

## Interest-Group Conflict, Consensus-Building, and “Cooperative Bargaining”: The Swiss Industrial Peace Agreement as a Model

by

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Social science research on organized interest groups during the 1950s and 1960s was primarily concerned with issues such as “domination by interest groups”, the classical channels of influence of organized interests upon government, and the self-image of these “intermediate powers”. The discussion, however, soon threatened to become repetitive and dissolve into indiscriminate accusations regarding the threat or encroachment of a corporate state, on the one hand, or a trade union state on the other.

Since the early 1970s, though, the discussion of the role of interest groups has found a new impetus and freed itself of its restrictive boundaries by tackling a series of new topics. Though the subject of “domination by interest groups” and the identification of power factors remains of central concern – and rightly so –, it is now being subjected to a more discriminating analysis.

Three additional research questions have become the focus of interest:

1. the internal organizational structure of interest groups and the opportunities for the organization’s members to participate in and have an influence upon the organization itself (internal democracy and countervailing power);
2. the possibility of articulating interests which have previously been organized only with difficulty or not at all (“the new social question” and competition with previously underestimated interests);
3. the legalization of organized interests within the overall framework of political or economic interests (corporate law, concerted action, economic and social councils, etc.).

This last topic primarily concerns larger associations in the area of labor and industry, in other words the parties to collective labor negotiations. The interests which they represent are not in any sense merely of a “private” nature, but have in fact a considerable, unavoidable effect on the broader public. This is obvious, for example, in the case of labor disputes and industrial peace. Whenever the controversies between the parties on the labor market

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become sharper, the question arises as to whether and how a peaceful balancing of interests could be given institutional form. Whenever the sociological discussion fails to adopt a specifically conflict-oriented position, it is unable to formulate a peace model which can justly be described as liberal (*freiheitlich*). Though the so-called "Peace Agreement" (*Friedensabkommen*) may accurately be said to provide such a model, it has been neglected in the international discussion of collective bargaining and industrial relations (FLANDERS [1969], SHONFIELD [1968], SCHMITTER and LEMBRUCH [1979]). In fact, reference to Switzerland always gives rise to astonished disbelief in this context because of the almost unimaginably small number of strikes and the "heavenly" peacefulness which marks the reconciliation of differing demands in the labor market. But the basis for this state usually remains unknown, and this despite the fact that the Contract of Cooperation was renewed in 1983 for the eleventh time, after an uninterrupted existence of nearly half a century.

In this connection the general problem of the modern "society of interest groups" will first be outlined so as to establish the framework necessary for the discussion of the Swiss Peace Agreement with which this article is concerned (Section 1). Then the past history and main points of the agreement will be presented as informational background (Section 2) in order to discuss, in conclusion, the implications and possibilities this agreement may provide as a model for other industrial societies (Section 3).

## 1. *The Problem of Interest Groups in Society*

### 1.1. *Industrial Society as a Society of Interest Groups*

Contemporary social reality has moved considerably beyond the ideas of classical liberalism. In general, it can no longer be assumed that the political will and economic processes stem from the will of isolated individuals. The development which today is described as "increasing social concentration" began in the middle of the last century and is understood to be the need (and necessity) of individuals to join together in organizations which actively pursue their interests in fields outside the organization itself (v. BEYME [1980], ALMOND [1971]).

This process has been considerably accelerated in the wake of the increasing organization of social relations and – correspondingly – the development of specialized social- and welfare-oriented service agencies (FORSTHOFF [1950]) in industrial societies (the 'intervention state'). Today, collective bargaining units are not merely tolerated or accepted as agents of political and economic opinion-leadership, but have even become so influential that the title of Eschenburg's lecture, in which the question was posed "Domination by Interest Groups?" has become a catchword (ESCHENBURG 1955], BRIEFS [1961], KIELMANNSEGG [1979]). The fact that the question mark is usually replaced

by an exclamation point does not mean, of course, that no further question remain to be posed; on the contrary.

At least in the case of mass interest groups, among which the organized labor-market groups occupy the most prominent position, it is evident that the extent of their sphere of activity as well as the degree of influence they exert on the socio-political process is steadily increasing. Their personnel frequently overlaps with that of political parties, they are represented in public institutions, and they are recognized as important informational sources for administrative and legislative activity. (STAMMER and WEINGART [1972], p. 186f.) As a result, the chances which individuals or even larger social units have of satisfying their interests are reduced if they are not able to secure the "strong influence of a patron at the societal level (an association) which represents this interest" (FORSTHOFF [1964], p. 204f.) (the problem of the right of free association: the problem of calculable "potential disturbance factors")<sup>1</sup>.

The activity of interest groups has thus led to considerable change in the structure of society and the process of political opinion-leadership ("quasi-governmental status") (MATZ [1977], p. 89; JONAS [1974], p. 135). Particularly with regard to the large collective bargaining parties, it can be said that their integration in the political system has become a problem in itself. In addition to the questions concerning the legitimacy of such influence, the social function of these associations, and their internal structure, there is the problem of the relationship of large interest groups to one another, for example with regard to the regulation of industrial disputes.

### *1.2. Interest-Group Autonomy Between Conflict and Consensus*

The question of institutional regulation is not at all easy to resolve. The reason is that there appears to be no authoritative body against which the specific legitimacy of the particular interests could be assessed, especially when such groups claim to be acting in the public interest. (JONAS [1974], p. 1341). All that remains is a system based on collectively organized freedom to enter into contracts on the labor market, where the contractual partners have extensive autonomous regulative powers (autonomy of labor negotiations) (RUETHERS [1973], p. 22; MUELLER-JENTSCH [1983], p. 123).

### *1.3. The Conflict-Theoretical Interpretation of Interest-Group Autonomy*

Interest-group autonomy does not imply that regulatory guidelines are no longer needed, but rather that these associations are not bound to substantive sets of interests established *a priori* which extend beyond the legal order established by the state. The definition of valid interests is the result of the auto-

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<sup>1</sup> This problem has recently been thoroughly examined under the rubric "new political economy". (See BERNHOLZ [1974]; DOWNS [1974]).

nomous regulation of disputes or “conjunctive bargaining” (CHAMBERLAIN and KUHN [1955]) in which each contracting party does its best to prevent the other side from achieving superiority. If this definition is to be achieved, the antagonisms and status positions must meet in conflict with each other with as little interference from outside as possible. The fundamental readiness to apply pressure step-by-step (scalar) all the way up to labor disputes requires, in addition, equality of weapons between the two parties. This point already makes it clear that a model of this type differs from one of class struggle, in which the aim of each party is ultimately to be free of the other (BUEHL [1972], p. 24).

