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THE 1950 PROVISIONAL CONSTITUTION OF THE  
REPUBLIC OF INDONESIA

STATUTORY LAW No. 7/1950

State Gazette No. 56/1950

President of the Republic of the United States of  
Indonesia.

Whereas:

that the people of the Component States throughout  
Indonesia desire the formation of the Unitary Republi-  
can State;

that sovereignty resides in the people;

that this Unitary State is actually identical with  
the State of Indonesia whose independence was pro-  
claimed by the people on August 17, 1945, which was  
originally a unitary Republic and which subsequently  
became a federal Republic;

that in order to carry out the will of the people  
in regard to the unitary Republic, the Component  
States, the State of East Indonesia, and the State of  
East Sumatra, have empowered the Government of the  
Republic of the United States of Indonesia to negotiate  
with the Government of the Component States of the  
Republic of Indonesia;

that now agreement has been reached between the  
two parties in the said negotiations so that in order to  
carry out the will of the people the time has come to  
amend, in accordance with the said agreement, the  
Provisional Constitution of the Republic of the United  
States of Indonesia to become the Provisional Consti-  
tution of the State which shall be a Unitary Republic  
by the name of the Republic of Indonesia;

Considering:

Article 190, Article 127, paragraph (a), and  
Article 191, paragraph 2, of the Constitution;

Considering also:

The Charter of Agreement between the Government of the Republic of the United States of Indonesia and the Government of the Republic of Indonesia of May 19, 1950;

With the approval of the Dewan Perwakilan Rakjat and of the Senate;

Resolves:

To enact:

The Act on the amendment of the Provisional Constitution of the Republic of the United States of Indonesia into the Provisional Constitution of the Republic of Indonesia.

## A R T I C L E I

The Provisional Constitution of the Republic of the United States of Indonesia, is amended to become the Provisional Constitution of the Republic of Indonesia, so that the text will read as follows:

## P R E A M B L E

Since independence is inherently the right of every nation, any form of colonialism in this world becomes contrary to humanity and justice and must therefore be abolished.

Our struggle for an independent Indonesia has reached a stage of glory and the Indonesian people are led to the gate of an Indonesian State which is independent, united, sovereign, just, and prosperous.

Having, through God's blessings and by His mercy, arrived at this blessed and sacred moment in our history,

We hereby ordain our independence and, by this Charter, establish our Unitary Republican State, based on the recognition of Divine Omnipotence, Humanity, National Consciousness, Democracy, and Social Justice, in order that we may enjoy happiness, prosperity, peace and freedom in society and in the completely sovereign, constitutional State of Free Indonesia, governed by justice.

Paragraphs one and two of the Preamble are derived from paragraphs one and two of the Preamble of the Constitution of the Republic of Indonesia.

Paragraphs three and four of the Preamble, with some changes, are taken from paragraphs two, three, and four of the Preamble of the Constitution

of the Republic of the United States of Indonesia. For example, the wording, "The Charter of the Federal Republican State," is changed to "The Charter of the Unitary Republican State."

The Preamble contains the Pantja Sila--such is also the case with the Preambles of the Constitutions of the Republic of Indonesia and the Republic of the United States of Indonesia--which are the five basic philosophical principles of our State: Divine Omnipotence, Humanity, National Consciousness, Democracy, and Social Justice.

## CHAPTER I

### STATE OF THE REPUBLIC OF INDONESIA

#### SECTION I

#### FORM OF THE GOVERNMENT AND SOVEREIGNTY

#### ARTICLE I

1. The independent and sovereign Republic of Indonesia is a democratic state of unitary structure, governed by justice.
2. The sovereignty of the Republic of Indonesia is vested in the people and is exercised by the Government together with the Dewan Perwakilan Rakjat.

Paragraph 1 of this article deletes the word "united" and substitutes for "federal" the word "unitary" from paragraph 1, article 1 of the RIS Constitution.

Previously noted with reference to the Preamble, the Republic of Indonesia is governed by justice/law, which means that the State will be subject to the Law; legal regulations will apply to all bodies and instrumentalities of the State.

Paragraph 2 of this article, which is the same as article 1, paragraph 2 of the RI Constitution, states that sovereignty is vested in the people. Different from the system of the RI Constitution, article 2 further states that sovereignty is exercised by the Government together with the Dewan Perwakilan Rakjat.

The system of the RI government provided for a Consultative Assembly of the People, which would exercise sovereignty and occupy a position over the Dewan Perwakilan Rakjat and the President. This body would assemble at least once every five years. This was one of the essential characteristics of the RI Constitution. However, according to the Charter of Agreement between the RIS and the RI, this system will not be used in the Unitary State because the intent is for a cabinet-parliamentary governmental system--or, more precisely, a cabinet system responsible to the parliament. This is different from the system of government of the former RI, which was of a cabinet-presidential nature.

In practice, the RI never made the necessary preparations for the establishment of the Consultative Assembly of the People. Since the establishment of the first Sjahrir cabinet, the RI has assumed a conventional cabinet system of government. This practice did not abrogate the Presidential system of the RI Constitution; when the situation of the State became very critical, a cabinet-presidential system was again formed under the leadership of Dr. Mohammad Hatta, which lasted until the transfer of sovereignty by the Netherlands on December 27, 1949.

"Sovereignty is exercised by the Government together with the Dewan Perwakilan Rakyat." In response to an inquiry of the Reporting Committee of the DPR, on August 3, 1950, the RIS Government explained what is meant under this provision: that in executing governmental affairs and state legislation, the Government and the DPR will cooperate to fulfill the will of the people.

## SECTION II

### TERRITORY OF THE STATE

#### ARTICLE 2

The Republic of Indonesia comprises the whole territory of Indonesia.

In the Explanation of the Draft Constitution it is stated that the intention of this article is that the territory of the Indonesian State encompasses the territory of the former Dutch Indies. This territory includes also West Irian, which is de jure a part of the territory of the Republic of Indonesia.

Article 1 of the Charter for the Transfer of Sovereignty transfers sovereignty over Indonesia without any exceptions; thus the transfer of sovereignty covers the whole of Indonesia or the entire territory of the former Dutch Indies, including also Irian.

Article 2 of the Charter for the Transfer of Sovereignty only dealt with de facto power over Irian, which, as agreed to by the Government of Indonesia, would reside with the Netherlands only for one year, i. e., until December 30, 1950. The Indonesian-Netherlands negotiations concerning West Irian, which were obligated by article 2, sub f of the Charter, took place between December 1950 and January 1951. The negotiations were a failure, and until now the Irian problem still remains unsolved. It is the official understanding of Indonesia that de facto power of the Netherlands over West Irian since January 1951 prevails without the permission of the Republic of Indonesia.

## SECTION III

### SYMBOLS AND LANGUAGE OF THE STATE

#### ARTICLE 3

1. The national flag of the Republic of Indonesia is the Red and White flag.

2. The national anthem is "Indonesia Raya."
3. The Government defines the seal and the coat of arms of the State.

This article is adopted from article 3 of the RIS, with the omission of the word "United." In a reply to the Government in a report of the Reporting Committee of the DPR on August 3, 1950, the word "nationality" (kebangsaan) as found in paragraph 1 of this article has the same meaning as "state" (negara).

The use of the word Sang (esteemed) in the phrase Bendera Sang Merah Putih (The Esteemed Red and White Flag) does not mean idolizing the flag. A flag is a symbol and a sign of honor of a nation and should be respected as every nation gives honor to its flag.

The Parliamentary Chronicle of February 17, 1950, No. 2, contains the statement that the session of the RIS Council of Ministers on February 11, 1950, ratified the Coat of Arms of the RIS as prepared by the Committee for the State Symbol in accordance with section III, article 3 of the RIS Constitution.

The coat of arms depicts the garuda bird (a mystical bird something like an eagle), which is well known in the world of mystics of the Indonesian civilization as representing constructive power. A picture of the coat of arms is found in the previously referred to Parliamentary Chronicle. The slogan of the coat of arms reads: "Bhinneka Tunggal Ika," which means "unity in diversity." The intention is to unite all territories and regions (cultural areas) of the entire Indonesian archipelago into one "Great Union."

#### A R T I C L E 4

The official language of the Republic of Indonesia  
is the Indonesian language.

This article is derived from article 4 of the RIS Constitution. Article 36 of the Republic of Indonesia UUD reads: "The official language is the Indonesian language." It is considered more definite to say "the official language of the state," since all regional languages are also respected; but the only official language is the Indonesian language.

#### S E C T I O N IV

#### CITIZENSHIP AND RESIDENTS OF THE STATE

#### A R T I C L E 5

1. The law defines the citizenship of the Republic of Indonesia.
2. Naturalization is to be effected by law or in virtue of the law. The law regulates the consequences of naturalization as they affect the wife and the children of minor age of the person naturalized.

This article is derived from article 5 of the RIS Constitution by leaving out the word "federal" and by using the term "becoming a citizen" instead of the term "naturalization."

The Agreement of the Round Table Conference concerning the determination of citizenship determined for those persons who were subjects of the Netherland Kingdom up to the time of the transfer of sovereignty (December 27, 1949) who would have Dutch nationality and who would have Indonesian nationality. According to article 4 of this Agreement, Dutch subjects who are not yet adults but yet belong to the autochthonous population are given Indonesian nationality except if they were born outside of Indonesia and resided in the Netherlands or outside of their participant daerah; they will then have the right to state within a period two years after the transfer of sovereignty their choice of Dutch nationality.

Article 3 of the Agreement states that the Dutch retain Dutch nationality. However, if they were born in Indonesia or resided in Indonesia for at least six months they have the right to choose within a period of two years [after the transfer of sovereignty] Indonesian nationality (active system).

Chinese and other Netherlands subjects, but not Dutch persons who were born in Indonesia or lived in residence in Indonesia, are given Indonesian nationality; however, they have the right to refuse it, according to article 5 of the Agreement for the Determination of Citizenship, within two years [after the transfer of sovereignty] (passive system).

In the exchange of letters dated November 2, 1949, between the Indonesian delegation and the Dutch delegation at the Round Table Conference, all the delegates agreed that participants of the Union will hold joint deliberations before adopting legislation concerning provisions of nationality which give rise to conflicts between their laws.

In preparing the legislation on citizenship, the Government explained at a session of the DPR in its reply on the second stage that: "The Government can give attention to what has been agreed in treaty with other countries, for example, the Netherlands and China."

Until now (January 1954) the preparation of the legislation on this subject has not been completed.

See article 144.

See also the remarks under article 23.

## A R T I C L E 6

Residents of the State are those who reside in Indonesia in accordance with regulations prescribed by law.

This article is derived from article 6 of the RIS Constitution with the omission of the word "federal."

## SECTION V

## FUNDAMENTAL HUMAN RIGHTS AND FREEDOM

## ARTICLE 7

1. Everyone is recognized as a person before the law.
2. All persons are entitled to equal treatment and equal protection under the law.
3. All persons are entitled to equal protection against discrimination and against any incitement to such discrimination.
4. Everyone has the right to be given legal assistance of a real nature by the competent judges against acts violating the fundamental rights granted to him by law.

This article is similar to article 7 of the RIS Constitution. The principle of treating and protecting equally all persons will result in no separate regulations being issued for the Indonesian, European, or Chinese groups. The reference to this matter in the UUD does not imperatively demand, for example, the unification of law. See article 25, paragraph 2.

## ARTICLE 8

All persons within the territory of the State are equally entitled to protection of person and property.

This article is similar to article 8 of the RIS Constitution.

## ARTICLE 9

1. Everyone has the right of freedom of movement and residence within the borders of the State.
2. Everyone has the right to leave the country and-- being citizen or resident--to return thereto.

This article is similar to article 9 of the RIS Constitution.

## ARTICLE 10

No one shall be held in slavery, servitude or bondage.

Slavery, the slave trade and bondage, and any actions in whatever form giving rise thereto are prohibited.

This article is similar to article 10 of the RIS Constitution.



## A R T I C L E 11

No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.

This article is similar to article 11 of the RIS Constitution.

## A R T I C L E 12

No one shall be arrested or detained unless by order of the competent authority and in the cases and the manner prescribed by law.

This article is similar to article 12 of the RIS Constitution.

## A R T I C L E 13

1. Everyone is entitled in full equality to a fair and just hearing by an impartial judge for the determination of his rights and obligations and of any criminal charge against him.
2. It shall be against (the rules of) humanity that any be denied the judge assigned to him by the rules of the law in force.

This article is similar to article 13 of the RIS Constitution.

## A R T I C L E 14

1. Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to the law in a public trial at which he enjoys all the guarantees prescribed necessary for his defense.
2. No one shall be prosecuted or sentenced unless by virtue of a law applicable to him at the time the penal offense was committed.
3. In the event of a revision of the law referred to in the preceding paragraph, the provision most favorable to the accused shall be applied.

This article is similar to article 14 of the RIS Constitution.

## A R T I C L E 15

1. No transgression or crime shall be made punishable by total forfeiture of the property of the offender.
2. No sentence may cause civic death or the loss of all civic rights.

This article is similar to article 15 of the RIS Constitution.

## A R T I C L E 16

1. Everyone's home is inviolable.
2. To enter a compound or a dwelling against the occupant's will shall only be permitted in those cases provided in a law applicable to him.

This article is similar to article 16 of the RIS Constitution.

## A R T I C L E 17

The freedom and secrecy of correspondence are inviolable except by order of a judge or other authority declared competent by law and in the cases defined by that law.

This article is similar to article 17 of the RIS Constitution.

## A R T I C L E 18

Everyone is entitled to freedom of religion, conscience, and thought.

This article is different from article 18 of the RIS Constitution. The provisions of the latter contain rights which are not mentioned in the former, including: "freedom to change his religion or belief and freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship, observance of the commandments and prescriptions and educating children in the faith or belief of their parents."

In the Explanation to the Draft Provisional UUD of the Republic of Indonesia, it is stated that article 18 and article 43, paragraph 2 are sufficient enough to show recognition of the freedom to adopt one's own religion, and that they already include the intention of article 18 of the "Universal Declaration of Human Rights."

Article 18 of the "Universal Declaration of Human Rights" reads as follows:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The Government explained, in its reply at the second sitting of the session of the DPR, that articles 18 and 43 do not place any limits whatsoever upon proselyting by religions of our country. The Government states that: "the present article 18 is meant to eliminate any impressions to the effect that it suggests changes in religion." Thus, articles 18 and 43, paragraph 2, states the Government, "guarantee freedom to change religion according to what a person considers best, and no restrictions are placed upon the right of religious proselyting and the right to educate children in the beliefs of their parents."

The Government strongly believes that in the future our state will become an archipelago where all religions can live in prosperity and peace as a good example to the world.

Furthermore, it should be noted that No. 7 of the Supplement to the Statute of the Indonesian-Dutch Union contains a provision similar in content to that of article 18 of the RIS Constitution. Thus, based upon provision of the Statute of the Union, freedom to change one's religion, and so forth, is still guaranteed in our country.

#### A R T I C L E 19

Everyone has the right to freedom of opinion and expression.

This article is similar to article 19 of the RIS Constitution.

#### A R T I C L E 20

The right of all residents to freedom of assembly and association is recognized and shall be regulated by law.

The contents of this article are slightly different from article 20 of the RIS Constitution. The wording "peaceful association" in article 20 of the RIS Constitution is replaced by only the word "association," while the wording "as far as necessary guaranteed by law" is replaced with the words "shall be regulated by law."

The Explanation of the Draft UUD explains that, even though the legislation has not yet been enacted, this right can already be implemented because it is recognized in the UUD.

In reference to the proposal of a member of the Dewan Perwakilan Rakjat that the word "regulated" be replaced by the word "guaranteed," the Government explained, at the second sitting of a session of the DPR, that the Constitution already guarantees the right of Assembly, which, of course, places this guarantee at a higher level than if it were embodied in legislation (law). The law only regulates the right to assemble in connection with the provisions found in article 30 of the UUD.

#### A R T I C L E 21

The right to demonstrate and to strike is recognized and shall be regulated by law.

This article contains a new right unknown to the Constitutions of both the RI and the RIS. The "Universal Declaration of Human Rights" also does not include the right to demonstrate and strike.

Of the constitutions formed after the conclusion of World War II, take, for instance, the USSR Constitution that was promulgated on March 19, 1946; this contains article 125, which, among other items, reads that to meet

the interests of the working classes and to strengthen the socialist regime, the citizens of the USSR are guaranteed the freedom to conduct processions and demonstrations.

In article 40 of the Italian Constitution, promulgated on December 22, 1947, and in the preamble to the French Constitution promulgated on October 26, 1946, the right to strike is recognized (and) covered in the laws governing this right.

The Explanation of the Draft UUD also states in reference to the right to demonstrate and to strike that while laws governing this right have not been enacted, the right can already be exercised because it is already recognized in the UUD.

Also, the provisions of the law should be completely in compliance with the meaning of article 33 of the UUD.

#### A R T I C L E 22

1. All persons have the right, individually as well as in association with others, to lodge freely complaints with the public authorities, either orally or in writing.
2. All persons have the right, individually as well as in association with others, to present petitions to the public authorities.

This article is derived from article 21 of the RIS Constitution with the following changes and additions: the words "every person" are replaced by "all persons." The effect is that the right mentioned in this article can be employed either by a person himself or by several persons together (collectively).

In customary law there is the well-known petition right ("hak pepe"\*), namely the right of the people to forward collectively a matter or a petition to the authorities.

The words "competent authorities" in article 21 of the RIS Constitution are replaced by "authorities" because in any system of law the word "authorities" (Overheid in the Dutch language) carries the connotation "competent authorities."

