



MPR Annual Session 2001: An Initial Note

10 November 2001

After long and detailed negotiations on constitutional issues, the MPR Annual Session finally closed late on Friday night, 9 November. This note is a first summary of the major constitutional decisions reached. NDI will be producing a more detailed report in the near future covering both these questions and the other decrees issued by the Annual Session.

In the end, it was not possible to reach a full agreement on all of the state structural issues that were debated. It is perhaps inevitable that initial comment focuses on that failure.

However, the agreement that has been reached is very wide ranging and significant. The Third Amendment agreed last night marks the decision to change Indonesia from a state with an all-powerful highest institution of state (the MPR) to a state with constitutional checks and balances. It establishes the principle of the independence of the judiciary. It goes most of the way to abandoning the unique 'Indonesian presidential system' in favour of a conventional presidential system as in for example the Philippines or the USA.

The major points in the agreed Third Amendment to the Constitution are:

- Sovereignty of the people: changed from being exercised in full through the MPR, to being implemented in accordance with the Constitution.
- Broad Guidelines of State Policy (GBHN) are no longer a constitutional function of the MPR.

- First round direct presidential and vice-presidential election.
- Impeachment process relating to the president and vice president which excludes removal from office on policy grounds and under which the legal decision on impeachment is determined by the new Constitutional Court.
- Establishment of a regional chamber (DPD) with legislative powers on issues relating to regional autonomy, centre/region relations and natural resource management.
- Constitutional provision of independence of the election commission (KPU). The DPR to be elected from political parties, and the DPD from individuals.
- Requirement that all taxes and charges are regulated by law.
- Establishment of an independent Judicial Commission dealing with proposals for judicial appointments and with judicial ethics issues.
- Establishment of a Constitutional Court with powers of constitutional interpretation, judicial review of legislation, resolving disputes between state institutions, actions for the dissolution of political parties, and election related disputes, plus the duty to rule on motions to impeach.

No timetable was announced for the implementation of the major changes. This implementation cannot be immediate, as the new institutions – in particular the DPD, the Constitutional Court and the Judicial Commission – will require further statutory definition, which should require the preparation, debate and enactment of legislation. In addition, new electoral and political legislation will now be urgently required – as is specified in the MPR commentary on the President's report – as it is clearly the intention that the 2004 elections should be for the new representative institutions.

This leaves unresolved from this year's agenda the questions of:

- Composition of the MPR, in particular the future of functional group representation.
- The second round presidential and vice-presidential election.
- The procedure in the case when there is a simultaneous vacancy for president and vice-president.
- The future of the Supreme Advisory Council (DPA).
- Questions relating to the currency and the central bank.

Further action on these questions will be considered by the MPR Working Body (BP), possibly later in November. The BP will also consider whether

any form of Constitutional Commission or National Committee will be desirable to assist with the final stages of the constitutional review process, which is scheduled for completion at the Annual Session of 2002. In addition to the unresolved questions above, this final stage will include the decision on the proposal to include the Jakarta Charter in the Constitution and some other issues, for example provisions relating to education.

Comments and further information:

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