CHAPTER I
THEORETICAL PERSPECTIVES

THE POLITICS OF CONSTITUTIONAL DEVELOPMENT: MISNOMER OR LEGITIMATE QUEST?

Since the term "politics of constitutional development", central to this thesis, is unusual if not orthodox, it is necessary to clarify what we mean by it at the outset. Towards this end, the discussion in the first section of this chapter focuses upon the meaning of the term "constitutional development" and its political aspects and linkages. The second section seeks to operationalise the term in the historical context of certain major western countries and the last section is devoted to observations in regard to the constitutional politics of the Third World, post-colonial states in general.

Constitutions: Form and Content

As generally understood in modern political discussion, the term "constitutions" refer to "fundamental laws and practices in accordance with which governments commonly operate". Or, on a more political note, they refer specifically to "the organising framework [that every regime must have], an agreed division of responsibility and a system of definition of individual rights and states in the community." However, in being formal and static

such an understanding of constitutions misses their dynamic dimension and
prompts one, therefore, to an elucidation of the term at greater length than
is allowed by the above definitions. A distinction, as suggested by Loewen-
stein, between the formal and the substantive aspects of the term is called
for.3

To elucidate, in a formal sense, a constitution consists of a single or,
as the case may be, of several written documents that verbally articulate, in
a logical sequence of topics, the most important (though not necessarily all)
rules by which the political process of the community is organised. This
document describes mores to be followed by the "organs of the state" in their
interaction with one another, formulates the "will of the state" as also of
"individuals' rights" vis a vis each other and the state. By explicit state-
ment or tacit assumptions, the norms of the constitution are endowed with a
validity superior to that of all legislative norms proper; and therefore,
characteristic of the constitution in the formal sense are:

(a) The elaboration of a specific constitution-making procedure usually by
    representative organs not identical to the ordinary legislative assembly.

(b) a special mode of acceptance by qualified majorities of the drafting
    assembly and/or popular referendum, and

(c) an amending procedure subject to the specific requirements more stringent
    than those applying to ordinary legislation.

In a more meaningful substantive sense, however, the rules embodied in the

3. Karl Loewenstein, in C.D. Kernig, ed., Marxism, Communism and Western
constitution are more than just the basic laws governing a state. They pertain primarily to the methods by which the "legitimate will" of the state is to be formed and by which "power-holders" in state organs are legally entitled to exercise social control. They constitute, as it were, codes and modes of resolving conflicts between various classes and interests in society in a peaceful manner before such conflicts of interest become irreconcilable with each other.

By so describing the legitimate boundaries and channels for the exercise of power; the contents of the constitution, as of law in general, become vitally important for the different social interests seeking to exercise power. By virtue of the fact that various social forces are differentially located on the social spectrum, despite all appearances to the contrary, the institutional structure of the state has unequal and asymmetrical effects on their ability to realise their interests through political struggle. The dominant classes are obviously better placed in terms of resources, position and organisation to further their interests. Where the political system does not openly have a class-content by making property or wealth qualification to political participation, it may be so weighted by the manner in

4. As was upheld by the formalistic, institutional-legal school of Western political science which was prevalent till the early part of the twentieth century, and which continues to exercise substantial influence today. For instances see A.V. Dicey, Introduction to the Study of the Law of the Constitution (New York, 1928); W.I. Jennings, The Law and the Constitution (London, 1933); C.H. McIlwain, Constitutionalism: Ancient and Modern (New York, 1940); and in more recent times K.C. Wheare, Modern Constitutions (London, 1957).

5. Classes designate the objective positions occupied by persons in the social division of labour. However, as Poulantzas points out while the economic place of the social agents has a "principal role" in determining social classes, their position in the ideological and political sphere must also be taken into account: see Nicos Poulantzas, Classes in Contemporary Capitalism (London, 1975), p.14.
which it is organised, as for instance in the procedures prescribed for election, so as to benefit some groups more and disadvantage others.

In this context, three points made by Jessop regarding the nature of the state seem to have substantial validity. As he points out:

(a) The state can be viewed as a system of political domination rather than a neutral instrument;
(b) The state constitutes a structural ensemble rather than a mere subject of any interest group in society;
(c) State power, thereby, is a complex social relation that reflects the changing balance of forces in a determinate conjuncture. 6

Implicitly politics, understood here as the interaction between the various sections of society seeking to preserve or further their particular interests, forms the major input in the formation of the constitution and the structure of the state and so constitutes an important link in the correlation and interaction of a state and its constitutional law, a component in isolation from which neither of the latter can operate. 7

Politics of Constitutional Development: Consensus or Conflict?

Politics of constitutional development, hence, is understood here as the process underlying the efforts and actions by which various groups in society strive to promote or further their interests through the via media of the constitution. This can occur at two levels:


7. For a brief discussion on this, refer to I.P. Trainin, "The Relationship between State and Law", in H.W. Babb, trans., Soviet Legal Philosophy (Cambridge, 1951), p.433. This point is often missed, neglected or underplayed by the theorists of liberal political science.
(a) At the time of framing the constitution when

(i) a certain balance of forces to be found at the prevailing stage of development of that society are reflected in and therefore legitimized by the political structures in their integral connection within the constitution, and/or

(ii) more manifestly, in the particular elements of the prevailing ideologies selected as suitable to be proclaimed in the constitution as guiding principles for society and

(b) At the implementation level; as to

(i) how and to what extent the practice is in accordance with the "spirit" of the constitution thereby leading to variations in the essence of the constitution in real terms; and

(ii) how the constitution is changed and amended over time to incorporate shifts or changes occurring in the balance of social forces.

Implicit in the above understanding, is a rejection of the view of development connoting a one-way progression towards and ideal model conforming to a set of western liberal value premises. Rather, development here is used in the more broader sense to connote the evolution of a system from one set of parameters to another due to the inherent logic of its own inner dynamics.

This understanding begs the question regarding the specific nature of the politics outlining constitutions and as to how the same relate to the character, direction and the forms of constitutions established. While the former aspect of the question will be dealt with below, the latter aspect will be taken up in our discussion in the rest of the chapter.

8. As is to be found in G.A. Almond and G.B. Powell, Comparative Politics: A Developmental Approach (New Delhi, 1972), and Samuel H. Huntington, Political Development and Political Order in Changing Societies (New Haven, 1978).
The liberal political tradition holds that constitutions in an open society, are the "product of a compromise of the socio-economic forces of society that participate in the constitution-making process, be it political parties, pressure groups or vested interests representing conservative or progressive ideologies." The actual context of the constitution varies according to the "circumstances in which it was made, the purpose for which it was created and also the style and climate of the period to which it belongs."  

While the emphasis on the "compromising" and "conciliating" aspect of politics finding a reflection in the constitution is valid in broad terms, it does not appraise the specific content of these forces and their dynamics -- to explain the politics, in a more fundamental sense, underlying and concerning them. 

The Marxist school, in contrast, believes that legal forms must not be confused with the realities of the social relationships which they seek to express. It categorically asserts that the constitution is "the expression of the will of the classes who have gained ascendancy and hold state authority in their hands." The "will" of such classes in other words, is identical to the politics of those classes addressed directly to society through a 

10. Ibid.  
statute invested with authority by the state. This is projected more abstractly as the "will of the state" seeking often to project the connotation, by implication, of embodying the "general will" or the "will of the people" -- concepts well entrenched in liberal political theory.