The dealings of the interest groups with each other remain, however, conflict-laden and thus fully grounded in sociological conflict theory, which expects society to be ordered by conflict or, rather, perceives society as nothing but than a “society of conflict”, simply because conflict is a necessary element of all forms of association organized on the basis of power and authority (*Herrschaftsverbände*) (DAHRENDORF [1965]). And indeed, it is a fact that interests, needs, norms and primary concerns vary. The question is merely whether the institutionalizing of conflict – as Dahrendorf sees it – can guarantee in every case a productive direction. In any case, A.F. Bentley and his group-theory school (Truman, Latham) also seem to be convinced of it, since any “community of interest” (*Gemeinschaftsinteresse*) is for them fictitious so long as it is not reducible to the “sum of the interests of the various units”. Politics may then safely be regarded as the inventory of the results of group-struggles (“cash-register theory”) (BENTLEY [1949], NARR and NASCHOLD [1971], p. 206ff.).

Briefs has correctly recognized that such an understanding of autonomous conflict settlement by collective bargaining parties involves carrying over a market model to the group level, because the classical (single)-individualism is thereby replaced by “group-individualism” (BRIEFS [1952], p. 22). In place of the free competition of individuals, as it is envisioned by an individualistic liberalism, there then appears the free competition of groups struggling with each other *en bloc*. “From this point of view today’s pluralistic society appears as the second phase of classical liberalism” (BRIEFS [1968], p. 204). The assumptions of *laissez-faire* remain, but the subject is a different one: “The ethos of self-interest which earlier applied to the individual has become the ethos of group-interest: in place of individuals, groups now attempt to maximize the interests which they have defined.” (BRIEFS [1968], p. 204; NIGGEMANN [1971], p. 39ff.).

Such a logic of commission and omission for autonomous groups should not be implicitly regarded as “harmonious”, as so often seems to occur in sociological conflict theories<sup>2</sup>. There is something to be said for the idea that

<sup>2</sup> In this way even DAHRENDORF ([1965], p. 7) is forced to presume the effectiveness of “public virtues”, although this resembles a “secret global mysticism” in view of his conflict-oriented ontology (v. BEYME [1972], p. 233).

the "bargaining"-model in fact gives impulse to a socially destructive mechanism. Even the acceptance of minimum norms (*Grenzethos*) must in the long run appear as a hindrance for those who are oriented purely towards prevailing in the industrial power-struggle. To secure the necessary freedom of movement and short run advantages in battle, one attempts to undermine the accepted ways of conducting disputes (DOWNS [1968], p. 23, 29). The smaller the basis of common values, the more intensive the polarization of the parties: the more antagonistic the interests, the stronger the tendency to depress the existing minimum norms through submarginal practices (BRIEFS [1968], p. 197ff.). Whoever adheres to the old standards will be deprived of equality in weapons; he will have to adapt himself to submarginal forms of behavior. It can be anticipated that, at any given time, the next lower, barely tolerated ethical level will already be under consideration. The new "normal state" of conformity is thus not a state of equilibrium (at a lower level): its deterioration is already pre-programmed. Without built-in stabilizing factors which establish limits to the inflation of conflict (*Konfliktinflation*) (HETTLAGE and TRAPPE [1976], p. 80), the return to archaic forms of conflict going all the way to elimination of the opponent could hardly be avoided (BUEHL [1976]).

It is immediately evident that the bargaining contract itself receives its character from the *totalized* perspective of conflict. To establish a long-term commitment would be downright "dysfunctional". Only by accepting short-term safeguarding of material property and keeping the (legal) non-material terms of contract largely "open" is it possible to avoid destroying the chances which future conflicts could offer. Only then do collective contracts satisfy the criteria of a cease-fire; but they do not have the unifying effect of a peace settlement.

#### 1.4. *The Search for Integration-Oriented Cooperation in Interest Groups*

There is, of course, no doubt that particularized interest positions are often articulated only through interaction with other interests. Only in this way can the general interest be delimited in a pluralistic society, and conflicts can thus have a clarifying and integrating effect. Yet they cannot provide an *exclusive* organizing principle. Every conflict-oriented society must urgently seek possibilities for controlling conflict, since no discursive process can be stable and successful without the preservation of overriding concerns, *i.e.* without the willingness to achieve consensus and "to equilibrate interests while respecting the interests of the opposing side" (Cox [1980], p. 149).

The sociology of interest groups is not lacking in explanatory models and, in the political sphere, there has been no shortage of political attempts to find standard measures of orientation which go beyond the pure representation of interests. They differ, among other things, as to whether the equilibration of particular interests is undertaken from political expediency and whether a common basis of values is voluntarily sought.

#### 1.4.1. The Corporate State Approach

In state corporatism, the initiative for integrating interest groups is shifted onto a third party, the government, which applies discipline to the labor market with a "heavy hand" according to the principles of unity and order. Since all societal elements are to be joined together in a common body from which cooperative instead of conflictive processes are to proceed (WINKLER [1976]), bargaining parties are brought together, too, in a common organization. Common interests are pre-supposed and prescribed. The integrative and innovative function of competing and conflicting interests is denied<sup>3</sup>. Worker productivity, entrepreneurship, and cooperation between employees and employers are legally established obligations. Conflicts thus remain out of the question, and differences of interest are submitted to compulsory arbitration.

"The corporatist value is discipline, not liberty. The corporatist vice is licence, not compulsion. Corporatism trusts neither in the spontaneous agreement of individual goals, nor in the reconciliation by an invisible hand. Collaboration must be organized and enforced" (WINKLER [1976], p. 107).

Consequently, the government sees itself not merely as an organ of control in regard to the activities of interest groups, but also as the direct mobilizing agent of collective endeavors. In practice this extends far beyond the interventionism of current day "planned capitalism".

