CHAPTER II
THE SOUTH ASIAN SCENARIO

The South Asian scenario in the seventies was distinguished by varying and frequent changes of their constitutions. If the experience of constitution-making in the eighteenth century has been considered a watershed in the development of the major western countries, it would not be far-fetched to say that the past decade in the case of South Asia was almost as important in this regard. Sri Lanka promulgated two constitutions during this period while Pakistan and Bangladesh promulgated one each and were making efforts to foster conditions to promulgate another, if possible. Though India and Nepal continued to operate earlier constitutions, wide-ranging changes were wrought to the spirit, if not so obviously as yet to the letter of their constitutions.

Remarkable to note in this context was the decline in attraction exerted by the colonial Westminster model for these countries. This was amply evident in the enthusiasm with which the British parliamentary-democratic system, albeit with various modifications, was adopted by the South Asian states of Pakistan, Bangladesh and Sri Lanka in their new constitutions and persistently desired by influential sections of Nepalese society in the opening years of the decade. Engulfed by the impact of the widespread capitalist crisis in the succeeding period, however, the ruling elites resorted perforce to in effect distort, if not destroy, the self-same structures through "emergency" acts and ordinances. Consequently, once the crisis was over, attempts were made to
restore normalcy but with an important difference. It was viewed as imperative by the ruling classes as a whole not to totally revert back to the preceding democratic participatory political process but make out a greater freedom for the executive, perhaps in line with the presidential model -- the attempt being to incorporate the emergency provisions as part of the normal framework for governance.

It is in view of this gamut of change in constitutional predilections of the ruling elites that one would seek in this chapter to understand the political dynamics underlying the same. The differences in the specific pace and scope of such changes would be delved into in a comparative context; the whole being necessarily analysed against the specificities of the particular historical experience of the different South Asian states. This is done with the hope that the discussion, while allowing general insights into the common factors shaping the experience of a similarly-situated group of states would also help us understand the individual uniqueness pertaining to the historical traverse of a particular case.

SOCIO-ECONOMIC DEVELOPMENT AND POLITICAL CONDITIONS

The uneven imposition and penetration of British metropolitan capital in the last three centuries served to disturb and differentiate the substantial community in history and level of development that existed in the South Asian region in the pre-colonial period. As a consequence of the uneven impact from above, the development of bourgeois relations in the subcontinent was characterised by not only the gradual and far from complete overcoming of pre-capitalist structures and relationships but had the more pernicious impact of distorting development to suit its interests. Simultaneously, in other
areas bourgeois relations based on property and exchange entrenched a modified but more vicious form of feudalism in relation to land.

More specifically, while the areas constituting the "buffer states" along the northern frontier were only indirectly affected, vast areas of the fertile Indo-Gangetic plain were made subject to legalised and transferable semi-feudal rights to extract rent and collect revenue. A comprador capitalism based on plantation agriculture and export-linked commerce and finance activity flourished in areas of Bengal, Madras and Sri Lanka while a more indigenously-based form of capitalism developed notably in the areas of Maharashtra and Gujarat, and in a subordinate status in Calcutta and Madras.

Thus, while the dominant mode of production with its trans-territorial links for the South Asian region was capitalism, it was only perchance manifest in the social formations of the different South Asian countries as they were constituted at independence. The substantial organisation and political role of the rising classes and strata of bourgeois society through the course of the freedom movement varied substantially in its impact on one country from the other determining the success of the institution of the rational-legal parliamentary-democratic frameworks as shall be seen below. Intermediate blocs could be formed only consequent to the development of the broader stratum of the petty-bourgeois class. Accordingly, they arose to dominate state power in India soon after independence, in Sri Lanka in 1956, in Pakistan and Bangladesh only in 1970.

Despite distinctions in the socio-economic and still more, political conditions in the South Asian states in the post-independence period, their general situation as peripheral countries characterised by a heterogenous class composition manifest certain features of similarity and simultaneity in a number of processes and changes.
The post-war break-up of the British colonial empire and the rise of American capital to a predominant position, brought in its wake new forms of imperialist domination. In place of the old metropolitan monopoly capital characterised by its difference of industry versus primary production in the colonies, American finance capital was channelled through both multilateral and bilateral arrangements to aid and penetrate in firstly the recovery of post-war Europe and then increasingly, by the close of the fifties, the development of Third World countries. Consequently, in place of the earlier more direct ties of subordination to imperial interests, there arose more advanced and less obvious forms of dependence on the metropolitan nexus through trade, aid and technology.

Within this context, in the newly-independent South Asian states the locally dominant classes sought to utilise the state to promote the process of capital accumulation. The state mediated, regulated and channellised the flows of foreign and internal funds to develop both industry and agriculture. The accelerated pace of development consequently encouraged the differentiation of classes in both the urban and rural areas. The failure to do more than selectively nationalise a number of local and foreign monopoly-owned enterprises and break the power of the rural landlords resulted in shackling further development and contributed to a sharpening of class contradictions within these societies. Inter-class struggles were manifested in the growth of strikes in their urban centers and a rising tide of social clashes in the countryside in the late sixties. The development of contradictions within the propertied classes especially between the landed upper crust and the broader bourgeois and petty-bourgeois classes on the other manifested themselves in the growth of an intra-class struggle between factions of the dominant classes.
The superimposition of the two struggles led to the emergence at the national level through the parliamentary framework at the onset of the seventies in all the South Asian states (excluding Nepal) of parties dominated by the middle and lower-middle classes backed by the increasingly politicised urban and rural labouring classes. The mobilisation of the latter classes had compelled a new content to be given to the promises of radical structural change that had existed in the "populist" ideology of the ruling parties in India and Sri Lanka since the fifties and which gained credence in the two wings of Pakistan in the late sixties.

This realignment of forces in the opening years of the decade underlay the attempt on the part of these regimes to chart deeper socio-economic reforms and measures than previously. The Westminster parliamentary-democratic order adapted along a socialist-mobilist model offered the natural vehicle with which they were familiar through which they hoped peacefully to effect structural change within the capitalist framework.

The dramatic impingement of successive external factors in 1970-73 in the shape of fluctuations in leading currencies, shortage of food-grains and the sharp hike in the prices of oil and fertilisers in the world market accentuated the domestic resource crisis of the South Asian intermediate regimes and exacerbated intraand inter-class conflicts. The crisis was managed through a resort to "emergency" powers by the ruling parties who sought to justify their use on the mixed grounds of national security, public order and/or economic development.¹ The charismatic leaders of the ruling parties: Mrs. Gandhi in India, Bhutto in Pakistan, Mujibur Rahman in Bangladesh and

¹. For a good discussion on the promise and performance of such "development dictatorships" see Jyotirindra Das Gupta, "A Season of Caesars: Emergency Regimes and Development Politics in Asia", *Asian Survey*, vol.18 no.4, April 1978, pp.315-19.
Mrs. Bandaranaike in Sri Lanka; attempted much in the manner of modern-day Bonapartes to subjugate powerful vested interests in both industry and agriculture, and to curb lower-class militancy so as to ensure the overall growth of national capital. To do this, they sought to subdue opposition and dissent in all its forms while propagating the need for "commitment" to governmental policies from the bureaucracy and the judiciary. While the coercive forces were strengthened and used to compel obedience to the regime's diktat, the persuasive function of political activity and debate was sought to be fulfilled by the increased radical rhetoric of the ruling party through the state-controlled media. The informal patronage network of the ruling parties acquired new dimensions in the access to and distribution of the restricted resources at the disposal of the state -- emphasising thereby the new concentration of powers in the hands of the central executive.

