



# ANALYSIS

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## POLITICAL LEGACIES AND PROSPECTS FOR DEMOCRATIC DEVELOPMENT IN SOUTHEAST ASIA: BURMA AND INDONESIA

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## FOREWORD

This issue of the *NBR Analysis* focuses on two Southeast Asian nations—Indonesia and Burma—that pose complex challenges to U.S. policymakers. Burma’s military regime, recently renamed the State Peace and Development Committee (SPDC), remains in firm control of the country, despite U.S. efforts to isolate and unseat it. In Indonesia, the economic crisis and concerns about political instability have raised important questions about the most appropriate ways to channel humanitarian and development assistance to the beleaguered economy and to encourage political reform. In the pages that follow, two of America’s leading scholars on Southeast Asia offer rich historical perspective on the contemporary political landscapes of these countries.

In the first essay, Dr. Mary Callahan, assistant professor of national security affairs at the Naval Postgraduate School, addresses the political and socioeconomic conditions that obstructed Burma’s democratic development in the 1950s and are still very much a factor today. These barriers include: (1) the inadequate political basis for federalism in the multiethnic country; (2) a crisis of state capacity rooted in the fragmented nature of Burmese society; and (3) an institutional intolerance of dissent on the part of authoritarian and pro-democracy organizations alike. She points out that current U.S. policy does little to address these hurdles, and until they are overcome it is unlikely that democratic government could be sustained in Burma—even if efforts to unseat the ruling junta were successful. Moreover, Dr. Callahan argues that the “all-or-nothing” approach of the United States, which focuses almost exclusively on deposing the military government, raises the cost of conciliation for all parties and leaves the ruling junta with little incentive to negotiate.

Professor Donald Emmerson of the University of Wisconsin-Madison turns to the political question of presidential succession in Indonesia. He notes the likelihood that medical or political circumstances may prevent President Soeharto from completing the five-year term to which he was reelected in March 1998. Through a careful examination of constitutional and historical evidence, Professor Emmerson argues that the vaguely worded, yet symbolically powerful 1945 constitution will establish important parameters for the succession process. The U.S. should neither isolate nor embrace Indonesia’s controversial president, the author concludes, but should seek bilateral and multilateral channels of assistance to those least responsible for the economic crisis and least able to withstand its effects.

Readers of the *NBR Analysis* will notice that with this issue we begin the practice of including an abstract at the outset of each essay in order to provide a more substantive summary of the article than what we have traditionally included in the Foreword. We are especially grateful to the Henry M. Jackson Foundation for its support of NBR publications and for its recent grant toward the establishment of a Southeast Asian Studies Program at NBR.

Richard J. Ellings  
Executive Director  
The National Bureau of Asian Research



# DEMOCRACY IN BURMA: THE LESSONS OF HISTORY

Mary P. Callahan

*This essay offers a historical analysis of political and socioeconomic developments in Burma over the past fifty years and delineates the obstacles to democratic development in the country. The author argues that the failure of democracy in Burma should be attributed not only to the actions of the military regime, but also to decades-old political and socio-economic conditions, which include: (1) an inadequate basis for federalism in a multi-ethnic society; (2) a crisis in state capacity to govern, rooted in the fragmented nature of society; and (3) an institutional intolerance for dissent on the part of pro-democracy and authoritarian organizations. Under British rule, Burma was never fully integrated nor adequately controlled by a central government. As a result, political leaders after independence have found it difficult to govern regions with large ethnic minorities. The military emerged as the sole institution that was capable of consolidating wide-spread authority, as the army had been repeatedly deployed to enforce martial law or establish military administration during times of domestic crisis. The United States has sought to punish the current military regime in Burma by suspending economic aid, activating an arms embargo, and blocking international assistance. U.S. policy has been supported by a bipartisan coalition of human rights organizations, members of Congress, allies in the European Union, and expatriate Burmese. The author argues, however, that U.S. policy must address the obstacles to sustainable democratic rule in the country instead of focusing exclusively on deposing the military regime. A careful reading of events in Burma since 1948 generates sobering warnings about the complicated and deep historical roots of Burma's contemporary troubles. The author asserts that these warnings must be heeded if U.S. pro-democracy policies are to be effective.*

## Introduction

In keeping with a national commitment to the promotion of democracy worldwide, contemporary U.S. policy punishes the military regime in Burma for its unrepentantly authoritarian practices that have continued since its brutal crackdown on a nationwide pro-democracy movement in 1988. In May 1997 President Clinton banned new investment in Burma by U.S. citizens, and renewed the ban in December. These moves complemented earlier American measures, which included the suspension of economic aid, the imposition of an arms embargo, a blockade against international humanitarian and financial aid, and a ban on U.S. visas for senior government leaders and their families.