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\*Pepe is a Javanese word and means "to sit down in the sun." Thus, literally the "right to sit in the sun."

## A R T I C L E 23

1. Every citizen has the right to take part in the government, directly or by means of representatives freely elected in accordance with a procedure established by law.
2. Every citizen shall be eligible for appointment to any public office. Aliens may be appointed to public office in accordance with rules laid down by law.

This article is similar to article 22 of the RIS Constitution. According to article 24, paragraph 1, section (a) of the Statute of the Indonesian-Dutch Union, the nationality or citizenship of one of the participants will not constitute a barrier in the case of holding public office in the other participating country with the exception of:

1. the offices which are responsible to a representative body unless the law so provides otherwise;
2. all political, administrative, and judicial offices, and those with a directive character, which are appointed by law.

The laws referred to in article 23, paragraph 2 of this UUD and article 24, paragraph 1 of the Union Statute have not yet (January 1954) been enacted.

The Indonesian Government, as a matter of political policy, can always determine that a certain office cannot be given to a foreigner even though a law has not been enacted prohibiting such office from being filled by a foreigner.

## A R T I C L E 24

Every citizen has the right and the duty to take an active part in the defense of the State.

This article is similar to article 23 in the RIS Constitution, except that the words "national defense" in article 23 of the RIS Constitution are replaced by "defense of the State."

The meaning of each is the same, but "State" in this context is more precise than "national."

Compulsory bearing of arms has not yet (January 1954) occurred in Indonesia.

## A R T I C L E 25

1. The authorities shall not attach any advantages or disadvantages to the fact that citizens belong to a particular group of the population.
2. Differences in social and legal needs of the various groups of the population shall be taken into consideration.

This article is the same as article 24 of the RIS Constitution.

Paragraph 1 of this article agrees with the contents of article 7, paragraph 2, which prohibits racial discrimination and forbids differential treatment because of color, religion, or origin.

What is meant by differences in social and legal needs as noted in paragraph 2 of this article refers to the differences that already prevail. This is not intended to create new differences; quite the contrary. The Explanation of the Draft Provisional UUD states that the intention is to eliminate or at least alleviate them for the development of the community. It is apparent from paragraph 2 that the UUD does not demand the unification of the law.

The differences in the legal needs between the group of the indigenous Indonesians and the group of Europeans who acquire Indonesian citizenship are apparent in the area of family law.

#### A R T I C L E 26

1. Everyone has the right to own property individually as well as in association with others.
2. No one shall be arbitrarily deprived of his property.
3. The right to property is a social function.

Paragraphs 1 and 2 of this article are the same as paragraphs 1 and 2 of article 25 of the RIS Constitution.

Paragraph 3 of this article contains a provision not found in either the RIS or the RI Constitution.

The social function of property rights, as explained in the Explanation of the Draft UUD, clearly contains the understanding that such rights may not be employed (or permitted) to the detriment of the community.

The RIS Government (Prime Minister Hatta) in its reply at the sitting of the first session of the DPR explained that property right (eigendom) is not power (macht) but social obligation (sociale plicht). If a person who owns some property does not use it for the general interest, when the society so desires, then the Government has the right to use that property for the general welfare.

The Government, in its reply at the sitting of the second session of the DPR, stated that the intent of the formulation of article 26, paragraph 3 was to have the same meaning as the "right of property has a social function."

Article 42, paragraph 2, of the Italian Constitution provides that "private property" is recognized and guaranteed by laws which regulate the procedures to acquire property (as well as) the use and restriction of this right so that social function can be guaranteed.

The Bonn Constitution (West Germany) promulgated in 1948-1949, in article 14, paragraph 2--which is in line with the contents of article 153, paragraph 3 of the Weimar Constitution proclaimed on August 11, 1919, and continued by the Nazi Government with only a few changes--provided that: "Property shall involve obligations. Its use shall simultaneously serve the general welfare." In other words, the German Constitution also emphasizes the social function of property rights.

#### A R T I C L E 27

1. Expropriation of any property or right for the general benefit cannot take place, except with indemnification and in accordance with regulations as established by law.
2. If any property has to be destroyed by public authority or has to be rendered useless either permanently or temporarily for the general benefit, such actions can only be taken with indemnification and in accordance with regulations as established by law, unless this law prescribes to the contrary.

This article is similar to article 26 of the RIS Constitution.

#### A R T I C L E 28

1. Every citizen, according to his ability, has the right to such employment as is worthy of human beings.
2. Everyone has the right to free choice of occupation and to just conditions of employment.
3. Everyone has, under equal conditions, the right to equal pay for equal work and to equally favorable labor contracts.
4. Everyone who works has the right to a just remuneration, ensuring an existence worthy of human dignity for himself and his family.

This article improves on article 27 of the RIS Constitution by including some words of article 27, paragraph 2 of the Republic of Indonesia UUD. The result of this new formulation is found in paragraph 1 of this article: "Every citizen, according to his ability, has the right to such employment as is worthy of human beings."

#### A R T I C L E 29

Everyone has the right to form and join trade unions for the protection and promotion of his interests.

This article is similar to article 28 of the RIS Constitution except that it is the right of every man not only to protect but also to promote his interest.

## A R T I C L E 30

1. Every citizen is entitled to education.
2. The choice of education is free.
3. Teaching is free, except for the supervision to be exercised by public authority in accordance with the law.

Paragraph 1 of this article is derived from article 31, paragraph 1 of the Republic of Indonesia UUD.

Paragraph 2 of this article is the same as article 29, paragraph 2 of the RIS Constitution.

Paragraph 3 of this article is the same as article 29, paragraph 1 of the RIS Constitution.

## A R T I C L E 31

The freedom to perform social and charitable work, to found organizations for this purpose, as well as for private education and to acquire and own property for these ends, is recognized subject to the supervision by public authority in accordance with the law.

This article is the same as article 30 of the RIS Constitution, with the addition that this freedom does not necessarily reduce the supervision by public authority in accordance with arrangements established by law.

## A R T I C L E 32

Everyone in the territory of the State owes obedience to the law, including the unwritten law, and to the public authorities.

This article is the same as article 31 of the RIS Constitution except that the words "lawful and lawfully acting public authorities" are changed into "public authorities."

The RIS Government explained in its reply at the second sitting of a session of the DPR that the words "public authorities" already imply "lawful authority," and every public authority must act lawfully. Therefore, obedience to public authorities in itself implies "obedience to lawful and lawfully acting public authorities."

Unwritten law refers to law ~~not~~ enacted by a legislative body ("unstatutory law"\*), i. e., the law arising from conventions of the state legal bodies (Parliament, regional legislative councils, and so forth), law which emerges from judicial decisions ("judge-made law"), and cus-

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\*Original text.



tomary law found in the community: in short, hukum adat (customary law) in the sense that it is used in the study of law. Also see article 104, paragraph 1 which deals with customary law.

#### A R T I C L E 33

The limitations on the exercise of rights and freedoms described in this section can only be imposed by regulations as established by law, exclusively for the purpose of securing the indispensable recognition and respect for the rights and freedoms of others and to comply with the just requirements of public order, morality, and welfare in a democratic community.

This article has the same meaning as article 32 of the RIS Constitution. It clearly imposes limitations which may not be infringed upon by the enactment of law when this will regulate further the rights and the freedoms contained in this section.

The Explanation of the Draft Provisional UUD explains that among other things this article determines that the restriction of a right may not be imposed arbitrarily or by invoking discrimination among the various religions.

This article is in accordance with article 29, paragraph 2 of the "Universal Declaration of Human Rights."

#### A R T I C L E 34

No provision in this section may be interpreted as implying for any public authority, group or person any right to engage in any activity or to perform any act aiming at the destruction of any of the rights or freedoms set forth herein.

This article is the same as article 33 of the RIS Constitution and is also in accordance with article 30 of the "Universal Declaration of Human Rights."

### S E C T I O N VI

#### FUNDAMENTAL PRINCIPLES

#### A R T I C L E 35

The will of the people is the basis of public authority. This will is expressed in periodic and genuine elections which are held by universal and equal suffrage and by secret vote or by equivalent free voting procedure.

This article is the same as article 34 of the RIS Constitution except the words "elections which are held where possible by universal suffrage" are replaced by "are held by universal suffrage." The words "where possible" are omitted.

This article is in accordance with article 21, paragraph 3 of the "Universal Declaration of Human Rights."

#### A R T I C L E 36

The authorities shall promote social security and social guarantees, and particularly the securing and guaranteeing of favorable conditions of labor, the preventing and combating of unemployment and the establishing of old-age provisions and the care for widows and orphans.

This article, with some grammatical improvements, has the same contents as article 35 of the RIS Constitution.

#### A R T I C L E 37

1. The raising of the people's prosperity is an object of continuous concern of the authorities, who shall at all times aim at ensuring to everyone a standard of living worthy of human dignity for himself and his family.
2. Except for restrictions to be imposed by law for the general benefit, the opportunity shall be given to all, in accordance with their nature, aptitude, and ability to take part in the development of the sources of welfare of the country.
3. The authorities shall prevent, in accordance with rules to be determined by law, the existence of private monopolistic organizations which are harmful to the national economy.

Paragraph 1 of this article, with some grammatical improvements, is the same as article 36, paragraph 1 of the RIS Constitution, which positively provides--so states the Explanation of the Draft Provisional UUD--that the Government is obliged to make changes (improvements) in the economy of the State in order to guarantee a better standard of living for every Indonesian citizen.

Paragraph 2 of this article is equivalent to article 36, paragraph 2 of the RIS Constitution.

Paragraph 3 of this article provides for a new fundamental principle not included in either the RIS Constitution or the Republic of Indonesia Constitution.

The Government stated in its reply at the session of the DPR (first sitting) that any monopoly contrary to the interests of the people must be prohibited. All that has connection with the well-being of the people must be regulated by the Government; thus, every monopoly which is detrimental to the people's interest shall also be resisted.

## A R T I C L E 38

1. The economy shall be organized on a cooperative endeavor based upon the principle of the family relationship (azas kekeluargaan).
2. Branches of production of importance to the State and which vitally affect the life of the people shall be controlled by the State.
3. Land and water and the natural riches contained therein shall be controlled by the State and used for the maximum prosperity of the people.

This article is derived from article 33 of the UUD of the Republic of Indonesia. The contents of both of these articles are the same.

Article 33 of the UUD of the Republic of Indonesia, indeed, may be regarded as one of the essential articles, and, according to the Charter of Agreement between the RIS-RI, this article must be included in the UUD of the Unitary State of the Indonesian Republic.

The Government, in its reply on the report of the Reporting Committee of the DPR, on August 3, 1950, stated that because of this article, and also article 37, the economy of our country is not founded upon a liberal economy; in fact, it is opposed to liberalism.

In the Draft UUD prepared by the Joint Committee of the RIS-RI, it was proposed that basic regulations concerning import, export, and transit be determined by law (article 88 Draft UUD of this Committee). The Government explained, in its reply to the report of the Reporting Committee of the DPR on August 3, 1950, that it could not adopt this proposal because of the present crippled conditions; furthermore, the management of State economic affairs does not only concern import, export, and transit. The proposal by the Committee would only weaken the purpose and importance of article 38, which serves as a fundamental principle of the State's economy.

In the Explanation of the Draft Provisional UUD, it is explained that this article encompasses, among other things, the meaning that all of the goods handled and produced, whether they are agricultural or industrial, are used especially to satisfy the needs of the people. In this case it is necessary to explain clearly that the meaning of the term "branches of production" not only includes production in the intent of producing goods but also embraces transportation, distribution, circulation, and commerce (exchange), either within the country or abroad. The word "controlled" implies the regulation and/or the carrying out (of these affairs), especially for improving and increasing production with special attention given to developing cooperative-type endeavors.

## A R T I C L E 39

1. The family is entitled to protection by the society and the State.
2. The State shall provide for the needs of the poor and the uncared-for children.

Paragraph 1 of this article is the same as article 37 of the RIS Constitution. See article 16, paragraph 3 of the "Universal Declaration of Human Rights," which states: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the state." The intent of article 39, paragraph 1 of this UUD is nothing other than to protect the family as a social unit.

Paragraph 2 of this article is derived from the UUD of the Republic of Indonesia and has the same wording as article 34 of the UUD of the Republic of Indonesia.

## A R T I C L E 40

The authorities shall protect the exerting of cultural, artistic, and scientific freedom. Upholding this principle, the authorities shall promote to the best of their ability, the development of the nation in culture, art and science.

This article is the same as article 38 of the RIS Constitution.

## A R T I C L E 41

1. The authorities shall promote the spiritual and physical development of the people.
2. The authorities shall in particular aim at the speediest possible abolition of illiteracy.
3. The authorities shall satisfy the need of public education, which shall have for its basic objects the deepening of national consciousness, the strengthening of the unity of Indonesia, the stimulation and deepening of the sense of humanity, of tolerance and of equal respect for everyone's religious conviction and the provision within school hours of the opportunity for religious teaching in accordance with the wishes of the parents.
4. As concerns elementary education, the authorities shall aim at a speedy introduction of general compulsory education.
5. The pupils of the private schools which comply with the standards of efficiency imposed by law from

public education, have the same rights as accorded to pupils of public schools.

The contents of this article, with some grammatical improvements and rearrangement of paragraphs, are the same as article 39 of the RIS Constitution. At this time (January, 1954) the Government has presented a draft law to the DPR providing that Statute No. 4, 1950, of the RI (Jogjakarta) concerning basic education and instruction in the schools should be enacted to cover the entire area of the Republic of Indonesia. Such a provision is considered necessary by the Government to provide a foundation for a uniform organic law applicable to every type of school, and to determine the type of Government Regulation concerning subsidy for private schools.

The Government intends to establish a committee of educationalists who will be given the task of drafting quickly a new basic statute on education and instruction which is more complete than law No. 4, 1950, of the RI (Jogjakarta).

#### A R T I C L E 42

The promotion of public hygiene and public health shall be an object of continuous concern of the authorities.

This article is the same as article 40 of the RIS Constitution.

#### A R T I C L E 43

1. The State is based on the belief in the Divine Omnipotence.
2. The State guarantees the freedom of every resident to profess his own religion and to worship according to his religion and belief.
3. The authorities shall give equal protection to all recognized religious denominations and organizations. Aid in any form given by the authorities to ministers of religion and to religious denominations or organizations shall be rendered on the basis of equality.
4. The authorities shall ensure that all religious denominations and organizations shall obey the law, including the unwritten law.

Paragraph 1 repeats what has already been stated in the Preamble.

With reference to the historical interpretation, the belief in a Divine Omnipotence does not mean that the Indonesian Nation only believes in a Supreme Being, but each Indonesian, according to his desires, believes in a Supreme Being. Those who are Christians worship God according to the instructions of Jesus Christ; those who are Moslems believe in God as explained by

the Prophet Mohammad; and those who are Buddhists follow the religious duties prescribed in their scriptures. (See the Birth of Pantjasila, 1949, second edition: speech of Bung Karno in the June 1, 1945, session of the Body for the Investigation of Preparations for Indonesian Independence.)

Paragraph 2 of this article agrees with the above principle.

Paragraphs 1 and 2 of this article are derived from article 29, paragraphs 1 and 2 of the UUD of the Republic of Indonesia.

The first parts of paragraph 3 and paragraph 4 of this article are derived from article 41, paragraphs 1 and 2 of the RIS Constitution.

The second part of paragraph 3 of this article puts forth a new principle, which again reiterates the principle of equal rights for all religions in the life of the State.

See the remarks under article 18. The RIS Government, before a session of the DPR, explained that article 18 and article 43, paragraph 2 guaranteed the freedom for a person to change his religion to what he felt best, and these articles impose no restrictions upon the right of religious proselyting and educating children in accordance with the beliefs of their parents.

The intent of article 18 of the "Universal Declaration of Human Rights" is already embodied in article 18 and article 24, paragraph 2 of this Constitution.

## C H A P T E R II

### O R G A N S O F T H E S T A T E

#### G e n e r a l P r o v i s i o n s

#### A R T I C L E 44

The organs of the State are:

- a. The President and the Vice-President;
- b. The Ministers;
- c. The Council of the People's Representatives  
(Dewan Perwakilan Rakjat);
- d. The Supreme Court (Mahkamah Agung);
- e. The Financial Audit Council (Dewan Pengawas Keuangan).

The UUD of the Unitary State established the office of the Vice-President, which was not provided for in the RIS Constitution, the tasks and duties of which are prescribed in article 45, paragraph 2 and article 48.

The UUD of the Republic of Indonesia also established the office of Vice-President. Because this Constitution provided for a presidential system, the office of Vice-President was, therefore, a fitting and proper position.

The UUD of the RI Unitary State establishes a system where the cabinet is held responsible. Nevertheless, the Office of the Vice-President is created and "no longer constitutes a problem"--as states the Government in an answer to the report of the Reporting Committee of the DPR dated August 3, 1950--as this is the result of the discussions of the RIS-RI Governments which culminated in the establishment of the Office of "Vice-President" in the Provisional Constitution.

The Ministers, as covered in this article, stated the Government in its reply of August 3, 1950, to the report of the DPR Reporting Committee, are each of the individual Ministers or all of the Ministers who meet in the Council of Ministers.

This UUD does not acknowledge the Senate (RIS Constitution) and the Supreme Advisory Council (Republic of Indonesia UUD).

According to the Explanation of the Draft Provisional UUD, the Senate as an institution representing the Component Territories (article 80, paragraph 1 of the RIS Constitution) is abolished because Component Territories are not found within a Unitary State.