The concentration and exercise of arbitrary executive powers, however, over extended periods of time was such that the very democratic bonafides of these intermediate bonapartist regimes were eroded. While the propertied interest groups found respite in the ensuing emphasis on "order" and were better situated vis a vis the state apparatus to secure decisions beneficial to them, the more privileged sections of these; namely the comprador and big bourgeoisie (especially the commercial and financial segments) as also the big landlords; which had been under particularly severe challenge in the preceding framework formed the core of an opposition seeking to mobilise the wider discontentment and disaffection. Towards this end they projected partial solutions suitable to them such as of restoring democratic values and institutions, reforming the electoral system and/or wiping out corruption.

Feeling threatened by the earlier populist rhetoric espousing "socialism" and structural change, the propertied classes closed their ranks against
further radical solutions. Reunited under the hegemony of big/monopoly capital, the new power bloc reiterated its faith in the private ownership of the means of production and private and foreign capital as providing the propellant to growth. This has been accompanied by the reintroduction of a parliamentary framework as and when considered safe. Critically, in the interventionist regimes that emerged towards the close of the seventies, the play of representative forces in Parliament and outside is more restricted than before with the executive being delineated greater freedom to act in contingencies. There is a renewed emphasis on legal and bureaucratic processes over the participative. At the ideological level this authoritarianism has been more obviously combined with cultural-religious symbols to make it popularly acceptable: the monarchy has been so upheld in Nepal, Islam in Pakistan and Bangladesh, "dharmishta" society in Sri Lanka and a pro-Hindi bent was evident under the Janata Party in India.

INDIVIDUAL CASES

The Indian Case: An Autochthonous Constitution in Crisis

In India, as a contrast to most Third World countries, the domestic bourgeoisie at independence was more developed and mature, containing only a small, strictly comprador element. In line with its interests, the Indian bourgeoisie established its hegemony over the movement for national independence led by the petty-bourgeois Congress organisation. However, under pressure from the lower classes in industry and agriculture, the bourgeoisie found it necessary and advantageous to maintain a "socialist" profile for the

Congress even while it forged an alliance with the former landed classes. As a result, the oligarchic bloc as constituted in India at independence was penetrated substantially by a national bourgeoisie.

Accordingly, a virtually clean, formal break was made at independence with Britain as evident in the autochthonous Constitution promulgated two years later. The new coalition of social forces was assured adequate representation in the Constituent Assembly by the fact of Congress dominance in this body. The clear class-bias of the Assembly was apparent in the fact that while 93 seats were occupied by former rulers of the princely states, the rest were occupied by members who had been elected to the Provincial Legislative Assemblies in 1946 on the basis of an electorate fulfilling tax, property and/or educational qualifications which included a mere 28.5 percent of the adult population in the Provinces. This class character of the Assembly was clearly reflected in the Constitution in that although ownership of private property was subject to restrictions imposed by Article 19(5), it was sanctified as a fundamental right. Further, while feudal relations were discouraged through the abolition of the princely states and zamindari, privy purses and high land ceilings remained. The policy of the state towards securing ownership and control of the material resources of the community so as to best subserve the common good and the prevention of concentration of wealth and means of production to the common detriment were placed as mere

3. United in the struggle for independence, the Indian bourgeoisie took the lead in nationalist politics, thus commanding both the working classes and the peasantry who joined the nationalist movement: Charles Bettelheim, India Independent (New Delhi, 1977), p.130.

4. Ibid., p.106. For details on the Constituent Assembly and its proceedings, refer to Granville Austin, The Indian Constitution: Cornerstone of a Nation (Bombay, 1966).

5. Article 31.
"Directive Principles" to the state.\textsuperscript{6}

Since the ruling class alliance between the national bourgeoisie, both big and small, and the landlords was a stable one, the form of government outlined was that of a parliamentary democracy with a federal political structure. The head of the state -- the President -- held executive powers which could and have been used in "a state of emergency" either at the state or national level. Notably, the indirectly-elected President and the civil and military bureaucracy remained subordinate to the wishes of the Prime Minister heading the popularly-elected Parliament. The areas of influence of the coalition partners were demarcated in the quasi-federal structure of the government in that the executive powers of the central government were applicable to all areas except some such important ones as related to agrarian and urban property, local commerce and moneylending which remained within the ambit of the powerful local interests.\textsuperscript{7}

State capitalism was instituted in the fifties on the basis of foreign aid and domestic resources. It served to quicken the pace of capital accumulation to the benefit of both the monopoly and petty-bourgeoisie but the dominant class alliance ruled out any radical mobilisation of resources or structural change.\textsuperscript{8}

\textsuperscript{6} Article 38, 39.

\textsuperscript{7} Articles 352-360.

\textsuperscript{8} Therefore, while on the one hand the importance of the financial relationship between the central government and the states prevented financial initiatives in the states' hands, on the other, "experience has shown that, most states are under far greater pressure from the landed proprietors and capitalists specialised in money-lending than from the central government. These clauses have been used to the full to prevent agrarian reform effectively in spite of Congress intention/dominance and the Communist effort in Kerala in 1957-59": Bettelheim, n.3, p.112.
As the economist, Prabhat Patnaik succinctly puts it

The weakness of state capitalism lay in the fact that the nature of the state while apparently giving it enormous strength, made it fundamentally weak. While on the one hand it had to maintain the balance of the class coalition and to make periodic concessions to the exploited, on the other hand it could not change the position of any constituent group too strongly for that would affect the collective strength of the coalition. The limits to state action were sharply drawn and any radical structural reform was ruled out.9

This weakness of state capitalism coupled with a foreign exchange crisis resulted, by the late sixties, in the crisis of hegemony of the ruling Congress power bloc. A medley of opposition governments reflecting locally powerful interests came to power in the states, while the dominant classes, as a whole, were challenged by the more differentiated and radicalised lower classes.

