LABOR LAW AND LABOR RELATIONS IN CHILE, 1900–1970: A CASE STUDY OF LAW AS A MEANS OF SOCIAL CONTROL*

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Introduction

The purpose of this article is to analyze the role law played in labor-management relations in Chile from the beginning of this century up to 1970. In 1924 a number of laws were passed to structure labor-management relation. In those laws a preference was expressed for certain patterns of behavior with respect to the interaction between labor and management, to the exclusion of other possible structures and behavior. Obviously, these laws did not spontaneously arise out of a vacuum, they were a step in a development of social forces which may be traced back to the middle of the last century. In order to assess the relevance of the laws for the development of the social forces involved, I first sketch the development of the labor movement and the nature of its interaction with management up to 1924. Then I discuss the legislative history of the laws and their contents, so as to evaluate their potential relevance for the development of further relations. It will be seen that the system of labor relations which the laws attempted to impose was very different from prevailing practice at the time. While both labor and management agreed as to the nature of the social conflict they were involved in, they disagreed substantially with respect to the proper manner of structuring their interaction. Thus, the situation was characterized by a fundamental social conflict situation, divergent opinions about the proper manner of interaction, and a big gap between the social reality of conflict behavior and the system of interaction prescribed by the laws. In other words, the laws demanded substantial changes in patterns of behavior in an area which involved, in the view of the social groups concerned, their very basic social interests.

The development of actual labor relations as well as labor and other social legislation between the coming into existence of the original laws and the late 1960's is then described with a view to analyzing the role of law in the interaction of the social forces involved. I will describe the degree to which labor-management relations were and were not conducted in accordance with the legal prescriptions at various points in time, and suggest a number of more indirect effects of the laws on the overall socio-political development of the country. The conclusion will be that, on the one hand, a fair share of the actual reality of labor-management relations has not been in accordance with the pattern devised by the various laws. Such deviant behavior is most notable in the area of unionization and strikes. Since 1932 about half of all unionized workers have been organized in illegal unions and a good part of all strike activity has also been illegal. It is hard to tell to what degree the interaction between employers and non-unionized workers has been in accordance with the general legal provisions governing their relations. But in view of the virtual lack of supervision by the State over the implementation of these parts of the laws it is reasonable to assume that some part of such labor relations were not quite up to legal standards. On the other hand, the relatively low degree of un-

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ionization among the labor force as such (about 30%) is to be qualified as in accordance with the laws; the same applies to the lack of professional labor leadership and the virtual lack of collective bargaining by branch of industry. Also, it may be said that legal institutions were rather marginal to labor-management relations, which again was in accordance with the spirit of the laws. But the political history of the country shows that, by and large, the conceptualization of the social conflict concerned was not shared by large sectors of the population. In the long run, the prescriptions of the laws were not internalized. The pattern of institutions and interaction as devised by the laws had not been accepted as such, although often certain aspects of them were enforced. In other words, the laws did not manage to impose acceptance of their definitions of proper social behavior, to the exclusion of others, and the value system underlying the laws did not become the dominant ideology.

Labor organization and labor law prior to 1924.[1]

In Chile labor started organizing at the end of the 19th century. Three major types of organizations developed. First, there were the mutual benefit societies whose function was the creation of funds to assist its members in difficult times. Many of these were recognized by the State and incorporated. Second, there were the so-called resistance societies. They were of professed anarchist orientation and generally militant in the defense of work and improvement of working conditions. By and large they lacked institutionalization, being set up on the occasion of a strike and ending their existence with it. Third, there were the mancomunales, or brotherhoods. Frequently they combined the functions of mutual aid and the active defense of work. The first of these were set up in 1900, among the nitrate miners in the North of the country, and their organization spread quickly. A number of resistance societies merged with them, and in a few years they became the most militant forces in the struggle with employers about working conditions. They were the first to declare general strike.

The ideological base of the labor movement was introduced in Chile in the early years of this century, mainly by politically conscious immigrant workers from Southern Europe. This introduction of socialist ideas about the role of the industrial proletariat led to an ever more systematic organization of the labor movement. In 1911 the Federation of Workers of Chile (FOCH) became a permanent organization, with member unions throughout the country. Its 3rd national Convention which was held in 1919, adopted clearly socialist principles: it proposed to "abolish the capitalist system with its unacceptable scheme of industrial and commercial organization which reduces the majority of the people to slavery". (Poblete 1928: 17). The Federation called several general strikes (Angell 1972: 33; Poblete 1928: 19). From the resistance societies developed a number of anarchist unions which did not belong to the FOCH. But in 1919 they joined the International Workers of the World (IWW), the international organization of the syndico-anarchist movement. Their relatively small membership was made up for by a high degree of militance and they were perhaps perceived as an even more serious threat than other unions, and suffered physical repression accordingly[2]. It should be emphasized that organizing and strike activity involved primarily workers in the

1 On the history of the Chilean labor movement, see Angell 1972, Barría 1963 and 1971, Barrera 1971, Alexander 1962, Poblete 1928, Simon 1946, Pike 1963, Lafertte 1943, Manns 1972. The leading authority on labor law and its history is Humeres 1972. On the legislative history of the 1924 laws and subsequent developments, see Morris 1966.

2 For example, in 1920 the anarchists were singled out for en masse persecution, for "subversive activities" such as organizing strikes and unions (Barría 1971: 53).

mining industry and related services (transport and shipping) and in small-scale artisanal industrial enterprises in the cities. It did not involve the rural workers, still comprising some 40% of the economically active population in the early 1920's (Pike 1963: 121). It was only after World War I that occasional strikes took place in the countryside. But attempts to set up permanent or even temporary organizations of rural workers were not successful until many years later. The landed aristocracy was still pretty much in control of its serfs and day-laborers.

The activity of the labor movement as a whole took two major forms: (i) the day-to-day confrontation with employers over concrete working conditions, and (ii) political struggle, in a more narrow sense, at the national level. Trade unions would continually make demands of employers about working hours, health and safety measures, regular payment in legal tender etc. The strike was the major weapon at this level and it was extensively used from the early 1900's onward, as is shown in table 1.

Table 1
strikes per year, 1888–1925

1888	12	1901	5	1914	8
1889	12	1902	21	1915	7
1890	11	1903	17	1916	21
1891	?	1904	11	1917	18
1892	1	1905	23	1918	18
1893	8	1906	48	1919	71
1894	6	1907	80	1920	58
1895	1	1908	15	1921	59
1896	?	1909	5	1922	29
1897	?	1910	3	1923	58
1898	2	1911	8	1924	52
1899	?	1912	26	1925	56
1900	?	1913	27		

source: Barrera 1911: 84, 96

During the period 1900–1925 strikes became more frequent and were generally more planned and organized, as opposed to being spontaneous walk-outs. In addition, they were spreading more over the country and increasingly affected more than one workplace at the time: besides general strikes there were strikes that affected whole branches of economic activity[3]. Also, solidarity strikes became a familiar phenomenon[4]. This changing pattern of strike activity testifies to a higher degree of overall organization and concerted action of the labor movement. Through such day-to-day direct labor activity important improvements of labor conditions were obtained by certain sectors of workers, such as, e. g., the 8-hour day, payment in money rather than in tokens, and on a weekly basis, and the right to unionize. The common response to strikes was repressive violence. The ruling classes could always

3 For example, the port strikes of 1902 and 1903, and the railroad strike of 1907.

4 In the period 1911–1925, 71 % of the strikes whose causes have been identified were out of solidarity, while in the period 1810–1910 solidarity strikes had constituted a minor fraction of all strike activity (Barrera 1971: 91, 95).

rely on the support of the army and the police to violently repress labor unrest[5]. And indeed, strong repression often led to temporary demoralization of the labor movement resulting in periods of relative labor peace.

