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LABOR RELATIONS LAW AND LABOR CONTROL IN THE
REPUBLIC OF KOREA

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Modern Korea is not the desperately poor, war-ravished land that it was in 1953. It has made such giant strides that it can now more accurately be called a "newly industrialized country" than a developing country.

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and growth, especially through promotion of manufacturing. It is an authoritarian political structure that restricts the ability of dissenting groups to express their interests. There is a Confucian cultural heritage that, in its present distorted form, preaches non-reciprocal obligations and submission in the face of social inequality.

The actors in Korean industrial relations, also, despite apparent formal similarities, differ markedly from their American counterparts. There is the Federation of Korean Trade Unions (FKTU) made up of 16 (formerly 17) national (industrial) unions which are, in turn, made up of hundreds of local or enterprise unions. (2) But, contrary to the American model, the links between the different levels are weak and the Federation and national unions have very little power. Even the local unions perve

INTRODUCTION

The labor legislation that was enacted in the Republic of Korea in 1953 clearly reflected its model: the United States' Labor-Management Relations Act. That underlying form is still evident in the statutes as they appear today. One may question, though, whether the subsequent additions and amendments to the laws, and the way the laws have been interpreted and applied in the context of Korean industrial relations, constitutes a structure built on that foundation or one that actually circumvents, sub rosa, an essentially foreign artifact¹ that only came to be written in the Korean laws by virtue of an historical accident.

Modern Korea is not the desperately poor, war-ravished land that it was in 1953. It has made such giant strides that it can now more accurately be called a "newly industrialized country" than a developing country. But Korea, in its social, economic and political structure, remains very different than the United States. In Korea there is extensive central economic planning aimed at rapid economic growth, especially through promotion of manufacturing for export. There is an authoritarian political structure that restricts the ability of dissenting groups to express their interests. There is a Confucist cultural heritage that, in its present distorted form, preaches non-reciprocal obligations and submission in the face of social inequality.

The actors in Korean industrial relations, also, despite apparent formal similarities, differ markedly from their American counterparts. There is the Federation of Korean Trade Unions (FKTU) made up of 16 (formerly 17) national (industrial) unions which are, in turn, made up of hundreds of local or enterprise unions.⁽²⁾ But, contrary to the American model, the links between the different levels are weak and the Federation and national unions have very little power. Even the local unions serve

a much more limited function than American unions. Many of what might be considered typical union functions are assigned by law to Labor Management Councils. The Councils are non-adversarial groups whose employee representatives are chosen by the local unions in organized firms and by employees, possibly at the employers' recommendation, in unorganized firms. There are employers' associations that might be compared to the American Chamber of Commerce or the National Association of Manufacturers, but formally and practically the Korean employers associations play a much more important role. There is a Ministry of Labor which, among other things, presides over the enforcement of labor standards, and there are Labor Committees (central and local), which are vaguely similar to the N.L.R.B.. More importantly, there are other government agencies in Korea that, de facto have a more important role.

This article will attempt, in the Dunlop tradition,⁽³⁾ to describe the economic, political, and cultural context of Korean industrial relations. Then the characteristics of, and the roles played by, various actors will be examined. Within that context the formal legal structure and the way it has been developed and applied in practice will be examined. Major emphasis will be placed on the amendments that were made in the law in December, 1980 and particularly on the expanded Labor-Management Council system. A dominant theme running through the entire article will be the extensive system of controls placed on the labor movement by the combined government and business elites. Questions to be considered are: why are such tight and overlapping controls desired? And, are specific measures that are taken necessary to assure the elites' objectives? And, are they likely to be effective in the long run?

THE ECONOMIC, POLITICAL AND CULTURAL CONTEXT

Central Economic Planning

At the time Park, Chung-Hee came to power in 1961 at the head of a military

coup, the Korean economy was heavily dependent on foreign aid, mostly in the form of grants and mostly from the United States. The per capita GNP in 1962 stood at only \$395.00 per year measured in 1980 U.S. dollar constant prices.⁽⁴⁾ The economy was overwhelmingly dominated by agriculture and fishing and the process of industrialization had scarcely begun. Much of the industry that did exist was an inefficient drain on public resources rather than an engine for growth. An observer at that time could hardly have guessed that the nation was poised on the verge of a prolonged period of extremely rapid economic growth.

Under the Park administration, the government took an active role in central economic planning for rapid industrial growth. Though the first Five Year Plan, for the years 1962-1967 was not entirely successful, it effectively introduced the practice of central planning, and it prepared the economy and the society for the more carefully formulated and more ambitious plans to follow. Since that first Plan, the Korean economy has been continuously directed by successive Five Year Plans, and in most cases the economy reached or surpassed the goals that were set. Under the influence of the Plans, in the years from 1962 to 1981 the economy grew in real terms at an average rate of 10% per year⁽⁵⁾; the average per capita GNP rose \$395 to \$1575 (1980 constant prices)⁽⁶⁾, the number of mining and manufacturing jobs rose from 680,000 (8.7% of the total) in 1962 to almost 3 million (22% of total) in 1980⁽⁷⁾; and the population shifted from 28% urban in 1962 to 57% urban in 1979⁽⁸⁾.

Central economic planning under the Park administration, and now under the Chun Doo-Hwan administration, involves more than merely advising or requesting the economic actors to follow the Plans. There is a range of incentives and disincentives that can be used to compel businesses to comply with the government's directives, including regulation of access

to credit⁽⁹⁾ and import⁽¹⁰⁾ licenses, regulations on the prices that can be charged domestically by oligopolistic firms, manipulations in the levels of taxes (including value added taxes) charged, selective enforcement of safety and environmental regulations, and so forth. The regulation of labor affairs can also be quite extensive. An emergency decree was in effect from 1971 till 1981 that effectively suspended collective bargaining and prohibited any kind of direct "industrial action" such as strikes or demonstrations. The lifting of that decree came only after enough other controls had been enacted to make it unnecessary. The amount of regulation and government intervention allowed by law in union affairs has grown steadily, and the extra-legal role of various authorities is often even more coercive.

In recent years, economic planning has especially aimed at limiting inflation and encouraging the development of key industries such as high technology, commercial electronics, and machinery. Controlling the wage-cost push has been identified as the way to limit inflation, to make Korean

products competitive internationally, and to attract direct foreign investment. Therefore, one of the most important substantive aspects of the planning has been a wage policy consisting of maximum wage guidelines together with additional informal strategies to hold wages down. Being able to guarantee labor peace has also been identified as essential if Korea is to attract direct foreign investments and foreign technology.

The objectives that are not stressed by the economic planners are also interesting. Korea's need for foreign exchange is so great that production for export has been emphasized over production for domestic consumption. The markets for many manufactured goods are not appreciably affected by the buying power of consumers in the domestic markets. Improving the buying power of wage earners is, therefore, a much less

important objective than improving the cost competitiveness of the products.

Authoritarian Politics

The Republic of Korea has never experienced a peaceful change of political power as a result of an election. Though opposition parties have been allowed to exist, every time opposition leaders became strong enough to offer a real challenge they were forced out of office and / or arrested (11). The military has long been the primary power base in Korean politics (12), and the military values of discipline and loyalty remain dominant over more liberal values such as dialogue and compromise among competing interests.

The Korean government is now headed by former General Chun, Doo-Hwan. When he came to power in 1980 he moved forcefully to eliminate all voices of dissent and to win popular support by rooting out corruption. Those hit hardest were politicians, activists from universities or churches, people associated with the mass media, and people involved in the labor movement.

This article will focus strictly on the labor union leaders. They were in a very vulnerable position because if they had become too closely associated with management or with discredited government officials, they were charged with corruption; but if they had struggled too vigorously for independence or for trade union objectives, they were charged with subversion. Several of the top leaders of the Federation of Korea Trade Unions (FKTU) were forced to resign, as were the leaders of 11 out of a total of 17 national union leaders. A large number of local union leaders were also forced to resign. Those who had been forced out were barred from seeking any other union leadership position for at least three years.

Not only is the expression of dissent restricted in relation to general society; it is also restricted in internal union politics.

Government officials may become involved in a particular union election by blocking a candidate they do not approve of or pushing through the election of a favored candidate.⁽¹³⁾ More importantly, competition among unions is unheard of and essentially illegal. A local union must be recognized by the appropriate national union and gain the support of 30% of the employees to become certified, at which point it gains the right of exclusive representation. For legal and practical reasons, it is almost impossible for union members to replace a union leader who is corrupt or who fails to represent the workers' interests.⁽¹⁴⁾

The Confucist Heritage

It is common for both Korean and Western observers to claim that industrial relations in Korea are influenced by Confucist values. That is cited as the reason for authoritarian management practices and for the employees' tendency to accept their subservient role and to avoid open conflict. It should be noted that the power of employees to shape or influence labor-management relations is very limited and observations of the behavior of workers in a situation in which they have no real choice tells us little about their preferences. But the structure that can be observed does, at least, tell us something about the social values of those who do have power.

A number of characteristics of Korean industrial relations may be considered reflective of the country's Confucist heritage. The outward manifestations of unequal social relations and deference to persons in authority are everywhere evident. There is tremendous discrimination against women both in the types of jobs they can get and in the amount of pay.⁽¹⁵⁾ There are exceptionally large pay differentials based on the level and prestigiousness of an employee's education.⁽¹⁶⁾ Top management is characteristically unwilling to delegate authority, so even after

winning approval for a proposed contract from the management negotiating committee, the union president must still appeal to the company president for his personal approval. (17)

Even a superficial study of Confucism, though, shows that such practices could only be reflective of a crude caricature of Confucism and not of its true essence. Confucism insists that reciprocal obligations are the basis of humanity. The employer's obligation to adequately meet the needs of his employees is as strong as the employees' obligation to work. The provision of security corresponds to the demand for loyalty. (18) The ultimate criteria of profit maximization is an alien concept that does not arise from the Confucist tradition. Calling Korean labor-management relations "Confucist" may actually involve only a justification or the substitution of a more acceptable name for the authoritarian structure that management is able to unilaterally impose.

Local Unions

THE ACTORS

UNIONS

The established unions in Korea are all affiliated with the Federation of Korean Trade Unions (FKTU). Historically the FKTU was promoted by the American military authorities and the Syngman Rhee government as an alternative to a radically political labor organization that had sprung up after the defeat of Japan in 1945. Through the intervention of the authorities, that other organization was crushed and the FKTU has continued, with minor exceptions as the only labor (con)federation. In its origins it did not grow out of the labor movement but was administratively established in connection with the ruling political party. It was reshuffled in leadership and organization several times; most recently in 1980 when the orientation was shifted from industrial unionism to enterprise unionsim.

In 1979 there were 17 national industrial unions affiliated with PKTU with a total of 1,1094,000 members. That represented almost 17 percent of the eligible employees. After the present government came to power, those leaders who were found to be corrupt or subversive were removed and the Labor Union Law was amended in a way that resulted in a drop in membership to 639,000 as of December 1982; about 13 percent of those eligible. The drop may be attributed to several factors. Union shop arrangements, which had been very common, were made illegal under the amended Labor Union Law. Employees of some small work places had formerly joined together to form multiple-shop unions, but such arrangement were also outlawed⁽¹⁹⁾ and employees of work places without the legal minimum number of employees for a union were left with no way to organize. Finally, some employees probably lost interest in unions due to a general decline in unions' power in collective bargaining.

Local Unions

The local (or enterprise) union is the most important level of the labor union hierarchy. The law in its present form states that only the local union may engage in collective bargaining and enter into a contract with the employer. It is the responsibility of the local union to nominate the employees' representatives to the labor-management council. (See the description of LMC' below). Effective local unions also assume the role of seeking enforcement of the employees' contractual and statutory rights and protection of the employees against unfair labor practices.

The Federation of Korean Trade Unions

The selection of union leaders, and especially of the union president, is important because the union president is the one who signs a collective bargaining contract, and it does not have to be ratified by the membership. Union leaders must be chosen from among the workers. Various issues to the government, and

Normally the president is elected indirectly through delegates, rather than directly by the members, and the incumbent leaders are very hard to challenge. They enjoy the enviable position of increased status, full salary from the employer, and additional payment for expenses from the union.

National Unions

The December, 1980 amendments to the labor laws reduced the importance of national unions (and of the intermediate level regional unions with jurisdiction over several firms that existed in certain industries). However, as of August, 1983 when the material for this paper was gathered, the most important question raised by the amendments concerning the role of national unions was still being debated. The question is whether national unions are "third parties" within the meaning of the law. If they are, they are prohibited from participating in the organization or collective bargaining of affiliated unions except in the limited number of cases where permission is granted and labor and management agree to multi-unit bargaining.

Whatever the conclusion will ultimately be regarding direct assistance in collective bargaining, it is normal for the national union staff to provide the local unions with technical training, economic and statistical information, and materials to be used in union education. They also provide limited welfare services for the local union members and may become increasingly involved in union cooperatives. However, due to legal restrictions, on the whole their role is limited.

The Federation of Korean Trade Unions

The FKTU is even further removed from collective bargaining than the national unions but, as the one institution that speaks for all labor unions, it has primary responsibility for presenting labor's point of view on various issues to the government, and it chooses the labor representatives

for various tripartite committees. Throughout the Park administration and into the present, the ability of labor to influence government policy through demonstrations or collective action has become continuously more limited, but FKTU leaders have been granted seats on a number of formal and informal policy making committees where they may express labors' view to the government and employers associations. In turn, they are expected to carry the messages from government and management to the national and local unions.