Pertinent to note in regard to the latter process, consequently, is that firstly, the interests of the dominant class acquire legitimacy in the eyes of society in general by being embodied, implicitly or explicitly, in the constitution and thus in law in general. Secondly, any statutory concessions to another class in opposition to those of the dominant class do not, accordingly, exceed the bounds of the latter's interest.

Briefly speaking, the dominant class seeks to ensure that state power legitimately remains in its hands though, if need be, formal and/or occasional substantive concessions in the realm of constitutional law may be made to the contrary. Marxists thus rightly seek to go behind the "consensual" or "conciliating" appearance of the constitution and underline the conflict-

13. "Will -- if it is state will -- must be expressed as a law established by authority....Otherwise the word 'will' is an empty concussion of air by an empty sound", Lenin, n.12, vol.20, p.532.

The same emphasis on access to authority to execute one's interests being a critical component of the power of a ruling class is implied in the differentiation made by Marxists between the terms "state power" and "state apparatus". The first implies the ability to influence "the process of interventions in a given society effected by a separate institution (the state apparatus) which concentrates the supreme rule making, rule-applying, rule-adjudicating, rule-enforcing and rule-defending functions of that society." The second connotes merely the formal political structures that carry out these functions -- the formal organisation of the state. Therborn, however, strangely enough, considers the process of intervention itself equivalent to state power rather than the ability to influence the same: see Goran Therborn, What does the Ruling Class Do When It Rules? (London, 1978), pp.144-45.
CONSTITUTION-MAKING IN A HISTORICAL CONTEXT

While the above discussion holds true of constitutions and their development in general in terms of time and space, it is of interest to note that the practice of framing a constitution and operating a political structure according to it as a universal norm has emerged only concomitant to the growth of capitalism. It is thus one of relatively recent origin. While constitutional government was prevalent in ancient Greece and Rome, it was neither a universal practice nor equally applicable even within its own territory.

The Bourgeoisie and Constitutional Law

As Marxist analyses highlight, it was only when exploitation took the form of equal exchange that it became necessary to provide an appropriate legal framework for the constitution of a central, public power -- the state -- to regulate the exchanges between the formally equal juridical subjects as

14. This failure to clearly illuminate the relationship between a state and its constitutional law in liberal political science finds its reflection and parallel in liberal juridical science in the fruitless controversy as to whether the state or law is decisive in their inter-relationship and which of the two was the first to emerge. For details, refer to Trainin, n.7, p.433.

15. "It was with the entry of the bourgeoisie into the corridors of power that they began to frame constitutions and put them down in black and white": L. Grigoryan and Y. Dolgopolov, Fundamentals of Soviet State Law (Moscow, 1971), p.23.

16. Loewenstein, n.3, p.170.

17. Thus, Pashukanis, an early Soviet jurist, remarked that generalised commodity production became the historical precondition for the full development of modern law. The individuation and competition of the owners of commodities (including labour power) and the manner of their confrontation as equals in the market place was reflected in the constitution of juridical subjects endowed with justiciable and, in certain cases, alienable
also to effect an institutional separation and co-ordination of the market and the political level. Ideally, the state and implicitly the constitution performed their function of cohesion and reproduction of the system best when they exhibited a "relative political autonomy" from fractions of the capitalist class and functioned instead to provide an institutionalis framework for the whole bourgeoisie.

The juridical system thus constituted could then be extended to include formal equality in the political sphere proper without fundamentally upsetting the existing balance of state power. In the process, constitutional law

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19. Or, as more succinctly put in regard to the state -- as "the executive of the whole bourgeoisie": Karl Marx and Frederick Engels, Selected Works (Moscow, 1950), vol.1, p.35.

20. This was witnessed in the latter half of the nineteenth century in Britain, France and USA with the institution of universal suffrage.
assumed an important ideological function in not only masking but also legitimising the political domination of the bourgeoisie. To the extent that there was no legal monopoly of power, the political domination of the bourgeoisie was effectively masked behind the appearance of political liberty and equality. Indeed, as E.P. Thompson emphasises, the essential precondition for the effectiveness of law in its ideological function lay not merely in that it appear to equalise everyone but that it should appear to be above everyone by displaying an independence from gross manipulation. 21

Emphasising the importance of this development, the political theorist Poulantzas observes that the "juridico-political holds a dominant place in the dominant ideology of this [that is the capitalist] mode of production, taking a place analogous to religious ideology in the dominant ideology of the feudal mode of production." 22

While the growth of constitutionalism has been established to be positively related in historical terms to the rise of capitalism, its specificities in terms of nature, political forms and structures have remained problematical. 23

Institutional Forms and Structures

Generally speaking, the parliamentary form of government (albeit, as in some cases, with a presidential executive) has constituted the logical framework, wherever possible, to mask the realities of social power. As Mandel puts it:

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22. Poulantzas, n.11, p.128.

23. As Rosa Luxemburg noted, "The political form of a given country is always the result of the composite of all the existing political factors, domestic as well as foreign. It [that is, capitalist development] admits within its limits all variations of the scale from absolute monarchy to the democratic republic": Rosa Luxemburg, Rosa Luxemburg Speaks (New York, 1970), pp.72-74.
it, it best reflects the dialectical unity and struggle of the contradiction between the "competition of many capitals" and the "social interest and nature of capital in its totality." Or, as Poulantzas observes more specifically...

...one of the functions of the parliamentary-democratic state (universal suffrage, pluralism of political parties and organisations, specific relationship between the executive and parliament, juridical regulation of the executive and parliament, juridical regulation of the respective spheres of competence of the various state apparatuses and branches), is to change without a serious upheaval in the state apparatuses; this is particularly the role of the constitution and of law.

Certain analyses have attempted to correlate, in broad terms, the interests of capital accumulation with the nature of political forms adopted. These analyses attempt to establish that certain specific forms of capitalism are more conducive to certain forms of government: simple commodity production and industrial production are associated with the more democratic form while transitional conjunctures, manufacturing and monopoly stages of capitalism require more absolutist forms and even, as in the last, direct state intervention to restructure capital to facilitate accumulation. Accordingly, it has been pointed out that any threat to the process of capital accumulation, or

"class emergency",\(^{27}\) has been dealt with by a resort to a more "executive" content, if not form, of rule. A reversion to the "parliamentary" form seems the norm once the hegemony of the same or a nascent fraction of the ruling classes has been established adequately with a strengthening of the executive structures.

Beyond this, however, the examination of the varied experiences of constitutional politics has suggested the need to trace not only the economic determination but also the historical context, both external and internal, and the political conjuncture of the individual cases studied.\(^{28}\)

\(^{27}\) This term is used by the author to outline a situation when the position of authority of the dominant class in a social formation is under a dramatic visible erosion/attack due to economic compulsions or a political challenge (especially from its subordinate classes). There can be a close relationship between the two if the weakness induced by the former serves to aggravate the situation as to needle/embolden the latter. The management of the situation would, if possible to the threatened class, lead to the declaration of an "emergency" as one of the means to control the situation.

This "state of emergency" provided for by the constitution is, therefore, a partisan situation. It could also occur as part of the less dramatic interplay of narrower political interests in the short run. As part of the same, an "emergency" may be declared in a delimited region where the interests of the ruling elite are threatened.

A "constitutional emergency" can also occur in a different sense -- as a result of a serious lacunae or deadlock in the operationalisation of constitutional provisions at a particular juncture. This contingency is perforce resolved by resort to non-constitutional (i.e. political) means.

