization of protest, the prevailing management philosophy and
attitudes towards labor and conflict, etc.

Most of these interrelated elements, as will be seen, represent
pre-existing practices and structures meeting certain functional
requirements. To try to discard these elements by failing to recognize
their interdependence within the social system on the assumption
that their elimination will not affect the rest of the system, or a
failure to initiate the required changes to meet the emergent needs
so as to adjust them to the pre-existing pattern of interdependence,
is likely to lead to dysfunctions.

i) Concepts of dynamics and change: By making use of the
concept of dysfunction, we can analyze the nature of «dynamics and
change.» The accumulation of strain and tension resulting from the
dysfunctions produces pressures for change in such directions that
are assumed to lead to their alleviation or removal. Although in its
more traditional forms, functional analysis has aimed to consider
the existing social structures rather fixed and beyond change, its
present more elaborate version includes «not only the study of the
functions of existing social structures, but also a study of their
dysfunctions for diversely situated individuals, subgroups or social
strata, and the more inclusive society.» 35 A pressure for legislative
change is likely to be aroused when the net balance of the aggregate
of consequences of an existing practice or structure is clearly dys-
functional. A new legislative act is destined to establish and legiti-
mize new practices or structures in which the net balance of aggre-
gate of consequences is assumed to be functional again.

35. Merton, Social Theory and Social Structure, p. 41.
Of course, the knowledge of structural context sets limits to the successful introduction of new alternatives. But due to the factors described above, the legislature lacking a thorough knowledge of the structural context is apt to give rise to unintended consequences, again functional and dysfunctional.

k) **Concepts of the possible directions of change**: Although Merton's paradigm does not contain this separate heading, it is implicit in his model that the direction of change is predictable in most cases. The net balance of the aggregate of consequences for the inclusive social system, as well as the net balance for each subunit once it is clearly dysfunctional for the unit under study, provides clues for possible directions of change through the mechanism of insulation of institutional demands. However, as will be indicated below, the direction of change is likely to be a function of the relative power and influence exerted by each subunit as well as the relative amount of dysfunctions with which it is confronted.

l) **Problems of validation of functional analysis**: Functional analysis also requires that specific assumptions, imputations and observations be validated. It must try to employ «procedures of analysis which most nearly approximate the logic of experimentation.»

m) **Problems of ideological implications of functional analysis**: Functional analysis has no ideological commitment. It is neutral to the major ideological systems. Nevertheless, this does not preclude the particular functional analyst and the particual hypothesis developed by him playing an ideological role.

Below is presented a functional analysis of legislation, as it relates to the different subunits of the industrial relations system, combined with the concept of «unanticipated consequences.»

E. *The Functional Analysis of Labor and Trade Union Legislation*

The legislature, as an entity assumed to be representing a given social system, gives rise to certain forms of standardized practices or structures by enacting laws in the field of labor and trade union

legislation as well as in other areas. These practices or structures are intended to fulfill certain functions. In fact, at least on their face value, they are expected to meet certain functional requirements which already exist, or which are likely to emerge in the future.

By issuing legislative rules in regard to labor-management relations and trade union organization, the legislature is disposed to bring about a certain trade union structure, certain legal and social procedures to solve labor-management conflicts, standardized items, and general and impersonal rules to regulate the relationships among organized labor, managements and the government.

Given the functional requirements of the inclusive social system and each of these subunits, not only does the legislature aim to meet the needs of trade unions by the legitimization of certain structures and practices, but it also has to see to it that these legal forms are reconciled and adjusted to the functional requirements of the other subunits.

These forms, once they are put into practice, bring about various observable objective consequences from the standpoint of the actor -the legislature- and the social system as a whole which it claims to represent. Like the other subunits, the legislature has certain subjective dispositions (purposes and needs), and it acts in response to realizing these purposes on which the functional requirements of the system, such as the need for social control, are reflected. To the extent that these observed consequences help the adaptation or adjustment of the system, they are functional. To the extent that they lessen the adaptation of the system, they are dysfunctional. They may simply be nonfunctional, being completely irrelevant to the system or subsystem under study. These are recognized (manifest) and intended consequences. Thus, by their nature and on their face value, they are, almost always, seemingly functional for the social system and for the actor.

In the same manner, the same practices and structures have objective consequences for the subunits. They are recognized consequences for each of them, functional for some of them and dysfunctional or nonfunctional for others. These multiple and diverse functions are fulfilled through two interrelated mechanisms: the first is the process of «legislative enactment.» The second is the
«insulation of institutional or subunit demands,» prompted by the functional requirements, and, thus, the purposes of each subunit.

The manifest dysfunctions of these standardized forms may not be apparent at once. But, before long, they seem to lessen the adaptation of the particular subsystem and become manifest dysfunctions for it, while remaining functional for the other subunits. All of these consequences for the system and for all the subunits are recognized by the participants. The subunits have their own purposes and needs, parallel to their own functional prerequisites.

Along with these intended consequences, various unintended and unanticipated consequences emerge once these forms are put into practice. They are unintended and unanticipated by the legislature, because there appears to be a divergence between the original purposes of the legislature and the objective consequences of action. In view of the other subunits, they are also unintended and unanticipated, since it is also apparent for them that the objective consequences are different from the proposed action of the legislature. Of course such unintended consequences may, as well, turn out to be parallel to their own purposes. They may be unrecognized and thus remain latent, or some of them may be transformed into manifest functions after a certain length of time. They may happen to be functional, say, for labor, and dysfunctional for management and government, or vice versa.

Once these unintended dysfunctions become manifest for a given subunit, through time, they tend to outweigh the functions and, coupled with the intended manifest dysfunctions, they become a potential source for change. When the net balance of aggregate of consequences becomes clearly dysfunctional for the social system, a pressure which forces the legislature to change the existing forms in the direction of alleviating the strains and tensions is likely to occur.

However, the mechanism through which this pressure for change takes place is more complex than it appears. In the first place, is the net balance of the aggregate of consequences a sum total of all the consequences (functions and dysfunctions) imputed to the item in various subunits it subserves within the social system?

37. For reason why these unintended consequences emerge, see above pp. 9-16.
Or can we conceive of a net balance of the aggregate of consequences that is dysfunctional, and, thus, has become a potential source for change as far as a given subunit is concerned?

In our view, the empirical evidence seems to indicate that legislative change may occur along both of these lines, plus through two other ways. If an attempt is made to categorize various situations, we are confronted with the following four cases:

1. If the sum of the manifest dysfunctions of a given practice or structure— including those that are unintended as well as intended—for diversely situated subunits within the social system outweighs its aggregate functions, an increased need is likely to be felt by the legislature to modify this particular practice or structure, or to replace it with a different one. Since, in this category, dysfunctions are assumed to have arisen for more than one group, or in varying degrees for all groups, change destined to remove them is more readily implemented than in the following categories. Although dysfunctions for one subunit may be undeniably stronger than the dysfunctions for others, the direction of change is likely to depend on the relative power of groups, the influence they have over the legislature and the other subunits of the system, such as the public, political parties, press, etc. Occasionally the power to instigate changes, and the relatively high amount of dysfunctions for a subunit may coincide with each other.

2. Or, as long as the net balance is dysfunctional for any one subunit, change can take place if this subunit can exercise «direct coercion or indirect persuasion» over the legislature and/or other subunits. This is clearly the case, for example, in totalitarian systems where government imposes legislation by direct coercion, or in multi-party regimes where one subunit can elicit responses to its demands by indirect persuasion.

The operation of this mechanism through these two lines is also implicit in Merton’s model. He says that «persisting cultural forms have a net balance of functional consequences either for the society considered as a unit or for subgroups sufficiently powerful to retain these forms intact, by means of direct coercion or indirect persuasion.» 38 This means that observed dysfunctions for a subunit con-

38. Merton, Social Theory and Social Structure, p. 32.
tained within a particular structure are not likely to lead to change unless (a) they outweigh its functions for this subunit and (b) the subunit is sufficiently powerful to put pressure on the legislative body and other groups either by means of coercion or indirect persuasion in the direction of the desirable change it is seeking. In this process is involved, of course, an intertwined network of all the power relations within the society.

However, the concept of «power» as envisaged in the phrases «direct coercion» and «indirect persuasion» needs some elaboration. Dunlop treats the distribution of power within the larger society as one of the contexts determining the industrial relations system.39

The relative distribution of power among the actors in the larger society tends to a degree to be reflected within the industrial relations system, their prestige, position, and access to the ultimates of authority within the larger society shapes and constrains an industrial relations system.40

But, in practice it does not seem realistic to regard power as a more or less fixed phenomenon. As Jensen points out:

It is multidimensional and is a function of many variables. A union or a company may have great power to do certain things in the face of some eventualities but, at the same time, no power to do others. Power is related to the situation at the time; it is related to the subject at issue and to the response of the opponent.41

Also the concept of power as treated here is a two-way phenomenon. It involves the ability to receive a response from the legislature as well as to exert pressure by coercion or persuasion on the legislature. In other words, it is an ability to effect and, in turn, be effected by new legislation.

3. Without any apparent need for change resulting from the net balance which is dysfunctional, the legislature may be tempted to impose new structures or practices on the social system. This type

39. Dunlop, p. 9. The other two constraints are the technological context and the market or budgetary context.
40. Ibid., p. 11.
of change, based on the assumption that structure and function are causally related, may have been induced by the legislature's anxiety to take precautions for new functional needs that are perceived to occur in the future, as well as merely by symbolic considerations of modernism and progressive social policies. We will call this category the «directed change.»

4. A fourth type of change is instigated by the legislature itself when it attempts to eliminate practices or abolish structures whose objective consequences have been clearly nonfunctional, with no relevance for the subunits concerned or the society in general. However, the legislature may or may not replace them with new ones, depending on the needs and power positions of the groups.

These potential sources for change, either separately or supplementing each other in a cumulative process, result in further legislation aimed at substituting alternative forms of processes, structures and practices for the previous ones. But, since the structural context limits the number of functional alternatives suitable for a given situation, and because the legislature does not possess any full-fledged control over the structural context, new unintended and unanticipated consequences inevitably follow again. The process of accumulation of the manifest dysfunctions through time leads to a felt need and pressure for change. Depending on the strength of this pressure, either minor or major changes are likely to occur and to take the form of new legislative acts again. As with the proposition made by the theories on bureaucracy which assert that the response to unintended dysfunctions is an increase in the demand for control and in the amount of impersonal rules, so with the unintended consequences of legislation. It is hypothesized at this point that, some, if not all, of the standardized practices and structures established by legislation are likely to result in unintended and unanticipated dysfunctions for a certain subunit and/or subunits. These dysfunctions, to the extent that the subunit(s) facing them can wield power through direct coercion or indirect persuasion over other subunits and the legislature, give rise to further legislative changes. This tendency engenders a continuous process of legislative activity.

42. See above, p. 10.
Standardized Practices and Structures to Which Functions Are Imputed

Structural Context

Objective Consequences of Legislative Action (functional, dysfunctional or nonfunctional for diversely situated units of the industrial relations system)

Practices and structures established by dispute settlement and trade union legislation in order to meet functional requirements of the industrial relations system and the social system at large.

Conditioning factors of the environment: economic factors and characteristics of the labor force; political and administrative organization; social structure and values; attitudes towards conflict; management philosophy and practices.

Other conditioning factors such as external influences and internal pressures.

Intended and unintended consequences for the legislature, the industrial relations system, and trade unions in particular (namely, the structure, membership, leadership and activities of trade unions).

Potential source for change (net balance of the aggregate of consequences that is dysfunctional)

Figure 3. Major Dimensions of the Study.
Figure 3 is designed to show the major scheme of unintended and unanticipated consequences from the standpoint of the actor. The same model is applicable to other subunits as well, with the exception that the divergence between subjective dispositions and objective consequences should be viewed only from the standpoint of the legislature.

Legislative change occurs either in the form of enacting new laws or amending the existing ones. In its broader sense as used in this study, however, it also involves the cases in which an act is abolished without being supplanted by a new one designed to establish functional alternatives. The timing of new legislation for any given item is determined by the relative intensity and urgency of the pressures impinging on the legislature from the power groups, the amount of dysfunctions aroused, the speed at which latent dysfunctions become recognized by the subunits and by the legislature so that they can reinforce the already recognized dysfunctions and reinforce the felt pressure for change, and how fast the legislature can take action in responding to them. This latter point is important. Even in bureaucratic organizations, the diagnosis of the problem and the reaction of top levels to solve it too often take such a long time that necessary action, when taken, becomes irrelevant and too far removed from the actual situation. As a matter of fact, such delays can perhaps be cited as one of the factors causing unintended consequences, as opposed to the other extreme mentioned above, that is, «immediacy of interest.» It is perhaps a universal phenomenon that the legislative machinery is usually too slow and it fails to take the required precautions in time. As one observer has pointed out, «desired changes in the NLRA or its administration can be more readily secured through the medium of executive appointments to the Board than by the legislative process of amending the law.» However, this observation does not preclude us from making the above proposition, since legislative mechanism, though belatedly most of the time, is sooner or later stirred up to legitimize and codify

43. Statement of Professor Lawrence K. Williams, mimeographed class notes.
44. See above, pp. 14-15.
the changes required. The data presented in subsequent chapters will substantiate this proposition.

Implicit in Merton’s model is the notion that pressure for change is induced by the net balance of an aggregate of manifest consequences that is dysfunctional. However, it is obvious that a given practice or structure which is manifestly dysfunctional for a group or for the social system as a whole may be performing latent functions for this group or even for the inclusive social system. Since, in our scheme, legislative change is directed to substituting new practices and structures only to remove the manifest dysfunctions, it is, at times, likely to ignore the latent functions which the previous practice or structure was perhaps fulfilling successfully. In fact, the latent functions of the previous structure or practice might have been so vital and indispensable for certain groups or for society as a whole that, once it is abolished merely because of its manifest dysfunctions, the new alternatives, due to the limits set by the structural context, are unable to perform these latent functions.

As noted in the above paragraphs, the satisfaction of functional needs without disturbing the system is limited by the number of functional alternatives available. This, in turn, is determined by the extent to which the structural context is permissive for independence of subsystems and independent action. As, in our case, it is almost impossible to manipulate the structural context such that the existing needs can be satisfied by the specific alternative structures, or to eliminate these needs altogether, the legislature is bounded by the limited number of functional alternatives the proper selection of which is too often beyond its capacity. Any functional alternative that seemingly eliminates the manifest dysfunctions of a previous structure or practice may, in fact, fail to substitute for the latent functions which were formerly fulfilled by the abolished structure or practice for certain subunits. This may result in latent dysfunctions. However, since it is assumed here that further legislation can be induced only by manifest dysfunctions, the felt pressure for legislative change will be reinforced also by the speed at which these latent dysfunctions become recognized (manifest) dysfunctions.

Here arises the problem of determining how latent consequences of social action are transformed into manifest consequences. In other words, how long does it take for a latent function to become
recognized? How many people in a subunit must be aware of the latent consequences of a structure or practice so that they are no longer unrecognized and latent?

Merton is not clear on this point, nor does he provide any clue with respect to the transformation of a previously latent function into a manifest function. However, he asks a question as to the possible effects of such a transformation. Ignoring the empirically insignificant category of intended or anticipated latent consequences, we can say that the remaining latent functions are likely to be transformed into manifest consequences to the extent that they become clearly dysfunctional. The strains and tensions which alienate the subunit from the satisfaction of its functional needs accelerate the speed at which such latent dysfunctions can be recognized. Latent dysfunctions are more readily and quickly recognized than latent functions, as the latter are likely to remain unnoticed and unrecognized until their fulfillment is blocked. When a certain structure or practice becomes dysfunctional for a subunit in terms of its latent consequences, sooner or later a sufficient number of participants in the subunit are likely to observe the emerging shortcomings of the particular structure or practice. For other subunits subserved by the same structure or practice, say for government and/or management, the latent consequences may not be dysfunctional at all. The more subunits for which a given structure or practice produces latent dysfunctions, the more easily it becomes manifest and can be made public. These new manifest dysfunctions, then, add to the aggregate of consequences and affect the net balance. The power relationships among subunits, as indicated above, are also important in determining the pace at which these unrecognized consequences can be made public. The possible direction of change is, again, dependent upon the relative power and influence of the subunit faced with these dysfunctions over other subunits and the legislature.

4. THE WRITER'S FRAME OF REFERENCE

This, then, is the general framework of the assumptions and propositions of the study. As can be inferred from its conceptual

46. Merton, Social Theory and Social Structure, p. 51.
framework, the study is destined to contribute to various purposes. In the first place, it is an attempt to study the Turkish industrial relations system and trade unionism by the application of a social-science oriented approach. In fact, the analyses of the factors leading to a certain form of trade union movement and industrial relations system is its main purpose. The delineation of an already-established model to serve as a conceptual and theoretical framework in the collection and interpretation of data is its secondary, but by no means less important, purpose.

As noted above, functional analysis as a model per se is neutral to ideological commitments and personal biases. Therefore, as far as a statement as to whether a practice or structure is likely to be functional or dysfunctional for a group is concerned, it is either an historical fact substantiated by empirical evidence, or a speculative finding based on comparative data. By and large, such expressions can qualify as neutral statements.

The writer should, however, warn the reader that a study such as this cannot be completely free of personal value orientations. He believes that, regardless of the nature of the particular economic and social system, trade unionism is an inevitable component of an industrializing society. Trade unions are viewed as institutions contributing to the order of the social system by legitimizing worker protest and handling industrial conflict. Since every society faces the problem of protest, a social system is better off when protest is legitimized within a formal structure such as the trade union. As long as there are institutionalized forms of protest, the maintenance of social order is more readily secured, because the trade union, with certain minimal tasks assigned to it, operates as a self-restraint mechanism, and prevents protest from taking more aggressive forms. In the presence of an efficient and responsible trade unionism, even the government and employers are better off as far as their survival and social order are concerned.

It is partly for this reason that this study has focussed mostly on the trade union aspect of the Turkish industrial relations system. It is also due to this rather long-range view that the economic implications of a free trade union movement and collective bargaining have been disregarded. Indeed, the effects of collective bargaining and wage increases on the profitability of the firm and on prices
have not been investigated in this study in any manner. In the same way, the implications of such factors for the economic development of Turkey have not received any systematic treatment.

5. METHODOLOGY

In the analysis of independent factors in the design of this study, various laws, statutes, etc., have been examined to the extent that they are related to the specific dimensions of labor and trade union legislation. With respect to the purposes of the legislature in each enactment, the preamble or the statement of policies and purposes of each legislation has served as a clue.

The exposition of the conditioning elements is based on a survey of the literature on the topic, available both in the Turkish and English languages. Depending on the findings obtained from the literature and personal observations within this particular culture, certain assumptions are made, some of which remain to be tested by future field studies on the spot.

Analysis of the intended and unintended consequences is the result of a survey of the literature again, review of press articles, and personal interviews in the field. The press articles used cover the news as late as March 1968.

The study is causal in design. However, although we imply a causal relationship when we speak of a relation between the independent and dependent variables, such an account is obviously insufficient. It is for this reason that the «functional consequences of the legislative machine» seem to be an effective tool in supplementing the causal interpretation. In explaining an actual situation as an intended or unintended dysfunction on the dependent elements, we simply imply that the particular practice or structure as intended by the legislature is a necessary condition for this objective consequence, but it is not a sufficient condition for this outcome by itself. Various conditioning factors (structural context) have eventually accounted for the emergence of this actual situation.

The data have been collected with the help of the concepts of functional analysis. Although reference has been made here and there to other industrial relations systems, no comparative analysis
has been employed in any systematic manner. For instance, the situation in the United States or Sweden has been referred to only when a legislative act similar to the one in this particular system has been adopted. In the same way, no definite criterion has been applied in the selection of these comparative industrial relations systems. By and large, they all represent different levels of social, economic and political development.

Due to the central role played by the structural context in this mode of analysis, we now turn to the elaboration of the basic conditioning factors in the following chapter. Although from a methodological standpoint, they should perhaps follow the legislative dimensions, they have in reality preceded them as pre-established or pre-existing patterns in the time dimension. In addition to this point, their exposition is intended to provide an introductory background to the particular society on which this study will focus.
Chapter II

A BRIEF SURVEY OF THE ENVIRONMENTAL DETERMINANTS IN TURKEY

The «structural context» of Merton’s paradigm when applied to our analysis includes a number of economic, social and cultural characteristics. For the purpose of this study, however, emphasis will be placed only on selected social and cultural factors rather than on all of these elements in detail. In one sense, this chapter is a summary of the important elements, values, attitudes and behavior patterns of the Turkish culture with special reference to those which play a more prominent role in affecting and shaping the process of legislation and its implications for the industrial relations system of Turkey.

1. BASIC FACTS ON TURKEY

The Republic of Turkey is located in both Europe and Asia. Although the Turks began to appear in Asia Minor around the sixth century A.D., it was not until the eleventh century that they established themselves in Anatolia in large numbers. In 1453, the Turks captured the city of Constantinople (Istanbul), and by the sixteenth century had extended their military and administrative hegemony in Algeria in the west, to the Persian Gulf in the south, to Iran in the east and as far north as Vienna.

The Ottoman Empire was ended by World War I. The Turkish Republic was officially established on October 29, 1923, with its first president being Kemal Atatürk, under whose leadership the independence war and later the reformist programs for the modernization and westernization of Turkey had been conducted.
Turkey’s population is highly homogenous.\(^1\) About ninety percent are ethnic Turks. Ninety-nine percent of the population adhere to Islam, and ninety-two percent speak Turkish as a first or second language.\(^2\) A one percent sample of the 1960 census has shown that 40.1 percent of the population seven years of age and older are literate.\(^3\)

Urban dwellers constitute approximately twenty-five percent of the total population. Approximately eighty percent of the labor force, which is about forty-eight percent of the total population, is engaged in agriculture. Those in mining, manufacturing, construction, and trade and service industries make up the remaining twenty percent of the labor force. Statistics on unemployment and underemployment are generally not available. In addition to various forms of unemployment, it is known that a high rate of underemployment, which has been referred to as «disguised unemployment,» exists especially in agriculture. Although the estimated figures are not reliable, there is little doubt that the labor force is inefficiently utilized due to the deficiencies of the national economy which is far from supplying a sufficient number of openings for those who are ready to work.

The economy is plagued with a high rate of labor turnover which results in a lack of industrial commitment of the work force.\(^4\) The mobility of workers from villages to towns and cities and back creates a high labor turnover in industry. These peasant-worker

3. Ibid., p. 11-3.
types who return to their villages after having worked in industry for a while never free themselves from the habits and customs geared to the life in villages, and rarely become accustomed to the discipline required in industry. Thus, there is a causal relationship between the high turnover rate in industry and the nonexistence of a well-entrenched and committed labor force.

Turkey has almost always had a mixed economy, involving both state and private enterprises in proportions varying from one period to another. From the establishment of the new regime to 1933, however, the economy was based predominantly on free enterprise. The first five-year plan launched in 1934 initiated an industrial development which, now and then, continues in varying rates in the hands of both the state and private sector rivalling each other. Although the country has realized the take-off stage in Rostow’s terms, the industrial potential and national income per capita are quite low.

2. CULTURE CHANGES AND SOCIAL REFORMS IN TURKEY

Turkey’s contact with the western world goes back to an era even earlier than the Crusades. However, the nineteenth century seems most appropriate to begin an examination of the process of conscious westernization.

During the first quarter of the nineteenth century, the first educational institutions based on European models were established in a few urban centers, and a number of students were sent to Europe. Foreign experts were utilized in civil and military schools. Modern schools and the cultural contact of students and civil service staff sent abroad laid the basis of westernization during this era. However, change affected only the middle and upper classes of urban areas. The most important feature of change during the nineteenth century probably was the emergence of a civil service. The regulations related to the conduct and training of civil servants were predicated on western models. This group, which began to crystallize in the nineteenth century with the foundation of a modern state and government organization, came to be regarded by the masses as the representative of westernization, and it played the primary role in

the implementation of change. The Ottoman Empire had a highly bureaucratized administrative system, employing a large number of personnel in public services although it was basically military in character before westernization began to influence the structure of the society.

The establishment of the new Republican regime in 1923 marked the beginning of large-scale government-directed changes which were initiated by Atatürk. These changes would probably not have taken place in the same direction and at the same speed if they were not initiated by Atatürk himself, although most of the social forces that demanded mobilization were already there. At the same time, an intellectual group emerged from within the civil service which provided Atatürk with occasional intellectual assistance.

Although government-directed changes were aimed at the country as a whole, most reforms were implemented most effectively with the urban population rather than with the peasants. Among the many changes were the modernization of the educational system, stimulation of free enterprise by the codification of new laws, and the replacement of certain minority groups by the artisans and small local merchants of Anatolia, etc.

As part of his many national reforms, Atatürk abolished Islamic law and substituted the Swiss civil code. The Turkish labor code, promulgated in 1936 with 148 articles, was drawn largely from the French labor code, and was influenced by conventions approved by the International Labor Organization. The code was passed with urgency although there was no labor problem and industrial conflict at the time of its enactment. In 1945 a «Social Insurance Act,» in 1946 an act for the establishment of the Ministry of Labor, and in 1947 «the Trade Unions Act» were passed. Apparently, with regard to some of these changes, needs were not strong enough for the efficient operation of the practices and structures established by them. In the history of modern Turkey, foreign items, structures

6. Since this period is characterized by a one-party political system with dictatorial tendencies, the terms «government» and «legislature» can indeed be used interchangeably. Although almost all the changes implemented were given a legislative framework, the parliament consisted of the representatives who belonged to the same party which also constituted the executive organ.
and practices, borrowed eclectically from different western cultures, were imposed on the society from above, either on the assumption that needs that would require these changes were likely to occur in the near future and that these changes would facilitate adaptation of the system to such newly emerging needs, or for purposes of gaining international prestige with a claim for modernism and progressive social policies.

It is important to note that a coalition of «soldiers, merchants and intellectuals» has always characterized the modernization process in Turkey. However, this coalition «contained a large percentage of men from the military.» Although this coalition of the military and the intellectuals has served as an innovating force, the results have not been encouraging in every respect. In the first place, there was always considerable social distance between these groups and the masses. Secondly, severe measures exerted by the administrative authorities in enforcing these directed changes have resulted in some degree of resistance to later changes and resentment to the Republican Peoples’ Party which constituted the government during this era and was supported by the above-mentioned westernizing forces and the landed aristocracy until 1950. In fact «while punitive measures can accelerate the transfer of certain culture elements, they probably delay the acceptance of many others.»

Radical secularization programs, the de-emphasis of Islam and the abolition of religious education by force, which were part of the reform programs designed specifically to facilitate later transformations, have accounted for this phenomenon to a large extent.

3. POLITICAL AND ADMINISTRATIVE ORGANIZATION

The Constitution of 1924 laid down the foundations of the Republic of Turkey and abolished the religious base of the state. It separated the legislative, executive and judicial powers, deriving many procedures from continental European law.

However, until 1946 the Republic of Turkey was a one-party state. The Republican Peoples’ Party, established by Atatürk as the

7. Rostow, p. 29.
9. Ralph Linton, Acculturation in Seven American Indian Tribes, p. 505.
instrument to social reforms dominated the scene until 1950 when it was defeated and deposed by the newly established Democratic Party.\textsuperscript{10}

The Constitution established a unitary state. No division of power existed such as that between the Federal Government and the states in the United States. «Turkey today is a unitary parliamen-
tary republic constructed along French lines.»\textsuperscript{11} The centralization embodied in the constitutional structure of the country also characterizes its administrative structure.

As a matter of fact, French administrative techniques and methods were extensively adopted by the Ottoman Empire as early as the 1930's. In earlier centuries, when the Turks dominated over vast lands and a great variety of people, some degree of adminis-
trative decentralization was applied. However, as far as general policy-making was concerned, centralization was inevitable for the preservation of the empire. As Caldwell has pointed out:

> From their first appearance in history the Turks were a military people and their situation on the frontiers, at strategic land and sea crossroads of Eurasia, and in the path of expanding Russia made war and discipline absolute necessities for a people determined to preserve their estate. Occupying a conspicuous and historically coveted position and set apart by language and culture from their neighbors, the Turks have been a self-conscious and serious-minded people.\textsuperscript{12}

Later, the disintegration of the Ottoman Empire increased the need for centralism as a precaution against further threats to nationhood, and led to «administrative borrowings from France from which centralized control was sought to counteract the disintegrating tendencies of an empire threatened by the growing national consciousness of its ethnic minorities and under constant pressure from Russia and Western European powers.»\textsuperscript{13}

\textsuperscript{10} For a detailed account of politics in Turkey, see Kemal H. Karpat, \textit{Turkey's Politics: The Transition to a Multi-Party System}, Princeton University Press, 1959.

\textsuperscript{11} Lyton K. Caldwell, «Turkish Administration and Politics of Expendiency,» in \textit{Toward the Comparative Study of Public Administration}, p. 129.

\textsuperscript{12} \textit{Ibid.}, p. 140.

\textsuperscript{13} \textit{Ibid.}, p. 140.
Upon the establishment of the new regime in 1923, modern Turkey again called upon centralism as a measure to preserve and develop a sense of nationhood among her people. The Turks were now a homogenous nation, confined to a smaller area. They were homogenous also in regard to their ethnic and cultural values. The interdependence of basic cultural values required that centralized decision-making be applied in order to ensure the social and economic development of the nation as a whole. Almost invariably, the important authority to sign documents and to make operational decisions was concentrated in the top administrative officials of the government.

With respect to political control during the multi-party era, the tendency of the rural population was to vote for the party expected to win the elections. The reasoning was that when financial grants and other benefits were to be allocated, the government would discriminate against those districts that voted against it. Even at later times, as will be indicated in succeeding chapters, social groups were not represented in proportion to their interests in the parliament. Due to this phenomenon, external influences on the party in power and the government do not seem to be strong enough to provide for the efficient operation of political democracy in Turkey. The general feeling has been that opposition to and criticism of the government can result in severe punishment. As will be explained below, the authoritarian way of life is indeed the most important handicap to the development of continued interaction between the managers of the society and the managed.

4. THE JUDICIAL SYSTEM

The Turkish judicial system is an intertwined network of ordinary courts and national courts, the former dealing with civil and criminal disputes, and the latter with administrative cases. The former are staffed by the Minister of Justice, who appoints judges and public prosecutors. There is no jury system in Turkey. The highest review of all judicial decisions is undertaken by the Court of Cassation.

14. For more information on the political and judicial structure of Turkey, see Price, pp. 147-157.
At least in form the new regime was successful in separating the legislative, executive and judicial powers. However, the proximity of the executive power to the legislature was considerable, both during the one-party regime and in the succeeding multi-party era, but for different reasons. The fact that the government is to be appointed by the President from within the party in power representing the majority of the membership of the legislature has partly accounted for this outcome. However, the judiciary has always been relatively more separate from the other two powers in Turkey, and has always had some degree of independence guaranteed by the Constitution. Even during the Ottoman Period when powers were not separated, judicial authorities (the *kadis* who interpreted and applied the religious law) were relatively independent of the legislative and executive powers which were merged and controlled by the ruling dynasty.

It is also important to note that judge-made law has been almost non-existent in Turkey. Without denying the fact that judges, depending on their background and prejudices, may have diverged from the intentions of the legislature in interpreting and applying the laws, they have never been so free in making, and even in interpreting, the law and, thus, overlapping the area of the legislature as in England and the United States, for instance, where common law practices have enabled judges to act much more freely, at least in the field of labor law if not so much in civil or criminal law.15

As a result of this tendency, judicial bodies have created a separate identity and respect as being unbiased and fair in their judgments. While politics is frequently looked upon as a career of demogogy and corruption by some segments of the society, judges enjoy a high-level status and respect as much as top government officials.

15. Indeed, the main reason in this difference seems to be caused by the existence of statutory laws in one culture as the predominant characteristic of the legal system as opposed to common law practices in the other. Statutory law seems to prevent judges from overlapping the area of the legislature while at the same time making them more immune to the manipulations of the government. For actual examples of the judge-made law in the Anglo-American legal system, see Charles O. Gregory, *Labor and the Law*, pp. 50-51, 112-113, 198.
The main focus of social organization in Turkish society is the family of which father or eldest male is the unchallenged head. The rural Turk is a good Moslem and tends to be puritanical. In the village, status is attached to the old men, to the priest, the soldier, the government official, and to the owner of good livestock and land. Because of resentment of imposed changes, some suspicion attaches to the government official and the secular school teacher. «Leadership is furnished by family heads and village elders who choose a headman as the final authority on disputes and acceptable conduct. Participation of young people and women in village rule is not invited.» Although a typical village Turk is traditionally respectful of authority, he will not tolerate a slur on his manhood or his honor or on the good name of his family.

Class distinctions in urban centers are based on occupation, income, education, and ethnic background. One is led to believe that the national reforms described above have resulted in influencing the development of a differentiated class structure. Stimulation of the private enterprise system by legislation, for instance, has given rise to the emergence of a Turkish bourgeoisie which, in turn, has facilitated further changes towards industrialization. In the same way, if the army, whose role has always been very important in the westernization and innovation movements of Turkey, was treated in the same category with the civil servant group in a broader sense, one could speak of a middle class in Turkey consisting of two groups, the military and the civil service. Both categories imply a high prestige in the Turkish society. The application of the state investment programs after 1933 has similarly encouraged economic expansion and given rise to a new industrial working class.

Though wealth and level of income provide some influence in urban areas, occupational prestige is not necessarily related to these factors. Whereas the villager respected the soldier and the religious leader when he lived in the village, upon his transition to urban life his standards change. He is now more likely to look up to pro-

fessional men, doctors, professors or high government officials.»

High degree of skill and education become more appreciated.

In spite of resentment and a certain degree of antagonism towards public authorities, the Turk identifies himself with his government and the armed forces. Turkish people generally «look upon their government as a friendly leader to be trusted above private individuals. There was a positive feeling that the government is concerned about the welfare of all of the people and not, as in some countries, thought to be a device used to exploit them for the benefit of a few influential men.»

A high sense of patriotism prevails. The residue of army discipline in an essentially military culture goes along with deference and loyalty to the leader. Deference to authority is expected in the work life as well.

In fact, «owing perhaps to long military tradition and to the necessity for discipline as the price of holding an empire and establishing a republic, the Turks have been accustomed to authoritarian ways.»

Also one of the consequences of statism in Turkey has been the maintenance of the traditional authoritarian social structure. «The professional and intellectual elements in the population outside the government are dependent upon the government in many ways, and in some respects are an extension of the civil bureaucracy.»

One other characteristic of the Turkish society that has a bearing on our subject matter is the lack of class consciousness. However, extreme class distinctions are easily observable by the way authority relationships are perceived. The worker's high respect towards and dependence upon his immediate superior within the extremely centralized formal organizations, his deference and loyalty to duty, and his observance of status symbols, provide clear-cut clues for class distinctions. «In interpersonal behavior the contrast between those

19. A. T. J. Matthews, Emergent Turkish Administrators, Institute of Administrative Sciences, Faculty of Political Science, University of Ankara, No. 11, p. 68.
21. Ibid., p. 125.
in authority and their subordinates is very striking. Nonetheless, what is more striking is the relative lack of a class consciousness in such an environment where highly differentiated roles and expectations exist. This may partly be accounted for by the absence of industrial commitment of the workers who lack the opportunity to have continued interaction and, thus, to develop a sense of being «workers» instead of constantly moving between rural areas and urban centers. A second reason is that a very high percentage of the work force is unskilled. Because labor mobility is lower among skilled workers who constitute the permanently employed work force, they more readily develop a class consciousness. In Turkey, however, the ratio of skilled labor is quite low.

Another tendency inherent in the Turkish culture should also be mentioned here. The national sensitivity towards the Soviet Union and any institution identified with Russia makes the terms «communism» and «communist» effective labels against social reform movements. Since communism is outlawed, such names are used to degrade and suppress protest movements.

Despite the elements of authoritarianism in Turkey, men of unusual ability have always been able to reach high positions even though originating in lower levels of the social structure. There has always existed some degree of upward mobility. Traditionally, however, the Turks were oriented toward the military, government and religious occupations, leaving commercial pursuits to minority groups. It was only within the last two or three decades that the Turks became significant in the field of commerce and industry. However, private corporate enterprise so far has not been well received in Turkey. It is often stated that the Turk is «individualistic» as far as his attitudes to voluntary cooperation are concerned, and that for this reason the government should pioneer economic development. In fact, one of the factors causing increased state intervention in the national economy and state responsibility for initiating, guiding and encouraging economic development has been the lack of


cooperative action. This policy has also been supported «by elements of the bureaucracy whose positions might be adversely affected by the growth of substantial private enterprise.»

6. ATTITUDES TOWARDS «CONFLICT»

A national characteristic that has an important bearing on labor-management relations is directly related to attitudes towards «conflict.» An attitude towards conflict, which is probably more clear-cut in some other authoritarian cultures, rests on the belief that «conflict» is bad and undesirable per se, and it necessarily leads to aggressive behavior which the parties must try to avoid at all times. This, in fact, is similar to a concept that Professor Friedland has called a «consensus-oriented culture.» Conflict is looked upon as «misunderstanding» rather than disagreement because of conflict of interests. The parties involved believe that their future relationships will deteriorate considerably once they have engaged in defending their interests or views in an aggressive way on a face to face basis. Expressing one's own ideas and criticizing the other side, and making suggestions and trying to impose new conditions on the pre-existing situation, which are natural components of a democratic process, are regarded as behavior which may have undesirable consequences. This does not mean that aggressive behavior is nonexistent. On the contrary, it may take very extreme forms once the parties have had to engage in the face to face expression of conflict. A study made on Turkish businessmen has afforded a picture of the father «as stern, forbidding, remote, domineering and autocratic. Few of the men interviewed had ever argued with their fathers, and those who had, did so at the price of an open break with him.»

25. Statement of Professor William H. Friedland in class with respect to labor-management relations in Tanganyika.

It should be noted that the terms like «authoritarian» or «autocratic» are not used in a derogatory sense here, nor is any connotation like «desirable» or «good» attached to the adjective «democratic.» As far as this study is concerned, all are neutral terms and may lead to different
long as there is a third party, such as the mother, as a reconciling figure in the presence of an authoritarian father or the government in conciliating the labor-management conflict, through which the parties can channel their dissatisfaction in an indirect way, the direct expression of conflict remains suppressed and disguised. The relative failure of plant-wide suggestion systems and of some other participative measures adopted from the contemporary American management practices, is likely to have been accounted for by this phenomenon. Workers prefer to participate through the use of the third parties, such as elected worker representatives, and to refrain from having any influence over the decision-making process on a direct, face to face relationship. Most likely this is also preferred by the managements to a considerable extent.

The writer has had the opportunity to observe this pattern of behavior in Turkey and also has contrasted it with the pattern of conflict resolution in western societies, particularly in England and the United States. It has been interesting to observe that, in the American culture, parties, while arguing or negotiating, are likely to put their views or demands, even those that are extremely opposed to each other, in a rather compromising fashion and objective manner. In a consensus-oriented culture, however, parties do not manifest the same pattern of presenting the conflicting views in a compromised framework. And yet, they also refrain from asserting their conflicting demands or opinions in extreme forms, because once they do, they are likely to be uttered in an aggressive phraseology and offend the other party. In connection with this pattern, extreme statements about a person or topic are more common than reconciling expressions. This is easily observable even in daily conversation. The compromising task has to be undertaken by a third party when conflict between the parties involved has to be settled on a face-to-face basis. Coupled with the clearly defined roles and class distinctions in the Turkish society, this is likely to make negotiating on an equal basis extremely difficult.

interpretations according to the specific context. For example, it may be argued that authoritarianism has been very functional for the Turkish society in terms of achieving certain goals, such as facilitating leaders to emerge easily and receive active support in winning wars, or building states and organizing governments very effectively, establishing an efficient bureaucratic machinery, etc.
7. MANAGEMENT PHILOSOPHY, PERSONNEL POLICIES AND ATTITUDES TOWARDS ORGANIZED LABOR

In Turkey, the philosophies of management and of industrial relations are threefold, and are antipathetic to the presence and activities of trade unions. The younger, technically trained managers in both private and state industry look on unions as obstacles to the effective expansion of the industrial potential. However, a small segment of these managers recognize that a production-centered attitude is not sufficient and some sort of worker representation is inevitable. They seem to believe that the older form of paternalism should be abandoned in favor of a more subtle paternalism that can be adapted to future conditions, more flexible and more successful than the older model.

The older paternalists who are found in the top ranks of the state enterprises and some of the older and larger private plants look on unions as rivals for the allegiance of workers and resist their organization.

For the third group consisting of the commercial profit-makers who have entered sectors such as textiles, food-processing, and other light industry since 1950, the unions are also looked on as hostile institutions, and as obstacles to higher profits and effective exploitation.

State enterprises have always provided substantial programs of «social assistance (fringe benefits) to workers, subsidizing free supplements to wages such as housing, medical care, hot meals, education, work clothes, and similar benefits.» Although a new generation of more employee-centered managers has been rising in the state enterprises and in some of the older private plants, a benevolent paternalism accompanied by authoritarian practices dominates their personnel policies. Especially at the inception of the state investment programs, most management positions were assigned to military personnel retired or resigned from the army.

These men brought with them the disciplinary practices of the army, as well as the paternalistic philosophy of their profession.

Paternalism, however, is by no means confined to the state sector and is also found in domestic private enterprises, particularly in centers where industry and family-owned private plants have existed for some time, such as in İstanbul and İzmir. Paternalism tends to be more the rule in the state sector, though not universally present, than in the private sector. Both types of enterprises are generally authoritarian, but state enterprises are more characterized by a «subtle paternalism» with their higher wages, fringe benefits, better working conditions, etc., in the hope that workers will have higher morale and, therefore, work harder. Most private enterprises, especially the majority where management and ownership have not been separated, follow a «naive paternalism», a «be good» policy. Some of them still hold to a «be strong» policy, an outmoded philosophy of autocratic management with very unfavorable attitudes toward unions and the attempt of workers to organize. In this respect, they are similar to their French counterparts. As a matter of fact, there are considerable similarities between the Turkish and French employers.