Why the Supreme Advisory Council was not established is not explained in any official document. However, no parties were willing to defend such a body because daily state affairs proved that there was no need for such a Council.

## S E C T I O N I

### THE GOVERNMENT

#### A R T I C L E 45

1. The President is the Head of State.
2. In the exercise of his duties the President is assisted by a Vice-President.
3. The President and the Vice-President are elected in accordance with rules to be laid down by law.
4. For the first time the Vice-President is appointed by the President upon the recommendations submitted by the Dewan Perwakilan Rakjat.
5. The President and the Vice-President must be Indonesian citizens who have attained the age of 30 years and have not been debarred from suffrage or from the exercise thereof, nor have been deprived of the right to be elected.

The President is President Soekarno.

As a further development of the Republic of Indonesia based upon the proclamation of August 17, 1945, the realization of the Unitary State does not mean the establishment of a new State, but rather is only an internal structural change in a State which was earlier federal and is now unitary.

In reference to this situation, the provision of article 141, paragraph 3, which provides that the present authorities and instrumentalities remain in force until replaced with others in accordance with the UUD, is correct.

The President of the RIS is an instrumentality of the State which is already in force. It stands to reason, therefore, that the President of the RIS becomes the President of the Unitary State of the RI, until he is replaced in accordance with the UUD. Article 45, paragraph 3 requires that the election of the President and the Vice-President be governed according to law. If this law has not been enacted at the time the Constitutional Assembly convenes, the President and the Vice-President will remain in office until this UUD is no longer in force, i. e., until a new UUD proclaimed by the Constituent Assembly replaces this Provisional UUD. According to the Explanation of the Draft Provisional UUD, the conception of the RIS and RI Governments is that the President and the Vice-President will not be replaced before the permanent UUD has been drawn up by the Constituent Assembly.

The UUD does not require the appointment of the Vice-President at the time the UUD takes effect. The time for the appointment of the first Vice-President can be determined solely by the President and the DPR.

See the remarks under article 48.

Race-discrimination concerning the election of the President as found in both the UUD of the Republic of Indonesia and the Constitution of the RIS is abolished in this UUD. The President and the Vice-President must be Indonesians citizens; they need not be citizens of indigenous origin.

According to Presidential Decree No. 27, October 16, 1950, Dr. Mohammad Hatta, upon the recommendation of the DPR, was appointed Vice-President by the President.

#### A R T I C L E 46

1. The President and the Vice-President reside in the place where the seat of the Government is established.
2. The seat of the Government is established at Djakarta, unless in cases of emergency the Government designates another place.

Paragraph 1 of this article is the same as article 70 of the RIS Constitution.

Paragraph 2 of this article has the same meaning as article 68, paragraph 3 of the RIS Constitution, the word "capital" in front of "Djakarta" being omitted.



## A R T I C L E 47

Before assuming office, the President and the Vice-President take the following oath (make the following declaration) in accordance with their religious beliefs, in the presence of the Dewan Perwakilan Rakjat:

I swear (declare) that I have neither directly nor indirectly under whatever name or pretence given or promised, nor shall give anything to anyone whoever he may be in order to be elected President (Vice-President) of the Republic of Indonesia.

I swear (promise) that I shall never accept from anybody whoever he may be any promise or gift in order to act or to abstain from acting in the execution of this office.

I swear (promise) that I shall promote to the best of my ability the welfare of the Republic of Indonesia, and protect and maintain the general and special freedoms and rights of all inhabitants of the State.

I swear (promise) loyalty to the Constitution and I swear (promise) that I shall always observe the laws and regulations of the Republic of Indonesia, that I shall be loyal to the Country and the Nation, and that I shall loyally fulfill all duties which the Office of Head of State (Deputy Head of State) imposes upon me, as behooves a good Head of State (Deputy Head of State).

The content of the oath in this article is in general the same as that of article 71 of the RIS Constitution. The words of article 71 of the RIS Constitution, "faithfully serve the Country and the People and the State," are replaced in this article by "loyal to the Country and Nation."

In the preparation of the UUD certain persons stated that "loyal" had the same meaning as "faithfully serve." The word "serve" is not considered proper in a democratic State. The words "Country" and "Nation" are considered to include the term "State."

The problem arose in the session of the DPR on September 19 and 20 whether or not President Soekarno must again be sworn in according to article 47 in order to carry out the affairs provided for in the new UUD. The DPR determined on September 20, 1950, that President Soekarno must take the oath in a general session of the DPR.

The requirement for taking the oath (of office) is not based upon legal reasons, because every action of the President is considered legal, even though he has not yet been sworn in according to article 47 of the UUD; rather it is based upon political and psychological reasons.

President Soekarno as President of the RIS was sworn in under the federal oath, whereas it is now considered necessary for him to take the unitary oath.

On October 25, 1951, President Soekarno and Vice-President Mohammad Hatta were sworn in before a general session of the DPR.

From a juridical point of view, certainly President Soekarno does not need to be sworn in again because he represents an instrumentality of the State existing at the time when the RIS was transformed into the Unitary State of the RI. He continues in the Office of President in view of his being sworn in upon the establishment of the RIS.

We have already explained (see the remarks under article 45) that the formation of the Unitary State only meant an internal change in the State structure and was not intended to establish a new State. The reswearing in of the President according to article 47 of the UUD may only be considered as a mere formality to satisfy the political feelings of the people.

#### A R T I C L E 48

In the event of death, removal, or inability to exercise the duties of his office, the President is succeeded by the Vice-President until the completion of the President's unexpired term of office.

This article reads the same as article 8 of the UUD of the Republic of Indonesia. The meaning of this article is that, in case such an event occurs, the Vice-President will hold the Office of President until the time that the Office of the President is refilled.

According to article 45, paragraph 2 the President, if circumstances compel, can order the Vice-President to assume the daily affairs of the President's Office. This UUD does not provide the possibility for the President to delegate daily official affairs to the Prime Minister (as is the case in article 72, paragraph 1 of the RIS Constitution) or to other high officials if the Vice-President is not available.

#### A R T I C L E 49

Any Indonesian citizen who has attained the age of 25 years and who has not been debarred from suffrage or from the exercise thereof, nor has been deprived of the right to be elected, is qualified for appointment as Minister.

This article is the same as article 73 of the RIS Constitution.

#### A R T I C L E 50

The President forms the Ministries.

The first cabinet of the Unitary State of the Republic of Indonesia consisted of:

1. Prime Minister.
2. Vice-Prime Minister, who currently serves as Coordinator of Internal Security.
3. Minister of Foreign Affairs.
4. Minister of Defense.
5. Minister of Home Affairs.
6. Minister of Justice.
7. Minister of Information.
8. Minister of Finance.
9. Minister of Commerce and Industry.
10. Minister of Agriculture and Fisheries.
11. Minister of Education, Instruction, and Culture.
12. Minister of Social Affairs.
13. Minister of Labor.
14. Minister of Communication and Transportation.
15. Minister of Power, Public Works, and Development.
16. Minister of Health.
17. Minister of Religion.
18. Minister of State (no portfolio).

The composition of the RIS cabinet did not include a Vice-Prime Minister. Furthermore, under the structure of the RIS the Ministry of Commerce and Industry and the Ministry of Agriculture and Fisheries were placed into one Ministry of Welfare, and the Ministry of Communication and Transportation and the Ministry of Power, Public Works, and Development were placed into one Ministry of Communication and Public Works.

The Wilopo cabinet, inaugurated on April 3, 1952, also consisted of a Prime Minister, a Vice-Prime Minister, 15 ministers who were heads of Ministries, and one Minister of State responsible for personnel affairs.

The title of the Ministry of Commerce and Industry was subsequently changed to the Ministry of Economy. During the month of May the Ministry of Personnel Affairs was abolished and the division of personnel affairs was placed under the leadership of the Prime Minister.

The number of the Ministries has not been determined but this need not be prescribed by law. However, it is necessary to secure Parliament's agreement, since the State budget must be approved by Parliament (article 113).

The Ali Sastroamidjojo-Wongsonegoro cabinet (formed on August 1, 1953) had two Vice-Prime Ministers and two State Ministers (for Agrarian Affairs and for State Welfare Affairs).

#### A R T I C L E 51

1. The President appoints one or more Cabinet formateurs.

2. In accordance with the recommendation of the Cabinet formateur(s) the President appoints the Prime Minister and the other Ministers, the Prime Minister being one of the Cabinet formateurs.
3. In accordance with the recommendation of the Cabinet formateur(s) the President appoints the Ministers for the respective Ministries. The President may appoint Ministers without portfolio.
4. The Presidential decrees containing the appointment referred to in the paragraphs 2 and 3 of this article are countersigned by the cabinet formateur(s).
5. Interim appointment or resignation (discharge) of Ministers is effected by Presidential decree (likewise resignation of the Cabinet).

This article is in general the same as article 74 of the RIS Constitution. The words "Government decree" in this latter article are replaced by "Presidential decree." All of the RIS Government decrees in practice were already issued as Presidential decrees.

At the time of the formation of the Natsir cabinet (the first cabinet of the Unitary State), Parliament (the session of October 1950) discussed the problem of the responsibility of the formateur(s) of the Cabinet.

The President is not responsible to the Parliament (article 83, paragraph 1). Furthermore, the "Cabinet Organizer" who becomes Prime Minister or Minister in the new cabinet cannot free himself from his responsibility concerning all that took place in the formation of that cabinet.

#### A R T I C L E 52

1. The Ministers shall meet in the Council of Ministers under the chairmanship of the Prime Minister, or, in case the Prime Minister is prevented, of one of the Ministers appointed by the Council of Ministers, to discuss jointly the general interests of the Republic of Indonesia.
2. The Council of Ministers continuously informs the President and the Vice-President of all matters of importance.

The Ministers individually are under the same obligation in respect of matters pertaining in particular to their offices.

This article is in general the same as article 76 of the RIS Constitution.

This UUD does not grant to the Ministers special positions\* such as found in article 75 of the RIS Constitution.

During the eight months of the RIS Government, the special positions referred to in article 75 of the RIS Constitution were never put into practice. There has never been, for example, any session or decision of all Ministers who had special position.

The position of the Prime Minister of the Republic of Indonesia, according to the UUD, is generally the same as the Prime Minister in the Netherlands, i. e., the Chairman of the Council of Ministers is only primus inter pares among his ministerial colleagues.

The Prime Ministers of England and Japan are the head of all ministers. Article 68, paragraph 2 of the Japanese Constitution (1946) reads: "The Prime Minister may remove the Ministers of State as he chooses." Article 95 of the Italian Constitution (1947) and article 65 of the German Constitution (1949) provide that the Prime Ministers shall direct the general policy of the Government and assume the responsibility thereof. Also, the French Prime Minister has a special position. He appoints civil officials and military officers and leads the armed forces, as well as coordinating all efforts necessary for national defense (article 47, French Constitution, 1946).

#### A R T I C L E 53

Before assuming their offices, the Ministers shall take the following oath (make the following declaration) before the President, in accordance with their religious beliefs:

I swear (declare) that I have neither directly nor indirectly under whatever name or pretence given or promised, nor shall give anything to anyone, whoever he may be, in order to be appointed Minister.

I swear (promise) that I shall never accept from anybody whoever he may be any promise or gift in order to act or to abstain from acting in the execution of this office.

I swear (promise) loyalty to the Constitution, that I shall observe all laws and regulations of the Republic of Indonesia, that I shall promote to the

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\*According to article 75, paragraph 3 of the RIS Constitution, the meaning of "special position" is as follows:

"The Ministers with a special position are jointly authorized to take decisions in urgent and in emergency cases, which decisions shall substitute with equal validity for the decisions of the cabinet in Pleno. In taking their decisions they will seek unanimity."

best of my ability the welfare of the Republic of Indonesia, that I shall be loyal to the Country and to the Nation, and loyally fulfill all duties the Office of Minister imposes upon me.

The content of this oath is generally the same as found in article 77 of the RIS Constitution. Here the words "faithfully serve" are replaced by "loyal." The words "Country and People and State" are replaced by "Country and Nation."

#### A R T I C L E 54

The salaries of the President, of the Vice-President, and of the Ministers, and also the allowances for traveling expenses and possible other compensations shall be regulated by law.

This article is the same as article 78 of the RIS Constitution. Until now (January 1954) the case of the salary of the President and so forth has not been arranged according to law, but has been effected by Government Regulation No. 37, 1952, State Gazette No. 54/1952 (which amended Government Regulations No. 4, 1950, and No. 26 and No. 27, 1950).

#### A R T I C L E 55

1. The Offices of the President, the Vice-President and the Ministers are incompatible with the exercise of any other public office inside or outside the Republic of Indonesia.
2. The President, the Vice-President, and the Ministers shall neither directly nor indirectly participate in, or stand surety for any enterprise based upon an agreement for profit concluded with the Republic of Indonesia or any autonomous area of Indonesia.
3. They shall not hold any claims on the Republic of Indonesia except public debentures.
4. The provisions of paragraphs 2 and 3 of this article remain applicable for them until three years after their resignation.

This article is the same as article 79 of the RIS Constitution.

## S E C T I O N II

## DEWAN PERWAKILAN RAKJAT

## A R T I C L E 56

The Dewan Perwakilan Rakjat represents the entire Indonesian people and consists of a membership the number of which is determined on the basis of one representative to every 300,000 residents of Indonesian citizenship, without prejudice to the provision in the second paragraph of article 58.

See article 98 of the RIS Constitution.

According to the Explanation of the Draft Provisional UUD, the Government considers a Dewan Perwakilan Rakjat with a total membership of approximately 250, based upon one representative for every 300,000 residents, to be most suitable for a nation of approximately 75,000,000. According to article 33 of the General Election Law, April 7, 1953, Number 7/1953, State Gazette No. 29/1953, the total membership of the Dewan Perwakilan Rakjat was determined by the Indonesian Electoral Committee by dividing 300,000 into the total resident population of entire Indonesia.

Each election district is guaranteed three seats.

## A R T I C L E 57

The members of the Dewan Perwakilan Rakjat are elected in a general election by Indonesian citizens who fulfill the conditions, and in accordance with rules practised by law.

The general election law was promulgated on April 7, 1953, State Gazette No. 29/1953, as Statute No. 7/1953. This law regulates the election of the members of the Constituent Assembly and the Dewan Perwakilan Rakjat. According to this law, the members of the Constituent Assembly and the Dewan Perwakilan Rakjat are elected by Indonesian citizens who have reached in the election year eighteen years of age or have been previously married.

The territory of Indonesia is divided into 16 election districts. West Irian constitutes one election district. The election will be direct (not in stages).

In regions where certain circumstances prevent the carrying out of the election (i. e., West Irian), the Government can appoint persons who know the actual situation and whose origin is of that area as members of the Constituent Assembly or the Dewan Perwakilan Rakjat. This appointment remains valid until members of the election district have been subsequently elected.

## A R T I C L E 58

1. The Chinese, European, and Arab minority groups shall be represented in the Dewan Perwakilan Rakjat by at least 9, 6, and 3 members respectively.
2. If these numbers are not attained by election in accordance with the law as referred to in article 57, the Government of the Republic of Indonesia shall appoint additional representatives of these minorities. The number of the membership of the Dewan Perwakilan Rakjat referred to in article 56 shall then, if necessary, be increased by the number of these appointments.

The content of this article is the same as article 100 of the RIS Constitution.

The inclusion of this article, so states the Explanation of the Draft Provisional UUD, is not meant to continue the existence of minorities within the democratic Indonesian state; the goal of our state is that all nationalities make up one homogeneous Nation. Because of the reality that at this time nationalities still exist, it is necessary that they be guaranteed representatives in the Dewan Perwakilan Rakjat.

Those who belong to minority groups are citizens. Dutch and other Europeans, Chinese, and Arabs who are not citizens are not included in the minority groups. They are foreigners.

Article 136 of the General Election Law No. 7/1953 provides that the Government appoints members to the Dewan Perwakilan Rakjat according to the desires of the respective groups.

## A R T I C L E 59

The members of the Dewan Perwakilan Rakjat are elected for a term of four years.

They resign together and are thereafter eligible for re-election.

## A R T I C L E 60

Indonesian citizens who have attained the age of 25 years and who have not been barred from suffrage or from the exercise thereof and who have not been deprived of the right to be elected, can be members of the Dewan Perwakilan Rakjat.

This article is the same as article 101 of the RIS Constitution.



## A R T I C L E 61

1. Membership of the Dewan Perwakilan Rakyat is incompatible with the offices of President, Vice-President, and Attorney-General; of President, Vice-President, or member of the Supreme Court; of Chairman, Vice-Chairman or member of the Financial Audit Council; of President of the Bank of Issue; and with the holding of offices to be determined by law.
2. A member of the Dewan Perwakilan Rakyat who simultaneously holds the office of Minister, is not allowed to exercise his rights or fulfill his duties as a member of said body as long as he holds the office of Minister.
3. Members of the Armed Forces who are in active service and who accept membership of the Dewan Perwakilan Rakyat shall automatically become non-active during their membership. After resigning as a member, they will enter active service again.

A member of the DPR who becomes a Minister does not lose his position in the DPR. He only becomes non-active while he occupies the Office of Minister. This provision is in keeping with the one in force in the RI, but is different from the provision of article 91 of the RIS Constitution which states that holding the office of Minister is incompatible with membership in the DPR.

As far as members of the Armed Forces are concerned, this UUD already provides that they become non-active when they become members of the DPR. As for civil servants, everything must still be laid down by law.