\(^{28}\) As a methodological note, it needs to be clarified at the outset that there can be two ways of relating the politico-constitutional structure of a society to its socio-economic foundations. The first establishes a more or less direct relationship between the two -- of change in the former being reflections of movement in the latter. While this method is of value in deriving more rigorous relationships and correlations; however, even at its most sophisticated it runs into dangers of reductionism. The other, the more abstract approach, allows also for a certain degree of autonomy of the politico-constitutional realm from the socio-economic base -- an approach that I have preferred to adopt in this work. There exists at any time, as it were, an area of real autonomy of the politico-constitutional level -- of a range of options within the context "allowed" by the more fundamental level.
Broadly-speaking, the time and entry onto the stage of world capitalism has formed an important external variable influencing, if not determining, both the nature and forms of constitutions adopted.29

Further, the complexity of the social formation and the improbability of a rigorous adherence to the dominant mode at all levels of the social formation needs to be taken into account.30 The relevant strengths of pre-capitalist and the various capitalist structures of production at the different social levels constitutes an important determinant of the degree of legitimacy acquired by various political forms and processes.31 To the extent that the changing balance of forces was smooth and could be accomodated within the declared institution of powers, the continuity of the institutional forms was, as a rule, maintained by a shift in the state power to the dominant place in the state apparatus where the hegemonic class or fraction was reflected.32


30. A society has been conceived, by classical Marxism as a social formation -- an articulated structure of three independent structural levels dominated by the structure of a particular mode of production -- consisting of an economic, a politico-legal and a cultural (or ideological) level. The levels are related in such a way that while the first always plays a primary role, that of "determination in the last instance", the others are not simply reducible to it, they are "relatively autonomous". The economic level itself is structured by a definite combination of relations and forces of production: see Poulantzas, n.11, pp.26-27 and 41. As Poulantzas points out, since an historically determined social formation is dependent on the co-existence of several modes of production, it may not necessarily follow that the dominant mode is dominant at all levels of the political superstructure.

31. For illustrations of this see Barrington Moore, Jr., Social Origins of Dictatorship and Democracy (London, 1966); as also Karl Marx, "A Review of Guizot's Book, 'Why has the English Revolution been Successful?'" in Karl Marx and F. Engels, On Britain (Moscow, 1962).

32. Old forms may, thus, be injected with new content. English and American constitutional developments, especially, have been marked by no break in legal continuity; all shifts in the balance of forces have been accomodated within the existing structures, as we will see below.
To the extent that this was not possible, or that the shifts in the balance of forces were radical or abrupt, constitutions and the concomitant political structures were changed and even reframed to accommodate as well as legitimise the exercise of power by any individual, group or section who acquired domination over the state apparatus, if not state power itself. 33

a. The "first-wave" states: Considering specific cases, we find that it was only those metropolitan nations such as England, Holland, Belgium and United States of America (henceforth US or USA) that industrialised in the first wave and underwent extended periods of capitalism, that the bourgeoisie was able to establish its political hegemony over time, concurrent to its prevailing economic strength, in the form of a stable parliamentary system of government. The accompanying "rational-legal" constitution (or system of law, in the British case) was based on the theory of the "social contract", and institutionalised a "system of politics as a centralized market-place for organised political parties and impersonal social programmes". 34 Classically, in terms of political strategy, it was after the intra-class contradictions in the privileged, propertied classes had been settled and the system legitimised that liberal-democracy in terms of universal suffrage was instituted. 35

33. For the differentiation between the two, see n.13.
35. Pashukanis, n.18, pp.183-87.

Evidence of the worry caused by the prospect of universal suffrage to the unequal economic interests of the ruling classes in these countries can be found in the Putney debates in Britain and in the writings of Madison: see Max Beloff, ed., The Federalist (Oxford, 1948), no.10.
Britain's unique case of the "unwritten constitution" can be traced to the peculiar "masked" manner in which the English bourgeoisie acquired political hegemony as is apparent from the stream of legislation effected during and after the Glorious Revolution of 1688. The alliance between the English bourgeoisie and the big capitalist landlords succeeded in a tortuous manner, during the English Revolution (1640-1688), to first emasculate the feudal power and privileges of the Crown and then, perceiving a threat to their own privileges from their lower-middle class support; to a restoration of a monarchical form of government -- on their own terms. The locus of power in the English constitution, thereafter, shifted in accordance with the growing domination of the bourgeoisie from the House of Lords to that of the House of Commons led by the Prime Minister.

Similarly, the framing of the US constitution legitimised the break with Britain on the one hand and the victory in the US of the urban bourgeois coalition with the landed upper classes over the indebted subsistence farmers.

36. As some scholars of seventeenth and eighteenth-century law in England remark, it was a consecration not of men by law but of property.

"This flood of legislation is one of the great facts of the eighteenth century, and it occurred in periods when peers and gentry held power with least hindrance from Crown or people. The Glorious Revolution of 1688 established the freedom not of men, but of men of property": Douglas Hay, Peter Linebaugh, John C. Rule, E.P. Thompson, Cal Winslow, Albion's Fatal Tree: Crime and Society in Eighteenth Century England (London, 1975), p.18.

37. As climaxed in the Agreement of the People passed in 1648. Relating to it, Morton comments that it "was a remarkable programme, anticipating in many respects the Charter of two centuries later": for details refer to A.L. Morton, A People's History of England (New York, 1974), pp.253-54.

of the interior, on the other. The latter's influence at the local level and in terms of numbers was curbed by the subordination of the states to the federal structure and the House of Representatives to that of the Senate. While the individualist ethic was proudly proclaimed, the institution of the "separation of powers" ensured that no radical change in government could take place. Whereas first the Congress, especially the Senate, constituted the locus of state power; with the emergence of monopoly capitalism in the present century the emphasis has shifted to the executive branch of government.

b. The "second-wave" states: In countries which were industrialized in the second wave, the stage of competitive capitalism has been identified as being weaker and more truncated leading to the emergence of a bourgeoisie which failed to consolidate its hegemony in parliamentary regimes and had to perform seek the support of classes with contradictory interests. As the historian Gerschenkron points out, correlated positively with the relative degree of backwardness of the society concerned, a stronger and more egalitarian ideology was invoked to mobilise a broad-based support for a concentrated push


40. For a discussion on the relative powers of the state and federal government and the House of Representatives vis-à-vis the Senate, see Bernard Schwartz, The Reins of Power: A Constitutional History of the United States (New York, 1963).

41. For a detailed discussion see Beard, n.39, pp.159-88.

42. Witness the growing power of the Presidency -- even in matters as serious as declaring war on another state. See Arthus M. Schlesinger, The Imperial Presidency (Boston, 1973), and C. Herman Pritchett, The American Constitution (New York, 1959), pp.304 ff.
towards economic development. This, it is contended here, was accordingly reflected in what could be termed as the more "socialist-mobilist" content of related constitutions. In the conflicting class context and uncertain bourgeois hegemony; in crisis conjunctures military and fascist absolutism found fertile ground to establish itself with petty-bourgeois support.

Thus, although the French bourgeoisie acquired state power as manifest in the Declaration of the Rights of Man in 1789, by the very peculiarities of the French Revolution and the parcellisation of the land to peasants, bourgeois hegemony in political terms rested on the uncertain ground of its opposing classes. The importance of the proletarian and peasant classes led to varying types of republican, assembly governments and the espousal of Saint-Simonian socialism by the middle of the nineteenth century. Strong regimes, such as the Bonapartist one, often had a dictatorial character. Because shifts in alliance between the various classes tended to be abrupt and often opportunistic, the instability of French politics is manifested in the fact that France has had sixteen constitutions to date since the Revolution!