#### 1.4.2. Neo-Corporatist Tendencies in Western Europe

The fascist corporate state not merely brought the term "corporative" into ill-repute, but also any appeal for cooperation among interest groups. This has long prevented the idea of a liberal and free solution of integration problems from being examined. Only in recent years have the works of Lehbruch, Shonfield, Schmitter, Winkler and others brought attention to the fact that Western industrial nations have been almost uniformly searching for ways of bringing interest groups, and especially collective bargaining groups, away from battle-front positions and toward a more forward-looking, mutual and peaceful coordination of interests (among other things, also in hopes of facilitating governmental macroeconomic planning). But of course the integration ought to proceed in as voluntary a way as possible. Nevertheless, it cannot be overlooked that various forms of social partnership, social contracts, and dialogues have in essence developed out of corporatist thought<sup>4</sup>, though this

<sup>3</sup> The distaste for competition shows that state corporatism can in no way only be seen as a "right-wing" idea. Similar lines of thinking can be found at the other end of the spectrum, among anarcho-syndicalists, English guild socialists (G.D.H. Cole) and a number of French socialists (G. Sorel). It is a typical curtailment of the debate over interest groups to brand corporatism as fascist. This was clearly pointed out by HERMENS ([1968], p. 204ff.)

<sup>4</sup> The most comprehensive definition of corporatism to date is that provided by Schmitter (SCHMITTER and LEHMBRUCH [1979], p. 66f.). He specifies the following crite-

is usually not state corporatism but rather a "social corporatism" (SCHMITTER [1979], p. 20). The institutional solutions are generally directed at preventing conflicts which arise from a plurality of interest groups by bringing the groups to the conference table at an early stage. The legalization of dialogue is intended to prevent the conflict from being carried out in the streets. This is also intended to lead the conflicting parties to a readiness to agree to a cease-fire in the short term and towards a "common-project" laid out for the long-term (MASSE [1965], p. 153; BLOCH-LAINE [1959]).

(1) Interest groups are more likely to be motivated toward longterm planning when they are incorporated into a governmental guidance system ("governmental theory" of social contract) (CHAMBERLAIN [1951], p. 61). This can take place through a chamber system (with partly public and partly private "double representation" of interests) as in Austria (KLOSE [1970], SCHAMBECK [1975], LEHMBRUCH [1979]): or by the participation of interest groups in overall planning through economic and social councils, as in the "*Stichting van de arbeid*" of the Netherlands, the "National Economic Development Councils" in England, or the *commissions de modernisation* in France (HETTLAGE [1971], GERSBACH [1980], HETTLAGE [1983]). Finally, the government can also content itself with inviting the collective bargaining parties into institutionalized "hearings" like those envisaged by concerted action (*Konziertierte Aktion*) in the Federal Republic of Germany. It was expected that the possibility of a communication forum set up by the government would allow the conflict to be conducted in a more objective and relaxed manner (ADAM [1973], HETTLAGE [1974], HARDES [1974]).

(2) In contrast to governmental "indicative" solutions, the managerial theory of the social contract starts from the position that it is the bargaining parties themselves who are willing to enter into agreements and participate in the planning of mutual interests, because they see themselves as elements of a unified industrial system or technostructure and thereby functionally related to each other (GALBRAITH [1979], MAYER [1973], GAEGEN [1977]). In these terms, the logic of highly technical, research-intensive, high-risk, concentrated economic activity offers the interest groups neither the opportunity nor the occasion to view themselves as opposing power groups. The dividing line between decision makers and those who are subject to their decisions becomes more and more unclear. Each group is dependent on the other and can achieve its goals only through cooperation (cooperative bargaining) (CHAMBERLAIN and KUHN [1964]). The conviction that their interests are parallel seems to have replaced the idea of class struggle. It is not the case that divergent interests have been disposed of *a priori*, or that each party does not want to emerge from the negotiations as successful as possible, but simply a matter of taking into account their interdependency.

ria: limited number, singular, compulsory, non-competitive, hierarchically ordered, functionally differentiated, recognition by State, representational monopoly. These elements are so open-ended that they apply equally to state and social corporatism.

“Where interests are accepted as common rather than divergent, the notion that the agreement sums up what had to be given up or all that could be gained fades: the parties approach bargaining with the realization that the better the performance for each, the better the joint performance. Further, each understands that the better the joint performance, the greater the advantage for both” (CHAMBERLAIN and KUHN [1965], p. 429).

In some cases such voluntary social partnerships are agreed upon explicitly in order to forestall a governmental “directive” or imperative dealing with collective-bargaining problems and to preserve their range of maneuverability through “timely reasonableness”.

Having laid out the framework, we can now turn to the question of whether the Swiss Peace Agreement also has value and feasibility for imitation by other highly developed industrial countries, and in particular the Federal Republic of Germany. Since the Swiss form of social contact between industrial partners is largely unknown in the field of interest-group research, the history and essential aspects of this peace agreement will be very briefly summarized (for further details see HETTLAGE [1981], ZANETTI [1980], p. 162ff.).

## 2. *The Swiss Peace Agreement as “Cooperative Bargaining”*

As Switzerland today is considered to be a heaven of industrial peace, the fact is often overlooked that this has not always been the case. Until the late 1920s and early 1930s, the Swiss Trade Union Association (SGB), the most powerful unified trade union in Switzerland today, was oriented fairly clearly towards the idea of class struggle. Labor disputes based on that standpoint reached their peak in the years between 1900–1914 and from 1918 (‘General Strike’) to 1920. Thus the last large dispute occurred a relatively long time ago. Since the end of the 1930s the character of the disputes over interests between industrial bargaining parties has fundamentally changed. This may be seen clearly in Table 1. Decisive for the change was the first

Table 1  
*Collectively Bargained Labor Disputes in Switzerland Between 1927 and 1980*

Year	Strikes or Lock-outs	Enterprises Involved	Employees Involved	Work-days Lost
1927	26	328	2,058	34,160
1928	45	283	5,474	98,015
1929	39	551	4,661	99,608
1930	31	322	6,397	265,695
1931	25	161	4,746	73,975
1932	38	198	5,083	159,154
1933	35	267	2,705	69,065
1934	20	163	2,763	33,309
1935	17	82	874	15,143