A reconstituted intermediate bloc providing greater representation to petty-bourgeois and working-class interests came to power led by Indira Gandhi in 1969. It promised to effect radical structural changes in an attempt to broaden the base for capitalist growth. Towards this end, it passed the politically and economically contingent legislation nationalising banks and abolishing privy purses.10 When faced by a challenge from the judiciary on this account,11 through a series of amendments12 it asserted the right of


11. Following the ruling made in the Golaknath vs. State of Punjab, 1967 case, the Supreme Court ruled in Cooper vs. Union of India, 1970 and Madav Rao Scindia vs. Union of India, 1970, relating to the bank nationalisation and the abolition of privy purses respectively, that the measures were unconstitutional, the former because it infringed the fundamental rights inscribed in the Constitution by failing to make proper provision for the payment of compensation and the latter, as being incompatible with the constitutional guarantee to privy purses contained in Article 291 of the Constitution.

Parliament to legislate in any sphere pertaining to implement the directive principles of the Constitution.

This upgrading of the powers of Parliament had far-reaching implications. It eroded the authority of the judiciary to counter-rule Parliamentary legislation and thus uphold the status quo. It also subordinated the states to the Center in the federal structure by derogating the powers of the judiciary of arbitrating conflicts between the central executive and the states.13 Further, the strengthening of the legislature enhanced the ability of the prevailing Congress majority in Parliament to enact legislation or ordinances to contain and control both interand intra-class conflicts and challenges, as became increasingly evident in the crisis-ridden years following 1971.

The formal apparatus of the administration and coercion at the disposal of the Center coupled with the imposition of emergency or "President's rule" on the regional or state level were actively and systematically used to undermine and replace both dissident Congress and non-Congress state governments by subservient factions of the ruling party. Uncompromising communist opposition, both legal and extra-legal, was particularly repressed in the politicised Eastern parts of India while there was an open deployment of the army in the peripheral north-eastern tribal states to impose the control of the central administration. The extent to which the political process became centralised and personalised in this period, was startlingly proved by the manner in which emergency was declared in mid-1975 by Prime Minister Gandhi without the consultation even of the Cabinet.

The Indian emergency has been delineated by one commentator as "a specific political expression of economic dependency, underdevelopment and hegemonic crisis." Thus, while widespread coercive and preventive "emergency" measures were deployed or enacted to contain the challenges to the ruling clique itself, both legitimate and illegitimate; the emergency was propelled in the economic sphere to served the interests of one of the most developed bourgeoisies of an "underdeveloped" nation. A limited attempt to carry through a land reform, with ceilings on double-cropped irrigated land at 18 acres was made in the effort to release agrarian potential for production. The firm grip of middle-level capitalist landlords over local state power defeated these efforts.

In search of a long-term solution to overcome the erosion in the ruling bloc's hegemony among the populace, the idea of a change-over to a Presidential system was floated. Failing this, the 44th Amendment attempted to legitimise a dictatorship-of sorts, through delegating untrammelled powers to the central executive. However, coupled with various pressures, the paradox of the implicit "temporary" nature of an emergency dictated a search for a more viable political relegitimation through general elections, a year overdue.

The reversal of the ruling Congress in March 1977, served to restore the bonafides of the formal system which had been under severe attack in the pre-emergency period. However, the attempt to retain certain arbitrary provi-


sions of the 44th Amendment underlined the unchanged class character of the new regime. The instability at the Center during 1977-79 could be viewed as a manifestation of the infighting between sections of the ruling coalition dominated by middle-level commercial-financial interests and the capitalist peasant classes to assert greater state power at the central level in the changed circumstances than was being allowed by the post-independence arrangement. While the "pressure-cooker" of the emergency had succeeded in bringing together the different opposition parties under one banner at the central level, their very strengths based on different classes and regions, made it impossible for them to emerge together into a complex but viable alternative to the Congress at all levels of state power.

This crisis of hegemony at the parliamentary level served, most importantly, to augment the executive forces in the system: initially, by allowing a greater leeway to the President to act at his discretion as in August 1979 and later more importantly -- the Congress(I) -- through a popular mandate in the January 1980 elections.

The consolidation of the ruling classes in the new power bloc led by the monopoly bourgeoisie is emphasised in the complete omission of any reference to socialism and structural change in the new dominant ideology. This consolidation is also reflected in the increasing link-up with Western monopoly


18. The term was used by Atal Behari Vajpayee of the erstwhile Janata Party to describe the coalescing of feuding opposition parties into the Janata Party in early 1977.
capital presaged by the controversial IMF loan. The accompanying "open" economic policies go hand-in-hand with the legislation of the repressive National Security Act of 1980 and the Essential Services Maintenance Act of 1981 (which notably ban all strikes in essential economic services as illegal), and a renewed interest in the Presidential form of government.

**Pakistan: Constitutional Politics in a Garrison State**

In contrast to the Indian case, Pakistan's recurring failure in constitutional government can be understood only in the context of its weak development of capitalism and consequently, the weak base that existed for the establishment of a parliamentary-democratic framework.

The uneven nature of colonial development was interpreted and exploited in communal terms by the Muslim ruling classes to secure a state in which they would dominate. The regions which came to constitute the state of Pakistan had traditionally been suppliers of raw materials to industries located elsewhere in India and England: wheat and cotton in the West and jute in East Pakistan. Before partition, Muslims had been active in trade -- representing merchant capital -- and many of these Muslims migrated to Pakistan during the time of independence. Although they were influential in the Muslim League, they had no local power base. In the virtual absence of a strong local

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19. This enormous loan of 5 billion SDRs from the IMF was contracted clandestinely without any open political discussion or disclosure either in Parliament or outside. For details on the loan and its "conditionalities" refer to EPW, vol.16 nos 42-43, 17-24 October 1981, pp.1670 and 1684. For developments over this period see Walter K. Anderson, "India in 1981: Stronger Political Authority and Social Tension", Asian Survey, vol.22 no.2, February 1982, pp.119 ff.

bourgeoisie, therefore, feudal and semi-feudal landlords, dominating the vast rural expanse of West Pakistan constituted the most powerful class within the post-independence power bloc.21 The Muslim League, as the one party which could have provided the cohesion and legitimacy to any effort at constitution-making in the post-independence era, in a matter of years became permanently discredited as "a clutch of corrupt and quarrelsome caciques"22 -- and epitaph equally applicable to the other political parties that mushroomed in the "parliamentary period" 1947-56.23

In a real sense, therefore, the "politics of non-consensus"24 between the landlords strengthened the influence of non-parliamentary forces in Pakistan. First the bureaucracy and later the military, both trained by the British as instruments of colonial rule and having strong links with the landlord class of Punjab and to some extent Sind, became the most effective political forces in their own right. Alongside, government patronage encouraged the development of a bourgeoisie largely drawn from the trading minority Muslim-immigrants from India settled in Karachi. This bourgeoisie which remained tied in a dependent mutually-beneficial symbiotic union to the


22. Tariq Ali, "Pakistan and Bangladesh", in Blackburn, ibid., p.327.

23. Despite the fact that this period did not foster any type of bargaining in politics, the period from 1947 to 1958 has been ironically for lack of a better nomenclature been labelled one of "parliamentary politics" by many authors. For instance see S.D. Bailey, Parliamentary Government in Southern Asia (London, 1953), and Mushtaq Ahmed, Government and Politics in Pakistan (Karachi, 1963).