In state enterprises, «the underlying view of management’s relation to labor in these attitudes is one of broad-gauge leadership - firm but responsible- on management’s side, loyal acceptance and deference to this leadership on labor’s side.» These enterprises identify themselves with the regime and the policy of the existing government. Related to this phenomenon is the high degree of centralization in their administration. This causes administrators to seek formal authority from above before taking any action, or simply to push decisions upward in the organization for resolution. This, in turn, results in delays and inefficiency. Even when there is a need for decentralization, necessary action cannot be taken due to the deep-rooted centralized nature of decision-making. Age of the enter-

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31. Ibid., p. 111.
prise seems to separate attitudes more decisively in this respect. «The older organizations retain a traditional set of attitudes dating from the earlier days of the Republic; have financial and political security; a broader and less urgently production-minded point of view.»\(^{35}\) They are likely to be more independent of the higher authorities in their personnel policies.

In both types of organizations, striking distinctions are found between the white collar and the manual worker. The popular feeling is that formal education is a means for promotion into a privileged managerial class. For this reason, educated people do not welcome the idea of starting their career from the foreman level. «Foremen in Turkey are handicapped by the fact that they are not considered to be management by the workers but are merely workers who have been upgraded. Finding foremen who can command respect and are technically qualified is one of the most serious manpower problems in Turkish industry.»\(^{36}\)

Kerwin states that at the Karabük iron and steel mill, there were 63 graduate engineers in early 1950, a number said to exceed the needs of the plant. Some of these engineers were, therefore, assigned minor supervisory positions which normally would have called for foremen by the rank and file employees. Since prestige considerations are great in Turkey, the injured pride of these engineers prevented them from being good foremen.\(^{37}\)

The problem of turnover is faced by managements not only as it relates to the uncommitted or semicommitted peasant type blue collar work force, but also in white collar employment except with civil service personnel in public employment. In spite of the submission to his immediate superior, the Turk is allegedly individualistic, as noted above. An employee is more loyal to his individual superior than to the organization as a whole. «A tremendously high labor turnover results from this lack of loyalty.»\(^{38}\)

The factors explained very briefly in this chapter are only part of the basic values, behavior patterns and other characteristics of

\(^{35}\) Rosen, Labor in Turkey's Economic Development, p. 131.


\(^{37}\) Kerwin, p. 57.

\(^{38}\) Bradburn, «Interpersonal Relations Within Formal Organizations in Turkey,» pp. 64-65.
the Turkish society. As will be clear in the succeeding chapters, they manifest a certain degree of interdependence. Although elements of the structural context deserve closer and more detailed study, such a descriptive exposition will suffice as far as the subject matter of this study is concerned. Since various external and internal forces affect these factors in the course of time, they will be dealt with again as changes occur in several of these dimensions.

However, before we turn to the study of the specific legislative dimensions which are the focus of this study, a short history of the protest movements and legislative measures prior to them will be presented as a final section of this chapter.

8. A BRIEF ACCOUNT OF THE PROTEST MOVEMENTS AND WORKERS’ ORGANIZATIONS

Until the first half of the nineteenth century, the craftsmen’s corporations (loncas) were the only form of occupational organization in the Ottoman Empire. However, the manufactured goods of the European countries had already begun to weaken these organizations to a considerable extent. The final destruction of the corporations occurred in 1860 with the proclamation of a new civil code, the Mecelle, which combined western practices and the principles of Islam. The major instrument of labor regulation in the Mecelle was the individual work contract.

After the establishment of the First Constitution in 1876, a series of protests, demonstrations and work stoppages by labor groups began. A substantial stoppage occurred in 1906 at the French-operated cigarette factory, the regie, which was suppressed with police intervention. 39

The date of the earliest labor legislation in Turkey is 1865. 41 This and most of the following regulative attempts were aimed at protecting the workers at the coal mining area in Ereğli. Following the proclamation of the Second Constitution in 1908, the scope of

41. Ferit H. Saymen, Türk İş Hukuku (Turkish Labor Law), p. 49.
labor legislation became broader. The Constitution had provisions permitting the establishment of professional organizations as well. In 1908 there was an outbreak of strikes in İstanbul, mainly against the foreign-operated enterprises. Some of these took the form of general strikes. They spread to İzmir, Aydın and other towns. As a result, strikes and union organization were prohibited in public services and utilities and previously organized unions in industries held under concessions (kapitülasyonlar)--the railroads, trams and public utilities--were abolished.

To replace them a rudimentary system of elected worker representatives was set up to carry disputes to conciliation under government auspices, and during this process strikes or stoppages were forbidden. This was the Tatili Eşgal Kanunu (The Work Stoppages Act) of July 1909, whose essential elements prefigure those of the Labor Code of 1936.42

It is interesting to note that, although the Act of 1909 had prohibited strikes and unionization only in public services and utilities, it brought the whole union movement of the period to an end, for there was virtually no industrial labor force outside these sectors during this era. Following this period, a number of political parties, mainly socialist and left-wing, emerged.43 Because of the suppression of workers' organizations, political organizations were formed to manage workers' protests. During the occupation period (1919-1922), new protest movements developed, but unionism did not flourish in the formal sense. After the Independence War, the new Constitution of 1924 contained several liberal provisions, but, since the above-mentioned Tatili Eşgal Kanunu was still valid, unionization was not encouraged. Finally with an act termed the Takriri Sükün Kanunu (The Restoration of Peace Act) passed in 1925, the establishment of class-based organizations and specifically of trade unions was discouraged. Unions and political parties, except the ruling party (the Republican Peoples' Party), were forbidden. This effectively ended trade unionism in Turkey until unions were again permitted in 1947. A one-party state was established, and workers' organizations were limited to minimal social assistance and mutual aid arrangements.

42. Rosen, p. 203. (Translation added.)
43. For the political organizations that proliferated at this period, see ibid., pp. 407-415.
Among the legal reforms of the central government, the adoption of the Swiss civil code in 1926 based labor-management relations on the individual labor contract. «An amendment to the penal code, passed in 1933, dealt specifically with work stoppages and their punishment.» Along with pieces of other protective labor legislation, this was the situation prior to 1936.

In 1936, the legislature passed the Labor Code, borrowed largely from the French legal system. It should be noted that the enactment of this law coincided with the implementation of the first five-year plan which was initiated in 1934. It also followed Turkey’s joining the International Labor Organization in 1932. Thus a number of external and internal factors seem to have played a part in leading to the introduction of the new code. The traditionally paternalistic attitude of the state towards labor-management relations also accounted, in part, for the introduction of this act at a time when there was still no substantial industrial work force and conflict problem.

44. Ibid., p. 204.
45. Saymen, p. 115. Although Turkey joined the ILO as a member in 1932, her actual participation in ILO activities dates from the establishment of the Ministry of Labor in 1945. It can also be claimed that the impact of ILO as an external force in softening antunion attitudes in Turkey has been stronger after the establishment of the Ministry of Labor.


It should be noted that although ILO Convention No. 98 has been ratified and adopted, Convention No. 87 pertaining to the freedom of association and its protection has not yet been approved by the Turkish government.

46. The statement of policies of the government’s draft bill which was presented to the parliament as early as 1924 is interesting in this respect. It said:

«Turkey will be endowed with a national industry in the near future. To give to this budding industry more vigor, and to obtain
The main instrument of this code continued to be the labor contract. The coverage of the act was limited to manual workers—those who work exclusively or predominately with their hands according to the first article of the act. Only those undertakings with ten or more workers on an average over the year were covered. Thus, legislation indirectly encouraged the growth and continuation of small family-owned firms which could escape the coverage of the act. Although administrative convenience and necessity clearly played a part in the decision to restrict the coverage in this way, the need to focus attention and scrutiny on that sector of the economy where group consciousness might logically be expected to grow also played its part.\footnote{11} In 1952 the coverage of the act was extended to undertakings with four to nine workers in cities with 50,000 or more inhabitants.

The 1936 legislation and a number of subsequent acts and decrees are "protective" in nature more than they are "regulatory."\footnote{18} Although there were regulatory provisions such as those concerning dispute settlement, the protective elements of the law outweighed them. This was, in fact, in line with the general trend of the European labor legislation as opposed to American regulatory labor laws.

Until 1947, the only ideology to which both management and labor were jointly committed was the economic and social development of the nation. The protest movements which had taken place before the establishment of the new regime had been justified because they were a reaction to foreign exploitation. But, according to the rule-makers of the new Republican regime, there could be no foreign or domestic exploitation in the Republic of Turkey since the foreign companies holding concessions had been nationalized, and the state

the maximum output from the working masses, it is important to place the various branches of activity under the control of law, and to prevent conflict between capital and labor.\footnote{47} As quoted in Rosen, p. 207. (Emphasis added.)

\footnote{47}{\textit{Ibid.}, p. 214.}

\footnote{48}{For a discussion of "protective vs. regulatory" labor legislation, see Walter L. Daykin, \textit{Origin and Function of Labor Legislation,} \textit{Unions, Management and the Public,} E. Wight Bakke, Clark Kerr, Charles W. Anrod, ed., pp. 568-573.}
was taking care of its working people by protective labor legislation anyway.

However, several changes began to take place in the 1940's. Due to the victory of the democratic countries in the second World War and as a result of her commitments to the democratic West by international treaties, Turkey accepted a multi-party system.\(^{49}\) Coupled with the deep-rooted tradition of adopting foreign elements regardless of their compatibility with the pre-existing patterns, political democracy was formally established. But the existing Associations Act of 1938 prevented the founding of political parties and class-based organizations. The Associations Act was amended in 1946 to permit the formation of class-based organizations and political parties. After a period of six months, this freedom was rescinded and the organizations were again suppressed. Finally in 1947, an act concerning the trade unions was passed. Transition to a multi-party system and the beginning of a liberation era had, thus, significant impact on the formation of the new legislation.

Our analysis of the Turkish industrial relations system and trade unions in the succeeding chapters will focus particularly on the era following the enactment of this legislation. However, provisions of the 1936 Code as amended by subsequent legislation and as they relate to the dispute settlement machinery will also have a bearing on our analysis.

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49. Saymen, p. 158. The Philadelphia agreement signed in 1944 is a significant factor in this respect.
Chapter III

DISPUTE SETTLEMENT AND TRADE UNION LEGISLATION IN TURKEY DURING THE PRE-1963 PERIOD

The Labor Code of 1936 (No. 3008) had established at its inception a certain procedure for the settlement of labor disputes. But, because trade unions came into existence only after the enactment of the «Trade Unions Act» in 1947, naturally the 1936 Act did not refer to any form of union organization in its original version. It was after the enactment of the Trade Unions Act in 1947 that several amendments had to be made in the existing Labor Code so that unions could perform some activities in the process of dispute settlement. In one sense, due to the absence of trade unions at the time when the Labor Code was designed, the legislature had been confronted with certain unanticipated consequences of its previous action, since the union organization coming into the scene now had, as one of its main goals, the management and channelization of industrial conflict. And yet, in view of the existing legislation, it had almost no say in this area.

As a result, certain amendments grudgingly empowered unions to play a limited role in dispute settlement. The earlier articles which did not involve unions are, in fact, irrelevant for our purposes. But, because of their relevance to this study, certain dimensions of labor legislation as amended by such later enactments will be presented in this chapter.

Following the study of provisions concerning dispute settlement, we will turn to a delineation of the basic provisions in the Trade Unions Act of 1947. To the extent that it seems possible and necessary, the purposes of the legislature in establishing a certain practice or structure in the form of a legislative dimension will be explained in a brief manner.
1. THE LEGAL FRAMEWORK OF THE DISPUTE SETTLEMENT MACHINERY

The legislature had made a distinction between two kinds of labor disputes, and accordingly had laid down two different procedures. The first category was termed the «rights disputes.» These referred to those disputes which arose between the employer and worker from the application and interpretation of the employment contract, law and other regulations. The second type of disputes, called «interest disputes,» referred to those which emerged in the course of modifying the existing rights or replacing them with new ones and, thus, changing the working conditions in varying degrees. In other words, they were not aimed at preserving the existing status quo as in the rights disputes, but tried to alter it by imposing new working conditions, wage rates, hours of work, etc.

A. Settlement of Rights Disputes

Because of its judicial nature, legislation envisaged the settlement of rights disputes by labor courts. With this aim-in-view, tripartite labor tribunals were established in 1950 by the Labor Courts Act (No. 5521).

a) Composition of the labor court: The labor court had to be composed of one employers' representative and one workers' representative, presided over by a judge appointed for the case. The workers' representative was to be designated by the Ministry of Justice and the Ministry of Labor from twelve candidates elected by secret ballot at a meeting of the workers' delegates at the workplace.

Thus, labor courts had to be structured on a tripartite basis. However, trade unions, although they had been legalized at the time this law was enacted, were not allowed to play any role in the election of the workers' representative who sat on such tribunals.

b) Jurisdiction of the labor court: According to this act, which is still in force, labor courts are not necessarily to be established in every region and province. The Ministries of Labor and Justice determine together where such tribunals are to be set up, and the
parties, namely employers and trade unions, have no say in this respect. Trade unions were involved only so far as certain suits brought by them or against them were concerned.²

In places where no labor court has been established, the local court is in charge of trying such cases without the assistance of representatives. Another noteworthy point is the fact that only the blue collar worker as defined by the Labor Code, that is, «any person who performs work which is either exclusively manual or both manual and intellectual in the undertaking of another person in pursuance of an employment contract,»³ is covered by the Labor Courts Act.

c) Procedural aspects: According to Article 7, the rules respecting oral proceedings shall be followed at hearings before the labor court. At the first hearing the court endeavors to reconcile the parties. If conciliation fails or if one of the parties is absent and is not represented, the proceedings continue and judgment is given on the fact at issue. Appeal against the final judgment of the labor court may be made within eight days of the pronouncement. The Court of Cassation makes a decision on the judgment of the labor court within two months, and this decision cannot be subject to review.

If the authorities administering the Labor Code are unable to settle a claim referred to them, and the case is within the jurisdiction of the labor courts, the matter then is transferred to the labor courts.

Article 11 states that suits brought before the labor court shall be exempt from fees and from all dues and taxes. Looking at these provisions, it appears that the aim of the legislature was to create a judicial system that could be simple, fast and cheap for the parties involved.

B. Settlement of Interest Disputes

Settlement of interest disputes was dealt with in detail by the Labor Act of 1936 as amended by subsequent legislation. Furthermore, a «regulation on the conciliation and arbitration of labor

². ibid., Article 1 (a), p. 1.
disputes» laid down, in a supplementary fashion, all the procedural
details of the settlement of interest disputes.

a) Collective and individual disputes: According to Article 77,
there seemed to be two kinds of interest disputes: individual and
collective. Individual disputes were of two types also. The first of
these was the disagreement which might arise between an employee
and his employer respecting the employee's rights and interests. It
was obvious that such disputes overlapped the rights disputes
category explained above, with the exception that the disagreement
could, in this case, involve an economic interest issue as well. If an
employer terminated the employment contract of a worker without
giving adequate notice as described in the statutes or the contract
itself, the dispute that followed was a rights dispute and was there-
fore to be referred to a labor court. But, if the conflict arose from
a certain claim concerning wages or fringe benefits, for instance,
then it was included in the «individual disputes» category of the
interest disputes.

The second type of individual interest disputes would emerge
when the requirements for a collective dispute, that is, «one-fifth
of the employees of an undertaking, not being less than ten,» had
not been met. In this case, although the dispute was between an
employer and several employees, it was still considered to be an
«individual» one from the standpoint of legislation.

For a collective dispute to take place, certain requirements had
to be met. In the first place, it was implicit that only those employees
as defined by the Labor Code could initiate a collective dispute. It
followed from this that white collar employees had automatically
been excluded from the right to have a collective dispute. It was
also explicitly stated that «one-fifth of the employees, not being
less than ten,» should participate in the dispute. Thirdly, those
workers initiating the dispute should have agreed on the subject
matter of the dispute and on the objectives they were aiming to
achieve. In other words, no collective dispute could be called upon,
for instance, if half of the workers demanded a fifty percent wage
increase and the other half demanded some additional fringe
benefits.

5. Ferit H. Saymen, Türk İş Hukuku (Turkish Labor Law), p. 337.
Also the disagreement should concern «all or any of the conditions of employment in force or the method of applying these conditions.» However, disputes arising from the application of the labor legislation could not be subject to a collective dispute. In such cases, administrative authorities in charge of seeing to it that the provisions of labor legislation with respect to hours of work, overtime work, etc., were properly applied, should take immediate action when such regulations were violated.6

b) Elected worker representatives and trade unions in dispute settlement: Article 78, as amended by Act 5518, dated 1950, had laid down the essentials of two different practices. These were the election of workers' representatives (or delegates) in a plant, and two specific situations in which a collective dispute could be initiated by a trade union.7

It was stated that from among the employees of each undertaking there should be elected two employees' delegates if the employees numbered not more than 50, three delegates if there were 51-200 employees, four delegates if there were 201-1,000 employees, and five delegates if there were more than 1,000 employees.

In undertakings carrying out temporary work and in undertakings where less than 20 workers were employed daily for less than three months at any time of the year, the election of employees' representatives should depend on the wish of the majority of the workers.

It was the duty of these delegates to meet the employer, or his representative, with a view to settling any collective or individual disputes, to seek a basis for agreement and to try to settle the dispute through conciliation.

In fact, these elected worker representatives did not need to be union members at all, and, in this respect, they widely differed from shop stewards in the United States and in several other countries.

6. Ibid., pp. 337-338.
They were, however, given priority in the grievance procedure and in the settlement of collective disputes.

According to this amended version of Article 78, a trade union could initiate a dispute only in undertakings where the election of employees’ representatives was not compulsory, on condition that the majority of workers were trade union members and that they demanded the intervention of the union in the dispute. The above-stated regulation on the conciliation and arbitration of labor disputes had described this procedure in detail. What seemed to be noteworthy was that the majority of the employees who constituted one of the parties to the dispute had to be union members, and not the majority of workers in a workplace. However, according to Article 79 of the regulation, if these workers were members of different unions, the union with the biggest membership could take the initiative in the dispute if requested to do so. In the case that no union had the biggest membership, then regional trade union organizations (the birliks) were empowered to determine the said union.

In the second case, regardless of whether the election of employees’ representatives was compulsory or not, the trade union to which the majority of workers in a workplace belonged could initiate a collective dispute if it received a written request from one-fifth and a minimum of ten of the total number of workers in the workplace. The above-mentioned supplementary regulation had described several situations in this respect. As in the former case, workers were free to demand or not to demand the initiation of the dispute by the union. So, too, was the union free to accept or not to accept to meet such a demand. However, once the union took over, workers and worker delegates could no longer intervene in the situation.

According to Article 73 of the regulation, a union could initiate collective disputes in several workplaces on the same or different subject matters provided that it represented the majority of workers in each workplace. However, it was not allowed to interfere with a collective dispute already initiated by the worker representatives.

9. Ibid., articles 71-76, pp. 634-635.
and it could not be involved in a new dispute on the same subject matter. In the same manner, in view of Article 75, worker representatives could not initiate a collective dispute in an area in which a trade union had already been involved. However, if the workers’ delegates were, at the same time, members of the union involved in the dispute and represented the union in this particular dispute, then they were allowed to participate in the proceedings.

The worker representatives were normally elected for two years. Reelection was also possible. Apart from their tasks in the dispute settlement process, they participated in the «minimum wage determination committees,» elected the employees’ representatives for labor courts and for certain boards and councils established by the Ministry of Labor. The law had not protected them explicitly in its previous form before the amendment. The new version of Article 78, however, established certain safeguards for the protection of workers' representatives against the arbitrary action of employers.

c) Strikes and lock-outs: Article 72 prohibited strikes and lock-outs, and articles 73 and 74 laid down all the details concerning this prohibition. According to these provisions, in order for a work stoppage to be deemed a strike, a certain number of workers in relation to the total number of workers in a workplace should have stopped work with an already agreed-upon aim to change the employment conditions or the methods by which these conditions were applied in favor of themselves. Several provisions relating to the numerical requirements, etc., had been prescribed accordingly. In addition to these, a work stoppage by a minimum of three workers which could suspend the operation of the workplace «either wholly or partially but to a considerable extent in view of the nature of the undertaking» was regarded as a strike. This and sympathy strikes were also prohibited.

Article 75 extended the coverage of this prohibition to employees other than those defined by the first article of the Labor Code. Thus, white collar employees who were working in undertakings covered by the Labor Code were automatically exposed to this restriction although they were not covered themselves by the Labor Code. However, these provisions were not extended to areas where the Labor Code was not applicable, such as agricultural settings and workplaces employing less than ten workers.
C. **Methods of Settling Interest Disputes**

The first stage in the settlement of both the individual and collective interest disputes was «conciliation.» Further stages could be called upon only if no solution was reached at the conciliation step.

a) **Individual disputes**: Article 79 stated that in individual disputes conciliation between the employees concerned and the employer should be effected by the workers' representatives. If the conciliation proceedings turned out to be fruitless, the dispute should be made the subject of legal proceedings.

In one sense, the individual dispute, which was originally an interest dispute, was, from this stage on, treated as a rights dispute. As the Article 7 of the Labor Courts Act had prescribed, «the fact that no attempt at conciliation ... has been made shall not constitute an impediment to the examination of the case.» This also meant that the worker or workers were entitled to refer their individual interest disputes directly to the labor court without even resorting to conciliation first.

b) **Collective disputes**: The legislature had established a conciliation meeting, similar to the one prescribed for individual disputes, to be held between management and workers' representatives without involving any third party. The government authorities studied the agreement only to see to it that it was in conformity with the existing laws.

The above-stated government regulation had laid down parallel and supplementary provisions concerning this process. In the conciliation meeting two points had to be investigated as basic requirements: (a) that the dispute was really a collective dispute, and (b) that no collective dispute of the same subject matter and in the same manner had arisen in the workplace within the twenty-six weeks preceding the date on which the present dispute was initiated. The agreement had to be reached unanimously in this preliminary stage of conciliation. If no agreement was reached unanimously, or if at least one-fifth of all the workers (not being less than ten) rejected the agreement, the dispute was to be referred to the second stage of conciliation.
It was in this stage of conciliation that government authorities directly intervened in the dispute. It seems that the legislature had tried to facilitate the process of reaching an agreement by the involvement of an experienced mediator in the disputed situation. This was usually to be a labor inspector appointed by the Regional Director of Labor. If this process had been initiated due to the objection of the workers concerned, then one of them had to participate in the proceedings as well. In the case that the compromise suggested by the government mediator was not accepted unanimously, the collective dispute had to be referred to arbitration. It must be noted that these two stages of conciliation had to be resorted to before the second phase of the machinery, that is, compulsory arbitration, could take place.

In any collective dispute in which no definitive agreement had been reached by conciliation, the regional labor directorate should transmit a copy of the record to the chairman of the provincial arbitration board. According to Article 82 (as amended by Act No. 6298, 1954), the arbitration board had to be composed of the president of the provincial labor court, or, in localities where there was no labor court, the judge appointed to try labor cases, as chairman, two employer and two employee members, and the regional director of labor or a labor inspector designated by him. The employer and employee members of the arbitration board had to be chosen jointly by the judge and by the regional director of labor. The arbitration board should arrange for the hearing of both parties by summoning the employer or employer's representative concerned in the dispute and the delegates of the employees in the same undertaking. The decision of the arbitration board should be that of the majority of its members. In the event of an equality of voting the chairman should have a casting vote.

Before the 1954 amendment, the composition of these provincial arbitration boards was heavily dominated by government representatives. For example, the chairman was the governor of the province, or one of his assistants appointed by him. The regional director of labor, the director of legal works, and two neutral persons appointed by them, sat on the board as members. The 1954 amendment gave

a judicial character to these boards and established a full-fledged tripartite body.

In the case that either one of the parties, or both parties, objected to the arbitration award, the case was then to be taken over by the Supreme Arbitration Board. As a final stage of the compulsory arbitration mechanism in Turkey, this Board was also composed along the same lines as in the provincial arbitration boards, except that now it was on a highly centralized level. It was again a full-fledged tripartite body presided over by the judiciary. It was composed of two state officials (the judge and the Director General of Labor of the Ministry of Labor), and two employee and two employer representatives. As a matter of fact, the Supreme Arbitration Board was also heavily dominated by government authorities before the 1954 amendment was implemented.

The 1954 amendment also entitled trade unions to nominate candidates in cooperation with the first employee representatives of the workplaces covered by the Labor Code in the province of Ankara to sit as employee representatives on the Supreme Arbitration Board.

In the case that an appeal was filed against the decision of the provincial arbitration board within twelve days, then the Supreme Arbitration Board had to examine and arbitrate the case as a final authority. As in the provincial arbitration boards, the employee and employer representatives sitting on the board as members should not have any connection with the dispute themselves. Unlike the provincial arbitration boards, the Supreme Arbitration Board in Ankara investigated the case on the documents submitted to it without resorting to the procedure of hearing the parties, except when it might consider it necessary to call upon the information of witnesses and experts. Its awards were final; they could not be appealed to any other authority.

The awards of both the provincial and Supreme Arbitration boards were enforceable from such date as was specified. For twenty-six weeks thereafter any fresh collective labor dispute on a matter governed by the award was unlawful, provided that the period of twenty-six weeks had, under Article 316 of the Code of Obligations, been extended by collective agreements between employers'
and employees' organizations to which the majority of the employees in the undertaking belonged.

D. Extension of the Arbitration Award

According to Article 86, in cases where it should seem desirable or necessary for economic or social reasons, an award might be issued by the Council of Ministers on the recommendation of the Ministry of Economic Affairs that a certain arbitration award should apply likewise to other undertakings operating under the same conditions where a collective labor dispute had not yet occurred. The employees and employers in these undertakings should be bound to comply with any such award. By establishing this practice, the legislature's aim was apparently to prevent the emergence of collective disputes over the same issues in workplaces of the same industry or area, and to promote some uniformity in setting wage rates.

This was the general framework of the dispute settlement machinery in Turkey prior to the 1963 legislation. As noted, by legislation in 1954, trade unions were granted a few fields of activity in dispute settlement. However, the Trade Unions Act of 1947, as we shall study it below, had also accorded a limited number of tasks to trade unions in dispute settlement. It has been found more appropriate to mention them in their proper places in the original act rather than integrating them into the dispute settlement section of this chapter above.

2. LEGAL FRAMEWORK OF TRADE UNIONISM

In this section, important provisions of the 1947 Trade Unions Act concerning the formation and activities of labor unions are presented along with some additional delineation of a number of other articles drawn from related fields of legislation.

A. The «Trade Unions Act» of 1947

a) Definition and structuring of the trade union: According to the first article of the Trade Unions Act, the expression of
«employees' trade union» meant any «combination of persons employed in the same branch of activity or on types of work belonging to the said branch of activity for the purpose of mutual assistance and the protection and representation of their common interests.»

By using the rather broad term «branch of activity,» the legislature had aimed at permitting the formation of both craft and industrial unions. A carpenter employed in a steel mill, for example, could join the steel workers' union. However, carpenters working in different industries, such as steel, textiles, mining, etc., could form among themselves a carpenters' union. But, the emphasis seems to be on the former, that is, on industry-based unionism, as envisaged in the expression of «on types of work belonging to the said branches of activity» and in an interpretation of the Ministry of Labor.

However, the second subsection of this article did not entitle employers in types of work belonging to the same branch of activity to form employers' unions. Only the employers in the same branch of activity could form associations among themselves.

Article 3 stated that an employee who was employed in different types of work might join one or more of the trade unions corresponding to these types of work, and two or more trade unions could be formed in a single branch of activity.

The legislature thus gave rise to rival unionism. One of the motives behind this article was probably to enable workers in a branch of activity to form the union of their own choosing in the case that the already established union or unions proved to be incapable of achieving the desired goals and of representing the workers' interests satisfactorily. A second purpose seems to be to enable workers, most of whom usually work in different areas of activity in Turkey, to belong to different unions. It was not compulsory to form a union in a branch of activity. It was not compulsory to be contented with only one trade union in a branch of activity either. It was, indeed, up to the employees in a branch of activity to form or not to form a union. If they wanted, they could establish more than one trade union in the same area.

b) **Federations**: Article 8 referred to «federations.» By «trade union federation» was meant the organization of several unions in the same branch of activity, an industry or an occupation. The article subjected all federations formed by trade unions to the provisions of this act. The consent of two-thirds of the members of trade unions desirous of belonging to such federations was required.

c) **Membership**: Article 2, by referring to the first article of the Labor Code, imposed a restriction in terms of the persons who could join unions as members. In other words, only a person who performed work which was «either exclusively manual or both manual and intellectual in the undertaking of another person» could be a trade union member. White collar employees were, thus, automatically excluded from the right to form or join unions.

The important point to be noted, however, was that not only the workers subject to the Labor Code, but also those who were outside its boundaries, such as agricultural or maritime workers, or employees who worked in workplaces that employed less than ten employees, could form trade unions provided that they met the requirements of being an «employee» stipulated by the Labor Code. Only those who worked for small businesses such as a grocery store or a small retail enterprise could not unionize.

According to the same article, persons who permanently ceased to be employees or employers should also cease to belong to the employees’ or employers’ trade union concerned.

d) **Voluntary unionism**: Article 9 declared that the organization of employees and employers in trade unions should be voluntary, that no person should be obliged to join, or to refrain from joining, a trade union or to withdraw, or to refrain from withdrawing, from a trade union.

These provisions totally prohibiting closed shop and union shop clauses had important implications. If an employer put pressure on his workers to refrain from joining or to withdraw from a trade union, an individual or a collective dispute, or, according to the specific situation, a lock-out would take place, and then the related provisions of the Labor Code were to be enforced. Also, if the employer insisted on refraining from hiring a worker who belonged to a union, or if he, even by giving notice, terminated the contracts
of the nonmember workers due to the pressure of the union concerned so that they would join the union, then the worker whose rights accorded to him by this act were, thus, violated could sue the employer or the trade union.\textsuperscript{14} This principle had been stressed to such an extent that no provision contravening it could be included in an individual contract, in the work rules of the plant, or in the collective agreement.

e) \textit{Activities}: Article 4 prescribed certain activities for trade unions in addition to a few tasks accorded to them in dispute settlement by the amended Labor Code as noted above.

Article 4 — In addition to the powers possessed by them as bodies corporate in virtue of the general provisions, employees' and employers' trade unions may:

(a) enter into collective contracts in the names of their members;

(b) submit their views on any labour disputes which may arise between employees and employers to the arbitration bodies or other competent authorities, and offer suggestions as to their settlement;

(c) apply to the authorities or arbitration bodies competent for dealing with collective labour disputes in the event of any combination of employers or employers' trade unions against workers seeking employment with a view to reducing wages below the current level (in such cases, the provisions relating to collective labour disputes shall apply);

(d) establish mutual assistance funds and enter into contracts of insurance on behalf of their members to provide against sickness, unemployment, invalidity or death;

(e) provide legal assistance in cases relating to employment contracts for members bringing claims and for the heirs of members having claims; and represent members or the heirs of members as plaintiff or defendant in cases arising out of collective employment contracts and relating to the common interests of the occupation, and in connection with insurance rights;

(f) send representatives to any organizations formed under the provisions of Workers' Insurance (Administration) Act, the Employment Exchange Department (Establishment and Powers) Act and the Ministry of Labour (Organization) Act;

\textsuperscript{14} \textit{Ibid.}, p. 163.
(g) organize lectures and courses to improve the vocational and general education of their members, and enable proper use to be made of leisure;

(h) undertake and assist in the formation of production, consumption, credit and housing cooperative societies;

(i) establish and conduct health and recreational organizations not having commercial objects.15

In this article, subsections (a), (b) and (c) seem to be particularly important. Unions were thus entitled to conclude collective agreements on behalf of their members, to extend their advisory assistance to arbitration boards, and to see to it that immediate action was taken by the authorities against the combined efforts of employers to reduce the wages below the current level.

As a matter of fact, the right of employees to conclude collective agreements with management had been recognized by Articles 316 and 317 of the Obligations Act of 1926. However, the 1936 Act does not contain any provision in relation to collective agreements. Although many countries issue specific statutory regulations as to the making and administration of collective agreements, Switzerland had preferred to draw up the boundaries of collective agreements in such a general code. Through the adoption of the Swiss civil and obligations code by Turkey, the same rather general and vague items were transferred into the Turkish legal system.

Although subsection (a) of Article 4 above had empowered unions to make collective agreements with employers, this right was by no means confined to trade unions only. As set forth in the Obligations Act, any group of workers could engage in making such agreements with their employers.

The point embodied in subsection (c) of this article had a significant bearing on potential union activities since it empowered unions to intervene directly to initiate a collective dispute. It did not require the request of workers as in the cases explained above.16 Neither did it require the conditions stipulated by the Labor Code in order for a grievance to become a collective dispute. It referred, for example, only to those seeking employment, and not to the

actual workers employed in a workplace. The subject matter of the dispute was not to relate to the prevailing working conditions in an undertaking but rather to the combined attempt of the employers or the employers' association to reduce the current level of wages.

In addition to these, certain provisions of the Labor Code as amended in 1954 had endowed trade unions with a few other activities apart from those involved in dispute settlement mentioned above. According to Article 32 of the Labor Code, for instance, unions were entitled to designate a representative of their own to participate in committees in charge of determining minimum wages and to challenge such minimum wage rates through the Ministry of Labor. They were also entitled to elect the workers' representatives to sit on the advisory board of the Employment Services, and to nominate a candidate to participate as workers' representative in the annual conference of the International Labor Organization.17

f) Engagement in political and international activities: Article 5 of the Trade Unions Act stated that employees' and employers' organizations should not «engage in politics or political propaganda, or act as an instrument for the activities of any political organization.» The trade unions should be «national organizations,» and should not carry on activities which were «unpatriotic or contrary to the national interest.» With the consent of the Council of Ministers, a union might join, however, any international organization.

By trying to rule out the tendency of trade unions to establish relationships with political parties, the legislature aimed to prevent the emergence of political splits and rivalries within the labor union movement. According to one author, the real purpose of the legislature was to protect the vigor of the trade union movement because any sort of relationship between a trade union and a political party, and even a labor party, would undermine its independence and strength.18 Although union members were free individually to join or not to join any political party, trade unions as legal entities were not allowed to establish any sort of ideological, administrative or financial link with political parties.

17. Saymen, p. 179.
18. Ibid., p. 164.
Similar to some other provisions, this article was also placing certain restrictions on the trade union freedom. In view of this provision, a trade union could be established only to protect and to improve the interests of workers in an occupation or industry. They were also national organizations in the sense that they should treat national interests as being above their own economic and organizational interests. A Turkish trade union was not allowed to pursue international goals even though these goals might be economic and social, and not political in nature. It was only upon the permission of government that the trade unions could join, and send representatives to, international organizations. The government, however, could withdraw its permission any time it deemed necessary.

**g) The spending of revenues:** Article 6 prescribed that trade unions should not employ their revenues for any purposes other than those mentioned in this act or in their rules. However, the legislature's attempt to place restrictions on the freedom of unions to spend their revenues should be interpreted in a rather broad way. Trade unions were permitted to use their funds only within the boundaries of their organizational goals. In this sense, they were not allowed to establish and operate a restaurant or a hospital, for instance, since such activities exceeded the boundaries of their representation goals. Also, as implied by subsection (i) of Article 4, a trade union should not deal with commercial activities and share profits among its members. However, it was held that activities not aimed at distributing profits, such as forming cooperatives and financial aid funds for members, signing insurance contracts, etc., were permissible within the boundaries of the act.

**h) Suspension of the union activities or dissolution:** Article 7 brought provisions which seemed to be in line with the principle of trade union freedom in the sense that a labor union could be suspended or dissolved permanently only upon the decision of the court and only in certain cases enumerated by law. In other words, the court might judge that the trade union should be dissolved or its activities should be suspended only if (a) it did not cover the same branch of activity or related branches of activity, (b) strayed from its original goals, (c) accepted to membership persons who belonged to management, (d) engaged in political activities, (e) ran counter to national objectives, (f) participated in international organizations without the permission of government, (g) spent its revenues for
purposes other than those set forth in this act or in its own rules, or (h) declared or attempted to declare a strike.

Thus, the executive power had not been entitled to abolish or to suspend the activities of a trade union by direct administrative action. What a labor inspector, or the regional director of labor, could do when he saw something contrary to law and regulations was to inform the provincial governor, who, in turn, should request the court to take judicial action.

i) Inspection and control of the government: The last provision of Article 1 of the Trade Unions Act had stated that in cases where this act was not explicit, the provisions of the Associations Act and of the Civil Code should apply. This provision automatically put trade unions under a certain degree of government control. They, as labor organizations, were subject to the direct supervision of the Ministry of Labor which was empowered to inspect and to control trade unions by its labor inspection staff. Although the act did not specify, it was apparent that this power for control had to be exerted only within the limits set by the law. If it followed from the inspection that a certain activity of a trade union was illegal, judicial machinery had to be induced to avert this or suspend the operations of the union. Being an association and, thus, regulated at the same time by the Associations Act, a trade union was also subject to the inspection of the governor of the province where it was located. A government official had to be present while the decision to dissolve a trade union was being put into effect. If the government considered it to be necessary, it might send its representative to the union meetings. The accounts, finances, etc., of the union could be controlled any time by the administrative authorities. The police was entitled to enter and to investigate unions upon the written order of the highest administrative authority of a given locality.

B. Internal structure and administration of trade unions

The «Trade Unions Act» did not contain any provisions with respect to the internal administration of unions and their relationships with members. Unions were subject to the provisions of the Civil Code and Associations Act as far as these dimensions were

concerned. This meant that, like other associations, trade unions should have a «general congress (assembly or convention)» and an «executive committee.» The general congress had to consist of all the members who, in turn, had to elect among themselves the executive committee. The constitution of a trade union had to specify how the members of an executive committee should be elected, how the local branches of the organization should be established, and in what ways the relationships between these branches and the main organization itself were to be regulated, etc.

Relations of a union with its members were again to be administered by its own constitution. The Associations Act had restricted the annual amount of dues to a maximum of T.L. 120. However, this provision did not preclude members from making donations to a union, either in cash or by offering services or materials.

Furthermore, like any association, a trade union should have the right to exert some disciplinary authority over its members.

These were the basic legislative dimensions by which the legislature had intended to establish certain practices and structures. At this point we now turn in the succeeding chapter to the actual impact of these dimensions to find out what unintended and unanticipated consequences emerged, and how they related to the industrial relations system and, particularly, to the trade unions of Turkey.
Chapter IV

THE IMPACT OF DISPUTE SETTLEMENT AND TRADE UNION LEGISLATION

1. SOME CONSEQUENCES OF DISPUTE SETTLEMENT LEGISLATION

This section discusses the effects of the provisions of the 1936 Code—as amended by the 1950 and 1954 legislation—as well as those of the Trade Unions Act of 1947 to the extent that they are relevant to the dispute settlement machinery.

A. Rights Disputes

Looking at the past performance of the labor courts which were empowered to settle the rights disputes, one might argue that the specific structure and activities of these courts have been by and large promising. A few points, however, bear closer study.

The structure of the labor court, on the whole, has been effective. Parallel to the judicial nature of rights disputes, the appointment of a judge was, indeed, in conformity with the general principles of the Turkish legal and political structures. Reinforcement of the court by employers' and workers' representatives on a tripartite basis also provided the court with some degree of expert knowledge of actual dispute situations.1

Although it was probably intended that the presiding judges should be well-grounded in the field of labor practices,2 not all judges in Turkey have had training in labor law. Courses in labor law are offered on an elective basis in only a few law schools, and only a

1. Ferit H. Saymen, Türk İş Hukuku (Turkish Labor Law), p. 325.
limited percentage of the students take them. Thus, the judges on such tripartite bodies are likely to be more effective with the assistance of the employees' and employers' delegates.

Another shortcoming still exists because such courts are not established in every region or province. The fact that any ordinary judge can be charged with settling labor disputes in regions without established labor courts led to a dual system in the handling of labor disputes, one with a full-fledged tripartite court, the other an ordinary court with one judge and no other representatives.

Although the act was passed in 1950 when trade unions had already been established, it did not authorize unions to take part in the designation of the workers' representative. The workers' delegates who elected their representative to the court did not have to be union members.

Another defect of the act for workers was that employees who were not covered by the Labor Code were also not covered by the jurisdiction of the labor courts. Thus, white collar employees, and manual workers who were not employed in undertakings with ten or more workers were deprived of access to the labor courts.

Apart from Article 1 (a) which entitled unions to represent their members or heirs of members in these courts, the act made no provision aiding the development of labor organizations. However, its overall consequences contributed positively to the industrial relations system. Because they offered inexpensive, fast and simple procedures, the services of these labor courts were preferred both by workers and administrative authorities who, according to Article 10, could automatically refer the cases which they could not handle to the jurisdiction of the labor court.

3. Even the 1963 legislation which will be discussed in the following chapter has not entitled unions to designate workers' representatives to labor courts.

4. It was only after 1952 when the coverage of the Labor Code was extended to undertakings with 4 to 9 workers in cities with 50,000 or more inhabitants that more workers were covered by the provisions of the Labor Courts Act.
B. Interest Disputes

In the settlement of individual disputes, a procedure with two successive stages was envisaged. The first step consisted of conciliation; if no settlement was reached, legal proceedings in the labor court followed. However, as mentioned above, parties had been permitted by the «Labor Courts Act» to bypass conciliation and resort to the labor court directly. Although interest disputes were to be referred to arbitration, legal proceedings became the preferred instrument in the settlement of the individual interest disputes. Workers, experiencing that an agreement was seldom reached in the conciliation stage, developed the habit of taking individual disputes to legal proceedings. Thus the distinction made by the legislature between the rights and interest disputes was removed as far as this specific practice was concerned.

The compulsory arbitration system adopted for the settlement of collective interest disputes was endowed by the 1954 amendment with a quasi-judicial and tripartite character. Thus, principle of tripartite representation, adopted for labor courts in 1950, was extended to arbitration as well. However, this system of tripartite representation in arbitration was not actively used in any widespread fashion until 1958.