Continued from Table 1

Year	Strikes or Lock-outs	Enterprises Involved	Employees Involved	Work-days Lost	
1936	41	302	3,612	38,789	
1937	37	404	6,043	115,648	
1938	17	38	706	16,299	Peace Agreement of 19.7.1937
1939	77	7	238	4,046	
1940	6	12	578	1,480	
1941	15	36	722	14,311	
1942	19	31	822	4,030	
1943	19	114	1,069	12,050	
1944	18	186	1,324	17,690	
1945	35	179	3,686	37,187	
1946	55	443	15,173	184,483	
1947	29	745	6,963	102,209	
1948	28	463	4,277	61,408	
1949	12	139	853	41,113	
1950	6	68	288	5,447	
1951	8	70	985	8,469	
1952	8	47	1,207	11,588	
1953	6	513	2,079	61,124	
1954	6	283	2,997	25,963	
1955	4	4	430	1,036	
1956	5	15	286	1,439	
1957	2	3	71	740	
1958	3	3	815	2,127	
1959	4	15	126	1,987	
1960	8	20	214	1,016	
1961	—	—	—	—	
1962	2	2	163	1,386	
1963	4	73	1,120	70,698	
1964	1	4	350	4,550	
1965	2	2	23	163	
1966	2	2	38	62	
1967	1	1	65	1,690	
1968	1	1	70	1,785	
1969	1	1	33	231	
1970	3	3	320	2,623	
1971	11	13	2,267	7,491	
1972	5	5	526	2,002	
1973	—	—	—	—	
1974	3	34	299	2,777	
1975	6	6	323	1,733	
1976	19	492	2,395	19,586	
1977	9	54	1,380	4,049	
1978	10	13	1,240	5,317	
1979	8	8	463	2,331	
1980	5	330	3,582	5,718	

Source: ILO Bulletin of Labour Statistics, Geneva 1981. Statistisches Jahrbuch der Schweiz, Bern 1981.

“Peace Agreement” of the machine and metal-working industries in 1937. Just a few striking statistics are sufficient to show the fundamental shift in the understanding of disputes since that time.

In the 43-year period between 1938 and 1980 Switzerland lost only about 750,000 workdays through strikes and lockouts, an average of about 17,500 days per year. In the period 1928–1937, the 11 years before the Peace Agreement, there were 1 million lost workdays, at a yearly average of 91,000. When the overall period under review here is subdivided into 5 decades from 1928 to 1977, the tendency towards the virtual elimination of labor disputes becomes even clearer. While the losses in the first decade (1928–37) averaged nearly 97,000 working days annually, in the second decade, immediately following the conclusion of the Peace Agreement, they amounted to less than half that number (about 39,000 working days). In the succeeding 10 year intervals the corresponding values continued to decrease and reached in the period 1968–77 an average of only 4228 days. This represents, by comparison, 4.4% of the figure for the first decade and 10.7% of the second. Other comparisons are equally significant. Between 1968 und 1978, when Switzerland lost on the average only 4327 workdays, the Federal Republic lost more than 1 million, Italy 20 million and the United States 41 million workdays. Even when one takes the differential employment figures into account, the contrast remains quite impressive (ILO, 1979)<sup>4a</sup>. In the years between 1956 and 1980 only 45 businesses per year on the average were involved in labor disputes, and it is not uncommon to find years in which less than 10 businesses and less than 500 employees were involved in disputes.

These few figures may suffice to give an outline of the singular situation of this model of social partnership.

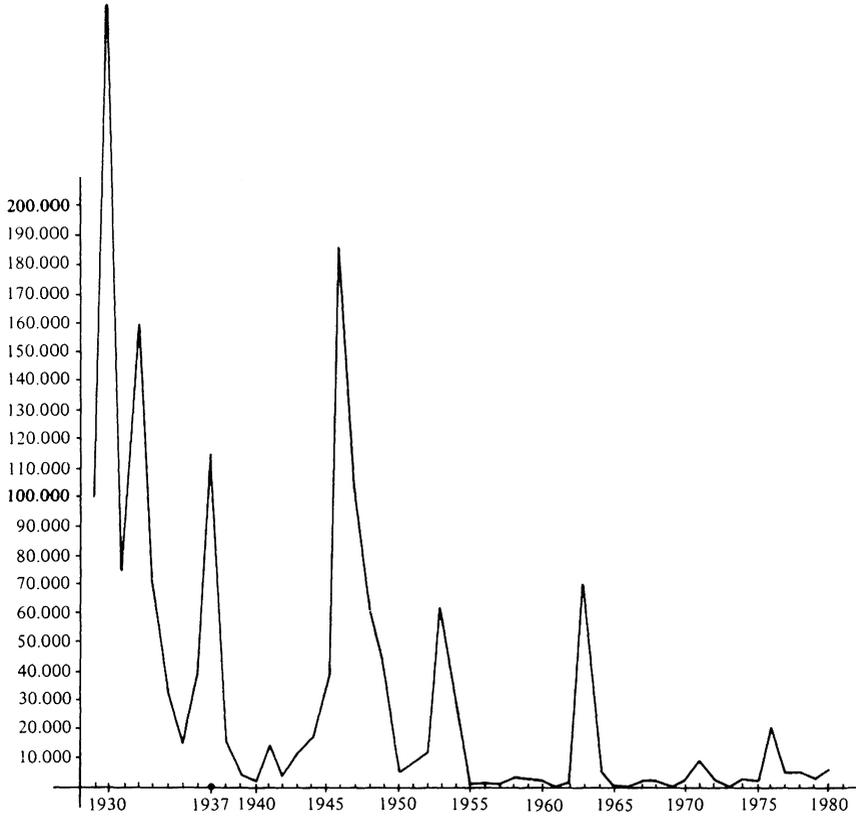
The conclusion of the Peace Agreement in 1937 was linked to both international and domestic factors. On the international scene, the 1930s were marked by the rising National Socialism which triggered political unrest in Switzerland as well, and led the Swiss trade union leadership to the insight that only a radical change in the previous collective bargaining policies could forestall the endangering of the labor movement in their country. The world-wide economic crisis had also caused high unemployment in Switzerland, with the export industries including the machine and watch-making industries being

<sup>4a</sup> The following statistics compare the number of days lost in collective labor actions with the total number of wage earners for the USA, Italy, Federal Republic of Germany and Switzerland during the period 1968–80:

	Average Size of Workforce (in Millions)	Average Number of Work-days Lost (in Millions)
USA	79,539	41
Italy	19,725	20
Federal Republic of Germany	25,434	1,041
Switzerland	3,041	0,055

Figure 1

Work-days lost by labor disputes in Switzerland (1927-1980)



Source: of Table 1.

particularly affected. At the end of 1936, the Swiss government (*Bundesrat*) decided to devalue the Swiss franc in order to increase export opportunities. At the same time, the possibility of state-legislated compulsory arbitration was introduced in order to prevent the success of these measures being endangered by social tensions. The collective-bargaining parties forestalled this governmental ordinance through a direct agreement over a voluntary arbitration process, namely the Peace Agreement of July 19, 1937. It was initially agreed upon for two years, later then for five years, and has remained in effect since that time without interruption (at the moment until mid 1988).