The interaction between workers and employers was largely unregulated by law. Labor contracts were subject to the same freedom as all other contracts, that is the freedom of the market place. Certain categories of workers were supposed to have written contracts[6] but in fact no written contracts existed[7]. Although there existed some generalized expectation that the administration of justice ought to have something to do with labor relations, judicial remedies for aggrieved workers were non-existent[8]. There was hardly any protective legislation. Prior to 1924, just a few laws were passed on rather marginal aspects of the "social question", such as on worker housing and the Sunday rest. Strikes were not conceived of in terms of (il)legality as they were not regulated by law. They were considered a fact of life. The proper response to a strike on the part of the employer was either the lock-out or simple physical repression, as dictated by the circumstances.

At the political level[9] organized action started in 1912 with the formation of the Socialist Workers Party (Partido Socialisto Obrero), in 1922 renamed the Communist Party. The party presented the demands of the working classes, in generalized form, at the national level. Apart from the categorical demand for the "abolition of capitalism" it formulated specific demands arising from the working and living conditions of the poor, e. g., concerning the prohibition of child labor, the regulation of women's labor, the legal 8-hour day, health and safety regulations and social security provisions.

This growing labor unrest taking the form of organizing, on the one hand, unions and strikes and, on the other hand, working class political parties with openly socialist views and strategies, caused a genuine fear among the ruling classes. This fear was expressed, not only in repressive violence but also in discussions of the "social question" in various fora, such as the press, employers' organizations and the university[10]. In these discussions it became clear that there were, broadly speaking, three different opinions on the matter, supported by various sectors of the ruling classes. First, there were those who flatly denied the existence of any "social question" at all. They saw labor violence as the work of "foreign agitators", which was therefore bound to be incidental. Unions, collective bargaining and strikes were the consequence of the introduction of subversive foreign literature, rather than of labor conditions in the country itself. Adherents to this view opposed on principle any labor legislation at all. They saw physical repression as both the natural and sufficient remedy, and rejected the use of more symbolic means of controlling other people's behavior, such as laws. They constituted the largest and most militant single interest group. Second, there were the conservative reformists. They proposed control of the labor movement by legislative measures. They believed it desirable and possible to impose through legislation patriarchial labor relations typical of feudalism on the developing industrial production system. They were a considerable

5 By far the most formidable performance of the army occured in 1907 when over 2,000 people, including children, were killed in half an hour while assembled in a shoolyard in Iquique. This was on the occasion of a general strike in the nitrate mines. But strikes of smaller scope were met with equally severe repression.

6 Art. 937 of the Commercial Code.

7 One of the three Congressional Committees investigating the labor situation in the Northern nitrate region reported this (Morris 1966: 96).

8 Another Congressional investigation committee reported that nearly all judges in the mining region were either employed by the companies or received payments from them (Angell 1972: 18). An illustrative procedural detail is that in case a domestic servant would ever sue the employer – not a very likely event anyway – the latter's testimony should be presumed to be true (art. 1995 of the Civil Code).

9 On the political history of Chile, see Petras 1969, Barría 1963 and 1971, Jobet 1971, Angell 1972, Lafertte 1943, Pike 1963, Faletto y Ruiz 1972, Stevenson 1942, Silvert 1957, Peppe 1971, Gerassi 1965.

10 Between 1898 and 1924 the sons of the upper classes wrote at least seventy theses on what was rather euphemistically called "the social question" (Morris 1966: 103).

minority. Third, there were the liberals who looked to overseas, more developed industrial countries that had some form of labor legislation which apparently kept labor unrest under control, or at least at a bearable level. This group believed that enlightened legislation which would take into account the social reality already existing, would solve the problem once and for all. They formed a minority. The ideas of the latter two sectors led to concrete proposals for legislation on the matter.

The laws of 1924; legislative history and evaluation[11] Around 1920[12] some senators of the Conservative Party presented a bill proposing labor legislation along the reformist lines indicated above. In 1921 the President of the Republic sent his own proposal to Congress, which reflected by and large the liberal opinion on the matter. Both bills dealt with the major aspects of labor-management relations: the structure of and effective control over unions, their leaders and their funds, and their interaction with employers (i. e., collective bargaining); the strike and the lock-out; and different forms of profit sharing.

The Conservative bill proposed to make the plant union[13] the legally recognized structure of labor organization. Wherever a shop employed 25 workers of over 16 years the employer was to set up a union, membership of which was to be compulsory. Collective bargaining would be restricted to plant level and, if unsuccessful, a dispute was to be submitted to compulsory conciliation and if necessary to binding aribitration. Both the proposal to thus restrict the use of the strike and the one to impose the plant union as the organizational structure for labor-management interaction were attempts to break the strength of the labor movement as it existed in 1920.

The Liberal bill, by contrast, proposed to legalize both the already existing organizational structures and the methods employed, and to regulate them so as to control them. Thus, it would legalize organization by branch of economic activity (the craft union), on a voluntary basis[14], collective bargaining at that level, voluntary conciliation in case of a collective conflict, and a legal strike if it failed. In addition, it proposed to set minimum standards to all labor contracts and to provide for some insurance against the financial consequences of unemployment, illnes and old age.

The bills were, off and on, debated for several years, but no law was passed, which is not surprising in view of the substantial opposition to pass any legislation at all. In the end it was by and large the view embodied in the Conservative bill that won out. But this was not the result of a process of persuasion and compromise: the 1924 labor laws were passed forcefully after a coup d'état by an army which had grown impatient with Congressional indecision[15].

The laws as passed[16] provided for the legal recognition of the plant union, to be set up by

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11 Data on the legislative history of the 1924 laws are from Morris 1966.

12 It is not clear exactly when the bill was presented.

13 A plant union is a union whose members are the workers in one workplace only.

14 The minimum membership for a local union chapter would be 20 workers; no age limit was set.

15 For an account of the political developments that led to the 1924 coup d'état and the passage of the labor laws, see Nunn 1963: 122 ff., Rodriguez 1938, Pike 1963: 170 ff., Alessandri 1952: 280 ff., Monreal 1929 (vol. 1).

16 The laws passed were the following:
No. 4053, on the labor contract; this law provided for the 8-hour day and the 48-hour week. Overwork could be stipulated, up to 10 hours a day, and should be paid extra. Payment of wage should be in legal tender, regularly and not less frequently than every two weeks. Wages may not be paid in canteens, taverns or the company store. A minimum daily wage shall be fixed annually by a committee of employers and workers. A collective contract may be concluded between a union and an employer. Minors of 12 may be employed if they completed primary education; if not, 14 is the minimum, Neither persons under eighteen nor women may work in mines or other dangerous workplaces, Women will have 60 days maternity leave (without pay). Employers are required to take safety measures in dangerous workplaces. The Directorate of Labor shall have inspectors to see that these provisions are implemented. There shall be freedom of commerce in mining camps. Reasons for justified dismissal include the open-ended clause "improper behavior". This law did not apply to agricultural workers, domestic servants or firms with less than 10 employees.
No. 4054, on compulsory insurance against sickness etc. Workers who do not belong to a mutual benefit society must be insured.

minimally 25 workers over 18 years of age. A distinction between blue and white-collar workers was introduced, and different rules made applicable to them. Among other things, it was provided that they should have separate unions. Neither civil servants nor rural workers were allowed to unionize. Control over unions was to be through. The Directorate of Labor was to supervise every one of the numerous steps in the creation of unions, screen members for leadership and control their funds closely. There were to be no professional, full-time union leaders, every year new officers would be elected. No strike funds were allowed. Legal unions were promised 10% of the annual profit made by the employer[17], part of which would accrue to the union as such and part to its members. The laws allowed the presentation of collective labor demands by minimally 10 people working in one shop. Thus, collective bargaining was not limited to plant unions; but such groups of at least 10 workers had no legal personality and would not share profits. With respect to primary and most secondary labor conditions a "collective contract" resulting from collective negotiations would have the effect of having its terms included in the individual contracts of the workers concerned[18]. If negotiations were to fail, the ensuing conflict between "labor and capital", as it was simply put, was subject to compulsory conciliation. In case conciliation were to fail the established means of economic struggle – the strike and the lock-out – would be allowed. The legality of the strike would depend on the proper application of all the rules prescribed for the process of conciliation.