Although the law excluded union representatives from participating in the arbitration boards, trade unions had the right under 4 (c) of the Trade Unions Act to submit their views to arbitration boards. «Though this clause confines them to a submission in writing, such submissions are regularly considered and cited by arbitration boards.»

The fact that the board was composed of six persons led to a drawback in the case of a tied voted. In this case the chairman (the judge) should have a casting vote. This might cause a negative psychological effect on the party against whom the chairman had voted in the sense that it could undermine the confidence in the system. Before the amendment was made in 1954, a neutral person

5. See above, p. 68.
7. Ibid., p. 228.
used to participate so that the number of people in the board was made an odd figure, which probably used to eliminate this negative psychological effect. The same shortcoming also held true for the composition of the Supreme Arbitration Board.

In spite of its tripartite character, in the arbitration process trade unions were assigned only very limited activities, such as submitting their views to the arbitration boards, presenting the names of the workers' candidates to be elected for the Supreme Arbitration Board, and initiating a collective dispute in the case mentioned in Article 78. However, the inclusion of the latter point in the 1950 amendment led to a practice of increased union participation in dispute settlement.

The amendments of 1950 had strengthened the job rights of the elected worker representatives. Because they did not have to be union members, their rivalry prevented unions from getting the written request of one-fifth of the workers in a workplace which was necessary in order to initiate a collective dispute as envisaged in Article 78. Thus, a kind of dual representation emerged at the workplace. Both the elected worker representatives and unions could play a role in initiating collective disputes in this case, but this tended to exclude unions from their expected roles in their relations with employers unless the elected worker representative was also a union member (in which case he could perform functions similar to those of a shop steward in the United States), or the employer voluntarily made a place for the union. However, rival unions created by the employer also handicapped the union from taking any action, although it might originally be strong enough to initiate a dispute by representing the majority of workers. Because rival unionism was encouraged by legislation, employers frequently resorted to establishing company unions which tended to weaken the representative trade union at the workplace.

9. Saymen, p. 340. It is noted that within the last six months of 1952, 34 out of 49 disputes referred to the Supreme Arbitration Board have been initiated by trade unions.

Article 4 (a) of the Trade Unions Act had authorized trade unions «to enter into collective agreements in the names of their members.» But there were no provisions to compel the employers to sit and make a collective agreement with workers and, therefore, due to the absence of the right to strike, this provision did not prove to be applicable. Article 4 (c) of the same act was also never applied since there were no cases of such action recorded.

In the same manner, Article 82 (d), allowing the parties to extend by collective agreement the period of 26 weeks within which no collective dispute could be initiated on a matter governed by the arbitration award, was never applied in practice. This also meant that the provisions of the Civil Code adopted in 1926 from Switzerland, and concerning the making of collective agreements, never became applicable.

The government never exerted its authority to extend an arbitration award to other workplaces operating under similar conditions, as specified in Article 86.

If the Supreme Arbitration Board had used its authority to extend the terms of a particular settlement to other establishments, even when there has been no dispute raised in them, it is possible that a genuine system of arbitration on industrial or regional grounds could have developed, similar perhaps to the Australian model.

If bureaucratic red-tape was a reason for this failure, deliberate avoidance by the government was another factor. A system of large-scale wage settlements would require the participation of the unions in the consultative machinery. This was certainly contradictory to the policy of the government which tried to avoid broad-scale wage increases to prevent inflationary tendencies.

13. See above, p. 71.
14. Rosen, p. 236. See also Cahit Talas, İştimai İktisat (Economics of Labor Relations), p. 300.

In spite of the tripartite character given to arbitration boards by the 1954 amendment, the system proved to be inefficient in many other respects. Before the amendment, arbitration awards were made by administrative people who had no familiarity with industrial relations and who were far removed from the actual dispute situation. While the tripartite system probably alleviated this shortcoming, it increased political considerations. The partisan sympathies of the members played important roles in the making of decisions.

Employers, by their deep-rooted approach to unilateral decision-making, had indirect but efficient means to neutralize and make ineffective those awards of the arbitration boards which favored workers. It was clear that unless the system was modified the economic and social standing of workers would continue to deteriorate severely.

During the periods of inflation in the 1950's, the system proved to be very inflexible. The preliminary step of voluntary conciliation at the plant level never turned out to be successful and was always followed by compulsory conciliation and arbitration. The system caused considerable delays since almost all cases were appealed to the Central Arbitration Board in Ankara. It prevented the development of face to face bargaining relations between the parties concerned.

C. Implications for a Functionalist Interpretation

Certain practices and structures created by the legislature had multiple consequences for the subunits diversely situated in the industrial relations system. Some of these were unintended dysfunctions for unions since they lessened the adaptiveness of trade unions as far as the fulfillment of certain roles expected of them was concerned. For instance, the practice which did not allow unions to designate workers' representatives for labor courts, or the compulsory arbitration mechanism which kept their participation in dispute settlement at a minimum, were dysfunctional for unions

because they deprived them of the fulfillment of certain important tasks which otherwise could help increase their adaptiveness, recognition and growth. Because of the incompatibility between some of the provisions of the Labor Courts Act and the Labor Code, which overlapped in the settlement of rights disputes and individual interest disputes, and due to the lack of knowledge, or error, of the legislature in eliminating this confusion, an unintended consequence arose as far as the settlement of the individual interest disputes was concerned. Probably, as a result of the reluctance to solve conflicts on a face to face basis, the preliminary stage of conciliation was bypassed, and individual interest disputes were taken directly to legal proceedings which, in fact, was supposedly reserved only for the settlement of rights disputes.

The emergence of a dual representation at the workplace was also due to the inconsistency of the two different acts, that is, the provisions of the Labor Code which required the election of workers' representatives, and the Trade Unions Act which gave rise to trade unions as institutions to meet the need for the handling of conflict. Since such an unintended consequence hindered the recognition, adaptiveness and growth of the union at the workplace, it was also dysfunctional for organized labor.

Thus, as far as the trade union organization was concerned, these practices were clearly dysfunctional, for the role accorded to organized labor in channeling and managing worker protest was very limited, and this in an indirect way contributed to the lack of adaptation and development of unions. But what were the consequences of this compulsory arbitration mechanism for the industrial relations system and the social system at large?

It, in fact, was «designed to concentrate in centralized and official hands decisions on questions which in many advanced industrial nations are settled by the parties themselves.» With this feature, it very well fitted in with the general nature of the centralized decision-making inherent in the political and administrative organization of Turkey. For this reason, and because it also suited to the needs of a society in an urgent need for industrialization, it might be argued that the method of compulsory arbitration was

functional from the standpoint of the remaining subunits of the industrial relations system, that is, the government and employers, and the society at large. As far as the needs of these units were concerned, such as the maintenance of social order, control of wages at a certain level for the sake of industrial development, etc., the system contributed to adaptiveness at least to some extent, especially since the size of the industrial work force was not big enough to produce a serious threat of social unrest as a result of the frustrations following from the deficiencies of compulsory arbitration.

The fact that government never exerted its authority to extend the arbitration award to other workplaces operating under similar conditions was an unintended dysfunction for organized labor. This could not be anticipated by the legislature because it was due to the reluctance of the government to use its power on this point. Compulsory arbitration was functional for the government as long as this provision was not put into effect. In addition, of course, government was very much subject to the dictates of employers in the 1950’s.

Thus, as far as manifest consequences of these practices were concerned, the net aggregate of consequences was clearly dysfunctional for organized labor. Nevertheless, it could be argued that this system was performing a latent function for the industrial relations system of Turkey, and, perhaps, for the organized labor, as well as for the inclusive social system. As Rosen has pointed out, «there is, of course, considerable appeal in an arrangement which makes a quasi-judicial review of issues in an atmosphere remote from passion and controversy.» Government or judicial agencies were always acting as a mediator for the two parties which, due to the consensus-oriented nature of their approach to conflict, consciously or subconsciously sought the help of a third party. The approach inherent in this mechanism was always aimed at making compromises. In a culture where government and judiciary were traditionally recognized as supreme powers, there could, in fact, be no other agency to satisfy this latent need, regardless of how competent arbitration boards were in labor-management relations and in the settlement of industrial conflict.

Nonetheless, in spite of such latent functions, the existing system had definite defects for labor, and had probably begun to cause dissatisfactions even for the society at large:

However, the experience of societies with a variety of approaches to industrial relations suggests that wage levels, wage structure, and wage differentials are not to be included in such a category (a quasi-judicial approach to remove passion and tension mentioned above). And it is even more likely that, where wages are concerned, the further removed the decision-making power lies from the actual seat of controversy, the less the results will suit the facts of the case.19

Thus, because there was no collective bargaining due to the lack of the right to strike and the fact that unions could not play an effective role in arbitration, wages had remained very low. This tempted the employers to use labor intensive methods instead of introducing improved production techniques and advanced machinery. The accumulation of frustrations caused by the mechanism of compulsory arbitration had made it necessary for organized labor to have the legislature introduce a decentralized decision-making system into the work life of Turkey. The existing system was the residue of a totalitarian one-party era which had once deliberately proclaimed that in modern Turkey there could be no class conflict.20

For this reason, compulsory arbitration had been welcomed by various quarters as a safeguard to prevent the emergence of class conflicts.21 And now class distinctions had become so observable that industrial conflict could express itself in more aggressive ways unless certain precautions were taken. The growing industrial work force, rapid urbanization and the overpopulation of certain cities during the late 1950's, and several changes that took place in the social and political structure of Turkey between 1960 and 1963, intensified the need for such a legislative change. The dissatisfactions which arose as a result of trade union legislation and which impeded the development of trade unionism, reinforced this process. In the following section, we will study the consequences of this trade union legislation prior to 1963.

19. Ibid., p. 232. (Words in parentheses added.)
20. Talas, p. 298.
2. CONSEQUENCES OF THE TRADE UNION LEGISLATION AND THE STATE OF THE INDUSTRIAL RELATIONS SYSTEM PRIOR TO 1963

A. Structure

The terminology relating to the structure of Turkish trade unions may seem somewhat confusing to an American reader. It is important to note at this point that, in discussing the structure of Turkish trade unions, English translations of the Turkish terms will be used throughout the rest of this book. However, it is hoped that the definition of various structural units in terms of their American and British counterparts will help to clarify the situation.

The predominant form of organization became the «local union,» comprising workers in a given branch of activity and the related crafts or jobs, as the law described it, of a given area. This was the counterpart of «local union» in the United States, or «branch» in Britain. The terms «branch of activity» or «occupation» were used to refer to industry as well as to craft. In other words, a carpenter working in steel industry could be organized within the steel workers' union rather than a separate carpenters' union. Nevertheless, the act did not forbid the establishment of unions which were craft in nature. In this sense, carpenters could also form a separate carpenters' union. Throughout the rest of the study, we will be referring to this first level of trade union organization as «local union,» «local,» or merely «union.» To refer to other structural levels above the local union, we will use the term «multiunion organizations.»

Although the law mentioned «federations» only, 22 four kinds of multiunion organizations emerged in fact. These were (a) the federations, (b) birliks 23 (the regional union associations), (c) the general unions, and (d) the Confederation.

The federation was a grouping according to the branch of activity on a regional or national scale. It was a vertical organization aimed at representing the common interests of local unions

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22. See above, p. 73.
23. Because of the difficulty in finding an exact equivalent of this word in English, the Turkish term has been used throughout this book.
operating in the same branch of activity. When it could succeed in organizing locals in a certain branch of activity on a nation-wide basis, it became the counterpart of the «international union» in the United States or the «national union» in Britain. However, until 1960 only two federations were established on a nation-wide basis in the petroleum and metal industries. Other federations remained limited in their geographical scope.  

The birlik was an association of local unions in a city or region. They could be constituted by the locals of an urban or regional area regardless of the occupation or industry they represented. They were similar to «city central labor unions» or «state federations of labor» in the United States. «At the end of 1954 there were fourteen such groups in ten cities.»

Some «general unions» also emerged in Turkey. With several branches attached to a headquarter, this type of organization never became common in Turkey, although in some countries, particularly in England, they have become firmly established. The small «General Union of Railroad Workers» with nineteen branches in different areas, and the «General Union of Oda Petroleum Workers» were examples of this category.

Above all these levels, Türk-İş, the Turkish Confederation of Trade Unions, was organized in 1952. This is a national center, the equivalent of AFL-CIO in the United States, or TUC in England.

It should be noted that all these organizations were formed in accordance with Article 8 of the Trade Unions Act. Although this article referred merely to federations in a vague manner, other forms were founded on the basis of the two-thirds requirement stipulated for affiliation to a multiunion organization.

Local unions were characterized by mixed classifications. Because of the relative insignificance of crafts which had already disappeared to a large extent, unions based on a particular craft or

24. Following 1960, these federations served as a nucleus for the organization of «national unions.» Reference will be made again to this structural unit which has emerged later in the 1950's.
26. Ibid., p. 441.
occupation were rare. The most frequent form was the plant wide or community wide industrial unions. "Craft organization occurs among seamen, draymen, longshoremen, shoemakers, waiters, printers and newspaper writers."27

Federations were effective in representing most of the industries and occupations with significant numbers of workers and unions. Due to various reasons and the lack of industry-wide and even plant-wide bargaining, however, they did not prove to be as successful as expected, and many unions eligible for membership remained unaffiliated. In this respect, for instance, Zonguldak Miners' Union, representing 30,000 workers, was a local closely controlled by the government, with the result that no mineworkers' federation developed. By 1958, there were only eleven federations reported.28

Although there were earlier attempts to form a confederation, the basic requirements in terms of sufficient number of unions and political atmosphere, domestic and foreign expertise, etc., could be met only after 1952.29 The efforts of the Turkish Textile Workers' Federation were largely responsible for the establishment of Türk-İş.

The comparative study of labor organizations shows that the vertical groupings of unions, such as the federations in Turkey or international unions in the United States, have been able to retain much of their autonomy whenever they have preceded the establishment of national centers. Otherwise, if the national center precedes the formation of national unions in time perspective, as in the case of the Israeli Labor Federation, the Histadrut,30 it is difficult for the national unions to have some of the authority and power delegated to them. In Turkey, federations began to establish themselves before the emergence of Türk-İş. However, by the time Türk-İş had emerged, these federations were still weak and limited in their

29. Talas, pp. 240-242. For more detailed data on various events and political developments that led to the formation of Türk-İş, see Engin Ünsal, İşçiler Uyanıyor (Workers Are Awakening), pp. 104-106.
finances and activities. It is interesting to note that Türk-İş could not take advantage of this fact, and, although it was founded with an aim to channel and centralize labor's views and demands, and thus represent them before the government, employers and the public, Türk-İş could not take advantage of this fact, and, although it was founded with an aim to channel and centralize labor's views and demands, and thus represent them before the government, employers and the public, Türk-İş remained a loosely federated body, as the term «confederation» implies. There were times when Türk-İş had to act in accordance with the dictates of the local organizations rather than imposing its own policy on them. This was clearly contrary to the traditional value of centralism inherent in Turkish organizations, and it probably accounted partly for the failure of Türk-İş in achieving its objectives.

The internal structure and administration of trade unions was quite simple, developing along the lines of those provisions of the Associations Act. The general congress (or assembly) was engaged in such activities as amending the constitution, approving the budget, electing the executive committee, etc.

B. Membership

Article 2 of the Trade Unions Act had restricted membership in unions only to those who could qualify as an «employee» or «employer» as described in Article 1 of the 1936 Labor Code. As a result of this restriction, white collar employees were excluded from trade unions. This also meant that they were prohibited from forming their own trade unions. Whatever the purposes of the legislature might be, it was obvious that this hindered the growth of the trade union movement. Regardless of whether white collar employees would be receptive to the idea of organization or not, in a society where education and social status are inherently significant the trade union movement had much to gain from their membership. Even if they did not join the blue collar unions and preferred to form their own, this would have helped to change the public percep-

31. Talas, p. 240.
32. Ünsal, p. 107.
33. Ibid., p. 112.
34. See above, p. 173.
35. The only exception to the prohibition of white collar unions was the Act of 1952 (No. 5953) concerning the trade unions of newspaper writers. It seems that, by making this concession, the government aimed to win the allegiance of newspaper writers and thus weaken their criticism. Furthermore, newsmen constituted a strong pressure group in Turkey.
tion of a trade union and to bring about more favorable results as far as the recognition of the trade union movement was concerned. Although the law excluded white collar employees from union membership, it did not prevent them from offering their services to unions as consultants, advisers, lawyers, etc. However, the utilization of white collar experts did not become a regular practice until very recently.

However, the restriction did not exclude those who were outside the coverage of the Labor Code. In fact, a few trade unions had been formed in fields that did not fall under the coverage of the Code, such as agriculture and maritime.36

The last section of Article 2 which forbade people «who permanently cease to be employees» from belonging to trade unions was one of the legal barriers to the development of trade unionism. It was clear that a worker who was no longer employed due to illness, old age or a physical handicap needed the protection of the union.37 Moreover, trade unions could utilize the experience and leisure of some of these persons in their internal administration.

Provisions on voluntary unionism forbade any form of «closed shop» or «union shop» arrangement. Deprived of such union security clauses, and because of the low need of identification of the Turkish worker with an organization, organizing as many workers as possible seemed to be a difficult task for most unions. Given the characteristics of the labor force, employees seemed to be very reluctant to join unions. A significant number of workers did not have even the primary education, neither did they know how to read and write. Unaccustomed to the discipline and rules of the industrial system, they evidenced no enthusiasm for joining trade unions, as they were constantly afraid of being laid off by their employers. Many workers remained members only as long as they could get financial and material assistance in the form of mutual aid from the union, and, due to the weak union finances, dropped membership when they could no longer get such assistance.38 Actually, the legal and material

36. Ibid., p. 170.
37. Saymen, pp. 172-173.
38. Bahir Ersoy, «İşçi Gözü ile İşçi ve İşveren Münasebetleri (Employee-Employer Relations From a Worker Point of View),» Sosyal Siyaset Konferansları, Vol. 6, p. 51.
resources of the unions were limited. Therefore, they were «far from possessing the power for maintaining guarantee and security of employment for their members.» In turn, the trade unions could not become strong and effective organizations as long as workers were never settled in industry but constantly moved between villages and urban centers, and, thus, could not develop class consciousness among themselves. As a result of these factors, most of the workers did not think of being members of the unions nor did they care about the social status of the unions. These and other factors, such as the employer's threat to displace unionized workers, and the formation of company unions by managements, etc., barred unions from increasing their membership. Probably as a result of these reasons, organizing campaigns of unions were directed to unionizing workers in nonunion plants rather than trying to increase membership in firms which were already partly organized.

Table 1 below indicates the number of unions along with membership figures until 1958.

Table 1. Number of Workers, Union Membership, Unions and Multiunion Organizations in Turkey, by year.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of workers</th>
<th>Number of members</th>
<th>Number of unions</th>
<th>Birlik and federations</th>
<th>Confederations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948</td>
<td>328,463</td>
<td>52,000</td>
<td>73</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>1949</td>
<td>344,914</td>
<td>72,000</td>
<td>77</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td>1950</td>
<td>373,961</td>
<td>78,000</td>
<td>88</td>
<td>3</td>
<td>—</td>
</tr>
<tr>
<td>1951</td>
<td>427,364</td>
<td>110,000</td>
<td>137</td>
<td>8</td>
<td>—</td>
</tr>
<tr>
<td>1952</td>
<td>488,508</td>
<td>130,000</td>
<td>248</td>
<td>16</td>
<td>—</td>
</tr>
<tr>
<td>1953</td>
<td>556,535</td>
<td>140,000</td>
<td>275</td>
<td>17</td>
<td>1</td>
</tr>
<tr>
<td>1954</td>
<td>583,962</td>
<td>180,387</td>
<td>323</td>
<td>23</td>
<td>1</td>
</tr>
<tr>
<td>1955</td>
<td>604,295</td>
<td>189,387</td>
<td>363</td>
<td>27</td>
<td>1</td>
</tr>
<tr>
<td>1956</td>
<td>645,321</td>
<td>209,155</td>
<td>376</td>
<td>26</td>
<td>1</td>
</tr>
<tr>
<td>1957</td>
<td>685,827</td>
<td>244,855</td>
<td>383</td>
<td>18</td>
<td>1</td>
</tr>
<tr>
<td>1958</td>
<td>701,231</td>
<td>282,591</td>
<td>394</td>
<td>18</td>
<td>1</td>
</tr>
</tbody>
</table>

40. Ibid., p. 10.
42. Statistics of the Ministry of Labor.
It should be noted that the figures in the second column of the table show the number of workers covered by the Labor Code and other protective labor legislation. They do not include a significant proportion of the labor force not covered by labor legislation and yet eligible for membership. The doubling of these figures in the years following 1952 is partly accounted for by the extension of the Labor Code to undertakings employing 4 to 9 workers in cities with 50,000 or more inhabitants, and partly by the rapid expansion of the labor market due to the economic investments during the 1950's. The rapid increase in the number of unions, birliks and federations in 1952 and in the following years is attributable to the liberal attitude of the Democratic Party-which came to power in 1950- towards the establishment of unions and multiunion organizations in the early and mid-1950's. As can be noted, there has been a drop in the number of birliks and federations in 1957. This was caused by the abolition of some birliks by the government in some regions, as will be indicated below.

In proportion to the number of workers shown in the first column, the percentage of union membership seems to have increased from about 16 percent in 1948 to 37 percent in 1958. These percentages are misleading, of course. If it could be possible to compare membership figures against the total labor force, we would undoubtedly reach a much lower percentage. Furthermore, the membership figures above include as well those workers not paying their dues. Taking all of these factors into account, the actual ratio of membership to labor force would be much lower.

C. Leadership

As a result of the legal restriction excluding white collar workers from union membership, union leaders in Turkey came from the working class, being recruited mainly from rank and file levels. This is in contrast to the situation in many other developing countries where leadership positions are held by white collar intellectuals. In a society where prestige normally depended on education, occupation, age, social origin and class, union leaders were, thus, at a disadvantage. It was very difficult for them to win recognition and acceptance from the public. Many union leaders had to face troubles, ranging from discrimination in employment to
arrest and interrogation by public authorities and police.\textsuperscript{43} Because of the national sensitivity towards «communism» and «communist,» antiunion forces used these labels to accuse and discredit unions and their leaders whenever possible.\textsuperscript{44} Many people thought that the trade union leaders were favorable to communism. And, because the industrial workers were in minority, they could not influence public opinion effectively.

Very few leaders received salaries from their unions. In a survey conducted by Rosen, only 16 union officials out of 251 acknowledged receiving a salary from the trade union.\textsuperscript{45} The majority of them stated that they had connections with the Democratic Party. It was apparent that almost all trade union leaders had links with political parties, and those operating in small towns favored the Democratic Party, the one that was in power at this time, while those in large urban centers sided with the Republican Peoples' Party.\textsuperscript{46}

Most of the union leaders refrained from working as full time officers. Because they did not want to lose the advantages they could derive from their employment, like seniority rights and social insurance benefits, they could devote only a small part of their time to union affairs. The law had not provided them with any employment security and assurance that they would be rehired when they lost their trade union posts.

Although oligarchical tendencies were observed in some leadership positions, this did not seem to pose a serious problem.\textsuperscript{47} The possibility of rival unionism has operated as a safeguard in this respect. In line with Article 3 which stated that «two or more trade unions may be formed in a single branch of activity,» workers could automatically form another rival union when they were confronted with the dictatorial tendencies of a leader, or if they were not satisfied with his performance. Though this practice impaired the unity of the trade union movement, it undoubtedly helped preserve democracy in internal union administration to some extent.

\textsuperscript{43} Ünsal, p. 109.
\textsuperscript{44} Ersoy, «İşçi Gözü ile İşçi ve İşveren Münasebetleri,» pp. 51-53.
\textsuperscript{46} Ibid., p. 288.
\textsuperscript{47} Ünsal, p. 110.
For some union leaders, trade unions have served as stepping stones to political life. This practice has weakened the trade unions, however, since union members have not considered such people as reliable leaders. Indeed, getting involved in the partisan politics of the Democratic Party in the 1950's was not looked upon as desirable behavior by most segments of society.

D. Activities

The absence of collective bargaining, coupled with the fact that the role assigned to them in dispute settlement was limited, meant that local unions and federations were unable to perform the activities expected of them. However, compared with locals, federations were more active and better organized in representing workers' rights to public through indirect and political channels. Some unions provided programs of training, consumer cooperatives, and informal job reference service. However, by and large, they focused most of their energies on industrial relations problems and dispute settlement matters.

The limitations placed on unions necessarily shifted their activities to other areas, such as exerting influence through politics. Birliks had become the most effective units through which labor was able to exert political influence and be influenced by political parties. Like horizontal union organizations in other countries, birliks had become very susceptible to political pressures. By their heterogenous character and inclusive nature they appealed and had access to large numbers of workers in urban centers. With regard to this point, Rosen says:

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48. Talas, p. 239.
49. Unsal, p. 111. However, it should be stated that the educational activities of trade unions were limited. From time to time, the universities arranged seminars and lectures for union leaders and workers. Among these, the periodical conference series organized by the Institute of Economics and Sociology, University of Istanbul, for workers as well as employers, might be mentioned. The Ministry of Labor has also offered some short term courses for union leaders and workers.
50. See, for example, Neufeld's comments on <provincial chambers of labor> in Italy. Maurice F. Neufeld, *Italy: School for Awakening Countries*, p. 5.

For <city centrals> in Germany, see Philip Taft, <Germany,> *Comparative Labor Movements*, Walter Galenson, ed., pp. 265-266.
The fundamental reason for the greater prominence of the birliks is the relatively minor role played in labor affairs by direct negotiations between labor and management, and the importance of political pressures in the vital decisions in the area. The urban organizations are natural foci for the political pressures which union spokesmen wish to generate, as well as for the attention of politicians seeking political support in labor ranks. They attracted the most talented among local union leaders, and have furnished the larger part of the important spokesmen and molders of union activities.\textsuperscript{51}

Federations were less active in partisan politics, however. Their potential scope for organization along industrial lines seemed to be quite large as compared along regional lines. Rosen predicted the following:

The future may well see the gradual supplanting of the latter by the former in importance. . . . When and if the locus of relationships and the promotion of workers' welfare shifts to the plant level and the bargaining table, the center of gravity will similarly shift to the occupational groupings which will then begin to realize their potential.\textsuperscript{52}

The activities of Türk-İş also remained limited in this era. It had requested the government's consent for affiliation to ICFTU as early as 1952, since, according to Article 5, this permission was necessary. This request was turned down and never granted by the successive Democratic Party governments until 1960.\textsuperscript{50} At its inception, Türk-İş had elicited many optimistic views with regard to the recognition of the right to strike, permission for affiliation to ICFTU and a series of other matters concerning labor law and administration. But Türk-İş, as years passed by, achieved none of these objectives. «It has been unable either to develop good relations on a permanent basis with the government, or to secure the unity of unions behind it, as their spokesmen and coordinator.»\textsuperscript{54}

\textsuperscript{52} Ibid., pp. 443, 445.
\textsuperscript{53} The government's aim was said to prevent the Turkish trade union movement from international influences. According to some circles, time was not ripe enough for such international contacts. See, for example, Metin Kutal, «Sendika Hürriyeti (Trade Union Freedom),» \textit{Sosyal Siyaset Konferansları}, Vol. 13, 1962, p. 113.
However, the confederation has played a symbolic role in representing the internal unity of the Turkish trade unions and their international status. «Its existence has served to help preserve those ideals in the difficult times of the recent past, just as it may become the vehicle for positive achievements in the future.» For the most part, the restrictive policy of the government toward unions during the period after 1953, as will be indicated below, was one of the main reasons for the failure of Türk-İş in fulfilling its tasks. As envisaged in its constitution, Türk-İş was committed to striving for: the establishment and protection of the democratic rights of workers, among them the right to strike occupying a central role; improvement of wages; development of the social security system; emphasis on collective agreements rather than individual contracts, etc. In its struggles to realize these objectives, its leaders could find no other alternatives but getting involved in strong partisan sympathies and activities. These constituted one of the major areas for diverted and distorted leadership operations with no relevant and desirable consequences for the trade union movement.

Türk-İş had frequently criticized the government and the political party which it was representing for their inaction and failure in recognizing the right to strike. Thus, the vigor and unity of Türk-İş was impaired to a considerable extent as a result of its struggles and militancy against the government. This caused dissatisfaction with the trade union movement, divided the affiliates, and resulted in frustrations. For a government and legislature which had shown considerable interest in workers' welfare by protective labor legislation, the reluctance to do this additional favor was a disappointment on the part of most labor ranks.

Economic activities of the trade unions also remained limited in this era. Although the Trade Unions Act had enabled unions to set up cooperatives, little was done in this field. The cooperative movement as a whole was weak in Turkey. Only construction cooperatives were relatively widely practiced, and credits were extended by the Workers' Insurance Fund to several cooperatives to be used in construction of houses.57

55. Ibid., p. 287.
56. Talas, pp. 242-245.
57. Tuna, «Growth and Functions of Turkish Labor Unions,» p. 16.
Because the rates of trade union dues were low and because there were numerous difficulties in collecting them, unions did not become effective in providing financial and legal assistance to their members. Occasionally, aid was given in case of death and unemployment, and was also extended through the use of union lawyers and legal advisors when disputes over employment contracts were involved.  

E. Relations With the Government

The absence of a stable government policy towards unions brought about a series of barriers to the development of trade unions in Turkey in the 1950's. Though trade unions enjoyed a considerable amount of unprecedented freedom in the late 1940's and at the beginning of 1950's, after 1953 the government's attitude towards trade unions changed. Parallel to the dictatorial and one-party rule tendencies of the Democratic Party administration which was ended by a military coup in 1960, several restrictive measures were taken against political parties, associations and trade unions. As part of this tendency, an act (No. 6761) passed in 1956 restricted the freedom to establish trade unions without prior permission of public authorities. It also placed the funds and accounts of unions under strict government control.

Due to the membership strength and the susceptibility to aggressive action of the miners' union in Zonguldak, the government tried to control this unaffiliated local very strictly. This obviously deprived Türk-İş of a potential strength that it would otherwise have had in its structure.

The abolishment of a trade union could be implemented only upon the decisions of the courts and for reasons set forth in the law. The law had enumerated all the reasons that might require the suspension of union activities, either temporarily or permanently. However, the provisions of the Associations Act, which had subjected labor organizations to the supervision of the Ministry of Labor

58. Ibid., p. 16.
59. It must be noted that this act was also contrary to the ILO Convention (No. 98) on the Right to Organize and Collective Bargaining which Turkey had already ratified.
60. See above, pp. 77-78.
and control of the governor of the province, impaired the freedom of trade union activities. Moreover, the law had not specified clearly the maximum length of time between the suspension of trade union activities and the court decision for its abolition.

After 1956, the more rigid application of the Trade Unions Act, and the interpretation that, like federations, birliks should also be formed by locals of a certain area in the same branch of activity in line with Article 1 of the Trade Unions Act, led to their abolishment by the government. It seems that, although Article 8 had subordinated federations to the provisions of the same act, these provisions were intended to be those relating to other regulatory dimensions such as the prohibition of political activities, prior permission of the government for international affiliations, etc. Perhaps, the violation of the legal prohibition of engagement in political activities, a violation which arose for the most part from the lack of economic and community-oriented activities in which birliks could otherwise engage, led to the interpretation of the law in such a falsified way by the government and judicial authorities. The judiciary, too, which was so far able to preserve its independence, could not escape succumbing to the dictates of the government in this era.

Many locals found it extremely difficult to meet the two-thirds requirement needed for affiliation to a multiunion organization. It was almost impossible, especially for the larger unions, to bring the majority of their members together in order to receive their approval for affiliation. Alleged violations of the law, coupled with the alleged violation of the two-thirds requirement, brought an end to most of these birliks. However, the surprising point is that the government tolerated the existence of some birliks, probably those from which it received political support. They were not abolished. But, if the reason for the closing of these birliks was the violation

62. Talas, pp. 228-229.
64. Talas, p. 239.
of the requirement that they should be formed in the same branch of activity, then all of them should have been disbanded.

Federations, however, were not subjected to legal harassment partly because they were less active. In addition, the Trade Unions Act had specifically recognized them in Article 8.

Other provisions of the act were also constantly jeopardizing the existence of trade unions as far as membership interests were concerned. If, for instance, trade union officials spent union revenues contrary to the objectives established in law and in the constitution of the organization, the organization should be abolished. This obviously threatened membership to a large extent.

During the years preceding the 1960 revolution, government hostility to trade unions was sometimes encouraged by the Ministers of Labor. The government exerted constant pressure on unions which did not back up the party in power. The requests of Türk-İş and of other trade unions to establish international contacts were rejected, and people who were not directly concerned with the trade union movement and workers' problems were assigned as workers' representatives for the annual meetings of the ILO. The government also took action against union publications, which were limited to a few labor periodicals, on the grounds that they were not sympathetic toward the government policy.

F. Plant Level Relationships

a) State enterprises: During this period, the personnel policies toward unions at the plant level had not been stable at all, and depended mostly on the prevailing political considerations. With respect to this point, Rosen has observed the following tendencies:

When in the late 1940's and 1950's it was official policy to encourage unions to organize, the managers of the state enterprises usually lent an active hand. As this policy changed, these enterprises tended to stand aloof, to withdraw their assistance, and in


The only exception to this is a government decree of February 9, 1960, allowing the Petroleum Workers' Union to participate in the meetings of the International Petroleum Workers. Ibid., p. 19.

66. Ibid., p. 15.
some cases to induce schisms designed to promote the fortunes of union leaders favorable [sic] disposed to the party in power. They seldom, however, attempt to displace a union either overtly or under cover, though they may be able to limit its scope and its ability to defend membership interests.67

The centralized nature of Turkish administration and political life extended to labor policies of state enterprises. Authority was centralized in line management, and personnel departments were usually deprived of any authority even in their own areas.

The state enterprise plants contain practically nothing in the way of a personnel department. The official in charge is generally little more than a record keeper with no responsibilities, no training, and so little initiative that even the most trivial questions of fact from a visitor must be cleared with line management before he will answer them.68

b) Private enterprises: In this period, the determination of wages and working conditions was almost completely predicated on individual relationships. Individual contracts were imposed by the employer unilaterally on the workers who could not have any control over the shop rules.

Employer paternalism which too often took the form of an autocratic approach to labor problems and manifested considerable hostility towards unions was one of the factors that effectively suppressed the expression of labor protest in more institutionalized and aggressive forms, even within the limits of the existing legislation.69 Employers usually refrained from hiring union members,70 although the law had clearly indicated that they could not make any discrimination against unionized workers. Of course it was obvious that legal guarantees were not effective, especially since trade unions

68. Ibid., p. 265.
70. Ibid., p. 50.
did not have the right to strike. It was common practice for the employers to fire workers just for having joined the union. The law did not clearly specify any protection for the unionized worker against the discrimination of the employer, though this protection was interpreted to be implicit in the above-mentioned provision of the law. A supplementary act was passed in 1959, however, bringing certain sanctions to protect trade union members and to avoid such discriminatory practices of the employers. And yet, in spite of such legal safeguards, the workers often had to conceal their identities as union members.

Since many of the managers lacked the sophistication to understand the psychological complexities and needs of workers who were of rural origin and did not have any education, the behavior and attitudes of these managers tended to impair the sensibilities of workers and union leaders. As a result, unions usually sought satisfaction through the political channels that were available to them. By concentrating their energies on the ministries, the bureaucracy, and the elected deputies, they endeavored to get concessions from managements even at the plant level. And managements, in turn, found themselves involved in political activities and influence. Some of the important entrepreneurs were usually either officials of the local party machinery, or were directly elected representatives in the Parliament, or had their vested interests indirectly represented in the Parliament anyway.

The more sophisticated but smaller group of managers in the newer enterprises tried to channel the activities of trade unions to attain their own goals of control in the plant and political influence in the community. Thus, in spite of the legal restrictions, partisan politics had been implanted into trade unions to a considerable extent.

G. An Overall View

Such was the state of trade unionism and industrial relations in the late 1950's. One could sum up the situation as a meager trade

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72. Talas, p. 222.
union movement in a hostile environment with legal restrictions, increased government control and manipulation.

This writer believes that legal restrictions accounted for much of this state. As a matter of fact, the Mecelle, with its negative effect on the remaining medieval guilds, had probably brought the first series of these legal restrictions that impaired any form of self-help organization. Although Webbs had found no proof to support the view that trade unions grew out of the medieval guilds, there was some evidence that in Germany and Sweden, for instance, one could trace the links between these forms of self-help organizations and the trade unions. But, in Turkey, coupled with the effect of foreign competition, Mecelle had brought an end to them in 1912.

Without an established economic structure, an administrative apparatus, or a constant legal tradition, it was inevitable that the older forms of organization would disappear and leave in their place only disorder and chaos. Only where a continuity of industrial activity continued, in those centers where European enterprise was active, could there exist the conditions for a new form of organization. It is striking to note that these coastal cities, Istanbul and Izmir, particularly, continue to represent the vanguard of organizational activity and sophistication in to-day’s union movement.

The destruction of skilled crafts, however, had repercussions for the institutionalization of labor protest in later stages. One might argue that there became a causal relationship between the lack of a skilled labor force - which tends to be the first to organize because it has more to lose once technological change starts - and the lag in the development of a well-entrenched union movement in Turkey. Also, because mobility is fairly low among skilled workers, they can develop a sense of collective identity much more easily, and this, in turn, provides them with much better chances for organizing. Skilled workers are also in a more powerful bargaining position in the sense that they can withdraw and limit the supply of

skilled labor. Thus, due to the lack of a skilled craftsman-type labor force and for various other reasons, unions did not emerge and establish themselves as a result of a long struggle against a hostile judiciary and legislature, as was the case, for example, in the United States and England. They were simply created by the legislature as legalized structures. But why did the legislature endow them with such limited activities and why did the government, for instance, interfere with them so frequently?

The answer seems to be inherent in the nature of the legislature’s initial motives. These seem to be twofold. The first was the desire of the legislature to legalize trade unions for the purpose of social control. Once these structures were formed with certain activities accorded to them, it was thought to be fairly easy to suppress conflict, to control and to manipulate a growing industrial work force, and to eradicate all the undesirable elements that might arise from within it. Along with the philosophy prevailing in the enactment of protective labor legislation, the state was deemed able to take care of the workers’ welfare. Both management and labor were expected to commit themselves within a patriotic ideology to the development of the nation as a whole. Although it was true that trade unions were permitted at a much later stage in the history of modernizing Turkey, in a period characterized by political and

77. For the use of the doctrine of «criminal conspiracy,» «injunctions,» and claims such as the «restraint of trade» in the United States against trade unions, see Charles O. Gregory, Labor and the Law, pp. 13-158.


78. Kerr and his associates who have classified the industrializing elite of modern Turkey as a mixture of both nationalist leaders and revolutionary intellectuals describe the elite’s attitude toward conflict in this category as «control» and «prohibit» in their own framework. See Clark Kerr, et al., Industrialism and Industrial Man, p. 71. Also see the charts on pages 216 and 218-219.

79. It should be noted that trade unions in Turkey never played a role similar to those of the newly emerging nations where the trade union movement is subjected to the dictates of the central government after actively participating in a struggle for the country’s freedom against the colonial powers. Although strikes occurred against the occupation powers during the 1919-1922 period, there was no well-entrenched trade union movement in Turkey during this era.
social liberation, the residue of the nationalist ideology undoubtedly prevailed during the late 1940's.

The second motive was likely to be the desire to qualify as a state with modern and progressive social policies. As in the adoption of protective labor legislation, trade unions were legalized with this aim even before labor had begun to create pressure for legislative change. But, in spite of the absence of a skilled labor force, they reached a potential stage at least in terms of quantity if not quality. 80

H. Implications for a Functionalist Interpretation

As in the case of dispute settlement, legislation on trade unionism led to a series of unintended consequences during this period. These were functional or dysfunctional depending on the particular subunit of the industrial relations system.

For example, the emergence of birliks was an unintended consequence. Since the legislature had not referred to any type of multi-union organization other than the federations, birliks, and even the Confederation, were unintended consequences, due to the tolerance of the administrative authorities, and due to the error or negligence of the legislature in articulating types of multiunion organizations in more detail. From this, a number of other unintended consequences followed.

The activities in which birliks engaged were unanticipated as well. The legislature's aim in permitting the establishment of multi-union organizations was not, of course, to let them be involved in political activities. In fact, the law had clearly prohibited this. It seems that, in reality, birliks were performing a latent function for the trade union movement. Trade unions thus found a new field of activity to justify their existence and aid in their survival. This, however, insofar as it did not fit in with the general policy of the government, became a dysfunction for the government and for the party in power, and as soon as they became aware of it, the structures that caused such dysfunctions were removed from the

scene. Those birlikts that supported the government and the Democratic Party in elections were not disbanded, because they upheld the existing political power and contributed to its adaptiveness in the presence of a number of opponents, such as the opposition parties, press, intellectuals and the universities.

Some of the unanticipated consequences emerged as a result of a chance factor. For instance, the 1947 legislature which tried to establish a democratic order could not foresee that later in the political structure of Turkey such dictatorial tendencies as the one-party rule of the Democratic Party would occur. Yet, in another sense, the same phenomenon might be considered an unintended consequence due to the manipulations of the government which was nothing but a spokesman of the ruling party. The government’s proximity to the legislature, which was overwhelmingly dominated by the Democratic Party, facilitated this process.

It had too often been claimed that the rights of organized labor should not be expanded just because trade unions had not reached a state of maturity and a sense of responsibility which such new activities as the right to strike and engagement in politics would require. But this writer believes that the state of trade unionism has been an effect rather than the cause of the reluctance to remove such legal restrictions. The objective consequences of these structures and practices obviously determined the present state of the industrial relations system, a number of these consequences being clearly dysfunctional for organized labor and perhaps functional for the remaining subsystems. As long as employers and the government remained powerful enough to preserve these practices and structures, unions could not realize the legislative changes they desired, especially in a particular environment where the state is relied upon for any concession, and directed legislative changes are traditionally so deep-rooted. Moreover, the fact that the legislature was overwhelmingly dominated by the party in power made this process impossible. Under these circumstances, there was almost no way of representing the labor’s interests in the parliament.