The results? Satisfaction from a broad, bipartisan coalition of expatriate Burmese, human rights groups, members of the U.S. Congress, and allies in the European Union. All agree the Burmese junta has to go. Within Burma, these moves have drawn praise from Daw Aung San Suu Kyi,

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daughter of the martyred national hero, Aung San, and leader of the present opposition party, the National League for Democracy (NLD). Suu Kyi hoped that the ban on U.S. investment would produce economic hardship that would force junta leaders to begin negotiating with the NLD for a transition to democratic rule. The regime, however, has neither faced such hardship nor capitulated, mainly because Asian investors have filled the void where U.S. investors might have competed. Instead, the junta appears unconcerned in its recharged, reorganized structure, the State Peace and Development Committee (SPDC), established in mid-November 1997.

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*This failure [of U.S. policy toward Burma] is not due to inappropriate intentions, but to an inadequate understanding of the barriers to reform that exist in Burma.*

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Since the establishment of the SPDC's predecessor, the State Law and Order Restoration Committee (SLORC) in 1988, U.S. policies toward Burma have failed to promote dialogue and democratic reform. This failure is not due to inappropriate intentions, but to an inadequate understanding of the barriers to reform that exist in Burma. To date, U.S. policy has held the military junta solely responsible for bottling up a transition to a more responsive, representative form of governance. The weakness of this position is that the junta is only part of the problem, albeit a big part. The real problem undermining U.S. and Burmese opposition party attempts to promote a transition to democracy in Burma lies in the decades-old political and socioeconomic structures that not only block meaningful political reform, but also undermine the authoritarian regime's capacity to achieve its own goals.

This essay argues that the policymaking and scholarly community that is united in its commitment to democratize Burma and to dethrone the repressive military junta needs to rethink its assumptions about the obstacles to reform in Burma and to devise strategies based on realistic assessments of these barriers. Beyond the obvious anti-democratic measures taken by the military junta, three significant political and socioeconomic conditions stand in the way of establishing democratic governance in Burma: (1) an inadequate political basis for federalism in this multi-ethnic society; (2) a century-old crisis of state capacity rooted in the fragmented nature of society; and (3) an institutional intolerance for dissent that is found in authoritarian as well as democratic organizations.

In order to understand these three barriers, it is worth looking carefully at the ways in which they eroded the political institutions of Burma's "democratic" era—the period of constitutionalism, civilian rule, and contested elections that lasted from 1948 until 1958, and from 1960 to 1962. In the 1950s, Burma's political system was considered to be one of the most promising young democracies in the postcolonial world. However, a decade of constitutionalism and electoralism gave way to the first military coup d'état in 1958 and then to the more enduring military takeover in 1962. Thereafter, military rule was enforced by the Burma Socialist Program Party (BSPP) until the party's demise in 1988, and was reinvigorated by the military junta established in September of that year.

This essay does not argue that democracy was or is doomed in Burma, either in its 1950s incarnation or in the vision for the future advanced by reformers today. Instead, an analysis of the 1950s reveals systemic sources of instability for democratic governance that still exist today. A careful reading of the 1950s generates sobering warnings about the complicated and deep historical roots of Burma's contemporary troubles. These warnings must be heeded if U.S. pro-democracy policies are to have a more significant impact than they have had to date.

## ***Historical Background***

It is important to understand the historical and cultural conditions that led to the first democratic experiment and its failure in the 1950s. Burma shares land borders with Thailand, Laos, China, India, and Bangladesh and is the largest country in mainland Southeast Asia. Three north-south chains of mountains make east-west travel and communications difficult, although north-south travel is more accessible via river, road, or railroad. The inhabitants of this country, called the “Burmese,” include dozens of minority groups that are estimated to make up at least one-third of the total population of 45 million. Burmans, who reside mainly in the central agricultural valleys and in the southern coastal and delta regions, are the largest ethnic group. Although an accurate census of the minority regions has not been attempted since 1931, most government and scholarly sources estimate that the ethnic makeup is as follows: 65 percent Burman, 10 percent Shan, 7 percent Karen, 4 percent Rakhine, 3 percent Chinese, 2 percent Mon, 2 percent Indian, along with small numbers of Assamese and Chin minority peoples. The official language of the state is Burmese (the language of the majority ethnic group), although other languages such as Karen, Chin, Shan, and Kachin are spoken in ethnic minority regions.

