

HIS-103: Emergence of Bangladesh

Lecture 09

Military Rule in 1958, Basic Democracy 1959 & The Constitution of 1962



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Military Rule 1958



- In 1955, General Iskandar Mirza became the acting Governor General of Pakistan and later on 23 March 1956 became the first President under the newly adopted constitution. However, the new constitution was followed by political turmoil which saw a succession of four prime ministers in just two years. The quick succession of prime ministers promoted the view within the military and in the public that Pakistani politicians were too weak and corrupt to govern effectively, and that the parliamentary system was flawed.
- Under the new arrangement, parliamentary election was scheduled for March 1957, then shifted to November 1957 and then to March 1958 and finally to February-March 1959.
- However, on 7 October 1958, Mirza suspended the Constitution of 1956 terming this as “unworkable” and full of “dangerous compromises”. He declared Martial Law in the country dismissing the government of Prime Minister Feroz Khan Noon and the Constituent Assembly of Pakistan. He appointed Army Chief General Ayub Khan as the Chief Martial Law Administrator (CMLA) and nominated him as the new Prime Minister.

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- On 27 October 1958 Iskandar Mirza was forced to resign and General Ayub Khan was sworn in as the new President of Pakistan. Ousted President Mirza was taken to Quetta, the capital of the Baluchistan, before packed off to England on 27 November. He died in London in acute financial crisis.
- After assuming power, Ayub Khan consolidated the offices of the president and prime minister and became the both the head of state and government. He created a cabinet of technocrats, diplomats and military officers. He managed the judicial validation for his move when the Supreme Court of Pakistan legalized his takeover under the Doctrine of Necessity.
- The coup was received positively in Pakistan as a relief from unstable governments and weak political leadership. There was hope that a strong central leadership could stabilize the economy and promote modernization and the restoration of a stable form of democracy. The Ayub Khan regime was also supported by foreign governments such as the United States.

Basic Democracy 1959

- Like Iskandar Mirza, Ayub Khan used to believe that the Pakistani people was not suited to the Westminster-type representative government. He was in favor of a guided democracy which was to be characterized by authoritarian government at the top and representative government at the local level. This new variety of local government was known as 'Basic Democracy'.
- The Basic Democracy Order was promulgated in October 1959. it covered both the rural and urban areas. It had four tiers in the rural areas. from bottom to top, this consisted of Union Council, Thana Council, District Council and Divisional Council. In urban areas, it had Urban areas Union Committee and Municipal Committee.
- The system of Basic Democracy had been reflected in the Constitution of 1962 and according to the Article 155, each province was divided into 40,000 electoral units with an average population of 1270 for each electoral unit in East Pakistan and 1072 in West Pakistan. Later, it was increased to 60,000 for each province. The average population for

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- each electoral unit was changed to 1070 in East Pakistan and 940 in West Pakistan. All the persons in each electoral unit had to elect one person known as the 'elector'. The electors of all electoral units in both the provinces were known as members of the 'electoral college'.
- These members played the political role of electing the President of the country and members of the National and Provincial Assemblies.
- Apart from being the agent of local government, the basic democracies also performed political and electoral functions to legitimize the government through popular support and participation. In the referendum for presidential elections held on 14 February 1960 the basic democrats voted for Ayub Khan. The monopolization of electoral rights by the basic democrats was strongly despised by the vast rural and urban masses, which led to mass upheaval against Ayub in 1969. As a political institution it not only failed to legitimize the regime, but also in fact lost its legitimacy after the fall of General Ayub in 1969.