The laws also created minimum statutory obligations for employers with respect to the contents of all labor contracts. These provisions included: the 48-hour week; payment in legal tender and at least every two weeks, a minimum daily wage, 60 days maternity leave (without pay). However, these provisions would not apply to rural workers, domestic servants and workplaces employing fewer than 10 workers[19].

Others may join voluntarily (penny capitalists, artists, etc.). Workers pay 2 %, employers 3 % and the State 1 % of the wage. If a worker wants to insupe his family as well he pays 5 % more.

No. 4055, on work accidents. Changes slightly the earlier law of 1916 in that it extends liability of the employer to occupational diseases. Provides for medical expenses, compensation for temporary and partial disability, and a pension for widow and children. Employers are encouraged to insure themselves against these expenses. This law applies only to employers of at least five workers.

No. 4056, on the settlement of conflicts between "capital and labor", as it was simply put. Where minimally 10 people work in one shop a collective conflict may be declared. This conflict must be submitted to conciliation if direct negotiations fail. Conciliation Boards, consisting of 6 members (3 elected by workers, 3 by employers) will be set up. A labor inspector shall be the president but have no vote. If the decision is rejected the parties may resort to the economic struggle: strike and lock-out (such a strike is "legal"). All steps in the process of conciliation are minituously regulated (how many copies of each document, how many days for what etc.). Arbitration is voluntary and shall be suggested by the conciliation board if the conciliation award is rejected.

No. 4057, on unions. (1) the plant union: wherever 25 workers of over 18 years of age work in one shop they shall form a union (this only for blue-collar workers). This union may conclude collective contracts and represent the workers in a collective conflict and for the defense of any other economic interest of the members. Selection of officers is regulated in detail and includes strict supervision by the government. No strike funds are permitted and the union may only have a very small amount of cash in its office, the rest must be in a bank account. Its funds will come from profit sharing (10 % of annual profit) and from dues. Confederations of unions may not defend "economic interests" but only have social functions. (2) the craft union: craft unions may be formed but may not bargain collectively with employers. Civil servants may not form unions.

No. 4059, on white-collar workers. The major special provisions are: they shall be paid 50 % extra for overwork. They shall have a paid vacation of 15 days per year. They shall be paid (collectively) a bonus of 20 % of annual profits of the firm, or 25 % of the annual payroll, whichever is less. The employer shall pay 5 % of the total income of the worker (wages and fringe benefits) in the social security fund for white-collar workers. The law does not apply to workers in agricultural enterprises, domestic servants, employees of the State railroad company, nor to any other civil servants.

For the sake of comprehensiveness of exposition I include a number of rules not contained in the laws proper, but in the Reglamentos, by-laws, drawn up later for the purpose of specifying the obligations and procedures contained in the original laws, as well as creating the institutional structures required to implement and administer the laws. In fact, a law does not normally enter into force before its Reglamento has been duly published. Reglamentos complementing the 1924 laws were contained in Decreto 2736 (1925), decreto 498 (1930), decreto 303 (1925), decreto 2148 (1928), decreto 2150 (1925). A number of specific provisions first contained in these Reglamentos were later incorporated in the Labor Code, decreed into existence by DFL 178 of 13 May, 1931.

17 Later, unions prefered to "negotiate a fixed sum – usually 3 % of a year's wage – in lieu of profit sharing, so as not to be left empty-handed in a profitless year or fall victim to their employer's book-juggling". Compa 1973: 21. The 3 % refered to had in fact become the legal maximum that could be bargained for. See also, USBLS 1962: 28.

18 For an elaboration of the nature of the "collective contract", see below, p.

19 The laws also provided for health and safety regulations for dangerous workplaces and for a compulsory insurance against illness, unemployment etc., along the lines of the existing mutual benefit societies.

How was the behavior of employers and workers as specified in the laws to be enforced? Contractual obligations on the part of employers were to be enforced by the aggrieved workers individually, by filing a suit in court. The statutory obligations of employers, both with respect to the contents of labor contracts and others, were to be enforced by the Directorate of Labor, an administrative agency. The ultimate sanction provided for was a fine. There was no means to enforce the concrete obligations of employers as such[20].

The major obligation of workers was not strike illegally[21]. The positive sanction attached to legal behavior was the promise that a legal strike would not be forcefully broken. The major positive reward for setting up a legal union was the promise of profit sharing.

As we have seen, labor and management had, in their on-going confrontations already, developed institutional structures and methods of their own. By 1920, there were branches of economic activity which had collective contracts and there were unions of such isolated workers as domestic servants (Poblete 1928: 25, 30, 36/7). Thus, the laws tried to impose a system of labor relations considerably different from the social reality of such relations considerably different from the social reality of such relations at the time.

The restrictive nature of the laws is apparent when we consider the implications of their major provisions. The requirement of 25 workers of at least 18 years old as a minimum for setting up a union excluded the large majority of industrial workers (probably close to 95%), except in mining. Cottage industry characterized industrial production[22], and children started work young, at the age of 12 at the latest, so that many workers were below 18. Domestic servants obviously were also excluded from organizing. The requirement that blue and white-collar workers have separate unions, and the exclusion of civil servants from organizing at all reinforced the pattern of attempted fragmentation of the labor movement. Consequently, only very few workplaces qualified for establishing a plant union or even collective bargaining. Also, the numerous and complicated formalities for setting up a legal union were bound to constitute an obstacle for organizing in conformity with the law[23].

The laws tried te restrict the use of the strike by recognizing it as a legal means of struggle only after numerous complex procedures had been followed. They made illegal all strikes not properly related to the process of collective bargaining, such as those for enforcement of contractual and statutory obligations of employers, dismissal, solidarity and general strikes.

Labor law and social forces 1924–1970

The process of setting up the institutional structures provided for in the laws was rather slow. Conciliation Boards had to be created, the Directorate of Labor had to be equipped to adequately supervise the creation and functioning of unions. Labor courts had to be set up for the handling of individual grievances. In the years 1927–1931 Chile lived through a dictator-

20 When I did filedwork in Chile in 1972/3 there were still no means of enforcing such obligations.

21 The laws provided for no special sanction for illegal strikes, but the criminal code already contained provisions under which strikes could be tried as "subversive activities" and "interference with the right to work".

22 Exact data for the 1920's are not available but figures for the late 1930's show the scale of production units prevailing then. Out of a total of 19,432 industries 9,700 (50.7 % were family workshops, and 7,694 (39.5 % employed an average of 3.2 workers. Only 251 enterprises (1.3 %) were to be considered as "large" as they employed an average of 386 workers each.

23 "The Labor Code also fashioned a trap-ridden procedural maze for all facets of union activity – organizing the union, electing officers, bargaining, ratifying demands and agreements etc. These and all other activities are regulated in step-by-step detail, and any failure to comply means the whole effort is lost. An immediate result of this has been to discourage many workers from even trying to form a union." Compa 1973: 15.

ship during which all political opposition, as well as organized labor suffered severe repression. Also, the implementation of the new industrial relations system was initiated. In 1931 the existing labor legislation was consolidated in a Labor Code[24], with minor changes.
By 1932 the economically active population numbered about 1,500,000; some 55,000 workers were legally organized, distributed over 253 craft unions (which had legally no bargaining power) and 168 plant unions (Morris 1966: 258; Angell 1972: 58). Table 2 shows the growth of legal plant unions and their share in the total of organized labor over the period 1932–1938.