Under this agreement the contractual partners commit themselves to "clear up important differences of opinion and all issues of dispute in good faith" and, for the duration of the contract, "to unconditionally preserve the peace". (Peace Agreement of 1937). In this case the peace obligation is absolute: during the five year term of the contract, no form of work stoppage is permitted.

This applies also to questions dealing with employment conditions which are not regulated by the contract. This ruling extends clearly over and beyond the relative obligation, upon which, for example, the German collective bargaining agreements are based, and which only forbids stoppages of work related to wage issues.

Industrial peace is linked with norms of negotiation. Not only are all differences of opinion to be resolved in general through negotiation, but each party also commits itself to enter into negotiations, even during the contract period, as soon as one of the bargaining parties considers it necessary.

In Switzerland the most important settlements are negotiated while the Peace Agreement is still in effect. These negotiations have the advantage of not having to reach a conclusion under the pressure of time. Furthermore, both parties are committed to "endeavor to arrive at a resolution *in good faith*". Each side enters the discussion with a large measure of willingness to negotiate and grants the other party a certain measure of confidence in advance (*Vertrauensvorschuss*). Neither of them is supposed to expect more than it can demand after taking all aspects into account, and neither party should hold back anything which it is in a position to perform. They are to orient themselves in the long run to the "common good" and benefit of the society by committing themselves to displaying understanding for the interests of both sides.

In the Peace Agreement, an elaborate version of a "constitutional statute" was agreed upon for the regulation of the differences of opinion which are inherent in the labor world in spite of a fundamental attitude of compromise. It is necessary here to differentiate between legal disputes and regulatory disputes. Collective legal disputes, which deal with the interpretation of an existing legal norm, fall under the jurisdiction of a labor court so long as no other settlement agency is specified in the contract. Regulatory disputes, i.e. conflicts over questions which have not yet been covered in a collectively bargained contract, are the object of negotiations between the industrial bargaining parties. The settlements provide for a four-stage arbitration procedure:

#### *Stage 1: Negotiations at the Enterprise Level*

Conflicts are to be dealt with and regulated first of all at the enterprise level between the employees' committee and the company management.

#### *Stage 2: Negotiations at the Interest Group Level*

In case no agreement is reached, both sides may arrange for a dispute over regulations to be negotiated between the employers' association and the employees' union.

#### *Stage 3: Governmental Settlement Board*

If no agreement can be reached in the second stage, the case is presented to the governmental settlement board, which has a judge as its chairman

and two panel members recommended by the parties to the wage bargain. This office of arbitration is convened at the request of the negotiating parties, or it may decide *ex officio* to step in when there is a danger that serious conflict may develop. According to the extent of the conflict, the settlement board is convened at the cantonal, regional or federal level. It attempts initially to bring about an immediate understanding between the parties and can compel them to take part in investigative proceedings. Negotiation and the provision of the information requested is compulsory (*Einlassungszwang*). If the mediation does not succeed, the board presents its own recommendations for reconciliation, but it is not empowered to compel their acceptance. It lays down a short deadline (normally 10 days), at the end of which the parties are expected to communicate their unconditional acceptance or refusal.

#### Stage 4: Referee Procedure

If this attempt has also failed, there follows a final phase, which has almost never been required in the past 46 years, the referee procedure. It is the function of the arbitration office to ask the parties if they are prepared to submit (without previous knowledge) to the decision of a referee. If they declare themselves ready to do so, the decision is then announced by the referee. Should the referee procedure be rejected, the negotiation efforts are ended, because the obligation to peace is not to be enforced by compulsory arbitration. There still remains one further sanction: the settlement board must inform the public of the grounds for the refusal and name the party which rejected the recommendations. It is hoped that this final sanction, the pressure of public opinion, will succeed in promoting an attitude of compromise between the bargaining parties.

As an additional guarantee of the industrial peace, the contractual parties have the duty to see that their members observe the conditions of the Peace Agreement. They are to provide information, issue warnings and instructions, as well as apply certain methods prescribed by statute, such as disciplinary actions, monetary penalties, and measures similar to a boycott, including even exclusion from the association. This so-called "implementation obligation" (*Einwirkungspflicht*) has been extended to all comprehensive labor contracts in Switzerland and is regulated by law. In regard to the enactment of contracts, the parties are also legally empowered to form a contractual association with extended rights. In practice this includes controls, supervisory measures, and commissions drawn equally from the two sides which then prescribe sanctions. The Peace Agreement relating to the machinery and metal-working industries has had in many respects an extraordinary effect on the general collective bargaining contracts (*Gesamtarbeitsverträge*, GAV). The modern GAV include a legal section in which the rights and duties of the contract parties are largely oriented towards the model provided by the Peace Agreement. Since 1945 the GAV have assumed increasing significance in Switzerland. Currently there are about 1400 such contracts, which cover about 1.5 million (out of 3 million)

wage earners (THOMMEN [1980], p. 5). Two-thirds of all GAV have made the absolute peace obligation into a basic principle, while the remaining third recognize the relative peace obligation. In view of the fact that the multi-stage arbitration process is applicable in all cases, the GAV can correctly be described as "Peace Agreements". Since the absolute peace obligation is, in effect, in nearly all State (*Land*) and Canton contracts, approximately 90% of the employees covered by the GAV are obliged to observe the unconditional industrial peace (THOMMEN [1980], p. 12).

### 3. *The Model-like Character of the Peace Agreement*

Before inquiring into the model-like character of the collective settlement of conflicts in Switzerland, the term "model" must first be clarified. Something may be used as a model which is a map reproducing reality precisely as it exists, but on a smaller scale. In this sense the "Swiss Model" would be a map which other industrialized countries could follow, as it were, just by changing the scale. It is immediately evident that a model in this sense cannot be intended.