## A R T I C L E 62

1. The Dewan Perwakilan Rakyat elects from its members a Chairman and one or more Deputy Chairmen. These elections require confirmation by the President.
2. Prior to such confirmation by the President the oldest member in age temporarily presides over the meeting.

This article is the same as article 103 of the RIS Constitution. At this time (January, 1954) the DPR has three Vice-Chairmen.

## A R T I C L E 63

Before assuming their office, the members of the Dewan Perwakilan Rakjat take the following oath (make the following declaration) in accordance with their religious belief before the President or the Chairman of the Dewan Perwakilan Rakjat, authorized for this purpose by the President:

I swear (declare) that I have neither directly nor indirectly under whatever name or pretence given or promised, nor shall give anything to anyone whoever he may be, in order to be elected a member of the Dewan Perwakilan Rakjat.

I swear (promise) that I shall never directly or indirectly accept from anybody whoever he may be any promise or gift in order to act or to abstain from acting in the execution of this office.

I swear (promise) that I shall always assist in keeping the Constitution and the laws and regulations of the Republic of Indonesia, that I shall promote with all energy the welfare of the Republic of Indonesia, and that I shall be loyal to the Country and to the People.

This article is generally the same as article 104 of the RIS Constitution. The phrase "serve with all energy" in article 104 of the RIS Constitution is replaced by "promote with all energy." The words "the Country and the People and the State" are replaced by "the Country and the People."

## A R T I C L E 64

In the meetings of the Dewan Perwakilan Rakjat, the Chairman calls upon the Ministers to speak whenever they intimate the wish to address the Council.

This article does not contain the provision found in article 105 of the RIS Constitution that ministers can sit in the DPR with an advisory voice. In practice this provision has no other meaning than that all ministers have the opportunity to speak when and every time they desire. Thus, the article of this UUD is in accordance with actual practice. Ministers may attend either open or closed meetings of the DPR.

## A R T I C L E 65

1. The Dewan Perwakilan Rakjat convenes whenever the Government so desires or whenever the Chairman or at least one-tenth of the membership of the Dewan Perwakilan Rakjat considers meeting necessary.
2. The Chairman convenes the Dewan Perwakilan Rakjat.

The meaning of this article is the same as that of article 106 of the RIS Constitution. As found in article 106 of the RIS Constitution, 15 members constitute 10 per cent of the total membership of the DPR of the RIS.

#### A R T I C L E 66

1. The meetings of the Dewan Perwakilan Rakjat are public unless the Chairman considers meeting behind closed doors necessary or at least 10 members so demand.
2. After the closing of doors, the meeting decides whether or not the discussions shall actually be held behind closed doors.
3. Decisions on affairs discussed in closed meetings may also be taken behind closed doors.

Paragraph 1 of this article is the same as article 107 of the RIS Constitution. Paragraphs 2 and 3 of this article are taken from article 88, paragraphs 2 and 3 of the RIS Constitution.

#### A R T I C L E 67

The members of the Dewan Perwakilan Rakjat can resign at any time.

They must notify the Chairman to this effect in writing.

This articles incorporates the contents of articles 108 and 84 of the RIS Constitution. Provision was made--by the enactment of statute No. 37/1953, State Gazette No. 88/1953, announced on December 31, 1953, which is retroactive to August 17, 1950--for the replacement of members of the DPR who for various reasons (death, resignation, or failure to take the oath within 60 days) cannot assume their office.

The successor member is appointed by the President upon the recommendation of the DPR, according to the proposal of the party or fraction of which the member is being replaced. In case the member to be replaced does not belong to a party or a fraction, the President appoints the successor member according to the proposal of the Council of Ministers.

#### A R T I C L E 68

The Dewan Perwakilan Rakjat holds its meetings at Djakarta unless the Government in emergency cases designates another place.

This article is adepated from article 108 of the RIS Constitution.

## A R T I C L E 69

1. The Dewan Perwakilan Rakjat has the right of interpellation and the right of questioning. Members have the right of questioning.
2. The Ministers shall provide either orally or in writing all the information which is required by the Dewan Perwakilan Rakjat, in pursuance of the preceding paragraph, and which is considered not to be contrary to the general interest of the Republic of Indonesia.

This article is similar to article 121 of the RIS Constitution.

## A R T I C L E 70

The Dewan Perwakilan Rakjat has the right of investigation, in accordance with regulations to be established by law.

This article is the same as article 21 of the RIS Constitution. The right of investigation (enquete) until now (January, 1954) has never been employed by the DPR. Only recently, on January 20, 1954, did the DPR formalize the draft law on this right.

## A R T I C L E 71

The Chairman and members of the Dewan Perwakilan Rakjat, likewise the Ministers, cannot be prosecuted for anything they have said in a meeting or have submitted to the meeting in writing except for the disclosure of anything said or submitted under secrecy at a meeting in camera.

The content of this article is the same as that contained in article 108 and article 89 of the RIS Constitution. In this article ministers are mentioned, whereas in the RIS Constitution only the Chairman and all members of the Senate and the DPR are included.

## A R T I C L E 72

1. The members of the Dewan Perwakilan Rakjat vote as free men in honor and conscience bound, without instructions from or without the obligation to consult with those who have designated them members.
2. They shall refrain from voting on matters which affect them personally.

This article is the same as article 108 and article 90 of the RIS Constitution.

## A R T I C L E 73

The salary of the Chairman of the Dewan Perwakilan Rakjat, the allowances to be granted to the members and possibly also to the Chairman, and also the traveling and hotel expenses due to them are regulated by law.

This article has the same meaning as article 108 and article 92 of the RIS Constitution.

Statute No. 6/1951, State Gazette No. 40/1951, enacted at the initiative of the DPR, determined the salary and allowances of the Chairman and members of the DPR. This statute was repealed and replaced by Statute No. 10/1953, State Gazette No. 37/1953, concerning the financial status of the Chairman and members of the DPR of the Republic of Indonesia.

This statute was again repealed and replaced by Statute No. 2/1954, State Gazette No. 9/1954.

## A R T I C L E 74

1. All those who have attended closed meetings of the Dewan Perwakilan Rakjat are bound to secrecy, unless this body decides otherwise or unless the obligations of secrecy are lifted.
2. The same applies to members, ministers, and officials who have in any way cognizance of the matters discussed.

This article is the same as article 108 and article 93 of the RIS Constitution.

## A R T I C L E 75

1. The Dewan Perwakilan Rakjat cannot hold a discussion or take a decision, unless more than half of the members are present.
2. Unless the Constitution provides otherwise all decisions are taken by absolute majority of the members voting.
3. In the event of the votes being equally divided, the proposal is considered to be rejected if the meeting is fully attended; otherwise the decision shall be postponed until a subsequent meeting. If the votes are again equally divided, the proposal is considered to be rejected.
4. Voting on persons is secret and in writing. If the votes are equally divided, the matter is decided by lot.

This article is the same as article 108 and article 94 of the RIS Constitution.

#### A R T I C L E 76

The Dewan Perwakilan Rakjat shall, without delay, draw up its own rules of procedure.

This article is the same as article 108 and article 93 of the RIS Constitution.

The rules of procedure of the DPR were enacted by DPR decree on September 27, 1950, No. 30/K/1950, and published in the Supplement State Gazette, 1950 No. 63. These regulations have subsequently undergone several changes and additions.

According to article 25 of these Rules of Procedure, the DPR will establish from its membership a Consultative Committee consisting of the Chairman and Vice-Chairman and at least seven other persons. The Consultative Committee determines the DPR working program, when necessary after hearings with section chairmen, for the entire session period or part of the session period, without reducing the prerogative of the DPR to change it (article 26).

The DPR has 10 sections (article 28):

- Section A -- Economy
- Section B -- Finance
- Section C -- Agriculture
- Section D -- Public Works and Communication
- Section E -- Education, Instruction and Culture, Religion, and Health
- Section F -- Labor, Personnel, and Social Affairs
- Section G -- Home Affairs and Information
- Section H -- Justice and Internal Security
- Section I -- Defense
- Section J -- Foreign Affairs

Also, the DPR is divided into six divisions with, as far as possible, equal numbers of members (article 30).

#### A R T I C L E 77

Without prejudicing the provisions in article 138, the Dewan Perwakilan Rakjat shall for the first time and until it is established by elections in accordance with the law consist of the Chairman, Deputy Chairman, and members of the Dewan Perwakilan Rakjat of the Republic of the United States of Indonesia; the Chairman, Deputy Chairman, and members of the Senate; the Chairman, Deputy Chairman, and members of the Central National Executive Committee, and the Chairman, Deputy Chairman, and members of the Supreme Advisory Council.

The content of this article is the result of an agreement between the RIS and RI Governments. In its reply to the report of the Reporting Committee of the DPR, on August 3, 1950, the Government of the RIS stated that there is no objection to including the Supreme Advisory Council of the RI within the Provisional DPR, inasmuch as that Council is a Central Council which usually gives advice to the RI Government concerning government policy and legislative action.

This article does not state--because such a formulation would not be correct--that the DPR constitutes collectively the DPR and Senate of the RIS, and the Working Body of the Central Indonesian National Committee and the Supreme Advisory Council [of the RI]. At the time the Unitary State was formed--so elaborates the Explanation of the Draft Provisional UUD--these four bodies no longer existed. Such a formulation gives the impression that the provisions concerning the membership of the DPR and the Senate of the RIS, and the Working Body of the Central Indonesian National Committee and the Supreme Advisory Council [of the RI] are still applicable (valid to each division of the Provisional DPR). Hence, the suitable formulation is the one contained in this article.

The Chairman and the Vice-Chairman are separately mentioned outside of the membership--elaborates further the Explanation of the Draft Provisional UUD--because the Chairman of the Working Body of the Central Indonesian National Committee is not a member of that body.

This article does not grant provisions for the President to enlarge the Provisional DPR with other members, because the Government thought it extremely difficult to determine criteria by which the President could appoint additional members.

See the annotations under article 67.

### S E C T I O N III

#### S U P R E M E C O U R T

#### A R T I C L E 78

The composition and competency of the Supreme Court shall be regulated by law.

The content of this article is the same as article 113 of the RIS Constitution. It is not necessary to use the word "Indonesia" after the title of the Supreme Court because obviously in a Unitary State the Supreme Court is meant for all of Indonesia.

## A R T I C L E 79

1. The Chairman, the Vice-Chairman, and the members of the Supreme Court are appointed in accordance with rules determined by law. These appointments are for life, without prejudice to the provisions contained in the following paragraphs.
2. The law can determine that the Chairman, the Vice-Chairman, and the members of the Supreme Court be discharged (removed) from their offices upon attaining a certain age.
3. They can be dismissed or discharged from office in the manner and in such cases as are determined by law.
4. They can be removed from office by the President at their own request.

This article is generally the same as article 114 of the RIS Constitution. Inasmuch as at the time of the formation of the RI Unitary State the existing RIS Supreme Court, based upon article 141, paragraph 3, became the Supreme Court of the RI Unitary State, it was no longer necessary for the Provisional UUD to provide again for the structure of the Supreme Court.

The statutory provision concerning the composition of the Supreme Court laid down under the RIS is "The Supreme Court Statute" of May 6, 1950, State Gazette No. 30.

## S E C T I O N IV

## FINANCIAL AUDIT COUNCIL

## A R T I C L E 80

The composition and the competence of the Financial Audit Council shall be regulated by law.

This article is the same as article 115 of the RIS Constitution. Until now (January, 1954) the law noted by this article has not been enacted. In practice the Financial Audit Council uses the Indische Comptabiliteitswet (the revised text promulgated in Staatsblad, 1925, no. 448) and the Instruksi Algemeene Rekenkamer of the former Dutch East Indies (Staatsblad, 1898, no. 164) as guides for carrying out its tasks.

## A R T I C L E 81

1. The Chairman, the Vice-Chairman and members of the Financial Audit Council are appointed in accordance with rules determined by law. These appointments are for life, without prejudice to the provisions in the following paragraphs.



2. The law can determine that the Chairman, the Vice-Chairman, and members be discharged of their offices upon attaining a certain age.
3. They can be dismissed or discharged from office in the manner and in such cases as determined by law.
4. They can be removed from office by the President at their own request.

This article is generally the same as article 116 of the RIS Constitution.

### C H A P T E R   I I I

#### F U N C T I O N S   O F   T H E   I N S T R U M E N T A L I T I E S   O F T H E   S T A T E

#### S E C T I O N   I

#### G O V E R N M E N T

#### A R T I C L E   8 2

The Government promotes the welfare of Indonesia and especially takes care that the Constitution, the laws, and other regulations are executed.

The meaning of this article is the same as that contained in article 117, paragraph 2 of the RIS Constitution.

#### A R T I C L E   8 3

1. The President and the Vice-President are inviolable.
2. The Ministers are to be responsible for the entire policy of the Government, and each Minister individually for his share in the Government.

The Charter of Agreement of the RIS and the RI determines that the Council of Ministers must be of a parliamentary nature. This article--with the addition that the Vice-President is also inviolable--is the same as article 118 of the RIS Constitution, and provides for the responsibility of the Cabinet to Parliament.

Where this differs greatly from the RIS Constitutional provision is that there is in the UUD no article like 112 of the RIS Constitution determining that the DPR cannot compel the Cabinet or each respective Minister to resign his office. The RIS Government, in its reply to the report of the Reporting

Committee on August 3, 1950, explained that article 83, paragraph 2 does not require the Cabinet to be of a Parliamentary nature, but that the Cabinet must be responsible to Parliament.

A responsible cabinet can be parliamentary, extra-parliamentary, or it can also be a business cabinet; but it cannot be a non-responsible Presidential cabinet.

President Soekarno persistently reiterates at mass rallies that he is not only a constitutional President, but that he is also Leader of the People. As Father (Bapak) of the State and leader of the people he feels it is his duty to deliver speeches to the masses. The Cabinet or Ministers concerned are definitely responsible for the President's speeches.

The line of demarcation between collective and individual ministerial responsibility cannot be determined by legal provision, but is a matter within the competence of the Government which in every case should be determined by the Council of Ministers or Parliament. For some comparisons we quote: article 95 of the Italian Constitution, "The Ministers are responsible collectively for the actions of the Council of Ministers and individually for those of their own ministries"; article 48 of the French Constitution, "The Ministers shall be collectively responsible to the National Assembly for the general policy of the cabinet and individually responsible for their personal actions."

The Ali-Wongsonegoro Cabinet was recently formed after a 58-day Cabinet crisis. During that time the Wilopo Cabinet was demissionary\*. The DPR recently (September 1953) established an ad hoc committee to examine the relationship between a demissionary cabinet and Parliament.

In the opinion of the present writer, a demissionary cabinet, from a formal point of view, remains the responsible Government, because it has not formally resigned. However, the heaviest political sanction, i. e., to overthrow the Government, cannot again be employed by Parliament, because in political terms the demissionary cabinet has already fallen.

This Constitutional system makes it impossible to establish a Presidential Cabinet. In other words, it is impossible to form a cabinet which is not responsible to Parliament and whose nature is merely that of an assistant to the President.

#### A R T I C L E 84

The President has the right to dissolve the Dewan Perwakilan Rakjat.

The Presidential decree announcing such dissolution shall also order the election of a new Dewan Perwakilan Rakjat within 30 days.

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\*This is a caretaker cabinet, one which has fallen but continues to serve until a new cabinet is chosen.

The right of the President as mentioned in article 84, paragraph 1 is not found in the RIS Constitution.

Of course, for the RIS system of government it was not necessary that the President be given the right to dissolve the DPR because the DPR could not force the Cabinet to dissolve. The Cabinet, in this constitutional system, can be overthrown by the DPR. As a counterbalance to the DPR's power, explained the Government in its reply to the report of the DPR Reporting Committee, August 3, 1950, the Government can also dissolve the Parliament when it believes the Parliament no longer represents the wishes of the people. This is the essence of Parliamentary democracy.

The 30-day requirement referred to in paragraph 2 of this article, according to the Government's reply to the DPR Reporting Committee, August 3, 1950, is a guide, a guarantee that the Government cannot dissolve the Parliament at will.

#### A R T I C L E 85

All decrees of the President, including those concerning his authority over the Armed Forces of the Republic of Indonesia, shall be countersigned by the Minister(s) concerned, with the exception of what is provided in the fourth paragraph of article 45 and in the fourth paragraph of article 51.

The essence of this article is the same as that of article 119 of the RIS Constitution. In this article it is clearly stipulated that a Presidential decree concerning authority over the Armed Forces (article 127, paragraph 1) must also be signed by the Minister concerned. Furthermore, this also makes clear that every Presidential decree concerning any field of state activity needs to be countersigned by a minister, except for those which concern the appointment of the Vice-President (article 45, paragraph 4) and the ministers on the recommendation of the Cabinet formateur (article 51, paragraph 4).

Also, a Presidential decree on the appointment and the dismissal of a Cabinet formateur needs only the signature of the President (article 51, paragraph 1).

#### A R T I C L E 86

The officials of the Republic of Indonesia are appointed in accordance with regulations to be determined by law.

The contents of this article are the same as article 125 of the RIS Constitution.

The Statute which was required by this article was statute No. 21, 1952, State Gazette No. 78/1952.

## A R T I C L E 87

The President awards decorations established by law.

This article is the same as article 126 of the RIS Constitution.

## A R T I C L E 88

Basic provisions with regard to land, sea, and air communications shall be determined by law.

This article contains new provisions which are found in neither the RIS Constitution nor the UUD of the RI.

The required legislation noted in article 88 until now (January 1954) has not been enacted.