Table 2
numbers of legal plant unions; percentages of total organized labor; 1932–1938

year	unions		members	
	nos.	%	nos.	%
1932	168	40	29,442	54
1933	243	39	39,902	53
1934	266	39	42,617	53
1935	255	38	47,442	57
1936	275	41	51,185	59
1937	316	39	69,113	59
1938	333	36	78,989	63

source: Barrera 1971: 12

The share of legally organized plant unions and their members in the total of organized labor remained rather stable for many years. Up to the mid 1960's an average of 33 % of all unions was legal, comprising some 55 % of all union members. Then the share of legally organized labor in the total dropped considerably.
Not much is known about strike activity in the period 1925–1936. It is generally assumed that there were relatively few, because of a high degree of systematic repression. But censorship at the time has impeded investigation in this respect. In the period 1936–1946, a Popular Front government united all democratic forces to confront facsism, and this led to a high degree of cooperation between workers and government. It was agreed to maintain social peace for the time being. The Socialist Party, one of the major working class political parties, participated in the government, and this led to an increased involvement of the state machinery in the resolution of labor conflicts (Barría 1971:72). Accordingly, only a few strikes are recorded for this period (table 3).
Soon after World War II the cold war came to Chile and brought with ist severe repression, especially of organized labor. The 1948 law denominated ,,for the Permanent Defense of Democracy"[25], declared illegal strikes and other acts ,,disturbing public order" (these included legal strikes) crimes subject to summary trial and severe sanctions such as barishment to concentration camps (Barría 1971:99). Communism was outlawed and the workers' organization virtually dismantled. It was the first law in the history of Chile to give explicit strike-breaking powers to the Executive, thus legalizing a long-standing practice. Ever since, such provisions have been on the books in one form or another[26]. Also, the 1948 law re-

24 DFL 178 of 13 May, 1931.
25 Ley no. 5839 of 30 September 1948.
26 See below, p.

Table 3
Numbers of strikes; 1939–1945

year	strikes
1938	19
1939	17
1940	16
1941	25
1942	31
1943	20
1944	15
1945	21

source: Barrera 1971: 101

peated the prohibition for civil servants to organize at all. Nevertheless, they started seriously organizing themselves and, together with white-collar workers in private enterprise, formed the National Association of White Collar Workers (JUNECH). In defiance of all applicable labor law, the Association called its first nationwide, successful strike in 1950 (Barría 1963: 15). Two points may be noted about this. First, the creation of civil servant unions was illegal, still they functioned. Second, the nationwide organization of all white-collar workers in the Association defeated in effect one of the major objectives of the labor legislation, namely to induce fragmentation of the labor movement. Thus it was a development in disregard of the law, although not, strictly speaking, violative of it.

The same applies to the establishment of the National Workers Confederation (CUT) in 1953, which brought together both legal and illegal unions of blue and white collar workers. Obviously the CUT could not legally represent labor at the national level. Consistently being denied juridical personality, it remained, legally, a private association like any other. Nevertheless, ist acted in fact as spokesman, if not always effectively as leader of the loosely and not at all organized workers, as well as of the firmly organized workers. Also, the CUT called several general strikes, some of which were successful in varying degrees. The CUT, existing at the margin of the law, became an important social reality with which both employers and the government had to reckon.

While both government and employers were unable and/or unwilling to actually prevent the creation of such powerful social groups, they did react towards legal unions acting illegally. Employers could and did ask the government to revoke the legal personality of unions which allegedly had violated the law. Frequently revocation of legal personality was related to an illegal strike. Table 4 shows the pattern for the years 1959–1964.

Despite physical repression and restrictive labor legislation, the labor movement grew considerably after World War II. This was expressed not only in the degree of organization at the national level, but also in increasing strike activity, despite both the fact that no strike funds were allowed and the ever more inclusive strike-breaking powers of the government.

Tables 5 and 6 show that after World War II the strike was back as a major feature of de facto labor relations in Chile, and that the large majority of these were illegal. Workers struck for a

Table 4
Numbers of plant unions acquiring and losing legal personality; numbers of members affected; 1959–1964

year	legal personality granted		legal personality revoked		variation	
	unions	members	unions	members	unions	members
1959	22	4,720	122	11,733	−100	−7,013
1960	14	1,833	46	5,743	− 32	−3,910
1961	20	2,396	36	3,884	− 16	−1,493
1962	24	2,689	21	1,701	+ 3	− 988
1963	20	1,528	22	1,260	− 2	− 268
1964	40	6,952	20	1,261	− 20	−5,078

source: Barrera 1971: 19

Table 5
Legal and illegal strikes; 1947–1968[27]

year	legal strikes	illegal strikes	total	illegal strikes as % of total
1947/50*	39	82	121	68
1951	44	149	193	77
1952	54	161	215	75.3
1953	60	148	208	77
1954	61	244	305	80
1955	62	212	274	77.5
1956	24	122	147	83.3
1957	12	68	80	84.7
1958	17	103	120	86.2
1959	10	197	207	95
1960	85	172	257	66.6
1961	82	180	262	50
1962	85	316	401	97.3
1963	50	363	413	88.5
1964	88	476	564	84.7
1965	148	575	723	79.3
1966	137	936	1,073	86.2
1967	264	878	1,142	77
1968	223	901	1,124	80

sources: Petras 1969: 172; USBLS 1969; Angell 1972: 76
*: annual average

27 These are official figures and bound to be optimistic. Other sources, based upon independent research give higher figures for some post-war years. Barrera (1971: 118) gives the following totals: 1961: 835; 1962: 667; 1963: 642.

Table 6
Numbers of strikes, strikers and man-days lost; 1965–1968[28]

year	strikes	strikers (000)	man-days lost (000)
1965	723	182	1,902
1966	1,073	195	2,015
1967	1,142	225	1,990
1968	1,124	233	3,652

source: Angell 1972: 76

variety of reasons, among which wage increase demands (both legal and illegal[29] played a remarkably modest role, taking into account that renegotiation of collective contracts was customarily an annual event. Detailed data about the causes of all illegal strikes are available for the years 1961 and 1967; dato for the manufacturing industry, employing about 16 % of the lavor force, ara available for more years (table 7 and 8).

The State institutions set up to administer labor and other social legislation have by and large remained marginal to the interaction of the social forces involved. The major ones of these institutions were, the labor courts, the Directorate of Labor, the Conciliation Boards and the various Social Security Boards. None of these ever had the facilities to perform their stated functions. The Conciliation Boards, designed to settle collective conflicts, were hardly used (Compa 1973: 26). The Social Security Boards grew slowly in terms of membership and amount of money administered[30]. The specialized labor courts were only to be found in the larger cities, and were in any case rather inaccessible because of their location, the statutory requirement of legal representation, and other obstacles. They always lacked adequate facilities: when in 1966 a new law gave exclusive jurisdiction over dismissal grievances to the courts, and at the same time exempted such cases from the requirement of professional representation, no attempt was made to increase court facilities to handle the additional cases that were reasonably to be expected. In 1970, the whole of the labor force of Greater Santiago, numbering over 1,000,000, presented an average of approximately 570 labor grievances each month at a total of six labor courts. Of these some 400 were related to dismissal and the rest, some 170, were other labor grievances of various types.

The Directorate of Labor customarily spent by far the better part of its scarce resources on the control of labor unions. Consequently, its role in supervising the implementation of protective labor and related social legislation was necessarily quite restricted[31].