Before the advent of British rule, the territory that came to be known as “Burma” had never been fully integrated or controlled by a single, central state. In the nineteenth century, Britain began a gradual, three-stage take-over of all territory that is now considered to be part of Burma. The conquest was completed in 1886 when the last Burman king was deposed and Burma became a province of British India. The colonial regime divided the country into two administrative zones: the central area, called “Ministerial Burma,” was home to most of the ethnic Burmans, while the “Frontier Areas” (later known juridically as the “Excluded Areas”) were located along the newly drawn borders and were populated by other ethnic groups. The Frontier Areas were left largely untouched by the British rulers. In Ministerial Burma, the more intrusive, direct colonial rule sparked the emergence of a nationalist movement dominated by ethnic Burmans (the *Dobama Asiayone*) in the 1920s and 1930s that demanded independence from Britain. The agitation by nationalist leaders, including Aung San, along with the wartime collapse of the British regime, eventually led to the granting of independence on January 4, 1948.

From independence until 1958, and again from 1960 to 1962, the Union of Burma experienced civilian rule with a parliamentary form of government. Former nationalist leader U Nu served as prime minister during most of this period. Political life was dominated by one party—the Anti-Fascist People’s Freedom League (AFPFL). The early years of independence were characterized by a number of serious threats to the government’s survival. Domestically, the government faced communist and separatist ethnic rebellions as well as army mutinies. External threats included incursions by the U.S.-backed Kuomintang into Burma, where they prepared to stage an assault to retake mainland China from the Chinese Communists. Due to AFPFL infighting that threatened to aggravate the insurgency and due to poor economic performance, the military (in Burmese, the *tatmadaw*) stepped in to govern as a caretaker government from 1958 to 1960, and then again more permanently in March 1962. Under the leadership of Commander-in-Chief General Ne Win, a Revolutionary Council of military officers was formed to replace the cabinet and parliament. The army-dominated Council suspended the 1947 constitution, established the Leninist-style Burma Socialist Program Party, and outlawed all other political parties. Under its Burmese Way to Socialism, the BSPP attempted to impose a central, command economy and to eliminate foreign control over business in Burma.

In 1974 a new constitution was promulgated that provided for a highly centralized, civilian, single-party form of government. At the national, state, township, and village levels, government administration was greatly influenced by the BSPP, which stepped up its efforts to build a mass following across the country. Most leadership positions in the party and government came to be occupied by the same military officers who had held them before 1974, although they



shed their ranks and their uniforms. As chairman of the State Council and party chairman, General Ne Win continued his hold on power into the 1980s.

In September 1987, following a series of demonetization measures that devastated the economy and wiped out the savings of most Burmese people, student demonstrations erupted in Rangoon and continued sporadically into the following year. The police used harsh tactics to put down the demonstrations: in one incident 41 students suffocated to death in a police van. Public outcry over the incident led to further demonstrations, some of which began attracting participants from other walks of life. This led to the convening of an extraordinary BSPP Congress in July, during which Ne Win and other officials resigned from the party leadership. Nationwide demonstrations continued until September 18, when the army leadership cracked down on the demonstrations, took power directly, and established the State Law and Order Restoration Council under the chairmanship of an army commander and Ne Win follower, Senior General Saw Maung. As many as 10,000 were killed in the army crackdown.

SLORC suspended the 1974 constitution and abolished the presidency, State Council, Council of Ministers, and People's Assembly. Under SLORC's orders, the crack troops of the armed forces put an abrupt end to the popular pro-democracy demonstrations, killing thousands of unarmed civilians in the process. The SLORC distributed cabinet portfolios to senior military officers, with Senior General Saw Maung assuming the responsibility of prime minister and defense minister. Saw Maung, who was replaced in an April 1992 palace coup by the SLORC vice-chair, General Than Shwe, had little education and no real power within the regime.