Of course, this is not to say that changes in legislation favorable to trade unions would definitely bring about desirable consequences for the industrial relations system and even for organized labor in every respect. It might be argued that, given the characteristics of
the structural context, the recognition of the right to strike would not be desirable for the social system at all. Legislation as an independent factor is only a necessary and not a sufficient condition for the changes that may occur in the industrial relations system. The structural context is apt to inhibit the efficient operation of the alternatives desired by labor. However, it could also be argued that «changes in the structure of the system, if adequately implemented, could bring about changes in the course of time in the attitudes»\(^{81}\) inherent in the structural context of this study. Organized labor was demanding the introduction of new legal practices and structures that could help the adaptiveness of trade unions to the fulfillment of the activities expected of them, and, thus, contribute to their development. Nonetheless, the insulation of such institutional demands and the mere existence of a series of dysfunctions that inhibited their growth were not sufficient for the Turkish trade unions to receive a positive response from the legislature. They had to wait for the emergence of other factors.

\(^{81}\) Statement of Professor Lawrence K. Williams, mimeographed class-notes, New York State School of Industrial and Labor Relations, Cornell University, Spring term, 1963.
Chapter V

SOCIO-POLITICAL CHANGES AND THE LEGAL FRAMEWORK
OF THE NEW INDUSTRIAL RELATIONS SYSTEM

1. SOME INTERVENING FACTORS

The military revolution of May 27, 1960 brought about a significant change in the political organization of the Turkish society. It was significant at least from the standpoint of the short-run changes it tried to implement.¹

In spite of its initial promises for political liberation and the maintenance of the multiparty system, the ten year administration of the Democratic Party had tended to suppress freedom of speech, press and association, and, by making religious concessions to the masses and, thus, receiving their full support in elections, it had ruled out any chance for opposition in a multiparty system. When it was overthrown by a « coalition of military, intellectuals and civil servants, » the prospects for labor's demands became promising.

The military junta seized power for the purpose of « having just and free elections, to be held as soon as possible under the supervision and arbitration of an above-party and impartial administration, and for handing over the administration to whichever party wins the elections. »² With some insignificant delay, this promise was realized in 1961, and a new political system that was expected to provide checks against any further dictatorial tendencies, at least on its face value, was created.

The Democratic Party was disbanded by a court decision. In 1961 a constituent assembly was convened by the military ad-

2. Ibid., p. 21.
ministration, and was composed of the representatives of the political parties, and of various economic, professional and educational institutions. The Assembly prepared a new Constitution and Election Law. University professors actively participated in the making of the Constitution which was presented to national referendum and approved on July 9, 1961.

The new Constitution provided for a bicameral instead of unicameral legislature (National Assembly and the Senate of the Republic), proportional representation, and a Constitutional court-checks that were apparently designed to prevent any tendency for one-party rule again in Turkey-.

Ever since Turkey had entered the multiparty era, almost all parties had promised labor that they would recognize the right to strike once they came to power. But none of them, particularly the Democratic Party during its ten-year administration period, was willing to do so when it seized the executive post. The new Constitution, however, among other labor policy provisions, did not hesitate to legalize this right. But, the specific act pertaining to this right had not yet been passed by the legislature.

Although the right to strike has been promised to labor by the parties for many years, however, neither the NUC (National Unity Committee, the military junta) nor any important political party was willing to go further in the Constitution than to leave its specific determination to await further political developments.3

This specific determination was provided for by the «Collective Agreements, Strikes and Lock-Outs Act (No. 275)» passed on July 15, 1963.

The political elections between 1950 and 1960 were characterized by the continuous and overwhelming victories of the Democrats over the Republican People's Party. Peasants and a large percentage of the working class people kept on voting for the conservative Democratic Party instead of the Republicans who were the protagonists of Atatürk reforms and of more progressive reform policies in their platform. However, due to the residual resentment of the masses towards the once directed social changes, such as the

3. Ibid., p. 77. Parentheses added.
deemphasis of Islam, led by the Republican People's Party, and because of the religious and other economic concessions that the Democrats were now making for them, they preferred to vote for the latter rather than the former. As a result, groups did not seem to be represented in the parliament in proportion to their interests. For instance, the birlik had become targets for the successful penetration into the labor movement of the party in power in order to receive as many votes as possible from workers in urban centers. Through the pressures of the government, large numbers of workers were being taken to political conventions and propaganda meetings of the Democratic Party even during work hours in the 1950-1960 era. The Democratic Party was by no means progressive in its labor policies, nor was it willing to concede the right to strike. Yet, it received the support of workers in the general elections.

When new elections were held in October, 1961, under the supervision of the armed forces, the same attitude was again apparent. In spite of the systematic campaign against the policy of the abolished Democratic Party, the Justice Party, this time founded by the former followers of the Democratic Party, received considerable votes. Of course, the presence of a number of new parties had undoubtedly split the votes. But, still, it was a victory for the old Democrats. A coalition government was formed, however, as a result of the new proportional election system.

It seems that labor was not likely to get the right to strike from the legislature unless the innovating element of the Turkish society, that is, the combination of soldiers, intellectuals and civil servants, seized the power temporarily, and, by a mixture of coercion and indirect persuasion, embodied the right to strike along with other progressive provisions in the new Constitution. And yet, in spite of the clear wording of the Constitution, it took almost two years to pass the special law on right to strike and collective bargaining. It is interesting to ask at this point whether or not a legislature would have passed the same law if the Republicans, supported also by the above-mentioned coalition, had come to power through normal channels, without a revolution. The fact that this party also represented the vested interests of some big employers and landed

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4. Ibid., p. 110. For this striking phenomenon, see Chapter 5 of this book, «New Parties and Old Votes.» pp. 82-115.
aristocracy in Turkey prevents one from giving a positive answer to this question. Moreover, its attitudes as well as those of the other parties during the passage of the act provide some hints to support this pessimistic view.

The period between 1960 and 1963 is characterized by a series of important developments for Turkish labor. As a result of the promises and the basic philosophy of the Revolution, the government showed a permissive attitude toward trade unions, extended its permission for the affiliation of Türk-İş to ICFTU, and let the birlik which had been closed by the Democratic Party resume their activities. A labor party was formed, but could get no significant support from labor in terms of votes in the 1961 elections, probably due to the absence of a class conscious voting behavior coupled with the general reluctance to vote for any party other than the followers of the deposed regime.

In anticipation of industry-wide bargaining in the future, Türk-İş began to reorganize the trade union structure on a national basis within 28 categories. However, Türk-İş leaders seemed to be more removed from the daily problems of the affiliates at this time, and tended to be in close contact with the legislature and the government, probably hoping to receive as many concessions as possible in the proposed legislation. This resulted in internal splits, and the cleavage between Türk-İş and the southern unions became aggravated to such an extent that they openly expressed their dissatisfaction with and desire to split from Türk-İş by an attempt to form a second confederation. This conflict was solved later, however.

5. Talas, p. 231.
6. Ibid., p. 239.

Another striking incident which shows the close collaboration between Türk-İş and the government in this era is implicit in the John Thalmayer case. As a foreign trade union expert and training consultant to Türk-İş and the Construction Workers' Union, Thalmayer was involved in various activities and agitations which were said to exceed his advisory role. At a time when the legislation was proposed to the parliament and the govern-
It was also clear that, along with the political changes, several internal and external forces had played their role as intervening factors. Among them, the most important was an emerging belief in intellectual and educational centers that free trade unionism, collective bargaining and the right to strike were inevitable components of political democracy. Of course, the impact of such external forces as the increased relations with Western trade unionists, ILO conventions and recommendations, and technical assistance and training programs of ILO, etc., had accounted for much of this changed attitude. Particularly the fact that the ILO convention on the right to organize and collective bargaining (No. 98), ratified and adopted by Turkey in 1951, was in clear contradiction with the prohibition of the right to strike and legal restrictions on unions. As a gesture, however, the Ministry of Labor had already prepared a draft bill in the late 1950's, an act designed to facilitate the practice of collective bargaining; however, this act was never passed. So the amendment of legislation on dispute settlement and trade unions had now become an urgent matter in order to adjust national practices to the requirements of this convention.
Also, the relationships between ICFTU and Türk-İş following the affiliation in 1960 had an impact on the passage of the new legislation. The tripartite conference held in January 1962 as an *ad hoc* body took into consideration the recommendations of the ICFTU representative.

Another important factor was the gradual change in one of the conditioning elements of this study. Turkish labor was not class-conscious, as explained above, but the chronic frustrations were making it more and more susceptible to left-wing and radical tendencies. If decentralized decision-making in industry was not granted at the proper time to equip unions with bread and butter activities, the management of conflict was likely to be taken over by such radical elements. Therefore, one might argue that the growing industrial work force, the advent of leftist elements and an emergent socialist climate had contributed positively to organized labor in getting such a concession from the legislature. To prevent a basic revolutionary transformation, such a change had, indeed, to be injected into the system. And yet, the employer hostility and fear of the right to strike still existed. Now, through their spokesmen and representatives in the parliament, employer energies took the form of trying to limit the right to strike as much as possible. They formed the Employers’ Confederation as a counterpart of Türk-İş. The Justice Party was conservative in its platform, but when the union leaders had strongly declared that the working people would not vote for antiunion forces in the next general elections, the representatives of the Justice Party became more active in supporting the proposed act than the Republicans who were known as more progressive and pro-labor.

Between 1960 and 1963, a number of work stoppages occurred in Turkey. It was true, however, that worker unrest had been seen in the form of illegal strikes in various parts of the country before this law was passed. For example, there was a small weavers' strike

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13. Especially due to the freedoms granted by the 1960 Revolution a number of left-wing publications and periodicals appealing to the working people began to appear during this period. Economic difficulties, caused by a recession in 1958 and coupled later with the effects of the Revolution in 1960, facilitated this process.

in Adana in 1935, a coal miners' strike at Zonguldak for the eight hour day in 1928, and a street car workers' strike at Istanbul. The most important was perhaps the İzmir Dock strike in 1954. Since such strikes took place with hostile employers and government and were illegal, workers were fired, police action was taken, and trials and imprisonment followed. After 1960, things became different. For the first time, the government began to show a neutral attitude towards labor as far as a strike action was concerned. It did not encourage it, nor did it take any severe measures against it.

A striking example is perhaps noteworthy at this point, for it coincides with the proceedings of the parliament on the proposed legislation. The management of the Kavel factory, a private firm located in Istanbul, refused to pay a considerable amount of fringe benefits that it had traditionally paid to its workers. Thirteen workers, some of whom were elected worker representatives, were fired when they attempted to seek legal protection against the arbitrary action of the employer. The workers then went on strike. On the same day, the management declared that all employment contracts of the workers had been terminated, on the assumption that any strike action of this kind should be regarded as illegal since a specific law permitting strikes had not yet been enacted. The strike continued for 35 days, and was concluded by an agreement between Türk-İş and the recently established Confederation of Employers only after long negotiations and frustrating experiences.

As the strike continued, there was considerable disagreement as to whether the strike was illegal or not. Public opinion was divided on this point: on the one hand, the right to strike had already been guaranteed by the Constitution; on the other hand, enabling legislation had not yet been passed. Both parties did their best to win public opinion by dramatizing the events and the matter was even brought to the attention of the parliament by the representative of the newly established labor party, the TİP. Eventually the employer agreed to pay the amount demanded by the workers. However, no

For an analysis of the strike from the employers' point of view, see "Görüşmelerin Tahlili (Analysis of the Negotiations)," *İğeren*, Vol. 1, No. 6, March 1963, pp. 9-42.
agreement was reached about rehiring the worker representatives who had been fired although the union had put a great deal of pressure on management in this respect, and the refusal of the employer to rehire these workers had been the major cause of the delay to reach an earlier agreement. This point illustrates the unfavorable attitude of employers towards unions. Organized labor, specially the Metalworkers' Union, accused the employer of causing a lock-out by firing the workers. It insisted that management should be penalized since lock-outs were not recognized by the Constitution as a legal right. 17

Another interesting point was the determination of most unions to remain united in support of the strike by extending various forms of economic and material aid to the Kavel workers during the dispute. It was obvious that the federations and Türk-İş, in spite of their own conflicts, were united by the intensification of their common problems. 18 The relatively soft approach of the government also proved that, at least on the top level, a pro-labor attitude was emerging and, with a changed view, beginning to counterbalance the overwhelming power of management by making concessions to labor. 19 It was not clear, however, whether this new government policy would persist or not. What became clear was the enactment, a few months later, of the long-awaited legislation, which intended to bring to Turkey a completely new industrial relations system.

To sum up the major factors that facilitated the introduction of the new industrial relations system, we can cite the impact of the external forces such as ILO conventions, the 1960 Revolution and the following political changes, the softening government attitudes toward organized labor, the emergent belief that collective bargaining with the right to strike is a necessary component of democracy, and the threats caused by the left-wing elements. Because of these, the adoption of a decentralized decision-making system in industry became an urgent matter in spite of the persistent resistance of antilabor groups.

18. «Türk İşçisinin Tarihli Mücadelesi (Struggle of the Turkish Workers),» Yön, Vol. 2, No. 61, pp. 5-6.
In the following section we turn to the presentation of this new legislation. It is important to note that the foundations for this new legislation were laid at a national tripartite conference. Several draft bills were designed by the government, by Türk-İş, by the Association of the Chambers of Commerce and Industry of Turkey. A tripartite ad hoc committee studied these bills and gave it a final form before its presentation to the parliament. In essence, the legal framework of Switzerland became the exemplar in the adoption of the new law. Switzerland by no means corresponds to the criteria used by Professor Windmuller in distinguishing model systems from mere industrial relations systems. However, as will be noticed from the delineation of the basic legislative dimensions, various items from certain model systems, or at least similar to these in certain model systems, have been transferred side by side. Thus, in its present form, if compared with Switzerland’s industrial relations system, the outcome may manifest contrasting items and practices even though the overall structure may still seem Swiss-inspired. Because, at the inception of her reform programs, Turkey had adopted the Swiss civil code, the rule-makers probably felt themselves obliged to explore the legal system of Switzerland before they could turn their attention to other model industrial relations systems.

2. LEGAL FRAMEWORK OF THE NEW INDUSTRIAL RELATIONS SYSTEM

A. Legislation on Collective Bargaining

a) Collective agreements: The new «Collective Agreements, Strikes and Lock-Outs Act» begins by stating in Article 1 that the only organization empowered to make a collective agreement with employers or employers’ associations is the trade union. The statement of policies of the act has also pointed out that unorganized worker groups are prohibited from being a party to collective bargaining although in some countries they are entitled to negotiate


21. For the exact wording of this and the other articles, see the Act, no. 275.
and sign collective agreements with employers. The article, by using plural forms like «employers» and «employers’ organizations» also lays down the principle of multiemployer bargaining.

The legislature has explicitly confirmed the precedence and predominance of collective agreements over individual employment contracts in Article 3. The concept of «collective agreement» is sanctioned and pronounced by law to such an extent that even the provisions of an individual employment contract which are more favorable to the worker can be superseded and voided by specific provisions included in the collective agreement.

According to Article 4, collective agreements may be made for a definite or indefinite period. However, the duration of a collective agreement made for a definite period cannot be less than a year or more than three years. If either one of the parties does not give notification of cancellation of the agreement one month before it expires, the old agreement will be extended automatically one year by tacit renewal. If the agreement is made for an indefinite period, on the other hand, either party may cancel it one year after it enters into force by giving three months’ notice. These periods of notification are apparently intended to provide sufficient time for negotiations and to operate as a cool-off period during which no strike or lock-out action may take place.

b) Authorization for collective bargaining: Article 7 (1) authorizes a federation or a union organized on an industry basis and representing the majority of workers in this industry to make collective agreements on behalf of all the workplaces covered by the particular industry. In the same manner, at the workplace level, a union representing the majority of workers in a workplace or in more than one workplace is authorized to conclude collective agreements covering the workers at these particular undertakings. These provisions imply that in essence collective agreements are to be industry-based and negotiated by the federation or the union organized on

22. The act has used the term «service contracts.» Since by this is meant «employment contracts» in general, we will prefer to use the latter to avoid confusion. Thus it is worth mentioning here that the previous distinction between a «service contract» and «labor contract» has also been abolished. Başarı, p. 19.
an industry basis concerned.\(^\text{23}\) It is clear that by stressing industry-based agreements, the legislature has implicitly declared the principle of «industrial unionism,» and placed power in a central authority.

c) **Solidarity contributions:** Article 7 (3) points out that workers who do not belong to the union which has concluded the agreement may benefit from the provisions of the agreement on condition that they pay a monthly «solidarity contribution» to the signatory union. The rate of the solidarity contribution cannot be more than the two-thirds of the regular due paid to the union by its members at the same workplace. The report of the Parliamentary Committee has stated that the rationale underlying the establishment of solidarity contributions involves a desire to strengthen trade unionism as well as relates to some ethical and moral considerations.\(^\text{24}\)

d) **Extension of the agreement:** The law empowers the government in Article 8 to extend an agreement to other workers and their employers in the same industry if those covered by the collective agreement constitute the majority of employees in this industry. The provisions of the extended agreement automatically replace those of the agreements which are already applied at these workplaces but which are contradictory to the extended agreement. The last paragraph of Article 8 states that the provisions on the payment of solidarity contributions will also be applicable in this case.

e) **Settlement of disputes concerning authorization:** Article 11 states that the Regional Director of Labor shall settle the disputes concerning which union should represent employees, and which employer or employers' organization should represent the employers' side in a workplace for collective bargaining. If the dispute is at an industry level, it shall be referred to the Ministry of Labor. Parties may appeal the decisions of the Regional Director of Labor to a provincial labor court. In the same way, decisions of the Ministry of Labor may be appealed to the Labor Division of the Court of Cassation, whose decision is final. The decisions made by

\(^{23}\) The law uses the term «occupation» instead of «industry.» But since occupation might imply «craft» in the English language, the word «industry» has been preferred in the translation, and the meaning attached to the concept irrespective of the word used is, in fact, «industry» or «branch of activity» in a broad sense.

\(^{24}\) Başarı, p. 25.
the courts in both cases cannot be appealed to any other authority. Since labor courts are not in session all the time, the legislature aims to authorize the judge to decide directly, if necessary, without hearing the parties. However, if he believes it to be helpful, the judge can hear the claims of the parties.\textsuperscript{25}

The draft bill of the government had stated that the decisions of the Regional Director of Labor should be appealed to the provincial arbitration board. The legislature has amended this, and, as envisaged in the report of the Parliamentary Committee, it has made it clear that, since the disputes concerning authorization do have a judicial character rather than being economic in nature, they should not be referred to arbitration boards which deal mainly with interest disputes.

The regional director of labor or the Ministry of Labor, and the courts will make decisions only after some party concerned with authorization objects the attempt of the union to bargain collectively with the employer.

f) \textit{Conciliation} : If, in their negotiations, parties do not reach an agreement, the Regional Director of Labor or the Ministry of Labor arranges a conciliation meeting according to Article 15. Both parties shall be present at this meeting or send their representatives instead. Each party shall designate a neutral conciliator to be present at the meeting. The Regional Director of Labor or a labor inspector acting for him, or in case that the bargaining is a nationwide, industry-based one, the Minister of Labor, or an official designated by him, shall be present at the meeting. The two neutral conciliators shall appoint a third conciliator who is to preside over the conciliation board. The decisions of the board are to be made upon majority vote. The decision accepted by the parties becomes valid as a collective agreement.

g) \textit{Strikes and lock-outs} : As Article 19 points out, the legislature has permitted the calling of a strike or lock-out only after this compulsory conciliation stage has resulted in failure. The framework of dispute-settlement from this stage on can be summed up in the following way. The party or parties whose proposals have not been accepted, wholly or in part, within the conciliation stage are free:

\textsuperscript{25} \textit{Ibid.}, p. 29.
(a) To apply for voluntary arbitration or start a strike or lock-out in situations where strikes or lock-outs are permissible;

(b) To apply for voluntary or compulsory (official) arbitration in situations where strikes or lock-outs are not permissible. In fact, in this category the parties have to accept the intervention of the compulsory arbitration mechanism. However, they can resort to voluntary arbitration if they want to.

Article 17 declares that strikes called for the purpose of maintaining or improving the economic and social conditions of workers and conducted in conformity with the provisions of this law are legal. Article 18 makes the same statement for lock-outs accordingly.

Once the trade union concerned has declared its strike decision in the manner specified by the law, it is under no obligation to inform the employer of the specific date on which the strike action will take place.

Article 19 (2) deals with the settlement of rights disputes arising from the application and interpretation of the collective agreement. In case that compulsory conciliation has not ended in agreement, a strike or lock-out may follow the conciliation step of a dispute over claims concerning the violation of the contract terms. Thus, rights disputes can lead to a strike or lock-out action during the period within which the agreement is actually in effect only if (a) the dispute occurs in an area where strikes or lock-outs are permissible, (b) conciliation has resulted in failure, (c) the parties have not resorted to voluntary arbitration and (d) the court has not decided to ban the strike or lock-out. In case of calling a strike or lock-out in this sense, if one of the parties or the Ministry of Labor has resorted to the court before or during the trial, the court may decide to call off the strike or lock-out if it considers such action necessary.

h) Postponement of the strike or lock-out by the government: Article 20 has enumerated the situations and areas in which strikes and lock-outs are not permitted. What is more important as far as the restriction of the right to strike or lock-out is concerned, however, seems to be the authority vested in the government by Article 21 to deter such action for at most one month if it is liable
to endanger the national security or health. Following this postpone-
ment, the government shall ask the Supreme Arbitration Board to
investigate the situation and declare its advisory opinion. The
government may then postpone the strike or lock-out for at most
sixty more days. In this case the dispute is to be referred to the
Supreme Conciliation Board.

The legislature has thus empowered the government to postpone
the strike or lock-out up to three months. In the report of the
Parliamentary Committee, it is mentioned that «similar powers are
also wielded by governments in some democratic countries like
England and the United States.»

Following the description of the procedural aspects involved in
calling a strike or lock-out in Article 23, the law emphasizes in
Article 24 that workers who are affected by a strike or lock-out
action have to leave the workplace. This implies that sit-down strikes
are illegal. In the same manner, Article 58 prohibits slow-down
strikes, and establishes penalty provisions for those involved in an
attempt to slow down and reduce productivity.

However, the employer may engage in work or may not engage
in work those employees who have not participated in the strike
action. But, a collective agreement concluded subsequent to a strike
will not be applicable to such workers unless there are provisions
to the contrary in the agreement. Nevertheless, the rights of the
workers who shall not take part in strikes by Article 25 in order
to ensure the continuity of operations and the safety of the work-
place under certain conditions are to be protected.

According to Article 22, if one-third of the workers demand a
strike vote, a voting shall be conducted in the workplace to de-
determine whether or not the strike can be called. No strike action
shall be initiated in case that the majority of employees vote against
the strike decision. The legislature has pointed out in the above-
stated report that it is impossible and very unfair to let all workers
in a workplace suffer from a strike if only a few persons in the
key positions of a trade union have made such a decision without
the consent of majority.

26. Ibid., p. 47.
Participation in a legal strike (that is, a strike executed in accordance with the provisions of Act no. 275), or participation and agitation in making a decision for such a strike, and initiating a legal lock-out shall not justify the annulment of employment contracts. Rights and obligations originating from such contracts shall be suspended until a settlement of the dispute is reached.

The employer shall not hire new workers to substitute for those workers whose rights and obligations originating from employment contracts have been suspended within the duration of a legal strike or lock-out.\(^{27}\)

i) Arbitration: The legislature has also adopted compulsory arbitration as a procedure to settle collective disputes in cases where strikes and lock-outs are prohibited. The law has termed this the «official (or legal) arbitration.» In cases where parties are permitted to strike or lock-out, or resort to voluntary arbitration, they can also agree to call upon the services of these arbitration boards as indicated in Article 26.

The statement of policies in the draft bill has pointed out that the composition of the arbitration boards established by the Labor Code (No. 3008) and later amended by the Act No. 6298 had proven to be inefficient in helping the settlement of collective labor disputes. Since these deficiencies would even be aggravated in the event of disputes due to the more complicated and elaborate collective bargaining procedure, the legislature has tried to improve their composition and staff them with new experts capable of meeting the emergent needs.

According to Article 35 (1), the provincial arbitration board consists of the Regional Director of Labor or Deputy Director or a labor inspector, provincial director of legal works or somebody else to substitute for him,\(^{28}\) two arbitrators elected on behalf of employees and two arbitrators elected on behalf of employers. The board is to be presided over by the head of the labor court as chairman, or, in provinces where there is no labor court, by a judge who is in charge of dealing with labor cases.

27. Unlike the situation in many other countries, strike-breaking is, thus, explicitly prohibited.
28. In their previous form amended by this act, director of legal works was not included in provincial arbitration boards.
The board makes its decisions by a majority of votes of its members. If the votes are equal, the side with which the chairman votes prevails. If there is no objection to the award of the board by either one of the parties, it becomes final and binding.

The composition and duties of the Supreme Arbitration Board have also been modified accordingly. The Board which meets in Ankara under the chairmanship of the Labor Division of the Court of Cassation consists of:

(a) One of the heads of the prosecution division of the Council of State elected by its general council,

(b) A labor economist or labor law professor elected by a council of professors in the fields of law, economics and political science,

(c) The head legal advisor of the Ministry of Labor,

(d) The general director of labor of the Ministry of Labor,

(e) Two arbitrators elected on behalf of workers,

(f) Two arbitrators elected on behalf of employers.

Letters of objections submitted to the provincial arbitration board are forwarded to the Supreme Arbitration Board. However, the Supreme Arbitration Board is involved directly if the dispute is an industry-wide one and concerns workplaces in more than one province. The Board studies the documents submitted to it and may require information from the persons and authorities concerned. Its awards are made by majority vote. If the votes are equal, the side with which the chairman votes prevails.

Article 37 indicates that final awards of the provincial and Supreme Arbitration boards have the same legal effects as collective agreement for an indefinite period. They are final and binding and can be cancelled only one year after they enter into force by giving three months' notice. However, as the latter part of this article points out, when the dispute has arisen within the duration of the collective agreement due to the breach of the agreement terms, only then the decisions made by the arbitration board can be appealed to the Court of Cassation under certain conditions.
Article 39 states that the arbitrators representing employees in a provincial arbitration board shall be elected by the trade union concerned. With regard to the Supreme Arbitration Board, the confederation with the biggest membership is authorized to elect the arbitrators representing employees to sit on this Board. In the same manner Article 40 prescribes the election of arbitrators who are to represent the employers on these boards.

Article 43 describes the essentials of voluntary arbitration. The parties seem to be able to resort to voluntary arbitration at any stage of the dispute if they agree to do so, or upon the request of either one of the parties if this has been embodied in the collective agreement. However, since in normal interest disputes arising during the collective bargaining negotiations the preexisting agreement has already been terminated, this latter provision seems to be applicable only in rights disputes.

According to Article 48, the Prime Minister or one of the ministers designated by him may engage in mediation activities and try to help the parties reach a compromise at any stage of the dispute.

The last three parts of the act contain «penalty provisions,» «temporary provisions,» and «final provisions.» Article 55 lays down penalty provisions for illegal strikes and lock-outs which are aimed at influencing the policy of the government, provincial authorities or municipal units. In its final provisions the act enumerates which articles of the 1936 Labor Code as amended later in 1950 and 1954 have been abolished,29 and states a few procedures for the enforcement of the act itself.

B. Legislation on Trade Unionism

a) Employee and employer organizations: Article 1 of the new Trade Unions Act defines trade unions, regional union organizations (birliks), federations and confederations as organizations formed by employers and by persons who are considered to be employees

29. According to this provision, the articles abolished were 29, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136.
according to this act in order to protect and improve their common economic, social and cultural interests.

The right to organize trade unions and employers' organizations in a voluntary manner is explicitly stated in this article. No person or organization including the government shall compel employees and employers to establish or to refrain from establishing such trade unions or employers' associations.

The article seems to have defined these organizations in a broad manner from the standpoint of their goals. Article 5 has clearly stated that membership to such organizations shall be completely voluntary. An employee is also permitted to join several trade unions. The same principle also holds for the employer. He can join more than one employers' association in pursuing to protect and improve his economic and social interests.

b) Trade unions and multiunion organizations: In view of Article 9, employees' trade unions shall cover the employees of an undertaking or the employees of undertakings in the same branch of activity or in related branches of activity. Employers' organizations shall cover the employers operating in the same branch of activity or in related branches of activity. Regional trade union organizations (birliks) shall consist of at least two trade unions in a certain region or area regardless of whether or not they are in the same or related branches of activity. Federations cover at least two trade unions in the same branch of activity or in related branches of activity. Confederations are made of at least two trade unions, birliks or federations.

Federations are vertical organizations intended to represent the common interests of trade unions operating in the same branch of activity. They are by no means confined to a district or geographical area. A federation may, however, restrict the organization to a certain geographical area by its own constitution.

A federation can bargain merely on the industry-level if it represents the majority of the workers in that industry. Their affiliates are entitled to bargain locally. A union organized along an industrial line, on the other hand, can bargain both at the industry level and, through its branch organizations, at the local level.
A confederation should consist of at least two federations, industry-type unions or birliks. Like the previous system, the «confederation» type is intended to represent the highest level of the structure.

The legislature has set minimum numerical requirements for the formation of birliks, federations and confederations so as to check excessive splits in the trade union movement and to see to it that unions, while trying to improve the economic and social standing of their members, also take into account the economic and social interests of the country as a whole.

Each branch of activity and the branches related to it shall be determined by a regulation of the Ministry of Labor upon receiving the advisory opinion of the Supreme Arbitration Board and the employees' and employers' confederations which have the biggest membership. The types of work which do not fall into any of the categories thus determined shall be considered to belong to a category termed the «general services.»

c) Membership: Article 2 is significant in the sense that the definition of «employee» is no longer parallel to its counterpart in the Labor Code of 1936 and the Trade Unions Act of 1947. The abolition of the previous distinction between a «service contract» and «labor contract» has important implications in extending the coverage of this act. The Trade Unions Act now covers those people working both in public and private sectors, and those employed in distribution and transportation services. Not only does it comprise manual workers, but its coverage has now been extended so as to include work whose intellectual character outweighs its manual requirements. Employees working for small businesses as well as those in industry, commerce and agriculture fall into one single category in this way. Only civil service personnel in public and government employment are outside the boundaries of the definition of «employee.» They do not qualify as employees according to this act. Nonetheless, the right to organize of this category of white collar workers is subject to separate legislation. Apparently they are by all means deprived of the right to strike, bargain collectively or initiate any form of a collective dispute.

The article has also regarded as employees certain people who do not presently meet the criteria laid down, and persons who work
for a trade union but who are no longer employed. Also union members who represent employees on management boards shall not lose their employee status. With these provisions the legislature has aimed at enabling such persons to form and join trade unions and to retain their membership if they were holding one. It seems that the ultimate aim is to provide for the development of an experienced union leadership and the protection of the older workers.

Article 3 states that those persons and legal entities that employ people whom the act has termed the «employees» are deemed «employers.» They have the right to form and join employers' associations.

Persons who exercise management control over the enterprise as a whole in the name of the employer are considered to be «employer's delegates.» They have the same legal status as the employer. Such people who represent the employer have not been considered as an employee by this act even though they may have been employed by an employer- a real or legal entity- in accordance with Article 2. Apparently since only «those persons authorized to exercise management control over the undertaking as a whole» are named «employer's delegate or representative,» it is, in fact, only the top management level which the legislature has tried to distinguish from employees. Other lower management levels to which authority may have been delegated in varying degrees are intended to represent merely certain employee categories in this sense.

Article 4 has restricted certain people from joining trade unions and employers' associations. People working in religious professions, military personnel and several high level supervisory personnel in certain public enterprises, banks and other economic undertakings of the government are mentioned in this category. However, those people drafted by the armed forces only temporarily are entitled to pay their dues and other contributions to such organizations while they are in service. The rights and obligations they have as far as this act is concerned shall be suspended until they are discharged from the armed forces. It seems that since military service is compulsory for every male citizen, the legislature has aimed to provide the union with some financial stability in this way.
Articles 5, 6, 7 and 8 have laid down certain provisions concerning several aspects of membership. To provide for the democratic supervision of trade unions and employers’ associations by members, Article 8 has entitled the member expelled from the organization to appeal his case to the general assembly of the organization, and then, to a labor court. It seems that the regional Director of Labor may also take direct action in such cases to bring the suit to a labor court to protect the expelled member.

It has been stated in Article 11 that, in addition to the general requirements to qualify for membership, trade union leaders have to be Turkish citizens. They must be literate and not deprived of their civil rights. The affiliates of multiunion organizations like birliks, federations and confederations must be Turkish institutions. Foreign persons shall not occupy any leadership or administrative posts. Apparently the exclusion of foreigners and foreign institutions from leadership and affiliate positions in Turkish union organizations is based on national security considerations of the legislature.

In view of Article 20, trade union leaders and officials have been provided with protective safeguards. If a trade union leader or a member of the executive committee resigns from his post or is not reelected and wishes to be rehired, the employer has to assign him his previous job or a similar job if it is vacant or when one becomes vacant. He retains this right within the three month period following the date on which he has left his post in the trade union. It is apparent that the motive behind these provisions is to enable union officials with some sense of job security so that they can be assured of being rehired in case they lose or quit their trade union posts. The president and members of the executive committee of a local branch shall have the same privilege as well.

d) Voluntary unionism; protection of members: Article 19 states explicitly that to join or to refrain from joining a trade union or to withdraw or to refrain from withdrawing from a trade union cannot be made a condition of hiring and employment. The employer is prohibited from making discrimination between member and non-member workers in work assignment, remuneration, reward and punishment, lay-off and in other fields of employment practices. He must not discharge or discriminate against any employee for having
participated in the activities of trade unions outside the work hours or within the work hours with the permission of management.

The legislature has wanted to protect certain union practices. The article has clearly prohibited any form of union shop or closed shop clauses. Yellow dog contracts which force the employee to state that he is not a member of a union and promise not to join a union so long as he works for the particular company are made illegal as well. These provisions correspond, by and large, to those of Article 9 in the 1947 Act, except that they have now been phrased in more detail. They aim to provide the worker with full protection against the arbitrary action of the employer. The employee may invoke these provisions and sue the employer for violation of such rules. At the same time, all the rights accorded to him by the Labor Code and other protective legislation are reserved.

According to Article 17 (2 and 3), an employees' trade union cannot be made subject to the dictates and control of an employers' organization, no trade union can be established under the direction and control of an employer or employers' organization, nor can it receive financial support from an employer or employers' organization. These provisions aim to prevent the practice of «company unionism.» The article has also prohibited persons who have employee status somewhere and employer status at a different undertaking from joining employees' trade unions or vice versa.

e) Union activities: Article 14 has enumerated union activities in rather broad and general terms. However, the rights to make collective agreements and initiate and conduct a strike or lock-out action have, among others, been clearly stated.

Trade unions are entitled to submit their views to the authorities concerned, to conciliation and arbitration boards and labor courts, provide legal assistance for their members and for the heirs of members, send representatives to various organizations, establish strike and aid funds, assist in the formation of cooperative societies on behalf of members, lease, lend or donate raw and semifinished materials, tools and machinery to members, etc.

An interesting point is the emphasis placed on educational and cultural activities and research to be carried out by trade unions in order to promote productivity, national savings and investment. In this respect, the statement of policies has made the following comment:
It is held that employees' and employers' organizations in underdeveloped countries must contribute to the economic development process and to the success of the economic plans of the government. Thus they are accorded this important task as part of their educational activities. However, the actual fulfillment of such a task depends on its voluntary acceptance by these organizations. An obvious evidence of the fact that the Turkish worker has reached such a mature sense of responsibility is that a valuable group of trade union leaders has already emerged.30

The same statement goes on saying, however, that these organizations do not have to include in their own constitutions all of these activities they are entitled to perform. The exception to this is the compulsory provision for employees' trade unions only, as envisaged in subsection 3 of this article. They have to allot 5 percent of their income to activities for the advancement of the educational level of their members.

As specified in (i) of subsection 1, trade unions have been charged with carrying out such activities not merely for their members, but for «workers» in general and regardless of their nationality.

Article 15 prohibits employees' and employers' organizations from engaging in commercial activities except in the case of the undertakings formed under (i) and (1) of subsection 1 in Article 14. Thus health and recreational organizations formed by trade unions may have a profit motive, but, as the article points out, their services have to be offered to members free of charge. The cooperatives to be formed under (j) of Article 14 can, however, distribute returns.

f) Engagement in political activities: Article 16 forbids trade unions and employers' organizations from receiving any aid from political parties and other institutions connected with political parties and from extending any such aid to them. They shall not be established under the name and within the structure of any political party.

The general restriction laid on trade unions by the Act of 1947 barring them from engagement in any sort of political activities thus seems to have been abrogated by the present act. The legislature has deemed such a prohibition contrary to the new Constitution.

of Turkey. As a spokesman has pointed out in the parliament during the passage of the act:

It is generally accepted now that the authorities may have a tolerant attitude towards the involvement of trade unions in political activities in a rather broad manner, without of course aiming to subordinate the labor movement to strictly political objectives and turning it into a class struggle against the political power. For instance a union may support a political party in general elections through the votes of its members.\textsuperscript{31}

However, the same spokesman has also added that the legislature may issue certain provisions to regularize this right. As a matter of fact, this has been embodied in the above-mentioned article by the statement that trade unions shall not establish any direct financial and organic relationships with political parties.

\textbf{g) Affiliation with international organizations}: According to Article 10, affiliation of an employees' or employers' organization with an international organization no longer requires the prior permission of the government which existed in the previous system under the Associations Act. The legislature has declared that such international affiliations will help improve the benefits for trade unions and their members, and will also be advantageous for the country by serving as socio-cultural channels. \textquote{However, the criteria for such affiliations is not mere commitment to democratic ideals and freedom in a broad sense. It is also bound to remain within the limits set by our basic constitutional principles.}\textsuperscript{32} The activities of such international organizations must not be contradictory to certain principles laid down in the Turkish Constitution. Empowering the government to cancel such affiliations, if necessary, is deemed to be a safeguard for national security. However, such decisions of the Council of Ministers may be appealed to the Council of State, the final judicial authority involving the government and public cases.

\textbf{h) Trade union representatives (stewards)}: Article 20 (4a) has equipped trade unions with a significant activity, that of appointing the workers' representatives (or delegates) themselves. A trade union affiliated with the federation which has been a party

\textsuperscript{31} \textit{Ibid.}, p. 127.

\textsuperscript{32} \textit{Ibid.}, p. 116.
to the collective agreement, or the trade union which has the biggest membership in the workplace compared with other unions and which have been a party to the agreement, may appoint trade union representatives in numbers shown below unless there is any contrary provision in the agreement:

(a) two employees' representatives if the employees number not more than 50;

(b) four representatives if there are 51-200 employees;

(c) six representatives if there are 201-1000 employees, and

(d) eight representatives if there are more than 1000 employees.

One of these representatives shall be appointed as the chief representative. A trade union which has the biggest membership in a workplace may also appoint representatives even though it may not meet the requirements explained above.

The process is no longer election by the employees at the workplace concerned, as was the case under the previous system regulated by the Labor Code. They may, however, be elected by the members of the union concerned, depending on the specific provisions of the union constitution. As union-designated or elected officials, these men are intended to replace the preexisting elected workers' representatives and act as shop-stewards, the lowest level of union administration above membership at the workplace.

In addition to the safeguards provided by Article 19 against the unfair treatment by employers, shop-stewards have been accorded further protection, as (c) of Article 20 indicates. If their employment contracts have been cancelled by the employer contrary to the provisions of Article 19 above, these union representatives and other union administrators at the workplace level shall be reinstated to their positions upon their request. Following the court decision and the worker's request, the contract will automatically be enforceable again retroactive from the date of its cancellation.

i) Revenues of trade unions; dues and the check-off system: Article 22 has enumerated the kinds of trade union revenues. These are membership dues, income earned through activities to be carried out in accordance with this law, donations, and the income of their
own property. Certain restrictions have been placed on the freedom of trade unions to receive grants and financial aid. Public agencies of the government, local authorities, state enterprises and certain banks are among such institutions that shall not support unions through any financial means. The purpose seems to be to keep trade unions independent of the political and executive power as well as to let such public service agencies perform their activities without any consideration of such occupational organizations. Employees' and employers' organizations are also prohibited from receiving any aid from international organizations unless they get the government's approval.

Article 23 (1) implies that unions are no longer bound by a maximum of 120 Turkish liras annually, a sum which had previously been stipulated by the Associations Act as the maximum amount of dues a member could pay annually.

According to Article 23(3), the employer has to deduct the membership dues and the solidarity contributions from the wages of the employees upon the request of the trade union if at least one-fourth of the workers in a workplace belong to this particular union or several unions acting together. The establishment of the check-off method in this way is an important novelty for the industrial relations system of Turkey. In case that any disagreement arises as to whether the trade union really meets the requirements mentioned above, the Regional Director of Labor shall handle the dispute within three days. Its decision may be appealed to the local labor court, which shall also give its final judgment within three days.

k) Suspension of the union activities or abolition: Article 30 empowers the courts dealing with labor cases to suspend the activities of a trade union or abolish it permanently under the conditions specified. If the organization's constitution is against law, or if it violates Article 16, subsection 3 of Article 1, and subsection 3 of Article 22, the labor court shall suspend its activities for a certain length of time. On the other hand, violation of certain provisions of the Turkish Constitution may necessitate the permanent abolishment of the organization.

l) Internal administration of employers' and employees' organizations: The act has also issued certain provisions as to the conduct and internal affairs of these organizations. Article 25 has
required the meeting of the general assembly at all levels within the structure at least once in every two years, and entitled the general assembly to set the rates of salaries and other kinds of payments for trade union officers and representatives. Article 28 has laid down provisions for the records such organizations have to keep, such as financial accounts, balance sheets, etc. With regard to Article 29, they are obliged to inform the Ministry of Labor regularly every year of their finances, balance sheets, sources of income, expenditures and their performance within the past year.