24. A parliamentary system of government is critically based on a consensus of major social interests in the continuance of its function leading, thereby, to a greater spirit of accommodation in politics and a greater adherence to function within the framework of the same.
bureaucracy and military brass. As a result, in spite of enormous concentration of wealth by 1968, the industrial capitalist class of Pakistan remained a weak, subordinate political force.

The outstanding facts of Pakistan's political life -- the regional concentration of power centered in Punjab and parts of Sind and the strength of the military-bureaucratic oligarchy largely drawn from the same areas -- had a distinct outcome for its constitutional development. While this power bloc favoured the demand for "provincial parity" in the face of the more populous East Pakistan, the East wing along with the smaller provinces of the West wing consistently supported a strong, functioning parliamentary system which would ensure greater political representation for them as also an induction of their people into the state services in greater numbers.

Further, in keeping with the dominantly feudal ideological milieu and in the absence of any other symbol of national identification all sections of the population proclaimed adherence to Islam. However, in the unevenly developed

25. Within its "peripheral-capitalist" position, the Pakistani case has much in common with the Bismarckian pattern of development. "The German bourgeoisie remained constantly in debt to the State, because its marked economic role was indispensable to it": Nicos Poulantzas, Fascism and Dictatorship (London, 1974), p.28.

26. The most notable being the "One-Unit Plan" of Governor-General Ghulam Mohammad "legalised" by the Second Constituent Assembly through the enactment of the Establishment of the West Pakistan Bill on September 30, 1955. Ayub maintained this "parity" throughout his regime. Yahya submitted to the demand to bread up the One-Unit of West Pakistan and restore the four old provinces under pressure from the non-Punjabi states. For details look up Robert LaPorte, Jr., Power and Privilege: Influence and Decision-Making in Pakistan (New Delhi, 1975), p.90; and G.W. Choudhury, Constitution and Development in Pakistan (London, 1969).

social terrain each section interpreted the term "Islamic State" as it suited them best. 28

With the take-over by the military in October 1958, the ensuing period till March 1962 constituted one of "unchecked executive rule" 29 emphasising the "garrison-state nature of the Pakistani system". 30 The same was sought to be institutionalised in the one-man strong presidential form of government of the 1962 Constitution. Centralised executive rule, indirect "guided" democracy and restrictive measures were used liberally to foster a government-subsidised private capitalism in both town and country. The Ayub's regime's efforts were openly blessed by foreign, primarily American, investment and aid. This configuration of interests not only accentuated the existing social and regional disparities but made the "minority" provinces -- especially East Pakistan -- into virtual colonies of the Punjabi and Sindhi dominant interests, 31 leading to widespread unrest on both these accounts in the late

28. The Ulema would have liked to adopt the institutions of the early Caliphate, the intelligentsia wanted to interpret Islamic principles in terms of democratic constitutional practice of the twentieth century, while the minority Muslims' model was a secular democratised Western state. For details refer to Choudhury, n.26, pp.34-66.

29. LaPorte, n.26, p.56.
   "When the legal means to insure dominance of decision-making were exhausted in 1958, extra-legal means had to be employed": ibid., p.53.

   For Ayub's view of the martial law's goal to politically "stabilise" the nation, see Mohammed Ayub Khan, "Pakistan Perspective", Foreign Affairs (New York), vol.28 no.2, July 1960, p.550.


sixties. The popular demand led by the intermediate classes in the two wings insisted on a democratisation of the power structure and a greater public accountability by the "power holders" in future. As a first step in this direction elections were called for and held.

As a logical corollary, to the cleavage of interests between the two wings and the dominance of one over the other, East Pakistan despite its majority in the 1970 national election (the first in free Pakistan!) could not be allowed to form a government, frame a constitution or be conceded even a majority of its "six points" without posing a severe threat to the interests of the West Pakistani ruling classes.

With the traumatic breakaway of Bangladesh; the capitalist farmers, the urban petty-bourgeoisie (both industrial and commercial) and professionals of Punjab and less so, of Sind, supporting the Pakistan People's Party (PPP) became the dominant forces in West Pakistani politics for the first time.

Faced with the threat of further secession by the minority provinces, the demand of the latter for a federal parliamentary structure of government was

32. Pointedly, the "Six Point" demand of Sheikh Mujibur Rahman, leader of the Awami league called for a federal form of government. The federal government would deal only with defence and foreign affairs. Two separate but freely convertible currencies for the two wings or one currency for the whole country with effective constitutional provisions to stop the flight of capital from East to West Pakistan were demanded. Separate banking reserves and separate monetary and fiscal policies for each wing were also considered necessary. A further stipulation was made that the Center would receive only a fixed share of the taxes, that separate accounts would be maintained and initiative to deal with foreign countries in the sphere of foreign trade would be delegated to the two wings. Moreover, it was also demanded that a separate para-military force be set up in East Pakistan: Jahan, n.27, pp.167-9.

perforce conceded in the 1973 Constitution. However, the above coalition of forces retained a critical hold on the system by the fact that despite residuary powers being granted to the provinces in the delimitation of departments between the Center and Provinces, the Center "maintained itself with respect to the Provinces under this Constitution". Secondly, by virtue of their bigger population, Punjab and Sind maintained an implicit dominance in the National Assembly which retained an exclusive right over money bills. Drawing lessons from the experience of Pakistan since independence, the President was made a creature of the duly-elected Prime Minister and Article 6 of the 1973 Constitution defined any action taken by the army in contravention to the Constitution as "high treason". Further, in the light of the instability of Pakistani parliamentary politics, Prime Minister Bhutto sought to secure his position by barricading the position of the Prime Minister against an easy vote of no-confidence from the Assembly, and augmented his power in the emergency provisions. Unable to resist the pressures of the dominant ideological milieu, Article 1 declared Pakistan to be an "Islamic Republic" and Article 2 declared Islam the "state religion" of the country.

To keep his populist base under control Bhutto used both economic measures and police power in a bonapartist manner. Notably Bhutto's abolition of the sardari system, introduction of land reforms, nationalisation of 31 industrial concerns in 10 basic industries by 1972 and a further installment of land reform and nationalisation of cotton mills and trade in 1976-77 disturbed the


35. LaPorte, n.26, p.107; and Rose, p.442.


status quo. Other measures promoting the state sector and benefitting the lower class accompanied by flamboyant socialist rhetoric aroused the expectations of the masses.38 Loopholes in the law, however, provided escape routes for even bigger landlords;39 while fear of nationalisation and severe cost inflation led to the flight of capital accentuating the resource crisis.