Furthermore, to the extent that capitalist agriculture did not develop, a repressive state apparatus was necessarily required to maintain the subordina-


This "bonapartist construct", as it is often called, of Marx highlights the possibility of universal suffrage underpinning a "strong" state and domination of finance capital, if the whole is supported by the more "popular" classes such as the small-holding peasant farmers and the upper proletariat.

46. Loewenstein, n.3, p.181.
tion of the agricultural labouring class and any alliance with the bourgeoisie was dominated by the feudal landed classes as witnessed in Bismarckian Germany and Tsarist Russia. Subsequently, in the period following, on the one hand, the democratic Weimar constitution of the former was subverted by the alliance of the monopoly and financial bourgeoisie with the petty-bourgeois Nazi party. It resulted in the "constitutional" national-socialist Hitlerian dictatorship. On the other hand, the weakest of the metropolitan second-wave states, the Tsarist autocracy, was totally overthrown through a radical social revolution by the Bolshevik "dictatorship of the proletariat". The latter espoused the most egalitarian socialist-mobilist ideology and constitution, which served thereafter as the scale against which all claims to the same were measured. However, the imperatives of an unprece-

47. In the case of Bismarckism a three-class suffrage system was instituted to underpin an alliance of Junker landlords and the bourgeoisie, under the political dominance of the former. The political implications of this alliance were identified by Engels in terms of Bismarck's failure to introduce a bourgeois-democratic republican form of government, favourable to the political domination of the bourgeoisie rather than the declining feudal class. For details refer to Frederick Engels, The Role of Force in History (New York, 1968), p.95.

48. Hitler and Mussolini came to power "respecting" the forms [that is, procedures] of the "parliamentary-democratic" state and within the juridical norms which every bourgeois state has in store for critical situations of class struggle. For an elucidation see Poulantzas, n.40.

49. Or, as some have perceived, "state capitalism". See Tony Cliff, Russia: A Marxist Analysis (London, 1963), and Martin Shaw, "The Theory of the State and Politics: A Central Paradox of Marxism", Economy and Society (London), vol.3 no.4, November 1974, pp.429-50. Cliff proposes as a more precise term "bureaucratic state capitalism", to indicate the nature of the "class" controlling the state and to distinguish this formation from other forms of state-capitalism, e.g. "state capitalism" within the framework of a worker's state (as Lenin at various times characterised early post-revolutionary Russia) or the "state capitalism" in the manner of the directly capitalist role assumed by the state to aid the development of private capitalism as happened in India and other South Asian countries, following a supposedly "socialist" model of development.
dented pace of capital accumulation through a controlled economic and politi-
cal system created the widely publicised discrepancies in the promises of the
Soviet constitutions in the arena of civil liberties and the prevailing prac-
tice.

In short, we find that the degree of success achieved by the bourgeoisie
in establishing a hegemony in the economic sphere has, as in the case of the
first-wave states, been conducive to the establishment of a stable, parlia-
mentary-democratic constitutional order. The ideological value of the
rational-legal model in perpetuating itself cannot be underestimated.

The inability of the bourgeoisies of the second-wave states to establish
their hegemony, in contrast, led to compromises with non-bourgeois classes.
The consequent weakness or absence of political hegemony dictated of necessity
a more centralised, socialist-mobilist content to their constitutions. It also
resulted in frequent and varying changes in the "supreme instrument of gover-
nance" in an attempt to preserve the coalition of interests dominant at the
moment.

The countries undergoing a belated process of capitalist development, such
as the different Third World states in Asia, Africa and Latin America today,
displayed different features again in accordance to their manner of entry into
the world capitalist chain. This concomitantly had important repercussions on
their internal social contexts and class structures thereby determining the
parameters along which their constitutional development has taken place in the
ensuing post-colonial period.
Turning to the Third World states we discover that in the post-colonial countries (as most of them have been), there has been an insistence -- almost a compulsive urge -- to mark their new-found independence and sovereignty by framing a new constitution.

Within this proud declaration of their independence and sovereignty, an analysis of the relevant literature reveals that their experience has been governed by various factors which perforce have lent an element of continuity to the whole operation, both in formal and substantive terms.

Firstly, as a rule, in line with their experience, the broad model of the political forms and structures adopted was along those of the metropolitan colonial power governing them as well as those structures, if any, fashioned by the metropolitan power for limited indigenous political participation.

50. In Asia, Africa and in the Caribbean, former colonies of Great Britain, as a rule, adopted the Westminster parliamentary procedures. France's former colonies in Africa, because they achieved independence after the founding of the Fifth Republic, modelled their new constitutions upon General de Gaulle's, partly also because this enhanced the power of the leaders under whom independence had been achieved. In the early years of their independence from Spain but entering the American orbit of influence, most Latin American countries adopted constitutions similar to that of the US.

Deriving directly from the peculiar "unwritten" character of the British Constitution, Rose interestingly argues that the independence constitutions adopted by British colonies were precisely due to that fact quite "unlike" the original. Rules which at Westminster were observed without being specifically laid down and entrenched, were considered necessary by the post-colonial states to be explicitly spelt out. As a consequence, these constitutions often contained a list of fundamental rights as of Directive Principles of State Policy, and what was created therefore, was a "remodelled" version of the Westminster system. See Saul Rose, "The New Constitutions in South Asia: Westminster Remodelled", Round Table (London), n.252, October 1973, pp.439-50.
in that particular territory in the pre-independence period.\textsuperscript{51}

Secondly, in line with the economic interests, both current and potential, which the metropolitan state sought to protect in the given territory, the necessary transfer of political power was made, by and large, to classes accommodative of the same.\textsuperscript{52} The fundamental characteristics of the colonial state were therefore sought to be reproduced, often at a more advanced level, in the new state.

The Oligarchic Power Bloc and the Rational-Legal Model

This was done by ensuring that political power passed to the locally dominant bourgeois and landowning classes having the greatest respect for legal property relationships and looking forward in the post-independence period to benefits from continuing capitalist accumulation and development.

Dependent on the specifics of local development, the former colonial power bloc\textsuperscript{53} dominated by the foreign capitalist, comprador and landlord classes came to be replaced by a new one consisting of the comprador bourgeoisie, the "national bourgeoisie" and "progressive" capitalistic landlords (which

\textsuperscript{51} Both Britain and France conceded various degrees of indigenous political participation to their various colonies. Belgium and Portugal were severely deficient in this respect as in many other "benevolent" aspects of colonial rule. For an excellent study of the differing colonial policies with particular reference to Africa, see L.H. Gann and Peter Duignan, ed., Colonialism in Africa: 1870-1960 (Cambridge, 1969 and 1970), vols 1 and 2.

\textsuperscript{52} In contrast, where the challenge was led by workers and peasants, such as in China, the subsequent break with the old economic structure was radical and complete, both internally in the sphere of agrarian relations and externally in the relation with capitalist metropolises.

\textsuperscript{53} The concept of "bloc" as used in this work focuses on the welded unity and the condensed, collective projection of allied classes/segments of classes/interest groups in the political and ideological sphere. At the same time, it also carries the connotation of an internal structure to such a grouping of interests; the differentiation and differential importance of its constituting elements.
followed soon after). Where, however, within the heterogenously-constituted societies in the Third World either of the classes of the colonial ruling alliance had evolved to maintain a predominant vested interest in the society at the time of independence, the latter alliance could only emerge

54. Examining the process of dependent industrialisation some scholars, such as Poulantzas have preferred to differentiate between a "domestic" bourgeoisie and a "comprador" bourgeoisie. While the first is "an autochtonic bourgeoisie with a chiefly industrial character" (p.41) grafting itself in the main to produce light, consumer goods; the comprador bourgeoisie is defined "as that fraction whose interests are entirely subordinated to those of foreign capital, and which functions as a kind of staging-post and direct intermediary for the implantation and reproduction of foreign capital in the countries concerned" (p.42): see Poulantzas, n.25, pp.41 ff.