In a more general way than the national unions, the FKTU also prepares economic, statistical, and educational materials in defense of the unions' positions, and regularly distributes a number of publications to the unions and the public.

LABOR-MANAGEMENT COOPERATIVE ORGANIZATIONS

The role of unions in Korea is modified by the existence of the Labor-Management Council (LMC) system and the factory Saemaul (literally, New Village) movement. The LMC is designed, in a non-adversarial setting, to perform many of the functions that would otherwise be performed by the unions. In its relationship to unions, the LMC system is discussed more fully below, but the LMC and the Saemaul movement are also important in unorganized firms. Both are designed to provide channels of communication between labor and management so as to raise productivity and ensure labor peace.

The Saemaul movement was originally developed to mobilize the rural population in a self-help campaign to form agricultural cooperatives and to improve the infrastructure in rural areas. It was closely associated with President Park, and it developed into a very politically oriented mass movement. They supported the labor unions, and some of the workers who were extending throughout the country into urban as well as rural areas. People affiliated with the missions became union members or even union leaders. Perhaps more importantly, the missions attempted to fill the gap when unions failed

were compelled to participate in its projects and training programs .

As a part of the Saemaul movement, factory Saemaul units were established. Under their guidance, workers were supposed to show their patriotic enthusiasm by arriving early to begin work and continuing late, without regard to the standard work hours. Through diligence and cooperation, they were to become model workers in model factories.

Union members and leaders are specially treated to training programs run by the FKTU under Saemaul directions. In the training programs, they are warned of the dangers of subversive unionism, and they are taught what are called the Confucist values of diligence and obedience.

In non-unionized firms, the LMC system required by the amended laws often aligns itself with the already existant Saemaul structure. The Saemaul movement, likewise, has taken the LMC system as its own cause. Many employers, accustomed to unilateral authority, have until now been unwilling to establish any channels of two-way communication with their employees, but the government and the Korean Employers Federation have pushed for the establishment of LMC's. It is expected that the role of LMC's in insuring labor peace, increasing productivity, and ultimately in making unions unnecessary will continue to grow.

Non-Union Spokesmen for Employees

In response to social needs resulting from rapid industrialization, Catholic and Protestant missions named Young Catholic Workers (French initials, JOC) and Urban Industrial Mission (UIM) were organized to offer support to workers and to try to articulate their needs. Much of the missions' work was purely religious or social in nature, but as they came to see how central the workplace was to the lives of the workers, they also became involved in the labor movement. They supported the labor unions, and some of the workers who were affiliated with the missions became union members or even union leaders. Perhaps more importantly, the missions attempted to fill the gap when unions failed

and labor. Though they express the general business interests, they also to represent the workers. But as advocates of workers' rights, the missions guide it in ways that are consistent with the government's objectives, and clashed with the government over some of its restrictive policies, and with they regulate individual businesses to assure conformity. The structure or function certain elements of the established unions. (20)

Recently the government has cracked down hard on JOC and UIM, and on local unions that are influenced by them. The desire to keep JOC and UIM out was certainly one of the motives for enacting the legislation prohibiting third party involvement in unionism and collective bargaining.

Several labor counselling centers have been established, funded mainly by churches, to advise workers of their legal rights and how the rights can be protected. (21) Significant precedent has been set through negotiated settlements or litigation of cases with the assistance of the counselling centers, but the number of cases they handle remains very small.

MANAGEMENT ASSOCIATIONS

In the vast majority of Korean enterprises, ownership and control reside in the hands of a single person or family, and the authority delegated to management personnel is strictly limited by the discretion of the owner. (22) Even in the huge conglomerate General Trading Companies, which control an increasingly large proportion of the Korean economy, decision making power remains very centralized. It is worthy of notice that in some of the largest conglomerates, unions have also been kept out at all branches (23) so labor is also unable to challenge the owners' authority within the firms. But in the context of their relationship with the government, Korean enterprises do not operate in autonomous isolation. The Korean Chamber of Commerce and Industry, the Federation of Korean Industries, the Korean Employers Federation, and other management associations organized along the lines of trade or industry play an important role in shaping, on the one hand, the relationships of businesses among themselves, and on the other hand, the relationships between businesses, government

and labor. Though they express the general business interests, they also guide it in ways that are consistent with the government's objectives, and they regulate individual businesses to assure conformity. The structure or function of the various management associations is nowhere mentioned in Korean labor laws (24) but their effect on the industrial relations system is significant.

The Federation of Korean Industries (FKI) was established with the objective of prompting economic and industrial development. The FKI presents the consensus of business and industry to the government and, in its relationship to government economic planners, it is something in between a very influential lobby group and a partner.

Closely associated with the Federation of Korean Industries is the Korean Employers Federation (KEF). It is a nation-wide organization concerned exclusively with labor-management relations. Its membership includes large individual firms and group members made up of subordinate trade associations. The activities of KEF include: coordinating the labor policies of its members, advocating wage guidelines, expressing the employers' position on labor issues to government, conducting research and disseminating information to its members and to the public, and assisting member enterprises in their individual labor relations through research, education, and consultation services. It is primarily the KEF that nominates employers' representatives for various tripartite committees and councils. The extensive lobbying, and cooperation between KEF and government at the executive, legislative, and committee levels resulted in a dominant role being played by KEF in the drafting of the December 1980 amendments to the labor laws. (25)

All businesses operating in Korea are required to join the Korean Chamber of Commerce and Industry (KCCI). It provides a framework for communication and self regulation among businesses, but it also provides a useful voice to express the interests of management to the government and labor. Since large firms are likely to also participate in other management associations, KCCI is relatively

more important in its role as the association for small businesses. Large firms may have special membership, but most businesses participate in local KCCI branches which, in turn, are group members in the general KCCI. Though KCCI does not deal exclusively with labor relations, it has consistently worked on behalf of the small businesses associated with it in a way that is parallel to the efforts of the Korean Employers' Federation. It has been especially persistent in lobbying against what it considers the unrealistically high standards in the Labor Standards Law. (26)

THE MINISTRY OF LABOR

A. The Central Offices

The Ministry of Labor is officially the primary government agency for the regulation of labor affairs. Its full ministerial status came when the Administration of Labor Affairs was upgraded in 1981. Also in 1981 the number of sections within the Ministry was expanded from seven to ten. The most important sections may be listed as follows:

- Planning and Management oversees the other sections.
- The Bureau of Labor Policy evaluates wage policy and monitors the labor unions.
- The Labor Standards Bureau is responsible for enforcement of the labor standards and for investigation of violations.
- The Employment Security Bureau operates a placement service for domestic and overseas employment.
- The Vocational Training Bureau administers the program requiring employers to provide continuing training (or to pay an extra tax) and projects future manpower needs.

In large municipal governments and in provincial governments there are labor sections which relate closely to the Ministry of Labor but are not directly responsible to it. Local and Special Labor Committees under their

respective governmental units, and a Central Labor Committee attached to the Ministry of Labor, have been established to resolve labor disputes and, in the case of the Central Labor Committee, to rule on other labor administration issues. Also associated with the Ministry of Labor are several auxiliary agencies and institutes related to labor affairs.

Presently the Minister of Labor is Chung, Han-Joo, a career trade unionist who had become President of FKIU largely by virtue of his acceptability to the new government authorities in 1980.⁽²⁷⁾ His trade unionist perspective is balanced by Vice Minister Chong, Tong-Chol, a former businessman and high ranking Army officer. Neither man is very important in developing labor policy. They head a Ministry that is mainly responsible for administering and defending the labor status quo.

B. Administrative Authorities

In order for a union to be established, it must submit a report to the appropriate local government authority. Going beyond that legal requirement, it is also a common practice for high ranking police officers to be invited to a union organizing meeting. Though certification of a duly registered union is legally supposed to be automatic, unless the local authorities can be convinced that the union will not cause trouble the certification will be indefinitely delayed.⁽²⁸⁾

It is also by application to the local administrative authorities that labor disputes are registered and the dispute resolution procedures are set in motion. According to law, the labor issues are to be referred, by the mayor or governor, to the labor section which is connected to a Ministry of Labor regional office. Labor officials are then to investigate the issues in dispute and attempt conciliation. There have been cases in which such local authorities have conducted complex negotiations continuing far beyond the 15 or 20 days prescribed in the labor laws for conciliation, and have even

retained jurisdiction to administer the settlement. (29) But here too, in practice, the legal machinery for conciliation plays a smaller role than the police, agents of the National Security Commission, or administrators of the industrial park in which the work-place is located. (30)

C. Labor Committees.

The Labor Committees are supposedly tripartite bodies made up of labor representatives, employer representatives, and representatives of the public interests. All members of the Central Labor Committee are appointed by the President, and all members of the Local Labor Committees are appointed by the appropriate governor or mayor, but the labor representatives are chosen from slates provided by the unions and employer representatives are chosen from slates provided by the employers' associations. It would be hard to evaluate the perspective of the representatives of public interests, but their credentials, and the positions taken by at least some of the public interest representatives, indicate that they are chosen because of genuine expertise and not just because of loyalty to the government. (31)

The jurisdiction of the full committees is limited and only the representatives of public interests have a role in decision-making on the most important issues. The full committees may offer advice to administrative authorities for the improvement of labor conditions, but it is not clear that the authorities must respond to such advice. Other functions, including the arbitration of disputes, adjudication of employer unfair labor practices, rulings on the legality of union dispute actions or lock-outs by the employers, and resolution of accident compensation disputes, are limited to the representatives of public interests.

The Central Labor Committee decides cases involving more than one administrative district, or cases involving foreign invested firms, and it has lines to hold wage increases below targeted rate of increase are to control

appellate jurisdiction on the decisions of other Committees. The Central Labor Committee also has authority to issue interpretations of law and policy for the guidance of the other Committees. (32)

The Economic Planning Board

The literature on Korean economic planning and its consequences includes glowing reports and scathing criticism. (33) Certainly not all the people have shared equally in the benefits economic growth, and certainly the system has allowed some industrialists to reap high profits by paying unconscionably low wages, and has allowed others to gain their wealth through bribes and kickbacks. Still, the real accomplishments of the economy under central planning, and the broad scope and technical competence of the Five Year Plans, point to the conclusion that the Economic Planning Board is run by skilled technocrats, and that the objective of national development has probably normally prevailed over the enrichment of a small clique. (33)

The EPB, headed by the Deputy Prime Minister for Economic Planning, enjoys preeminence among the ministries in the Korean government. That is commensurate with the high priority (second only to Defence and National Security) that the nation places on economic development. Since Korea's plans for economic development are largely dependent on its industrial work-force, industrial relations issues such as the levels of employment, and wages, and productivity are of crucial importance to the economic planners. Rather than allow such issues to be decided by the possibly destructive and unpredictable interaction between labor and management, regulated by government agencies whose focus might not be the same as their own, the EPB acts first to make sure that the outcome will be within acceptable bounds.

The EPB policy that has the greatest short-term impact on industrial relations is the promulgation of wage guidelines. The stated goal behind the guidelines to hold wage increases below a targeted rate of increase are to control

inflation, to make Korean products more competitive on the world markets, and to attract direct foreign investment into Korea with low labor costs. (34)

Holding wages down is also consistent with the EPB goal in the Fifth Five Year Plan of reserving 33.6 percent of the GNP for saving and capital accumulation. (35)

A range of measures may be used to compel labor and management to stay within the guidelines. There is much publicity in the tightly controlled press justifying the targeted levels and explaining why it is important that they be observed. A precedent is set when the pay increases for government employees are held strictly within the guidelines. Official and unofficial pressure may be applied to labor and management during the course of wage negotiations. (36) Perhaps the most coercive tactic is ordering the banks not to extend credit to businesses that grant wage increases that exceed the employees' productivity increases or the wage guidelines. (37)

Since labor unrest might interfere with productivity, or make Korea less attractive to foreign investors, the EPB has added its voice to all the others advocating the suppression of labor dispute activities.

A more indirect, but still important, way in which the EPB affects industrial relations is through strong incentives offered to favored sectors of the economy. The extensive use of unskilled young women in industry, and the population shift from rural to urban areas, was boosted by EPB policies favoring labor intensive manufacturing for export. (38) The present policy is to try to maintain such industries with their large numbers of low paying jobs even though their competitive position is deteriorating relative to that of less developed countries. However, industry requiring higher levels of skill and technology, such as commercial electronics and machinery are given higher priority. Vocational training programs are being emphasized to meet the new manpower needs. (39) Also, rural industrialization is being given some support over further concentration of industry in urban areas. (40)

Security Agents

The intervention of government agents concerned with national security and political stability into the industrial relations system probably affects its development as much as does the intervention of the economic planners. Many different levels of intervention can be considered. The willingness of the highest levels of government to intervene in union affairs was dramatically demonstrated in the 1980 "purification campaign". At that time normal procedures of operating through the Ministry of Labor, and the Labor Committees were suspended, a majority of the union leaders at the national level and many of the local leaders were forced to resign, and many of them were arrested. Presently within the powerful National Security Commission (41) there is a Committee to Counteract Labor Insurgency (42) with agents through out the country. Local governmental units are also anxious to avoid labor disturbances in their districts, and so the police often play a role in monitoring union activities and union organizing. One practical effect is that most union members are careful to choose as leaders only those persons who are acceptable to the government. (43) Another effect is that, according to informed observers (44) police and security agents play a greater role in the resolution of labor disputes than the official labor authorities do. However, the primary objective of the security agents is to suppress anything that would contribute to political instability, and not to simply facilitate the most appropriate resolution of the dispute. That was demonstrated in the much publicized Control Data (Korea) Corporation and Wonpoong Textiles disputes, where security agents prohibited resolutions that would have included the reinstatement of dismissed union activists.