Several checks have been established to see to it that opportunity for misuse of power and corruption by persons in administrative posts is eliminated. If the executive committee avoids holding the meeting of the general assembly within the time limits set by the act, or does not hold the elections in the way prescribed by law (secret ballot, etc.), any individual member may have a decision issued by the court to expel the members of the executive committee, have a new meeting of the assembly and new elections held in the shortest time possible.

According to Article 27, trade union presidents and members of the executive committee have to declare through the public notary the possessions, property and income they and their families have, both following their election and at the expiration of their careers in trade unions.

After a number of penalty provisions in Article 31, Article 32 has stated that these organizations shall be subject to the Civil Code and the Associations Act as long as they are not contradictory to the provisions of this act. Finally Article 33 has mentioned several acts and articles abolished due to the enactment of this legislation.33

To summarize the basic dimensions of the new system, we can state that legislation has placed emphasis on collective agreements, established a conciliation procedure and recognized the right to strike and lock-out with some exceptions. The right to resort to voluntary arbitration has also been reserved for the parties. With

33. These are the «Trade Unions Act» of 1947 (No. 5018); Act No. 7286 of 1959 supplementing the 1947 Act; Article 22 of the «Labor-Management Relations Act for Press Employees» of 1952 (Act. No. 5963); and Article 40 of the Maritime Labor Act of 1954 (No. 6379).
some changes in its structure and operation, the mechanism of compulsory arbitration has been preserved for those areas where strikes and lock-outs are not permissible. Legislation on trade unionism has entitled the white collar employees to organize, defined the structure of multiunion organizations explicitly, alleviated the former restrictions placed on the freedom of unions to engage in political activities and to affiliate with international organizations. Among its very important provisions are also those relating to the appointment of trade union representatives by the union concerned, and the establishment of the check-off system.

The outcome of these two new acts seems to be an elaborate legal framework designed to meet the emergent needs of the present state of the Turkish industrial relations system. Their implications, however, do not seem to be so simple as the dimensions presented in this chapter have been intended to be. The following chapter will explore some of these implications in a speculative manner.
Chapter VI

IMPLICATIONS OF THE RECENT LEGISLATION
FOR INDUSTRIAL RELATIONS AND
TRADE UNIONISM IN TURKEY

This chapter explores the possible impact of the new legislation on the industrial relations system of Turkey. The first part of the chapter tries to predict the consequences of the collective bargaining and dispute settlement legislation. The next part makes predictions as to the possible effect of the new Trade Unions Act on the trade union movement and industrial relations. Finally, the last part of the chapter is devoted to an analysis from a functionalist point of view.

1. POSSIBLE CONSEQUENCES OF COLLECTIVE BARGAINING LEGISLATION

The first article of the «Collective Agreements, Right to Strike and Lock-Out Act» is likely to contribute to the growth of trade unions in Turkey. The legislature has clearly indicated that the rationale in permitting a specific trade union to become the exclusive body bargaining with management and to make collective agreements is to strengthen organized labor by endowing it with these new activities.³

Although the act has taken multi-employer bargaining into account, it is very likely that, under the present circumstances, at least some of the bargaining will take place between the trade unions and individual employers, for employers have not been organized within their own associations and federations to the extent of matching every trade union or federation. Since the existing unions were

meager enough to cope with rather easily, Turkish employers were not forced to cooperate among themselves. Of course, as the pendulum swings to the labor’s side, employers may find it to their advantage to organize. However, a cultural factor which plagues labor as well as management, namely the alleged «individualism» of the Turk and his indifference to cooperative action, is likely to be one handicap to the development of employer organizations.

According to the law, the union authorized to conclude a collective agreement is the one that represents the majority of workers in an industry or workplace. This union is also authorized to give notification of the cancellation of an agreement. Like the Wagner Act in the United States, the legislature has created real possibilities of rival unionism with the introduction of the concept of the «exclusive bargaining agent.» One important shortcoming, the procedure of determining whether or not a union really represents the majority of workers in a workplace or industry, has not been clarified. If the majority union is not to be determined by the secret ballot of all the workers as in the United States where such elections are held by the NLRB, then what will be the criteria to find out if a union really represents the majority of workers? This is likely to cause internal strife for the unions concerned. Even if the number of workers officially registered by the union as members may be considered a criterion, it is likely that problems will arise. First, the official number of union’s members and the exact number of workers willing to delegate authority to this union may not be the same. Secondly, different unions may claim that they represent the majority in a workplace or industry. Although Article 11 provides that disputes concerning authorization shall be settled by the Regional Director of Labor or the labor court, these agencies will make decisions only after some party concerned with authorization objects, and it is not clear how such decisions will be made. Thirdly, the law is mute as to what will happen if no union has a majority


3. The same point was stressed by A. Brumthal, Assistant Secretary of ICFTU, in his letter to the president of Türk-İş, Seyfi Demirsoy. See «Türk-İş, Übeynî Genel Kurula Sunulan İdarî ve Mali Raporlar (Administrative and Financial Reports Presented to the Fifth Convention of Türk-İş),» p. 22.

at an industry or workplace. The draft bill of the government provided:

However, several unions in a workplace may individually sign collective agreements when the character of the work necessitates this.

In the absence of the aforesaid union [union representing the majority of workers], a union at the workplace with the biggest membership shall have the right of representation by obtaining the majority of the votes of workers eligible for union membership.  

This provision did not appear in the final version of the act. It follows from this that even if several unions in combination may represent the majority of workers in a workplace, such a combination will not be able to become a party to an agreement. Finally, in order to make a collective agreement covering several workplaces owned by a single employer, the trade union must represent the majority of workers in each workplace. All of these factors will make the representation process extremely difficult.

In England where voluntarism is the principle, joint discussions are held if more than one trade union is involved. In industry-wide collective bargaining, the national executive committee of the union has the responsibility of formulating demands and strategies. Where collective bargaining is at the local or regional level, the approval of the national executive may still be required, but in some unions such approval may not be necessary. In Sweden, the Confederation of Swedish Trade Unions consists of federations built on an industry basis. This means that all workers within the same industry belong to the same federation regardless of their work or skill. The Swedish approach has been aimed at eliminating the «interunion demarcations in such a way that not more than one union bargains in a workplace.» As long as it is clear-cut industrial unionism, possible rivalries are eliminated in determining which union should be the party to collective bargaining.

The advantages of having closely related trade groups in the same national union for bargaining purposes and for the conduct of

strikes and the difficulties that small craft unions could cause for other groups covered by the same employer, when they brought about stoppages, helped to crystallize LO opinion very rapidly in favor of the industrial unionism principle.8

Although the law seems to have established the essentials of industrial unionism, it has also been designed to foster rival unionism by making it possible for more than one union or federation to become established in a workplace or industry. This point has been criticized by Türk-İş and the other union circles.9 However, these provisions have induced the Turkish trade unions to reorganize themselves on a nation-wide basis. As will be explained below, Türk-İş has been engaged in restructuring the trade union movement according to an elaborate plan, somewhat similar to what took place in Sweden in 1926 and 1951 when flexible organization plans were created by Swedish unions.

The provisions on «solidarity contributions» was the result of pressures exerted on the legislature by various trade unions. By insisting that, in order to benefit from a collective agreement, nonmember workers have to pay a monthly contribution to the signatory union, the legislature has made it possible for the majority union to strengthen its finances.10 As Article 8 points out, this provision is also applicable in case the government extends the collective agreement.

Here we should note that the government is authorized to extend the collective agreement to other workers and to their employers in an industry if the workers covered by the agreement constitute the majority of workers in that industry. The union or federation entitled to make a collective agreement is, in fact, the

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8. Ibid., p. 61.
10. It is interesting to note that in Switzerland, nonmember workers who are unwilling for any reason to join the union «may have to pay, under some collective agreement, a solidarity contribution if they want to benefit from the terms of the collective agreement.» See «ILO Report.» p. 38. These contributions are then used for some agreed purpose such as financing of joint institutions, the provision of welfare amenities for the workers or support of a local charity.

The practice seems to have been transferred exactly from the Swiss system.
one that automatically covers the majority of workers in a particular industry or workplace.

The signatory union will undoubtedly benefit from the solidarity contributions paid by workers who are covered by the extended agreement, since this practice will increase its treasury. However, given the low income level of the wage-earners and their reluctance to pay dues, the extent to which this practice will be just and applicable is questionable. If the workers have no choice to accept or reject an agreement, then the coercive nature making them pay such dues can be questioned regardless of the benefits received from the provisions of extended agreement.

It would appear that the legislature, while concerned for union development, was also hoping to provide a form of economic stability with this provision. The report of the parliamentary committee has made the following comments:

Some workers may fall outside the boundaries of the collective agreement if an agreement previously concluded at a workplace level happens to cover the majority of workers in the industry, or if new employers enter the industry where an industry-level agreement has already been concluded. To stabilize the market conditions and to avoid unnecessary strikes and lock-outs, the government is authorized to extend such collective agreements. This principle also exists in the French legal system.  

It is likely that employers already covered by the collective agreement will benefit from the stabilization of labor market conditions. But this practice is likely to be resisted by marginal employers. To the extent that such marginal employers or other interest groups can exert pressure on the government, such extensions will either remain limited or will tend to be withdrawn by the government. Indeed, past experience under the compulsory arbitration system precludes one from making an optimistic prediction at this point.

Related to this matter of «extension,» a paradox seems to arise in the new legislation. Article 3 has stated that «individual employment contracts shall not be contrary to the collective agreement unless otherwise stated in the collective agreement. Provisions of

the individual contracts which are contradictory to the collective agreement are replaced with the conditions of the collective agreement. This automatically assumes that the nonmember workers will benefit from the collective agreement unless otherwise stated. The requirement that solidarity contribution be paid is not, of course, inherent in this statement. In the same way, the French labor code stipulates that when an employer is bound by the provisions of a collective agreement, these provisions apply to individual contracts of employment concluded with him. In Germany, however, the effects of a collective agreement are legally limited to the employers and workers who are members of the signatory organizations. It seems that the Turkish legislature, while adopting the precedence of collective agreements over individual contracts, has at the same time tried to benefit the signatory union by stipulating that a solidarity contribution must be paid.

With respect to the settlement of disputes concerning authorization, it is interesting to note that, contrary to the draft bill of the government, judicial bodies have been assigned the task of settling such disputes when an appeal is to be made. This practice seems to be more appropriate, not only because such disputes have a judicial character, but also because the judiciary, i.e., the labor court and the Court of Cassation, can be more efficient in reaching a compromise in such disputes than can the arbitration boards. Also, since the first level of objection involves either the Regional Director of Labor or the Ministry of Labor, it would seem more just to have the bodies of appeal be isolated, at least theoretically, from government influence.

The compulsory conciliation procedure takes place following the notification of the dispute either to the Regional Director of Labor or to the Ministry of Labor. Contrary to the previous legislation, the law has bypassed the preliminary and voluntary conciliation step which did not involve a third party. Although the present conciliation boards are to be presided over by a third neutral mediator, the role that is likely to be played by the government representative should not be overlooked. The draft bill of the government stated that his role was «to make suggestions to both parties

12. See Article 3 of Act No. 275.
for conciliation. However, the same draft bill also stipulated that in addition to the Regional Director of Labor or the labor inspector, one or two impartial conciliators appointed by the governor should participate in important conciliation meetings. All this shows the willingness of the government to intervene in the situation. Looking at past experiences, it can be speculated that the role of the government officials will tend to be more than that of giving suggestions. It is much more likely that they will take an active part in arriving at compromises. This is highly consistent with the culture's traditional dependence upon the third party role of the government.

Upon failing to reach an agreement at the conciliation stage, the parties may decide to call a strike or lock-out, as specified in Article 19. It is noteworthy that the legislature has stipulated «complete stoppage of work» for a lock-out, whereas in the case of a strike, the requirement is «complete or partial stoppage of the operation.» For example, in a situation where a union demands better conditions, the employer will have to lock-out all workers irrespective of whether they belong to the union or not, so that the operation can stop completely. This may not impair the union, but the practice is likely to be detrimental for employers, and for nonunion workers.

The principle of right to strike has been firmly established for interest disputes, but when the latter part of Article 19 refers to rights disputes, it becomes apparent that the collective agreement is deprived of a direct legal protection under the new system. In the United States, for instance, although there is no legal prohibition to strike action for such disputes, the parties, through provisions included in the agreement, usually agree to refer them to arbitration. Also, by the Taft-Hartley Act, employers and workers have been

14. Ibid., p.3.
15. See Articles 17 and 18 of Act No. 275.
16. Under the old system, since there was no real collective bargaining procedure, «rights disputes» referred to individual disputes emerging from the employment contract and labor legislation between the employer and employee. Now, under the present system, rights disputes seem to be twofold: One is of the former type to be referred again to labor courts. The other is the kind that arises within the duration of a collective agreement for which a strike or lock-out action after the conciliation step, or voluntary arbitration are to be called upon as dispute settlement measures in cases where strikes or lock-outs are permissible.
given the right to bring suits for breach of contract. In the same manner, if a strike or lock-out takes place in spite of the anti-strike arbitration clauses in the agreement, it becomes illegal,17 and the parties can bring suit for damages. In most cases management insists upon the inclusion of «no strike» clauses in the agreement, thus automatically putting the union in a position of having to disacknowledge a strike action if it takes place.

In Sweden, strikes are not allowed within the duration of collective agreements with the exception of sympathy strikes. In Britain, the situation is not different either, although voluntarism is the principle in most cases:

If the collective agreement machinery for the industry specifically states the manner in which the disputes must be handled, no strike would be authorized by the union executive until the procedures were exhausted. If there were no such provision for the settlement of disputes a strike would be permitted on any matter outside the terms of the agreement.18

The phrasing of the act as, «the violation of the collective agreement by the union or the employers’ organization or by the agitation» of either one of them implicitly covers the disputes arising from the interpretation and application of the collective agreement. Of course, this does not preclude the insertion of an anti-strike clause in the agreement. The parties may agree to resort to voluntary arbitration, or if there is a provision in the agreement that arbitration will be called upon the request of either one of the parties, then the other party has to comply when confronted with such a demand.

It is more likely that employers will try to include the latter provision in the agreements. In strike prone industries and in cases where unions seem relatively strong in their finances, employers will fear strikes brought about by the claims of unions of breach of contract. Actually, this provision may lead to serious drawbacks both for the industrial relations system and for the social system at large. The employer may claim that the union has agitated

dissatisfaction among the workers, and has thus caused the violation of the contract terms. Consequently, he may lock-out all his workers. Indeed, this provision can be abused by both sides. It is really difficult to understand why and how a legislature so reluctant to widen the scope of the right to strike has permitted resort to strike action in rights disputes in the first place and has not given priority to a legal protection.

In Sweden, rights disputes, or as Johnston terms them, «justiciable disputes,» which involve disagreement about the rights and obligations that arise from the provisions of a statute or contract, collective or individual, are solved by a legal approach. Non-justiciable disputes regulated by the Mediation Act are settled by negotiation, mediation, voluntary arbitration or open conflict. Here there is a parallelism with the Turkish legislation. However, according to the Collective Contracts and Labor Courts Act of 1928, the parties may themselves agree upon procedures for resolving such disputes peaceably, but in the last resort, rights disputes will be resolved by a judicial process before the Labor Court. During the period of validity, employers or workers bound by the collective agreement cannot resort to stoppages of work in four designated cases. In principle, however, economic pressure can be used in an area not regulated by a collective agreement while it is in force. «But the principle endorsed by the Labor Court has been that it interprets the liberties of the parties with regard to unresolved disputes in a very narrow way. The Labor Court has followed the basic rule that its function is to promote industrial peace.» Only sympathetic action and secondary boycott are permissible within the duration of an agreement.

As is the practice in other countries, it is likely that the Turkish legislature will tend to limit the use of economic pressure in such disputes and will extend some direct legal protection to collective agreements. For, although compulsory conciliation and the freedom to resort to voluntary arbitration have both been incorporated into the process, strike or lock-out may tend to become the preferred instrument if other circumstances are favorable for

such action, such as the amount of strike funds, the intensity of the dispute, the state of labor-management relations, etc. This may especially be the case at earlier stages, for voluntary arbitration is quite a novel institution in Turkey and remains to be tested empirically.

Of course, as in the Swedish system, the right to resort to voluntary arbitration may be reserved for the parties while at the same time labor courts may be assigned the task of settling them. In Sweden, the labor court does not have complete jurisdiction over justiciable disputes, since the parties are free to arrive at alternative peaceful methods of settling disputes about collective agreements. The labor court can be bypassed by means of private arbitration clauses written into collective agreements. Also, collective agreements usually contain the provision that if disputes arise, there will first be negotiations between the parties. «Only thereafter can the Labor Court accept jurisdiction. The negotiation procedure must be exhausted first. But no direct action can be taken over justiciable disputes, and the Labor Court is a final court of judgment. No appeals can be made against its decisions.»

However, if the Turkish legislature broadens the jurisdiction of labor courts in justiciable disputes, their decisions can presumably be appealed to the Court of Cassation. Since, as stated in the latter part of Article 37, the awards made by the voluntary arbitrator in such rights disputes can be appealed to the Court of Cassation, the final review of the labor court decisions should be made by the same judicial body.

In Article 19, the court has been empowered to call off a strike or lock-out initiated over such disputes, but this is only a limited and indirect power to be wielded upon the application of one of the parties or the Ministry of Labor. This, indeed, is a very complicated process, and, although designed to protect the parties by empowering them to use direct economic action and, thus, to achieve their objectives faster than a labor court can offer them, may lead to frustrations for almost all units of the industrial relations system.

23. Başarı, pp. 38-39. Apparently the court's intervention here is aimed merely at determining the legality of the direct «economic action» initiated by the party concerned.
During the negotiations for determining the areas where strikes would be permitted, the employers applied tremendous pressure to increase the number of exceptions. However, most of the restrictions they tried to impose were not incorporated in the final version of the Act. But, the prolabor circles could not prevent the inclusion of such items as (3) and (8) of Article 20, which prohibit strikes in all hospitals and educational institutions. There are, of course, profit-making and privately owned hospitals, clinics, etc., and educational institutions which benefit from these restrictions. They employ some workers whose stoppage of work would not disrupt the operation completely. These institutions are not likely to suffer from a strike to such a considerable extent as to make the discontinuance of their services necessary, and, therefore, it may be considered unjust and illogical to exclude such employees from the right to strike.

The act does not entitle civil service personnel to strike. When the restriction was extended to all kinds of public service employees in the draft bill, there did not seem to be any agreement. It can be argued that in an economy where state enterprises play an important role and engage in many activities, many of which cannot be regarded as real public services but merely as profit-motivated operations, it would be unfair to deprive workers in these areas of the right to strike. As a result of reactions, the restriction was partially eliminated. It is now confined only to some of the important activities performed by the government and by local authorities, provided that the occupation has the characteristics of a public service in a narrower sense, as laid down in Article 20 (5).

Article 21 empowers the government to intervene when a strike or lock-out threatens the national health and security, and to defer a strike for a period of up to three months after having the advisory opinion of the Supreme Arbitration Board. It seems that the rationale underlying such a government intervention is not the same as that which prompted the Taft-Hartley Act in the United States. However, in order to justify this clause, the report of the Parlia-

24. See Article 20 of Act No. 275.
25. Statement of Professor Orhan Tuna, personal interview.
27. See Article 21 of Act No. 275.
28. Başarı, p. 47.
mentary committee has referred to the national emergency disputes envisaged by the Taft-Hartley Act. In the United States such restrictive measures were taken to limit the allegedly growing power of organized labor, and, thus, to counterbalance the disturbed power structure. 29 It is obvious that, since in Turkey trade unions were weak, the pendulum would be expected to swing just the opposite way and consequently legislation should logically try to strengthen labor's position instead of limiting it.

The real motive seems to be the deep-seated desire of the government to play its third party role, especially in limiting the use of such a weapon as the strike upon which society has always looked with fear. It is obvious that the government will try to restrict the expansion and limit the possible damages of future strikes which can shatter the economic and political system and harm the public interest. But just who will define and determine the public interest is not clear.

The above article has been severely criticized by Türk-İş. 30 It is very likely that, to the extent that employers and antiunion forces can exert pressure on the government, the Council of Ministers will tend to interfere with any significant strike action to put such a postponement into effect. 31 Another undesirable condition for labor has been stated in Article 20 (13) which empowers the martial administration in a region to suspend the use of a strike or lock-out action. 32

31. As a matter of fact, the government has recently postponed an important strike, exerting the power accorded to it by this article. See <Ataş Grevi Bir Ay Durduruldu, (Ataş Strike Banned for One Month),» Milliyet, January 10, 1964.
32. The martial administration has interfered with several strike attempts. See, for example, «Sikyönetim Komutanlıgın Bildirisi (The Announcement of the Martial Administration),» İsweren, Vol. 2, No. 2, November 1963, p. 22.
With respect to authorizing a certain organ which can initiate, continue or call off a strike, the same problem involved in determining which union shall be the party to collective bargaining if no union represents the majority is likely to arise in naming a trade union authorized to strike within the duration of the agreement already in force. Maybe in this case we should accept the principle set forth in the final draft before the act was passed, that is, the union deciding to call a strike must secure the approval of a majority of workers by a secret vote if it does not represent the majority in membership terms. The unions seem to be opposed to such a provision, however, and claim that binding the strike decision by a secret voting procedure will increase the employer's chances of diverting some workers to his side against the strike decision. However, such voting procedures are found in various other legal systems. Because the strike decision concerns the membership interests very closely, a strike vote is conducted in most American trade unions. In Sweden, in most occasions, the trade union concerned conducts a vote among its members as to whether or not a strike should be called. According to the statutes of the LO, however, this is not necessary. «A strike can be called even without a vote and if there is a vote the board of the trade union is not bound by the result.» In England, a strike vote is not essential, but is called upon under certain circumstances.

Türk-İş also opposed another provision of the final draft which stated that the employer could operate his workplace by workers who have not participated in the strike. The view of Türk-İş was that the strike decision should also bind the minority. Nonetheless, the unions were not able to have this point inserted into the law. In line with the practice in other countries, the employer is free «to engage in work or not to engage in work those workers who have not taken part or who have given up to take part in the strike.» In other systems there can also be found provisions similar to those of Article 25 which lays down certain practices to ensure the continuity of operations under certain conditions. For instance, in

33. See Article 22 of Act No. 275.
35. Ibid., p. 44.
Sweden, «protective work is exempt from economic sanctions and enjoys neutrality, irrespective of which side takes the initiative in a dispute.» 37

Another provision which was criticized, although it did not cause as much resentment, was the prohibition of slow-down strikes. 38 Indeed, since slow-down attempts are considered to be part of a strike action, they should be deemed illegal where strikes are illegal, and legal where strike action is legal. 39 The act does not seem to have laid down any provisions with respect to sympathy strikes and secondary boycotts. It seems that once they happen they will automatically fall into the category of illegal strikes.

Compulsory (official) arbitration, which has to be resorted to after the conciliation step in cases where strikes and lock-outs are not permissible, has been codified in articles from 35 to 43. At present the provincial arbitration board is composed of seven men, and the Supreme Arbitration Board of nine. The number of board members has, thus, again been made an odd figure as in the system prior to the amendment of the act (No. 3008) in 1954. Although arbitrators representing both employees and employers will sit on these boards, it is clear that the situation is far removed from a bargaining context. Although the judiciary will preside, government representatives are likely to influence the decisions which will have the same legal effect as a collective agreement over an indefinite period. However, if the parties so desire, they are permitted to take the case to a voluntary arbitrator whose award will have the same legal effect as that of the foregoing.

In the previous system, the activities of such full-fledged tri-partite boards were more limited. Now, in addition to arbitration, they have new tasks, such as the Supreme Arbitration Board studying the case of the postponement of a strike by the government. The unions are also accorded new tasks that they did not perform under previous legislation. As Article 39 points out, arbitrators representing employees on the boards shall be elected by the union or federation concerned.

38. See above, p. 123.
39. For the view of ICFTU on this and the proposed legislation, see «Türk-İş, Beşinci Genel Kurula Sunulan İdari ve Mali Raporlar,» p. 26.
As Article 26 specifies, the parties may designate the provincial and Supreme Arbitration Boards as agents for voluntary arbitration. In a country like the United States, for instance, parties try to minimize government intervention, and private arbitration clauses are very common in collective agreements. But, due to the important role of government in the handling of conflict in Turkey, these official arbitration bodies will probably become very helpful even when it comes to voluntary arbitration. Besides this, individuals specialized in private arbitration do not currently exist in Turkey.

If the parties have resorted to official arbitration boards for the settlement of rights disputes, the awards made should also be granted the right of appeal to the Court of Cassation, just as the decisions of private arbitrators on rights disputes can be appealed to the same judicial authority for procedural reasons as suggested by Article 37. Article 48, which refers to the mediation of the government, is quite indicative of the traditional third party role that the government plays in conflict settlement. Although government is by no means referred to as a decision-maker, its mediation may have far-reaching consequences, depending on the specific time and issue.

2. POSSIBLE CONSEQUENCES OF THE TRADE UNIONS ACT

A. Structure

In anticipation of using the strike weapon and collective bargaining more effectively, Türk-İş decided to reorganize the existing

40. With respect to the appeal of private arbitration to other industrial relations systems, Professor Windmuller says:

Some components, however, are so closely linked to the operation of the system as a whole that they do not seem to lend themselves to export, no matter how successful in their own settings. The use of private arbitration in the grievance procedure under American collective agreements has, as far as I know, found no acceptability abroad although it is a unique and outstandingly successful achievement of the American industrial relations system.

See John P. Windmuller, <Model Industrial Relations Systems,> p. 15.

union structure on the basis of national industrial unions even before the new legislation was enacted. A "committee on reconciling and eliminating conflicts in reorganization" was set up on the assumption that such an attempt could lead to various problems and disagreements on the part of the already affiliated and affiliating unions. After numerous negotiations the following decisions were made:

(a) Unions in Turkey must be reorganized within nation-wide units, and their activities and finances must be integrated.

(b) The existing federations must be turned into national entities, within at least three years.

(c) The occupations of a secondary nature must be integrated into the main industries to which they logically belong.

(d) The national unions to be affiliated to Türk-İş shall be organized within 28 categories.

This drive towards centralization was instigated as a reaction to the principle of rival unionism envisaged in the new legislation. Türk-İş began to criticize the legislature for encouraging more than one union in a workplace or industry. Such encouragement was contrary to the principle of pure industrial unionism which, in the view of Türk-İş, should involve the incorporation of all crafts and occupations in an industrial category or branch of activity within one union. Türk-İş claimed that the concept of rival unionism was aimed at weakening the trade union movement. Whatever merit this argument carries, it is obvious that such a contradiction, that is, industrial-national vs. rival unionism, both of which have been made possible by the new legislation, is apt to undermine the efforts to create a more effective, clear-cut and simple trade union structure. The historical trends giving rise to rival unionism in the United States, for example, were quite different from the legislative, economic and social characteristics prevailing in Turkey. Whereas craft unionism was well established in American labor from the very beginning, the Turkish legal system, even the earlier legislation, had to take into consideration the principle of industrial unionism. And,

according to Türk-İş, unless industrial unionism was based on a nation-wide centralized structure, it was apparent that rival unionism would lead to internal struggles and strife within the labor movement.

In December 1961, a reorganization committee was formed by Türk-İş. The committee, after reviewing the structures of various European labor union movements, prepared a report, laying down the essentials of the «reorganization plan.»

This report suggests that, in its present form, Turkish trade unionism is characterized by a large number of unions representing only a small membership percentage of the total work force. Unions rivalling each other are in constant internal conflict. There are personal struggles among the leaders. The situation has been described within three categories:

(a) those organizations affiliated to Türk-İş;
(b) unions not affiliated to Türk-İş;
(c) nonunion workers, and their position and attitudes towards unionization.

The affiliated organizations fall into four categories according to the same report:

(a) regional organizations (birlikler);
(b) federations;
(c) directly affiliated locals;
(d) locals which have been enlarged due to certain technological changes, and which represent a unique category. This category is what the 1963 legislation has defined as the unions organized along an industrial line.

The report described these organizations as weak and, with a few exceptions, far removed from an ability to perform the new activities expected of them. Often two or more unions were formed in the same branch of activity, and these were competing with each other. They were financially weak and, thus, were incapable of

45. Ibid., pp. 76-80.
supporting the multiunion organizations and Türk-İş above them.\textsuperscript{45} It is stated that since birliks were representing several branches of activity, their inclusive character and weak financial resources are likely to be very ineffective when new tasks such as collective bargaining will be the main focus of a free trade union movement in Turkey. Therefore it is believed that there is no reason for their survival, and they must be abolished.

According to the report, federations do not seem fit for the new industrial relations system either, except perhaps a few of them already organized on a nation-wide basis. The aim of Türk-İş is to expand the scope of all federations so as to cover each branch of activity under a national union.

The directly affiliated unions, on the other hand, seem to infringe the principles of representation through bypassing other levels and joining Türk-İş directly. According to Türk-İş, once all unions are reorganized on a national basis, there will be no need for direct affiliation since it is believed that they will automatically fall into the category to which they logically belong.

The fourth category mentioned above had emerged as a result of certain changes which have occurred in the structure of some branches of activity. When the pre-existing locals in a number of branches, which previously were small-scale industries, became incapable of adjusting to the structural growth of such branches, these locals were enlarged so as to represent them more effectively. These are referred to as «Turkish-type trade unions.» But, although they are centralized to some degree, the area they cover is not nation-wide and, therefore, there will be need to amalgamate and reorganize these unions as well.\textsuperscript{47}

To coordinate the reorganization campaign, Türk-İş, with the financial and technical assistance of ICFTU, established six regional offices. Using its own resources, Türk-İş formed a seventh regional office.\textsuperscript{48} These regional offices began to perform the task of merging small units within each industry in order to form strong and effective national unions which were to be affiliated with Türk-İş.

\textsuperscript{46} Ibid., p. 77.
\textsuperscript{47} Ibid., p. 78.
\textsuperscript{48} «Türk-İş, Confederation of Turkish Trade Unions,» p. 11.
At the inception of this attempt at reorganization, Türk-İş leaders were very enthusiastic about adopting the German model which was based on a centralized network of sixteen national unions, but they later decided that the number of units had to be raised up to twenty-eight. The technical difficulties encountered in determining the number and structure of industrial categories may be one reason of the failure to keep the figure of industrial branches at a lower level. Political factors such as rivalries among unions also seem to have resulted in a number far more than what was originally planned and anticipated.

Türk-İş, in order to maintain its freedom in determining the industrial categories itself and, thus, to have strong national unions, had insisted on the exclusion from the Act of the point that the Ministry of Labor will articulate and define these industrial categories. This demand was rejected by the legislature. According to Türk-İş circles, government’s aim was to prevent the emergence of large and strong national unions by means of retaining the right to define these categories in a narrower sense and, thus, keeping the number as high as possible.

As a matter of fact, when the Ministry of Labor issued the awaited regulation, this number turned out to be 36. However, Türk-İş declared that 19 of these categories were in closely related branches anyhow, and, when combined, the figure could become as low as 25. It designed a list, trying to combine those categories of the Ministry of Labor which fell into supposedly related branches, and came up with 25 categories.

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51. See above, p. 128.
However, at that stage of the reorganizing campaign, there seemed to be 34 industries represented by Türk-İş affiliates in the form of federations and national unions. These were: 56

**Federations**

1. Federation of Hotel, Restaurant and Amusement Workers,
2. Federation of Food, Beverage, Tobacco and Allied Workers,
3. Federation of Turkish Railway Unions,
4. Federation of Turkish Transport Workers,
5. Miners’ Federation of Turkey,
6. Federation of Turkish Defense and Allied Workers’ Unions,
7. Federation of Metal Workers,
8. Federation of State Highway Workers,
9. Federation of Energy, Water and State Irrigation Organization Workers,
10. Construction Workers’ Federation.

**National Unions**

1. Textile, Garment and Knitting Workers’ Union,
2. Petroleum, Atom and Chemistry Industry Workers’ Union,
3. Sugar Industry Workers’ Union,
4. Dock and Ship Construction Workers’ Union,
5. Port and Harbour Workers’ Union,
6. Metal Workers’ Union,
7. Leather Workers’ Union,
8. Rubber Workers’ Union,
9. Public Services Workers’ Union,
10. Seamen’s Union,
11. Civil Aviation Workers’ Union,
12. Celluloid Workers’ Union,
13. Journalists’ Union,
14. Press Technicians’ Union,
15. Cement Industry Workers’ Union,

56. *Türk-İş, Confederation of Turkish Trade Unions,* pp. 9-11.
16. Agricultural and Farm Workers’ Union,
17. Bureau and Clerical Workers’ Union,
18. Wood Workers’ Union,
19. Health Employees’ Union,
20. P. T. T. Radio and Television Workers’ Union,
21. Soil Products Industry Union,
22. Energy and Road Construction Workers’ Union,
23. Graphical Industry Workers’ Union.57

This structure is intended to be highly centralized and clear-cut. The unification of organizations at all levels will probably reinforce the finances of multiunion organizations.58 The new structure also seems to be in line with the requirement for centralism which is inherent in the political and administrative organization of the Turkish society. However, how much of the power will be wielded by Türk-İş and how much authority will be delegated to the national unions is not clear enough for a final judgment at this point. Türk-İş seems willing to coordinate almost all activities of the lower levels not only with respect to bargaining issues, but also in terms of other social and political activities.59 The relative prestige that Türk-İş has gained as a result of its endeavors in the passage of the new legislation seems to have facilitated this centralization process. Moreover, the fact that federations could never gain enough power in the past is also an asset for Türk-İş.

At present, structural changes are occurring constantly, and this dynamic atmosphere is likely to continue. Some of the affiliates of Türk-İş are being abolished, and some are amalgamated with others so as to adjust the trade union structure to the new organization plan. Although Türk-İş insists that the existing unions should automatically fall into the categories to which they logically belong, jurisdictional disputes as to which union belongs to what category are likely to continue in the future. This is evidenced by

57. Apparently the last category which has not been mentioned in this list is supposed to be the «general services» into which those workers who do not qualify for any of the above-mentioned branches fall.
58. «Unity in mind, unity in cash» has become a slogan of this campaign recently. See, for example, «Türk-İş, Beşinci Genel Kurula Sunulan İdari ve Mali Raporlar,» p. 84.

Another slogan is «Fewer unions, more members.» See, Ibid., p. 80.
59. Ibid., p. 82.
the recent conflicts which arose in determining the number of industrial categories and resulted in a number far above what was initially planned. It is obvious that logical considerations are apt to remain on paper. Even if the structure becomes well-established in the future, technological changes will alter the number and composition of these occupational categories.

It has also been proposed that the term Confederation should be dropped from the name of Türk-İş. The change from «federations» to national unions, and from «Confederation» to a national center like Türk-İş, is said to be in line with the terminology of western trade union movements.

B. Membership

The recognition of the white collar employees' right to organize by treating the «employee» and the «employment contract» in a broader manner in Article 2 is likely to increase the strength of the trade union movement. Since industrial unionism is envisaged in the law, white collar workers are supposed to join the same union in a branch of activity along with blue collar workers. However white collar unions are being formed in certain areas within the category of «Bureau and the Clerical Workers' Union,» a national designed for office employees. Even though this organization drive may be quite ineffective because of the reluctance of the white collar employees to organize and affiliate to Türk-İş, especially in a society where education and social status are highly valued as symbols of distinction from blue collar jobs, recognition of this right will contribute to the status of trade unions in Turkey.

The membership of Türk-İş in the 34 branches of activity rose to 420,000 as a result of the new campaign. This figure does not include, however, membership in unaffiliated organizations. When the campaign began, the number of unions affiliated to Türk-İş was 400.

Article 19, which prohibits «closed shop» and «union shop» clauses like the previous legislation, is, of course, a handicap for
trade unions as far as membership is concerned. When the Taft-Hartley Act made closed shop contracts illegal, trade unions had already taken the advantage of such security clauses. And, moreover, the Taft-Hartley Act did not abolish the union shop practice but rather left its regulation to individual states. 63

Although the legislature has aimed to protect individual freedoms by prohibiting union security practices, such as the closed shop and union shop, it is obvious that a union, concerned with its own security, will do its best, through indirect means, to make union membership a condition of continued employment. As an eminent trade union leader has pointed out, trade unions seem determined to struggle against those who plot to disrupt their unity, and will do their best to exclude the nonmembers from the concessions of a collective agreement no matter how willing they may be to pay the solidarity contributions. 64

The provisions of Article 2 which entitle those who are no longer employed to join and form unions and to retain their official posts in trade unions 65 will probably lead to desirable consequences as far as union membership is concerned. The act also removes former restrictions and entitles members drafted by armed forces to retain their relations with unions as far as the payment of dues is concerned, and establishes the check-off practice. 66 These will undoubtedly bring about a growth in union finances.

One might argue, however, that the check-off system is likely to impair the close relations between unions and membership by entitling employers, and not the union, to contact workers directly. However, given the present circumstances, the advantages of check-off seem to outweigh its disadvantages since the collection of dues will be more efficient under this system.

63. Pelling, pp. 190, 205-206. In fact, right to work laws prohibiting union shop clauses have been enacted only in Indiana, and in some of the less industrialized states.
65. See above, p.p. 128-129.
66. In the United States, the check-off of dues was forbidden by the Taft-Hartley Act except with the worker’s written permission. The Turkish law does not require this written permission of the worker.
If union leaders can take advantage of the Turkish worker’s loyalty to and dependence upon the immediate superior and if they can develop a similar sense of belongingness in him on the organization level, they can increase his identification with the union and perhaps stabilize membership in the long term.

C. Leadership

Operating amid very many difficulties and deprived of certain rights denied to them for a rather long time, trade unions and particularly their leaders are naturally very eager to operate more effectively. However, although the pre-existing leadership used to demonstrate substantial capacity to lead and influence members, changes in tasks may necessitate the replacement of the present militant but uneducated type of leadership with perhaps an equally militant but better-educated group of leaders who can employ collective bargaining techniques more effectively. However, it seems that unions will have to meet their need for expert knowledge from sources other than the unions themselves, at least for some foreseeable time. While white collar employees are permitted to organize, they presumably will be quite reluctant to join unions, or to merge with blue collar unions in certain industries, and, thus, take over administrative positions. In the first place, all of the obstacles to organizing white collar workers are present in Turkey. Moreover, there is an even greater class distinction between white collar workers and blue collar workers in Turkey than in many other countries.

In spite of the fact that leadership positions have been generally stable and frequent turnover among the top posts has been rare in the past at the Confederation and federation levels, with some exceptions membership is likely to feel some pressure to change the existing leadership structure. Not only may the lack of required skills at top levels be a reason for this change, but also the existing conflicts and factionalized views may accelerate this process. If we consider Lipset’s proposed concepts of «organized opposition» and «internal conflict» in order to maintain or revive a democratic process in trade unions and to alleviate the effects of Michel’s «iron law of oligarchy», it seems that now is the proper time for the

manifestation of dissatisfaction with present leaders in Turkey. However, one of the factors strengthening the power assets of the leaders, as pointed out by Michels, is present at this stage of Turkish unionism, namely, the «incompetence of the masses.» It may be argued that internal conflict, if not initiated by competent forces, may easily become harmful for the vigor and unity of the labor movement at this initial stage. The present leaders will, in any event, have to make concessions to members regardless of how competent or dedicated they are. Thus, oligarchical tendencies may, in fact, be considered helpful in the short run, since alternative and potential leaders with better (or even, in some cases, just equal) skills than those in power do not exist. But the vicious circle arises when, in the long term, this will be taken for granted and will establish itself as a well-entrenched pattern, thus resulting in minimum turnover. As a matter of fact, at the local level there seems to be a fairly high rate of leadership turnover. As far as participation is concerned, a considerable amount of membership interest has been noted in union administration and elections. «There is considerable democracy in union affairs, and the rank-and-file participate actively. The evidence of abundant devotion to democratic principles is doubly striking in a society where political democracy is new, and authoritarian traditions are deep-rooted.»

The new safeguards provided by the legislature in order to reassure leader that he will be rehired if he is not reelected is likely to weaken his resistance to democratic principles. Nevertheless, on the federation and confederation levels, membership participation becomes meager, and leadership positions tend to be occupied by

68. As a matter of fact, a number of trade union leaders in Turkey have proven their capability and dedication to membership interests. They have educated themselves and are very effective public speakers. In a survey conducted by Rosen, Bahir Ersoy, the president of the Istanbul Textile Workers’ Union and the Textile Federation (now a national union), led the list. He was named as the «most accomplished, sophisticated, and effective union leader in the country, in the judgment of almost all observers.» Sumner Rosen, «Turkey,» Labor in Developing Economies, Walter Galenson, ed., p. 289.

69. Ibid., pp. 288-289. However, on the local level, one might argue that the deep-rooted deference to the immediate authority may reverse this prediction to the opposite direction.

70. See Article 20 of Act No. 274.
the same persons. Due to the prestige and status they have begun
to gain at these posts, the importance of which has tended to
increase in recent years, these people are likely to consolidate their
powers and vested interests in these positions. Centralization of the
structure is likely to reinforce this process. While bringing about
favorable results for the unity and strength of trade union move-
ment, the removal of rival unionism may as easily lead to centralized
authority posts which are far removed from the demands of member-
ship and which impair the democratic ideals on which a free trade
union movement is supposed to be predicated. However, another
important consequence of centralization, perhaps desirable from the
standpoint of the public and government authorities, may be cited
here. It is likely that centralization of authority may inhibit future
tendencies for corruption in locals. As Lipset has stated:

Corruption in American unions and other institutions is more
prevalent on the local than on the national level. Where lower
level officials such as union business agents or municipal inspectors
deal directly with businessmen the possibilities of undetected
corruption are much greater than in relations among the heads of
major organizations.71

D. Activities

As a result of the new rights accorded to them, such as collective
bargaining and the use of the strike weapon to support it, it
seems that the main focus of trade union activities will center
around economic tasks.