## S E C T I O N N II

## L E G I S L A T I O N

## A R T I C L E 89

Except for the provisions in article 140, the legislative power is exercised, in accordance with the provisions of this section, by the Government together with the Dewan Perwakilan Rakjat.

The content of this article is basically the same as that of article 127 of the RIS Constitution, i. e., that legislative power is exercised by the Government together with the Parliament; according to this UUD only one body exists, the Dewan Perwakilan Rakjat.

## A R T I C L E 90

1. Bills of the Government shall be submitted to the Dewan Perwakilan Rakjat by Presidential message.
2. The Dewan Perwakilan Rakjat has the right to submit bills to the Government.

This is the same as article 128 of the RIS Constitution except that the part concerning the Senate was not adopted in this UUD.

This article concerns the DPR's right of initiative.

## A R T I C L E 91

The Dewan Perwakilan Rakjat has the right to amend bills submitted to it by the Government.

This is the same as article 129 of the RIS Constitution except deletion of the part referring to the Senate.

This article contains the right of amendment by the DPR.

#### A R T I C L E 92

1. If the Dewan Perwakilan Rakjat has passed a bill submitted by the Government either amended or not by the former, the Dewan Perwakilan Rakjat gives due notification thereof and submits the bill to the President.
2. If the Dewan Perwakilan Rakjat has rejected a bill submitted by the Government, the Dewan Perwakilan Rakjat notifies the President thereof.

This article is basically the same as the contents of articles 133 and 134 of the RIS Constitution. The difference is that this UUD does not recognize the Senate.

#### A R T I C L E 93

The Dewan Perwakilan Rakjat, after passing a bill, submits it to the President for ratification by the Government.

This article is the same as that of article 135, paragraph 2 of the RIS Constitution, except for a reference to the Senate.

The Government is invited to participate in the Session discussions of the DPR concerning a bill of which the proposal is initiated by the DPR. In regard to this practice, for example, during the process of the DPR discussion of Statute No. 6/1951, State Gazette No. 40/1951, concerning salary and allowances of the Chairman and members of the DPR, such a proposal was initiated by the DPR.

#### A R T I C L E 94

1. A bill prior to its passage by the Dewan Perwakilan Rakjat, in accordance with the preceding provisions of this section, may be withdrawn by the Government.
2. The Government is bound to ratify a bill which has been passed, unless the Government gives notice as having preponderant objections against this bill within one month after the bill has been submitted for ratification.
3. If the Government ratifies a bill or has objections against the bill as referred to in the preceding paragraph, the Dewan Perwakilan Rakjat is notified by Presidential message.

This is the same as article 138 of the RIS Constitution, except for the part concerning the Senate.

Paragraph 2 of this article refers to all bills either forwarded by the Government or by the DPR. The words "which has been passed" in this paragraph mean "accepted by the DPR."

If the Government does not give preponderant objections within one month, the Government is obliged to ratify the bill as already accepted by the DPR.

The ratification by the Government as referred to in paragraph 2 of this article forms one constitutional element in the legislative process. Laws are always the result of the joint efforts of the Government and the DPR. The Government and the DPR together form the legislative body, not the Government by itself or the DPR by itself.

#### A R T I C L E 95

1. All the bills which have been passed by the Dewan Perwakilan Rakjat acquire the force of law after ratification by the Government.
2. The laws are inviolable.

The contents of this article are the same as those of article 130 of the RIS Constitution. Articles 90, 91, 92, 93, 94, and 95, paragraph 1 describe the legislative procedure.

#### A R T I C L E 96

1. The Government on its own authority and responsibility has the right to enact emergency laws for the regulation of each matter which demands immediate action on account of urgent circumstances.
2. Emergency statutory laws have the force and the authority of law, subject to the provisions of the following article.

This article is the same as article 139 of the RIS Constitution. The words "legislative power" in the RIS Constitution are replaced by the firmer phrase "authority of law."

The existence of this article, according to the Government's reply to the report of the DPR Reporting Committee, August 3, 1950, is not meant to grant opportunities for the Government to act beyond democratic bounds, but to resolve a variety of difficulties in this early time. In various cases it is necessary to establish regulations quickly in order to carry out governmental affairs. The situation can be so urgent that the necessary regulation cannot be postponed until the matter can be referred to and discussed completely by Parliament.

Emergency laws have the force of law, meaning that as law they can effect punishment and, unlike Government regulations (article 98, paragraph 2), without any limitations.

Emergency law has the same status as regular law; thus, it can amend or add to articles of statutes.

The enactment of emergency law, according to the text of article 96, paragraph 1 is permitted only for the regulation of governmental affairs. It may not be employed to carry out affairs of a non-governmental nature. However, the meaning of carrying out governmental affairs is very broad, i. e., all cases included in article 82. Thus in practice it will not be easy to point out what matters are beyond the purview of article 82.

#### A R T I C L E 97

1. After their enactment the regulations contained in the emergency statutory laws are submitted to the Dewan Perwakilan Rakjat at the next session for the Dewan to deal with these laws in the manner prescribed for the treatment of bills of the Government.
2. If a regulation as referred to in the preceding paragraph is rejected by the Dewan Perwakilan Rakjat after being dealt with in accordance with the provisions of this section, the regulation lapses ipso jure.
3. All reparable and irreparable consequences resulting from the implementation of an emergency statutory law which has lapsed by virtue of the preceding paragraph and for the consequences of which that emergency law was not made the necessary provisions, shall be provided for by law.
4. If the regulation contained in the emergency law has been amended and enacted as law, the consequences of these amendments shall be equally provided for in accordance with the preceding paragraph.

The content of this article is the same as that of article 140 of the RIS Constitution. This article is a balance for article 96. The DPR can correct, on the basis of article 97, actions of the Government.

Provisions contained in emergency laws are submitted to the DPR in the form of a bill. In form this bill enacts the emergency law concerned as a regular law, and the provisions of the emergency law are reiterated (with whatever amendments have been determined jointly by the DPR and the Government) in the said law.

## A R T I C L E 98

1. Regulations for the execution of laws are enacted by the Government and are called Government Regulations.
2. Government ordinances may impose penalties for the infringement of their provisions. The limits of the penalties to be imposed are determined by law.

This article is the same as article 141 of the RIS Constitution.

## A R T I C L E 99

1. A law or Government Regulation may direct another organ of the Republic of Indonesia to carry out certain matters specified in the provisions of these laws and regulations.
2. The laws and the Government Regulations concerned make provisions for the promulgation of such regulations.

The content of this article is the same as article 143 of the RIS Constitution.

The term "announcement" in article 142, paragraph 2 of the RIS Constitution is replaced by a more definite term, which was previously used in the legislation of the Republic of Indonesia, "promulgation" (afkondiging in Dutch).

## A R T I C L E 100

1. The law provides rules for the form, promulgation, and becoming effective of laws and Government Regulations.
2. Laws and Government Regulations shall only become binding by virtue of their promulgation in the manner determined by law.

The content of this article is the same as that of article 142 of the RIS Constitution. Here again the term "promulgation" is used instead of "announcement."

Act No. 2, 1950, concerning the enactment of Emergency Statutory Law No. 2, 1950, became the legislation (federal) regulating all cases as mentioned by article 100 (and, before, by article 143 of the RIS Constitution).



## S E C T I O N I I I

## T H E J U D I C I A R Y

## A R T I C L E 101

1. Civil cases, civil penal cases, and military penal cases come exclusively within the cognizance of such judicial organs as established and recognized by or in virtue of the law.
2. Appointment to a judicial office established by or in virtue of the law will be made exclusively on the basis of compliance with the requirements of capability, ability, and integrity as determined by law. Discharge, suspension, and removal from such an office can only take place in the cases defined by law.

This article is generally the same as the principal contents of article 144 of the RIS Constitution. The differences between the two articles are as follows:

1. The term "cases of civil law" in the RIS Constitution is replaced by the more proper term "civil penal cases."
2. The statement in article 144, paragraph 1 of the RIS Constitution which reads "including judges of the self-governing territories, judges of customary law, and religious judges" is not found in this article.

The Explanation of the Draft Provisional UUD, the Government's reply to the report of the DPR Reporting Committee, August 3, 1950, as well as the discussion of the DPR concerning the UUD, all indicate no changes in this matter. Even the Judiciary Section of the UUD, for example, does not give rise to a problem of debate between the Government and Parliament.

In fact, even though article 101, paragraph 1 does not state that the judges of the Swapradja(s), customary law judges, and religious judges are also included in the meaning of "court," this does not mean that the said judges are no longer recognized by the UUD. For the judges of Swapradja(s), customary law, and religion can be included in the meaning of "courts recognized by law." However, this article does not require, as in the case of article 144, paragraph 1 of the RIS Constitution, the recognition of such judges, even if the UUD does not prevent them from being abolished.

3. The term "judiciary" in article 144, paragraph 2 of the RIS Constitution is replaced by a term more in keeping with the purpose of this paragraph, "court."

In Emergency Statutory Law No. 1/1951, State Gazette No. 9/1950, which until now (January 1954) has not been enacted as a statute, the Government

established provisions concerning the organization, power, and procedure of the civil judiciaries.

The normal court for all inhabitants of the RI which will examine and decide in the first instance all civil and criminal cases is the Pengadilan Negeri,\* whose territorial jurisdiction is usually the same as that of the former Landraads.

Above the first instance court is established the High Court, which is a court of appeal. At this time (January 1954) Indonesia has four High Courts located in Djakarta, Surabaya, Medan, and Makassar.

The Religious Courts of the former period still exist, as well as the village conciliation courts as provided within the scope of article 3a of the Rechterlijke Organisatie (Regulation of Judicial Organization and Administration).

The courts of the Swapradja(s) and the customary law courts are gradually being abolished, except for the religious courts that, according to customary law are an individual part of a Swapradja or customary law court. At this time (January 1954) there are still customary law courts in Tapanuli and South Sumatra, and Swapradja courts in the Swapradja regions of South Kalimantan, East Kalimantan, and the islands of Nusa Tenggara (except Bali).

Military criminal cases, according to Emergency Statutory Law No. 16, 1950, State Gazette No. 24/1950, are judged by the Military Court, the High Military Court, and the Supreme Military Court.

#### A R T I C L E 102

Civil law and commercial law, civil penal law, military penal law, civil procedural law, as well as the composition and competency of the Judiciary, are regulated by law in legal codes, except when the legislator deems it necessary to regulate certain matters by special law.

A similar article is not found in the RIS Constitution because a federal structure requires the division of competency in the enactment of legislation between the Federal legislature and that of the Component States.

In the Supplement to the RIS Constitution which stipulates the basic responsibilities given to the federal Government, mention is also made, inter alia, of the regulation of the basic principles of civil, commercial, penal law, etc.

The UUD of the Republic of Indonesia also does not contain an article such as this one.

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\*Roughly analogous to county courts in the United States; they are courts of the first instance.

This article requires the codification of law in a legal code but permits regulations concerning certain matters to be determined by special law. This article does not require the unification of law; on the contrary, article 25, paragraph 2 stresses that attention be given to legal needs of the various social groups.

#### A R T I C L E 103

Any intervention in judicial matters by other than judicial organs is prohibited, except when authorized by law.

The content of this article is the same as that of article 145, paragraph 1 of the RIS Constitution.

Article 145, paragraph 2 of the RIS Constitution is not adopted in this UUD as there is a strong tendency to abolish all courts which are not State judicial organs (gouvernementsrechtspraak).

#### A R T I C L E 104

1. All judgments shall state the principles on which the judgments are based and in penal cases the legal provisions and customary law rules on which the conviction is based.
2. All court sessions shall be public subject to the exceptions determined by law. The judge may deviate from this rule in the interest of public order and morality.
3. All judgments shall be pronounced in a public session.

The contents of this article are the same as those of article 146 of the RIS Constitution.

See article 32.

#### A R T I C L E 105

1. The Supreme Court is the highest court of the State.
2. The Supreme Court exercises the highest supervision over the activities of the other judicial organs in accordance with regulations determined by law.
3. In matters prescribed by law, cassation may be requested of the Supreme Court against judgments of other judicial organs than the Supreme Court.

Paragraph 1 of this article is the same as paragraph 1, article 147 of the RIS Constitution except for the omission of the word "Indonesia" after "Supreme Court" and "federal."

Paragraph 2 of this article contains a provision which is in principle the same as article 150 of the RIS Constitution.

Paragraph 3 of this article contains the same right of cassation of the Supreme Court as contained in article 148, paragraph 4 of the RIS Constitution.

One change in the authority of the Supreme Court since the adoption of this Provisional UUD is that the Supreme Court (and other courts) no longer have the right to state in their decisions that a governmental regulation or a law of a component territory conflicts with the constitution (see articles 156, 157, and 158 of the RIS Constitution), since the component territories no longer exist in the Unitary State.

The position of the present Supreme Court is the same as that of the Republic of Indonesia before the establishment of the RIS.

This UUD does not provide for a constitutional court as, for example, in West Germany (article 93, Basic Law of the Federal Republic of Germany).

Statute No. 1, 1950, State Gazette No. 30/1950, contains provisions concerning the organization, jurisdiction, and procedure of the Supreme Court. According to this statute, the Supreme Court decides cases in the name of justice.

For the High Courts and the first instance courts, these affairs are not determined by law.

#### A R T I C L E 106

1. The President, the Vice-President, and the Ministers; the Chairman, Deputy Chairman, and members of the Dewan Perwakilan Rakyat; the President, Vice-President, and members of the Supreme Court; the Attorney-General of that Court; the Chairman, Vice-Chairman, and members of the Financial Audit Council; the President of the Bank of Issue, as well as officials, members of high government bodies, and other authorities as stated by law, shall be tried, also after their resignation and unless the law provides otherwise, by the Supreme Court in first instance and at the same time in the last resort, for crimes, misdemeanors, and other transgressions as determined by law, committed during their period of office.
2. The law can reserve the cognizance of civil cases and civil penal cases against certain categories of persons and bodies for judicial organs stated by that law.

3. The cognizance of civil cases concerning regulations made by or in virtue of a law, may be reserved by law for the judicial organs stated by that law.

The content of this article is taken from article 148, paragraphs 1, 2, and 3 of the RIS Constitution. No explanation is found in the official documents, including the discussion of Parliament on the UUD, why this UUD simply took over the provisions contained in article 148, paragraphs 2 and 3 of the RIS Constitution.

In a federal structure, it is indeed necessary to provide for possibility of removing certain groups of persons and legal bodies along with certain cases from the jurisdiction of the courts of the Component States and turning them over to the federal court. In a Unitary State such provisions have no raison d'etre, particularly in view of the intention to establish one judicial system for all of Indonesia.

#### A R T I C L E 107

1. The President has the right of pardon for punishments imposed by judicial sentence. He exercises this right after soliciting the advice of the Supreme Court, insofar as the law has not designated another court or tribunal for this purpose.
2. If a death sentence has been imposed, the sentence shall not be executed until the President has had the opportunity to grant pardon in accordance with regulations established by law.
3. Amnesty and pardon are only extended by a law or in virtue of a law by the President after soliciting the advice of the Supreme Court.

This article is the same as article 160 of the RIS Constitution, except that:

1. The term "grant of pardon" is changed to "pardon"
2. Paragraph 3 of this article mentions also "pardon" while article 160, paragraph 3 only mentions "amnesty."

#### A R T I C L E 108

The judgment in disputes on administrative law is entrusted to courts or tribunals administering justice in civil cases, or to such other organs as guarantee similar impartiality to the greatest possible extent.

This article is the same as article 161 of the RIS Constitution.

## S E C T I O N I V

## F I N A N C E

## P a r t I

## M o n e t a r y S y s t e m

## A R T I C L E 109

1. The currency which is issued by virtue of the law shall be the only legal tender in the entire territory of the Republic of Indonesia.
2. The monetary unit in which the legal tender is expressed shall be determined by law.
3. The law either recognizes a legal tender for unlimited amounts or for a specific and limited amount.
4. The issue of legal tender takes place by or on behalf of the Government of the Republic of Indonesia or by the Bank of Issue.

This article is the same as article 164 of the RIS Constitution.

## A R T I C L E 110

1. There is one Bank of Issue for Indonesia.
2. The designation, organization, and competencies of the Bank of Issue shall be determined by law.

This article is the same as article 165 of the RIS Constitution.

With the enactment of Statutory Law No. 11, 1953, State Gazette No. 40/1953, the law for the Bank of Java (De Javasche Bankwet 1922) was repealed and in lieu thereof another fundamental law was enacted.

The Bank of Indonesia is a corporation which is owned by the State and is appointed as the Bank of Issue.

## P a r t II

## F i n a n c i a l M a n a g e m e n t -- B u d g e t -- A u d i t -- S a l a r i e s

## A R T I C L E 111

1. The Government is in charge of the general management of finances.

2. The public finance is administered and accounted for according to regulations prescribed by law.

This article is the same as article 166 of the RIS Constitution.

#### A R T I C L E 112

1. A Financial Audit Council is established to examine and audit all accounts pertaining to public finance.
2. The results of such examinations and audits are submitted to the Dewan Perwakilan Rakjat.

The Constitution of the RIS does not have an article such as this one. This is a defect of that Constitution.

The provision contained in this article is generally the same as that of article 23, paragraph 5 of the UUD of the Republic of Indonesia.

#### A R T I C L E 113

The estimates of all expenditures of the Republic of Indonesia and the means to cover these expenditures shall be prescribed by law.

This article is the same as that of article 167 of the RIS Constitution.

#### A R T I C L E 114

1. The Government shall introduce the bills for the determination of the general budget to the Dewan Perwakilan Rakjat before the commencement of the period governed by the budget.