THE LABOR UNION THE INDUSTRIAL RELATIONS' LEGAL STRUCTURE

Frequent references have already been made to the Korean labor

legislation in the descriptions of the roles of the actors. In this section the focus will be directly on the basic labor laws, and particularly on the provisions that were changed under the present government. Where major changes were made, the laws will first be described as they stood at the end of the Park, Chung-Hee government so as to provide the context for an examination of the changes that were made under the Chun, Doo-Hwan government.

Certain provisions concerning labor are contained in the Constitution, including guarantees of the rights to work and freedom of association for all, and rights to trade union membership and collective bargaining for private sector employees. Those rights may be limited, though, to the extent necessary for the maintenance of national security, order, and public welfare. The Constitution also empowers the state to regulate economic affairs to achieve social justice and economic development.

At the statutory level, the basic labor relations laws are contained in four chapters of the Korean Statutes: The Labor Union Law, The Labor Standards Law, the Labor Dispute Adjustment Law, and the Labor Committee Law. There is also supplementary legislation relating to labor issues, including: the Industrial Accident Compensation Law, the Employment Security Law, the Special Law for the Settlement of Disputes in Foreign Invested Firms, the Basic Law for Vocational Training, the Industrial Safety and Health Law, and finally, the new Labor Management Council Law.

In 1971, a state emergency was declared and the Labor Dispute Adjustment Law was suspended, giving way to the 1972 Administration of Labor Affairs (ALA) (45) "Regulation for Handling Dispute Adjustments Under the State of Emergency." That regulation remained in effect until December, 1981, at which time the earlier legislation, as amended, again came into play.

The Labor Union Law

The definition of a labor union remains unchanged. It is defined as an organization which is formed at the initiative of workers for the purpose of improving their working conditions and their economic and social status. Excluded from the definition of unions are organizations allowing the participation of employer representatives or organizations that are financed mainly by the employer. (46) That restriction has not been interpreted to prevent most unions in Korea from receiving office space and supplies from the employer, or full time union leaders from receiving their salaries from the employers. (47) However, other exclusions are interpreted more strictly. Organizations open to persons who are not workers or whose purpose is strictly promotion of moral or cultural activities are not unions. Also excluded are organizations that could hamper the operation of existing unions. Those exclusions prevent ideological or religious organizations from enjoying the prerogatives of unions, and they prevent rival unions from challenging the incumbent unions. (48)

Even prior to the December 1980 amendments, the Law provided for extensive regulation of the establishment and management of a union by the government. The amendments added to the regulations. To be established, a local union is required, first, to be recognized by the appropriate national union. It then must submit a detailed application to the appropriate government agency, which has power to indefinitely delay the acceptance of the application. (49) Once organized, unions are required to file extensive records with government, including membership lists, names and addresses of all union officers, records of all union finances, and the minutes of union meetings.

By law, most important aspects of union business such as the selection of union officers, union finances, and collective bargaining issues can only be resolved by a majority vote in union conventions in which a majority of the

members are present. However, an alternative procedure was also provided for large unions allowing decisions to be made indirectly by delegates instead of directly by the members. In practice, large unions do always follow the indirect method, and direct input by the members into union affairs is very limited.

Unions are not allowed to charge union dues above 2 percent of the members' wages, and out of those funds a designated portion must be allocated to "employee welfare objectives."⁽⁵⁰⁾ Unions complain that the shortage of funds limits the kinds of projects that they are able to undertake.⁽⁵¹⁾

Political activities or contributions by unions to political funds are strictly prohibited in the Labor Union Law. In the past, though, that provision was not enforced to prevent the FKIU from establishing a nationwide Committee on Political Education and financing specific programs for the support of ruling party candidates for the National Assembly.

Important provisions in the Law allow direct intervention by government authorities into labor union affairs. If a provision of a union constitution is deemed contrary to public interests, the government can demand that it be cancelled or amended. In the same way, if a specific decision by a union is considered harmful, the government can require it to be changed or nullified. Perhaps the most intrusive measure is one allowing the government to order a union to be dissolved or to elect new officers. That was applied to various specific cases even before it was applied on a mass scale to most of the unions throughout the country in June and July, 1980.⁽⁵²⁾

The right to collective bargaining over terms and conditions of employment is provided in the Constitution and the Labor Union Law.⁽⁵³⁾ To be valid, the collective bargaining agreement must be written and signed and filed with the appropriate government authority. If the government does not object to any of its provisions, it then becomes a binding contract, and its terms

are given precedence over the work rules promulgated by the employer. However, it should be noted that though the collective bargaining agreement is theoretically enforceable, actual enforcement, whether through grievance procedures or through the courts, is virtually unheard of. (54)

In a section very similar to the American N.L.R.A. § 8 (a), the Korean Labor Union Law contains a prohibition of unfair labor practices committed by the employer. There is no corresponding section prohibiting union unfair labor practices. Listed among the employer unfair labor practices is requiring, as a condition of employment, that an employee join a particular union. Prior to 1981, an exception was made for collective bargaining agreements calling for a union shop, and that became the norm where unions were established. (55) Such arrangements have now been made illegal, but until now the Korean experience is that even without them, in work-places where there are unions the membership rate is almost 100 percent. (56) Another unfair labor practice is financial domination of a union by the employer, but limited welfare funds, office space, and salaries of the full time union officers are normally contributed by the employer. Discrimination against a union member for participation in justifiable dispute actions is an unfair labor practice, but, in the context of the legal dispute resolution procedures, showing that a dispute action was justifiable is a very heavy burden upon the employee. (57)

An injured employee or union can petition to the Labor Committee for relief from an employer's unfair labor practices. If the complaint is substantiated, the Labor Committee is authorized to order relief, and failure to comply with a Labor Committee order could make the employer liable for large fines or imprisonment. In practice, such penalties are never imposed.

Prior to 1981, the participation of national union representatives in the collective bargaining of a local union was not explicitly authorized except in the case of multi-unit bargaining, but it was the normal practice.

Though only the local union leader could sign the agreement, national union representatives provided technical assistance and greatly enhanced the local union's prestige and bargaining power.

Also prior to the December 1980 amendments, the Labor Union Law included provisions requiring the employer and the union to establish a Labor-Management Council (LMC). The purpose was to enhance cooperation between labor and management, and to increase productivity. To achieve these objectives, the LMC's were authorized to deal with training, working conditions, grievances, and measures for the prevention of labor disputes. Another section of the Law provided that the union representative to the LMC should be deemed the union delegate for the negotiation of a collective bargaining agreement, so the whole LMC structure could have easily been considered merely an embellishment to the collective bargaining committee.

A survey of the actual functioning of the LMC system conducted in late 1979 (58) found that LMC's had been established in most large unionized firms, but most other firms did not have LMC's. In many firms, the representatives to the LMC were persons nominated or appointed by the employer. About half of the LMC's met three or more times a year, and almost a third met only once a year. Over 80 percent of the LMC's dealt largely or exclusively with issues of contract negotiations. Many unions reported that the LMC duplicated or fragmented the union efforts, or complained that the LMC system resulted in a more paternalistic labor-management relationship. However, 94 percent of the unions that responded still favored the existence of the LMC's as one channel of communication with the employer. (59)

The December, 1980 amendments to the Labor Union Law resulted in a number of changes. One section had the effect of changing the basic structure of union organization and the relationship between local (enterprise) unions and national (industrial) unions. A related change was the introduction of

provisions prohibiting third party intervention in collective bargaining. Perhaps the most important change was the expansion of the Labor-Management Council system which was accomplished by removing the article that provided for it from the Labor Union Law and enacting it in a separate Labor-Management Council Law.

Before the amendments, unionism in Korea was formally organized along industrial lines on the principle of one industry, one national union.⁽⁶⁰⁾ But Korean industries never became completely unionized, and the local unions that were organized in specific enterprises maintained substantive control of their own operations. The significance of the industrial union structure was: 1. it gave the national unions an important role to play in union organizing,⁽⁶¹⁾ 2. it allowed regional unions made up of several sub-chapters to be established in work places too small to support individual local unions, and 3. it allowed attempts to be made at coordinated collective bargaining.

As explained by the Ministry of Labor, the 1980 amendments changed the basic structure from industrial unionism to enterprise unionism⁽⁶²⁾ by virtue of provisions that made the type of arrangements listed above impossible. Only unions organized in a single work-place with a minimum of 30 members are now allowed. As a result, industries characterized by very small work-shops, such as the wearing apparel industry, which had been highly organized into regional unions, are now almost invulnerable to unions.⁽⁶³⁾ In any industry, if an enterprise is not already organized it has become much harder to get a union established.

Data is not available, but one would expect that the differences among enterprises in terms and conditions of employment would be increasing under enterprise unionism. Enterprise unions may be expected to promote enterprise specific objectives rather than industry norms. Also, identification of the workers with the enterprise rather than with an industrial union may be seen

as a way to promote cooperation and increase productivity.

Limiting collective bargaining to the representatives of the local union by prohibiting third party intervention is consistent with the promotion of enterprise unionism. However, Ministry of Labor officials and Korean industrial relations experts all agree that the prohibition was designed more to exclude religious or social activist groups from becoming involved in the labor movement than to restrict the role of national unions. As was noted above, it is still not clear whether the national unions are legally "third parties", but there is no doubt that the church-related Urban Industrial Mission and other similar groups are prohibited third parties. Persons associated with such groups have been given three-year prison terms for violating the prohibition. (64) If dissenting unions or institutions other than established unions attempt to influence or support the labor movement, they do so at their own peril. The result is that it has become even more difficult to challenge the incumbent unions, and workers who find that the unions do not represent their interests have no where else to turn. (65)

Given the ineffectiveness of the Labor Management Council (LMC) system prior to the amendments, the policy makers faced the options of abolishing it or allowing it to wither away on the one hand, or trying to revitalize it on the other. They chose to revitalize it and, in fact, to make it a key element of Korean labor-management relations.

According to the new Labor-Management Council Law an LMC must be established if: a, a union has been established, or b, there are 100 or more employees, or c, there are 50 or more employees and the enterprise has had a labor dispute within the past three years. The Ministry of Labor reported that as of November, 1981 a total of 4731 companies were required to have LMC's and exactly 4731 companies did have them. (66) However, that statistic is highly suspect because an American Chamber of Commerce (Korea) survey

dated April 1983 shows that many reporting companies with unions or with more than 100 employees still did not have an LMC. (67) In fact, less than 27 percent of reporting companies did have an LMC. Informal interviews with many representatives of labor and management conducted by the author in Seoul, in June and July, 1983 tend to bear out the results of the American Chamber of Commerce survey. There were also many stories of companies having LMC's where a management representative with decision-making authority would always show up only to have ceremonial photographs taken and would then immediately leave. Though it is interesting to speculate what would happen if the union or employees refused to cooperate with the establishment of an LMC, Korean observers explain that an LMC must be established at the employer's initiative and the employees can not fail to cooperate. (68) One must therefore conclude that when an LMC is not established or is not conducted in good faith it is because, legal requirements notwithstanding, the employer does not find it to his interests or worth his while to maintain a meaningful LMC.

Having stated those reservations, it must still be stated that because of the significance presently attached to LMC's by Korean policy-makers it is important to examine the nature of the LMC as it is envisioned in the Law. The first issue that arises is the relationship of LMC's to unions. The Law provides that in an organized firm the employee representatives to the LMC are to be chosen by the union and that collective bargaining and other union activities are not to be affected by LMC. Both union leaders and representatives of the Korean Employers Federation, however, maintain that in the LMC's that do function, the pre-1981 pattern of primarily discussing wages and other collective bargaining issues still prevails. (69) Research done by Seoul National University Economic Research Center in February, 1983 shows that since 1981, the role of LMC's in reaching wage

settlements has actually increased significantly, and that more settlements are now reached through LMC's than in any other way. (70)

In the area of grievance handling, the role played by LMC's is fully consistent with the Law. A subcommittee of the LMC is assigned the responsibility of dealing with grievances, and matters too difficult for resolution by the grievance committee are to be brought to the full LMC for disposition. No further grievance resolution procedures are provided, so if the grievance can not be settled in a non-adversarial setting it must either be abandoned or it becomes a full scale dispute.

Of course, when there is no union there is no restriction against the LMC interfering with union activities. To the extent that traditional union functions are met by the LMC, union representation may become less important to the employees.