However, while legislation has been designed to foster industry-
based collective bargaining, it has, at the same time, placed emphasis
on quasi-American bargaining techniques and bread and butter
features of trade unionism which necessarily involve local units to
a considerable extent. It seems safe to say that under the present
conditions—centralizing union structures, strong and stubborn em-
ployer units, etc.—it will be more desirable for unions to bargain
with managements in such centralized entities as nationals. Nation-
wide bargaining, since it will cover the more stubborn, resistant and
antiunion employers automatically, is expected to be more effective

71. Seymour Martin Lipset, «Trade Unions and Social Structure» Industrial
in raising the income level and in standardizing the working conditions of larger numbers of wage-earners.

Also, the newly emerging activities will help unions to focus most of their energies on those activities directly relevant to the primary goals of a workers' organization. Thus, such activities as making concessions to the party in power and other disrupting partisan activities both inside and outside union organizations are likely to diminish. However, unions will still be able to play an indirect role in political activities within the limits set by the new legislation. Although establishing financial ties with any political party has been forbidden, this will not preclude some unions from lobbying and supporting pro-labor parties, such as the Labor Party (TİP). This is already anticipated by various circles.

In fact, Türk-İş has already been engaged in such lobbying activities. «In order to have better legislation for its members, the Confederation closely follows discussions in the Parliament. The results of these discussions are recorded on tables indicating the attitudes of Parliament members on labor problems. These records are published regularly.» Trade unions, by informing their members of these attitudes, are expected to put pressure on political parties by the voting procedure in general elections.

A series of collective agreements have already been made in industries covering numerous workplaces. But much of the evidence indicates that managements will, at least for some time, meet union demands with a high degree of refusal and resistance. If this persists, then Turkish labor is likely to face two alternatives.

74. For negotiations covering 150,000 textile workers in 84 workplaces, see, for example, İşçi Postası, October 16, 1963. The National Union of Textile, Garment and Knitting Workers seems to be the protagonist in collective bargaining. See also, for the collective agreement covering 49,000 mine workers, Milliyet, January 12 and 19, 1964, and for an agreement which ended a long strike of Ataş workers, Milliyet, January 25, 1964.
75. As a matter of fact, various strikes have occurred recently. See, for instance, Milliyet, November 12, 1963; November 8, 1963; January 14; 1964, January 21, 1964, etc.
One alternative is the possibility of the union movement being taken over by radical and leftist elements. This occurred in France when as a result of chronic failures due in large part to an uncooperative government and hostile employers, it moved to a radical syndicalist ideology. Looking at the background of the majority of the Turkish leaders, and given the political system and national attitudes towards leftist and radical movements, this is not likely to happen.76

The second alternative is to turn to political action within a multiparty system, and to support a labor or pro-labor party through votes. Given the characteristics of the structural context, the difficulties in having interest groups represented in the Parliament, the ratio of the industrial work force to the whole population eligible for voting, etc., this alternative seems difficult to achieve. Therefore, since voting patterns cannot change overnight, this second alternative is not likely to occur either, though it may be deemed desirable both for labor and for the social system.

What is more likely, at least in the foreseeable future, is the persistence of the present state of conditions. Under these conditions, trade unions will have to cope with the daily problems of collective bargaining and will have to strive for recognition in an unfavorable environment.

As part of its activities in this new era, Türk-İş strengthened its relations with international organizations. ICFTU, together with International Trade Secretariats, appointed a joint representative to Türk-İş. The national unions are affiliated to the International Trade Secretariats which are associated with the ICFTU.

Türk-İş nominates workers' delegates to the annual conference of the ILO. It also makes nominations for Turkish workers' rep-

76. The rallies of Türk-İş and other unions against communism are indicative of this attitude. See, for example, «Türk-İş, Confederation of Turkish Trade Unions,» p. 8.

It has also been pointed out that, following the passage of the new legislation, there seemed to be a relative weakening in leftist propaganda and publications; see Bilent Ecevit, «Yarar Birliği, (Beneficial Solidarity),» İşveren, Vol. 2, No. 1, October 1963, p. 6.
resentatives to attend the specialist and regional meetings of the ILO.\textsuperscript{77}

The new check-off system and the centralization of the union structure is likely to strengthen the financial position of unions and accelerate the rate of bureaucratization, with a tendency to hire a larger number of full-time union officials. As a matter of fact, one of the consequences of such a new and elaborate system as this one seems to be the need for expertise in grievance procedure, collective bargaining techniques, etc.\textsuperscript{78} In fact, Türk-İş and several other national unions have already strengthened their staff and established research departments.

In addition, Türk-İş has initiated a number of labor education activities. These are carried out at different levels and are intended to cover a wide variety of topics. The technical assistance and cooperation extended by such international agencies as OECD, AID, ICFTU and International Trade Secretariats help sponsor part of these programs.\textsuperscript{79} It is pointed out that Türk-İş has been more successful in the field of trade union education than in vocational training.\textsuperscript{80} Türk-İş plans, however, to launch vast programs in vocational training as well.

\textsuperscript{77} Türk-İş, Confederation of Turkish Trade Unions, pp. 22-23.
\textsuperscript{78} Lipset, in his comparison of American and European trade unions in terms of the sheer number of the full-time paid officials, states that the factors leading American unions to employ more such paid full-time union officials are: the differences in the income of labor organizations, the lack of strong interest-group identification in the United States, the principle in American society that a man should be paid for his work as opposed to voluntary work as in the aristocratic societies of Europe, and the establishment of the union career ladder which further supported the practice of maintaining a large and well-paid bureaucracy and leadership core.

See his Trade Unions and Social Structure, pp. 92-98.

In addition to these factors, one of the important reasons seems to be the rather complex and elaborate grievance procedure of the American industrial relations system. A complex regulatory labor legislation like that of the United States, as opposed to the more protective labor legislation characterizing Europe, also supports this tendency.

\textsuperscript{79} Türk-İş, Beşinci Genel Kurula Sunulan İdari ve Mali Raporlar, pp. 105-111.
\textsuperscript{80} Ibid., p. 109.
Various reports indicate that the future will see a proliferation of such educational programs as envisaged in the act under Article 14. Subsection 3 of this article has compelled only the employees’ trade unions to spend at least five percent of their revenues to improve the cultural and educational level of workers, and has not placed the same burden on employers’ organizations. Although such expenses may not be desirable in the short term, it is obvious that in the long run the practice will be helpful for a vital and strong trade union movement. Given the low level of sophistication and knowledge of most employers, the imposition of the same practice on employers’ organizations would also appear to be desirable for a better and more harmonious industrial relations environment. If employers delay any longer in establishing educational programs, they will have to deal with union representatives who are more sophisticated than themselves, even in areas concerning management. This has already become an observable pattern in some parts of the country.

Unions have recently engaged in cooperative activities and in other efforts in order to increase their funds for aid to their members. Türk-İş has tried to realize a «social housing project» in cooperation with private and public authorities.

But perhaps the most striking field of activity for the trade unions, and particularly for Türk-İş, is the time and effort spent in legislative halls. In a number of legislative proposals, Türk-İş is preparing its own drafts and submitting them to the Parliament. These cover such proposals as the «agricultural act,» «unemployment insurance act,» «social security act,» «labor courts act,» etc. Türk-İş has insisted upon the revision of the minimum wage regulations, has offered opinions to the government on the five-year

81. See above, p. 131.
84. Also a new labor act had been submitted to the parliament with considerable novelties and covering almost all employees in undertakings which operate even with one employee.
85. «Türk-İş, Beşinci Genel Kurula Sunulan İdari ve Mali Raporlar,» p. 54.
economic plan, and has periodically had joint consultations with members of the cabinet.

E. Relations with the Government

Although the legislature has been criticized by labor circles on such points as compelling the unions to present their financial accounts for the inspection of the Ministry of Labor, and, thus, publicizing their economic strength vis-a-vis the government which is the biggest employer and empowering the Ministry of Labor to define and articulate the industrial categories, relations of organized labor with the executive organ since 1960 seem to have become milder and relatively friendlier than during the past decade. A mutual understanding of the common problems has increased interactions between Türk-İş and members of the government, mainly the Minister of Labor, Bülent Ecevit. Can this be regarded as a change in attitude which can enable an observer to make optimistic predictions for the future of trade unions in Turkey?

One must be hesitant to give a positive answer to this question. Türk-İş has openly declared that the attitude of administrative organs seems to be in conflict with the meaning and spirit of these new laws, and much of the misinterpretation and misapplication of the new legislation is accounted for by the mentality and mistakes of the Ministry of Labor. It is clear that the mere existence of an unbiased and sophisticated minister at the very top level cannot be regarded as a sign for permanent friendly relationships with the government. It is true that so far he has been able to insulate himself from the mentality of the lower levels and from employer pressures. But, his successors can easily shift government policy in the opposite direction.

86. Ibid., pp. 65-74.
87. Ibid., p. 53. «Türk-İş, Confederation of Turkish Trade Unions,» p. 21.
90. Bülent Ecevit is hailed by various labor and intellectual circles as the most accomplished person in striving for the passage of these new acts. See Ibid., p. 26, for example.
Nevertheless, the centralization of authority in Türk-İş can lead to an unprecedented strength and vigor for Turkish labor unions in their dealings with the government as well as with employers. But the crucial point is that it can also operate the other way around. If the government can subjugate such a central authority, which controls the whole labor union movement, to its own dictates, then the consequences are likely to be undesirable for the national and local unions as far as the bread and butter tasks of trade unionism are concerned.

It has too often been claimed that free trade unionism and collective bargaining are inevitable ingredients of a rapid economic growth within a democratic political system.\(^9\) Although it is occasionally conceded that trade unions have to keep their wage increase demands commensurate with the general productivity increases in industries,\(^2\) labor unions, once given the right to strike and bargain collectively, cannot be expected to be contented with few demands or to restrain themselves automatically. It can be hypothesized that the more autonomy national unions will have in decision-making the more effective centralization will become for them as far as the fulfillment of their protest task is concerned.

Recent evidence, however, seems to point in the other direction. Türk-İş has been successful, for example, in taking over from the government the task of receiving all the technical and financial aid extended by AID, and in allotting it to the national unions itself. It has proudly announced that it is the only labor organization in the world which has been able to get this concession from its government. In all other developing economies, AID grants are received and distributed to the national labor organizations exclusively by the governments.\(^3\). Other evidence substantiating the view that Türk-İş wants to retain a good part of the power is found in its insistence on the necessity of strict coordination between the activities of its affiliates and the Türk-İş executive committee. It also recommends that executive committees be stable and permanent so that the tasks ahead can be accomplished.\(^4\)

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92. Ibid., pp. 28-29.
93. Ibid., p. 106.
94. Ibid., p. 7.

To substantiate this observed tendency, it is interesting to note here
It can be said, however, that the centralization of authority in the hands of Türk-İş is likely to be acceptable to the government and, indirectly, to the employers even when the union movement cannot be made subject to the requirements of a planned economic development. In the first place, centralization of authority may inhibit locally called strikes. Secondly, the mere presence of a central organ to deal with may, to some degree, facilitate the prevention of large scale wage increases. Türk-İş has already shown its interest in participating in the making of the five-year plan which aims to accelerate economic growth and to realize social justice, a fair income distribution and numerous social services. It is obvious that unless labor participates in the planning process and, thus, plays a role in the social reconstruction, it is apt to encounter the fact that its demands are in conflict with the requirements of the plan. Although Türk-İş insisted on the social justice aspect of the plan and denounced the plan as lacking in this respect, it also showed a willingness to aid in the implementation of the investment programs aimed at reducing unemployment. It has stressed the readjustment of minimum wages in accordance with productivity increases as a basis for collective bargaining negotiations, but it has also demanded rapid economic development. The government can manipulate this central authority as a tool for the implementation of rapid development programs without abolishing the right to strike

a statement made by the Türk-İş president, Seyfi Demirsoy, at the fifth convention of Türk-İş, when he and the previous executive committee were reelected. After complaining that some unions were not informing Türk-İş of their collective bargaining negotiations, he said:

My friend, the General Secretary of Türk-İş, participates in the collective bargaining negotiations of our affiliates as though he is one of their officers and not of Türk-İş. He finds it necessary to perform such a task not because the leaders of our affiliates are inefficient, but because Türk-İş itself is a great name, and its representation obviously has a strong effect in forcing employers to make concessions to labor.


It is clear that the interference of Türk-İş with the collective bargaining affairs of its affiliates may impair the growth of effective national unions.

95. Ibid., pp. 65-75.
96. Ibid., p. 66.
97. Ibid., p. 69.
98. Ibid., pp. 72-73.
and collective bargaining, at least formally, as, for instance, in Ghana.99 Or the trade union movement can successfully participate in economic planning without sacrificing its bread and butter activities completely, and perform tasks similar to those of Histadrut in Israel. This combination of activities is perhaps the least undesirable of all the alternatives from the standpoint of an observer or the legislature.

F. Plant Level Relationships

The representation of unions at the plant level by shop-stewards will eliminate the dual representation which prevailed under the old system. Formerly the elected worker representatives, who did not have to be union members, could have only limited tasks and authority, but now unions are being instituted at the shop level fairly easily before such a dual representation has become a serious matter as, for instance, the problem of shop stewards in England. Also due to the fact that in Turkey there have never been rival institutions at the plant level, like works councils as in Germany and England,100 local unions will find it rather easy to consolidate their strength in the shop.

However, if the central focus of negotiations is intended to be on the national or industry level, a practice which is parallel to centralized decision-making inherent in the value system of the society,101 then the local units and shop stewards will not have much say in labor-management relations. The new act has eliminated the first preliminary step of conciliation which existed under the old system and which entitled elected worker representatives to play some initiating role in the grievance procedure. Undoubtedly this first


For «work committees» in Britain, see H. A. Clegg, *A New Approach to Industrial Democracy*, p. 15.
101. In the United States, locals could become militant as a result of the prevalence of local agreements. This was an indirect consequence of the overreaching value system, that is, decentralization of authority. See Seymour M. Lipset, «Trade Unions and Social Structure,» pp. 99-100.
step, which did not involve any third party, was wiped out just because it did not operate effectively due to the difficulties in face to face problem-solving. But the embarrassing point is that the new act does not mention any specific thing as to what kinds of tasks shop stewards are supposed to assume in dispute settlement and worker-management relations.¹⁰²

It seems that the foreman’s plight is likely to increase once these stewards, regardless of how limited their activities may be, start acting as worker representatives appointed by the union. The position of the foreman is rather ambiguous in Turkish industry. He is recruited from rank-and-file, has working class attitudes and values, and yet performs some limited management tasks on the basis of the authority delegated to him very grudgingly by higher levels. Because unionization of white collar employees was prohibited by earlier legislation in Turkey, even the foremen who had some degree of white collar status usually joined blue collar workers’ unions, as foremen in England did.

However, in Britain «there is also a separate union which caters solely to foremen and similar supervisory workers.»¹⁰³ In Sweden, on the other hand, they are not allowed, by collective agreement, to be members of the same union as the workers they supervise. In the United States, the Taft-Hartley Act deprived supervisors’ unions of legal protection by not including them in the definition of «employee.»¹⁰⁴ Foremen might join the blue collar unions theoretically, but since they were considered part of management and since, like in any bureaucratic organization, management did not want the unity of its decision-making power to be disrupted, it refused to bargain with blue collar unions unless they expelled the foremen from membership.

Assuming that on the one hand managements in Turkey will tend to maintain the foremen and delegate to them a limited amount


¹⁰⁴. Taft-Hartley Act, Section 2 (3).
of authority, they will also be compelled to prevent them from joining the blue collar unions in the event of the growing power of unions and shop stewards. This may result in an increase in the amount of authority to be delegated to foremen. Otherwise there is even the possibility that a man may be a shop steward and a foreman simultaneously, a contradictory practice against which employers have been warned.  

As a matter of fact, Article 3 (2) may lead to a number of problems for management. As a result of designating only the very top level of an organization as management (employer's delegate), all other levels down to foremen, who exert by the nature of their tasks a certain degree of authority delegated to them by the top management, are considered to be white collar employees who can form and join unions. It is clear that, as in the case of foremen, managements are likely to find it to their benefit to resist the insulation of such supervisory personnel from their ranks no matter how limited an authority they may have within the centralized nature of Turkish organizations.

Irrespective of the level at which bargaining takes place, eventually managements will have to modify their approach to labor problems, and the private companies are likely to be forced to abandon the «naive» type of paternalism. A few enterprises are likely to be leaders in terms of progressive labor policies. Although limited in number, these relatively sophisticated managers, both in the state and in private enterprises who believe in worker participation, may serve as a model for the older paternalists in creating a bargaining atmosphere. Apparently, managers in state enterprises will find it easy to adapt themselves to the requirements of the new system to the extent that the centralized authority relationships are modified in such a way that individual plants can formulate and administer their personnel policies freely.

The de-emphasis of political considerations, and the concentration on negotiations will necessitate the recruitment and training of personnel and staff whose advice will enable managements to handle labor problems more effectively. The need to call upon political

106. See above, p. 129.
authorities to initiate action on both sides is likely to diminish, along with the parallel development of a need to promote effective personnel policies that can fit the situational needs and requirements of each individual plant. In line with the development of personnel departments, new personnel tasks are likely to emerge, since collective bargaining situations will necessarily include more complex problems of wage and salary administration, new methods of recruitment, selection and placement, job analysis and job evaluation programs, etc.

3. IMPLICATIONS FOR A FUNCTIONALIST INTERPRETATION

At certain points, the possible consequences of the new legislation seem to lend themselves to a functionalist analysis. Various new practices are likely to increase the adaptiveness and effectiveness of the trade union movement. The intended or unintended consequences of several practices or structures are multiple, however. They are likely to be functional or dysfunctional depending upon the specific subunits diversely situated in the industrial relations system.

For instance, although the legislature has established the principle of rival unionism, trade unions are trying to avoid it by the reorganization of the structure in such a way as to forbid the formation of more than one union in a workplace or industry. It seems that if Türk-İş can become successful in centralizing the trade union structure, a number of unintended consequences are likely to arise. Rival unionism as envisaged by law will disappear, and this will probably be functional for the strength and unity of the trade union movement. However, from another perspective, the absence of competition is likely to be dysfunctional as far as internal union democracy is concerned. By eliminating competition and turnover in administrative posts, the removal of rival unionism may result in the deterioration of leadership qualities and the services offered to members by the trade union.

The provisions which have established birlikler will be nonfunctioning since Türk-İş has declared that they will be abolished. With the expansion of federations so as to cover a nation-wide area, national unions will emerge as structures with consequences unan-
ticipated by the legislature and other groups in the social system. Certainly such unanticipated consequences, due to the manipulation of the structure by one of the subunits of the industrial relations system, are likely to be dysfunctional for employers, and, under certain conditions, for the government. They will lessen the adaptiveness and efficient operation of these subunits by increasing the power of the trade union movement.

If unions can apply indirect pressure in making union membership a condition of continued employment, thus avoiding the provisions which prohibit union shop clauses, a number of unintended consequences are likely to emerge and will increase the effectiveness of the trade union movement as far as membership is concerned.

At this point, a few trends for future legislative amendments may perhaps be traced, for the dysfunctions which are likely to arise for the parties concerned will lead to pressure for change. They may be summarized from the specific to the more general in the following manner:

1. In regard to authorization for collective bargaining, a system of elections to determine the exclusive bargaining agent is likely to be adopted in the future.\footnote{As a matter of fact, the struggles and strife among unions claiming the right over the majority of workers have been observed in various workplaces very frequently. See, for instance, İşveren, Vol. 2, No. 1, October 1963, pp. 18-19.} But, if Türk-İş can become successful in centralizing the trade union structure so that not more than one union can bargain in a workplace or industry, then the difficulties in determining the union to be authorized to make a collective agreement and to initiate a strike will probably disappear, and the need for change may not be felt in this case.

2. The permission to resort to strike or lock-out action for rights disputes is likely to lead to dysfunctions and will undermine the effective operation of the industrial relations system. Since such disputes have a judicial character in the first place, the need for the direct legal protection of the agreement will be felt, and, in line with the practice in other countries, such as in Sweden, it will prove to be a much more efficient practice to refer such disputes to the immediate jurisdiction of labor courts upon the request of the party
concerned. Of course, along with such a legally sanctioned procedure, the freedom to resort to arbitration is likely to be sustained as preferable over other alternatives, since the arbitration process is designed to be faster. However, labor courts in Turkey may also enjoy some priority for a number of reasons. Moreover, studies are being made in the hope of improving the structure of labor courts so that they can meet the emergent needs. There is also the intent of establishing such courts in every region of the country.

3. If trade unions can accomplish their objective of centralizing the structure—and there are indications that they will—then provisions of the law on rival unionism, birliks, etc., will remain non-operative. These may not be abolished in the foreseeable future, however.

4. With regard to the future success of collective bargaining in Turkey, it seems that much will depend upon the degree to which management and labor can modify their distorted and stereotyped perceptions of each other. It seems to the writer that the degree to which the expression of labor protest will manifest itself in aggressive ways will be dependent upon and directly proportional to how tough management will deal with union demands. The need for self restraint and for a high sense of responsibility on the part of Turkish trade unionists is a frequently heard slogan nowadays. But it is equally true that employers also need the same degree of responsibility in their dealings with labor, and they must revise their labor policies accordingly. If they continue to act on the assumption that previous modes of action will be successful, they will experience considerable aggression. They will also encounter the danger of dealing with a union movement which may be gradually taken over by radical leftist elements no matter how much legislation has stressed the bread and butter aspects of collective bargaining. Although most

108. The absence of a judge-made law tradition, and the high status courts and judges enjoy, lack of specialized agencies for voluntary arbitration, etc., may be cited as some of these reasons.

Although it is believed that arbitration resolves grievances more quickly, a study by Ross suggests that the time span between the first and last steps of arbitration has tended to lengthen significantly. See Arthur M. Ross, «The Well-Aged Arbitration Case,» Industrial and Labor Relations Review, Vol. 11, No. 2, January 1958, pp. 262-271.

employers attempt to give the impression that no conflict exists in their plants and that conflict is bad per se, it is most unlikely that such policies will eliminate conflict. There are, and always will be, many conflicting demands and factions within a plant. Interests will frequently differ, and, because of the consensus-oriented nature of the culture, once these differences are expressed in a face to face relationship, we can anticipate rather violent clashes. Absence of conflict is probably more a sign of indifference or suppression than of perfect harmony. Under the present circumstances, given the characteristics of the social system, the problem is to find ways in which conflict can be handled and in which the effectiveness of the settlement can be optimized.

At this point one might argue that compulsory arbitration was fulfilling a latent function in this consensus-oriented culture. Once decentralized decision-making is introduced, the industrial relations system, deprived of the mediating role of the centralized government intervention, may suddenly break down, and unintended but latent dysfunctions may follow. These latent dysfunctions may become manifest before long, and cause dysfunctions even for labor. This is a system of highly interdependent parts. As such it cannot tolerate an extreme deviation in any sub-part. The difficulties encountered by Turkey in establishing political democracy may, thus, make themselves felt during the formation of industrial democracy.

Nevertheless, compulsory arbitration does not seem to be a desirable alternative unless the political system also changes for though it may have performed a certain latent function, it has definitely failed to satisfy certain functional requirements of labor. The other hand, political democracy seems to have become well-established and exists as an obstacle to such an alternative. In spite of the authoritarian tendencies of the culture, democracy as a political form, at least as far as voting is concerned, seems to be well-entrenched, even though the ideology may not prevail as a general way of life.

However, if continuous strikes and aggression result from the recent legislation,112 government may again feel compelled to play the role of an intervening agent so that the expression of conflict can be channelled, modified and alleviated, without perhaps abandoning the right to strike completely. Perhaps this will be done by simultaneously establishing a compulsory arbitration process. Under such a system, when a point is reached where aggression caused by the strike is clearly dysfunctional for the system, and/or for the parties themselves, government may force the parties to accept its intervention as a final stage. Such a centralized approach can easily be rationalized, as being consistent with the need for restraint and cooperation in economic development. An industrial relations system similar to that of Singapore, which seems to combine the right to strike and compulsory arbitration, could thus be adopted.113

5. Because of various contaminating factors such as the weak strike funds, or the strict control and ability of Türk-İş over its affiliates to avert any strike decision in collaboration with the government, the expression of conflict may not assume such very aggressive forms but may still require the aid of a third party. The government’s role will tend to be milder. In this case, the government or any other public entity will not act as a decision-maker, but

112. In fact, a series of strikes have occurred, some of them announced to be illegal by the authorities. See, for instance, İşveren, Vol. 2, No. 2, November 1963, pp. 21, 22, 24.

On April 6, 1964 a mass trade union meeting was held in Ankara to protest the arrest of Seyfi Demirsoy, president of Türk-İş, Halil Tunc, general secretary of Türk-İş, and four leaders of the metal workers’ union in Istanbul. Demirsoy was released on April 7. The metal workers’ leaders were arrested in connection with a strike of workers against the Singer Company. Since martial law was in operation in Istanbul where public gatherings were prohibited, the strike was declared to be illegal. See ICFTU news, PRS/14, p. 5.

It should also be noted that most of the factors cited by Ross and Hartman in explaining the weakening of the strike activity in some more industrialized countries do not actually exist in Turkey. See Arthur M. Ross and Paul T. Hartman, Changing Patterns of Industrial Conflict, pp. 1-81.

113. Statement of Charles Gumba, Judge of the Singapore’s Industrial Arbitration Court, in a lecture given at Cornell University, Spring 1963.

probably as an adviser, lubricating the dispute-settlement machinery. There will be appeals for government help, as already provided for in various articles of the act. Even with such a rather benign government intervention, a complete two-party bargaining process will probably not mature but rather some form of tripartitism will be adopted in order to alleviate maladjustments stemming from the two-party relationship.
Chapter VII

RECENT DEVELOPMENTS

This chapter aims to discuss some of the major developments that have taken place from the mid-1964 to the mid-1968 period. These developments seem to have confirmed some of the predictions made in the previous chapter as far as the impact of legislation on the Turkish industrial relations system is concerned. However, in this four-year period there has been no intervening factor of major importance which could distort the predictions made as early as 1964. Attitudes and values can not change within such a short time span, of course. Nor can the voters be expected to behave very differently within the existing multi-party system. From a functionalist point of view, therefore, the structural context is almost unchanged. Nonetheless, a summary of the major political developments seems to be a good starting point for an evaluation of the Turkish industrial relations system and trade unionism within the four year period under consideration. Following this summary, we will concentrate on some major events and tendencies that have been occurring in the labor relations field since 1964 and try to present an analysis as these developments relate to collective bargaining and trade unionism in Turkey.

1. MAJOR TRENDS IN THE POLITICAL ENVIRONMENT
   DURING THE 1964-1968 PERIOD

In spite of the proportional election system set forth by the 1961 Constitution and, with its version of residual representation intended to enable all political parties to be represented in the Parliament, the Justice Party (Adalet Partisi, that is, the party constituted by the followers of the deposed Democratic Party regime) received the majority of the votes and came to power alone, representing about 53 per cent of all the seats in the Parliament. Thus, since there was
no need for setting up a coalition government, the remaining parties, including the Republican Peoples' Party (CHP), constituted the opposition front.

Although the new election system enabled all parties to be represented in the Parliament, it still led to the emergence of a disguised two-party system, that is, the JP and RPP together represented 83 per cent of the seats in the Parliament while the other parties shared the remaining 17 per cent. This was in large part due to the fact that the multi-party system of the country was not yet predicated upon the representation of different social classes or interest groups. The great majority of the voting population, including a considerable portion of the working class probably, seemed to favor the JP. The RPP again remained to be the second strongest party, and occupying about 30 per cent of the seats and receiving the support of other small parties in major social and economic issues, represented a united front in opposition to the government.

The JP's platform stand on major social and economic matters was again quite conservative. It still seemed to represent the interests of employers and the landed aristocracy, and yet, as noted above, it could receive a broad-based support from large segments of the uneducated population as well. This was in large part due to lack of class consciousness and the now deep-rooted tradition to protest against any political grouping other than that of the followers of the deposed DP regime. This seemingly irrational voting behavior had an emotional basis dating back from the late 1940's, in the sense that the peasants and workers believed that they were always neglected or ignored by the one-party regime of the RPP and that for the first time in Turkish political history the DP regime which came to power in 1950 had bestowed dignity on them. This belief was crystallized after 1950, thereby surviving despite the change in conditions during the succeeding years.

The RPP propagated a new platform before the 1965 election. Although the RPP was renowned for its deep-rooted reformism and

1. The distribution of the seats in the Parliament was as follows; Justice Party (AP) 240 seats, Republican Peoples' Party (CHP) 134 seats, National Republican Peasants Party (CKMP) 11 seats, the Nation's Party (MP) 31 seats, Turkish Labor Party (TIP) 15 seats, New Turkey's Party (YTP) 19 seats.
was the protagonist of social and labor legislation in Turkish history, it still carried certain conservative elements, big landowners and some employers within its ranks. Under the influence of Bülent Ecevit who, as the Minister of Labor of the coalition government in 1963, was instrumental in the enactment of the 1963 legislation, the RPP adopted a new platform of democratic socialism known as the «left of center» policy. It was claimed that the failure of the RPP to win the election or at least share the government with the JP was due to the adoption of this new policy, for it had antagonized some of the elements that used to favor the RPP and as a result had alienated them from the party. Though it is difficult to assess the extent to which emphasis on the «left of center» policy accounted for this outcome, it did have a definite impact on the intra-party factionalism which followed the 1965 general election. Unity and harmony within the party had broken down anyway. So the party split into two groups. Rivalry for leadership seemingly played some role in this factionalism, and one of the splinter groups, claiming that the RPP had thus betrayed its long-established goals by adopting the «left of center» policy, broke away and set up a new party, called the Trust Party (Güven Partisi).

The Turkish Labor Party (TİP), on the other hand, adopted a Marxian view and a more rigid socialistic program than that of the RPP. Because of its Marxist leanings, it was frequently accused of being a communist-infiltrated organization. Several protagonists of the Party and various writers did stress, however, the Party’s commitment to the democratic form of government, that is, so they asserted, in case it came to power, it would definitely respect the requirements of the multiparty system. But this never seemed to be taken for granted by certain intellectual circles committed to democratic ideals, and in this respect the RPP seemed to be gaining ground in winning the allegiance of at least some of the educated elements of the society. Thus there seemed to be bewildering shifts and realignments among the adherents of these two parties, a process still continuing and likely to continue in the foreseeable future.

2. For a detailed discussion of this policy, see Bülent Ecevit, Ortanın Solu (The Left of Center), Kim Yayınları, Istanbul 1966, 120 pp.
3. See, for example, Abdi Ipekçi, «TIP Sekisinci Yılıma Girerken,» (As the TIP Enters Its Eighth Year), Milliyet, February 14, 1968.
The proportional election system (with its version of residual representation enabling all parties to be represented in the Parliament) had made it possible for both RPP and TLP as well as other smaller parties to constitute a stronger and occasionally united opposition front against the JP government. These two parties, that is, the RPP and TLP, had occasionally similar views on such matters as land reform, foreign exploitation, labor legislation and so forth, and as these views overlapped, the criticism directed against the JP government became stronger, thus barring the adoption or implementation of more conservative measures in related matters. Though the JP had occupied 53 per cent of the seats, the election system played an important role, therefore, in having more diversified views represented in the Parliament than would have been the case had the system been based on a straight majority representation.

The smaller parties like the National Republican Peasants’ Party (CKMP), the Nation’s Party (MP), the New Turkey’s Party (YTP) and the newly established Trust Party (GP) did not differ much from each other in their platform stand on major political and economic issues. They all elaborated on the existing order and suggested to introduce only minor modifications and improvements as opposed to the more drastic changes proposed by the TLP and, though to a lesser degree, by the RPP. There has been a marked sharpening of the rivalry between the TLP and RPP in recent years, however, since both political organizations overlap each other on some of the major political and economic matters as far as their party platforms are concerned. Both organizations seem to be rivalling in order to win the support and allegiance of workers.

4. For instance, the TLP has been accusing the RPP of trying to maintain the status quo by committing itself to Western ideals and by lacking any concrete measure in its reform programs. The RPP, on the other hand, has been charging the TLP with subordinating itself to the dictates of international communism and being unloyal to the requirements of multi-party democracy. See, for example, Akis, No. 5, November 13, 1967, pp. 4-9.

peasants and other low-income groups of the social strata, and yet the support they have been able to win so far is limited in that only the educated elements of the middle class and a negligible proportion of the working-class in Turkey seem to have voted for them.

In spite of the JP's victory in the 1965 election, it has attempted to modify the present version of the proportional election system and establish a mechanism aimed at preventing the representation of smaller opposition groups like the TLP and NP in the Parliament. An attempt has been made recently to amend the existing election law and set up d'Hondt mechanism which modifies the proportional representation system so as to provide the stronger parties with more seats in the Parliament. Apparently, the attempt aims to enable the JP to rid itself of the opposition directed by smaller parties like the TLP and NP in the Parliament. It has aroused considerable criticism and resentment in the press and intellectual circles, however. While the advocates of the proposed d'Hondt system have asserted that it is intended to create a more stable and efficient legislature, the groups opposing the proposed amendment have claimed that it is apt to impair the development of multi-party democracy, and, by pushing the smaller parties out of the Parliament, a change in this direction will tend to sharpen their opposition and radicalize the TLP views even more. Some even claim that the real purpose of the JP is to amend the 1961 Constitution in accordance with its conservative aims, and that since the JP has gained majority control

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5. See, for instance, Nizamettin Erkmen, «Nasıl Bir Seçim Sistemi?» (What Type of Election System is Appropriate?) Milliyet, January 31, 1968.

It is obvious that while the proposed system aims to increase the number of seats to be occupied by the two stronger parties, that is, the JP and RPP, it is designed to eliminate the intra-Parliament opposition of the TLP and other smaller parties. It is interesting to note that, though d'Hondt mechanism is to favor the RPP as well, the RPP general secretary, Bülent Ecevit, has opposed the proposed amendment of the present election law on the ground that the RPP has always been the protagonist of intra-Parliament democracy and has encouraged viable opposition to the party in power. However, the Party's stand as a whole seems to be rather blurred on this issue. See, for instance, Abdi İpekçi, «CHP'nin Kararsızlığı,» (The Undecidedness of the RPP), Milliyet, January 30, 1968.
in the Parliament even under the present system, it need not go any further had it not pursued the purpose of «amending the liberal 1961 Constitution» which requires a higher majority vote in the Parliament.

Recently, a new election system modifying the present form of proportional representation and eliminating the parties which have not succeeded in gaining a certain amount of votes has been adopted. What is significant for the purposes of this study is the shift of power to the Justice Party, that is, to a Conservative and allegedly anti-labor political party after 1965. Moreover, the JP seems to be consolidating its power even to a greater extent by means of changing the present election system. The real aim underlying the JP’s efforts to change the election law is, so it is asserted, to amend the 1961 Constitution, a process which legally requires a two-thirds majority vote in the Parliament. It is interesting to note that the JP, like its predecessor DP, insists that it is a mass party and, appealing to all levels of the social strata, protects the rights of workers as well. Whatever merit there may be in this assertion, JP seems to be overwhelmingly conservative as contrasted with the «left of center» minded RPP or the socialist TLP. This is evidenced by its post-1964 labor practices, and this chapter which will deal mainly with several of these practices should be evaluated against the background of this conservatism.

2. DEVELOPMENTS WITH RESPECT TO THE IMPACT OF COLLECTIVE BARGAINING LEGISLATION

In the collective bargaining and trade unionism field, there was almost no significant legislative change within the four-year period under consideration. An act (no. 624 and dated June 17, 1965)

8. See the press news, March 20, 1968. Though the TLP has taken action in appealing the new election law to the Supreme Constitutional Court in order to avert it, the prospects are such that the Constitutional Court will abolish the residual representation system though it may preserve proportional representation in principle.
9. The only exception to this was the Act (No. 503, dated July 23, 1964) which amended a few articles of the 1963 legislation. The amendment was not of any significance though, since it changed merely the wording of the articles rather than their meaning and content.

In other fields of labor legislation, however, a series of new laws have been enacted within this period. The most significant of these acts is the
concerning the trade unions to be formed by civil service personnel was enacted, but as this category of government employees was denied the right to strike and bargain collectively, this act remained rather insignificant. Though civil servants established numerous unions of their own, these organizations did not become efficient even in terms of being merely a pressure group.

It is safe to say that the most important phenomenon characterizing the post-1964 period in Turkey has been the decisions of judicial organs. Since practice was new and the parties of the industrial relations system were inexperienced, labor courts and the Court of Cassation were expected to play an important role in the interpretation and application of the 1963 legislation. To what extent the courts were able to award uniform and sometimes even just decisions was, however, a doubtful matter. In fact, many court decisions have been contradictory to each other, and the Court of Cassation seems to be no exception to this trend.

During this four-year period a great part of collective bargaining activities took place on the local workplace level. Industry-wide bargaining did not develop in any significant extent. This was accounted for partly by the absence of federations and industrial unions strong enough to represent the majority of workers in an industry. As will be indicated below, since Türk-İş was not able to centralize the trade union structure, there were occasionally numerous rival unions and federations in a single branch of activity and this ultimately led to the absence of an exclusive bargaining agent. Secondly, because employers lagged far behind workers in organizing their own associations in order to bargain on an industry level, industry-wide bargaining remained rather limited and meager.

A third reason was probably the effect of court decisions as to whether or not the industry-wide collective agreements would take precedence over plant-level bargaining. It is surprising to note


There are also two important draft bills which have not passed through the Parliament yet, one on Unemployment Compensation and the other on Agricultural Labor.
that the courts and sometimes the Court of Cassation have awarded contradictory decisions in this area. A good example is the Paşabahçe Glass-Factory Strike. Because Act no. 275 had not mentioned anything as to whether or not a union could engage in local level bargaining in a workplace while an industry-wide agreement covering that workplace as well was still in effect, court decisions seemed to differ widely as to what type of bargaining would take precedence. In 1964 the judicial authority ruled that a union could not engage in local level bargaining while there was an industry-wide agreement which had already covered the glass-factory in Paşabahçe. When a similar dispute arose at the same workplace two years later, the Court of Cassation awarded a contradictory decision and ruled that not only was collective bargaining possible, but also the strike action as part of that collective bargaining should be deemed legal at the local level even though there was already an agreement covering all workplaces in the industry. The latter


11. See *Türkiye İş Hukuku Yargıtay Emsal Kararları* (Exemplary Decisions of the Court of Cassation in Turkish Labor Law), Compiled by A. B. Orhaner, p. 36-38.

The argument of the local union (Kristal-İş) was that the industry-wide agreement which had a duration of three years was a poor one and the workers of Paşabahçe had not benefited anything from it. So, representing the majority of workers at the Paşabahçe glass-factory, Kristal-İş demanded the employer to bargain with itself. When the employer refused to bargain, the union initiated the strike on the 31st of January, 1966. Türk-İş did not support this strike action on the grounds that there was already an industry-wide agreement covering the Paşabahçe factory as well and that such a strike within the duration of an industry-wide agreement would definitely threaten industrial peace at the workplace. (See the press news of April 10, 1966.)

However, several other unions (Like the Petroleum Workers’ Union, Rubber Workers’ Union, Press Workers’ Union, Chemical Workers’ Union and Metal Workers’ Union) supported both financially and morally the 2400 workers who were on strike at Paşabahçe.

The government wielded its power to defer the strike, but the union was able to avert the government’s decision by appealing it to higher judicial authorities. However, the strike ended in failure. But it was significant at least for one reason. It reinforced the unity of a number of unions
decision is likely to undermine the strength and prestige of the union which has signed the industry-wide agreement, and thus, by recognizing the precedence of local bargaining over industry-wide bargaining and claiming that industry-wide agreements are, by their nature, far from satisfying the needs of workers in a particular plant, tends to weaken industry-wide bargaining. The decision has multiple consequences, however, for union democracy and leadership as well as for the structure of collective bargaining and trade unionism, and therefore it will be treated again in the succeeding paragraphs in more detail.

and, leading to the formation of a public opinion favorable to unions, influenced the decisions of the judiciary. It led to internal strife within Türk-İş, however, and gave rise to a splinter group which later became the nucleus of Disk, a new confederation with a leftist leaning. A similar case has recently occurred in the tobacco, beverage, food and allied branches of activity. Though the industry-wide collective agreement made by the federation and covering all workplaces in that industry was still in effect, Tümda-İş, a national-industrial type union representing the majority of workers in several workplaces of the State Monopolies Administration, engaged in collective bargaining at the workplace level. The authorities, the federation concerned and management had to comply with the union's attempt since the latest decision of the judiciary had regarded the local-level bargaining in the presence of an industry-wide agreement as legitimate. Throughout the negotiations, however, the union was faced with considerable resentment and reaction by management on the grounds that concessions had already been made in the industry-wide agreement and no further steps could be taken to alter the status quo. Tümda-İş called a strike, then, but, because the parties requested the Prime Minister to intervene as a mediator, the strike decision was withdrawn temporarily. (See the press news, March 25, 1968). As in the case of the last Paşabahçe strike, Türk-İş denounced the collective bargaining and strike attempts of Tümda-İş on the ground that they were disposed to undermine the authority of the federation which had made the industry-wide agreement. Following this, leaders of Tümda-İş issued a statement, criticizing Türk-İş severely and announcing that they would file a suit against the Türk-İş leaders, for their action was to be considered strike-breaking which was illegal and therefore prohibited by the 1963 legislation. (See the press news, March 26, 1968).

In fact, Türk-İş favored the federation though this type of organization was against its principle of «central unionism» partly for political reasons. Also, Seyfi Demirsoy, the president of Türk-İş, was himself a member of the federation concerned.