The simultaneity and similarity, in essential terms, of the economic crisis in the early seventies in the various South Asian states was likewise dealt with by the PPP ruling elite by a resort to similar preventive/repressive measures. The Constitution was amended to strengthen the powers of preventive detention as also to curb the powers of the judiciary vis-à-vis the executive and the subordinated legislature.40 As in India, however, the argument given was that despite these changes the "basic structure" of the Constitution remained unchanged.41 The sense of relative deprivation suffered by the North-West Frontier Province (NWFP) and Baluchistan was


Sayeed, however, prefers to delineate the Ayub regime also as a bonapartist one rather than the purely military-authoritarian one that it was, concretising the dominant oligarchic power bloc. To do this, he questionably modifies the concept of bonapartist regimes as including the rule by an arbitrary leader deriving his power and authority from a well-established institution like the army, or as in the case of Bhutto, a political movement (p.89) -- two very different bases of political power indeed!

   Reportedly, Bhutto and his family retained 2,200 acres of agricultural land.

40. For reports on the Fourth and Fifth Amendments see Dawn (Karachi), 14 November 1975 and early September 1976.

41. Ibid.
   It seems Bhutto was keen to amend the Constitution along presidential lines for which he had always had a personal preference. Towards this end he desired to attain a two-thirds majority in the elections scheduled for May 1977.
   See Sayeed, n.38, p.106.
accentuated by the fact that after February 1973 they were no longer functioning under their own popularly elected governments.

In the deteriorating situation thus, the conservative opposition parties represented interests ranging from the upper landed and business classes to the relatively more prosperous groups of white collar workers, traders, merchants and civil servants. Reinforced in some instances by unions linked with trade and commerce, issues of religion and language were markedly in evidence in the mobilisation of the Pakistan National Alliance (PNA) in 1977 in contrast to the class-based slogans of the anti-Ayub movement mobilised by the PPP.42

The takeover by the army in July 1977, in the Pakistani context merely clinched the renewed resort to executive powers to control the challenge of strident political awareness. The new military regime consistently for over a year sought to coalesce various conservative forces into a cohesive bloc so as to restore and legitimise a system of popular representation excluding the PPP. Failing to do so, where initially it sought to discredit Bhutto and the PPP leadership on charges of murder and gross abuse of power; it sought later, especially after Bhutto's hanging, to deliberately disqualify and debilitate the remaining party organisation through arbitrary and discriminatory rules and legislation.43

Significantly, it did not pick issue with the policies of the PPP regime. Instead, it sought to relegitimate the rights of property by recourse to a

42. For an excellent comparison of the two movements see Sayeed, ibid., pp.139-163.

43. For instance, the Political Parties (Amendment) Ordinance of 1979 would declare a party defaming the army and judiciary ineligible to contest elections. Likewise, parties hoping to participate in the elections proposed for 16 October 1979 were required to submit a statement of their accounts and details on their membership along with an undertaking not to criticise the armed forces.
partisan interpretation of Islamic tenets. The most macabre aspects the above process was the institution of penal measures of a seventh century tribal society involving amputation of limbs for theft of property. Enterprises nationalised by the state and the measures taken against the landowners under the former regime were reversed. The payment of compensation in appropriation of property (where unavoidable) by the state has likewise been justified by reference to Islam. It faced a dilemma in the framing of economic measures according to Islamic law when dealing with interest-taking which is disallowed by Islam. Predictably, due to Pakistan's ties to the world of international finance, only reluctant action was taken in this direction.44 As predictably, it met with little success.

Interestingly, the employment of Islamic law does not supercede the 1973 Constitution. The failure of the regime to constitute a suitable electorally legitimated representative body to make relevant changes has resulted in more than a hint of a dual socio-legal structure.45 Besides the disabilities placed on the functioning of political parties in general and the PPP in particular, the regime's professed interest on basing half the seats in future legislatures on proportional representation indicates a preference for a

44. Lawrence Ziring, Pakistan: The Enigma of Political Development (Colorado, 1980), p.54.

45. High courts were instructed and shariat benches established to judge the validity of the still operating 1973 Constitution according to Islamic tenets: see Dawn, 9 February 1979.

The challenge was raised by Begum Bhutto in the Pakistani Supreme Court that her husband was illegally held by the authorities because Martial Law was itself an illegal act. Interestingly, the Supreme Court ruled unanimously that martial law imposed on the country in July 1977 was an extra-constitutional step stemming from necessity and as such had legal validity and therefore, Bhutto's trial was legal and proper! Further, argued the Supreme Court the regime enjoyed both de facto and de jure authority -- thus clearing the way for the consolidation of Zia's power. See Ziring, ibid., p.202.
fragmented political system rather than the overwhelming majorities possible in a polarised situation on the basis of a minor difference in votes under the simple majority system. Constitutional validation has been sought for an increased role for the President and the armed forces in times of political crisis. The latter are thus sought to be assigned a pivotal position in the Constitution as final custodians of the country's integrity. This trend highlights the fact that domination by the ruling classes in peripheral capitalist societies such as Pakistan's with their extremely skewed growth of capitalist income and profit can only be ensured through what has been termed as a "military Leviathan" or a "garrison-state".

**Constitutional Changes in Bangladesh: A Case of Permanent Emergency?**

It would be true to say that if Pakistan's recurring failure to establish a stable, constitutional structure was due to the intrinsic nature of a modern state apparatus based on the power of the big landed classes and a weak dependent bourgeoisie; its breakaway, Bangladesh's difficulties, in contrast can be attributed to the absence of a strong and hegemonic ruling class -- resulting in a virtually permanent state of emergency and executive rule since its inception.

Partition in 1947 had created a rural social structure in East Pakistan, overwhelmingly dominated by a mass of peasant small holders, a great majority

46. For details, see Ziring, *ibid.*

47. Significantly, this change was sought to be concretised before the proposed elections took place: see *Patriot* (New Delhi), 21 September 1977 and *Dawn*, 24 March 1979.

As an argument to the validity of balancing the powers of the precedents towards the same were sought in the previous constitutions of 1962 and 1956; as well as by comparisons with Turkey, Spain and France especially. A team was even sent to Sri Lanka to study its smooth change to a presidential form of government in 1978.

48. Sayeed, n.38, p.185.
of whom owned less than 5 acres of land, producing cash crops for the market: jute and cotton.\textsuperscript{49} In the urban areas, the emerging petty-bourgeoisie; consisting of small traders, shopkeepers, professional people, teachers and clerks; became potentially the most important class. While culturally, the influence of this class was predominant, in economic and political terms it remained weak. The reluctant/calculated concessions by the Ayub regime\textsuperscript{50} made little difference to its strength. The chief effect of his overall policies were to foster a locally influential rich peasant class and to aggravate the contradictions between the West Pakistani ruling classes and the aspirant Bengali bourgeoisie.