The domestic bourgeoisie is differentiated from and not considered to be a genuine national bourgeoisie -- such as one which is "really independent of foreign capital and which could take part in an anti-imperialist struggle for effective national independence, such as sometimes did exist in these countries in the past ... during the earlier phases of imperialism"(p.43).

While the point is well made, I consider this an unreal distinction in terminology since as Poulantzas himself points out the distinction between the two is not a simplistic spatial distinction of the national vis a vis the international area but is rather based on the process of internationalisation of capital and its various moments as expressed in each social formation (p.45). Being so, such a "domestic" bourgeoisie is the "national" bourgeoisie, with all its weaknesses, of these peripheral societies, and I have preferred to term it as such.

Characteristically, while this indigenous, primarily industrial bourgeoisie is dependent in a more complex manner on foreign capital (for technology, trade, or aid), it seeks also to use the state to strengthen its position vis a vis foreign capital through
(i) a protected and expanding market domestically and
(ii) state aid making its exports more competitive abroad.

Since, however, the distinction between comprador and the national bourgeoisies is based on the changing structure of dependence, it is not rigidly fixed once and for all. The change in one form of capital or its fraction to the other, requires a process of constant reclassification. Based in their common interest in capital accumulation and thus a certain contradiction vis a vis both foreign capital, and the popular classes, it seems useful to use the general appellation "domestic bourgeoisie" to describe them collectively.
with some delay as and when the specific local conditions developed to be more conducive.55

Whatever the specifics, the limited and uneven development of capitalism ensured that, in effective terms, political power stabilised in the hands of the local landowning classes, or as some have termed them -- the oligarchs. To the extent that the bourgeoisie's social origins often lay in this class, the position of the dominant classes was far above the common rung, and was based largely on deference on the part of the subordinate masses; the power bloc had an exclusive and oligarchic character as a whole.

Consequently, reflecting the disinterest of the dominant classes in radical structural change and dependent on the spread of the capitalist order, the parliamentary rational-legal constitutional model was adopted. The model with its separate and mutually balancing apparatuses of power was conducive to upholding the status quo as far as possible. In substantive terms only extreme feudal or comprador structures were eliminated through adequate legislation. In certain cases, the progressive principles and ideals of the nationalist movement were incorporated in the constitution to merely "direct" future public policy formulation. Meanwhile, by and large the administrative and coercive apparatuses of the colonial state were retained with marginal modifications.56

55. In certain societies where the role of foreign and comprador capital has been predominant, fractions of the indigenously-based petty-bourgeoisie may well take on the role of an incipient national bourgeoisie. Likewise, the intermediate strata of landlords and the rich peasants may, with the help of the state, emerge as the agrarian bourgeoisie producing chiefly for the home market. However, to the extent that this scenario takes place the consolidation of the new power bloc is coalesced with and carries the more radical implications of the intermediate bloc.

More specifically, however, the extent of the identity with the colonial values, ethos and ability in fashioning and operating political structures along the same seems to have depended largely on the relative strength of the dominant classes in the post-independence power bloc, the degree of hegemony established by the bourgeoisie as also the extent of its identification with metropolitan capitalist interests, values, and ethos.

_The Intermediate Bloc and the Socialist-Mobilist Model_

Delving deeper, we find that if it was the growth of a domestic bourgeoisie which offered conditions for the institution of a parliamentary framework; it was the existence and assertion in the political arena (first at the local and then at the national level) of a broader petty-bourgeois class\(^5\)\(^7\) that deepened the system's democratic and nationalist content.

The term "intermediate regimes" has been used by Kalecki to describe governments in which the numerically dominant petty-bourgeois class or the

5. Using Kalecki's definition and Raj's elaboration here the concept petty-bourgeois or "lower middle class" has been used to denote the small proprietors in industry and commerce (dependent to some degree on hired labour) and a wide spectrum of self-employed (whose dependence on wage labour, if any, could only be marginal). Also as pointed out, white collar workers and the not very numerous workers of large establishments -- particularly those of the state -- are more the allies of the lower middle class than its antagonists due to their privileged positions in comparison to that of the unorganised urban and rural poor (including the insolvent poor peasants and tenants) in these underdeveloped countries. See Michal Kalecki, *Essays on Developing Economies* (London, 1976), p.80; and K.N. Raj, "The Politics and Economics of Intermediate Regimes", *EPW*, vol.8 no.27, 7 July 1973, p.1191.

Consequently, as pointed out by Raj, the above petty-bourgeoisie is very heterogenous in composition but may be banded together on the basis of constituting all those who earn income from property (including possession of certain kinds of knowledge or skills) in addition to the larger income earned from work.

In my view, these classes could come to power at the time of independence or soon after. This may happen by virtue of the fact of their participation in the nationalist movement for independence or, conditions being conducive, of their assertion through the parliamentary framework soon after.
"intermediate classes" emerged to play the role of the ruling class. While one can quarrel with the extent to which such a combination of classes could be considered as coherent enough to play the role of a "ruling class", it remains a fact that such classes have appeared to exercise significant socio-economic power at different periods in this century in a large number of Third World societies. This has occurred mainly once the growth of a domestic capitalism was underway in them. They have asserted themselves particularly in conjunctures when the hegemony of the oligarchic power bloc was in crisis and a dissident fraction of the power bloc was ready to move in the direction of an independent national capitalism and to seek mass support to this end.58

It is important to note that characteristically due to the interest of the intermediate classes in the institution of private property and in the manner of the classical bourgeois-democratic revolutions, the thrust of the new bloc has logically been to demand the necessary changes at the legal and, if possible, the constitutional plane. Consequently, the efforts towards national economic emancipation encompass a broad effort towards nationalisation, centralisation, indigenisation and often in these plural societies a particularisation in the nature of state power. More specifically, intermediate regimes have attempted to gain a measure of independence from foreign capital through nationalisation or restriction of its role in the domestic sphere. A radical land reform has been considered necessary to release agricultural productive potential and deepen the domestic market. In line with intermediate class interests emphasis was placed on state capitalism to generate a more broad-based expansion of productive forces, and economic activity was

58. The classes below the petty-bourgeoisie would in the main consist of the small landholders, landless peasants, the semi-organised or unemployed labour and the urban proletariat.
increasingly subjected to state supervision to ensure an overall mobilisation of resources leading to a balanced and even growth of the economy.

As a complementary process of asserting nationalist control and depending upon the structural balance of forces represented by the intermediate power bloc an indigenisation through a reaffirmation of the native religion, language, or race would be encouraged. Conceivably it would be true to contend that religion would be a dominant subject in this reaffirmation if the popular terrain was feudal or semi-feudal and language would form the via media for opening new opportunities to the indigenous, petty-bourgeois backing of such regimes.

The exact mix and strength of each policy, needless to reiterate, was likely to be influenced by the calculated balance of interests represented by the intermediate regimes.