28 Again, independent sources give higher figures for some years, as follows:

year	strikes	strikers	man-days lost
1965	772	212,397	1,952,494
1966	718	88,498	793,448
1967	2,177	386,801	2,252,478

source: Barrera 1971:118.

29 In 1956 it was declared illegal to demand wage increases beyond a certain level set by the government (Petras 1969: 106). Consequently, strikes based on such wage demands became also illegal.

30 In the early 1940's about 15 % of all wage earners were covered, in 1958 the figure was 66 % and in 1968 it was 75 %; this included both white and blue collar workers. However, there has been a consistent tendecy for blue-collar workers (some 75 % of the insured) to receive a small share of all the money distributed. See Hubert Herring 1971: 120. And USBLS 1962: 30, 34.

31 "The complexity of the law and the low priority traditionally accorded to labor administration within the government had combined to hamper enforcement activities. (. . .) Although the manifold duties of labor inspectors are specified in various labor laws, funds for enforcement were seldom provided." USBLS 1969: 27.

Table 7
Causes of illegal strikes, in percentages; 1961, 1967

year	wage increase demands	non-payment of wages and other benefits	dismissal	solidarity	other
1961	25.4	26	11.8	15.3	21.5
1967	35.1	18.5	15.2	6.3	25

source: Porcell y Villablanca 1972: 51/2

Table 8
Causes of illegal strikes in manufacturing industry, in percentages; 1961–1967

year	wage increase demands	non-payment of wages and other benefits	dismissal	solidarity	other
1961	44.4	16.2	10.3	18.8	10.3
1962	10.2	5.7	25	47.7	11.4
1963	25.4	16.9	35.2	1.4	21.1
1966	68.2	13.6	7.6	–	11.6
1967	34.9	23.8	23.8	5.6	11.9

source: Barrera 1971: 123

The working class political parties, primarily the Socialist and the Communist Party, kept growing steadily. When during the cold war the Communist Party was outlawed, working class political support went to the Socialist Party. When the Communist Party was re-legalized in 1958 it emerged strong and ready for the Presidential elections. The Socialists and the Communists presented a joint candidate, Salvador Allende, who came close to winning the elections. Political mobilization continued and again in 1964 the left came close to electoral victory; but it was only in 1970 that the left would finally gain control of the executive branch of the national government.

Legal repression in the 1960's

Again in the 1960's, like in the early years of this century, a substantial anxiety developed among the ruling classes. Chile acquired the qualification of "the land of the thousand strikes"[32]. The considerable effect on productivity of such prolific strike activity tended to discourage foreign investment. This, in addition to the growing power of the working class political parties, induced the various post-war governments to consider remedies. As we have seen, the primary reaction to the perceived threat was a resort to physical violence. Characteristic of the post-war period was the felt need to legalize this official violence. There was no need to justify the repression of illegal strikes, but legal strikes were protected by the Labor Code. From 1946 onwards, the category „legal strike" was gradually narrowed down, thus giving legal sanction to the repression of ever more strikes. In 1948 all illegal

32 This was a headline in the Washington Post of 7 April, 1966. Cited by Petras 1969: 217 (note 52).
33 See note

strikes and any other acts ,,disturbing public order" were declared crimes subject to severe sanctions[33]. In 1956 strikes related to demands for wage increases beyond the officially approved level were labeled illegal (Petras 1969:106). The 1948 law was replaced in 1958 by the law on the ,,Interior Security of the State", providing for state intervention in case of a strike was a result of a collective conflict in any enterprise to be qualified as ,,vital to the national economy" and similarly vague phrasings[34]. Presumably, these rules did not apply to all strikes but their formulation always left a fair margin for interpretation. In 1966 the legislature granted the executive the power to break strikes and impose intervention after 15 days of striking for ,,excessive wage demands"[35]. These measures were contained in the annual reajuste law[36] and were not supposed to apply beyond 1966, but no new reajuste law was passed in 1967. The 1968 reajuste law went even further applying the same executive powers to strikes related to all types of "economic demands".

Other legal changes[37] A bill of 1965 proposed important changes in the structure of labor organization. On the one hand, it proposed (i) to grant legal bargaining power to federations of unions as existing in several branches of economic activity and (ii) to recognize the de facto unions of civil servants. On the other hand, it proposed to allow up to three unions per workplace. It could be anticipated that this would lead to a fragmentation of the labor movement, through the creation of separate unions along political lines. Organized labor considered this an open attack on its only legal stronghold, the single plant union. In addition, the bill proposed to give the President a new variety of strike breaking powers. The whole was presented as a package deal, and as such so unacceptable to the various interest groups that the proposal was dropped.

Other proposals to change the Labor Code may be understood as attempted remedies for the various causes of strikes. With respect to the numerous strikes resulting from the yearly renegotiation of the collective contracts, a solution was sought in the promotion of collective bargaining by branch of industry[38]. Dismissal was another major cause of strikes. In 1966 a law was passed whose major innovation was to increase the amount of indemnification for dismissal without cause[39]. The categories legal and illegal dismissal as well as some minimal form of indemnification for most categories of workers, had been part of the Labor Code since 1931. There had never been any enforceable right to reinstatement and the 1966 law failed to provide it. It did, however, provide employers with more categories of good causes for dismissal relevant to modernizing, growing industrial establishments[40]. The law failed to convince workers: in 1970 the CUT repeated its demand for a law effectively protecting job security (Barrera 1971: 115).

With respect to other labor grievances which frequently led to strikes, such as non-payment or consistent late payment of wages and other benefits, non-implementation statutory rules,

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34 Law no. 12.927 (1958). This should be seen as an elaboration of art. 620 of the Labor Code (1972 ed) empowering the government to break a strike in areas of "production or services whose suspension endangers the health or material well-being of the people."

35 See law no. 16 464 (1966).

36 Since the middle 1950's yearly laws were passed indicating the percentage with which wages should be raised, and may be raised. Frequently, but not always, this adjustment was based on the officially established increase in the cost of living over the past year.

37 On the Frei government policy on labor relations generally, and the proposed changes in the Labor Code, see Peppe 1971. See also Angell 1972: 197 ff., and Petras 1969: 240 ff.

38 However law no. 17 074 of 16 December 1968 established a system of tri-partite collective bargaining in a few major sectors of industry. This was in part a recognition of the de facto bargaining power of some federations of unions. For an evaluation of the tri-partite bargaining system, especially in the textile industry, see Compa 1973: 33 ff.

39 Law no. 16 455 of 5 April 1966.

40 New causes for legal dismissal were: (i) ,,the loss of a particular skill of a specialized worker" (this may even be the result of a work accident); (ii) ,,invalidity of the worker of such a degree that the qualifies for retirement" (again this may be the result of a work accident or a professional disease); (iii) the needs of the proper functioning of the workplace" (e. g., efficiency).

administrative measures were taken to improve the treatment of such grievances and generally control compliance with the laws concerned. The Directorate of Labor was reorganized and received more facilities to perform this aspect of its functions more adequately.
In addition, the political process produced numerous more or less peripheral law and by-laws, dealing with such matters as social security, pensions, house loan schemes, health and safety in the workplace and work accidents, the adjustment of wages and many others. These laws invariably distinguished different categories of workers, making different rules applicable to them; in particular, they often emphasized the difference between blue and white-collar workers. By 1970 the system had produced a labyrinth of over 400 laws in which the average worker was bound to get lost.