Just as third parties are prohibited from intervening in the collective bargaining between a local union and management, so are third parties prohibited from intervention in the functions of an LMC. The strictly local character of a LMC is demonstrated by the fact that an enterprise with several distinct work-places may be subdivided with separate LMC's in each one. A person who is not an employee of the enterprise concerned may not be a member of the LMC. However, government officials may intervene and the Ministry of Labor may overturn the resolutions of an LMC or order reelection of its member. Thus the national (industrial) unions are strictly excluded from the functioning of the LMC, but the government retains the right to bring its own heavy outside influence to bear on the LMC.

The functions of the LMC have been expanded by the new Law. The employer is required to explain management policy, production plans, and manpower plans to the LMC and to report on the actual results, but if the LMC decides that information that has been presented should remain secret, the members

attending the meeting may not divulge that information to anyone else. The employee representatives may also present and explain employee demands.

Consultations of the LMC are to include issues related to :

- productivity and employee welfare,
- employee training and education,
- the prevention of labor disputes,
- grievance handling,
- safety and health, and
- labor-management cooperation.

As explained above, collective bargaining issues are also, in practice, often discussed by the LMC.

The LMC provides a particularly desirable forum for the employer.

There are equal numbers of representatives from labor and management, but for a decision to be made there must be 2/3 agreement. On a contested issue, certain employee representatives may be persuaded to side with management, but management representatives do not side with labor. If an agreement is reached, both labor and management must abide by the decision or be liable for a fine unless there is a justifiable reason for non-compliance. The agreements, however, are not enforceable contracts. Union leaders are concerned that if the employer is able to preempt collective bargaining with an LMC decision, the union may lose the opportunity to bind the employer with a contract that can be enforced.

The Labor Standards Law

Though the December, 1980 amendments did include some changes in the Labor Standards Law, the underlying objectives were not fundamentally changed. Therefore, the discussion of that Law will focus on the present state of the Law, and not on the differences before and after the effective dates of the amendments.

Korean employers and employers associations have always been particularly critical of the Labor Standards Law, arguing that it doesn't comply with

the actual economic conditions of the country.⁽⁷¹⁾ The Law does mandate a higher standard than what would probably prevail in its absence, and it has a greater impact on the terms and conditions of employment under which employees work than collective bargaining or other forms of union activity. That can be seen by the fact that most collective bargaining agreements merely echo the standards already required in the law.⁽⁷²⁾ But the standards in the Law are not high, even when compared with less developed nations, and the standards are often neither complied with nor enforced. Korean workers, especially women, work very long hours, often under unpleasant or unhealthy conditions, and often for low pay.⁽⁷³⁾

The Labor Standards Law applies to all workers, including public employees, in work places that constantly employ six or more employees. It exempts only single household establishments, domestic servants, and plants specially exempted by presidential decree.

Involuntary servitude is forbidden by the Labor Standards Law. An employer may under no circumstances inflict physical violence upon a worker. Fee charging employment services are forbidden unless they are registered. Working conditions are to be determined through the free will of employers and employees negotiating from positions of equal status, (but the Law does not state how the equality of their respective positions is to be secured.) Discrimination on the basis of sex, nationality, or social status is forbidden, but no enforcement provisions have been established. In practice, Chinese, the only minority group, are almost totally excluded from the economic mainstream, and women workers, whose average wage is only 45 percent as high as the average for men,⁽⁷⁴⁾ are systematically excluded from responsible positions and paid lower wages than men doing comparable work. Also it is standard practice for many companies to informally but invariably force

women to resign when they get married. (75)

One chapter of the Labor Standards Law requires all employers with ten or more permanent employees to write and post a "Work Rule" spelling out the terms and conditions of employment. An employee's rights under the Work Rule can not be inferior to his or her statutory rights or rights under a collective bargaining contract, but the rights granted by the Work Rule are also legally protected. An employer may not change the Work Rule unilaterally to the disadvantage of his present employees, and an employer may not discharge an employee except for cause. Litigated cases on what constitutes just cause seem to establish a reasonably strict standard, (76) (superior to the legal protection of employees in non-unionized work-places in the United States) but the standard that seems to emerge in industry practice is much lower because almost no dismissals are actually contested. (77) In case employees are dismissed for business reasons, they are entitled to 30 days advance notice or 30 days pay, and if they are retained on laid-off status they are entitled to 60 percent of their pay. Also, all employees with one year of seniority have a vested entitlement to at least one month of severance pay for every year they have been with the employer. (78) In contrast to the employer's restricted right to dismiss employees, employees may resign at will and are not subject to liability for damages to the employer.

Wages and hours are so interrelated that they can most easily be considered together. The Law provides that the Ministry of Labor has authority to establish a minimum wage, and in fact, persuasive but non-binding minimum wage guidelines were issued until 1979. Since then, though, no minimum wage standards have been in effect. Though wages have risen through the 60's and 70's, they remain quite low. An indication of the low level of wages is the ratio of labor costs to total production costs. Direct and

indirect labor costs (i.e., wages, recruitment and training costs) comprised only 8.92 percent of production costs in 1976.⁽⁷⁹⁾ A Korean Development Institute survey in 1960 estimated the monthly minimum cost of living for a family of five at 270,000 Won (the South Korean currency then stood at about 620 Won to \$1.00 U.S.), but 31 percent of the wage earners at that time received less than 70,000 Won, 56 percent earned less than 100,000, and 86 percent received less than 200,000 Won.⁽⁸⁰⁾ To earn those wages, Korean workers work more hours per week than workers in any other country on which the ILO gathers statistics. In 1981 the average work week for non-agricultural workers was 51.2 hours for men and 52.9 hours for women.⁽⁸¹⁾

The compensation paid to employees may be divided into several categories; base pay, over time pay, bonuses, and fringe benefits. The employer is required to pay base pay and overtime in cash on a fixed day every month, but bonuses leave wide discretion to the employer. Almost all businesses pay bonuses, with the median amount being around three months' pay per year. An overtime premium rate of time and a half straight time pay is mandatory for time in excess of 8 hours per day or 48 hours per week but, as the average number of hours worked indicates, that does not deter employers from scheduling overtime. With no minimum wage, the employer can simply set the base wage so low that the combination of straight time and overtime amounts to only a subsistence wage. Thus, the workers averaging the longest work weeks, women production workers, are paid the lowest wages.

Special protections are written into the law for women and children. A certificate from the Ministry of Labor is required for the employment of children under 13 years old (rarely sought or granted) and parental permission is required for employees under 18. Restrictions are placed on the use of minors for over time and night work. What appear to be liberal provisions for women allow leave with pay one day per month for menstruation,

light work assignments and then sixty days off with pay for maternity leave, and two 30 minute rest breaks per day for nursing infants. Actually, menstruation rest days are almost never requested ⁽⁸²⁾ and women are forced to resign before they become eligible for maternity leave. But the legal provisions do still serve as a justification for lower wages for women.

Industrial safety and health provisions are contained in the Labor Standards law as well as in two supplementary laws: the Industrial Safety and Health Law, and the Industrial Accident Compensation Insurance Law. In order to insure safety, the laws put responsibility on the employer to provide safety and health officers, and to train employees in safe practices. Periodic medial examinations are required to protect against contagious or work-related diseases. Plans for factory construction and machinery utilization must be approved by the Ministry of Labor, and production and use of certain toxic materials is prohibited. Standards Law by their employers.

Ministry of Labor statistics show that the extremely high accident rates of the 60's and 70's have come down significantly, but they remain high. Over 1500 employees were killed and over 100,000 were injured in industrial accidents in Korea in 1980, resulting in an accident rate three times as high as the rates in the United States and Japan. ⁽⁸³⁾ Through statistics are not available, Korean observers do not doubt that damage to hearing and eye sight and occupational diseases due to dust or fumes take a still greater toll on Korean workers. ⁽⁸⁴⁾ The problem may be largely attributed to failure to actually implement the safety programs required by law or to expend the resources necessary to guard against known hazards. ⁽⁸⁵⁾ Though unions express great concern for industrial safety and health, they lack the power to alleviate the problems. ⁽⁸⁶⁾

The laws on workman's compensation and accident insurance are quite complicated and often lead to disputes that have to be arbitrated by the

Labor Committees. Compensation for an injured employee is set at 60 percent of the employee's wages until he or she is able to return to work. In the event of a permanent disability or death, a lump payment must be made that is a function of the employee's average wage. Employees of large businesses are also covered by employer funded medical insurance.

From the employees' point of view, the greatest weakness of the Labor Standards Law is its uneven enforcement. Unions or employees may report violations to the labor inspectors whose duty it is to enforce the Law, but they have no private cause of action. By law, employees who make reports are supposed to be protected against retaliation by the employer, but people involved in labor rights counselling centers claim that it could only result in discharge for an employee to report a violation.⁽⁸⁷⁾ Some union leaders claim that the greatest benefit that unions can provide for workers in Korea is a higher level of compliance with the Labor Standards Law by their employers, but others admitted that there is little that they can do to bring about compliance.

In 1979 there were only 269 inspectors in Korea operating under a very limited budget that did not even pay the expenses incurred in inspecting the work-places.⁽⁸⁸⁾ Even if an inspection were made and a violation found, the inspectors, lacking authority to issue citations, could only make a report to the Ministry of Labor. In practice, with 37,000 work-places under the inspectors' jurisdiction, their job is normally limited to the evaluation of industrial machinery and factory construction plans. Normally no sanctions are imposed on employers who violate the wages and hours laws or the safety and health standards.

The Labor Dispute Adjustment Law.

Elaborate legal procedures and an agency to implement the procedures

are provided in the Labor Dispute Adjustment Law and the Labor Committee Law. However, the application of those procedures was suspended by a State of Emergency Law in December, 1971, that remained in effect until December 1981. During that time disputes were handled under the alternate procedures provided in the Administration of Labor Affairs "Regulation on Handling Dispute Adjustments Under the State of Emergency." Under the Regulation, unions were required to secure government approval prior to engaging in contract negotiations with management. When disputes did arise, the government directed the resolution procedures and had authority to impose a binding arbitrated decision. All strikes and lock-outs were prohibited.

The Regulation left the government as a directly involved party in all negotiations where any contest between labor and management emerged, and as a dominant figure in the background even where agreements were reached without a contest. If workers were not satisfied with the agreements, the union, the employer, and the government all might have been targets of their discontent.⁽⁸⁹⁾ By 1979, more than half of all contract negotiations resulted in impasse requiring conciliation (1508 cases), mediation (462 cases), or arbitration (68 cases) to reach an agreement.⁽⁹⁰⁾ At least 100 cases of dispute action (i.e., strike slow down, or demonstration) occurred each year from 1975 to 1979, even though they were all illegal, and in the first third of 1980 the number jumped to 407 cases of dispute action.⁽⁹¹⁾

Throughout all that time, the Labor Dispute Adjustment Law remained in the law books ready to be reinstated whenever the emergency law was repealed. As it turned out, along with the changes in the other labor laws, some changes were also made in the Labor Dispute Adjustment Law as part of the December, 1980 amendments, even though the Law was still at that time in a state of suspension. It was almost a year after the amendments that the Law was finally reinstated as the legal procedure for dispute resolution.

The Labor Dispute Adjustment Law sets forth detailed procedures for the resolution of all labor disputes that can not be settled by the parties. If certain procedural requirements are not met, the administrative authority may dismiss the dispute without prejudice, but assuming there is no procedural flaw, the resolution procedures are to be applied whether the dispute is substantively a grievance over contractual rights or an interest dispute over the terms of a new contract. The underlying assumption is that work-stop-pages are contrary to the public welfare and should be avoided or prevented. The Central or Local Labor Committees (described on page 17 above) have the responsibility of presiding over the resolution procedures, with the objective of facilitating or, in some cases, imposing a resolution that is in the interests of the public.

Distinct procedures are set forth in the Law for the resolution of disputes arising in: a. private non-vital industries, b. industries designated as vital to the public welfare, and c. foreign invested firms. The procedure for resolution of disputes in private industries may be considered the basic model, which is modified in other cases to give the government greater control.

It must be stressed that the formal procedures in the Labor Dispute Adjustment law are not always used by the parties whenever there is a labor dispute. Also, the fact that the formal procedures are not invoked in a particular case does not mean that the parties are left alone to settle the dispute among themselves. Police, security agents, administrators of the industrial parks, and non-labor-specific authorities in local government may all become involved to exert a very powerful influence.

It should also be noted that the employer never initiates formal dispute resolution proceedings, because when such procedures are not followed the employer has power to make unilateral decisions, and any dispute action that might

be undertaken by the employees is per se illegal. The employer is then free to retaliate against the illegal dispute action, and to seek government aid in suppressing the illegal activities.

If a dispute arises in a private (non-vital) industry, the first step in the formal dispute resolution process is for one of the parties to notify the administrative authorities in the appropriate local governmental unit. The administrative authority has five days in which to rule on the legality of the dispute. If it is legal, a thirty day cooling-off period begins. During that period, the union must conduct a vote of confidence to ascertain the support of the membership for dispute action in the unlikely event that it should ever reach that stage. Also during that period, conciliation proceedings are conducted by the administrative authority and, if that fails to induce a settlement, mediation, which corresponds to the American concept of fact-finding, is undertaken by the appropriate Labor Committee. A settlement reached through conciliation or mediation has the same effect in law as a collective bargaining agreement.