A fairly widely-held opinion links "populism" with the import-substitution industrialisation sponsored by these regimes. Obviously the need to weld together such heterogenously composed regimes and mobilise the support of the lower classes to effect the envisaged structural changes in the face of the national bourgeoisie's economic and political weaknesses required such an ideology. As Laclau points out in his study on populism, the popular democratic discourse, with its heterogenous elements, was presented as an antagonistic option against the ideology of the dominant bloc -- often as some form of "socialism".


60. Ibid., pp.195-196.
To the extent that the above changes at the economic, political and ideological level were effected within the rational-legal constitutional framework, it continued to command a legitimacy in the ranks of the ruling bloc. However, to the extent that the more independently-constituted formal state apparatuses of administration, coercion and particularly adjudication continued to uphold the preceding status quo and stem the will of the new, more popular bloc; their subordination to popular will was demanded. In the transitional conjuncture between the ousting of one bloc and establishment of another that this stage of development connoted with all its specificities in the peripheral capitalist context, the socialist-mobilist constitutional model was viewed with favour by the rising intermediate classes. With the predominance the model allocates to the popular will as expressed in its elected representatives over other branches of the state apparatus and its centralised political executive, it suited the needs of the intermediate classes in providing a state structure responsive to their needs and at the same time strong enough to defend their interests.

For indeed, in a critical difference from the more radical model adopted by the socialist states after a social revolution and more like the other West European second-wave states, the centralised model was here utilised to reproduce and further, even at the expense of the lower classes if need be, the interests of the dominant intermediate classes. Fearing the challenge posed by the more numerous lower classes, even while mobilising their discontentment to serve their own purposes, the intermediate classes attempted to contain it
within acceptable limits by compromising in their attack on propertied, vested interests.61

Crisis of Intermediate Regimes

a. Economic compromises and constraints: However, as Raj points out, contrary to Kalecki's hypotheses, a viable restructuring of the economic order holds a dilemma for intermediate regimes, partly because of the objective constraints related to a lack of resources available to their societies as peripheral arrivals on the capitalist chain and partly due to the regimes' internal contradictions. The necessary wide-ranging mobilisation of resources by the state touches precisely those interests which exercise considerable influence in such regimes. These include in particular the wealthier indigenous capitalists and the rich peasantry -- the upper sections of the intermediate classes. It is precisely when the resource constraints on the extension of the public sector which provides the momentum to growth become pronounced and hard choices have to be made that the conflict of interests within intermediate regimes manifest themselves,62 as we shall see below.

Ultimately, the inherent weakness of the regimes in engendering adequate

61. "Its capitalist bourgeois component confronted at an early stage with the spectre of social revolution, turns swiftly and resolutely against its fellow travellers of yesterday, its mortal enemy of tomorrow [that is, the industrial proletariat and the peasantry]. In fact, it does not hesitate to make common cause with the feudal elements, representing the main obstacle to its development, with the imperialist rulers just dislodged by the national liberation, and with comprador groups threatened by political retreat of their former principals": Paul Baran, The Political Economy of Growth (New York, 1957), pp.220-21.

investible surpluses to sustain growth reinforce the structural dependence of these states on foreign sources, whether for technology, trade or aid. As Ziemann and Lanzendorfer point out in their analysis of the state in peri-

63. "By dependence we mean a situation in which the economy of certain countries is conditioned by the development and expansion of another economy to which the former is subjected. The relation of interdependence between two or more economies, and between these and world trade, assumes the form of dependence when some countries (the dominant ones) can expand, and can be self-sustaining, while other countries (the dependent ones) can do this only as a reflection of that expansion, which can have either a positive or a negative effect on their immediate development": Theotonio dos Santos, "The Structure of Dependence", American Economic Review (Evanston), vol.60 no.2, May 1970, p.231.

While the concept of "dependency" has been criticised as over-estimating the impact of developments in the advanced capitalist countries on the less advanced countries forming part of the international production process, the concept constitutes an invaluable aid in understanding the fact that as an "external" feature the dependence relation becomes an endogenous factor with implications not only for the economic, but for the political-legal and the ideological spheres as well.

Santos differentiates three broad forms of dependence which however, seem to need modifications to describe specific societies:
(i) Colonial dependence of the nature of trade-export, dominated and often monopolised by the colonial power;
(ii) Financial-industrial dependence through big capital investment from the metropolis in the production of raw materials and agricultural products for consumption in the hegemonic centers such as grew up in the late nineteenth century thereby changing the productive structure of the host economies [into what have, in their extreme form been designated as "export economies": I.V. Levin, The Export Economies, Harvard, 1964];
(iii) Technological-industrial dependence based on multinational corporations in industries geared to the internal market of under-developed countries -- largely in the post-war period.

The third along with a fourth form (of fairly recent origin and not listed by Santos) constitute neo-colonial forms of dependence different from the old primary-goods producing colonial forms of dependence. The fourth form is a new kind of financial-industrial dependence made possible by the revolution in communications technology. It involves the shifting of the unpleasant, often lower technology and labour-intensive stages/processes of industrial assembly/production to the peripheral countries -- contributing purportedly to their "industrialisation".

Needless to say, each form of investment corresponds to a situation which is conditioned not only by the international context of these countries but also by their internal structures; of which their social and political structures and stage of development are not the least important.
pheral societies, the unpredictability of the foreign factor further accentuates the relative social weakness of the classes, fractions of classes and groupings in such nations.64

b. Politico-constitutional pressure and pulls: In this context we find that the prevailing social conflicts are manifested and accentuated in various ways in politico-constitutional terms.

On the one hand, the expanding role of the state leads to the "process of increasing concentration of political power in the state apparatus."65

As democratic aspects of this process, firstly, due to the heterogenous composition of the intermediate interests, the Parliament emerges to be the logical forum for the negotiation and condensation of the conflicting interests. Related to this, the formal figure of the Member of Parliament (or MP) and the informal state apparatus of political parties or other associations at the supra-local or national level gain an increasingly powerful role. Indeed, as Wertheim points out, it is mainly during the "populist" stage that such functionaries and associations break down and integrate the earlier patron-client relationships of the feudal or colonial era into vertical formations of a quasi-patronage type aligned to themselves which then dominate political life.66 Furthermore, the judicial apparatus as the conservative force established to preserve the preceding elitist status quo is compelled to modify its role and instead arbitrate between the extant contending political forces.


65. Rainer Tetzlaff, quoted by Ziemann and Lanzendorfer, ibid.

In its less democratic aspects, this process of concentration of political power includes a strengthening of the position of the political executive's control over the administrative and coercive apparatus of the state to control both the intra and extra-regime conflict of interests, particularly vis a vis the increasingly radicalised lower classes.

On the other hand, a particularisation occurs in the context of restricted resources at the disposal of the state. With the growing role of the state in the economic realm, the state itself becomes "an important prize" to borrow Saul's terminology. Intra-class competition for control of the state and for economic advantage is activated and leads to a diversity of political factions not necessarily based on the production process.

In such a situation the petty-bourgeoisie may also divide in ideological factions. In conjunction to historical factors, uneven development often results in an exacerbation of conflict along vertical lines with relative deprivation being projected in terms of religion, language or region; as has happened too often in the sub-continent. The sharpness of this perception would, in such cases it can be argued, be a function of the centrality of state activities and the perceived partiality of the state's orientation towards a particular section of society or a group of subjects.