The social reality of labor relations in the late 1960's: a close-up

In 1968 the major features of actual labor relations were the following[41]. Some 25–30% of the labor force was organized in unions. For reasons of age alone about 15% of all workers was excluded from joining a union. Of all (plant and craft) unions 32% was legal, of all union members 38% was legally organized. Of all unionized workers 47% were members of plant unions which effectively bargained their collective contract; this 47% corresponds to about 13% of the total labor force. Consequently, a fair share of labor-management interaction was conducted illegally. Public institutions were rather marginal to such interaction. Although it is difficult to quantify accurately the scope of illegal interaction, the degree of illegal strike activity may be a useful indicator. The number of strikes totalled 1,124 of which 88% were illegal. Collective bargaining by branch of economic activity was illegal but in at least three important ones labor-management relations were in fact governed by such collective contracts[42]. The parties had also developed their own grievance procedures.
However, for a more complete and more accurate evaluation of the relation of law to the reality of labor-management relations other aspects ought to be taken into account. The fact that over 70% of the labor force was not organized, and that no professional labor bureaucracy had developed was no doubt in part related to the legislation concerned, and in any case qualifies as a ,,legal" situation, i. e., it was in conformity with both the letter and the spirit of the laws. The lack of professional leadership induced, in its turn, a high degree of rank-and-file involvement in all union activity, and this general participation in the day-to-day confrontation with management may account for a relatively high political consciousness, or as has been said, a ,,class struggle mentality" (Alexander 1962: 10).
Another remarkable feature of labor relations in Chile is that except in the sectors that developed genuine collective contracts, there were no private institutions for handling individual grievances This should be seen in connection with the legal conceptualization of the labor contract as ultimately an individual affair between worker and employer. Legally, there was no collective contract in the sense of two corporate legal units having mutual rights and obligations on the basis of the agreement. The result of collective bargaining was only in small part a collective contract in that sense. The better part of the terms of the contract were negotiated on behalf of the members in the sense of creating rights for them vis-à-vis the employer. All workers had individual contracts and all changes concerning wages and other benefits were written into those contracts. A right for the union as such would be created, e. g.,

41 Shoe and leather industry, railroads, port and maritime services.
42 Sources for the following data are, Angell 1972: 43/5, 51, 65, 76; Barrera 1971: 12; Compa 1973: 26, 29; Alexander 1962: 316.

by the promise of the employer to set up a day-care center at the workplace. Similarly, an obligation of the union would be not to make any wage demands until a certain date.
Another related factor was the strength of the working class political parties ever since World War II. It has been suggested, with reason, that the overall restrictive nature of the labor legislation made the working classes focus on political organization to a degree it might not otherwise have done (Angell 1972: 59). Such political strength has, in its turn, had an influence on certain legislation and administrative measures.

Evaluation and Conclusions

The idea of social control through law

How are we to evaluate the above presented data about laws, social behavior in accordance with, violative of and ignoring such laws? First of all, why would a ruling class want to use laws as one of the means of controlling, that is, influencing the content of conflict behavior between labor and management, and thus the outcome of the conflict situation? The answer would seem to be twofold. Firstly, in the case of Chile the application, for over 30 years, of substantial amounts of pure force to control labor activity had failed to stop the labor movement from growing. In fact, it had reinforced its commitment to its analysis of the social situation and to its strategies, since pure force was the sort of response to be expected from the ruling classes. Secondly, controlling people's behavior through has an advantage over the application of pure force in that law has the potential of having its norms and, perhaps more importantly, its underlying values and principles internalized by its addressees through prolonged, enforced behavior in accordance with legal prescriptions. To the extent that a legal behavior pattern in fact develops, people will begin to believe that the way they behave in fact, i. e., in accordance with the law, is the proper way to behave, official norm may lead to de facto behavior (fact) which in turn may lead to a subjective, internalized norm. However, the internalization of legal norms and values depends on (1) the degree of legitimacy, or credibility, law enjoys in general among those whose behavior is to be changed and (2) the degree of power law and legal institutions represent. Law by its very nature represents an amount of power – both lawn-makers and law enforcers have a very real concrete power. Those who feel they lack power often want to share the power embodied in law, through access to the lawmaking process (or at least favorable laws), and law enforcement institutions.
I propose to use the data presented in the foregoing sections as an illustration of how law was used to introduce and attempt to impose preferences for certain behavior patterns of certain social groups. The laws expressed, on the one hand, a definition of the social situation they concerned themselves with, and on the other hand, a definition of the ,,proper", i. e., prefered type of social interaction in the situation. However, the social groups whose behavior was to be patterned according to the preferences of those having the power to pass laws had their own distinct and well-developed ideas about the issues involved.
As we have seen, the two basic social groups involved were by and large in agreement as to the nature of the social situation they found themselves in when the laws were passed. They recognized the existence of a fundamental social conflict of a very basic nature, touching on the very organization of society. The fact that the labor movement called the conflict ,,class struggle" and management refered to it as ,,the social question" does not make much difference, although the very terminology implies different opinions as to the proper solution of the conflict. The labor movement had avowedly for its ultimate aim the overthrow of

capitalism, while their opponents intended to keep the privileged positions they held. This very conflict situation as acknowledged by both groups derived from diametrically opposed opinions as to the proper organization of society. In other words, the stakes were high and all involved were aware of that fact.

With respect to the proper methods of interaction, the two contending groups differed in opinion. This difference derived directly from the different views the adversaries held with respect to the solvability of the conflict. The ruling classes believed that the conflict could be solved, or at least contained, within the existing frame of economic relations, while the labor movement saw as the only possible real solution a fundamental change in those economic relations. Labor considered as the proper method of struggle comprehensive organizing of wage earners of all sorts so as to confront the opponent collectively, constantly and on all fronts. In this confrontation all available means of power may be employed. Two main levels of confrontation were distinguished: the trade union level and the political level in a narrow sense. Of these the former was seen as by far the most important. The major method of struggle at the trade union level was considered to be the strike and the threat of strike. At the political level the aims of the working classes could be furthered by verbal means, by exposing the nature of the capitalist system as exploitation of the working classes; by formulating and presenting the aspirations of the working classes in a generalized form; by pressing for the passage of what were considered favorable laws; and, ultimately, by capturing political power. Another major function of both political parties and trade unions was seen to be the political education of their members. Day-to-day trade union activity could teach its members the practice of labor struggle while political parties would focus on instruction in the theory of class struggle and the overall role of labor in history[43].

The 1924 laws expressed different views of what constituted proper behavior in the conflict situation as identified. The laws, a de facto compromise, expressed the lowest common denominator of the views of the economically dominant classes, in any case of those who supported some form of legislation with more or less enthusiasm[44]. All agreed that strikes were evil events because they disrupted production, and that labor unions tended to promote, on the one hand, the systematic, organized use of strikes and, on the other hand, threatened profits by making wage and other demands. The stronger the union, the more likely it was effective in achieving its objectives. The strength of unions was considered to lie, first, in its size and, second, in the experience of its leadership. Collective bargaining on a small scale, especially as an alternative to strikes, was acceptable to most.

The laws, the details of which I have set out above, specify a pattern of social interaction between "labor and capital" inspired by two main objectives: (i) the use of the strike must be restricted as much as possible; (ii) the labor movement must not be united but fragmented; labor-management relations must be structured in such a way that management confronts labor in small units at the time. The concrete provisions of the laws are elaborations of these themes.

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43 This picture represents an oversimplification in that it ignores the different emphases laid by different sectors of the labor movement on particular methods. For example, the anarchists did not believe in any form of political organization, nor in the value of any laws, and focussed entirely on direct confrontations of unions with employers. But I am not here concerned with the conflicts within organized labor, and the dominant view was that political activity was of value.

44 Again, to take the 1924 laws as expressing „the" views of the ruling classes at the time is an oversimplification since, as we have seen, one sector denied the existence of a „social question" altogether and, therefore, did not see any value in passing laws on the matter. Those who most strongly opposed any legislation at all – the landed aristocracy – made sure the laws did not apply to them and their workers. Thus, that sector remained outside the realm of law altogether.