If a settlement is not reached, the case may go to binding arbitration if both parties agree, or if arbitration is called for in the previous union contract and is requested by either party. Otherwise, the parties may engage in dispute actions such as strikes or slowdowns by the union or lock-outs by the employer. Sit-in strikes are allowed, and the hiring of replacements for the strikers is illegal. The protections granted unions in the conduct of legal strikes would, thus, seem to make the union's position relatively strong, and might seem to serve as an incentive to the union to go through the legal procedures, and a disincentive to the employer to obstinately refuse to settle. In practice, though, the procedural requirements for a legal strike are never met, and all dispute actions that do occur are technically illegal.

Even after a dispute has proceeded through all the steps and has been returned to the parties to be contested through dispute actions, there still may be another step. If the Ministry of Labor determines that the dispute is

harmful to public interests, he may designate it a case to be resolved through emergency adjustment by the Central Labor Committee. If that happens, the parties must withdraw from dispute actions for a further thirty days. If a settlement is still not reached, the Central Labor Committee may refer the dispute to mandatory arbitration, or may finally allow the parties to struggle through dispute actions.

If an industry is designated as vital to the public welfare, the cooling-off period is forty days instead of thirty, and if a settlement is not reached, the case is always ultimately subject to compulsory arbitration. Industries deemed vital to the public welfare include transportation, communications, water supply and electricity. In addition, the President has authority to designate any other industry as belonging to that category if the need arises. When an industry is so designated, it is effectively deprived of the right to resort to strikes or lock-outs for the settlement of disputes.

The Special Law for the Settlement of Disputes in Foreign Invested Firms provides for a special tripartite mediation board which is to attempt to facilitate a mediated settlement to labor disputes in foreign invested firms. If that fails, the dispute is to be arbitrated by the Central Labor Committee. While the "Regulation for Handling Disputes Under the State of Emergency" was in force, dispute resolution procedures for all businesses in Korea held binding arbitration as the final step. There was, thus, no significant practical difference between the resolution procedures for foreign invested firms and the procedures for domestic firms. Since the Regulation has now been repealed, there is again a theoretical difference in procedure, but the general Dispute Adjustment Law does have provisions that could be applied in foreign invested firms to reach the same results as those prescribed in the Special Law. Despite the occurrence of several significant disputes in foreign invested firms,

the Special Law has never been invoked in recent years. The author could find no evidence that the administrative machinery described in the Special Law even exists.

THE EFFECT OF PROVISIONS TO CONTROL LABOR DISPUTES

This paper started out by noting the influence of the American labor laws on the original Korean labor relations law. From the preceding discussion, it can be seen that subsequent amendments have moved the law away from that model, but the underlying structure and many of the fundamental principles remain the same. But the practice is much different. The Constitutional and statutory guarantees of freedom of association and rights to union membership are abridged by: 1. many practical barriers to union organizing, 2. the virtual impossibility of challenging coopted company unions, and 3. the fact that trade unionism has been rendered ineffectual by the inability of unions to engage in meaningful collective bargaining. Collective bargaining is also a guaranteed right, but it can not be realized in practice. Instead of standing back out of the way so that labor and management, through their own economic struggle, can determine the terms and conditions of employment, the government sets wage guidelines in advance, and puts great pressure on the parties to conform. Very few objectives besides higher wages are sought through collective bargaining,⁽⁹²⁾ and it is impossible for unions to effectively exert economic power in defense of their demands.

The December, 1980 amendments make it clear that the present administration mandates "cooperation" between labor, management, and government, and does not allow the adversarial (though institutionalized and limited) struggle of economic trade unionism. The Labor-Management Council system

is designed to deal with traditional union issues in a non-adversarial setting. And the shift from an industrial unionism organization to enterprise unionism seems designed to insure that the workers will fundamentally identify with the enterprise instead of with the goals of an industrial union.

Two objectives are apparent in the industrial relations system in Korea: to keep the labor movement under control, and to promote continued industrial growth by holding down labor costs. Those policies are commonly associated with the fantastic economic growth and modernization that Korea has experienced over the past twenty years. ⁴¹ The population is now very well educated and the middle class is rising. With private cars, large houses, fashionable clothing, and other signs of affluence, those who have benefitted most by the country's economic growth have enthusiastically embraced a lifestyle of conspicuous consumption. The image that is portrayed in the mass media and in advertisements makes that lifestyle visible to all. However, not all have shared equally in the rising prosperity. The highly productive workers who are officially recognized as the key factor in the country's success, have been told that growth must come first and that a share in the resultant prosperity will come later. Aging workers who have migrated in from the countryside, and second generation industrial workers, have waited for their share for many years, but they still work long hours under miserable, unhealthy working conditions for a bare subsistence wage, and they can see no hope for improvement. The frustration of their rising expectations is the classic formula for radical unrest. ⁴² A quarrel over how to suppress those deman-

The efforts to control labor's economic demands might be expected to be a contributing factor to labor's political unrest and to have put the government in the position of an adversary of the labor movement, though not always an adversary of the coopted labor movement. However, it is difficult for the government to extricate itself from that position because recent Korean his-

tory indicates that opening up a pressure relief valve by granting small concessions does not result in labor peace, at least in the short run. It is like a small breach in a dam that is soon torn wide open as pent up frustrations frantically seek expression before the opening is again walled-up. One can speculate that if heavy-handed controls were not imposed to restore the status quo ante, a new equilibrium would ultimately emerge where labor's share of the wealth would be more proportionate to its contribution. That might be seen as the formula for a more stable labor peace. But that conflicts with the strategy of holding wages down as a means of promoting industrial growth. The ruling government, military, and business elites benefit from the present policies and cannot be expected to change the policies as long as they remain firmly in control.

The very general analysis above does correspond to the events of 1979 and 1980. In 1979 there was a general feeling of deprivation among workers because real wages were not rising as fast as they had in the '60's and '70's. That summer, in the course of an especially complex labor dispute, women employees of Y.H. Industries who were associated with the Urban Industrial Mission determined that they could not gain relief through normal procedures, so they staged a sit-in demonstration in the headquarters of the political opposition party. When it was broken up by police, one worker was killed and many opposition politicians were arrested along with the workers. Ultimately a major political confrontation developed, which was followed by massive demonstrations in several cities. A quarrel over how to suppress those demonstrations provoked the director of the Korean Central Intelligence Agency to assassinate President Park. Thus an extremely unlikely chain of events showed what a hot political issue labor unrest could become.

While President Park was alive, power was highly concentrated in his

LABOR DISPUTES: THE TRENDS

Year	Total	Wage non-payment	Shop closure	Unfair labor practice	Condi-tions	Unjust dismissal	Wage increase	Other
1975	133	22	17	19	14	10	42	9
1976	110	37	8	8	10	3	31	7
1977	96	30	4	6	9	3	36	7
1978	102	29	3	2	9	1	45	13
1979	105	36	5	3	0	6	31	26
1980	407	287	11	0	20	5	38	46
1981	186	69	11	84	32	6	38	10
1982.9	66	20	3	4	17	2	6	14

LABOR DISPUTE ACTIONS: TYPE

Year	Total	Work stoppage	Sit-in	Public demonstration	Other
1975	133 (93)	49	44	10	10
1976	110	45	45	15	5
1977	96	58	30	5	3
1978	102	55	26	3 (9)	13
1979	105	60	43	2	0
1980	407	98	204	47	53
1981	186	88	40	32	26
1982.9	66	49	12	3	2

December, 1980 amendments to the labor law were written.

Source: Labor Economic Yearbook '81 - '82

The Ministry of Labor Republic of Korea

Quoted from Mr. Min, Byoung-Kook,

labor union Collective Bargaining and Union Regulations and 1983

effective disenfranchisement of the volatile unions of women workers in the

wearing apparel industry. But the literature published by the Ministry of

hands. After his assassination, there was a power vacuum that was filled, first, by General Chung, Sun-Hwa, the top ranking military officer, who became martial law commander. He set about dismantling the authoritarian political structure too quickly for some of his military colleagues, and less than two months after Park's death he was deposed by a military coup led by General Chun, Doo-Hwan. Still, the limits on freedom to be imposed by the new regime were not clearly defined, and for the next six months Korean society was in a state of ferment.

The labor situation was especially chaotic. The number of labor disputes sky-rocketed as many employers failed to pay wages that the employees had already earned, and the average employer, for the first time in recent history, held wage increases below the official rate of inflation. Workers found that the best way to press for their demands was through direct, illegal "dispute actions." The most damaging disputes, such as the uprising of the miners in Sabuk, involved workers protesting the way they had been sold out by their own union leaders.⁽⁹³⁾ The tables below show the number and nature of "dispute actions" of that time compared to other years.

A severe crack-down in May, 1980 suddenly replaced the turmoil with a very authoritarian regime. Total martial law was imposed,⁽⁹⁴⁾ bringing all normal civil governmental processes to a halt. The labor movement was subjected to a purification campaign which decimated the established leadership and effectively brought an end to all union activity for the rest of that year. It was during that time, while the National Assembly was disbanded, that the December, 1980 amendments to the labor law were written.

The amended laws provide for marginally more government regulation of labor unions, weakened links between national and local unions, and the effective disenfranchisement of the volatile unions of women workers in the wearing apparel industry. But the literature published by the Ministry of

Labor and the employers associations does not focus primarily on those things as the formula for labor peace. Instead it points to the expanded Labor-Management Council system as the key factor. As seen from the tables, the number of cases of dispute actions did go down in 1981 to near normal levels and to by far the lowest level in recent years in 1982. The question of interest is whether the decrease in dispute actions resulted from generally more restrictive labor laws that were more vigorously enforced, or whether the LMC system was, indeed, the significant factor.

It is probably impossible to answer the question precisely without much more data. It is likely that both factors contributed to the result, together with other outside variables. The social turbulence of 1980 may still have had a disturbing influence on society in 1981. A look at the issues involved in labor disputes shows that they are largely a result of employer behavior. One may assume that there is less discontent among workers in 1982 when real wages again went up after two years in decline. Still, the decrease in the incidence of labor dispute action in 1982 was so substantial that an extra-ordinary cause must be sought. It is not sufficient to only point to the more restrictive laws, because they were enforced at least as strictly in 1981 as in 1982. The LMC system, by contrast, was more fully implemented by 1982. Though it can not be determined exactly how large an effect the LMC system has had, and is having, it is fair to conclude that it is not negligible.

That conclusion provokes another question: Is the LMC effective in reducing the incidences of dispute actions because it provides a channel of communication between the employer and the employees that leads to a resolution of their differences and the furtherance of their common interests? Or is it simply an effective tool of the employer for coopting collective bargaining? As was mentioned above, the provisions of the LMC Law notwithstanding, 1983 data show that the LMC does play a role in explicitly collective issues. A

any other channel emerge through which alienated workers will be able to

paper presented by Attorney Min, Byoung-Kook to the American Chamber of Commerce (Korea) in February, 1963 (95) explains that the LMC system allows the employer to explain the international market constraints to the employees, so that they will be able to understand how a low wage policy is essential for the growth of the firm, and thus, for the common interests of the employer and the employees. Also, as regards specifically LMC issues, he wrote:

To the extent the Labor-Management Council acts in a binding manner on grievances, work-place conditions, and the prevention of labor disputes, provisions for arbitration machinery and specific obligations in collective bargaining agreements are of less significance than they would be in the United States.

He further wrote that since employees are liable for substantial penalties if they violate LMC decisions,

...the employer no longer faces the prospect of disruptive collective action in instances where the Labor-Management Council has acted...

Not-surprisingly, this author found the representatives of the Korean Employers Federation very enthusiastic about the LMC system, and union leaders unanimously opposed to it.

FINAL QUESTIONS

It appears that the Korean government and the Korean employers have successfully, at least in the short run, defused a labor situation that one might expect to be explosive. As long as the economy continues to grow and real wages continue to rise, the workers may be expected to accept their relatively small slice of the continually growing pie. But there are also other questions of interest. As the economy grows and the workers' expectations continue to rise, will more pro-labor legislation, more consistently enforced, finally provide workers with what they can not get through collective bargaining? With more restrictions than ever on the workers' ability to replace unions that do not effectively represent their interests, or to rely on non-union sources of support such as the Urban Industrial Mission, will any other channel emerge through which alienated workers will be able to

express their interests? As the Labor-Management Councils take over many functions of unions, will they be able to effectively speak for the workers and retain the workers' support?

A Western person looking at Korean industrial relations may see many actual and potential problems. It is not likely that Korea will adopt, in practice as well as in form, a system similar to that in the United States, but if the answers to the above questions are "yes", some of the problems may be alleviated. However, underlying the specific form of any system there are fundamental questions of power. Unless Korean workers are able to increase their bargaining power or their ability to influence legislation, they can not expect significant improvements simply by virtue of the employers' good-will.

5. Bank of Korea, Monthly Statistics, 1963.

6. Korea Development Institute, ibid., pp. 176.

7. Economic Planning Board, Economically Active Population Survey, 1962.

8. Economic Planning Board, Statistical Year Book 1963-1964.

9. Credit is the lifeblood of Korean enterprises because of their exceptionally high debt-equity ratios. All banks are controlled by the government, and credit is routinely made available at below market prices, often below the rate of inflation, to businesses that produce a high volume of goods for export. The banks may be instructed not to extend credit to uncooperative businesses, i.e. businesses that grant wage increases in excess of the designated wage guidelines. The subject is discussed in L. Jones and L. Sakong, Government, Business and Entrepreneurship in Economic Development: The Korean Case.