By "model" one can also mean a goal, a heuristic instrument, or a prototype, against which one's own analogous, and realistic solution is to be measured. The model has an objective core, or nucleus, of reality which can be combined with various realms of possibility (*Möglichkeitsfelder*) (WAGNER [1979], p. 102; RYAN [1973], p. 126ff.) In the sense in which the word "Model" will be applied here, the "Swiss Model" does not produce any valid statements dealing, for instance, with the objective reality which exists in Germany, yet it still could be useful as an "objective nucleus" to be linked up with the elements existing in this "realm of possibility". Is Switzerland a model in this sense? Is the objective nucleus of its social partnership transferable? The answer depends, in part, on the evaluation of the functional conditions which have shaped and sustained "cooperative bargaining" in Switzerland.

#### 3.1. *Prerequisites and Functional Conditions of the Peace Agreement*

Leaving aside the particular economic and political conditions which contributed to the contract of 1937 and undoubtedly functioned to promote solidarity, it is necessary to seek additional explanations for the endurance of this agreement and its extensive influence. They may be found in the particular features of the social and political structure of Switzerland and its cultural identity.

### 3.1.1. Some Social-Structural Features Peculiar to Switzerland

The Peace Agreement is connected to a significant degree with socio-political features peculiar to Switzerland and with forms of communication which are based upon them.

(1) Switzerland is not only a small country but, moreover, a cluster of microcosms ("*Traube von Mikrokosmen*", SAURMA [1974]) as well. It is a land differentiated into segments based on cultural, language, confessional, politics, and regional federalism. As the "*prototype du pays composite*" (GIROD [1978]) it has always had a very high need for measures leading to consensus and for attitudes oriented toward equilibration between conflicting interests. This fact is reflected in the political structure and the means of arriving at decisions. Conditioned by the high degree of autonomy at the cantonal and local levels, the federal system can function only through the political art of coexistence and consensus which becomes perfected at the party level. To all appearances, the disputes between the parties are not aimed at eliminating the opposition. Instead, the parties seem to concede each other a sort of perpetual right to participate in the exercise of power. This attitude finds expression in all-party governments at the cantonal and federal levels (the so-called "Magic formula") ("*Zauberformel*"). Extremely small minorities have no chance under this system, because this collegial attitude is oriented towards equilibration, towards keeping rivalries on a low-burner, and towards appearing to the public as the "basic agreement of all" or the "'dictatorship' of the silent majority" (GIROD [1978], p. 12). The consequences are moderation in political postulates and the attachment of high value to the established order. New and far-reaching demands inspire *per se* no confidence; they must first "mature" in the political game of equilibration, i.e. they must pass through the ritual of compromise and prove their worth in the "negotiation culture" ("*Verhandlungskultur*") (HOEPFLINER [1976]).

In presenting their demands the collective bargaining parties are also bound to this system, if they do not want to be accused of behaving in an "un-Swiss" fashion by orienting themselves too heavily towards foreign examples. Not only do attempts by individual leaders to build up a personal profile through belligerent public appearances engender the mistrust aroused by anything foreign, the same is true for any contribution of substance which is "unbalanced", because it would alter the *status quo* too quickly and radically.

(2) Despite the complexity of this system of equilibration of interests, and despite the fact that negotiation is highly valued and disagreements between interest groups are handled within closed circles (FARAGO [1980], p. 230; LEVY [1978], p. 80), these circumstances seem – paradoxically – to be transparent enough to the individual citizen. The reason for this is again to be found in the smallness of the country and the autonomy of the communities, which – by international standards – allow the authorities closer contact to their citizens and prevent decisions and conflicts from being carried out at too great a distance from the political basis. Girod has rightly pointed out the

remarkable phenomenon that a small journalistic campaign, a short and well-defined work-slowdown, or a demonstration by a small group can have such reverberations in the cantonal political scene that negotiations take place between the authorities and the dissatisfied citizens before a mass-movement and large scale basis for conflict can even develop (GIROD, [1978], p. 12).

(3) Short communication channels also result because of another aspect of Switzerland's being a small state. Small societies are faced with the problem of personnel shortages and this affects services that are taken for granted in highly developed countries (*Strukturknappheit*). They solve this problem, for instance, by an increased "polyvalence", i.e. by promoting persons who can handle multiple functions and exercise many roles. Such persons must be available to fulfill numerous other roles simultaneously e.g., at the military and the parliament level. Thus the level of performance which is to be expected from an institution must necessarily be kept relatively nonspecific and flexible (GESER and HOEPFLINGER [1976]). On the whole, such a high level of interconnectedness of personnel brings about a significant "tendency toward informalizing the macrostructural and internal organizational relationships". – (GESER and HOEPFLINGER [1976], p. 40). The contact network between those who hold "polyvalent functions" is extremely tight, because they encounter each other repeatedly in various functions. This leads to "endlessly inverted cliques, and lobbies" (LUETHY [1965]) but also to an "*esprit de corps*" and mutual familiarity (*Personalisierungseffekt*). The fact that the interest group functionaries not only encounter each other in specific function (with correspondingly high force of legitimacy), but also intensify their contact in various gatherings, may even be regarded as one of the conditions which has been decisive in the achievement of the long years of industrial peace. Acquaintance and familiarity with one another produce a tradition of mutual understanding. The informal, "frictionless" possibilities for exercising sanctions on behavior increase.

(4) The economic sphere in Switzerland has also remained relatively transparent to the citizens. As a country poor in natural resources, Switzerland has long been compelled to specialize in the secondary and tertiary economic sectors. In this way the development of large industrial concerns – with a few exceptions – has been quite limited<sup>5</sup>. This fact has necessarily affected labor relations, because the traditional conflict potential of a proletarianized laboring class could not develop as it did in other highly industrialized lands. The labor-movement assumed a different character. Foreign role-models were difficult to imitate, because the specific social situations were not found to be directly comparable. Given in addition Switzerland's political fragmentation and the strongly felt local loyalties and identities, a high degree of class antagonism could not develop. In addition, these specific conditions contributed to the fact that urbanization in Switzerland proceeded at a different rate from that in other countries. Even today, Switzerland, economically one of

<sup>5</sup> Only 84 enterprises have more than 1000 employees; 55% of the non-agricultural wage-earners work in enterprises with less than 50 employees.

the most developed countries of the world, shows the least degree of urban development among such countries. Less than one-third of the Swiss live in cities with more than 20,000 inhabitants; only five cities have more than 100,000 inhabitants (CLARK [1980]). In other words, Swiss industry is predominantly located in smaller towns and cities, and its labor force is for the most part recruited from these communities (low geographic mobility). Consequently, the normal conditions contributing to worker-consciousness are not exactly those from which LENIN ([1970], p. 235) expected a "spontaneous uprising of the masses", but rather a moderate "trade-unionism". These special structural features undoubtedly have had a considerable influence on the form assumed by labor conflicts and the employment of arbitration in them.