It is interesting to see through what specific rules, i. e., prescriptions and prohibitions, the lawmakers attempted to promote their prefered behavior pattern. They classified workers in different categories, such as rural workers, civil servants, workers below and above 18 years of age, workers in small and large workplaces, blue-collar and white-collar workers. Specific legal privileges and prohibitions were attached to some categories of workers and not to others, the most important one being the legal capacity to organize in unions and to present economic demands collectively. Thus, the law defined prefered behavior patterns, and at the same time created categories of workers and classified them in terms of superior and inferior. Strikes were discouraged in various ways. First of all, no strike funds were allowed. Further, the prefered social interaction pattern as expressed in the laws emphasized conciliation. On this point, the law addressed both parties. Labor should duly present demands and management should listen. At the outset there were no legal limitations as to what were ,,proper" demands and what were not. Both parties should seriously negotiate and reach agreement. Both parties should concentrate their attention and activities on discussions, hearings, filling complaints, filling out papers and the like. Their attitude should be conciliatory. By emphasizing controlled conflict behavior in many separate, if not completely isolated instances of confrontation, the ruling classes expressed their prefered view of the real nature of the conflict: it should be seen as a number of separate, small-scale incidents, to be solved one by one. Only if conceptualized as such solvability in any real sense could be stipulated.

The atomization of labor-management confrontation was further promoted by the legal definition of the employerworker relationship. The contract of work was always between one employer and one worker. And the ultimate legal remedy for enforcing its provisions was filling a suit for breach of contract in a labor court.

As the laws required substantial changes in the behavior of the social groups they addressed their prescriptions to it is relevant to consider what positive and negative sanctions were attached to the various rules. The major legal rewards for legal behavior for workers were the following. First, the promise that employers would listen to demands made by legal unions and would negotiate seriously, and second, that employers would share profits with the unions. It is interesting to note that the lawmakers called upon private citizens to change their behavior in a certain way without, however, providing for any enforcement procedures. Since the obligation of the employers were statutory obligations they were presumably enforceable administratively, after complaints from unions. The third positive reward for legal behavior on the part of workers was the promise of non-interference by the State in a legal strike. On the other hand, there were implications in the prescribed legal behavior that were bound to discourage legal behavior. For one thing, it was a lot of trouble to set up a legal union. Further, a legal union would hardly have any control over its funds and in particular strike funds were prohibited. There would be a large amount of control over its leadership and a fair share of its activities would have to go into bureaucratic formalities. The negative sanctions for non-conformity with the laws in the formation of unions were, the lack of any guarantee that employers would negotiate on collective labor demands and no profit sharing. The major positive reward for employers acting in conformity with the laws was the (implicit) promise that thus the ,,social question" would be solved on their terms. The conflict situation would be controlled and no major harm would be done to the privileged position of the ruling classes. However, the negative sanctions attached to violation of legal obligations on the part of employers could not be said to be highly inducive to legal behavior. Firstly, enforcement of contractual obligations beyond the statutory minimum was not considered the

concern of the State beyond providing labor courts to hear and decide complaints brought by individual workers. Secondly, statutory obligations of employers, both those pertaining to individual contracts and others (e. g., social security payments) were to be enforced administratively, by the Directorate of Labor. Supposedly this was to be proactive enforcement but in reality it was purely reactive. The ultimate legal sanction for employer misbehavior was the imposition of a fine. And the procedure to actually recover the fine was a complicated one.

The major legal development since 1924 are characterized by four main trends. Firstly, a consistent attempts to induce the fragmentation of the labor movement and to separate the various issues. The distinction between blue and white-collar workers has consistently been emphasized and elaborated. They were to have everything separate – unions, social security and pension schemes etc. Originally, an attempt was made to have separate conciliation boards for both groups (Marris 1966: 249/50), but that plan did not materialize. The same strategy of divide-and-rule was applied with respect to other categories of workers, e. g., rural workers. Labor courts and conciliation boards, first conceived as one, quickly became separate institutions, thus expressing the view that, legally at least, collective conflict is something very different from a grievance about non-implementation of a contract. This is closely related to the legal concept of the labor contract as ultimately an individual contract between a worker and an employer. No legal changes have taken place on this point. The role of the union has by and large been kept within the original limits of presenting and negotiating demands mostly just on behalf of its members, not for itself. The 1965 bill to change the Labor Code points in the same direction, by proposing to allow up to three unions in one plant. On the other hand, the law establishing tri-partite collective bargaining by branch of industry[45] constituted in some degree a recognition of the de facto functioning of federations of unions in collective bargaining and enforcement of contractual obligations.

Secondly, the theme of conciliation, or the ,,collaboration among the forces which contribute to production", has received legal elaboration. As early as 1928 the government decreed that there should be collaboration, not opposition[46]. But it is difficult to order people to have a collaborative attitude if they conceive of their situation as one of basic conflict. Later, conciliation has again been recommended and encouraged by some laws[47], while others provided for forcefully imposed solutions to collective conflicts. Thus, all the laws granting more or less inclusive strike-breaking powers to the government contained also provisions concerning conciliation. The 1948 law for the Permanent Defense of Democracy provided for compulsory arbitration, even in the private shpere[48]. The 1958 law regarding the Interior Security of the State provided for a government intervenor[49] to solve the collective conflict that gave rise to his appointment. If necessary, he was to solve the conflict forcefully, that is, by imposing a solution as an arbitration[50]. The 1966 law already mentioned similarly provided for government intervention in collective conflicts and the imposition of arbitration to

45 See note 30 and accompanying text.

46 Decreto 2148 (of 31 December 1928).

47 For example, the 1966 law on dismissal states in art. 2: ,,Procedures for handling complaints arising from dismissal shall be included in the Regulations of all places of work. These procedures shall be agreed upon between the parties (i. e., labor and management) and in case they cannot reach agreement the appropriate office of the Inspectorate of Labor shall establish them, in accordance with the norms which the reglamento of this law shall provide." With respect to collective conflicts, the latest reglamento regulating the functioning of the Directorate of Labor (DFL 178, of 1967) encourages its section concerned with collective bargaining to mediate conflicts in addition to recording them.

48 See note 24. And see Barria 1963: 19/20.

49 The reference is to the term ,,interventor". See also note 33 and accompanying text.

50 See note 33.

solve them, in case of a legal strike longer than 15 days[51]. The 1968 law generalized further and applied the same provisions to any paralization of work[52]. In short, compulsory arbitration and no strike gradually replaced the system of compulsory conciliation, voluntary arbitration and a legal strike after conciliation failed as the legally approved behavior pattern. This express a shift in definition of the social situation away from the original view. While in 1924 the law openly recognized the conflict nature of the situation, gradually it emphasized more and more the solvability of the conflict. But the increasingly forceful means by which this ,,solution" was to be reached testify to the degree of effectiveness of earlier attempts. Thirdly, a closely related point, the law gradually eroded the orginal concept of the legal strike. Since World War II the government has felt the need to legally sanction the use of official violence to break strikes. The way this was done was by declaring more and more strikes "illegal". During the cold war all strikes were declared illegal. Later, there was again room for some legal strikes, but their scope was narrowed down again by various qualifications. First, strikes in particular areas of economic activity were illegal, then strikes beyond a certain length of time became illegal. The practical result was not that there were fewer strikes, but that there were more illegal strikes.

Fourthly, a notable feature is the proliferation of what I have called peripheral labor and other social legislation. These were mostly typical "day-in-court laws"[53] or symbolic laws. The 1966 statute on dismissal was largely one of those symbolic laws. While the working class political parties could push such laws through in the legislature, their implementation was never taken seriously by the Executive. The Directorate of Labor, which was supposed to supervise the implementation of such laws, was never adequately equipped to do so[54].