10. Because imports are strictly controlled, businesses allowed to import extensively are able to make huge profits by reselling the imports at much higher prices on the domestic markets.

11. The most prominent examples are Kim, Dae Jung and Kim, Young Sam. They were both at one time leaders of the opposition New Democratic Party, and they were both expelled, deprived of their civil rights, and arrested or put under house arrest.

NOTES

1. Korea businessmen and even some lawyers and industrial relations scholars explain the divergence between the labor relations law and the actual practice by claiming that the law is foreign law, and that it has never been appropriate for a developing country like Korea.
2. In this paper the term local union is used as synonymous with the term enterprise union. It refers to the lowest level on the union pyramid. However, in Korean usage, prior to 1981 the term local union sometimes referred to a union having jurisdiction over all the single enterprise chapters in a specific industry in a single city. The terms national or industrial union refer to a federation of local unions in a specific industry. In Korean terminology, the term national union sometimes refers to only industries on a national scale with a single employer, such as rail roads. This paper does not refer specifically to such unions. The national unions are affiliated with a (con)federation called the Federation of Korean Trade Unions(FKTU).
3. John Dunlop, Industrial Relations Systems, 1956
4. Korea Development Institute, The Fifth Five Year Economic and Social Development Plan, 1982, pg 176. In other sources, the current prices figure of 887 per capita in 1982 is cited.
5. Bank of Korea, Monthly Statistics, 1983.
6. Korea Development Institute, ibid., pg 176.
7. Economic Planning Board, Economically Active Population Survey, 1982
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12. Park, Chung Hee came to power at the head of a military coup in 1961 and remained in control until he was assassinated in 1979. Chun Doo Hwan also came to power through a military coup. Neither man had any power base outside of the military. However, according to traditional Korean values the military is not supposed to be dominant.
13. In 1979 the government pushed through the election of a certain labor leader to the head of the Federation of Korean Trade Unions because he had aggressively supported the government's policies. In local union elections candidates considered unacceptable by the local authorities may be persuaded to withdraw or the members may be told that voting for that candidate would cause trouble.
14. The invulnerability of union leaders to challenge is explained in detail by Park, Young Ki, in Labor and Industrial Relations in Korea, System and Practice, 1979.
15. See page 30 below.
16. Park, Young-Ki *ibid.* page 105. The wage differential for college graduates vs. primary school graduates increased from 311 to 100 in 1970 to 360 to 100 in 1978. A payment system based on education and length of service, rather than on job performance, is the norm in Korea.
17. George Ogle, Labor Unions in Rapid Economic Development: The Case of the Republic of Korea in the 1960's. Unpublished Ph. D Dissertation, U.W. Madison 1973. The practice, which is described in Mr. Ogle's dissertation is still prevalent in Korea according to industrial relations scholar Tak, Hee-Jun. Ministry of Labor officials claim it is impossible.
18. The Korean religious teacher and social critic, Ham, Sauk-Han, in an essay "Oo Jik," "The Simpleton" argues against the shrewd self-interest of employers who do not earn the employee's loyalty by granting security.
- 18-a Federation Korean Trade Unions, Annual Activities Report 1962-1982.
- 18-b Federation of Korean Trade Unions, Annual Activities Report 1982.
- 19 See page 25 and footnote 63.
- 19-a The connection between factory Saemaul units and LMC's can be seen in the case of the "Free Export Zone" industrial cite in Masan. A Saemaul administration had been established for the factories in the complex, and that provided the framework for the LMC's that have now been organized.
20. An account from the perspective of the Urban Industrial Mission may be found in a book written by the Christian Institute for the Study of Justice and Development, entitled Presence of Christ Among Minjung. The struggle is also described by Choi, Jang-Jip, Interest Conflict and Political Control; The Case of the Labor Movement in South Korea, unpublished Ph.D. Dissertation, University of Chicago, 1983.
21. The government at first claimed that counselling center was an illegal

third party, but the defense of the counselling center, that it did not interfere with collective bargaining, ultimately prevailed.

22. Park, Young-Ki, *ibid*, pg 65,66
23. Hyundai, Dae Woo, and Samsung, three of the largest conglomerates, have no unions. Some analysts attribute that to personnel practices designed to make unions unnecessary, but others claim there was collusion between the companies and the authorities to block recognition of the unions attempting to organize.
24. An oblique reference is made in a provision that the employers' representative to a tripartite committee is to be made by an "employers organization."
25. The literature published by KEF describes the positions on many labor relations issues that KEF would like the government to take, and the types of lobbying activities undertaken. Representatives from the KEF, in an interview with the author in July, 1983 claimed that the December 1980 amendments corresponded to what they had advocated.
26. Park, Young-Ki, *ibid*. pg 69
27. He had been elevated to PKTU Acting President during the "purification campaign" of 1980, and was elected the following year from his position as incumbent.
28. Choi, Jong-Jip, *ibid.*, described how technicalities could be used by local authorities to delay certification of a union for years.
29. A case that was given extensive coverage in the Korean language press in late 1982 was the complex negotiations between Seoul taxi drivers and their employers when the pay system shifted from straight commissions to a combination of salary and commission. The Labor-Management Councils, after 28 meetings, could not reach an agreement. Mediators (fact-finders) made recommendations and submitted the report to the Ministry of Labor but then the Seoul City authorities did not turn the case over to the Ministry of Labor. Instead the City authorities forced the parties to accept the fact-finders' recommendations. When problems developed over the application of the agreement, the City and the Ministry of Labor disagreed over its interpretation; but since the City had negotiated the agreement, its interpretation prevailed. The procedure that was followed contrasts sharply with the procedures spelled out in the Dispute Settlement Law.
30. The Control Data (Korea) labor dispute which resulted in the corporation closing down its production plant in Korea in July, 1982 was subject to extensive intervention by industrial park administrators and National Security Agents. The legal dispute resolution procedures were never invoked.
31. Included among the Central Labor Committee public interests representatives are Professors Park, Young-Ki and Kim, Hyun-Bae. They are highly respected labor relations experts and they do not hesitate to speak and write about what they consider to be faults in the present labor relations system. By law, all public interests representatives are required to meet rigorous academic and professional criteria.

32. The publication of Central Labor Committee decisions is of very limited distribution, and is not readily available to lawyers, employers, or unions.
33. Favorable accounts include studies done by the World Bank. See Parvez Hasan and D.C. Rao, Korea: Policy Issues for Long Term Development, 1979. See also L. Jones and I. Sakong, ibid.. Critical essays are contained in Frank Baldwin, ed. Without Parallel, 1974. See also Choi, Jang-Jip, ibid. and Lim, Hyun-Jin, Dependent Development in the World System: The Case of South Korea, unpublished Ph.D. Dissertation, Harvard, 1982.
- 33-a. See L. Jones and I. Sakong. ibid.
34. Despite many highly publicized measures to attract direct foreign investments, the proportion of direct investments is very low. According to Economic Planning Board figures, (Fifth Five Year Plan, pg. 166) in 1983 the foreign debt stood at 37 billion but the amount of direct foreign investment was only 300 million. In an interview with Economist Paul Kuznets the author was told that the reason is because Korean administrators are in practice reluctant to allow foreign investors to retain effective control.
35. Korea Development Institute, Ibid., pg. 134.
36. These measures were explained in an interview with Professor Park, Young-Ki. Accounts may also be found in the Korean press.
37. No business is able to directly resist such pressure. See footnote 9. But in 1982 and 1983 the government concluded that the guidelines had not been successful in holding down labor costs for white collar and highly skilled workers because the companies, in order to attract such workers, circumvented the guidelines by offering more fringe benefits. Only the labor costs of unskilled workers, who have no real bargaining power, were consistently held below the guidelines.
38. The government controlled the markets and held down the price of grain as a way of accelerating industrialization. Lower grain prices meant that lower wages were necessary for the subsistence of industrial workers, and also that the earnings of farmers were reduced, so it became easier to attract them to urban areas through relatively higher wages in industry.
39. Korea Development Institute, ibid. The Plan emphasizes incentives to be offered to encourage growth in favored industries, and vocational training programs to meet the skill requirements.
40. Rural industrialization projects have not been very successful up till now, but the crowded conditions of Korean cities make continued efforts essential.
41. The National Security Commission succeeds the Korean Central Intelligence Agency (KCIA). The KCIA was reorganized after its director assassinated President Park.
42. The Committee to Counteract Labor Insurgency is an informal ad hoc committee, not mentioned in the Korean Statutes.

43. The sensitivity of unions to what is acceptable to the government is facilitated by the practice of conducting union business through delegates rather than directly by the members. See page 24.
44. The author discussed the issue with Professors Park, Young-Ki, and Kin, Hyung-Bae (both public interests representatives of the Central Labor Committee), other scholars, Urban Industrial Mission staff members, and leaders of several national unions.
45. The Administration of Labor Affairs was the predecessor of the Ministry of Labor.
46. Choi, Jang-Jip, *ibid.*, described the prevalence of employer-dominated unions in the actual Korean labor movement. The few unions not dominated by the employers are said to face relentless discrimination.
47. The union representing Korean civilian employees on the United States military facilities complains that their employer does not follow the Korean pattern of paying union officers while exempting them from normal work responsibilities.
48. Ironically, if workers determine that the union is not adequately representing their interests and try to develop a more responsive union, that is called "union busting."
49. See footnote 28.
50. The requirement that a portion of union funds be used for welfare objectives was added by the December 1980 amendments. Common welfare purposes range from festivals to cooperatives.
51. The amount that may be collected in dues is not low by international standards. However, some Korean unions had made large sums available for gifts and entertainment expenses.
52. The law provides that the consent of the Central Labor Committee is required for this type of government intervention, but the approval of the Labor Committee was not requested for the action taken in June and July, 1980.
53. As will be seen, provisions in the laws and Constitution notwithstanding, unions are not able to ^{en}gage in meaningful collective bargaining. See Mario Bognanno, Collective Bargaining in Korea; Law, Practices, and Recommendations for Reform, published by Korea Development Institute. A shorter version is contained in Industrial Relations Research Association Series, 1981.
54. If the employer rejects grievances presented through the grievance committee of the Labor-Management Council there are no further grievance procedures. Theoretically the union could proceed into a labor dispute, indistinguishable in form from an interest dispute. Civil litigation in the courts in response to an employers breach of contract literally never happens.
55. Mario Bognanno, *ibid.*; When bargaining over wages and conditions of employment became practically impossible, bargaining for union shop arrangements became the only way for unions to demonstrate their strength.

56. Park Young-Ki, 韓國勞動運動의 現況과 改善 行爲: 韓國開發政策研究會
 "The Korean Labor Movement: Suggestions for Reform" appearing in Korea Development Institute. (勞使關係政策課題 研究會)
 Labor Relations and Labor Policy, 1983.
 This essay attributes the full union membership in organized work-places to the cultural pattern of solidarity with a group. In Korea, decision making by "consensus" is the norm, and individual differences of opinion are suppressed as part of group life.
57. See page 373B. Since it is practically impossible for a union to meet all conditions for legal "dispute actions", any dispute action is illegal and, thus, legitimate grounds for discharge.
58. Cho, Chong-Wha. 노사협의회 제도에 대한 실태조사
Survey of the Labor-Management Council System, 1980
59. This finding is very intriguing. It seems to indicate recognition of the fact that the LMC provides a channel of communication that would otherwise not exist at all.
60. Choi, Jang-Jip, *ibid.*, It was under the Park government that unions were first organized along industrial lines. That allowed for greater political control and top-down organizing. Intelligence agents were set up as the heads of most of the national industrial unions.
61. In most cases, the assistance and mediation of national unions was central to the organization of local unions. The more aggressive, more independent, local unions that organized spontaneously without national union assistance normally faced stiff employer resistance and anti-union discrimination.
62. Ministry of Labor, Labor Administration in Korea, 1982, pg 7. See also Park, Young-Ki, "The Role of Labor Relations in National Development: The case of Korea," 1983 pg 10-18.
63. The elimination of regional unions in the wearing apparel industry was a significant and almost certainly deliberate consequence of the changed law. Almost all enterprises in the industry have fewer than 30 employees but, in the most famous example, employees of hundreds of work-shops that are crowded together in the Peace Market district in Seoul had joined together to form a very militant union. The union had been involved in numerous clashes with the authorities. Now that union has been forcibly disestablished.
64. In a labor dispute involving WonPoong Enterprises, former union leaders who were associated with U.I.M. were dismissed from their jobs. When they continued to support what was left of the union in the on-going dispute, they were prosecuted and sentenced as third-party intervenors.
65. U.I.M., J.O.C., and counselling centers do continue to exist, but their role is limited. In an interview, a leader of U.I.M. explained that since their support in labor issues would result in reprisals for the workers, they now limit themselves to religious and social issues.
66. Ministry of Labor, *ibid.*, pg10

67. American Chamber of Commerce, Korea, "Wage and Labor Relations Practice Survey (of participating members) 1983."
68. The Law makes an employer who is subject to the requirement of establishing an LMC, and who fails to do so without an acceptable justification, liable for a large fine. The Law apparently does not contemplate a refusal to cooperate by the labor representative.
69. See page . Prior to 1981, the LMC may have been considered a part of the contract negotiating committee.
70. Bai, Mu-KI 1983, Unpublished research on wages policy.
71. Park, Young-Ki, 1980, *ibid.*, pg 69.
72. Mario Bognanno, *ibid.*, pg 69-76. Professor Bognanno examined the contents of collective bargaining agreements in Korea and found that they very rarely went beyond the provisions contained in the Labor Standards Law. But even if the agreement merely echoed the law, that would provide a private cause of action to enforce the contract.
73. See discussion below.
74. Economic Planning Board Statistics, Feb. 1983, show that women's monthly wage averaged 44.5 percent of men's monthly wage. The women's hourly wage was 42 percent of men's hourly wage. I.L.O. statistics for 1981 show the sex disparity to be greater in South Korea than in any other country for which data was available.
75. This was confirmed in an interview with a representative of the National Financial Workers Union; a union which represents many female white collar and clerical workers.
76. The legal standard was explained by Attorney Kim, Young-Moo in a paper presented to the American Chamber of Commerce in Korea entitled "Discipline, Discharge, Termination and Severance Pay." 1983.
77. In interviews with the author, Ki, Mal-Young, director of the Labor Counselling Office in Seoul, described management's actual power to unilaterally discharge employees. Kim, Hyung-Bae, a prominent professor of labor relations law and a public interests representative of the Central Labor Committee, claimed that in practice unions or individual workers never litigate unfair dismissals.
78. Many companies grant more generous severance pay allowances, but employees only have vested rights to the legal minimum.
79. Park, Young-Ki, 1979, *ibid.*, pg 99. Quoted from Korea Development Bank, Financial Analysis, 1972-1978. The figure refers to the labor portion of the costs of production in manufacturing. Presumably the remainder goes to machinery, materials, and credit.
80. Korea Development Institute, 1980, quoted in the English Language newspaper, The Korean Herald.
81. International Labor Organization, Statistical Year Book, 1982.