Consequently, as Ziemann and Lanzendorfer also point out, the growth of a state clientele and of corruption leads to the state structure being considered a private preserve and instrument of ever-changing partial interests which constantly seek to assert and legitimise themselves. In the process, the ruling elite resorts to frequent changes in and of the constitution, of the political institutions, structure and personnel in order to effect short-term

and never fully viable accommodations between the state and society. Simultaneously, due to the heterogenous class structure and given the fact that capitalist commodity relations are frequently not fully established, there is as a consequence an incomplete assertion of formal freedom and equality between individuals in society. Often the state in such countries suffers

68. Ziemann and Lanzendorfer, n.64, p.163.

Whereas power is the chief concern in the concept of "elite", it is only secondarily so in that of "class" which is concerned more with the field of production relations as being basic to those in the social realm and is thus a concept of a wider scope and situated somewhat differently. Ruling elite here is understood as that section of the dominant class(es) that is clearly active and dominant in the formal structures of the state at any point of time -- that is, involved in the formal processes of "ruling". Similarly, various elites have been specified in political analysis based on their specific spheres of action: the political elites, the counter (ruling)-elite, the colonial elite (the section predominant in the colonial state apparatus), the national elite and so on.

Obviously, the rest of the ruling class can become part of the political elite and possibly, the ruling elite; it has both the greater potential and the access to the same if it so wishes to become active. For a discussion at greater length refer to Poulantzas, "The problem of the capitalist state", in Robin Blackburn, n.39, pp.241-53. See also T.B. Bottomore, Elites and Society (Harmondsworth, 1974), pp.14 ff.

As a methodological clarification in operationalising the concepts of ruling elite and ruling class, it must be mentioned here that the former is delineated as those who are in positions of power in the state apparatus at a given time while the latter and its specific categories are differentiated by their objective ability emanating from their position of dominance in a given social formation to intervene and influence the content of state policies in their own favour. The relationship of the latter or its categories vis a vis a political party can

(i) at a more elementary level, be identified by the coincidence of the party's members with an economic class. This is however both empirically difficult and more importantly, conceptually faulty in that there is no necessary, direct relationship of the kind.

(ii) Therefore, the class character of a political party has to be sought:
   a) in the objective role played in the longer term by a party -- as to what interests it effectively furthers;
   b) by judging its interventions in the political sphere -- in framing or influencing state policies and programmes, often in the shorter run, and
   c) in a more limited manner, by judging its policy pronouncements along with its active programmatic thrust.
from a limited legitimacy manifested in the restricted effectiveness of
government resources at the local level. Clearly, if the process of nation-
building involves the penetration of central institutions downward from the
center to the periphery, this failure to assimilate or incorporate the periph-
ery with the central institutions leads to a reliance on informal arrange-
ments, ad hoc laws and/or arbitrary force to cover gaps in the central
authority structure.

It is in response to conflicts or cleavages between the central authority
and the peripherally distinct subject population(s) that locally dominant
political interests seek to mobilise the regional populations politically,
either reactively, that is, in defense of rights believed to have been
unjustly removed or denied; or proactively, that is, claiming new rights for
determining their own affairs and seek to institutionalise any gains
through the formal legalisation of the same.

c. The "bonapartist" interregnum: In view of the emerging contradictions,
an especially acute economic crisis is accentuated into a deep-seated crisis
of hegemony for these regimes both within the constituents of the power bloc
and vis a vis the increasingly radicalised dominated classes. The processes of
the development of capitalism; The emergence of monopoly forms in both state
and private industry tied to foreign capital as logical consequence of the
advanced and international character of metropolitan monopoly capital; as also
the threatening radicalisation of the increasingly differentiated classes in
both industry and agriculture (not negligibly through the dominant populist
milieu) all converge to sharpen class conflict.

69. Bjorn Hettne and M. Friberg quoted in Kirsten Westegaard, "The Relation-
ship between State and Rural Society in Bangladesh", University of Copen-
Such a crisis is perforce dealt with by resort to an unusually widespread use of coercive and emergency measures which augur the trend towards institutionalisation of exceptional forms of bourgeois rule; namely the military dictatorship, fascist and bonapartist regimes.

Taking note of analyses on the subject, it seems possible to contend that the logical culmination of populist intermediate regimes may well be the rise of "bonapartist" tendencies in such states. The gaps in the authority structure created by the sharpening class-conflict between politically-balanced class interests invoke the assumption of arbitrary power by a charismatic, leading figure and the state transforms to exhibit a "relative political autonomy" in one of its exceptional forms. In trying to "congeal" the balance of contending forces into the very heart of the state apparatus, and in seeking to firmly control popular participation, the

70. While Poulantzas makes an excellent elucidation of "exceptional regimes" in dependent countries; Laclau uses with benefit the Marxist "bonapartist construct" in his analyses of populist regimes in the dependent Third World milieu. See Poulantzas, n.25, pp.68 ff. and 90 ff., and Laclau, n.59.

In so doing, and as applied here, they approximate Engels' description of the bonapartist state emerging in exceptional periods when the "warring classes balance each other so nearly that the state power, as ostensible mediator acquires for the moment a certain degree of independence of both": Frederick Engels, "Origin of Family, Private Property and the State", Selected Works, vol.2, p.290.

This kind of analysis exposes the hollowness of the understanding of the liberal schools of political thought. As J.D. Gupta points out, the liberal theories of politics most often draw a theoretical veil of ignorance over the situation through their basic assumption of harmony between the government and the governed. This assumption encourages an underestimation of both the will and the capacity of the ruling authorities to mount an offensive against not merely the opposition, but also the existing legal-political structure of the state. See J.D. Gupta, "A Season of Caesars: Emergency Regimes and Development Politics in Asia", Asian Survey (Berkeley, California), vol.18 no.4, April 1978, pp.315-49.

71. The expression is one used by Poulantzas, ibid., p.92.
bonapartist state attempts to regain its autonomy as the "executive of the whole bourgeoisie". It seeks to accumulate and exercise virtually untramelled executive powers to carry out the necessary, sometimes progressive measures defeated by a play of vested interests in the open intermediate regime.

Besides the increasing centralisation of power in the executive, other aspects of exceptional regimes come into evidence: the hierarchical ordering and possible duplication of the real centers of power within the state, strengthening of the state's bureaucracy, suppression of the traditional political representatives (political parties) of the power bloc itself, diminution and even elimination of the suffrage and an increasing shift of the dominant role in the state apparatuses to the repressive branches. The unrestricted use of emergency powers, dramatically reveals how a limited combination of the ruling elite which strategically dominates the state apparatus overcome the other more numerous political forces for extended periods of time even, without necessarily changing the formal constitutional framework.

The exercise of virtually untramelled executive powers by the regime in the interests of capital accumulation strengthens the bourgeoisie. At the same time the arbitrary, bureaucratic mode of operation of the state and its functionaries raises the fears and even hostility of large sections of the same. In restricting the subordinate classes' influence over the state apparatus, the ideological consensus in the latter's minds vis a vis the governing

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72. The elaboration by Poulantzas of these is the most useful and complete and seems appropriate for the analysis of bonapartist and other exceptional Third World regimes, in a modified form. As enumerated in all their aspects they appear to be "overdeveloped" in regard to the Third World and more suitable for analysis as intended, of exceptional regimes in the "second-wave" countries of Europe and that of Japan. See Poulantzas, ibid., p.91 ff.
framework is also eroded. To retain the support of the increasingly differentiated and politicised masses, the bonapartist regime escalates its populist rhetoric but due to its intrinsic class character, it proves unable to shift to a stronger and, it may be added more enlightened, organisational support of the lower classes. Such regimes prove themselves unable thereby to fulfil their promises of a more genuinely broad-based and independent political and economic system. 73

Instead, threatened by the radicalising situation, the upper and intermediate propertied classes reunite under the hegemony of the former, in all probability, monopoly capital and the capitalistic landlords; and attempt to institute a new political order in which their dominance is assured.