The symbolic power of law and its limits

Lawmakers must ultimately aim at the internalization of those legal norms that are not rhetorical that is, the norms they really want other people to comply with, because they cannot, in the long run, expect that people will behave in a certain way without feeling that they ought to behave that way, certainly not if that behavior is perceived as contrary to certain specific interests. While the practical requirements of the law, and the strategy behind it it is compliance with certain behavior patterns, this can not be satisfactorily achieved by continuous enforcement of behavior as such. For some time, behavior in accordance with the legal rules may be enforced, through promises or (the threat of) physical force, but such a situation is unreliable in the long run. And the whole purpose of a labor relations system is reliability, i.e., predictability of behavior. For example, as long as strikes are predictable, in timing and average duration, the entrepreneur can incalculate them as a cost factor. The system is reliable to the degree that the behavior required is internalized. To the degree that the norms are not internalized behavior may become random at any time. So the ultimate evaluation of the role of law in moulding social relations must center around the internalization of the norms and values expressed in the legal rules. In the present case, the question could be phrased as follows: to what extent did the law manage to impose its view of the social situation and its view of "proper" conflict behavior on those whose behavior it wanted to change? Ideally, one would want to know to what extent the norms were internalized at different points in time. But here I shall limit myself to pointing to actual behavior patterns of the actors involved, which obviously are not altogether devoid of meaning in respect of internalization of norms. It seems useful to first organize the evaluation around the trends in the legal

51 Law no. 16 464 (1966), art. 142.
52 Law no. 17 074 (1968), art. 4.
53 The phrase was coined by Stewart Macaulay 1966.
54 Interviews. See also USBLS 1969: 27.

developments I just pointed out. The legal definition of the level at which the labor struggle (in the narrow sense of trade unionism) should be fought, namely, at the level of the individual shop, had by and large imposed itself. It is true that there were areas of economic activity where collective action went beyond the individual shop, but this was the exception, not the pattern. While over 70 % of the labor force was not organized in unions, and some 55 % of organized workers was legally organized, the structural aspects at least of labor relations would seem to be by and large in conformity with the intentions of the laws. The notion that there are different categories of workers of different worth had gained currency. It cannot be denied that white-collar workers thought of themselves as an elite, and that various categories of workers aspired to being classified as "white-collar". Not only gave this tangible privileges, but also a different status. Politically conscious labor leaders had great trouble convincing workers that the distinction was wrong from the point of view of socialist ideology because it mustered the division of the working classes instead of unity.

The legal concept of the labor contract had been accepted, but up to a point. The fact that hardly any institutions had been developed to administer "collective contracts" and handle grievances indicates that it was recognized that such contracts were not really collective contracts whose enforcement would legitimately be subject to collective enforcement. On the other hand, my own research on the practice of labor courts showed that very few individual complaints were filed. Admittedly, this does not say much about how people saw the nature of their labor contract, but we should consider this in relation to strikes: while the ultimate legal remedy for violation of contractual obligations was a lawsuit on a one-to-one basis in a law court, the actual ultimate remedy was collective action, thus denying the legal definition in the end. But it is important to emphasize the ambivalence in this respect.

And this leads us to the other "legal themes", the strike and the issue of conciliation. With respect to the strike, it can safely be concluded that the legal definition of "proper" behavior did not manage to impose itself. The increasing use of the strike in the 1950's and the 1960's in almost complete disregard of the law seems to be sufficient evidence. Similarly, the idea that labor relations should be conducted with a conciliatory attitude, with a view to productive collaboration because there is no real, basic opposition of interests, has never gained any ground in Chile. Again, the extensive use of the strike as a weapon illustrates this. It is also evidenced by the complaints of outsiders about the lack of "responsible labor leadership", the "class struggle mentality" of the movement, and about the fact that the Chilean labor relations system "did not work". Numerous writings about the Chilean labor movement make explicit or implicit reference to the high degree of political consciousness of workers generally. While it should be recognized that there were differences in opinion among the rank-and-file with respect to the function of law in improving their situation, it is also true that those who believed that a solution to their problems may be found short of drastic social change including the socialization of the means of production were rapidly decreasing in numbers in the early 1970's. But there is more to it than that. All the time, law as such did have a certain credibility for substantial sectors of the working classes. Not only did its leadership consistently ask for improvement of the laws and their administration, that is, in accordance with their preferences, also at the grass-root level many people believed in law and wanted access to it. The clearest expression of this basic contradiction is the very name given to the political experiment to bring about fundamental social change while remaining within the limits of the law, "the legal way to socialism".

The role of legal institutions provided for by the State has always been relatively marginal to the social processes involved. Not surprisingly, the function of the Directorate of Labor with respect to supervision and control of labor unions was the most developed aspect of

State interference in labor-management relations; the inspection, i.e., enforcement function of the institution was never well developed. Similarly, neither the labor courts nor the Conciliation Boards had ever much to do with those relations either.

The conflict situation described above had three major characteristics, namely (1) it was a permanent one and included large social groups, (2) both parties recognized it as a very fundamental social conflict, and (3) the definitions of the parties involved differed greatly from the definitions of the law, both with respect to the nature of the conflict and the methods to be applied. The law managed to impose its definitions to some extent, that is, in some respects, but not in others. In particular, the restrictive nature of the law had an impact on the degree of labor organization. At the same time, that fact encouraged the working classes to emphasize political organization, and that seemed in the end a most important factor determining the overall relation between labor and capital in Chile.

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"Government Policies Toward Unions and Dependent Development."
By A. Boeckh

The study of government policies toward unions in Venezuela, Colombia and Peru is preceded by an investigation of the economic parameters of such policies. For each country, the specifics of its dependent economic structure are outlined. Particular attention is paid to changes with respect to capital intensity of investments, productivity, degrees of competition, income, and income distribution within economic sectors and the relationship between these sectors. Thus, some understanding of the forces shaping the labor markets can be achieved.
The results can be summarized as follows: In Venezuela, the abundance of capital and the extremely oligopolistic structure of the foreign oriented, highly capitalized sector has resulted in a rigid separation of economic sectors and labor markets, negative income and growth effects for the undercapitalized sector, and in the fact, that in the highly capitalized sector wages do not affect profits. In Colombia and Peru, on the other hand, the economic margins for union activities are much smaller. However, the separation of the economic sectors seems to be less rigid than in Venezuela, and the growth of the highly capitalized sector generally has positive growth and income effects for the rest of the economy.
During the various stages of development, the labor and union policies of governments have been influeneed by considerations of preventive conflict solution, the role of unions as political resources, and the attempts of governments to adjust to or solve the problems of dependent development. It can be shown that the specific mixture of motives and the particular limitations of government policies toward modern labor and unions are largely determined by the economic parameters of the different stages of dependent development.

"Labor Law and Labor Relations in Chile 1900–1970. . ."
By Heleen F.-P. Ietswaart

The article first describes how in Chile developed, during the first two decades of this century, a system of labor relations, and how then the economically dominant classes tried to change this system through legislation, thus requiring substantial changes in the behavior patterns of the social groups concerned. The analysis then focusses on how the interaction between those legal prescriptions and the concrete social and political forces as they developed has over time led to the particular mixture of legal, illegal and a-legal behavior which characterizes labor relations in Chile in the late 1960's, and emphasizes the relative importance of the legal system for an adequate understanding of the development of those labor relations.

Trade Unions in the People's Republic of China
By Liu Jen-Kai

In the People's Republic of China, a country which is applying Marxist-Leninist principles on politics and economics, trade unions are considered as a transmission belt between the Communist Party and the masses and a school where the workers learn management and learn communism. There have been several conflicts due to "economism" and "syndicalism". It is the duty of the trade unions to educate the workers to understand that there