After independence, it soon became clear that given the nature of the classes dominant in the intermediate bloc represented by the Awami League (AL), the rich peasant and lower middle-class commercial and trading interests, its commitment to socialism was no commitment at all. While the AL extended the areas of national control through nationalisation and reinvestment to meet popular expectations it did not seek to radically redistribute income or property which would affect its support base.

Capitalism "sponsored" by the state paved the way for the growth of indigenous private investors who came to wield considerable influence in the post-Mujib period. More immediately, the AL leaders utilised aid to enrich not only the party but themselves and used the state apparatus to personal

\textsuperscript{49} Nations, n.21, p.256.

\textsuperscript{50} The most notable of which were that by the late sixties, the provincial administration in East Bengal was almost staffed wholly by Bengali civil servants, the creation of a "contractor" and "contractor" class of dependent Bengali bourgeoisie and raising the land ceilings retrospectively from around 33 acres to 150 to benefit the traditional "zamindar" class: Alavi in Gough and Sharma, n.20, pp.169-70.
economic advantage.\textsuperscript{51} While groups such as the civil bureaucracy, big business, top military brass and religious parties which had supported West Pakistani domination, in contrast, came under fire and grew increasingly hostile to the ruling regime; factional struggles within the party and the army sharpened the more widespread alienation with the ruling power bloc.

In the crisis of the early seventies, this prevailing discontent and growing opposition to the regime served to lead the AL to use constitution-making as "a shrewd, strategical move to legitimise its power and consolidate its gains."\textsuperscript{52} Ignoring the plea for a public debate on the constitutional draft made by its lone opposition member, the AL majority virtually pushed any acts and amendments through parliament. Like its counterparts in the other South Asian states, it sought to institute a model patterned after Westminster. However, a strong executive was envisaged, evident not only in the extensive range of tasks allotted to it in the "Fundamental Principles of State Policy", but also in the power delegated to it over the judiciary and bureaucracy.\textsuperscript{53}

Further, a special provision bolstered the executive's position in Parliament by reducing the risks of defection by its supporters. Qualification on fundamental rights of citizens and secret trials at the decision of the majority of the Parliament were other salient features of the Constitution.\textsuperscript{54}

\textsuperscript{51} Studies have pointed out that the aid by the end of 1973 totalling $1,257.6 million more than covered the total damage Bangladesh suffered equivalent to $1,207 million, if the disruption of the infrastructure of economic activity is not taken into account: Tony Hagen, CORR: Relief and Rehabilitation Operations, Bangladesh 1972 (mimeo, September 1973), vol.3.

\textsuperscript{52} Refer to Tushar Kanti Barua, Political Elite in Bangladesh (Berne, 1978), pp.103-22.

\textsuperscript{53} For details refer to ibid., p.131.

\textsuperscript{54} Ibid.
In view of the prevailing needs and the radicalised milieu of East Bengal society, the Awami League enjoined itself in the Constitution to establish "socialism", the exact character of which was, however, not delineated. No declaration to abolish private property was included. Ambivalent land reforms were enacted in which while the ceiling was placed at approximately 33 acres, the definition of "family" was left unclear.55

However, as later events proved, the weakness of the ruling class, in economic terms, eroded its ability to effectively utilise either the "persuasive" apparatus of the state, the Parliament and judiciary, to further its ends in a "masked" manner; or the "coercive" apparatus, the police and military, to perpetuate an explicitly authoritarian rule.56 In the severe and widespread social crisis, increasingly repressive legislation was passed and emergency provisions strengthened till emergency was finally declared in late December 1974.57 Subsequently, within a month, the fourth amendment to the constitution -- a "constitutional coup" -- was promulgated introducing a powerful Presidential one-party system. Mujib's assumption of Presidentship was made secure by extending his tenure as the same for another five years.58 Lacking in the essential ingredient of state power, the increasing use of the coercive apparatus (the military in this case) to further patently sectional civilian interests served, more than it had in united Pakistan in

55. Dainik Bangla (Dacca), 31 December 1972. As the editorial points out these policies were directed to benefit the surplus and middle class farmers rather than the small and landless farmers.

56. The truth of the following contention is borne out by the subsequent history of Bangladesh: "It is possible to construct a powerful state apparatus but one has to have economic power on which to base it", Tariq Ali in Gough and Sharma, n.20, p.456.


the fifties, to politicise the organisation in question as manifested by the rapid coups, and counter-coups in late 1975. Likewise, the period that followed constituted one of unchecked executive rule, exercised in favour of classes which had grown to exercise power under Ayub. Denationalisation measures and liberal investment policies accommodating the interests of foreign capital were a clear indication of the substantially different orientation of the new, more conservative bloc of forces. The withdrawal of subsidies and introduction of measures to extract revenue from agriculture pointed to a desire to weaken the AL's rural base. Encouragement was given to orthodox religious parties to use religion for political purposes. The "professionalization" of the army and bureaucracy was emphasised once more by purging the political elements therein and emphasised the resort anew to the traditional mechanism of control by the Pakistani elite.

The cautious attempts to legitimise executive rule in the longer term became apparent in the referendum by Zia to affirm the continuance of his stewardship. Thereafter, elections were held to the union parishads, then the municipalities, the presidential elections and then only, the parliamentary ones in which Zia headed a newly-formed party -- the Bangladesh Nationalist Party (BNP). The new form of "democracy" was indicated by one of the bills passed by the National Assembly during its first session in April 1979. This fifth amendment bill ratified and confirmed all proclamations, regulations, orders and other laws made during martial law. Subsequent to this, Martial law was withdrawn and government-controlled newspapers informed the nation that

democracy was restored. The stipulation that any future form of government would be presidential rather than the parliamentary one as desired by certain outlawed parties further highlighted the realities of power in the country.

The manner in which the political structure Zia had built withstood his assassination seemed to point to a certain success in his strategy of institutionalising an interventionist state. The resumption of power by the army consequently and the pro-Mujib orientation of General Ershad initially appeared to indicate that in primarily agrarian Bangladesh the rural rich base of the AL had had reservations regarding the proposed structure of power in which they would remain a subordinate force.

Nepal: A Continuing Quest for a Constitutional Consensus

In contrast to the rest of the sub-continent, the indirect political domination by the British of the small Himalayan states of Nepal and Bhutan coupled with their relative physical isolation, served to perpetuate a slow changing feudal order. The withdrawal of the British from the region, therefore, weakened the status quo and brought in its wake a relatively quickened pace of development and participation in the polity.

The prevalent Rana regime in Nepal, however, by proving itself resistant to a peaceful accommodation of a more democratic structure of government, invited its violent overthrow by a combination of traditional and progressive interests. The weakness of the representative middle-class forces however

60. Kirsten Westergaard, "Relationship between the State and Rural Society in Bangladesh" (University of Copenhagen, September 1979, mimeo).