82. Some employers grant one day per month off with pay and when employees do not request the day off they earn an extra days pay.
83. Unpublished document provided by the U.S. Embassy in Seoul. Because injuries are defined differently in different countries, the I.L.O. does not publish comparative statistics on rates of injury. In absolute terms, in 1978 there were 140,000 injuries and 1400 deaths reported as due to industrial accidents.
84. Unhealthy working conditions are specially prevalent for young women employees who are expected to work only a few years before marriage. Often after only a few years they become permanently disabled.
85. A coal mine disaster in 1979 could probably have been prevented if ventilation equipment that was in place had been used. It was not used because operating it consumed too much energy.
86. Enforcement of safety and health provisions is cited as one contribution that unions are able to make, but some union leaders complain that the level of compliance remains low. It is possible that the LMC's will become involved in safety and health matters in a more systematic way, leading to a plus-sum situation. However, unless they have some power to compel improvements when the employer is unwilling to cooperate, the result is likely to still be limited.
- 86-a. One issue that the Labor Committees and courts have faced is the assignment of liability when work has been subcontracted out and the subcontractor is unable to pay the wage, severance pay, or workers compensation liability he has incurred. Large businesses often reduce costs by subcontracting out work, and in fact, subcontracting down three, four, or more steps is quite common. As it always turns out, the general contractors are not held liable for claims made by the subcontractor's employees, so when the subcontractor is unable to pay, the employees are left without a remedy.
87. An employee who is able to go through a union representative is in a stronger position.
88. The per diem payment for inspectors does not even cover the costs of transportation. As a result, when inspections are made, the inspectors are reputed to be susceptible to bribes.
89. Union leaders at the Sabuk coal mines were in collusion with the employers. When they signed a contract that was unacceptable to the workers, they became the target of the most violent labor uprising in recent times. The workers took control of the town and the mines, and had to be put down by military action.
The government became the target of the workers anger in the "Y.H. incident" (described below) which contributed to the situation that ended in the assassination of President Park.
90. Mario Bognanno, *ibid.*, pg. 20.
91. See Table, page 42. Professor Bognanno, *op.cit.*, relying on other sources, reported 848 cases of dispute action in 1980.

92. Mario Bognanno, *ibid.*, The results of a survey on the contents of collective bargaining agreements found, for example, that almost no agreements contained clauses relating to grievance handling or working conditions, and only a few dealt with lay-offs or promotions. The author found that unions representing taxi drivers and bus conductresses were generally unable to negotiate more convenient work shifts even though the change was desired by the members and it would have resulted in no loss in efficiency or additional labor costs.
93. See footnote 89.
94. The country had been under a much less severe form of martial law since President Park was killed in October, 1979.
95. Min, Byung-Kook, "Collective Bargaining and Union Regulations." 1983.
96. Lim, Hyun-Chin, *ibid.*, pg. 94.
97. Lim, Hyun-Chin, *ibid.*, pg. 95.
98. Sang-Hee Kim, "Saemaul Agriculture: South Korean Farmers' Progress in the Export-Oriented Economy," in *AMPO Japan Asia Quarterly Review*, 1980. But the need to import grain is unavoidable. Through extremely labor-intensive farming, the Korean farmers coax the maximum yields out of their very small farms, but it is simply not enough to feed the over-crowded nation.
99. Lim, Hyun-Chin, *ibid.*, pg. 136.
100. Economic Planning Board statistics in 1983 put the amount of direct foreign investments in Korea at \$300 million, and the total foreign debt at \$37 billion - less than 1:100.
101. Among other things, in 1985 the government directed the banks not to extend credit to companies that granted wage increases in excess of the guidelines. The result was that the wage increases of unskilled workers were kept within the 6% guidelines, but higher level employees were granted greater disguised increases in the form of benefits.
102. Korea Development Institute, 1980, quoted in the English language newspaper, The Korean Herald.
103. International Labor Organization, *Statistical Year Book*, 1982.
104. Unpublished document provided by the U.S. Embassy in Seoul. Because injuries are defined differently in different countries the I.L.O. does not publish comparative statistics on rates of injury. In absolute terms, in 1978 there were 140,000 injuries and 1400 deaths reported as due to industrial accidents.
105. After a down-turn in 1980 and 1981, the economy had already overtaken the 1979 levels.

express their interests? As the Labor-Management Councils take over many functions of unions, will they be able to effectively speak for the workers and retain the workers' support?

A Western person looking at Korean industrial relations may see many actual and potential problems. It is not likely that Korea will adopt, in practice as well as in form, a system similar to that in the United States, but if the answers to the above questions are "yes", some of the problems may be alleviated. However, underlying the specific form of any system there are fundamental questions of power. Unless Korean workers are able to increase their bargaining power or their ability to influence legislation, they can not expect significant improvements simply by virtue of the employers' good-will.

5. Bank of Korea, Monthly Statistics, 1963.

6. Korea Development Institute, ibid., pp. 176.

7. Economic Planning Board, Economically Active Population Survey, 1962.

8. Economic Planning Board, Statistical Year Book 1963-1964.

9. Credit is the lifeblood of Korean enterprises because of their exceptionally high debt-equity ratios. All banks are controlled by the government, and credit is routinely made available at below market prices, often below the rate of inflation, to businesses that produce a high volume of goods for export. The banks may be instructed not to extend credit to uncooperative businesses, i.e. businesses that grant wage increases in excess of the designated wage guidelines. The subject is discussed in L. Jones and L. Sakong, Government, Business and Entrepreneurship in Economic Development: The Korean Case.

10. Because imports are strictly controlled, businesses allowed to import extensively are able to make huge profits by reselling the imports at much higher prices on the domestic markets.

11. The most prominent examples are Kim, Dae Jung and Kim, Young Sam. They were both at one time leaders of the opposition New Democratic Party, and they were both expelled, deprived of their civil rights, and arrested or put under house arrest.

NOTES

1. Korea businessmen and even some lawyers and industrial relations scholars explain the divergence between the labor relations law and the actual practice by claiming that the law is foreign law, and that it has never been appropriate for a developing country like Korea.
2. In this paper the term local union is used as synonymous with the term enterprise union. It refers to the lowest level on the union pyramid. However, in Korean usage, prior to 1981 the term local union sometimes referred to a union having jurisdiction over all the single enterprise chapters in a specific industry in a single city. The terms national or industrial union refer to a federation of local unions in a specific industry. In Korean terminology, the term national union sometimes refers to only industries on a national scale with a single employer, such as rail roads. This paper does not refer specifically to such unions. The national unions are affiliated with a (con)federation called the Federation of Korean Trade Unions(FKTU).
3. John Dunlop, Industrial Relations Systems, 1956
4. Korea Development Institute, The Fifth Five Year Economic and Social Development Plan, 1982, pg 176. In other sources, the current prices figure of 887 per capita in 1982 is cited.
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6. Korea Development Institute, ibid., pg 176.
7. Economic Planning Board, Economically Active Population Survey, 1982
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12. Park, Chung Hee came to power at the head of a military coup in 1961 and remained in control until he was assassinated in 1979. Chun Doo Hwan also came to power through a military coup. Neither man had any power base outside of the military. However, according to traditional Korean values the military is not supposed to be dominant.
13. In 1979 the government pushed through the election of a certain labor leader to the head of the Federation of Korean Trade Unions because he had aggressively supported the government's policies. In local union elections candidates considered unacceptable by the local authorities may be persuaded to withdraw or the members may be told that voting for that candidate would cause trouble.
14. The invulnerability of union leaders to challenge is explained in detail by Park, Young Ki, in Labor and Industrial Relations in Korea, System and Practice, 1979.
15. See page 30 below.
16. Park, Young-Ki *ibid.* page 105. The wage differential for college graduates vs. primary school graduates increased from 311 to 100 in 1970 to 360 to 100 in 1978. A payment system based on education and length of service, rather than on job performance, is the norm in Korea.
17. George Ogle, Labor Unions in Rapid Economic Development: The Case of the Republic of Korea in the 1960's. Unpublished Ph. D Dissertation, U.W. Madison 1973. The practice, which is described in Mr. Ogle's dissertation is still prevalent in Korea according to industrial relations scholar Tak, Hee-Jun. Ministry of Labor officials claim it is impossible.
18. The Korean religious teacher and social critic, Ham, Sauk-Han, in an essay "Oo Jik," "The Simpleton" argues against the shrewd self-interest of employers who do not earn the employee's loyalty by granting security.
- 18-a Federation Korean Trade Unions, Annual Activities Report 1962-1982.
- 18-b Federation of Korean Trade Unions, Annual Activities Report 1982.
- 19 See page 25 and footnote 63.
- 19-a The connection between factory Saemaul units and LMC's can be seen in the case of the "Free Export Zone" industrial site in Masan. A Saemaul administration had been established for the factories in the complex, and that provided the framework for the LMC's that have now been organized.
20. An account from the perspective of the Urban Industrial Mission may be found in a book written by the Christian Institute for the Study of Justice and Development, entitled Presence of Christ Among Minjung. The struggle is also described by Choi, Jang-Jip, Interest Conflict and Political Control; The Case of the Labor Movement in South Korea, unpublished Ph.D. Dissertation, University of Chicago, 1983.
21. The government at first claimed that counselling center was an illegal

third party, but the defense of the counselling center, that it did not interfere with collective bargaining, ultimately prevailed.

22. Park, Young-Ki, *ibid*, pg 65,66
23. Hyundai, Dae Woo, and Samsung, three of the largest conglomerates, have no unions. Some analysts attribute that to personnel practices designed to make unions unnecessary, but others claim there was collusion between the companies and the authorities to block recognition of the unions attempting to organize.
24. An oblique reference is made in a provision that the employers' representative to a tripartite committee is to be made by an "employers organization."
25. The literature published by KEF describes the positions on many labor relations issues that KEF would like the government to take, and the types of lobbying activities undertaken. Representatives from the KEF, in an interview with the author in July, 1983 claimed that the December 1980 amendments corresponded to what they had advocated.
26. Park, Young-Ki, *ibid*. pg 69
27. He had been elevated to PKTU Acting President during the "purification campaign" of 1980, and was elected the following year from his position as incumbent.
28. Choi, Jong-Jip, *ibid.*, described how technicalities could be used by local authorities to delay certification of a union for years.
29. A case that was given extensive coverage in the Korean language press in late 1982 was the complex negotiations between Seoul taxi drivers and their employers when the pay system shifted from straight commissions to a combination of salary and commission. The Labor-Management Councils, after 28 meetings, could not reach an agreement. Mediators (fact-finders) made recommendations and submitted the report to the Ministry of Labor but then the Seoul City authorities did not turn the case over to the Ministry of Labor. Instead the City authorities forced the parties to accept the fact-finders' recommendations. When problems developed over the application of the agreement, the City and the Ministry of Labor disagreed over its interpretation; but since the City had negotiated the agreement, its interpretation prevailed. The procedure that was followed contrasts sharply with the procedures spelled out in the Dispute Settlement Law.
30. The Control Data (Korea) labor dispute which resulted in the corporation closing down its production plant in Korea in July, 1982 was subject to extensive intervention by industrial park administrators and National Security Agents. The legal dispute resolution procedures were never invoked.
31. Included among the Central Labor Committee public interests representatives are Professors Park, Young-Ki and Kim, Hyun-Bae. They are highly respected labor relations experts and they do not hesitate to speak and write about what they consider to be faults in the present labor relations system. By law, all public interests representatives are required to meet rigorous academic and professional criteria.