(5) Another effective outlet which restrains the "inflation of conflict" is the plebicitarian element in the Swiss version of "semi-direct" democracy. Both the citizens' right of referendum, which binds the drafting of laws by parliament to the explicit (mandatory referendum) or the implicit (optional referendum) approval of the people (IMBODEN [1962], p. 30ff.), and also the right of initiative, guarantee to the individual citizen and interest groups an additional, effective channel of influence in the political sphere. Thus it is not necessary for a conflict between interest groups to be fought to the finish by way of labor battles as the "ultima ratio". The possibilities of collective conflict resolution go far beyond the actual contractual relations. At the beginning of the decision-making phases (initiatives) and at their conclusion (referendum) the political system is open to social needs and interests, to contradictions, alternatives and emotions. The increased risk of dissonance by itself compels, as a measure of safety, "compromises and consensus, as far as possible, for the smaller solutions" among the parliamentarians (NEIDHARDT [1975], p. 136). In exchange for the reduced freedom of manoeuvre, a further process for regulating conflict and building consensus has been created co-operative representation. In the so-called "hearings procedure" (*Vernehmlassungsverfahren*) interest groups are admitted to early stages of decision-making processes. Through the extra-parliamentary commissions of experts and the hearing procedures, an additional structure of representation in the pre-parliamentary sphere has developed which competes with the parliamentary process for technical legitimacy. The actual selection processes occur here, helping to prevent an excess of "ex-post-conflicts and emotional polarizing", for instance at the interest-group level (NEIDHARDT [1975], p. 319).

### 3.1.2. Aspects of the Political Culture in Switzerland

Being heavily influenced by and simultaneously having an influence on social-structural features, a "political culture"<sup>6</sup> has developed in Switzerland, which attributes a negative value to (at least open) confrontational behavior.

<sup>6</sup> Political culture is understood here as the total set of attitudinal patterns by which a socio-political system can be judged.

(1) The peacefulness of conflict resolution in Switzerland is in many ways associated with the fairly long avoidance of the miseries of war, a benefit which offers the system as a whole a high degree of legitimacy. In reality the argumentation must go much deeper. LUETHY [1965] made it clear that the self-image of Switzerland is at root "in the true sense of the word archaic" and rests on mythical-religious foundation. It manifests itself in an exceptional awareness of historical continuity tied to the concept of state embodied in the old confederation of 1291 which is felt to be practically a native product. At the same time the traditional guarantee of being "proven and authentic Swiss" takes on a numinous character, which finds expression in public and private rules of behaviour based on the acceptance of this "eternal wisdom" (SAURMA [1974], p. 369).

On various occasions it has been repeatedly pointed out that the orientation and value system which manifests itself can be most appropriately labelled as "cooperativeness" (*Genossenschaftlichkeit*) (BEHRENDT [1963], p. 113). In this way the *Pax helvetica* is characterized as an aversion to "stratified, hierarchically structured, rigorous and centralized, power system founded upon command and obedience" (BEHRENDT [1962], p. 134) or else as the most fundamental levelling-out (*Horizontalisierung*) of the society that is possible. Gasser even believes that it is in the autonomy of communities, with their readiness for responsibility and compromise over and above the party level, that is to be found the basic constitutional-historical principle which explains why democracies are stable or fragile (GASSER [1977], p. 5). This does not mean *a priori* that the frequency of conflict is less, but merely that the search for a typical and traditionally "Swiss" form of conflict resolution based on an acceptable consensus still possesses a exceptionally high degree of legitimacy today. In this connection, it must be noted that the arbitration system is quite extensive and perfected; that Switzerland itself resembles an amalgamation of semi-autonomous institutions, which attempt to resolve their differences by avoiding state intervention as far as possible; and finally, that the basic principle of "good faith" as the guiding principle for implementation is never absent from these contractual agreements. Indeed, it is considered "impertinent" to "take advantage of a position of power (*eine Machtstellung ganz 'auszusitzen'*). Greater respect is afforded to maintaining communication with one another (in Swiss dialect: *Me mues rede mitenand*) than to the issuing of commands (except in battle) or of unilateral orders, even when those orders express the will of the majority. This is still true today ... especially in the relationship between social bargaining partners" (RUH [1978], p. 7). The "co-operative spirit" has evidently become an "historically sedimented experience" (Husserl) receiving expression through "pressure to conform to the pre-established direction", through the "quasi pre-agreed" solution to problems and even through a certain amount of conflict avoidance (NEIDHARDT [1975]).

(2) The self-image of the collective bargaining parties is also part of this general orientational framework. The preambles of the Peace Agreements

make it clear that the parties are committed to the “common good” (*gemeinsames Wohl*), and are not motivated by the antagonism between employer and employee. Their goal is an enduring, continually expanding “cooperation”, and not the assertion of one-sided interest positions. Conclusion of a collective contract forms an instrument for that kind of cooperation which is based on a willingness to “reach a direct agreement over all questions”. Former Union president WUETHRICH [1963] has stated that unions actually want to be “more than just a negotiating partner”. According to ZANETTI ([1981], p. 37) the unions are aiming to achieve a “communal system of comprehensive labor contracts”, within which the collective contract will no longer be merely a temporary cease-fire, but rather have the form of a “professional statute”. It is obvious that underlying this goal is the idea that the members of a profession would pursue their interests on the basis of the general interests of the profession and within the framework of a comprehensive professional community (KAEPGEN [1976], p. 96). For this reason BERWINKEL [1962] also interprets the will expressed in the Peace Agreements by the Swiss social partners to form a “professional community” (*Berufsgemeinschaft*), as a move away from a social orientation founded on interest groups. This view helps to explain, at least, the frequent reference in wage settlement contracts to joint action in economic questions and in dealing with third parties. Not only do employers make contributions to educational training and other union expenses, but also non-members are obliged by the Peace Agreement to make solidarity-contributions as financial reimbursement for the activities of the trade union or professional association. Lastly, it is also understandable that the usual arguments against trade-unions based on specific political orientations (*Richtungsgewerkschaften*), which hold that individualistic bargaining for the greatest individual advantage would lead to excesses at the expense of everyone concerned, have lost much of their applicability under these circumstances. In Switzerland the empirical evidence speaks for itself. Nevertheless its realization requires, as has been shown, that certain attitudes have achieved a substantial degree of approval.