61. See Chakrabarti's account, n.57, pp.246-51.

62. For details see L.R. Baral, Oppositional Politics in Nepal (New Delhi, 1977), pp.24-27. The Rana regime, to avert the threat to its rule, had conferred a written constitution in 1948, the first of its kind in Nepal's history. It provided restricted fundamental rights and a minimum base for power-sharing provisions, most patently tailored to the requirements of the Rana rule. Even these were sought to be scuttled by the regime in the following period.
revealed itself in the operation of the liberal-parliamentary form of
government instituted by the 1951 Interim Constitution. The increasing
factionalism in the political arena in the fifties served to highlight and, in
effective terms, to consolidate the power of the monarchy and the feudal
landed classes. Ultimately, in 1958, a week before the general elections were
to take place, the King "awarded" the Constitution of the Kingdom of Nepal
which aimed at "the establishment of an efficient monarchical form of govern-
ment responsive to the wishes of the people". 63 Out of a hundred articles in
the Constitution, more than 80 began with the phrase, "If the King so
pleases...." 64

In tune with the realities of the state power of this oligarchic bloc when
the representative government of the Nepali Congress threatened the vested
landed and bureaucratic classes by enacting progressive land and adminis-
trative reforms, the King suspended the Constitution in December 1960 and
dissolved the Parliament. The King then swiftly assumed all powers and estab-
lished his dominance on the political, administrative and ideologival front.

A new Constitution in 1962 legitimised the Monarchy's absolute powers and
sought to allow a controlled degree of popular participation through the
system of "Panchayat Democracy", an innovation similar to Ayub's "Basic
Democracy" in Pakistan. The narrowness of the ruling power bloc was sought to
be fortified through the operational modalities of the panchayat system.

As the Chairman of the Drafting Committee of the 1962 Constitution was to
point out, Nepal's patrimonial politics was characterised by personalism and
informal contacts over procedure and institutions -- the hub of all being the

63. Nepal Adhirajyo Ko Samvidhan (His Majesty's Government, 1969), Preamble:
in Baral, ibid., p.44. For a detailed study of this period refer to

64. D.P. Kumar, Nepal: Year of Decision (Sahibabad dist., Ghaziabad, c.1980),
pp.3 ff.
A Nepalese writer remarked in 1973 that "client families" forming "a small and dominant minority has a virtual monopoly over the positions of power and profit". Such a dominant minority could be identified as a small group of families drawn from the three traditional dominant castes of Brahmins, Kshatriyas and Newars based in the Kathmandu valley.

Accordingly, as one account highlights, the major benefits of development in terms of capital accumulation in agriculture and industry were experienced primarily by the more developed Kathmandu valley and to a lesser degree the Eastern Tarai hill region by the mid-seventies.

However, despite increasing disparities and the worsening situation in the early seventies, avenues of protest and dissent were legally closed to the more progressive sections of the professionals and intelligentsia. But, notwithstanding the outlawed character of political parties, protest and dissent against the ruling elite began to express itself openly in campus politics in the mid-seventies. It focussed on the failure of the system to satisfy popular needs. This led in turn to efforts by the ruling elite to sustain the panchayat system by abolishing troublesome structural inconsistencies in it such as the graduate constituencies and class organisations. Less important demands such as throwing open the Rashtriya Panchayat debates to the press and people were conceded while the supreme position of the King

65. From a quotation of Rishikesh Shaha, Chairman of the Drafting Committee of the 1962 Constitution, from Kumar, n.63, p.74.


In Nepal's brief history of industrialisation, a shift on a modest scale from basic agro-processing units to consumer and development goods industries were made only in the mid-seventies: ibid., p.44.
continued to be maintained.  

The middle and lower middle class section of the student community continued to be highly critical of the new educational plan of the early seventies which they felt benefitted the more privileged students. Sensitisation to their predicament was heightened by the wider socio-economic disparities and poverty. Their situation within the lower rungs of the landowning, business and trading community also made them sensitive to the declining economic situation of the petty-bourgeoisie in particular, increased taxes, corruption of the bureaucracy and entrenchment of a small coterie of persons at the village and distant central levels. The "consensus" sought to be fostered by the rural elite through the enhancement of the powers of the Back-to-the-Village National Campaign Committee (BVNC) in 1975 was one imposed from above which over-ruled the opinion and interests of the village community. In such a socio-political context, the coercive-divisive and persuasive tactics of the government could do little to quell the student agitation that gained widespread sympathy and support in mid-1979. The government was forced to offer the option between a reformed panchayat system and multi-party democracy in a referendum. Strategically, the pro-panchayat elements undercut the attractions of the multi-party system by promising concessions which would have created a system similar to the multi-party one. Consequently, they succeeded in winning the referendum with 55 percent of the votes cast.

The constitutional reforms introduced thereafter continued to smack of political conservatism. One fifth of the National Assembly Members would be


nominated by the King so that according to the provisions, a prime minister from the non-King camp would have to be supported by 75 percent of the directly elected Members.\textsuperscript{70} In a situation where factionalism distinguishes both the panchayat and opposition camp, the initiative continues to be held by the King. The limited democratic bonafides of the new set up are illustrated by the fact that though freedom of speech and press was granted no criticism can be made of the King's actions or his Government's domestic and foreign policies!

**Sri Lanka: A Nationalist Consensus in Retreat**

In no other country of South Asia, or even the Third World, did the constitutional system of a colonial power seem to have been exported with greater success than the British parliamentary one to Sri Lanka. Yet, the internal contradictions ensuing from a patently dependent-capitalist path of development\textsuperscript{71} resulted in the fact that each successive government was faced with increasingly acute social crises and compelled to rule more and more through special emergency powers till a formal break with the Westminster parliamentary system was made in 1978. Since the study of Sri Lankan constitutional politics forms the subject of the present work only salient points will be briefly touched upon here.

The "dependence" of Sri Lanka on the international economy was the most pronounced from among the South Asian states, due both to her physical features which made her eminently suited to the production of plantation crops for exports and her size, due to which the export sector developed to weigh

\textsuperscript{70} These would be eligible to contest if drawn from six "class organisations" with political overtones -- women, youth, labourers, workers, adults and ex-servicemen.


\textsuperscript{71} See Santos' second broad form of dependence, Chapter One, n.63.
disproportionately in the island's gross national product and national
income.72

The development of the plantations since the latter half of the nineteenth
century created a local comprador bourgeoisie which due to its long exposure
to European rule constituted a class with strong sympathies with its colonial
masters. Progressive reforms and gradualism in their progresss towards consti-
tutional government characterised the demands of the Ceylonese nationalist
movement. As a result, the post-independence Constitution of 1948 was merely a
modified version of the colonial Soulbury Constitution of 1946.