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32. The publication of Central Labor Committee decisions is of very limited distribution, and is not readily available to lawyers, employers, or unions.
33. Favorable accounts include studies done by the World Bank. See Parvez Hasan and D.C. Rao, Korea: Policy Issues for Long Term Development, 1979. See also L. Jones and I. Sakong, ibid.. Critical essays are contained in Frank Baldwin, ed. Without Parallel, 1974. See also Choi, Jang-Jip, ibid. and Lim, Hyun-Jin, Dependent Development in the World System: The Case of South Korea, unpublished Ph.D. Dissertation, Harvard, 1982.
- 33-a. See L. Jones and I. Sakong. ibid.
34. Despite many highly publicized measures to attract direct foreign investments, the proportion of direct investments is very low. According to Economic Planning Board figures, (Fifth Five Year Plan, pg. 166) in 1983 the foreign debt stood at 37 billion but the amount of direct foreign investment was only 300 million. In an interview with Economist Paul Kuznets the author was told that the reason is because Korean administrators are in practice reluctant to allow foreign investors to retain effective control.
35. Korea Development Institute, Ibid., pg. 134.
36. These measures were explained in an interview with Professor Park, Young-Ki. Accounts may also be found in the Korean press.
37. No business is able to directly resist such pressure. See footnote 9. But in 1982 and 1983 the government concluded that the guidelines had not been successful in holding down labor costs for white collar and highly skilled workers because the companies, in order to attract such workers, circumvented the guidelines by offering more fringe benefits. Only the labor costs of unskilled workers, who have no real bargaining power, were consistently held below the guidelines.
38. The government controlled the markets and held down the price of grain as a way of accelerating industrialization. Lower grain prices meant that lower wages were necessary for the subsistence of industrial workers, and also that the earnings of farmers were reduced, so it became easier to attract them to urban areas through relatively higher wages in industry.
39. Korea Development Institute, ibid. The Plan emphasizes incentives to be offered to encourage growth in favored industries, and vocational training programs to meet the skill requirements.
40. Rural industrialization projects have not been very successful up till now, but the crowded conditions of Korean cities make continued efforts essential.
41. The National Security Commission succeeds the Korean Central Intelligence Agency (KCIA). The KCIA was reorganized after its director assassinated President Park.
42. The Committee to Counteract Labor Insurgency is an informal ad hoc committee, not mentioned in the Korean Statutes.

43. The sensitivity of unions to what is acceptable to the government is facilitated by the practice of conducting union business through delegates rather than directly by the members. See page 24.
44. The author discussed the issue with Professors Park, Young-Ki, and Kin, Hyung-Bae (both public interests representatives of the Central Labor Committee), other scholars, Urban Industrial Mission staff members, and leaders of several national unions.
45. The Administration of Labor Affairs was the predecessor of the Ministry of Labor.
46. Choi, Jang-Jip, *ibid.*, described the prevalence of employer-dominated unions in the actual Korean labor movement. The few unions not dominated by the employers are said to face relentless discrimination.
47. The union representing Korean civilian employees on the United States military facilities complains that their employer does not follow the Korean pattern of paying union officers while exempting them from normal work responsibilities.
48. Ironically, if workers determine that the union is not adequately representing their interests and try to develop a more responsive union, that is called "union busting."
49. See footnote 28.
50. The requirement that a portion of union funds be used for welfare objectives was added by the December 1980 amendments. Common welfare purposes range from festivals to cooperatives.
51. The amount that may be collected in dues is not low by international standards. However, some Korean unions had made large sums available for gifts and entertainment expenses.
52. The law provides that the consent of the Central Labor Committee is required for this type of government intervention, but the approval of the Labor Committee was not requested for the action taken in June and July, 1980.
53. As will be seen, provisions in the laws and Constitution notwithstanding, unions are not able to ^{en}gage in meaningful collective bargaining. See Mario Bognanno, Collective Bargaining in Korea; Law, Practices, and Recommendations for Reform, published by Korea Development Institute. A shorter version is contained in Industrial Relations Research Association Series, 1981.
54. If the employer rejects grievances presented through the grievance committee of the Labor-Management Council there are no further grievance procedures. Theoretically the union could proceed into a labor dispute, indistinguishable in form from an interest dispute. Civil litigation in the courts in response to an employers breach of contract literally never happens.
55. Mario Bognanno, *ibid.*; When bargaining over wages and conditions of employment became practically impossible, bargaining for union shop arrangements became the only way for unions to demonstrate their strength.

56. Park Young-Ki, 韓國勞動運動의 現況과 改善 行爲: 韓國開發政策研究會
 "The Korean Labor Movement: Suggestions for Reform" appearing in Korea Development Institute. (勞使關係政策課題 研究會)
 Labor Relations and Labor Policy, 1983.
 This essay attributes the full union membership in organized work-places to the cultural pattern of solidarity with a group. In Korea, decision making by "consensus" is the norm, and individual differences of opinion are suppressed as part of group life.
57. See page 373B. Since it is practically impossible for a union to meet all conditions for legal "dispute actions", any dispute action is illegal and, thus, legitimate grounds for discharge.
58. Cho, Chong-Wha. 노사협의회 제도에 대한 실태조사
Survey of the Labor-Management Council System, 1980
59. This finding is very intriguing. It seems to indicate recognition of the fact that the LMC provides a channel of communication that would otherwise not exist at all.
60. Choi, Jang-Jip, *ibid.*, It was under the Park government that unions were first organized along industrial lines. That allowed for greater political control and top-down organizing. Intelligence agents were set up as the heads of most of the national industrial unions.
61. In most cases, the assistance and mediation of national unions was central to the organization of local unions. The more aggressive, more independent, local unions that organized spontaneously without national union assistance normally faced stiff employer resistance and anti-union discrimination.
62. Ministry of Labor, Labor Administration in Korea, 1982, pg 7. See also Park, Young-Ki, "The Role of Labor Relations in National Development: The case of Korea," 1983 pg 10-18.
63. The elimination of regional unions in the wearing apparel industry was a significant and almost certainly deliberate consequence of the changed law. Almost all enterprises in the industry have fewer than 30 employees but, in the most famous example, employees of hundreds of work-shops that are crowded together in the Peace Market district in Seoul had joined together to form a very militant union. The union had been involved in numerous clashes with the authorities. Now that union has been forcibly disestablished.
64. In a labor dispute involving WonPoong Enterprises, former union leaders who were associated with U.I.M. were dismissed from their jobs. When they continued to support what was left of the union in the on-going dispute, they were prosecuted and sentenced as third-party intervenors.
65. U.I.M., J.O.C., and counselling centers do continue to exist, but their role is limited. In an interview, a leader of U.I.M. explained that since their support in labor issues would result in reprisals for the workers, they now limit themselves to religious and social issues.
66. Ministry of Labor, *ibid.*, pg10

67. American Chamber of Commerce, Korea, "Wage and Labor Relations Practice Survey (of participating members) 1983."
68. The Law makes an employer who is subject to the requirement of establishing an LMC, and who fails to do so without an acceptable justification, liable for a large fine. The Law apparently does not contemplate a refusal to cooperate by the labor representative.
69. See page . Prior to 1981, the LMC may have been considered a part of the contract negotiating committee.
70. Bai, Mu-KI 1983, Unpublished research on wages policy.
71. Park, Young-Ki, 1980, *ibid.*, pg 69.
72. Mario Bognanno, *ibid.*, pg 69-76. Professor Bognanno examined the contents of collective bargaining agreements in Korea and found that they very rarely went beyond the provisions contained in the Labor Standards Law. But even if the agreement merely echoed the law, that would provide a private cause of action to enforce the contract.
73. See discussion below.
74. Economic Planning Board Statistics, Feb. 1983, show that women's monthly wage averaged 44.5 percent of men's monthly wage. The women's hourly wage was 42 percent of men's hourly wage. I.L.O. statistics for 1981 show the sex disparity to be greater in South Korea than in any other country for which data was available.
75. This was confirmed in an interview with a representative of the National Financial Workers Union; a union which represents many female white collar and clerical workers.
76. The legal standard was explained by Attorney Kim, Young-Moo in a paper presented to the American Chamber of Commerce in Korea entitled "Discipline, Discharge, Termination and Severance Pay." 1983.
77. In interviews with the author, Ki, Mal-Young, director of the Labor Counselling Office in Seoul, described management's actual power to unilaterally discharge employees. Kim, Hyung-Bae, a prominent professor of labor relations law and a public interests representative of the Central Labor Committee, claimed that in practice unions or individual workers never litigate unfair dismissals.
78. Many companies grant more generous severance pay allowances, but employees only have vested rights to the legal minimum.
79. Park, Young-Ki, 1979, *ibid.*, pg 99. Quoted from Korea Development Bank, Financial Analysis, 1972-1978. The figure refers to the labor portion of the costs of production in manufacturing. Presumably the remainder goes to machinery, materials, and credit.
80. Korea Development Institute, 1980, quoted in the English Language newspaper, The Korean Herald.
81. International Labor Organization, Statistical Year Book, 1982.

82. Some employers grant one day per month off with pay and when employees do not request the day off they earn an extra days pay.
83. Unpublished document provided by the U.S. Embassy in Seoul. Because injuries are defined differently in different countries, the I.L.O. does not publish comparative statistics on rates of injury. In absolute terms, in 1978 there were 140,000 injuries and 1400 deaths reported as due to industrial accidents.
84. Unhealthy working conditions are specially prevalent for young women employees who are expected to work only a few years before marriage. Often after only a few years they become permanently disabled.
85. A coal mine disaster in 1979 could probably have been prevented if ventilation equipment that was in place had been used. It was not used because operating it consumed too much energy.
86. Enforcement of safety and health provisions is cited as one contribution that unions are able to make, but some union leaders complain that the level of compliance remains low. It is possible that the LMC's will become involved in safety and health matters in a more systematic way, leading to a plus-sum situation. However, unless they have some power to compel improvements when the employer is unwilling to cooperate, the result is likely to still be limited.
- 86-a. One issue that the Labor Committees and courts have faced is the assignment of liability when work has been subcontracted out and the subcontractor is unable to pay the wage, severance pay, or workers compensation liability he has incurred. Large businesses often reduce costs by subcontracting out work, and in fact, subcontracting down three, four, or more steps is quite common. As it always turns out, the general contractors are not held liable for claims made by the subcontractor's employees, so when the subcontractor is unable to pay, the employees are left without a remedy.
87. An employee who is able to go through a union representative is in a stronger position.
88. The per diem payment for inspectors does not even cover the costs of transportation. As a result, when inspections are made, the inspectors are reputed to be susceptible to bribes.
89. Union leaders at the Sabuk coal mines were in collusion with the employers. When they signed a contract that was unacceptable to the workers, they became the target of the most violent labor uprising in recent times. The workers took control of the town and the mines, and had to be put down by military action.
The government became the target of the workers anger in the "Y.H. incident" (described below) which contributed to the situation that ended in the assassination of President Park.
90. Mario Bognanno, *ibid.*, pg. 20.
91. See Table, page 42. Professor Bognanno, *op.cit.*, relying on other sources, reported 848 cases of dispute action in 1980.

92. Mario Bognanno, *ibid.*, The results of a survey on the contents of collective bargaining agreements found, for example, that almost no agreements contained clauses relating to grievance handling or working conditions, and only a few dealt with lay-offs or promotions. The author found that unions representing taxi drivers and bus conductresses were generally unable to negotiate more convenient work shifts even though the change was desired by the members and it would have resulted in no loss in efficiency or additional labor costs.
93. See footnote 89.
94. The country had been under a much less severe form of martial law since President Park was killed in October, 1979.
95. Min, Byung-Kook, "Collective Bargaining and Union Regulations." 1983.
96. Lim, Hyun-Chin, *ibid.*, pg. 94.
97. Lim, Hyun-Chin, *ibid.*, pg. 95.
98. Sang-Hee Kim, "Saemaul Agriculture: South Korean Farmers' Progress in the Export-Oriented Economy," in *AMPO Japan Asia Quarterly Review*, 1980. But the need to import grain is unavoidable. Through extremely labor-intensive farming, the Korean farmers coax the maximum yields out of their very small farms, but it is simply not enough to feed the over-crowded nation.
99. Lim, Hyun-Chin, *ibid.*, pg. 136.
100. Economic Planning Board statistics in 1983 put the amount of direct foreign investments in Korea at \$300 million, and the total foreign debt at \$37 billion - less than 1:100.
101. Among other things, in 1985 the government directed the banks not to extend credit to companies that granted wage increases in excess of the guidelines. The result was that the wage increases of unskilled workers were kept within the 6% guidelines, but higher level employees were granted greater disguised increases in the form of benefits.
102. Korea Development Institute, 1980, quoted in the English language newspaper, The Korean Herald.
103. International Labor Organization, *Statistical Year Book*, 1982.
104. Unpublished document provided by the U.S. Embassy in Seoul. Because injuries are defined differently in different countries, the I.L.O. does not publish comparative statistics on rates of injury. In absolute terms, in 1978 there were 140,000 injuries and 1400 deaths reported as due to industrial accidents.
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