For more information on this issue, see specially the paper of Tümda-İş, Yurta Sesialis, March 5 and 21, 1968. Also see Devrimeci İşçi, Vol. 1, No. 3, March 25, 1968.
An important point which led to various complications was the determination of the trade union to be authorized to bargain collectively with the employer. As noted earlier, the question whether or not a trade union really represents the majority of workers in a workplace or industry is to be determined by the administrative and judicial authorities only after some party concerned with authorization (that is, the employer and/or rival unions concerned) objects. As predicted in the previous chapter, various difficulties arose since no objective criterion had been set in order to find out if a union really represented the majority of workers in a workplace or industry. In the first place, since the authorities had to make their decision only if some party objecting the attempt of a union to bargain collectively with the employer had applied to them, there were many cases in which unions that in fact did not represent the majority of workers engaged in collective bargaining with the employer because no party concerned had filed or was even able to file an objection within the rather short period specified by the law. Secondly, in cases where an objection had been made, it did not prove to be a sound practice to determine which union was to be authorized for collective bargaining by merely investigating the related documents of the unions concerned. For these reasons, several suggestions were made in order to alleviate these difficulties. Even, parallel to the suggestion made earlier in this study,

12. See above, pp. 121, 139.
13. See above, p. 139.
15. Ibid., pp. 37-40.
16. Ibid., p. 40. Kural’s suggestions can be summed up in the following manner: 1. The objecting party at the local level should be permitted to appeal the decision of the labor court to the Court of Cassation which at the present awards its decision only on authorization disputes concerning industry-level bargaining; 2. the deadlines for the objection of the parties and for the decisions of the authorities concerned should be revised so as to provide them with a longer time span; 3. the union should notify the employer of its decision to bargain not only through a newspaper but also through the public notary; 4. the objection by the parties should be based upon the date of their actually being informed and not upon the date of notification through press and mail which seem to cause various complications and even cases of alleged fraud.
17. See above, p. 175.
a system of elections similar to the one in the U. S. in order to determine the exclusive bargaining agent has been proposed\(^{18}\). Since Türk-İş was not quite able to centralize the trade union structure so as to make it possible for only one strong union to bargain in a workplace or industry, the difficulties became even more apparent than were expected, so a need for change in the proposed directions has actually been felt.

The parties to collective bargaining suffered from the lack of an efficient conciliation mechanism within this period. Though the 1963 legislation had established a seemingly full-fledged conciliation process on paper, the actual practice was far from being satisfactory for a number of reasons. First, although the law had compelled the parties of a dispute to designate their «neutral» conciliators—who would then designate a third «neutral» conciliator among themselves to preside over the conciliation board—, the people designated in this manner could never qualify as «neutral» since both parties of a dispute almost always tended to find persons having a pro-view toward themselves. Because the performance of a conciliator is not so effective as that of a mediator who normally calls upon a wide variety of tactics to meet the demands of the conflicting parties on certain minimums, the conciliation process has frequently ended in failure, thereby leading the union to call a strike as an ultimate course of action. Most conciliators were inexperienced and incapable people in the labor relations field\(^{19}\), and therefore the need to establish a central organ (preferably attached to the Ministry of Labor) in order to provide the parties with specialized mediators like in the United States was stressed on various occasions\(^{20}\).

In fact, due to the difficulties and handicaps caused for each of them on different matters, various attempts have been made to amend certain parts of the 1963 legislation by the diversely situated parties of the industrial relations system. The first serious attempt

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18. Ibid., p. 41.
19. There were even cases where the president of a student organization, a mayor and sometimes a governor of a town were requested to act as conciliator even though these people did not have any specialized knowledge in the labor relations field.
was undertaken at the Fourth Labor Council which brought employer, worker and government representatives together on January 25, 1964 for preparatory meetings on proposed legislative changes. All through the meetings of the Fourth Labor Council employer representatives exerted continued pressures to extend the number and scope of industries where strikes are prohibited and compulsory arbitration is the rule. Of course Türk-İş representatives had strong reactions against such employer pressures and concentrated most of their proposals on the allegedly practical deficiencies of the 1963 legislation.

Perhaps the most significant development of recent years is a new draft bill proposed by the JP government. Although the content of this draft bill has not yet been disclosed in detail, it is allegedly aimed at prohibiting the right to strike for rights disputes. Thus, as predicted earlier in this study, the legislature has felt the need to refer such disputes to the jurisdiction of labor courts.

The attempt of the JP government to abolish the right to strike for conflicts arising from breach of contract has been severely criticized, however, perhaps more by the trade union intellectuals and people like Ecevit than by the trade unionists themselves.²¹ The general view seems to favor the direct legal protection of the collective agreement and to refer such rights disputes to the jurisdiction of labor courts since these disputes are predominantly legal in character. Nevertheless, looking at the past practice, labor courts have proven to be rather inefficient both in terms of being quite slow in handling labor disputes and making contradictory decisions on similar issues. Therefore, it has seemed unfair to most people to abolish the strike threat for rights disputes unless the structure and operation of labor courts have been raised up to the level of their counterparts in some of the advanced countries like Sweden and Germany.

Within this four-year period, the government never exerted its power to extend a collective agreement so as to cover all the workers in an industry. What seemed important also was the willingness of

Also, Ecevit’s talk in the Parliament, Milliyet, February 16, 1968.
the government to postpone the strike for one month and sometimes up to three months, claiming that it was likely to jeopardize the nation's security or health. In the latter case, trade unions criticized the government's action, sometimes severely, on the grounds that there was indeed no direct danger threatening the security of the country or the health of the nation and that the government resorted upon its power merely because of the pressures exerted by employers. While such arguments may bear some truth, they seem to be only one side of the coin. In fact, it seems safe to say that the government interfered wherever it could in order to play its deep-rooted third-party role in helping the parties settle the dispute in an atmosphere removed from tension and strain.

The law had stated that a strike could not start within the six days following the notification of the employer by the trade union that it had decided to resort to strike action. It seemed that the strike could start any day after the expiration of the six-day period. Since the law had not compelled the trade union to inform the employer of the actual date on which the strike would be called either, employers seemed quite disturbed and upset, and claimed that this practice was apt to impair their production and sales policies to a considerable extent. On the other hand, the union view favored this practice of placing the employer always in a position to guess and, thus, of putting pressure on him to accept the terms of the union. For a while the courts issued contradictory decisions in this area, and finally the General Judicial Council of the Court of Cassation ruled that the strike decision could be put into effect any day following the expiration of the six-day period, nor did the union have to notify the employer of the date on which the strike would actually begin. Nevertheless the issue is still unresolved, and a compromising remedy is likely to be adopted in the final form of the government's above-stated draft proposal.

Strikes in public services became another controversial issue within the four-year period under consideration. In practice the

22. Having noted the government's traditional role and past practices, both tendencies were expected earlier in this study. See above, pp. 142, 149.
23. So far there have been 19 such postponements by the government.
The number of strikes by public employees (excluding the civil servants who are denied the right to strike, of course) was far less than the number of strikes in other sectors. Though the working conditions of a garbage collector, for example, were much worse than the average industrial worker, the government intervened frequently in the disputes of public service employees with managements, and playing its traditional third-party role, removed the tensions arising from the two-party relationship. Occasionally, the government insisted that, because of the official status of such employees in terms of their remuneration and promotion schemes, they should be considered civil servants and, thus, denied the right to strike. In most cases, however, their worker status seemed to be predominant as a result of the nature of their work, and therefore strong voices of criticism were frequently raised to coerce the government into accepting the trade unions' view.

In various strikes by public service employees the public and municipal authorities maintained that tremendous damage on the public would result from the strike and, thus, tried to see to it that the services would not discontinue. This occurred in a strike by garbage-collectors — conducted by Genel-İş, the General Services Workers' Union — and, in addition to the voluntary services of the town people, municipal authorities hired new workers, so it was claimed, in order to replace the strikers, which was apparently an illegal act on the part of the employer as strikebreaking was prohibited by the 1963 legislation. Seemingly the strikebreakers were hired by the town people, but the municipal authorities were accused of arranging the whole thing behind the scene. When the union filed a suit against the employer, arguing that the essence of the right to strike had thus been violated, the court ruled that, since right to work was guaranteed by the Constitution, there was nothing illegal in the hiring of workers by the citizens of a town.


Besides, so the court claimed, the freedom to make employment contracts among individuals was also guaranteed by the Obligations Act of Turkey. 27

Inspired by the effect of such strikes, a new pressure has emerged to devise peaceful methods of dispute settlement in public services. 28 Since the people of a certain community have been the ones directly affected by the work stoppage of public service workers, they have almost always tended to blame the strikers without actually knowing which party was right or wrong in the dispute. Some of the cases and branches of activity do have a public service character anyhow. Workers in various other activities which are deemed public services, on the other hand, did have the right to strike and it is in these branches of activity that a tendency to replace the right to strike with more peaceful methods such as mediation and arbitration has arisen recently. However, the draft bill proposed by the JP government has not extended the scope of strike prohibitions so as to cover all public services in this manner. 29

The major developments in the collective bargaining and right to strike arena have been characterized, therefore, by the decisions of judicial organs within this four-year period. While these courts have occasionally ruled in favor of unions on matters where the laws needed some interpretation, they have frequently made contradictory decisions on issues of the same or similar nature. So, one can argue that various unanticipated consequences of the 1963 legislative action have emerged as a result of the courts' rather heterogeneous decisions. This was due partly to the incapability of the courts to handle the new and intricate problems stemming from the collective bargaining relationships, and partly to their conservative attitudes which seemed to favor the interests of employers or the government necessarily. Since the political atmosphere surrounding the industrial relations system within this period was of a conservative nature due to the predominance of the Justice Party in the Parliament, trade unions asserted frequently that the legis-

27. Ibid., p. 143.
29. Ibid., p. 369.
lative rights accorded to them by the 1963 legislation were in constant jeopardy. Not to do injustice, however, one should point out that the courts occasionally awarded certain decisions which seemed parallel to the intentions of the 1963 legislature, and the government felt obliged to announce its commitment to workers' rights, in spite of the proposed draft bill which has allegedly placed certain limits on the right to strike and, thus, on collective bargaining.

3. DEVELOPMENTS IN THE FIELD OF TRADE UNIONISM

A. Structural Developments

A significant development from the standpoint of trade union structure has been the birth of Disk, that is, the second confederation as a rival organization to Türk-İş. It should be pointed out that the main development leading to the emergence of Disk was the role played by the Turkish Labor Party following the political changes in 1960. As a matter of fact, Disk was founded by a few trade union leaders who were known as being sympathetic to the TLP. Following the shift of power to the Justice Party after the 1965 election, Türk-İş was faced with heavy criticism of the TLP-oriented trade unionists who claimed that the Confederation could not raise its voice against the anti-labor practices of the government and that it was making numerous concessions which would definitely have a detrimental effect on the Turkish labor class. Though Türk-İş had already stressed its commitment not to align itself with any political party but act as a pressure group, it was accused of pursuing a passive policy which has always resulted in complete deference to the party in power. The argument of the TLP circles was that the salvation of the Turkish working class could be effected only through the political organization of workers and not by such superficial methods as collective bargaining and the right to strike.

It is difficult, however, to single out the ideological differences among leaders as the only cause giving rise to a second confedera-

tion in Turkey. In fact two other attempts had been made earlier to break away from Türk-İş, and two splinter groups had founded their own organizations, one the Confederation of Free Trade Unions (Hür-İş) and the other «the Council of Solidarity» (Dayanışma Konsesi). These two confederations did not gain any significance since the real reason of the split seemed to be rivalry for leadership rather than any significant disagreement over the ultimate goals and means of trade unionism in Turkey.

Nevertheless, Türk-İş leadership maintained that the establishment of Disk as a second confederation was caused mainly by the desire of a few leaders to gain more power in the trade union movement. Whatever the real motives behind the foundation of Disk were, a single event that has played an explicit role and led to the split deserves some consideration. When the Metal Workers' Union, Rubber Workers' Union, Press Workers' Union and the Chemical Industries Workers' Union supported the above-mentioned Paşabahçe strike which was denounced by Türk-İş as being an open threat to industrial peace, conflict followed and Türk-İş, imposing a penalty on the four unions for having strayed away from its policy, ultimately lost their allegiance. The above-stated four unions and two more joining them (Bankworkers' Union «Bank-İş» and Construction Workers' Union «Yapı-İş») founded Disk on February 13, 1967. Before long it publicized its sympathy for the TLP and launched a heavy propaganda campaign against Türk-İş.

On the other hand, the decision of Türk-İş to centralize the structure of Turkish trade unionism has remained as an unattainable goal within this period. Although Türk-İş had stipulated that only a single national union should be established within each branch of activity, it seemed a difficult process to convince most of the well-established and stronger federations and industrial unions to abolish themselves and amalgamate into one big national union. The aim of Türk-İş was to favor the national-industrial (Turkish-type) union organizations rather than the federations. The former category was preferred because of its tight and central structure modelled after the post-Second World War German trade unionism. Since some of the more successful unions like the Metal Workers' Union and the Petroleum Workers' Union had a similar central structure, Türk-İş

encouraged the existing federations to take immediate action in adopting this form of union organization.

Perhaps the most salient criterion distinguishing national-industrial unions from federations was the degree of autonomy to be accorded to their branch offices or local affiliates. Whereas the local unions affiliated to federations retain their autonomy to a considerable extent, the national union branches (subeler) which are deprived of a separate and legal status by their nature do not have much say in their own affairs. As a result, federations can not have much authority over their affiliates, nor do the autonomous locals give enough financial support to the federations with which they are affiliated. In the case of national unions, on the other hand, almost all the power is vested in the head office and the union constitutions usually force the branch units to transfer all the dues collected from members at the workplace level to the center of the national union. Because the branch units are not recognized as legal entities by law, they are not entitled to engage in collective bargaining themselves. When local-level bargaining is to take place, the national union center either delegates authority to a branch unit so that it can engage in collective bargaining with the employer on behalf of the center, or the center takes the initiative itself in implementing the collective bargaining process at the workplace level. As this point indicates, the national-industrial unions have been empowered by law and by the very nature of their central structure to engage both in local-level and industry-wide bargaining, whichever suits their policy and their membership strength, whereas federations can make only industry-wide collective agreements. Since representing the majority of workers in an industry in order to gain the «bargaining agent» status is a difficult process, federations seem to be rather inactive as opposed to the possibilities which the national unions have both in local and industry-level collective bargaining.\(^{32}\)

Reasons which account for the failure of Türk-İş in centralizing the structure of its affiliates can be enumerated in the following manner:

\(^{32}\) For a detailed analysis of the structure of Turkish trade unionism, see Toker Derell, «Türk Sendikacılığında Merkezileşme Temayülü ve Muhtemel Nediceleri (The Centralization Tendencies in the Structure of Turkish Trade Unionism and Their Implications),» \textit{Sosyal Siyaset Konferansları}, Vol. 17, Istanbul 1986, pp. 45-92.
1. The preexistence of a predominantly federation-based union structure in Turkey was probably the most significant obstacle in adopting the new central structure. Indeed it seemed a very difficult and sometimes impossible process to convince the autonomous locals affiliated with federations to give up their autonomy and become simply a branch office deprived of any legal status. Since most local leaders had well-entrenched positions, they did not seem willing to convert their autonomous local organizations into simple branch offices and to subjugate themselves to the dictates of a central head office. So, in order to retain the existing decentralized structure, they exerted constant pressure on the federations to which they were affiliated, and were successful in maintaining the status quo to a considerable extent.

2. The new central structure required the transfer of almost all the financial sources of branch offices to the head office. Most locals resented this, since, they maintained, it would greatly impair their freedom of action. Since they handed over only a small fraction of their income to the federations very grudgingly, they could not be expected to sacrifice their legal status together with their income and property in favor of a central office far removed from them and, in a sense, from their membership.33

3. Some leaders failed to realize the advantages of a more central organizational structure as far as financial strength and collective bargaining activities of their unions were concerned. There were also various psychological factors involved. The fact that some of the strong organizations—such as the Federation of Tobacco, Beverage and Allied Industries Workers' Unions to which Seyfi Demirsoy, the president of Türk-İş, belonged himself—still retained a federal structure did play a negative role eventually in the adoption of «industrial-national union» status by some federations.

4. Another impeding factor was related to the structure of certain industries or branches of activity per se. Because various branches of activity classified by the Ministry of Labor as a basis for union organization were of a heterogenous character, it was virtually impossible to cover the allied fields of activity under one

national union. In fact, the decentralized structure of a federation-based organization seemed to fit in better with the structural requirements of a branch of activity such as the «tobacco, beverage, food and the allied industries.» On the other hand, some branches of activity (such as the metal-working industry, for instance) covered such a wide variety of workplaces that, although the nature of the industries was homogenous, it was apt to give rise to rival organizations due to the high number and scattered nature of the workplaces operating within such industries.\(^\text{34}\)

5. The distinction made between blue-collar and white-collar workers in certain industries seems to be an obstacle to further amalgamations among unions. For instance, due to prestige and status-related considerations, the white-collar press workers have resisted joining the same union along with blue-collar press technicians in Istanbul, and consequently two separate organizations have emerged in practice, whereas the two types of workers have been unionized under the roof of a single organization in Ankara. As a result, three separate industrial-national type unions have emerged within a single branch of activity.

6. The industrial-national unions are allegedly more undemocratic in structure and administration in the sense that they concentrate all the power in the head office of the union and delegate very limited and sometimes no authority to their branches, whereas the affiliates of federations do have a great deal of autonomy. The constitutions of various industrial-national unions coerce the branch presidents into accepting the dictates of the head president, drain off all their financial resources into the central treasury and refrain from delegating them any authority for collective bargaining at the local level. In some cases the branch presidents are to be appointed by the national union’s center and can easily be removed.

34. As a matter of fact, two rival organizations, Metal-İş and Maden-İş, have been active in the metal-working industry. The former is a federation and, with its affiliated locals, has covered the bigger portion of the industry. The latter is an industrial-national union, but because of its attachment to Disk, the second confederation with allegedly leftist connections, has lost part of its membership strength. Apart from these two organizations, however, there are various unaffiliated local units the most important of which is the Karabük Metalworkers Union representing the great majority of steelworkers at the Karabük steel mill.
from office whenever the national leaders think it is appropriate to do so. Therefore many local leaders were frightened by the presence of such rather dictatorial provisions in union constitutions, and therefore tried to avoid the risk of losing their autonomous legal status.

7. Another factor which seemed to impede the efforts of Türk-İş to reduce the number of unions in each branch of activity to a minimum was the temptation of various employers to encourage the establishment of company unions at their workplaces. Before several industrial-national unions could strengthen themselves at the plant level, they were faced with rival local organizations established by white-collar line managers who could form and join unions since the law had excluded them from the definition of «employer delegate.»

8. Political factionalization of leadership has also been an important factor in giving rise to splinter groups within the trade union movement. Because party politics still played some role and leaders differed widely in terms of their party affiliations, it seemed a very difficult process to effect further amalgamations, among various unions in the same industry.

9. Personal rivalries among trade union leaders and the aspiration of most leaders to retain their leadership posts were additional handicaps to further amalgamations in various industries. A federation or national union with a well-established leadership, for instance, could not be expected to abolish itself and join a rival organization overnight. Leaders had their own vested interests which they could not foresake easily.

10. The establishment of Disk as a second significant confederation alienated various unions from the ranks of Türk-İş and thus became another obstacle to the creation of a simpler trade union structure. The four significant unions which formed Disk—that is, the Metal Workers’ Union, Rubber Workers’ Union, Press Workers’ Union and the Chemical Industries Workers’ Union—in

35. See above, p. 129. In fact, a number of such allegedly company unions have been set up, specially in the field of banking. See Dereli, «Türk Sendikacılığında Merkezleme Temayülü ve Neticeleri,» p. 58.
1967 became strong rivals for the affiliates of Türk-İş in winning the allegiance of workers in the same branches of activity (More will be given below on the activities of Disk.).

11. And the last, but not the least, was the reluctance of the judiciary to recognize the precedence of central industry - level bargaining over local bargaining. Since the judiciary awarded contradictory decisions and finally seemed to favor local-level bargaining in the case of Paşabahçe 36, there did not seem to be a favorable legal environment for a centralized collective bargaining structure within this period.

In spite of the constant pressures exerted by Türk-İş on its affiliates, the amalgamations which could be effected were, thus, limited. In a sense Türk-İş did not seem to have enough power in implementing this change, nor, partly because of political reasons, could it go too far in punishing its affiliates which had not complied with its policy of centralization 37. In fact the Confederation was very careful not to vex some of its affiliates For a time it endeavored to employ a «persuasion» tactic over its affiliates rather than expelling them from its ranks when they did not show compliance with its policy of centralization. The assumption was that it would be much easier to centralize the trade union structure with organizations already affiliated with Türk-İş than would be the case had they been detached from Türk-İş.

One should point out, however, that though the long-awaited centralization plan was not a success, it did not prove to be a complete failure either. In fact, as far as unions affiliated to Türk-İş are concerned, there has been at least a partial restructuring and reshaping of the union organization. A few federations and unions have amalgamated into new industrial-national entities, and insofar as this has occurred, the principle of Türk-İş to have fewer unions with bigger membership has been realized. Although

36. See above, pp. 185-187.
37. As a matter of fact Türk-İş itself has admitted that its failure to effect a full-fledged centralization in structure is due to differences in opinion, personal disagreements and political rivalries among leaders. See «Türk-İş, 6. çi Genel Kurul İcra ve Yönetim Kurulları Çalışma Raporları» (Reports of the Executive and Administrative Committees Presented to the Sixth Convention of Türk-İş), March 1966, p. 86.
there are still more than one union in various industries—occasionally a federation, an industrial national-union and unaffiliated locals rivalling each other in the same branch of activity—there has been a marked increase in the sheer number of industrial-national unions. For the time being, this seems to be the preferred form of organization. Certainly, most of these have not yet completed a nation-wide organization, and it is very likely that many of them will never be able to extend their coverage. Some of them are «Turkish-type» industrial national unions only on paper. What is significant, however, is the relative strength of this category of union in terms of financial strength and flexibility in both industry-wide and local-level collective bargaining, as envisaged by the 1963 legislation. Nevertheless, this type of central union organization has multiple consequences, and therefore its implications for union democracy and union leadership should be taken into account as well. Before such rather controversial consequences are taken up in respective paragraphs, some quantitative data concerning the various structural types of trade unions have been presented below.

Table 2. Number of Unions and Multiunion Organizations
(As of February 1968, Source: Ministry of Labor)

<table>
<thead>
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<th>Type of the Union or Multiunion Organization</th>
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The structure of industrial-regional unions is similar to that of national unions, but their coverage is limited only to a certain geographical area, such as the Marmara Region Tobacco, Bever-

38. Indeed some organizations like Teksif (The Textile Workers’ Union) have become so successful and efficient after acquiring the industrial-national union status that various other organizations have followed suit to model themselves after the Teksif experiment. See Dereli, «Türk Sendikacılığında Merkezileşme Temayülü ve Muhtemel Neticeleri,» pp. 60-61.
age, Food and Allied Industries Workers’ Union. What seems to be noteworthy in the above table is the high proportion of industrial-national and industrial-regional unions. Thus, taken together, industrial unions constitute about 50 percent of the total union organizations in Turkey. The table shows local unions within two categories, that is, locals covering more than one workplace in a given locality and locals which cover only a single workplace. Whether affiliated to federations or not, both are autonomous local organizations, however, and should be distinguished from the branch offices of industrial unions not shown on the table. As evidenced by the table, birlikts seem to have been wiped completely from the trade union scene. On the other hand, recent figures show that unions affiliated to Türk-İş consist of 24 industrial-national unions and 9 federations. Obviously, looking at the number of both the total union membership and Türk-İş membership, unions outside Türk-İş are apt to be small units in general.

B. Major Issues and Trends in Membership

One should concede the considerable increase in trade union membership in Turkey since 1964. The increase in a single year, that is, from 1964 to 1965, has been phenomenal, amounting to 42,000. Thus, union leaders seem to have been able to implant in the Turkish worker a sense of belongingness to the trade union organization. It should be pointed out, however, that the benefits to be derived by the worker from collective agreements have been the major factor in winning his allegiance to the union. Obviously, though the 1963 legislation had prohibited practices aimed to establish «compulsory membership,» trade unions were able to increase their membership figures through indirect ways. Claiming that nonmember workers’ access to the collective agreement by paying the so-called «solidarity contributions» was unjust, they made it compulsory in most agreements that in order for the nonmember worker to benefit from the agreement, a special written permission of the union was required. Since the Trade Unions Act (no. 274) has stated that the nonmember workers can benefit from an agreement only upon the written permission of the signatory union, the unions followed the practice of withholding that permission and thus depriving the nonmembers of the benefits provided by the agreement even though the latter were quite willing to pay the
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solidarity contributions envisaged by Act no. 275. Thus a conflict between the provisions of the two related acts became apparent, and the judiciary issued contradictory decisions in this area. The latest decision of the Court of Cassation issued in 1964 favored the trade union view, that is, it ruled that the union’s written permission was to take precedence over the nonmember workers’ ability to benefit from the agreement by merely paying the “solidarity contributions.” Nevertheless, another contradictory ruling of the Court of Cassation (issued in 1965) seems to harass unions for it entitles workers to benefit from the collective agreement even without paying the solidarity contributions after they have withdrawn their membership from the signatory union. This ruling is obviously contrary to the above-mentioned decision of the Court, but apparently workers have not been tempted to relinquish their membership as a result of it and thus, it has not led to membership loss for unions to any significant extent. It is hoped that the new draft proposal will remove such a contradictory practice and bring about a more balanced and fair process as far as utilization of both member and nonmember workers from the agreement is concerned.

There have been other instances whereby the membership strength of trade unions has been threatened to some considerable extent, however. As the civil service section of public employees was denied the right to strike and could only form unions of their own with very limited activities according to Act no. 624, the judiciary ruled that all public employees whose status was governed by regulations similar to that of the civil service personnel could not form and join unions regulated by Act no. 274. In an earlier case, the Court of Cassation had ruled that such public employees could not be lumped together into the same category as civil servants merely on the basis of their remuneration and pension schemes and of the official status they have been accorded by law and that, since the type of work they performed could qualify

40. Ibid., p. 30. Though contrary to each other, both decisions of the judiciary seem to be in effect at the present.
them as «worker» defined by the Trade Unions Act no. 274, they were entitled to join workers' unions42. This earlier ruling seemed a fair decision to most unions, but when the Court of Cassation issued the above-stated decision and deprived all such employees of the right to join workers' unions and thus bargain collectively43, trade unions reacted severely. It was obviously apt to have a detrimental effect on the membership of some unions, even destined to give an end to the existence of organizations established in such fields as the railways and highways which had a considerable number of such employees. The matter is still a disputed one, however, as exemplified by the contradictory rulings of the judiciary. Even the allegedly conservative and anti-labor JP government does not seem to be content with this practice, and will hopefully come up with a solution in its draft bill mentioned earlier, and, depending on the type of work they perform rather than the artificial status accorded to them by regulations and judicial decisions, will define clearly the «worker» status of such employees in the related areas of existing legislation.

Though it is clear that the increase in union membership has been phenomenal, figures available do not seem to be very reliable. The total membership figure of the unions affiliated to Türk-İş amounted to 641,115 by the end of 196644. By this time the membership strength of unions which split from Türk-İş and founded Disk in 1967 was 85,349; however, though Türk-İş membership must have declined as a result of the split at the beginning, Disk unions seem to have lost a considerable proportion of their membership since then, thus probably offsetting the decline in the ranks of Türk-İş. Nevertheless, Türk-İş spokesmen seem to overstate the membership strength of the Confederation by declaring in their written documents and public statements that their organization now represents more than 800,000 workers45. Reliable figures were

43. Ibid., pp. 332-333.
not available at the time this passage was being written, but to make a more reasonable estimate, one can say that the real membership strength of Türk-İş is around 600,000-700,000. (The regular due-paying membership may be even less than this, of course). In the same manner, though Türk-İş claims that the membership of Disk is around 3000, this is likely to be an underestimation even in the face of the membership loss the new Confederation has undergone recently. Though the real figure could not be as high as the 62,400 claimed by the Disk spokesmen themselves, one could estimate it to be around 30,000. As can be inferred from the number of Türk-İş and Disk affiliates, there are many unaffiliated unions, and since the two confederations account for the great majority of union membership in Turkey, it seems safe to conclude that the unaffiliated unions are by and large relatively small units with limited membership. There may be a few exceptions to this generalization, of course.

Taken altogether, however, the ratio of union membership to the total active population is still far below the ten percent level in Turkey. Compared with ratios in more industrialized countries, even the ten percent level seems to be quite low, of course. As the ratio of agricultural labor force declines, one may expect a parallel rise in trade union membership in Turkey.

C. Union Democracy and Leadership

As predicted earlier,46 an increased tendency of trade union leaders to consolidate their power positions and resist to democratic principles in union administration has been observed within this period. Michel’s «iron law of oligarchy» has operated more efficiently in industrial-national union centers and in some of the bigger federations than in the affiliated or unaffiliated local units. The reasons which have accounted for this tendency can perhaps be summed up in the following manner.

First, union democracy tends to weaken in the upper levels of the organization, because what Michels has termed the «incompetence of the masses» becomes a more significant factor since union tasks tend to be more complicated in big union centers than in local

46. See above, p. 163.
levels. Members lack the adequate knowledge to evaluate such complex tasks. Besides, and secondly, the lengthened physical distance of the members to the union center weakens their participation and interest in union affairs.

A third factor is the great difference between the rewards of a leadership post in a national union center and of that at the local level. The leaders of national union centers and federations are full-time professionals. Their posts are very rewarding both in terms of income and prestige. This strengthens the leader's resistance to democratic principles, because in case he is not reelected, the only alternative for him is to return to his less-rewarding job in the shop. The local leaders find this alternative much easier, of course, for they are not full-time and paid officials usually, and when they are, both the prestige and salary of their positions are not so attractive as those of the leaders in national union centers. Because national union and federation posts are more rewarding, leaders tend to commit themselves to their unions more strongly. This is certainly desirable for the efficiency and unity of unions. But there may be cases in which it tends to have a detrimental effect on union democracy.

A fourth factor impairing democracy at the upper levels of the union organization is the difficulty of setting up «organized opposition groups» against the well-entrenched leaders. While face-to-face relations and opportunities for criticism are possible at the local level, they tend to fade away at upper levels. The federation and national union leaders are better able to suppress criticism directed against them because they can easily manipulate the delegates' voting behavior in the national conventions. The delegates who are supposed to represent the affiliated unions are not really representative in the sense that they can easily be alienated from membership demands and coerced into accepting the views of the

group in power. Likewise, candidates challenging the leadership of the power group at the local level are better off since they are known by almost all workers in a local convention, whereas it is extremely difficult for them to challenge the power group in a national convention as they are not known and supported by the majority of the delegates who, as noted above, readily lose their freedom of action against the leaders in power.

The last, but not the least, factor is apparently associated with the internal structure of industrial-national unions. Because all authority is vested in the center and branches are deprived of independent corporate status, oligarchical tendencies of industrial-national leaders tend to increase consistently. Coupled with authoritarian practices and consensus-oriented features inherent in the Turkish culture, leaders of most industrial-national unions have been consolidating their dictatorial approach in the administration of their unions. Also, by curbing the freedom of action of branch units both in terms of collective bargaining and financial autonomy, this type of centralized union structure is likely to lessen the potential young leaders’ chances of rising to power from the ranks of workers.

Coupled with the rise of oligarchical tendencies, the temptation for corruption also seems to have become a serious problem in recent years. Though Lipset states that corruption is more likely to be prevalent at local levels, centralization of union structure and thus of financial resources has definitely stimulated corruption of union funds, and there have been many such cases of alleged corruption in some of our big and respected unions. Nevertheless, several cases of fraud and corruption have also been disclosed at lower levels as well. Whether or not all that was a reasonable amount of corruption usually encountered in trade unions could not be judged easily, of course. What is significant, however, is the emergent change in public opinion as regards the personalities of «trade union leaders.» In fact, the public is beginning to perceive these leaders as people who think of nothing but the maximization of their own power and income by exploiting the workers. Of course, a distorted perception as such is destined to degrade and discredit the whole union movement, and, whenever possible, certain measures should be taken in order to strengthen union democracy and provide potential leaders at local levels with certain opportunities to climb up the union ladder.
However detrimental to centralization, the latest decision of
the judiciary which favored the precedence of local bargaining over
the already-made industry-wide agreement, as in the case of the
Paşabahçe strike, may, at least indirectly, provide local leaders with
freedom of action and, thus by building a reservoir of collective
bargaining experience, lead to desirable consequences as far as the
emergence of young and experienced leaders from the ranks of work-
ers is concerned. However, the distribution of power between
leaders of central organizations and leaders of lower level units
should be a matter of delicate balance. Indeed it is a matter of ob-
taining an optimum balance between the efficiencies of centralized
bargaining and the requirements of trade union democracy in gen-
eral. In other words, one should not go too far in curbing the
power of upper level trade union leaders and in recognizing unlimit-
ed autonomy to locals in collective bargaining. A certain amount
of centralized authority is desirable both for the unity and success
of the collective bargaining task of the union movement. It is also
argued that the professionalization of leadership roles is desirable
for the vigor of the union and for the success of the collective bar-
gaining process. Professional leaders who have cut off all their ties
with the employer and who are far removed from the employment
relationship at the shop level can handle collective bargaining more
efficiently and represent worker protest more successfully than lo-
cal leaders who usually have employment relationships and face-
to-face contacts with managements.

Because of the consensus-oriented features involved in face-
to-face relations, the trend has been towards the emergence of two
types of leaders. The first category of trade union leaders has been
rather submissive to the authority of managements, and refrained
from getting involved in serious conflicts with them whereas the
second type of leadership has shown extremely aggressive forms
of behavior at the collective bargaining table. Observing actual prac-
tices, it seems sensible to generalize the fact that most of the latter
type leaders are found among the professionals of upper level or-
ganizations who have ceased having face-to-face relationships with
the employers down at the workplace level.
To conclude such general observations with respect to union democracy in Turkey, one should stress the relatively low turnover among leaders in most national unions and federations. With regard to the leaders of Türk-İş, an additional factor should be taken into account, that is, the absence of potential candidates experienced and strong enough to compete with the present leadership of Türk-İş.\footnote{As a matter of fact, the prospects of the Türk-İş leaders' being reelected in the coming 7th Convention of the Confederation seem to be very promising indeed.}

Within this period, white collar employees have not shown any significant interest in joining unions together with blue collar workers and thus in competing for leadership posts. Perhaps due to status considerations and lack of identification with working class values, they have preferred to form predominantly white collar unions such as Bank-İş and Tez-Büro İş. On the other hand, trade unions have not sought white collar leadership themselves either. The notion that blue collar leaders can express worker protest much more efficiently than white collar intellectuals has been prevalent. Nonetheless, most of the bigger industrial-national unions and federations have begun employing white collar experts in their research and collective bargaining departments. But the interesting phenomenon has been the predominance of technician type union staff experts rather than union intellectuals disposed to implant a new ideology into the trade unions employing them. The number of such ideologically oriented intellectuals who have been able to retain their jobs in unions is indeed limited. In fact, not only have the employment contracts of the politically active experts been terminated by their unions, but also most intellectual experts who have dared criticize union leaders even on task-centered matters have been removed from their jobs.\footnote{This is quite similar to the trend in the United States. See, for instance, Harold L. Wilensky, Intellectuals in Labor Unions, The Free Press, Glencoe, Illinois, 1956.} Those who have been able to stay were either the ones whose ideological commitments or political activism was in line with that of the leaders in unions strongly involved in an ideological or political view, or they were merely the technician type staff experts whose professional roles did not require anything more than making preparatory studies for collective bargaining or arranging educational programs for union members or shop-stewards.
Even though formal education has always been regarded as a sign of status and prestige in Turkey - and to a much greater extent than in the United States, to be sure - blue-collar union leaders have developed a suspicious perception of intellectuals, frequently ignoring their advice and thus alienating them from the ranks of trade unionism. It is interesting to note that while in the United States trade unions have sought considerable intellectual help in their formative years and only in later years have the intellectuals left trade unions for the sake of other challenging areas more attractive and promising to them, Turkish unionists seem to underestimate the contribution that well-educated experts can make to their efficiency even at this beginning stage of trade unionism in Turkey. This may be due to various reasons. First, even though he may not be a blue collar worker himself, a person equipped with formal education has a comparative advantage over the uneducated blue collar union officials, and therefore union leaders may perceive intellectual staff experts as potential rivals for them. Though intellectuals have not shown a clear aspiration to elected union positions so far, the thought that they may in the future obviously frightens most leaders at this stage. Secondly, since intellectuals are inclined to criticize their environment frequently, the probability of their disclosing the inefficiency and, at times, corruption of the union bureaucracy is higher, because of their idealism or the availability of other job alternatives for them. So, at least a certain segment of trade union leadership was either reluctant to hire intellectual experts or, in cases experts had already been hired, did not hesitate to fire them whenever they proved high capability in union affairs or engaged in blaming the leaders' inefficiencies. There was need to maintain consensus within the union and those intellectuals who did not comply were eliminated. The tendency of most union officials was to seek legal help and thus hire lawyers usually on a part-time basis rather than full-time economists, statisticians, education and labor relations professionals.

51. Maurice F. Neufeld, «The Historical Relationship of Liberals and Intellectuals to Organized Labor in the United States,» New York State School of Industrial and Labor Relations, Cornell University, Ithaca, N. Y.

52. Since white collar staff are entitled to unionize under the present system, this is obviously possible. As a matter of fact, most union staff experts are members of the Tez-Büro İş, a union appealing mainly to white collar office workers.
experts, etc. However, in spite of all the impeding factors, centralization of structures is likely to intensify the need for the latter type of experts in the future.

D. Major Trends in Activities

a) Collective Agreements: The most prominent activity of trade unions became collective bargaining in this era. From the beginning of the new system in 1963 to the end of 1967, 3634 collective agreements have been made in Turkey. The great majority of these agreements have naturally been made by industrial-national unions since this organizational type outnumbers other categories of union organization in Turkey. A second reason which must have accounted for the predominance of industrial-national unions in being a party to collective agreements is obviously inherent in their legal status which entitles them to engage both in industry-wide and plant-level collective bargaining. As a matter of fact, the data available indicate that the majority of multi-employer agreements (about 90 percent) have been signed by individual employers, and only a negligible proportion (about 7 percent) have been negotiated with employer associations. The scarcity and relative weakness of employer associations account for this phenomenon, and it also explains the meager state of industry-wide bargaining in Turkey.

53. The source of this and the following quantitative data is a pilot study made by a research team under the chairmanship of Professor Orhan Tuna at the Department of Economics, University of Istanbul. The study is aimed at exploring the effects of the collective bargaining system on the employment conditions of workers as contrasted with the effects of the compulsory arbitration system which was in force before 1963. It is based on a representative sample to be drawn from the 3634 agreements that have been made so far. This sample of collective agreements will be exposed to a detailed content analysis and the results, being reinforced by questionnaires to be administered to managements and trade unions in the field, will be compared with the situation prevailing before 1963. The final report is to be published early in 1969.

The preliminary figures and records required for the pilot study have been obtained from the Ministry of Labor. The officials at the Ministry have preferred to keep record of each agreement for every individual workplace, however. So the actual number of agreements made may be less than 3634, since a certain number of these individual agreements should have been covered by multi-employer and industry-wide agreements. The overstatement should not be exaggerated, however.
Public sector seemed to be more active than private sector in the collective bargaining arena within this period. The relatively larger size of state enterprises coupled with their more subtle paternalism and their more receptive attitude toward collective bargaining probably accounted for this phenomenon.

The table below shows the number of workers covered by collective agreements until the end of 1967. Of course there are duplications involved, and a more realistic figure should be lower since most workers were covered by subsequent agreements (mostly two and occasionally three agreements) enforced at the same workplace subsequently.

Table 3. Workers Benefiting and Not Benefiting From Collective Agreements, by sectors

<table>
<thead>
<tr>
<th>Sectors</th>
<th>The nonmembers benefiting directly as members</th>
<th>The total number of workers at workplaces covered by agreements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Workers benefiting by paying solidarity contributions</td>
<td></td>
</tr>
<tr>
<td>Public Sector</td>
<td>377,615</td>
<td>2,968</td>
</tr>
<tr>
<td>Private Sector</td>
<td>412,737</td>
<td>36,821</td>
</tr>
<tr>
<td>Total</td>
<td>790,352</td>
<td>39,789</td>
</tr>
</tbody>
</table>

It is noteworthy that, though private enterprises subject to collective agreements outnumber public workplaces, the difference between the number of workers covered by each sector seems to be limited. This is likely to be caused by the fact that public enterprises are relatively bigger and employ considerably more workers than private firms.

The duration of most agreements seems to vary between one and two years. In fact, 30.4 percent of all agreements made so far are one-year contracts and 45.7 percent of them have a duration of two years. The collective bargaining itself seems to be a prolonged process, however. In fact, only about 40 percent of all agreements have been concluded in less than a month. The rest vary between a month and six months, and those conclud-
ed in more than six months constitute the 6.2 percent of the total. It has been claimed that employers tend to resist union demands and do their best to prolong the collective bargaining process since, due to the lack of retroactive practices in most cases, it is to their advantage to do so. Another point of interest is the tendency of multiemployer agreements to be concluded in a longer time span than those covering a single employer. The same tendency also seems to prevail in the case of collective bargaining with employer associations, that is, the collective bargaining process that a union engages in with an employers’ association tends to take a longer time than collective bargaining with individual employers. It must be easier, for instance, for a national union to impose its demands on the individual employer, whereas bargaining on the multiemployer level with an employers’ association tends to become tougher and more complicated.

**b) Strikes:** The data of the Ministry of Labor indicate that, since the passage of the 1963 legislation 180 strikes have occurred in Turkey until the end of the first half of 1967. Approximately one-million work days have been lost altogether as a result of strikes within this period; and 26,000 workers have participated in them. These 180 strikes have lasted for more than 5,000 workdays. It is interesting to note that the frequency of strikes has reached a peak point in 1964 when the collective bargaining campaign was launched by trade unions rather urgently. On the other hand, 1966 is characterized both by the greatest number of strikers and the work days lost.

The average length of strikes was 30 days within the four-year period studied and, on the average, about 150 workers have partici-

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54. Statement of Professor Orhan Tuna, personal interview.