In its nine years of existence, SLORC made some progress toward reforming the autarkic, state-planned system into an internationally integrated, market-based economy. However, while SLORC's economy posted better growth rates than the socialist economy of a decade earlier, there were few signs of market reforms. Among the results were the lining of relatively autonomous cabinet ministers' coffers, the laundering of drug money into huge (but empty) real estate and tourism ventures, and the continuation of inflation rates that averaged between 20 and 30 percent annually. It was probably this disastrous economic performance that led SLORC to reorganize its dysfunctional, bloated junta into the State Preservation and Development Council in November 1997. This move forced the most corrupt cabinet ministers out of office and replaced them with more junior military officers who will be less autonomous in their pursuit of market reforms and more subject to control by the junta leadership. Most observers consider that Brigadier General Khin Nyunt, Secretary-1 of the SLORC/SPDC<sup>1</sup> and head of the Directorate of Defense Services Intelligence, has been in charge of the regime; yet many are convinced that his long-time mentor—the aging General Ne Win—is in fact responsible for major policy decisions from his home along Inya Lake.

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*From 1948 until 1962, the Burmese political system looked on paper like a model of democratic governance.*

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### A Closer Look at Burma's Democratic Era

From 1948 until 1962, the Burmese political system looked on paper like a model of democratic governance. The 1947 constitution provided, for example, that sovereignty resided “in the people”; ostensibly, all citizens were guaranteed equality of rights and opportunity, and free-

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<sup>1</sup> Hereafter, I shall refer to the junta as “SLORC/SPDC.” While the SPDC reorganization of November 1997 did represent some “real” realignment of power in Burma, on its surface, it appears to still be led by the same cabal of generals who in the first three months of SPDC's existence have not shown any serious deviation from previous policies of SLORC. This is not to suggest that some policy reorientation may not happen; it is too early to tell.



dom of expression, assembly, and association, as long as the exercise of these rights did not interfere with public order. Moreover, the constitution established a judiciary independent of the executive branch of government: this included a Supreme Court that would “issue directions in the nature of *habeas corpus*.”<sup>2</sup>

The 1947 constitution established a federal framework to provide for minority rights in a majority-rule parliamentary system.<sup>3</sup> A bicameral national legislature was inaugurated, guaranteeing representation to minority ethnic groups in the Chamber of Nationalities.<sup>4</sup> The constitution set forth a variety of solutions to the problem of local and regional authority in areas dominated by ethnic minorities. In the eastern regions where Shan peoples (10 percent of the national population) lived, all the traditional Shan principalities were amalgamated into one state, which was constitutionally guaranteed a right of secession after ten years. The elected fifty-member State Council was the chief executive authority under the 1974 constitution and constituted legislative authority in the Shan State, while in local areas, the hereditary Shan aristocracy—the *sawbwas*—were allowed to retain their traditional powers and authority. Likewise, the Kayah (also known as Karenni) principalities were reconstituted as a single state with a similar secession guarantee. The Kachins were amalgamated into a state that was provided no secession rights: A nineteen-member state legislative council ran affairs at the state level, while local *duwas* (Kachin princes) and traditional headmen were reinstated as local administrators. The Chin people, representing less than one percent of the Burmese population, were granted fewer rights and privileges, and their territory was labeled a “Special Division.” The status of the territorial authority over three other major ethnic groups—the Mons, Karens, and Arakanese, representing 2, 7, and 4 percent of the national population, respectively—was left open in the constitution to be decided after independence in January 1948.

In the early years of independence, these constitutional arrangements appeared to be establishing strong democratic roots in society. National-level parliamentary elections were held in 1947, 1951, 1956, and 1960. The Anti-Fascist People’s Freedom League, the former wartime resistance organization that evolved into a political party, was victorious in the first three elections and accordingly formed AFPFL-dominated governments. In the 1960 election, former prime minister U Nu led his new *Pyidaungsu* (Union) Party to a decisive victory over the military-supported Stable Faction of the collapsed AFPFL. Turnouts in these elections were often higher than 70 percent, and in accordance with Western expectations of electoral systems, losers vacated their offices and winners took over.

Furthermore, by the early 1950s another crucial element of democratic rule emerged in the form of a “loyal opposition.” Growing out of a faction that broke off from the AFPFL in 1950, the National United Front (NUF) developed into a viable opposition party. In the 1956 election, it gained forty-seven seats to the Chamber of Deputies, including numerous seats previously considered “safe” by the AFPFL. In that election, the NUF polled more than 30 percent of the popular vote, as compared to 48 percent for the AFPFL.<sup>5</sup> Beyond its electoral strength, the NUF also commanded extensive media attention and succeeded in organizing trade unions and peasant organizations outside of the AFPFL’s reach. Later, the two successor parties to the AFPFL that

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<sup>2</sup> From “The Constitution of the Union of Burma,” reprinted in Dr. Maung Maung, *Burma’s Constitution*, The Hague, 1961, 2nd ed., pp. 258–301.