The restricted dependent nature of economic development coupled with the
welfare, parliamentary system of the preceding decades, led to the emergence
at the national level in the mid-fifties of the more indigenous-based
"nationalist" classes identifying in strong communal terms. Backed by the
Kandyan Sinhalese landed interests and the indigenous, primarily rural,
petty-bourgeois classes; this alternative coalition behind the Sri Lanka
Freedom Party (SLFP) legislated to encourage an independent, state-dominated
pattern of development towards "socialism".73

This development coloured all political calculations after that by moderating
the elitist nature of the UNP, the hitherto uncompromising class ideology
of the left parties, and creating an increasing degree of alienation in the
minds of the Tamil minority.

The above coupled with the social divisions accentuated by the development
of capitalism by the late sixties determined the parameters along which the
Sinhalese SLFP-dominated United Front (UF) parliamentary majority framed the
republican Constitution of 1972. The nationalist bonafides were acclaimed by

72. See Chapter Three of the present study for details.

73. For a discussion in greater detail refer to Chapter Three.
severing formal links with Britain. Pleading that a strong government was necessary to facilitate the passage of socialist measures, the UF majority (and thus, effectively the SLFP) sought to secure their position by making the legislature supreme. Furthermore, the position of the elected executive, the Prime Minister was enhanced while the powers of the formal executive (the President) and the judiciary were accordingly emasculated.

In the period following, while legislation to foster state-capitalism was promulgated and various organs of people's participation were created, these measures served only to accentuate the power of the emergent monopoly bourgeoisie and Sinhalese rich peasantry over the state apparatus in general. The increasing polarisation in the society was sought to be controlled with a widespread (mis)use of ordinances and emergency measures. The compulsion of the SLFP majority, however, to resort to elections to re-legitimize their continuance in power testified to the weakness of the coercive apparatus of state in Sri Lanka.

To prevent any such flirtation with a "socialist" pattern of development again the more conservative UNP, backed by the comprador classes which had been under attack by the UF promulgated a Constitution overthrowing the Westminster model of government and instituting a consensus-based strong presidential form of government. The proportional system of representation in Parliament and preferential system of direct election of the President would ensure in the Sri Lankan context that no left or Sinhalese communal party or presidential candidate could hope to acquire a majority without moderating its/his posture. Launching on a neo-colonial pattern of development dependent on a laissez-faire economy and generous foreign participation, the role of the

private sector was significantly safeguarded by the new Constitution.75 The interests of private and foreign capital have been increasingly protected by ensuing legislation while organised attempts at dissent and protest have been severely curbed.

**AN OVERVIEW**

Thus we see that 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 in the South Asian states were modelled, both in form and content, as closely as possible and convenient along that of the departing colonial power. The Westminster system was looked upon as an ideal type which they refurbished as far as was possible to suit their needs. In this, it would be true to say that the British colonies like India and Sri Lanka followed a process somewhat akin to the "first wave" countries. The pre-independence struggle for consecutively greater degrees of self-government provided a fund of popular tradition and historical legitimacy to the apparatuses so devised.

Not only was this surprisingly true of the constitutions promulgated three decades ago at the onset of the post-colonial era but remained applicable in regard to the constitutions promulgated by the intermediate regimes in power at the beginning of the seventies as seen in the cases of Sri Lanka, Pakistan and even the "new" state of Bangladesh. As an exception to prove the rule, this trend was weakest in Nepal which had never been under direct colonial domination.

75. For details see Chapter Seven of the present study.
While this constitutes the effect of the phenomenon, delving into the cause we verify that the greater the degree of development of the capitalist social order in these "new" states at independence the greater seem to have been the chances of success in fashioning and operating the above-mentioned constitutional frame-work in the post-independence period along lines as close as possible in the circumstances to the model originally envisaged. The presence of a proportionately more developed as well as dependent bourgeoisie in Sri Lanka led in politico-constitutional terms to the greatest degree of similarity with the original model from among these states -- so much so that its influence was obvious even in the early seventies as apparent in the 1972 Constitution. The same was true to a lesser extent in the case of India's autochthonous constitution reflecting the more independently-oriented stand of the Indian bourgeoisie.

Furthermore, in the comparative context of the newly instituted participatory political systems, the greater degree of development of the capitalist social order in India and Sri Lanka made for an expanding economic system more conducive to the distribution of benefits critical to such a system's political acceptability.

The narrow and weaker bourgeoisie of Pakistan, in the presence of a strong landlord class, could only depend on a strong executive to further its interests while the incipient bourgeoisie of Bangladesh had to depend entirely on a bureaucratically-dominated state to arbitrate its conflicts. The strongly entrenched feudal interests in Nepal sponsored the nature of the country's development -- be it in the constitutional, political or economic realms -- firmly under their own auspices.
Within these parameters, the socialist-mobilist constitutional model adopted in the four major South Asian states offered the preferred organisation of state power through which the broad strata of intermediate classes hoped to effect their national-democratic revolutions through a populist mobilisation of the lower classes.

However, unevenness in development, both in terms of space and time in these peripheral capitalist states, exacerbated horizontal and vertical cleavages resulting in the challenges to the prevailing structures as witnessed only too clearly in the South Asian states in the early seventies. The resultant crisis of hegemony of the ruling power blocs was emphasised by the rising consciousness and organisation of the dominated lower classes and minority nationalities as embodied in their demands for varying degrees of individual freedoms, decentralization and even secession. This was so much so that even the more successful experiments of Westminster parliamentary democratic systems of India and Sri Lanka were seriously questioned. Consequently, the beleaguered dominant classes sought to control and discipline the rising tide of these challenges by the mid-seventies through recourse to exceptional executive powers. However, faced by the numerous crises and challenges, the ruling classes in India and Sri Lanka could fall back on the institutionalised mechanisms to sort out their problems -- first of emergency and then of elections. The weakness of the bourgeois order in Pakistan and Bangladesh made the process in these two countries more akin to the "second-wave" model -- with the opposing power bloc resorting to the unconstitutional and coercive military coups.

In sum, the ruling elites met challenges to partial/personal interests by increasingly evolving strategies in the constitutional realm in the form of
the interpretation of the existing mechanisms facilitating greater political control. This trend was evident in the various emergency measures in the mid-seventies and the efforts thereafter in all these states to institutionalise a more interventionist form of government -- most patently successful in Sri Lanka in 1978. Failing this, other regimes sought to restore their legitimacy by readjusting the constitutional parameters in accordance with the shifts in the balance of forces and attempted to create general consensus in favour of such a change.

Consensus, however, proved increasingly elusive in all the South Asian states in the closing years of the seventies, due to the recognition by the radicalised masses of this continued recourse to contingent changes effected to both the letter and spirit of the constitution by the dominant classes, as we shall see in the ensuing study of Sri Lanka.