This period shall not be longer than two years.

2. Bills with respect to revision of the general budget are submitted by the Government to the Dewan Perwakilan Rakjat whenever necessary.

This is the same as the content of article 168, paragraphs 1 and 2 of the RIS Constitution. Obviously, paragraph 3 of the RIS Constitution, concerning the Senate, could not be adopted in this UUD.

#### A R T I C L E 115

1. The budget consists of divisions, each insofar as necessary divided into two chapters, respectively for the determination of the expenditures and for the designation of the means. The chapters are sub-divided into items.

2. The budget contains at least one division for each ministry.
3. The laws for the determination of the budget shall each comprise only one division.
4. The law may authorize transfers.

This article is the same as article 169 of the RIS Constitution.

#### A R T I C L E 116

Expenditures and revenues of the Republic of Indonesia shall be accounted for to the Dewan Perwakilan Rakjat in accordance with regulations adetermined by law and under presentation of the accounts approved by the Financial Audft Council.

This article is the same as article 170 of the RIS Constitution.

#### A R T I C L E 117

Taxes, duties, and excises can only be levied on behalf of the Treasury by or in virtue of a law.

The content of this article which concerns taxes is the same as that of article 171 of the RIS Constitution.

Duties and excises, not mentioned in the RIS Constitution, are included here along with taxes.

At this time (January 1954) a State Committee is studying the possibilities of changing the tax system, which up to now has been based upon Dutch law.

#### A R T I C L E 118

1. Loans for account of the Republic of Indonesia cannot be contracted, guaranteed, or approved unless by or in virtue of a law.
2. The Government has the right to issue treasury bonds, under observance of the regulations determined by law.

This article is the same as the content of article 172 of the RIS Constitution.

#### A R T I C L E 119

1. Without prejudice to the provisions made in special regulations, the salaries and other allowances of the members of public bodies and of the



officials of the Republic of Indonesia are determined by the Government, observing the regulations to be determined by law and according to the principle that no other benefits but those explicitly allowed shall be derived from any office.

2. The law can permit delegation of the powers described in paragraph 1 to other authorities.
3. Pensions to be awarded to servants of the Republic of Indonesia are regulated by law.

The content of this article is the same as that of article 173 of the RIS Constitution.

The salaries of civil servants of the Republic of Indonesia are provided for at present (January 1954) by Salary Regulation for State Civil Servants, 1948 (PGP 1948), which is based upon Government Regulation No. 23, 1950 juncto RIS Government Regulation No. 16, 1950.

Pensions of civil servants are regulated by Statutory Law No. 20, 1952, State Gazette No. 74/1952.

## S E C T I O N V

### FOREIGN RELATIONS

#### A R T I C L E 120

1. The President concludes and ratifies all treaties and other agreements with foreign powers. Unless the law provides otherwise, a treaty or another agreement is not ratified until approved by law.
2. Accession to and termination of treaties and other agreements is effected by the President only by virtue of a law.

This article is the same as article 175 of the RIS Constitution. Article 174 of the RIS Constitution, which provides that the Government will be in charge of all foreign affairs, was not adopted in the Provisional UUD because it is taken for granted that such matters rest with the Government and that there is therefore no need to state this in the UUD.

In a federal structure such a statement is considered necessary in order to note that foreign affairs are not the task of the Component States but the responsibility of the federal Government.

At this time (January 1954) Treaties of Friendship have been concluded between the Republic of Indonesia and (1) Egypt, (2) Syria, (3) India, (4) Pakistan, (5) Burma, and (6) the Philippines.

Commercial Agreements for limited periods have also been concluded between Indonesia and several countries, for example, Japan, India, Pakistan, Finland, West Germany, Norway, Poland, Switzerland, Hungary, and other states.

#### A R T I C L E 121

The Republic of Indonesia shall join international organizations on the basis of the treaties and agreements stated in article 120.

The content of this article is the same as article 176 of the RIS Constitution.

As of this time (January 1954), Indonesia is a member of the following international organizations:

The United Nations	since May 23, 1950
United Nations Specialized Agencies:	
1. World Health Organization	" May 23, 1950
2. Food and Agriculture Organization	" December, 1949
3. UNESCO	" May 25, 1950
4. International Labor Organization	" June 12, 1950
5. Aviation	" May 27, 1951
6. International Telecommunication Union	" December, 1949
7. Universal Postal Union	" December, 1949
8. World Meteorological Organization	" March 31, 1952

Since 1950, Indonesia has also joined the following international organizations: UNICEF, International Committee of the Red Cross, International Rubber Study Group, International Tea Committee, International Tin Study Group, Bureau Hydrographique International, etc.

#### A R T I C L E 122

The Government shall endeavor to solve peacefully all disputes with other powers and shall decide in this respect whether to solicit or accept international adjudication or arbitration.

This article is the same as article 177 of the RIS Constitution.

#### A R T I C L E 123

The President appoints representatives of the Republic of Indonesia to other powers, and receives representatives of other powers to the Republic of Indonesia.

This article is the same as article 178 of the RIS Constitution.

In the Government's reply to the report of the Reporting Committee on August 3, 1950, it was explained that this article is only meant to point out that the President is the official who appoints foreign representatives

of the Republic of Indonesia as well as receiving representatives of other countries to the Republic of Indonesia.

That everything to be executed is subject to the approval of the Cabinet in general and the Minister of Foreign Affairs of the Republic of Indonesia in particular needs no further explanation in a separate article or paragraph (see articles 83 and 85).

Since the Government has a broad and deep understanding concerning prospective leaders and representatives for the foreign service, the Government--in its reply noted above--stated that it was not to depend upon recommendations of the DPR.

## S E C T I O N VI

### DEFENSE OF THE STATE AND PUBLIC SECURITY

#### A R T I C L E 124

The law determines the regulations concerning the right and the duty of citizens to maintain the independence of the Republic of Indonesia and to defend its territory.

The law regulates the exercise of this right and duty and determines the exceptions thereto.

The content of this article, with some word improvement, is the same as that of article 179 of the RIS Constitution.

#### A R T I C L E 125

1. The Armed Forces of the Republic of Indonesia are entrusted with the protection of the interests of the State of the Republic of Indonesia.

The Armed Forces shall consist of volunteers and conscripts.

2. The law shall regulate all matters pertaining to the Regular Armed Forces and to compulsory military service.

The content of this article is the same as article 180 of the RIS Constitution. The wording is only more definite, i. e., "Armed Forces" because the intention includes not only the Army but also the Navy and the Air Force.

## A R T I C L E 126

1. The Government is charged with the direction and the management of defense.
2. The law determines the principles of the composition and the functions of the organs entrusted with the general defense.

Paragraph 1 of this article is the same as paragraph 1 of article 181 of the RIS Constitution.

That the Government is charged with the direction and management of defense is accepted, and this fact need not be explained further in the UUD. In the RIS system, such a statement means that defense is not an affair of a Component Territory.

Like article 174 of the RIS Constitution, there is actually no need to adopt article 181, paragraph 1 of the RIS Constitution (see remarks under article 120).

The provision found in paragraph 2 of this article covers all that is mentioned in article 182, paragraph 2 of the RIS Constitution. As a general principle, the wording of article 126, paragraph 2 is better than article 181, paragraph 2 of the RIS Constitution.

At this time (January 1954), a Defense Bill has already been forwarded to the DPR and is now being discussed in the sections of the DPR.

## A R T I C L E 127

1. The President has supreme authority over the Armed Forces of the Republic of Indonesia.
2. In a state of war, the Government places the Armed Forces under the command of a commander-in-chief.
3. The officers are appointed, promoted, and discharged by or on behalf of the President in accordance with rules determined by law.

The meaning of paragraph 1 of this article in principle is not different from article 182, paragraph 1 of the RIS Constitution. It is not mentioned here that the President is the Supreme Commander.

He exercises supreme authority over the Armed Forces, with the understanding that his acts of authority must be countersigned by the Minister concerned (the Minister of Defense).

The wording of article 127, paragraph 1 is comparable to article 10 of the UUD of the Republic of Indonesia, which states that the President exercises supreme authority over the Army, Navy, and Air Force.

Paragraph 2 of this article differs from that of article 182 of the RIS Constitution. According to paragraph 2, only in a state of war can the Government place the Armed Forces under the leadership of a Commander-in-Chief; whereas according to the RIS Constitution, the Government, even if there is no war, can appoint a general commander, provided that such an appointment is deemed necessary.

According to this UUD, in times of war the Government is obliged to appoint a Supreme Commander.

The Minister of Defense, according to the RIS Constitution, may at the same time hold the office of General Commander. In the system noted in article 127, paragraph 2 of this UUD, a Minister may not concurrently hold the office of General Commander.

Paragraph 3 of this article is the same as that of article 182, paragraph 3 of the RIS Constitution.

#### A R T I C L E 128

The President shall require the approval of the Dewan Perwakilan Rakjat before declaring war.

The content of this article is the same as article 183, paragraph 1 of the RIS Constitution.

Article 11 of the UUD of the Republic of Indonesia states that the President, with the approval of the DPR, declares war, negotiates peace, and concludes treaties with other countries.

The Government clarified, in its reply at the first session of the DPR, that it is unnecessary to include in the UUD that he can negotiate peace only upon the approval of the DPR. Peace can only be dealt with by treaty, and every treaty is subject to approval of the DPR (article 120, paragraph 2).

#### A R T I C L E 129

1. In the manner and in the cases to be defined by law, the President can declare the territory of the Republic of Indonesia or parts thereof to be in a state of emergency, whenever he considers this state necessary for the safeguarding of internal and external security.
2. The law regulates the stages of the state of emergency and the consequences of such a declaration. The law further determines when the constitutional powers of the civil authorities on public order and the police shall wholly or partly be transferred to the military authorities, and the civil authorities become subordinate to the military authorities.

The main contents of this article are the same as those of the RIS Constitution. The differences are as follows:

Article 184 of the RIS Constitution notes two extraordinary situations -- a state of war and a state of siege -- whereas this article only mentions a state of emergency, which is in keeping with article 12 of the UUD of the Republic of Indonesia, which states that the President declares a state of emergency.

Paragraph 2 of this article provides that the states of emergency shall be regulated by law. In the law, for example, it can be determined what are the various stages of emergencies: state of war, state of emergency, state of siege, and perhaps other types of emergencies of a different nature.

With the exception of the additions concerning the states of emergencies, paragraph 2 of this article is the same as article 184, paragraph 2 of the RIS Constitution.

Article 12 of the UUD of the Republic of Indonesia only states that the conditions and the consequences of the state of emergency shall be regulated by law. The law required by this article has until now (January 1954) not been enacted. Thus, at present the Dutch law is still in effect (Regeling op den Staat van Oorlog en Beleg [SOB], Staatsblad, 1939, No. 582, KB 13, September 1939, No. 32 -- Regulations on the State of War and State of Siege).

Statutory Law No. 6, 1946, of the RI (Jogjakarta), concerning the state of emergency, cannot be executed because those organs no longer exist which must effect this law. At this time (January 1954) areas still declared in a state of emergency (Staat van Oorlog) based upon the previously mentioned SOB are: all of Java, except Madura; South Sulawesi; Ambon and Ceram Islands; and the Riouw Islands (State Register No. 66, 1952); as well as all of the territorial waters (territoriale wateren) of the entire Indonesian archipelago (State Register No. 65, 1952).

#### A R T I C L E 130

A police force shall be established by law for the maintenance of public order and security.

This article contains a new provision which is not found in either the Constitution of the RIS or the UUD of the RI.

This article requires a special law to regulate the authority of the instrumentalities of the Police Force. Until now (January 1954) this law has not been enacted.

C H A P T E R I V  
 G O V E R N M E N T O F T H E D A E R A H A N D T H E  
 S W A P R A D J A \*

A R T I C L E 1 3 1

1. The division of Indonesia's territory into large and small autonomous territories (daerah) and the form of their governmental organization shall be established by law, with due observance and consideration of the principles of consultation and representation in the system of government of the State.
2. The territories shall be given the largest possible measure of autonomy to manage their own affairs.
3. The execution of certain duties not falling under the household affairs for autonomous territories can be delegated to them by law.

This arrangement is different from that of the RIS Constitution, for since the RIS Constitution is based upon a federal structure, those chapters relating to the government of the daerah are placed in the first part (Chapter II), while in the new unitary Constitution, the chapters on daerah and Swapradja government are placed after those on the Central Government. In this UUD, the governmental affairs of the daerahs and the Swapradjas are found in Chapter IV.

This article provides for the deconcentration and decentralization of governmental affairs. Basically, autonomy must be granted to the widest possible extent (paragraph 2).

Paragraph 3 of this article provides for the principle of medebewind.\*\*

A comparison with article 18 of the UUD of the Republic of Indonesia, which regulates the basis of the daerah government of the Republic of Indonesia, shows that, first, the wording of this article is clearer than that of article 18 of the UUD of the Republic of Indonesia because the principles of autonomy, deliberation, and representation are clearly explained.

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\*Daerah here means territory or region. This term has been greatly expanded and/or changed during the last 15 years. See the Appendix to this translation for a history of the term. Swapradja is a difficult term to translate into English political terminology. The word means a self-contained social and political (legal) community where executive power resides in the reigning family--a continuation of the Dutch colonial practice of indirect rule.

\*\*See above, p. 10.

Second, this article is not as extensive as article 18 of the UUD of the Republic of Indonesia because it does not deal with the Swapradja and unified customary daerahs (adatgemeenschappen). \* The traditional rights of special daerahs as mentioned in article 18 of the UUD of the Republic of Indonesia are related to the two types of daerahs as noted in the previous sentence.

The position of the Swapradja in this UUD is regulated in a special article, article 132.

The RIS Government, in its reply to the first sitting of a session of the DPR, stated that it has already decided to divide temporarily the entire area of Indonesia into ten administrative territories. Since the formation of the Unitary State there has not yet been enacted any law governing the division of autonomy between the provinces or other regions and that of the Central Government.

The RIS Government, in its reply to the second sitting of a session of the DPR, stated that the division of authority between the Central Government and the provinces and daerahs in the Unitary State must be clearly determined by statutory law.

If the division of authority between the Center and the daerahs, either by means of medebewind or by decentralization and deconcentration, does not fulfil the needs of the daerahs, this situation will create tensions between the daerahs and the Center which, of course, will be disadvantageous for the subsequent course of governmental affairs.

As the first step towards the formation of autonomous daerahs, the RIS Government enacted Regulation No. 21, August 14, 1950, State Gazette No. 95/1950, which divided Indonesia into ten administrative provinces:

- |                    |                   |
|--------------------|-------------------|
| 1. West Java       | 6. South Sumatra  |
| 2. Central Java    | 7. Kalimantan     |
| 3. East Java       | 8. Sulawesi       |
| 4. North Sumatra   | 9. Moluccas       |
| 5. Central Sumatra | 10. Lesser Sundas |

During this time the legislation of the Republic of Indonesia (Jogjakarta) had already established autonomous (autonom) provinces (Statutory Law No. 22/1948):

1. East Java (Law No. 2/1950)
2. Special District (Daerah Istimewa) of Jogjakarta, which has the level of province (Law No. 3/1950)
3. Central Java (Law No. 10/1950)
4. West Java (Law No. 11/1950)
5. South Sumatra (Emergency Law No. 3/1950)

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\*This Dutch expression refers to specific social-governmental units of which customary law is a distinguishing feature.



6. Central Sumatra (Emergency Law No. 4/1950)
7. East Sumatra (Emergency Law No. 5/1950).

RIS Emergency Law No. 20/1950, established the autonomous region of Greater Djakarta under the leadership of a mayor. Also, Emergency Law No. 2/1953, of the RI Unitary State, State Gazette No. 8/1953, established the autonomous province of Kalimantan.

Until now (January 1954) the provinces of Sulawesi, Moluccas, and Lesser Sundas are still of an administrative nature.

The autonomous provinces of West Java, Central Java, Special Region of Jogjakarta, and South Sumatra already have Dewan Perwakilan Rakjat Daerah (Regional Councils of the People's Representatives) and Dewan Pemerintah Daerah (Regional Executive Councils).

The autonomous province of Central Sumatra formerly had a Daerah DPR and a Daerah DPD. However, the two councils were suspended after the Central DPR accepted the motion of Hadikusumo on January 17, 1951, that requested the abrogation of RI (Jogjakarta) Government Regulation No. 39/1950 concerning the organization of the Daerah DPR and DPD.

The Daerah DPR's and DPD's of West Java, Central Java, and South Sumatra established on the basis of the previously noted RI (Jogjakarta) Government Regulation No. 39/1950 are still valid.

Members of the DPR of the Special Region of Jogjakarta were elected on the basis of the Regional General Election Law for members of the DPR, Law No. 7/1950, RI (Jogjakarta). The election in Jogjakarta was an indirect election.

Based upon Law No. 22/1948 of the Republic of Indonesia (Jogjakarta), the territories of West Java, Central Java, East Java, and the Special Region of Jogjakarta have already been divided into autonomous Kabupatens (second-level districts) Cities, and Small Cities. In Sumatra, Kabupatens have already been established, although not of an autonomous but only of an administrative nature, by the Emergency Government of the Republic of Indonesia during the Dutch occupation at the conclusion of the second military action. At the present time Kabupaten governments are being prepared based upon the previously mentioned Law No. 22/1948.

In the administrative provinces of Sulawesi, Maluccas, and Lesser Sundas, there have been established autonomous daerahs based upon Law No. 44/1950, which was enacted by the former East Indonesia State concerning regional government in the East Indonesia State.