Constitution of 1962

- On 17 February 1960 Ayub Khan appointed a Constitution Commission on 17 February 1960 with the former Chief Justice Muhammad Shahabuddin to examine the failure of parliamentary government in Pakistan and recommend measures for the future constitution. The commission submitted a report to the President on 6 May 1961. The President, after having the report discussed by different committees of the cabinet and getting it examined at a Governor's Conference, put it to a drafting committee. Thus, a new constitution was promulgated on 1 March 1962.
- The Constitution of 1962 was a long and detailed document, containing 250 articles in 12 parts and 3 schedules. The Constitution of 1962 provided for a government which was federal, republican and presidential in form. The President was the head of the state and government. He was elected by an electoral college consisting of the elected members of the basic democracies. He was the real executive. There was a cabinet appointed by the President, which was both subordinate and responsible to him. The President was neither a member of the National Assembly nor was dependent on it for his continuance in office. He could be removed from office only by impeachment. It was in fact the basic departure from the Constitution of 1956.

Salient Features

- 1) **Written Constitution** The Constitution of 1962 was a written document. It consisted of three schedules and 250 articles.
- 2) **Rigid Constitution** . A rigid constitution can only be amended through a particular process. If an amendment to the constitution is passed by at least two-third majority of the parliament then it becomes a part of law after authentication by the President.
- 3) **Federal System** A federal system was introduced in the country. It consisted of a central government and two provincial government comprising East and West Pakistan.
- 4) **Presidential form of Government** President was the head Executive of the nation. He was empowered to nominate the ministers of his cabinet.
- 5) **Unicameral Legislature** The 1962 Constitution provided for a unicameral legislature, known as the National Assembly of Pakistan. It was to consist of 156 members, one half of whom were to be elected from East Pakistan and the other half from West Pakistan. Three additional seats from each province were reserved exclusively for women.

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- **6) Indirect Method of Election** The President was elected by an Electoral College comprising 80,000 Basic Democrats, equally distributed between the two provinces.
- **7) Provincial Governments** There were two provincial governments. Each of them was headed by a governor. He enjoyed powers in the province which the President enjoyed in the center. The Governor was empowered to appoint provincial ministers with the sanction of the President of Pakistan.
- **8) Provincial Legislature** Each province was provided with a legislature. It originally consisted of 150 members. However, later on this number was increased to 218.
- **9) Powers of President** According to the 1962 Constitution the President should be a Muslim with the term of 5 years. He was eligible to promulgate Ordinances and veto against legislated laws only override-able by two-thirds of the National Assembly. However, the President was not empowered to dissolve the Assembly except the cost of his office also.

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- 10) **Restrictions to the President** The President was not allowed to hold any office of profit in the service of Pakistan but was not prevented from holding a managing private property.
- 11) **Islamic Law** No Law would be passed against the teaching of Quran and Sunnah and the existing laws would be made Islamic in character.
- 12) **Fundamental Rights** The constitution of 1962 laid down fundamental rights of speech and expression, freedom to choose profession and freedom to profess religion. With Regards to civil rights, familiar right such as the rights of life, livery and property were granted.
- 13) **Role of Judiciary** The Judiciary was responsible for the interpretation of laws and executive orders in the light of the principles embodied in a written constitution.
- 14) **Supreme Judicial Council** A supreme judicial council consisting of two judges of supreme court chief justice of supreme court and two judges of high courts was to be established.

Demise

- Ayub Khan's promulgation of the Constitution of 1962 provoked massive and long- drawn agitation from different sections of the population in both the wings of Pakistan. In the face of popular resistance President Ayub Khan stepped down in favor of General Yahya khan, the Chief of Army Staff of Pakistan.
- He, as the Chief Martial Law Administrator, promulgated martial law in Pakistan on 25 March 1969, abrogated the Constitution of 1962 and dissolved the National Assembly, the two provincial assemblies and the cabinets.
- He placed the two provinces in charge of two Martial Law Administrators and appointed himself the President of Pakistan on 31 March 1969.
- On 28 November General Yahya Khan declared that elections for the National Assembly would be held in 1970. For the purpose, he lifted the ban on political activities from 1 January 1970, and in order to give a legal cover to the incoming general elections, he promulgated a Legal Framework Order on 30 March 1970. The new constitution was to be framed on the basis of the Order.