The number of lock-outs was negligible within this period. Ignoring the 52 lock-outs initiated in the leather-working industry in 1965 as a rally of employers against unions in Turkey, there were only two lock-outs recorded by the Ministry of Labor. Since the 52-lock-outs were of an exceptional character, it is safe to say that, parallel to the practice in other countries, lock-out action has been a rarely called upon weapon because of its nature and socially disapproved character.
pated in each strike. The 30-day average seems to be relatively long in comparison to the situation in most other countries. The lack of an efficient mediation and conciliation service, the inefficiencies involved in the private arbitration mechanism and the hard approach of most stubborn employers seem to have led to that comparatively prolonged strike activity in Turkey. The inability of most trade unionists to employ rather sophisticated strike tactics also seems to be an important factor lengthening the duration of strikes in Turkey.

One could also evaluate strikes as a percentage of the collective agreements made within the four-year period under consideration. From this point of view, then, the proportion of strikes to the total number of agreements is about 5 percent. In other words, in order to conclude one-hundred collective agreements in Turkey, five strikes had to be called on the average. Nevertheless, when calculated by years, the proportion seems to be declining, that is, in each succeeding year it has been possible to conclude agreements by calling fewer strikes. Whether or not this means a real decline in strike activity remains to be seen, of course. However, one could explain the high rate of strike activity during the first couple of years as a reaction to the dissatisfactions and strains accumulated through the previous periods. Also, the lack of experienced negotiators and an efficient mediation and arbitration mechanism may have accounted partly for this outcome.

The rough data collected by Ekin imply that the majority of strikes have occurred in relatively smaller enterprises. Small-sized firms outnumber the bigger ones and they are predominantly private in the Turkish industry anyhow. Besides, smaller firms most of which are family-owned and operated are characterized by a harder and more authoritarian management approach to labor problems which ultimately leads to disagreement over conciliation board decisions.

The food industry had the greatest number of strikes, but rubber industry seemed to have the highest strike propensity. Construction, mining and agriculture had the lowest propensity, on the other

56. Ibid., p. 6.
57. Ibid., p. 11.
hand. The strike propensity is determined by various factors such as the number of workers and strikers in an industry, employment conditions, structure and nature of trade unions and the general attitudes of managers and workers towards each other.

Although strike propensity has been found relatively low in mining, two strike incidents of great significance have occurred in Zonguldak, the mining area of Turkey employing more than 40,000 workers. In fact, due to the vulnerability of mineworkers to concerted and aggressive action, Zonguldak became a center of social tension. The first incident occurred on March 9, 1965 when workers staged a riot and began to protest a new method of remuneration which the management had recently put into practice. Shortly after the first incident, the uprising became widespread and more than 5,000 workers were involved in the allegedly «illegal» strike. The government, claiming that the strike was initiated by communist-infiltrated elements, took severe measures to control the situation, and for the first time since the establishment of the new system in 1963, workers were faced with an armed clash with the military. Two workers were shot dead, and several others (including a management representative) were wounded. Türk-İş seemed to side with the government and condemned the strike as an illegal act led by communist forces. This seemed to antagonize the workers not only against the government and Türk-İş, but also against their own union leaders in Zonguldak as the name of the Confederation was identified with the whole union movement.

58. For reasons of mineworkers’ high strike propensity, see Lloyd Reynolds, Labor Economics and Labor Relations, p. 282.
60. Tuna criticized Türk-İş severely for its having regarded the Zonguldak strike as a communist-led riot and said: «Although public authorities has had the habit of searching for communist infiltration in any labor trouble, it is surprising to see the union leaders manifest the same behavior. Without having investigated the nature and causes of the incident, the past and present conditions of labor-management relations in Zonguldak and thus without having sized up the matter in detail, these leaders have chosen the easy way of equating a real social phenomenon with communism.»

The main cause of the 1965 strike in Zonguldak seems to be the lack of an efficient communication between the management and workers. Indeed all the evidence implied that management had entirely failed in keeping the workers informed of its decisions concerning remuneration, nor had the union operated as an efficient communication channel between the workers and management. Thus, lack of communication, coupled with several other factors associated with the social distance between workers and management, led to the emergence of an uprising unprecedented in the history of Turkish labor-management relations.

It is noteworthy that not long after the occurrence of the 1965 strike, Zonguldak became the center of industrial strife once again. In February 1968, the area witnessed the uprising of workers. Thousands of them left the struck mines and marched to the center of the city, protesting the belatedness of both their union and management in concluding the new contract negotiations in Ankara. However, it was known by almost everyone interested in the developments at Zonguldak that there were more important causes of social unrest leading the miners to riot and to stage such illegal strikes.61

61. Engin Ünsal has summarized these factors within five categories. «The first of these is political in character. Those workers who do not favor the party in power are politically discriminated against. The criterion in rewards and punishments is thus political rather than objective. The second reason is lack of communication between the trade union and workers. Indeed the union whose bargaining committee has been negotiating with top management in Ankara has failed in feedbacking membership back in Zonguldak. A third reason is the rivalry among unions. It is alleged that the rival union affiliated with Disk has been provoking workers against the majority union, claiming that the latter has sold workers to management. Fourthly, management employs no objective criteria in allotting overproduction premiums among workers, thus leading to discrimination due to partisan considerations. And, fifthly, the mistreatment of workers by middle managers (mostly engineers) who exercise their authority in an arbitrary fashion has accounted for the unrest in Zonguldak mines. Work harmony has broken down completely. In the presence of such varied and interrelated causes of social unrest, asking the workers to obey the law and respect the existing order, as did the government and Türk-İş, seems to be very meaningless. We are headed for continuous trouble unless the authorities concerned remedy the dislocations in the work-environment of mine-workers in Zonguldak.»
Although the distribution of strikes between the public and private sectors is an interesting topic to investigate, the data available seem to lend itself only to a rough comparison. Thus, of the 120 strikes which have occurred until the end of 1965, 111 (that is, 93 percent) have taken place in the private sector; and of the 9 strikes which have occurred in the public sector, 6 have occurred in the general services industry, comprising the municipal authorities frequently struck by the garbage collectors. Due to various factors such as the conservatism of local communities, the stubborn and anti-labor attitudes of municipal authorities, etc., the general services have been marked by bitter strikes. But, on the whole it is safe to conclude that the state sector has been less strike-prone so far. The fact that working conditions have been more satisfactory for workers is perhaps one of the reasons for the weaker strike activity in the public sector. Secondly, negotiations seem to proceed in a relatively more tolerant atmosphere since by their nature capital and management have been separated in all state enterprises as opposed to the situation in most private firms. Thirdly, trade unions are in a better position to exert political pressure on the managements of state plants or directly on the related ministries. But there seems to be a sudden increase in the number of strikes occurring in the public sector in 1967. The state managers seem to have begun resenting unchecked wage increases, and therefore whether or not the state sector will continue to be less strike-prone in the future as in the past can not be forecast at the present.

Due to the possibility of winning economic gains through collective bargaining, the importance of political maneuvering at the plant level greatly diminished in this era. However, it still played some limited role, especially in some of the state enterprises where it was occasionally much easier for the trade union to bypass the management and exert pressure on the ministries concerned. As some of the state plants tend to resist union demands in collective bargaining, one may expect a higher inclination of unions towards employing such political tactics in the future.

c) Codetermination: A significant development for trade unions within this period became the "codetermination" practice modelled after the German experience in the post World War II era. Established mainly by an Act (no 440 and dated March 12, 1964) and later organized and put into effect by a decree (dated August 9, 1966), workers' participation in management has thus begun in Turkey. The system is confined to certain public enterprises, however. According to the above-mentioned decree, «a workers' representative who is to participate in the board of directors of state enterprises and certain state institutions which employ a considerable number of workers is to be nominated among the workers by themselves and elected to the board of directors by the administrative committee of the trade union concerned.»

Based on these principles, workers' representatives have been participating in the management boards of various state plants. Since the practice is rather new, however, one can not make even a preliminary evaluation of the system's success, but in several interviews with trade union leaders the writer has been told that it has been operating with reasonable efficiency, without actually running counter to the requirements of the collective bargaining system. On the contrary, it is usually claimed that the presence of a workers' representative on the management board brings about various advantages for the trade union concerned in the collective bargaining process.

On the other hand, criticism has been directed against the present legal form and application of the codetermination system in Turkey. First, the government, empowered by Act no. 440 as the body to determine which state enterprises and institutions employ a «considerable number of workers» has decided that only those institutions and enterprises employing more than 10,000 workers could qualify for the codetermination practice. As a result, in only 7 of the 24 state enterprises, a workers' representative has begun to participate in management. Secondly, since only one

63. For more details on this topic, see Orhan Apaydin, «Kamu Sektöründe İşçinin İdareye Katılması (Workers' Participation in Management in the Public Sector),» Milliyet, August 20, 1966; Toker Dereci, «İşletme Yönetimine İşçi Katılmalı mıdır? (Major Problems in Workers' Participation in Management),» Milliyet, December 5, 1966; Engin Ünsal, «İşçilerin Yönetime Katılmasi (Workers' Participation in Management),» İktisat ve Maliye, Vol. 14, No. 12, March, pp. 484-491.
workers' representative is to be elected to the management board, the chances of representing workers' demands effectively are dim. Coupled with the effects of authoritarian practices, the ability of a single worker to raise his voice seems to be quite limited. To have a more efficient system, therefore, there is need to increase the number of worker participants, like, perhaps, in West Germany where workers are represented by the same number as management representatives in the board of directors. Thirdly, the system is confined to the public sector only, and in order to establish a vigorous system of workers' participation in management, its scope should be extended so as to cover the private sector as well. In line with such similar arguments, it has been proposed to implement certain amendments in the above-stated legislation by Ünsal.\textsuperscript{41}

d) Trade Unionism and Politics: Parallel to the decline of unions' political maneuvering activities on the plant and company level, however, there emerged a new form of union politics at the global level. Disk, a rival confederation challenging the philosophy and policy of Türk-İş, brought an allegedly and seemingly North-European political party-union relationship to the Turkish labor scene. On the other hand, it was too often claimed that, though Türk-İş had frequently announced its noncommitment to any political power, in practice it had proven its susceptibility to the pressures exerted by the government. When Ecevit who had proven himself as a pro-labor and progressive political figure was in office, Türk-İş could raise its voice on some of the major political issues concerning workers, but it was claimed frequently by Disk circles, and perhaps less often by RPP groups, that as the political power shifted to the allegedly conservative JP, Türk-İş became quite susceptible to the political pressures of the government. It had to call upon political maneuvering tactics and make occasional concessions to the party in power.

Most of Disk's activities have centered around political propaganda since its establishment in 1967. Having at least informal ties with the TLP and defining itself as the reformist wing of Turkish trade unionism, it has advocated a policy of workers' full representation in the Parliament. Since the JP was the protagonist of the economically dominant classes in Turkey, asserted the Disk spokes-

\textsuperscript{64. Ibid., pp. 490-491.}
men, a Parliament the majority of which consisted of JP deputies could not guard workers’ rights against employers and landowners. All segments of the laboring class should be united, therefore, in order to have their representatives elected to the Parliament, and thus, obtaining the majority of the seats, control the government themselves. Only then, maintained the Disk leaders, can the government be the real representative of the majority. The capitalistic form of production has proven itself incapable for the development of Turkey. In the last analysis foreign capital has had even adverse effects on the growth rate of the Turkish economy. There is need, therefore, to reshape the whole economy along socialistic lines and give an end to all forms of foreign and capitalistic exploitation. Thus Disk seemed to have almost entirely adopted the program of the TLP.

According to Disk, Türk-İş had never been able to prove its success in fulfilling its avowed commitment to representing Turkish workers. Disk claimed that in practice the «above-parties» slogan of Türk-İş was nothing more than a myth. Türk-İş could never follow a policy «above the parties,» nor could it act apolitically. On the contrary, the Confederation has shown a complete deference to the dictates of any party that has come to power. Disk asserted that, except a few attempts to demonstrate its existence, Türk-İş had never been able to contribute to the well-being of the Turkish worker.

There have even been times when the leaders of Türk-İş have sided entirely with the government view and/or supported the employers, thus leaving workers alone in their struggle. These so-called leaders have accused even the most innocent forms of strike activity (as in the case of Zonguldak mineworkers’ riots, the strikes of Social Insurance Employees and Singer workers) of being communist infiltrated.

Disk has frequently stressed the political phase of trade unionism and asserted that it should take precedence over collective

66. There emerged two lines of thought in the ranks of both Disk and TLP, however. One faction stressed its commitment to multi-party democracy whereas the other was allegedly revolutionary in character.
67. Ibid., pp. 52-53.
bargaining. The latter is limited in its contribution to the welfare of workers because the effect of any wage increase is wiped out immediately by the ensuing price increases implemented by the employers who miss no chance in compensating for any profit loss they might have incurred.

Disk also criticized Türk-İş severely for its relations with foreign organizations and especially denounced the financial aid which it has been receiving from AID. Since AID was a U.S. government agency, its aid to Türk-İş was aimed to implant a «business» type bread and butter unionism into the Turkish labor scene. Thus, asserted the Disk spokesmen, Türk-İş had degraded itself to the level of serving for the interests of foreign capitalists.

In spite of all allegations as such, Disk did not become so successful as was expected, partly for the same reasons which account for the failure of socialistic organizations like the TLP in Turkey. In other words, the movement was confined mostly to the leadership level and was not buttressed by the rank and file membership. Lacking a strong class-consciousness required for political unionism, many workers who were formerly members of unions affiliated with Disk broke away and joined other organizations which usually happened to be the unions authorized for collective bargaining. An important factor which harassed Disk, was, of course, the continued efforts of Türk-İş to weaken and even annihilate it completely.

There were other attempts in the opposite direction, however. Indeed a few new unions were established by workers who split from the affiliates of Türk-İş, and due to their party affiliations or sympathies, joined the ranks of Disk. But, this does not seem to have brought any significant vigor to Disk.

On the whole, chances did not seem favorable enough for the success and growth of the «second confederation,» for though disenchantment with Türk-İş was becoming widespread, various determinants stood in the way of a successful «political» unionism in Turkey. The lack of a well-entrenched class-consciousness, conservatism of the working class and the reluctance of workers to identify...
ify themselves with any leftist group or organization are only part of these determining factors (or structural context, in Mertonian terms). Moreover, in order to win the loyalty of the worker in the political arena, the political leaders have to produce solid gains for the worker at the factory level, but the affiliates of Disk had allegedly ignored the workers' job-related problems and thus, concentrating most of their energies on the political field, failed in benefiting the members economically. The relationship of Disk with the TLP tended to threaten the autonomy of the union structure and administration, and it was claimed that several strikes initiated by the affiliates of Disk had ended in failure simply because, in keeping with the ideological goals of the Party, these unions had consciously neglected collective bargaining.71

In general, when we think of any union organization, we are presented with a confusing picture being described as one type or the other and yet, in actual terms being two-faceted. In fact, the point of distinction relates to which facet (the economic or the political) is the dominant one. Given all the determining factors and especially the influence of the collective bargaining system established in 1963, a dominantly «political» type trade unionism does not seem to have much chance for success in Turkey at least in the foreseeable future. As one observer has pointed out:

Certainly, I find in Turkey a closer relationship to the American model of trade unionism than in any other developing country. I do not think this is a result of a conscious imitation of the United States model; rather it would appear to me that certain historical factors have resulted in what we see today. That we see a challenge to this concept at this stage (the emergence of Disk) is interesting, but I would think that, provided there is no dramatic change in the political structure, the new experiment has no raison d'être. My surmise might have been somewhat different had I been talking to you in 1960 before the extensive grant of freedom offered in the new Constitution and before the passage of law 274 and 275.72

71. As a matter of fact, the general secretary of Türk-İş, Halil Tunç, ascribed the failure which Maden-İş (the leading union in Disk) had encountered in various strikes to a preconceived and conscious effort to prove the irrelevance of collective bargaining for the Turkish workers. (Statement of Halil Tunç, personal interview).

In spite of the tendency of Turkish trade unionism to be fixated mostly on economic activities in the foreseeable future, both Türk-İş, with its policy of political maneuvering and pressure, and Disk, being involved in political activities even more intensely, have proven that, though legislation has prohibited it, trade unions do have to be engaged in politics in varying degrees. But, in what direction the amount and type of political activities will develop in the future is impossible to forecast at the present, of course.

e) Other trade union activities: Cooperative activities of trade unions have remained still very meager within this period. In this context, Professor Tuna has made the following comment:

> Even the people having a superficial knowledge of trade unionism in Western Europe acknowledge the significant role played by consumption cooperatives. In increasing the economic well-being of their members, trade unions have buttressed collective bargaining gains through an efficient consumption cooperatives movement. Turkish union leaders who have been heavily involved in

I would answer the question of the utility of «political» unionism in the negative provided certain conditions obtain in the society. Are there constitutional guarantees of individual and organizational freedom? Are these guarantees respected by the government in power? Are the trade unions free to organize and to carry on collective bargaining? Do they have the right to strike under ordinary circumstances? Is the union movement expanding under present circumstances? Do the unions have access to political policy making bodies so that the workers' political interests are protected?

Is the economy expanding so that more wealth is being created and is the worker through trade union efforts beginning to share some of this new wealth? Can the worker under the present social and economic system hope to improve the health standards of his family and can he look forward to the fact that his children can receive an education so that they are able to participate in the society of tomorrow? Are the social restraints which have heretofore tended to shackle the population into rigid social strata giving way at a fast enough rate so that a degree of social mobility can be expected in the years to come? Do employers accept trade unionism and deal in a reasonable straightforward way? (I am not asking the employers to like unions; I am suggesting only that they obey the laws of the land and deal honestly with the unions.) Do the unions get a fair hearing in the courts?

If the questions I have posed above can be for the most part answered in the affirmative, I would feel that the basis for «political» unionism does not exist. Based on past experience in other countries, I should think that this is an indication of growing pluralism within the polity and that a system of shared power is in the making. *Ibid.*, pp. 15-16.
party politics so far should stress, at least from now on, the establishment and efficient operation of cooperatives in order to increase the purchasing power of their members. 73

On the other hand, the educational programs of unions and especially of Türk-İş constituted a significant area of trade union activity within this period. 74 Collaborating mostly with the labor relations staff of the universities, Türk-İş and its affiliates aimed to train specially shop-stewards and rank and file members. Higher level trade union officials were exposed to the training programs of Türk-İş Labor College in Ankara on a more permanent and regular basis. Nevertheless, certain criticisms have been directed against the quality of the teachers and curriculum and the relevance of the course contents for workers. 75

E. Relations With the Government

As noted above, the policy of Türk-İş not to establish any relationship with a political party but to exert pressure on the existing parties has not been quite successful in practice. On the contrary, pursuing a hard approach against the various political groupings and especially against the JP government has been rather difficult for Türk-İş. There have been times when the Confederation, by condemning several strikes and ignoring workers demands in collective bargaining, has sided entirely with the government view. In a way Türk-İş was compelled to act this way since antagonizing the JP government might jeopardize the successful passage of several labor bills through the Parliament. As a result, the Confederation has never been able to rid itself of the accusation by Disk and other circles favoring political unionism that it is nothing but a mere satellite of the party in power. A few Türk-İş leaders who were

74. According to a Türk-İş source, the Confederation organized 89 trade union seminars in 1964 and 114 in 1965. The number of the participants were 3741 and 5607 respectively. As cited in Kalkınma Planı, Ikkinci Beş Yı (The Second Five-Year Development Plan), p. 138.  
75. See, for instance, Tuna, «Türk-İş; VI. Genel Kurul İzra ve Yönetim Kurulları Çalışma Raporları Tenkit ve Tahliili,» pp. 20-22.
elected to the Parliament as JP deputies have also been accused of turning their backs to working class interests and serving for the benefits of the «conservative» Justice Party. Many have pointed vaguely and often in Marxian terminology to such so-called worker representatives in the Parliament as «the servants of capitalist» and as the ones guilty of obstructing the democratic process.

On various occasions and especially when confronted with bewildering charges of being a pro-conservative, pro-capitalist and pro-American organization by Disk, however, Türk-İş has directed some criticism against both the government and the JP in general for their inaction and carelessness in the passage of new labor legislation. When faced with such unexpected and occasionally severe criticism emanating from the Türk-İş leadership, the government and especially the Minister of Labor have called upon issuing statements contradictory to their previous words or deeds. It can be argued, however, that since heavy criticism against Türk-İş is expected even from its own ranks in the forthcoming 7th General Convention, the Confederation is likely to find it a wise tactic to shape itself up and stress its policy of noncommitment to any political power once again.

However, the government has always found the presence of a strong and central confederation desirable for its own purposes. Since dealing with a central structure and an organization which is seemingly apolitical and which claims to be the main representative of the Turkish working class would be much easier than trying to cope with several organizations split politically, the JP government seemed to encourage the strengthening of Türk-İş and harassed, at least through indirect methods, the development of rival organizations such as Disk.

But a real damage would certainly be inflicted on the reputation and prestige of Türk-İş in case the JP government enacts the present form of the draft bill which is allegedly aimed at amending and restricting, among certain other things, the right to strike. The government seems to be stressing the need to keep wages constant

76. A recent controversy between the government and Türk-İş relates to the draft bill of the JP government on unemployment insurance and the proposed abolition of the existing severance pay system. The latter has aroused tremendous reaction, however, of almost all unions in the country.
as long as prices remain unchanged and claims that collective bargaining demands should be tied in with the productivity increases of workers. These and similar arguments have elicited reactions from various unions and pro-union circles, and thus Türk-İş has occasionally been forced to follow suit in criticizing the government’s views.

To sum up, one could point out that the relations of Türk-İş with the JP government have been characterized by uncertainties rather than stability, that is, while on the one hand the Confederation has frequently sided with the government’s stand on major strikes and policy issues, the criticism of Disk and other circles have occasionally coerced it into making sudden attacks on various legislative measures proposed by the JP government. One point has become clear, however: So far the Confederation has not been able to rid itself of political considerations in general and the pressures of the party in power in particular even though one of its most publicized goals has been the pursuance of an «above-the-parties» policy. Given the characteristics of the social and political system, this state of affairs is likely to continue in the foreseeable future.

4. IMPLICATIONS FOR A FUNCTIONALIST INTERPRETATION

One could argue that, within this period, the majority of unanticipated and unintended consequences have been caused by the courts’ frequently contradictory decisions. There have been certain cases, however, whereby several legislative dimensions have led to obvious dysfunctions for the subunits of the industrial relations system. Government intervention and manipulation also seem to have accounted for some of the unanticipated consequences of legislation. Coupled with the reluctance of employers to obey the existing laws and even the court decisions interpreting these laws, the government’s conservative attitudes impeded the development of a viable collective bargaining system during this period. Thus trade unions seemed beset by various dysfunctions which hindered their adaptiveness and development within the industrial relations system.

1. The practice established by the 1963 legislation in regard to the determination of the «majority union» to be authorized for collective bargaining has been clearly dysfunctional not only for
the trade unions concerned, but also for the remaining subunits of the Turkish industrial relations system. These dysfunctions have also been aggravated by the failure of Türk-İş to centralize the trade union structure. As predicted earlier, therefore, a pressure for change disposed to establish a well-articulated system has clearly emerged, and several proposals (including a «secret ballot» system by the workers concerned) have been made to amend the related articles of the 1963 legislation in order to create a simpler and fairer practice of determining the «majority union.»

2. Some of the judicial decisions have led to unanticipated dysfunctions not only for certain subunits of the industrial relations system, but also for certain phases of the subunit for which they have been functional on their face value. Therefore, a concept of multiple consequences seems to be as valid for various phases of trade unionism as for the diversely situated subunits of the industrial relations system. In this context one has to take into account several facets of trade unionism such as collective bargaining and dispute settlement, membership, union democracy, trade union freedom and leadership, etc. When considered from this point of view, the court decision which has superseded the nonmembers' ability to benefit from a collective agreement by paying «solidarity contributions» seems to have emerged as an unintended dysfunction for trade union freedom. By coercing the nonmember workers into joining the signatory union, it has run counter to the principle of rival unionism. It has proven to be functional as far as membership strength of a union is concerned, but considering that trade unionism is a multidimensional institution, it seems to be a sounder practice to be content only with the practice of «solidarity contributions» and thus to try to maintain an optimum balance between trade union freedom and the financial strength of the trade union concerned. To be fair, it seems also a sound practice to deprive the worker who has dropped his membership from the signatory union of his right to benefit from the collective agreement.

As regards the membership situation of certain public employees, the legislature should base its judgment on the type of work they perform rather than the formal status to which they have been subjected. It seems to be a more desirable alternative to favor the
view of ridding such employees of the marginal status which has subjected them to remuneration and promotion schemes similar to those of the civil servants and, thus, enabling them to unionize as "workers" and not as civil servants.

3. The centralized nature of the industrial-national (Turkish-type) unions certainly brings about obvious functions from the standpoint of unions' collective bargaining and financial strength. Insofar as consequences for union democracy and leadership are concerned, however, certain dysfunctions are likely to arise. The same is true for federations and local organizations which manifest centralization tendencies within their own structures. Without ignoring and sacrificing the advantages inherent in centralism, certain precautions could perhaps be taken in order to ameliorate union democracy in such organizations.

First, it seems more appropriate to hold union conventions and elections periodically every year rather than following the "every two years" procedure adopted by the Trade Unions Act no. 274. Union constitutions may provide both for this and for several safeguards enabling a more serious and strict control of the administrative staff of trade unions. Secondly, election of leaders at the national and federation levels could be predicated upon referendum by rank and file members instead of being conducted through the delegates' votes. As pointed out above, for certain reasons election by delegates does not seem to be representative and democratic in most cases. Thirdly, the difference between the salaries of professional union leaders and the wages of workers in the same industry should be reduced to a minimum. Such a practice is likely to make it easier for a leader to return to his job in the shop in case he is not reelected and ultimately to weaken his resistance to the requirements of democratic processes. In this case, trade union posts are more likely to be occupied by people who are dedicated to the idealism of serving for the interests of workers rather than by persons motivated by self-interest only. And finally, some of the checks established by legislation to see to it that opportunity for misuse of power and corruption by persons in administrative posts is eliminated could be revised so as to implement a stricter and closer

78. See above, p.p. 206-209.
control. According to Article 27, for instance, union officials have to declare through the public notary the possessions, property and income they and their families have, both following their election and at the expiration of their careers in trade unions. Such declarations could be made compulsory at more frequent intervals.

The principle of «rival unionism» has proven to be functional as far as union democracy is concerned. But it has led to excessive splits within the trade union movement. While trying to preserve a reasonably central structure, certain precautions such as those mentioned above could be taken both by the legislature and by the trade unions themselves in order to maintain a reasonable amount of viable union democracy in this country.

4. The latest decision of the Court of Cassation which enables a local union to bargain at the local level even though there may be a centrally bargained industry-wide agreement still in force is likely to undermine the authority and status of industrial-national unions and federations. There are many economic and political factors which favor the centralization of the collective bargaining process. One of the more important reasons for greater union centralization is to facilitate basic union objectives of standardization and uniformity in wages and other conditions of employment. «Union tendencies toward centralized control have been stimulated historically by the need to secure greater economic strength to bargain on a more even footing with better organized and economically more powerful industry groupings.»\(^{80}\) The enlarged scope of collective bargaining and the increasing professionalization of bargaining negotiations also prompt greater centralization.

In short, there are numerous pressures of logical and practical origin favoring centralized policy-making on both sides of the bargaining table.\(^{81}\) However, the latest ruling of the judiciary seems to be quite dysfunctional as far as all these dimensions are concerned. Likewise the draft bill proposed by the JP government has recognized the precedence of local bargaining over industry-wide agree-

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ments. By the same token this is likely to cause internal strife among unions in the future. 82

Local unions should have a certain degree of autonomy and discretion in contract-making and administration, of course. This is a vital matter both for the protection of rank and file interests at the shop level satisfactorily and for the recruitment and training of potential leaders in bargaining and contract administration at the local level. Therefore, matters such as union democracy and leadership are involved as well in the centralization versus decentralization controversy. The adoption of the «master» agreement technique seems to be a desirable alternative in order to maintain an optimum balance between central control and local option. Centralized bargaining is an imperative requirement for many reasons. Besides, the difficulties encountered in face to face bargaining at the local level due to the consensus-oriented cultural patterns make centralized bargaining an easier alternative for trade unionists in conflict settlement. But decentralized administration and freedom to depart from centrally determined policies when circumstances indicate a departure to be advisable are equally essential. Therefore the centrally bargained master agreement must take precedence, but local units should be entitled to bargain on and administer such matters as seniority systems and procedures, methods of wage payment, job classifications, production standards and wage rates on new or changed jobs. Since a master agreement is to be enforced at the industry-level, no strike action should be permitted for the bargaining of local issues (except strikes for rights disputes, of course). This is a matter of maintaining a delicate balance between the functions of centralized bargaining and the functions of local autonomy and discretion. «An effort should be made to combine centralized determination of major policy issues with a maximum of decentralization and local option in the administration and implementation of such policies.» 83

5. An unanticipated consequence also emerged as a result of the municipal authorities' manipulation and the courts' distorted interpretation of the right to strike. Unlike the situation in most

82. See the related articles of the draft bill in, for instance, Teksif, November, 15, 1967.
83. Davey, p. 338.
other countries including those in Western Europe, strike-breaking had been explicitly prohibited by the 1963 legislation. In more industrialized countries where employers have to deal with a tighter labor market and where unions are stronger and public opinion exerts a considerable amount of pressure on the parties of the industrial relations system, it may not have been deemed necessary by the legislature to prohibit explicitly the practice of strike-breaking. But in a country like Turkey where employers can easily avoid the effects of a strike by hiring new workers, the legislature did have to protect strikers by such legal prohibitions placed on employers at least until the time when unions will become strong enough to match the power of employers. It should be stressed, however, that the 1963 legislation has been designed specially to meet the needs of factory workers. When other categories of employees such as municipal garbage-collectors, construction or agricultural workers are involved, various practices established by the 1963 legislation are apt to remain nonfunctional, and at times, tend to become dysfunctional. In the same manner, the «extension of the agreement» procedure has remained nonfunctional for the system since there was no such case recorded so far.

6. In general, however, strikes in public services seem to have posed serious problems. They have led to obvious dysfunctions for public and local authorities, and workers have had to face frustrating experiences, as exemplified by the strike-breaking incidents mentioned above. Although not embodied in the proposed legislation, pressures are likely to emerge in the future to restrict the right to strike and to give way to increased government intervention in public services. Taking into account the paternal attitudes of the state toward its civil servants and the latter's perception of the government as a benevolent and respectable entity, the denial of the right to strike to civil servants is likely to persist in the future.

7. The past practices have shown that, in spite of the legal prohibition of involvement in political activities, trade unions have been engaged in various forms of politics, ranging from political maneuvering to establishing closer links with a labor party. Insofar as this has occurred, the legal prohibition of engagement in politics has remained nonfunctional. The future may well see the strengthening and proliferation of such political activities if the gains to
be derived by unions from the collective bargaining system tend to diminish in the course of time.

8. There is little doubt as to the inefficiencies inherent in the present form of the conciliation process. The system is causing serious dysfunctions for the parties concerned, and there is need to set up more efficient mediation and conciliation services. The recruitment and training of talented mediators by the Ministry of Labor would be preferrable since, being specialized officials, they could operate as a lubricator in the dispute-settlement machinery when the parties seek the contribution of the government's third party role in conflict settlement.

9. As far as the government is concerned, the amount of dysfunctions seems to vary depending on which political group is in power and on the subjective dispositions of the existing power group. When political power shifted to a conservative party after 1965, employers and public authorities reached a more powerful stage in order to exert pressure for the removal of the dysfunctions they had encountered. The pressure for change aimed to abolish the right to strike for rights disputes first. If the JP consolidates its power in the Parliament even further at later stages, one may expect an expansion of the limitations to be laid on the right to bargain collectively and to strike in Turkey.

There are various reasons which justify the prohibition of any strike action for rights disputes and which substantiate the view of establishing direct legal action for breach of contract. The restructuring and amelioration of the legal mechanism wrought up to solve rights disputes would certainly bring about various advantages particularly in a country where the judiciary enjoys a relatively higher status as compared with the legislative and executive organs. But, in their present form labor courts seem to be far removed from meeting the requirements of providing fast and efficient services for the new collective bargaining system of Turkey. The abolition of the right to strike for breach of contract terms would lead to serious dysfunctions, therefore, unless the labor courts system is improved so that these judicial bodies can operate in a way similar to that of their counterparts in Western and Northern Europe. Even after its structure and operation have thus been ameliorated,
the labor court can of course be bypassed by means of private arbitration clauses written into collective agreements.

10. The political phase of the structural context being given, that is, as long as Turkey remains within the multi-party democracy politically, a complete restriction of the right to strike is not likely to occur even though predominantly conservative parties may come to power. There were proposals to revert to the compulsory arbitration system as early as 1964, but the democratic practices once implanted into the system at least formally seem to be strong enough to preclude any government from reverting to the older form of paternalism and compulsory arbitration.

Looking at past practices, one could argue, however, that strikes, usually bitter and of a long duration, have not proven to be very functional even for the organized labor per se. There are various anti-collective bargaining arguments claiming that, while on the one hand wage increases propelled by the collective bargaining system tend to cause inflationary pressures, they on the other hand tend to aggravate the unemployment situation in Turkey by making labor more expensive and thus by prompting employers to substitute for workers labor-saving production techniques. These and similar arguments could be used to justify the restriction of collective bargaining and consequently strike activities of unions. A system of collective bargaining aimed at combining right to strike and compulsory arbitration as practiced in Singapore, or various comprimis-

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Yenal and Ertuna, among several other suggestions aimed at reducing the volume of unemployment, proposed that certain devices might be drawn up in such a way that, the wages without actually being increased, employers could perceive labor as being cheaper and workers could perceive their income as being satisfactory. The expansion of workers' ownership over and access to capital and land, the training and education programs for workers sponsored by the state in order to increase the skill level of workers, etc. are part of their resolutions to increase workers' earnings without actually raising wages. See ibid., pp. 21-22.
ing methods enabling the traditional third-party role of the government in a consensus-oriented culture could be adopted when the net balance of the aggregate of consequences becomes clearly dysfunctional for the more conservative elements of the society that may happen to be powerful enough to effect such changes through legislation.

86. See above, p.p. 178-179.
Chapter VIII

SOME OVERALL CONCLUSIONS

The study of structures and practices in the preceding chapters has revealed empirical evidence to test various propositions with respect to the unintended and unanticipated consequences of legislative action.

The analysis indicates that most of the unintended consequences tend to arise as a result of the «lack of adequate knowledge» and «error» of the legislature, occasionally coupled with the «demand for immediate action.» The unexpected manipulation and control by various units of Turkish society of these legislative dimensions, depending upon their power positions at the specific time and on a specific issue, also accounted for some unintended consequences. The way various judicial bodies interpreted and applied these legislative dimensions also seemed to lead to unanticipated consequences. The importance of «chance factors» (intervening factors) became obvious in transitional periods, such as in the late 1950's and during the 1960 Revolution, and the unanticipated dysfunctions that followed seemed to reinforce the legislative process.

However, one of the implications of the study was the significant role of the «imperious immediacy of interest» of the legislature in importing various items, structures and practices from foreign models. An urgent desire to select and adopt already-tested and seemingly-successful aspects of different systems has continually characterized the behavior of the Turkish legislature. Instead of importing all or most features of a model industrial relations system, Turkey has been selective in her choices. As Windmuller has pointed out:

Indeed, some countries, such as Turkey, have obviously made eclectic choices from a number of different model systems instead of concentrating on a single one. For reasons of efficiency, adaptability and perhaps also because of ideological and foreign policy
considerations, these countries have deliberately searched out individual components of model systems to help build or modify their industrial relations structures.¹

It can be argued that there are advantages to such eclectic collecting since it helps to skip certain stages of development and, thus, saves time and energy in designing legislation. But, it is clear that some, if not all, of these collected items may turn out to be in conflict with the value system of the recipient country, especially when the legislature is motivated by immediate interests and by ideological and foreign policy considerations rather than by the adaptiveness and efficiency of the collected items.²

Our study of legislation also reveals that most legislative change is characterized by the second and third categories of change proposed in Chapter I.³ Indeed, change seems to occur either in the form of the third category—which we have called «directed change»—or in the form of the second category where the legislature is compelled to introduce change as a response to the pressures of groups for which the the net aggregate of consequences has been dysfunctional. However, our survey substantiates the hypothesis that the mere existence of dysfunctions is not sufficient for the realization of legislative change. A subunit has to be powerful enough to put pressure on the legislature either by direct coercion or by indirect persuasion in order to receive the concessions it desires. As far as Turkish labor was concerned, it had not yet developed such power and, thus, needed the help of the traditional innovating force within the society to get a response to its demands. This is not to say that Turkish trade unions were entirely passive and created no pressures to obtain passage of the new legislation. On the contrary,

2. To show the extent to which Turkish legislation has been influenced by the Taft-Hartley provisions as a result of ideological and foreign policy considerations of Turkey, one can cite Section 206 on National Emergencies, Section 304 on Restriction on Political Contributions, Section 305 on Strikes by Government Employees of the Taft-Hartley Act, and the parallel provisions of the new Turkish legislation. The number of closely similar sections of the law can easily be multiplied.
given the structural context of Turkish society, Türk-İş probably
did its best in striving for legal changes. What is meant is that its
pressures would not have led to change (at least in the foreseeable
future) if it had not been bolstered through its alliance with the
military and intellectual coalition.

One notion inherent in legislative behavior of the third cate-
gory, that is, in the category of directed change, is that structure
and function are causally related. Once a structure is formed, it
will perform the functions expected of it and seek to maintain itself.
Whatever merit there may be to such a statement, it is obvious that
for a structure to maintain itself and grow, certain mechanisms
necessary for its growth must be provided. As treated in this study,
function refers to the objective consequences of practices as well
as of structures. Trade unions could not grow initially in Turkey
because certain practices inevitable for such growth were denied to
them. The anticipated functions flow from the structure only if the
latter has been equipped with required mechanisms; otherwise the
outcome is stagnation, deterioration, or diversion of activities to
other fields as in the case of the birliks (regional union organiza-
tions).

With respect to the proposed government intervention discussed
at the end of Chapters VI ve VII, this writer would like to make
clear that this study is not opposed to change. On the contrary,
unlike the functional analysis employed by some anthropologists, a
continuous process of legislative change is seen as essential. The
study claims that to discard certain elements is apt to lead to
various maladjustments. Along with the elimination of certain
practices and establishment of new ones, there is a need to initiate
required changes so as to adjust these new practices to the pre-
existing cultural pattern. This seems necessary in order to have
balanced change, since a change in structural context cannot be
realized within a short time span. If the changes required for the
readjustment of the system are not implemented now, they are
likely to take place in the future in the form of maladjustments
unless the structural context also changes.

This is by no means conceived of as a cyclical process, return-
ing to the exact point from which it started. The fact that certain
anticipated or unanticipated outcomes appear to be the consequences
of legislation does not mean that legislative change is automatically a consequence precipitated by such outcomes. Legislative change may or may not follow the dysfunctions. When it does, it need not revert to previous legislative forms. The pendulum may swing, but equal concessions to different parties are not necessarily made in each swing. When the Taft-Hartley Act was passed in 1947 in the United States, some concessions were made to management. The law was condemned by trade unions as a «slave labor act.» Yet unions did not wither away as a result of its provisions. Compared with the attitude of the legislature and the judiciary towards organized labor during the period preceding the Wagner Act, the Taft-Hartley Act could still qualify as pro-labor.

One might argue that changing the structure will bring about favorable changes in attitudes. Since attitudes are formed on an emotional basis, they can best be changed through emotional means. Altering the structure so that parties are made to interact at the bargaining table will necessarily lead to changes in sentiments and attitudes. Without judging whether such changes are desirable or undesirable, it is obvious that institutions like democracy, decentralism, etc. cannot be learned without actually practicing them. However, extreme alterations of the structure without providing adequate structures to fulfill the same manifest or latent functions may remove the opportunity of having desirable changes in our conditioning factors. Many of the problems of Turkey, and probably of other developing nations trying to implement change, stem from an attempt to create a democratic industrial society in the absence of those attitudes and values that have accompanied and facilitated the process of change in the West. Therefore, although it may slow down the speed of change in the short run, the characteristics of the structural context must always be taken into account.\(^\text{7}\)

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5. Ibid., pp. 191-192.
6. Statement of Professor Lawrence K. Williams, mimeographed class-notes. New York State School of Industrial and Labor Relations, Cornell University, Spring Term, 1963.
7. The adoption of the Swiss system as the basic framework of labor legislation, for instance, is indicative of the fact that characteristics of the structural context have not been taken into account. In fact, the Swiss system is highly decentralized in accordance with the Swiss decentralization
As a matter of fact, the handling of the structural context as a set of conditioning factors in this study makes this point clear. Legislation has been treated as the independent factor to show that environmental determinants shape and mold its effects. And, in the phenomenon of legislative change, at least, this approach has been appropriate. The dysfunctional net balance of consequences could be regarded as the independent factor leading to new legislation. This might be considered a version of the commonly held view that laws are a response to public opinion. However, the prevalence of directed change in developing economies makes the present approach a more realistic one. And yet, even the second category of change, that is, the change instigated by the pressures of groups (pressures generated by intellectuals, civil servants and the military) impinging on the legislature, has too often taken the form of directed change in the reform movements of Turkey.

of power in most economic, political and social affairs. The individual Swiss cantons, which correspond to provinces in other countries, are sovereign in most internal affairs.

A recent example of the same legislative behavior wrought by the immediacy of interest can be found in the newly adopted «co-determination» practice. Without taking the conditioning elements of the culture into account, this practice has been supported strongly by trade unions while it has been opposed by the employers. See, for instance, «Türk-İş, Beşinci Genel Kurula Sunulan İdari ve Mali Raporlar (Administrative and Financial Reports Presented to the Fifth Convention of Türk-İş),» p. 27,

Moreover, one might stress the possible negative effects of such a system on the leadership of trade unions and their protest activities, and argue that in the long term co-determination is likely to be dysfunctional for the trade union movement because it will alienate leaders from members and weaken their militancy against management.
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