Through certain Government Regulations of the Unitary State of the Republic of Indonesia, daerahs in Sulawesi and the Moluccas, as mentioned above, have already been changed; for example, Government Regulation No. 35/1952, State Gazette 47/1952, reorganized South Sulawesi into two autonomous daerahs (Swatantra) at the level of a Kabupaten.

Government Regulation No. 34/1952, State Gazette No. 48/1952, reorganized South Sulawesi into seven autonomous daerahs (Swantantra) at the level of a Kabupaten.

Government Regulation No. 35/1952, State Gazette No. 49/1952, established the autonomous daerahs (Swantantra) of Central Moluccas and Southeast Moluccas having the same level as a Kabupaten.

Emergency Law No. 3/1953, State Gazette No. 9/1953, divided the Province of Kalimantan into 13 Kabupatens, two Cities, and three Special Regions at the level of Kabupaten.

Government Regulation No. 11/1953, State Gazette No. 17/1953, established the daerah of North Sulawesi as an autonomous governmental unit.

The other daerahs of Sulawesi (the islands Sangi and Talaud, Minahasa, and the City of Manado) have not yet been reorganized as is the case also with the daerahs of the provinces of the Lesser Sundas and North Moluccas.

At this time these daerahs (the islands Sangi and Talaud, Minahasa, and the City of Manado), the daerahs of the Lesser Sundas and North Moluccas (Swapradja Ternate, Tidore, and Batjan) are governed by Statute No. 44/1950 of the former East Indonesia State.

The Government is now engaged in forwarding a bill on basic local government to the DPR, which will repeal Statutory Law No. 22/1948 of the RI (Jogjakarta) and Statutory Law No. 44/1950 of the East Indonesian State.

#### A R T I C L E 132

1. The position of the Swapradjas shall be regulated by law with the proviso that the provisions of article 131, the principles of consultation and representation in the system of the government of the State, shall also be taken into account in the structure of their administrations.
2. The existing Swapradjas cannot be abolished or reduced unless for the general benefit and after authorization to this effect has been given to the Government by a law declaring that the general interest requires such abolition or reduction.
3. Judicial disputes as regards the regulations referred to in paragraph 1 and implementation thereof shall be settled by the judicial organs referred to in article 108.

This article governs the position of the Swapradja daerahs. The provisions contained here are different from those relating to the Swapradja daerahs as found in the RIS Constitution. In the RIS, the power to determine the position of the Swapradja daerahs fell within the authority of the Component State, and this was done by agreement between the two.

With the abolition of the Component Territories in the Unitary State of the Republic of Indonesia, the governing of the Swapradja daerahs becomes the task and authority of the Government of the Unitary State.

According to article 132 of this UUD, the governance of Swapradja daerahs will no longer be by contract but prescribed by law.

This article also insists on the democratization of Swapradja government, inasmuch as the law governing such governments must be in keeping with the principle of consultation and representation as found in the governmental system of the State (paragraph 1 of this article).

Also, paragraph 1 of this article provides that the provisions referred to in article 131 concerning the structural organization of government must be taken into account, which means that besides the principle of democracy just referred to autonomy and medebewind concepts must be incorporated.

According to the Explanation of the Draft Provisional UUD, in the enactment of the law and the establishment of the government, which will take into consideration indigenous rights the parties involved will be consulted.

Paragraph 2 of this article adopts the provisions found in article 65 of the RIS Constitution.

Paragraph 3 of this article contains provisions different from those of article 67 of the RIS Constitution.

The RIS Constitution appoints the Supreme Court of Indonesia as the judicial body which decides legal disputes concerning the position of the Swapradja.

Paragraph 3 of this article does not mention which judicial body must settle legal disputes. Rather, it states only that the judicial body is either a court which decides civil cases or another body which guarantees justice and truth (article 108).

The Unitary State of the Republic of Indonesia is still bound by article 3, paragraph 2 of the Round Table Conference on the Transfer of Sovereignty which provides that legal disputes concerning the position of the Swapradja will be settled by an impartial body of the RI(S).

#### A R T I C L E 133

Pending the establishment of the provisions referred to in article 132, the existing regulations remain in force with the proviso that the officials of the former Component States referred to in these regulations are replaced by analogous officials of the Republic of Indonesia.

This article contains the transitional provisions which are basically the same in meaning as those of article 66 of the RIS Constitution. The officials of the Component States of the RIS, as noted in this article, are replaced automatically by those of the Republic of Indonesia.

CHAPTER V  
THE CONSTITUENT ASSEMBLY

ARTICLE 134

The Constituent Assembly together with the Government shall enact as soon as possible the Constitution of the Republic of Indonesia which shall replace this Provisional Constitution.

The content of this is the same as that of article 186 of the RIS Constitution.

Article 187, paragraph 1 of the RIS Constitution stipulates that the draft of the permanent constitution must be drawn up by the Government; it may not adopt this Provisional UUD. In reference to this matter, the initiative in drawing up the draft can be taken individually by Parliament or the Constituent Assembly.

Article 187, paragraph 2 of the RIS Constitution obligates the Government to draft a constitution providing for a federal structure. Such a provision is not found in this Provisional UUD. In this matter, the Constituent Assembly is free to determine in the new UUD any structure of the state which it feels appropriate.

ARTICLE 135

1. The Constituent Assembly shall have a membership the number of which shall be determined on the basis of one representative to every 150,000 residents of Indonesian citizenship.
2. The members of the Constituent Assembly shall be elected by Indonesian citizens in general elections and by free and secret vote, in accordance with regulations determined by law.
3. The provisions of article 58 shall also apply to the Constituent Assembly with the proviso that the numbers of the representatives referred to shall be doubled.

The composition of the Constituent Assembly according to this article is different from that provided in article 188 of the RIS Constitution.

The Charter of Agreement between the RIS and the RI requires that the Constituent Assembly consist of members elected on the basis of one representative for every 300,000 residents. This article departs from the Charter. The reason, according to the Explanation of the Draft Provisional UUD, for determining that the members of the Constituent Assembly should be elected on the basis of one representative for every 150,000 residents is as follows:

- a. Because a Dewan Perwakilan Rakjat with a total of approximately 250 members (elected on the basis of one representative for 300,000 residents, article 56) is considered appropriate for a nation consisting of about 75,000,000 people;
- b. Because generally a Constituent Assembly has a larger membership than a Dewan Perwakilan Rakjat.

The term "general elections" found in paragraph 2, refers to the system generally used in electing representatives of the people (Government's reply to the report of the DPR Reporting Committee, August 3, 1950).

Either the DPR or the Constituent Assembly will take into consideration the proper representation for minority groups.

The Provisional UUD is not concerned with the question of whether or not a block of voters exists. This, said the Government in reply to the report of the DPR Reporting Committee, August 3, 1950, is a matter of statutory law.

The Statute on the General Election, No. 7, 1953, State Gazette No. 29/1953, regulates the election of members for the Constituent Assembly and the DPR.

See remarks under articles 57 and 58.

#### A R T I C L E 136

The provisions in articles 60, 61, 62, 63, 64, 67, 68, 71, 73, 74, 75, paragraphs 3 and 4, and article 76 are correspondingly applicable to the Constituent Assembly.

In general, the regulations which concern the DPR also apply to the Constituent Assembly. Article 72 is not mentioned in this article--so stated the Government in its reply to the DPR Reporting Committee on August 3, 1950--because the Government is of the opinion that members of the Constituent Assembly will probably need to consult their respective constituencies before undertaking to draft a permanent constitution.

#### A R T I C L E 137

1. The Constituent Assembly cannot hold discussion or take a decision on the draft of the new constitution unless at least two-thirds of the members in session are present at the meeting.
2. The new Constitution becomes valid when the draft has been passed by at least a two-thirds majority of the votes of the members present and has subsequently been ratified by the Government.

3. The draft of the Constitution, when passed by the Constituent Assembly, shall be presented by the Assembly to the President for ratification by the Government.

The Government is bound to ratify the draft immediately.

The Government shall solemnly proclaim the Constitution.

The content of this article is the same as that of article 189 of the RIS Constitution. Article 189, paragraph 2 of the RIS Constitution, which grants the right to the Constituent Assembly to make changes in the draft of the Constitution, need not be adopted by this UUD since there is no provision here that the draft of the definitive UUD must be drawn up by the Government. By whatever side the draft is made, the Constituent Assembly is in a position to change it because the Constituent Assembly (with the Government) enacts the definitive UUD.

There are no longer Component States within the Unitary State. It follows, therefore, that this UUD does not recognize the provision referred to in article 189, paragraph 4 of the RIS Constitution (the right of the Component States to accept or reject the Constitution).

#### A R T I C L E 138

1. If at the time of the establishment of the Constituent Assembly no elections for the members of the Dewan Perwakilan Rakjat have taken place in accordance with the legal procedure as referred to in article 57, the Constituent Assembly shall concurrently function as the Dewan Perwakilan Rakjat which is to be established in accordance with the regulations referred to in said article.
2. The daily work of the Dewan Perwakilan Rakjat which under the provisions of paragraph 1 of this article becomes the task of the Constituent Assembly shall be executed by an Executive Body, which is to be elected by the Constituent Assembly from its membership and which is to be responsible to the Assembly.

Paragraph 1 of this article means that if at the time the Constituent Assembly is established the DPR is still composed according to article 77, it will be best if the Constituent Assembly, as an elected body, assume the work of the DPR. If at the time just referred to the DPR is already formed in accordance with the general election which is intended in article 57, then the transfer of the work of the DPR to the Constituent Assembly is considered unnecessary.

Besides a Constituent Assembly to deal with drawing up a definitive UUD, there must be assembled a DPR to carry out the usual legislative work. If the Constituent Assembly concurrently serves as the DPR, states

paragraph 2 of this article, the legislative work referred to shall be carried out by a Working Body.

#### A R T I C L E 139

1. The Executive Body shall consist of the Chairman of the Constituent Assembly, in the capacity of a member and at the same time Chairman, and members, the number of which is to be determined on the basis of one representative to every 10 members of the Constituent Assembly.
2. The procedure for the election of the members of the Executive Body apart from the Chairman shall be established by law.
3. The Executive Body shall elect from among its members one or more Deputy Chairmen. The Provisions of article 62 are applicable to this election.
4. Before assuming their office, the members of the Executive Body swear as oath (make a declaration) in accordance with their religious beliefs, as laid down in article 63, before the Chairman of the Constituent Assembly.

This article lays down provisions for the organization of the Working Body in case the Constituent Assembly concurrently becomes the DPR.

#### C H A P T E R VI

##### AMENDMENTS, TRANSITIONAL AND FINAL PROVISIONS

##### S E C T I O N I

##### AMENDMENTS

#### A R T I C L E 140

1. Every proposal to amend this Constitution shall clearly state the proposed amendments. It shall be announced by law that the proposed amendments are initiated.
2. A proposal to amend the Constitution which shall be announced in such a law shall be submitted by the Government with a Presidential message to a Body named the Council for Amending the Constitution, which consists of the Members of the Central National Committee who are not Members of the Provisional Dewan

Perwakilan Rakjat. The Chairman and Deputy Chairman of the Provisional Dewan Perwakilan Rakjat shall become the Chairman and the Deputy Chairman of the Council for Amending the Constitution.

3. The provisions of articles 66, 72, 74, 75, 91, and 94 are correspondingly applicable to the Council for Amending the Constitution.
4. The Government shall ratify the bill to amend the Constitution immediately after it has been passed by the Council for Amending the Constitution.

The Council for Amending the Constitution referred to in this article is a special body whose function it is to amend the UUD once it has been declared by law that there is reason to amend the UUD.

The Central National Committee referred to in paragraph 2 of this article is the latest Central National Committee, which was established according to Statutory Law No. 6, 1949, of the Republic of Indonesia (Government's Reply to the report of the DPR Reporting Committee, August 3, 1950).

The Explanation of the Provisional Draft UUD states that, although the Council for Amending the Constitution is indeed a body, because this body may act only when it is necessary to make changes in the Provisional UUD and because in the system of this UUD it is necessary to make changes as determined by the Government together with the Provisional DPR, this Council has no special place by itself within the Provisional UUD; rather, the provisions concerning the Council are inserted in the part dealing with amendment of the Provisional UUD.

#### A R T I C L E 141

1. Without prejudice to the general provisions with regard to the promulgation and proclamation of laws, amendments in the Constitution shall be solemnly promulgated by the Government.
2. The text of the amended Constitution shall be published once more by the Government as soon as the chapters, the sections of each chapter, and the articles have been consecutively renumbered and the references changes wherever required.
3. Existing authorities and prevailing regulations and decrees, at the moment an amendment in the Constitution becomes effective, remain in force until replaced by others in accordance with the Constitution, unless their maintenance is in conflict with such new constitutional provisions as do not require any further legislation or executive measures to become effective.

The content of this article is the same as that of article 191 of the RIS Constitution.



S E C T I O N I I  
T R A N S I T I O N A L P R O V I S I O N S

A R T I C L E 142

Regulations by law and by administrative provisions existing on August 17, 1950, remain in force unchanged as regulations and provisions of the Republic of Indonesia, so long and insofar as they have not been withdrawn, supplemented, or amended by legislation and by administrative provisions in virtue of this Constitution.

The meaning of this article is the same as that of article 192, paragraph 1 of the RIS Constitution.

According to the Charter of Agreement between the RIS and the RI, pending the enactment of unitary legislation the existing laws and regulations remain in force. However, whenever possible the laws of the Republic of Indonesia will be valid. In every field of legislation this matter will be reviewed by the Government (Reply of the RIS Government at the second sitting of a session of the DPR).

A R T I C L E 143

Insofar as not regulated by the provisions of this Constitution, the law determines which organs of the Republic of Indonesia shall assume the functions and the competencies of the organs which exercised these functions before August 17, 1950, on the basis of the legislation maintained in virtue of article 142.

The meaning of this article is the same as that of article 193, paragraph 1 of the RIS Constitution.

A R T I C L E 144

Pending the promulgation of the regulations on citizenship by the law referred to in paragraph 1 of Article 5, all persons who have acquired Indonesian citizenship according to or on the basis of the Agreement on the division of citizens attached to the Agreement on Transfer of Sovereignty, and those whose nationality has not been determined by the said Agreement and who on December 27, 1949, had acquired Indonesian citizenship according to the law of the Republic of Indonesia prevailing on that date, shall be citizens of the Republic of Indonesia.

Besides the statement concerning those who have already acquired citizenship according to or based upon the Agreement concerning the division of citizenship at the Round Table Conference, this article provides also for those whose nationality was not determined by the Agreement, i. e., those who at the time of transfer were not Netherland subjects (Nederlands onderdaan), for example, Germans, foreigners who live in Indonesian territory and have already acquired Indonesian citizenship according to Indonesian legislation. Persons mentioned in the latter category remain citizens of the Unitary Republic of Indonesia. Thus, the content of article 144 is a little broader than that of article 194 of the RIS Constitution.

On December 27, 1949, the former Law No. 3, April 10, 1946, of the Indonesian Republic, concerning citizenship and residence in the Indonesian State was made valid.

The Agreement concerning the division of citizenship at the Round Table Conference does not deal with non-Dutch persons or with non-Dutch persons who acquired RI citizenship according to Statutory Law RI No. 3/1946 as mentioned above. It is clearly understood from the wording of articles 3 and 5 of the Round Table Conference Agreement that this pertains only to Netherlanders and Netherland subjects. Because of this, therefore, article 144 of the Provisional UUD also governs the status of those who are neither Netherlanders nor Netherland subjects.

See the remarks under article 23, paragraph 2 of this UUD.

### S E C T I O N III

#### FINAL PROVISIONS

#### A R T I C E E 145

Immediately after this Constitution becomes effective, the Government shall establish one or more Commissions which shall be entrusted with the function to promote, in general, and in accordance with its instructions, the adaptation of the existing laws to conform with the Constitution.

The content of this article is the same as that of article 196 of the RIS Constitution.

#### A R T I C L E 146

Immediately after this Constitution becomes effective, the Government shall, by reorganizing the existing forces, bring into existence an integrated machinery of State for the purpose of carrying into effect the Constitutional principles reflecting the spirit of the national struggle.

The RIS Government, in its reply to the report of the DPR Reporting Committee, August 3, 1950, expressed the hope that articles 145 and 146 would be executed as expeditiously as possible.

"By reorganizing the existing forces" means, according to the Explanation of the Draft Provisional UUD, that upon the formation of the Unitary State the present civil servants would be assigned throughout Indonesia in such a way as to secure "the right man in the right place" and the greatest amount of efficiency without any differentiation between the civil servants. Furthermore, in order to establish the apparatus of ministries (departments) it is deemed necessary to employ transferred civil servants before housing accommodations can be guaranteed by the Ministries (departments) for those who are required to form the ministerial (departmental) machinery; thus, Ministries (departments) are located in Djakarta, Jogjakarta, and other places according to their function as found in each place.

## A R T I C L E II

1. This Provisional Constitution of the Republic of Indonesia comes into force on August 17, 1950.
2. If before the time stated in paragraph 1, steps have been taken for the formation of organs of the Republic of Indonesia, on the basis of the regulations laid down in this Constitution, such regulations shall be retroactive to the day on which such steps were taken.

Paragraph 2 of this article contains the same provisions as article 197, paragraph 2 of the RIS Constitution.

That everyone may know, it is ordered that this act be promulgated by publication in the State Gazette of the Republic of the United States of Indonesia.