### 3.2. *Is This System Applicable to the Federal Republic of Germany?*

When one finally turns to the question of the applicability or role-model function of the Peace Agreement and its prerequisites, the result is fairly obvious. A look at the prevailing social structure shows that the corresponding possibility space is quite differently structured in the Federal Republic, for Switzerland and the Federal Republic differ in nearly all of the features specified here. The “negotiation culture” of the two countries has neither the same institutional substructure nor the same role-value. The same can be said for aspects of the political culture. Germany does not belong – as Gasser has stressed – to those countries in which “cooperativeness” has had a long

tradition and contributed to the founding of the state. Subsequently, it is not surprising that the self-image of the German collective bargaining parties is entirely different. Labor contracts speak neither of “partner-like cooperation” nor of “professional community”. Although essential differences between the individual trade-unions should not be overlooked, the general impression remains that union activity is predominantly interpreted as “conjunctive bargaining” rather than “cooperative bargaining”. It appears that a concept of countervailing-power (*Gegenmacht*) predominates for which the willingness to do battle is indispensable. For many trade-unions, this constant battle-readiness is actually the counterpart of the control over the allocation of capital possessed by the industrialists (IG-Metall [1964], p. 431 ff.). It seems that class struggle is still the leading idea today, particularly in the metal-working industry, although it is carried on by different means. If so, then social partnership appears to be nothing more than a slogan. Even co-determination is in no way intended as such, according to statements by former IG metal union leader O. Brenner, since it neither can nor will put an end to the classical antagonism of interests. Trade unions are, just as before, in search of advantageous opportunities for shifting the lines of power (LUMMER [1971], p. 138). Wage contracts are not “peace agreements”, but rather “cease-fire documents” (KAEMPGEN [1976], p. 84f.). The art of mediation is considered merely as a corrective means in the labor struggle, and not a prerequisite for industrial peace. For these reasons the transferability of the Peace Agreement is considered questionable by most authors. It would only be possible, if “the groundwork on which a Peace Agreement stands, a professional community of social partners”, as well as a basic renunciation of labor conflict were present (BERWINKEL [1962], p. 100f.), a groundwork which is lacking in the Federal Republic. The considerations dealing with the interest group problems presented above nonetheless showed that the fundamental question of modern industrial societies is not to be resolved by the escalation of conflict. When the objective nucleus of the Swiss Peace Agreement is taken into consideration, its applicability as a model takes on another value:

- It proves to be an applicable model because it offers a productive, actually-practiced alternative to the conflict-theoretical perspective of interest group theory.
- It is also applicable because it demonstrates by example that social contracts require a consensus as to the common ground-rules or, in other words, that the stability of a system of industrial relations is essentially an “ideological”, and not just a purely procedural problem (WOOD [1978], p. 55).
- It is applicable, finally, because actual experience has refuted a series of prejudices, such as that every neo-corporative “professional community” would necessarily involve running counter to the principle of freedom of contract, or that dispensing with individualistic group competition would necessarily lead to the fraternization of collective bargaining units at the expense of the general public.

Nevertheless it is still an open question, even in Switzerland, to what extent the ground rules for consensus-seeking during changing economic and political situations are actually "sedimented". Even models can have cyclical trends – economic, political and intellectual. And yet the swiss model of "cooperative bargaining" reflects such a long accepted tradition that the chance of its being maintained appears to be quite favorable. This traditional "negotiational culture" is itself rooted in a much deeper national identity, upon which additional political institutions having analagous structures are also based. And they provide the social partners with additional orientational guidelines for their dealings with one another. One can only risk making prognoses in this case if the weight (or the potential decline in weight) of this considerable tradition can really be evaluated.

### *Summary*

In contrast to the classical, liberal conception interest groups in modern society have become influential, constructively functioning entities. A study of the collective bargaining partners (*Tarifparteien*) shows that in a society of interest groups (*Verbandsgesellschaft*), conflict is unable to serve as the exclusive principle of organization: a minimum level of cooperation between interest groups is required in the public interest. The Swiss Peace Agreement is presented here as a form of collective bargaining which has proved successful over several decades. The prerequisites and functional conditions of this industrial Peace Agreement are analyzed in order to characterize the prime features of this form of group regulation of conflict. To transfer the Peace Agreement to the Federal Republic of Germany or other countries would meet with difficulties on fundamental points; yet the Peace Agreement as an instructive model is nevertheless of significance for interest group research.

### *Zusammenfassung*

#### *Verbandskonflikte, Konsensbereitschaft und „Cooperative Bargaining“ Das Beispiel des Friedensabkommens in der Schweiz*

In der modernen Gesellschaft sind die Verbände, abweichend vom klassisch liberalen Selbstverständnis, zu einflußreichen, gestaltenden Instanzen geworden. Anhand der Tarifparteien wird gezeigt, daß in der Verbandsgesellschaft der Konflikt als alleiniges Ordnungsprinzip nicht ausreicht; das Allgemeininteresse macht ein Mindestmaß an Kooperation zwischen den Verbänden erforderlich. Als eine Form des „cooperative bargaining“, die sich schon über Jahrzehnte bewährt hat, wird das Schweizer Friedensabkommen vorgestellt. Um den Modellcharakter dieser verbandlichen Konfliktregelung zu bestimmen, werden die Voraussetzungen und Funktionsbedingungen des Friedens-

abkommens überprüft. Eine Übertragung auf die Bundesrepublik dürfte auf grundsätzliche Schwierigkeiten stoßen, gleichwohl ist das Friedensabkommen für die Verbandsforschung ein wichtiges Lehrstück.

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