Before closing our analysis of intermediate regimes, as a point of caution it needs to be noted that while for the convenience of analysis the various stages of intermediate regimes have been sequentially elaborated, in the weak heterogenous class composition of various peripheral societies, they may well be simultaneously staged in a complex melange with the various trends acting and reacting on one another. Such regimes have, for instance, in some Latin American states such as Brazil and Argentina stretched over a period of thirty years between 1930 and 1960 while they have been collapsed into periods of around five years in other states of South Asia such as Pakistan and Bangladesh in the first half of the seventies. If, as contended here, such regimes embody the national-democratic stage of evolution as it takes place in these peripheral capitalist societies, it is conceivable that with the continuing concentration and internationalisation of metropolitan capital such stages will become increasingly weaker for other countries treading this path in the future.

73. Raj, n.57, p.1195.
The Conservative Power Bloc and the Interventionist Model

Given the highly fragmented and heterogenous character of the social structure in these countries, it is difficult to predict the precise form in which the consequent changes will occur, but experience points with certainty to one factor. In forsaking the more democratic option for capitalist growth, the coalition of ruling classes or the new power bloc dominated now by the big bourgeoisie and capitalist landlords is faced by the ever-present threat of an organisation of the popular classes gaining control of central organs of state power. The bonapartist regime however proves too arbitrary and rigid in the long-run since it contains no channels for a negotiated settlement of differences. Coupled with its "abnormal" paraphernalia of "emergency rule" it appears too openly partisan to inculcate an ideological consensus in the minds of the subordinate classes. The new conservative power bloc therefore seeks to institutionalise itself by way of far-reaching changes in the state apparatus. The relaxation of economic controls is necessarily accompanied by a strengthening of political controls. There is an increased reliance on the executive branch of the state to enable the power-holders to intervene as considered necessary at crucial junctures. The model adopted is characterised also by the other features of exceptional regimes alluded to in the discussion above of the bonapartist state.

Depending upon the specific configuration of forces the precise forms of the regime may range from the one-party dominant state within a parliamentary framework to open or disguised military rule. The point of particular note in this context is however not merely the reliance on and strengthening of executive powers in relation to the legislative, but the actual institutionalisation of a "technocratic-authoritarian complex".74 In the context of

74. Poulantzas, n.25, p.129.
developed class antagonisms it becomes difficult for any fraction of the bourgeoisie to absorb and neutralise them through a new variant of populism\textsuperscript{75} such as was developed in the intermediate period. Instead, the unity of the conservative power bloc is sought to be consolidated and the populist vertical alignments are severed. Patronage as an institution to provide protection for the weak tends to crumble since, as Wertheim puts it "...there are too many of them [that is, the weak]; and they have to be kept in their place."\textsuperscript{76} A "culture of repression"\textsuperscript{77} seeks instead to take its place by the strengthening of the status-quoist institutional structures such as those of the bureaucracy, police and armed forces, and at times the religious hierarchy. Popular participation is severely curbed. Even in conjunctures when channels of popular participation are relaxed or laid out cautiously by degrees so as to enlarge the base of the regimes' popular support, it is attempted to be accomplished without conceding "open" political participation\textsuperscript{78} to the people. The form and character of the new "parliamentary-democracy" is thus different from the ideal-types as commonly

\textsuperscript{75} In his penetrating study of Latin American populism Laclau makes this point regarding the possibilities of populism today and in the near future in Latin America. See Laclau, n.59, pp.193-194. His observations seem as applicable to other peripheral capitalist states who have passed through the intermediate populist stage with its differentiation and radicalisation of classes.

\textsuperscript{76} Wertheim, n.66, p.256.

\textsuperscript{77} Wertheim uses this term coined by Allan Holmberg to describe the more extreme manifestations of arbitrary power by the supervisory or official strata: ibid., pp.254-56.

The term remains useful, however, to describe even the more covert repression exercised by interventionist parliamentary regimes.

\textsuperscript{78} This would, as a necessary attribute, include the freedom to mobilise political opinion around a set of issues or policy perceptions with the ultimate purpose of acquiring control of the relevant branches of the state apparatus through legitimate institutionalised channels.
understood, and different even from the one that existed formerly. In the overwhelming majority of cases in the Third World, "the non-bourgeois form is [would seem to be] the only one adequate to the bourgeois functions of the capitalist state"79 in such societies.

In critical contrast to the "second-wave" capitalist states, these societies fail to develop an internally articulated system of economic structures and linkages which would provide the fundamental basis for an independent industrialisation and development of the society. Lacking other substantial avenues for the mobilisation of resources domestically new links of dependence on foreign capital for finance, technology, markets and even further industrialisation itself are sought. In distinction to the preceding intermediate period, such links are now openly rationalised and encouraged to the exclusion of all other policy measures. Any opposition to the subordination of indigenous interests to the foreign are firmly put down. The extent and pace at which this process of reversal of preceding policies would be carried again depends on the internal balance of forces and their historical links, as we shall see in the case of the South Asian countries.

SYNTHESIS

In view of the foregoing appraisal regarding the politics underlying constitutional development of various countries, certain propositions have been put forward in this thesis which would hopefully be relevant in understanding not only the politics of constitutional development in the South

79. Tilman Evers, as quoted by Ziemann and Lanzendorfer, n.64, p.163.
Asian states in recent years, but have a wider applicability to other Third World (non-socialist) states as well. It has been argued that:

1. Emerging as a manifestation of the processes of conflict and accommodation between social classes, groups and communities at the level of the state; the politics of constitutional development have as their major objective the organisation as well as the perpetuation of a consensual management of the social order so as to, in effective terms, further and safeguard the interests of the dominant classes.

2. In ex-colonial states, depending equally on the coincidence of values with the departing colonial power and familiarity with the metropolitan models/structures of government; at independence the constitutions adopted by the indigenous dominant classes are modelled, both in form and content, as close as possible and convenient, along those of the departing colonial power.

3. The greater and the more broad-based the degree of development of the capitalist social order in these "new" states at independence, the greater are the chances of success in fashioning and operating the above-said constitutional framework in the post-independence period along lines as close as possible in the circumstances to the model originally envisaged.

4. Within these parameters, the socialist-mobilist constitutional model offers a preferred organisation of state power through which the broad strata of intermediate classes in peripheral societies hope to effect a national-democratic revolution through a populist mobilisation of the lower classes.
5. However, the continued success of the constitutional endeavour depends closely on the context and texture of the process of capital accumulation in the peripheral state; unevenness in development, both in terms of space and time, exacerbate horizontal and vertical cleavages resulting in challenges to the prevailing structure in such states.

6. The dynamic nature of such challenges prevail upon the ruling elites to evolve strategies in the constitutional realm either in the form of reinterpretation of the existing constitution or initiation of new ones so as to, at best, (i) create mechanisms facilitating greater political control, and/or (ii) restore their legitimacy by readjusting the constitutional parameters in accordance with the shifts in the balance of forces.

7. The increasingly contingent changes of both letter and spirit affected to the constitution to manage exceptional socio-economic crises so as to benefit partial/personal ruling interests weaken the ideological consensus created by the constitution in the minds of the subordinate classes.

8. The growing radicalisation of the lower classes impels the dominant classes to institute an interventionist constitutional model characterised by concentrated executive powers, and a prescribed degree of popular participation acceptable to them.