Approved in Djakarta,  
on August 15, 1950

The President of the Republic of  
the United States of Indonesia,

(sgd) SOEKARNO

The Prime Minister,

(sgd) MOHAMMAD HATTA

Promulgated in Djakarta,  
on August 15, 1950

The Minister of Justice

The Minister of Justice,  
(sgd) SUPOMC

(sgd) SUPOMC

SUPPLEMENTS

SUPPLEMENT I

THE CHARTER OF AGREEMENT

between  
THE GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES  
OF INDONESIA

and

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

On Friday, May 19, 1950:

We:

The Government of the Republic of the United States of Indonesia, in this case acting also with a full mandate from the Government of the State of East Indonesia and the Government of the State of East Sumatra, as the first party:

The Government of the Republic of Indonesia as the second party;

Upon the holding of our session in Djakarta;

After having considered and approved the basic ideas concerning the formation of the Unitary State as composed by the two parties referred to above;

DECLARE:

- I. That we agree to establish a Unitary State in the shortest possible time as the realization of the Republic of Indonesia based upon the proclamation of August 17, 1945, on the following principles:
  - a. domestically: to perfect the living standard of the people and the unity of the Indonesian nation;
  - b. externally: to maintain good relations with other countries;
- II. That we agree:
  - A. Concerning the Provisional Constitution:

1. That the Constitution of the Unitary State will be formed by amending the Provisional Constitution of the United States of Indonesia so that the essentials of the Constitution of the Republic of Indonesia, among others:
  - a. article 27,
  - b. article 29,
  - c. article 33,
 are incorporated, along with the satisfactory parts of the Constitution of the United States of Indonesia.
  
2. That the Provisional Constitution of the Unitary State be provided with an article embracing the fundamental concept:
 

"The right of property is a social function."
  
3. That further amendments be made to the Provisional Constitution of the Republic of the United States of Indonesia, to the end that, among other things:
  - a. The Senate is abolished.
  
  - b. The Provisional Dewan Perwakilan Rakjat be composed jointly of the DPR of the Republic of the United States of Indonesia and the Working Body of the Central Indonesian National Committee.
 

Additional members appointed by the President will be further considered by the two Governments.
  
  - c. The Provisional Dewan Perwakilan Rakjat and the Central Indonesian National Committee, will together form a Council for Amending the Constitution, having the right to make amendments to the new Constitution.
  
  - d. The Constituent Assembly will consist of members elected in a general election on the basis of one member for each 300,000 residents with due regard given to appropriate representation of minority groups.
  
  - e. The President is President Soekarno.
  
  - f. The Council of Ministers must be of the nature of a parliamentary Cabinet.
  
  - g. Concerning the office of Vice-President in the Unitary State during the period before the Constituent Assembly is established, the Governments of the Republic of the United States of Indonesia and the Republic of Indonesia will exchange further views.
  
4. Before the enactment of unitary legislation, the prevailing statutory law and regulations will remain in force; however, wherever possible the legislation of the Republic of Indonesia will be valid.
  
5. The Supreme Advisory Council is abolished.

B. Concerning the principles for settling problems:

Principles which are important in resolving difficulties in the fields of politics, economics, finance, security, etc., must be examined and planned with the understanding that they will be used in consideration of present and future possibilities.

III. That we agree to the formation of a Committee with the purpose and responsibility of carrying out in the shortest possible time all of the agreements noted in section II.

The results of this committee's work shall be submitted, by:

1. The Government of the Republic of the United States of Indonesia, to the DPR and the Senate.
2. The Government of the Republic of Indonesia, to the Working Body of the Central Indonesian National Committee.

If it is evident that the DPR and the Senate as well as the Working Body of the Central Indonesian National Committee will accept it, then the President will make the formation of the Unitary State formal in a joint session of the DPR and the Senate of the Republic of the United States of Indonesia.

Thereafter, the Government of the Republic of the United States of Indonesia and the Government of the Republic of Indonesia will dissolve and the President will attend to the formation of the new Government.

Prime Minister

Republic of the United States of  
Indonesia

MOHAMMAD HATTA

Prime Minister

Republic of Indonesia

A. HALIM

## SUPPLEMENT II

## THE JOINT STATEMENT

of

THE GOVERNMENT OF THE REPUBLIC OF THE UNITED STATES OF  
INDONESIA

and

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

On Thursday, July 20, 1950:

We:

The Government of the Republic of the United States of Indonesia, which in this case also acts with a full mandate in the name of the Government of the State of East Indonesia and the Government of the State of East Sumatra, as the first party;

The Government of the Republic of Indonesia as the second party;

Who, for the purpose of carrying out the Charter of Agreement between the Government of the Republic of the United States of Indonesia and the Government of the Republic of Indonesia of May 19, 1950, have held our session in Djakarta on July 19 and 20, 1950;

After discussing the results of the work of the Joint Committee of the Republic of the United States of Indonesia and the Republic of Indonesia,

## D E C L A R E:

- I. That the draft of the Provisional Constitution of the Unitary State of the Republic of Indonesia, as attached to this Joint Statement is approved;
- II. That the draft of the Provisional Constitution of the Unitary State of the Republic of Indonesia will be forwarded as soon as possible:
  - a. by the Government of the Republic of the United States of Indonesia, to the Dewan Perwakilan Rakjat and the Senate, and,
  - b. by the Government of the Republic of Indonesia, to the Working Body of the Central National Committee for ratification in order that the Unitary State of the Republic of Indonesia be established before August 17, 1950.
- III. That the proposals of the Joint Committee of the Republic of the United States of Indonesia and the Republic of Indonesia concerning the basic principles for resolving difficulties in the fields of politics, economics, finance, security, and social affairs, together with the Government of the Republic of Indonesia's views on these proposals, will be forwarded as a guide:

- a. by the Government of the Republic of the United States of Indonesia, to the Dewan Perwakilan Rakjat and the Senate, and
- b. by the Government of the Republic of Indonesia, to the Working Body of the Central National Committee.

Prime Minister

Prime Minister

Republic of the United States of  
Indonesia

Republic of Indonesia

MOHAMMAD HATTA

A. HALIM



## SUPPLEMENT III

## ANNOUNCEMENT

On May 19, 1950, the Government of the Republic of the United States of Indonesia--which in this matter also represents the Government of the State of East Indonesia and the Government of East Sumatra--and the Government of the Republic of Indonesia have reached an agreement to establish jointly a Unitary State as the realization of the Republic of Indonesia as based upon the proclamation of August 17, 1945.

The purposes of the Unitary State are:

Domestically, to perfect the living standards of the people and the unity of the Indonesian Nation.

Externally, to maintain good relations with other countries.

Everything that concerns the principles established above and others that have been agreed upon by the two Governments will be worked out by a Joint Committee in the shortest possible time.

Djakarta, May 19, 1950

Prime Minister

Republic of the United States of  
Indonesia

MOHAMMAD HATTA

Prime Minister

Republic of Indonesia

A. HALIM

APPENDIX

CONSTITUTIONAL, LEGAL, AND POLITICAL TERMS

by Garth N. Jones

The terms here are derived largely from Indonesia's three Constitutions, and represent an expansion of an earlier endeavor by the present editor-translator, A Comparison of Indonesia's Three Constitutions (Jogjakarta: Gadjah Mada University, 1960).

I. Types of Laws, Regulations, Decrees, Directives, etc.

a) Undang-undang Dasar, Constitution

1. UUD-RI (Republik Indonesia) 1945, Constitution of the Republic of Indonesia, 1945
2. UUDS-RIS (Republik Indonesia Serikat) 1949, Provisional Constitution of the Republic of the United States of Indonesia, 1949
3. UUDS-RI (Republik Indonesia) 1950, Provisional Constitution of the Republic of Indonesia, 1950

b) Undang-undang, Statutory Law

According to the provisions of each of the three Constitutions such laws are made as follows:

1. UUD-RI, 1945, article 5, item 1: President with approval of the Council of the People's Representatives. See also articles 20 and 21.
2. UUDS-RIS, 1949, article 127: (federal law only) Government with the approval of the Council of the People's Representatives and the Senate.
3. UUDS-RI, 1950, article 89: Government and the Council of the People's Representatives.

c) Peraturan Pemerintah, Government Regulation

A Government regulation is enacted with the purpose to execute statutory laws.

See the following references for further explanations:

- UUD-RI, 1945, article 5, item 2;  
UUDS-RIS, 1949, article 141; and  
UUDS-RI, 1950, article 98.

- d) Peraturan Pemerintah Pengganti Undang-undang, Government Regulation with the force of an act of Parliament

This term is used only in the UUD-RI, 1945. See article 22.

- e) Undang-undang Darurat, Emergency Statutory Law

This term is used in both the UUDS-RIS, 1949, and the UUDS-RI, 1950. See respectively articles 139 and 96.

- f) Peraturan, Regulation

- g) Rantjangan Undang-undang, Draft Bill

- h) Keputusan Presiden, Presidential Decree (Decision or Order)

The term keputusan means decision but in this sense it is invariably translated as Presidential Decree. Such decrees usually concern matters relating to: (1) specific directives of general regulations (peraturan umum); and (2) announcement of appointments or termination of appointments of high officials as stated in Article 51, UUDS-RI, 1950.

The term is also mentioned in article 85 of the UUDS-RI, 1950, but in this case has a wider meaning.

- i) Surat Keputusan, Decree

Found only in the UUDS-RIS, 1949. See article 123.

Attention should be called to the fact that considerable confusion exists as to the correct and proper usage of Indonesian legal terms, including those found in the three constitutions. A noted Indonesian constitutional law authority, A. K. Pringgodigdo, has recommended a scheme for improving this situation. See his book, The Office of President in Indonesia as Defined in the Three Constitutions in Theory and Practice (translated by Alexander Brotherton; Ithaca, N. Y.: Cornell Modern Indonesian Project, 1957), pp. 40-41. However, some of the more common terms concerning legal and administrative affairs which are not found in any of the three Constitutions warrant inclusion in this list in order to complete the legal terminology.

- j) Aturan, Rule

- k) Peraturan Presiden, Presidential Regulation  
Peraturan Menteri, Ministerial Regulation

- l) Peraturan Badan-badan, Independent State Institutional Regulation

- m) Keputusan Menteri, Ministerial Decree

- n) Penetapan, Decision (Directive or Rule)

- o) Penetapan Presiden, Presidential Decision
- p) Maklumat Pemerintah, Government Declaration
- q) Pengumuman, Announcement

## II. Major Organs of the State

- a) Presiden, President

- b) Wakil Presiden, Vice-President

Found only in the UUD-RI, 1945, and the UUDS-RI, 1950. See Chapter III of each Constitution.

- c) Dewan Menteri, Council of Ministers

- d) Senat, Senate

Found only in UUDS-RI, 1949. See article 80 et seq.

- e) Dewan Perwakilan Rakjat, Council of the People's Representatives.

- f) Mahkamah Agung, Supreme Court

- g) Dewan Pengawas Keuangan, Financial Audit Council

Found only in the UUDS-RIS, 1949, and the UUDS-RI, 1950. See respectively articles 115 and 80.

- h) Badan Pemeriksa Keuangan, Financial Audit Agency

Found only in the UUD-RI, 1945. See article 23, item 5. This is the same agency as the Dewan Pengawas Keuangan.

- i) Madjelis Permusjawaratan Rakjat, People's Consultative Assembly

Found only in the UUD-RI, 1945. See Chapter II, articles 2 and 3.

- j) Dewan Pertimbangan Agung, Supreme Advisory Council

Found only in the UUD-RI, 1945. See Chapter IV.

- k) Madjelis Perubahan Undang-undang Dasar, Council for Amending the Constitution

This Council is only provided for in the UUDS-RI, 1950. See article 138.

### III. Minor Organs of the State

a) Bank-Sirkulasi, Bank of Issue

Reference is made to this organization only in the UUDS-RI, 1949, and the UUDS-RI, 1950. See respectively articles 164-165 and 109-110.

b) Kementerian Negara, Ministry of State

This term is found only in the UUD-RI, 1945. See Chapter V.

c) Departemen, Department

The UUD-RI, 1945, and the UUDS-RIS, 1949, use the word Departemen to designate government organizational units headed by Ministers. See respectively articles 17 and 74. The UUDS-RI, 1950, uses the term Ministry (Kementerian). See article 51.

d) Menteri-menteri Negara, Ministers of State

This term is found only in the UUD-RI, 1945, and refers to the Ministers of the Council. Ministers without portfolio are provided in UUDS-RIS, 1949, and article 50 of the UUDS-RI, 1950.

e) Kementerian, Ministry

This term is used primarily in the UUDS-RI, 1950. See article 51 et seq.

f) Komite Nasional, National Committee

This Committee is provided for in the transitional provisions of the UUD-RI, 1945. Until the formation of the People's Consultative Assembly, the Council of the People's Representatives, and the Supreme Advisory Council, all state powers would be exercised by the President assisted by the National Committee.

### IV. Terms Designating Territorial or Governmental Areas

a) Daerah, Territory (Region)

The meaning of this term has been greatly expanded and/or changed during the last 15 years. Below are some various usages.

b) Daerah Indonesia, Territory of Indonesia

This term is used in the UUD-RI, 1945, and refers to the entire territorial area of the State. See article 18.

c) Daerah Negara, Territory of the State

This term is found in the UUDS-RIS, 1949, Chapter 1, Section 2, and the UUDS-RI, 1950, article 2, and has the same meaning as Daerah Indonesia which is used in the UUD-RI, 1945.

d) Pemerintah Daerah, Local Government

This term is used in all three constitutions. See Chapter VI of the UUD-RI, 1945, Chapter II of the UUDS-RIS, 1949, and Chapter IV of the UUDS-RI, 1950.

e) Daerah-bahagian, Component State

This term is used in the UUDS-RIS, 1949, to designate the component states, of which there were a total of 16.

f) Daerah Swapradja, Self-governing Hereditary Unitg) Daerah Swatantra, Local Governmental Unith) Negara Republik Indonesia, State of the Republic of Indonesia

The revolutionary Republic of Indonesia, which moved its headquarters from Djakarta to Jogjakarta in May 1946, became one of the 16 Component States under the federal system of UUDS-RIS, 1949, and was designated Negara Republik Indonesia. In practice the NRI used, during the brief period of the existence of the RIS, the title Republic of Indonesia (RI). See Koesnodiprodjo, Himpunan Undang2, Peraturan, Penetapan, Pemerintah Republik Indonesia (Djakarta: S. K. Seno, 1945-1951).

## V. Important Bodes of the Revolutionary Period

a) Badan Penyelidik Persiapan Kemerdekaan, Committee for the Investigation of Indonesian Independence

This body was established on March 1, 1945, by the Japanese occupational authority. It held two plenary meetings, May 28-June 1, and July 10-17, at which agreement was reached concerning constitutional and economic questions. See Benedict R. O'G. Anderson, Some Aspects of Indonesian Politics Under the Japanese Occupation: 1944-45 (Ithaca, N. Y.: Cornell Modern Indonesia Project, 1961), pp. 16 et seq., and George McT. Kahin, Nationalism and Revolution in Indonesia (Ithaca, N. Y.: Cornell University Press, 1952), p. 121.

b) Panitya Persiapan Kemerdekaan Indonesia, Committee for the Preparation of Indonesian Independence

This committee was established just before the capitulation of the Japanese to the Allies (on August 15, 1945) and held its first meeting on August 18, 1945.

c) Komite Nasional Indonesia Pusat, Central Indonesian National Committee

On October 16, 1945, the KNIP was vested with full legislative power. Furthermore, the KNIP delegated its powers to a small,

permanently-sitting body known as the Badan Perkerdja (Working Body or Inner-Parliament), which was composed of members from the parent organization (KNIP) and responsible to it. The Badan Perkerdja was required to meet at least every ten days and the KNIP at least once a year.

- d) Komite Nasional Indonesia, National Indonesian Committee(s)  
(Regional)

These committees were also known as Komite Nasional Daerah (Regional National Committee). The KNIP by decree provided for the establishment of regional councils to assist local officials in their administrations. In some cases such councils were appointed by higher authority; in others KNI's were created by local elections; and in still others no such councils were ever established during the Revolutionary period.

## VI. Special Political and Related Terms

- a) Gotong-rojong, Mutual Cooperation

Designates the common voluntary effort of a community working for the benefit of the community or for the benefit of a member of the community.

- b) Kerakjatan, Democracy

- c) Musjawarah, Permusjawaratan, Mutual Consultation, Meeting  
for Mutual Consultation

Musjawarah, Musjawarat, means to hold deliberations in such a way that unanimity arises out of the effort. It is a procedure for arriving at "the sense of the meeting" in which no contest occurs between the opposing points of view, so that there are no resolutions and counter-resolutions, no taking of sides over issues, but a persistent effort to find common ground in solving a problem.

Permusjawaratan means a gathering in which the procedure of musjawarah is conducted.

For further comments concerning these terms see The Indonesian Revolution--Basic Documents and the Idea of Guided Democracy (Djakarta: The Department of Information, Republic of Indonesia, 1960), p. 24.

- d) Mufakat, Unanimous Decision

Mufakat denotes a unanimous decision or agreement arrived at by the process of musjawarah.

- e) Perikemanusiaan, Principle of Humanity

f) Kekeluargaan, Family Relationship

For a treatment of this term see Wilopo and Widjojo Nitisastro, The Socio-Economic Basis of the Indonesian State (translated by Alexander Brotherton; Ithaca, N. Y. : Cornell Modern Indonesia Project, 1959).

g) Kebidjaksanaan, Policyh) Pengadilan, Courti) Pertanggungan Djawab, Responsibility (financial or otherwise)