<sup>3</sup> Josef Silverstein correctly notes that although the word, “federal,” never appears in the constitution, the document lays out a *de facto* federal system. See his *Burma: Military Rule and the Politics of Stagnation*, Ithaca, 1977, pp. 185–205.

<sup>4</sup> In practice, the Chamber of Deputies, the lower house, was more influential in national policymaking. Each of the 250 members of this house represented an electoral district of 100,000 people. By this calculus, 210 seats represented central Burma (of which 20 were reserved for Karens), 25 seats were held by representatives of Shan districts, 7 by Kachins, 6 by Chins, and 2 by Karennis (Kayahs). In the politically weaker Chamber of Nationalities, of the 125 seats allotted, 53 went to central Burma, 25 to the Shan State, 12 to the Kachin State, 8 to the Chin special division, 3 to Karenni, and 24 to Karens.

<sup>5</sup> Hugh Tinker, *The Union of Burma: A Study of the First Years of Independence*, London, 1967, 4th ed., p. 90.

competed in the 1960 elections continued in the tradition of a loyal opposition as they worked within the provisions of the 1947 constitution. In many ways, the success of the NUF in the 1956 election and the election of U Nu over the military-backed candidate in 1960 represented clear steps forward on the paths toward institutionalizing a truly competitive parliamentary system.

### ***Nationalists' Intentions and Democratic Tensions***

While these developments represented progress toward sustainable liberal democratic institutions and processes, the legacies of the colonial and wartime period gave a very different meaning to these constitutional provisions. For Burma's young constitution-writers and political leaders in 1947, the overriding objective was not to establish a democracy but to get the colonial regime out of Burma once and for all. In fact, democracy advocates of the 1990s may be surprised that the word "democracy" does not appear anywhere in the 1947 constitution. This was not an oversight by the first-time constitution writers who came together in 1947. Although the constitution—written by U Chan Htoon and other lawyers trained in the colonial British system—had some provisions that were based on liberal democratic principles, the resulting document also reflected the influence of nationalist leader Aung San in its more socialist and anti-liberal provisions for the construction of a strong state. In actuality, the leaders of Burma at independence had no interest in the promotion of liberal democracy.

It is helpful to remember that those who led Burma throughout the "democratic" 1950s came of age in student union politics associated with the nationalist movement in the 1930s. Their political program embraced the anti-imperialist, utopian socialist project, which they studied in the writings of Karl Marx, Vladimir Ilych Lenin, Joseph Stalin, George Bernard Shaw, and Sidney and Beatrice Webb. For the anti-colonial nationalists, democracy was the system of the colonizer, and as such represented that which Burma's young leaders would fight to expel. The identification of democracy with imperialism grew particularly troublesome as the AFPFL united front began to splinter in the postwar period. In reaching a compromise with the British that prevented a violent anti-colonial revolution in 1947, Aung San and AFPFL leaders came under heavy pressure for giving too many concessions to the British imperialists and for writing what were perceived to be western-style institutions of governance into the 1947 constitution.

Hence, while the constitution appeared to guarantee equal rights and freedom of expression, in actuality it embodied a distrust of democracy. It placed far greater emphasis on the empowerment of the state to reduce the great economic disparities wrought by imperialism than on limiting state intrusions in individuals' lives. To the degree that there was any support for democratic institutions such as elections, it was hoped that these processes could ensure the most equitable distribution of resources. In Aung San's writings, for example, there is ambivalence regarding the global convergence in support of the democratic political institutions that emerged at the end of World War II. In one of his last public speeches, Aung San laid out his "Basis of Burmese Democracy," which included the nationalization of the means of production, the provision of workers' rights and social insurance, the establishment of the judicial system based "on popular conception," and other components. For Aung San and many of his colleagues, regaining control over Burma's wealth on behalf of the people of Burma—not the array of legal provisions that protect individuals in a Western-style democracy—was of paramount importance. "Only by building our economic system in such a way as to enable our country to get over capitalism in the quickest possible time can we attain a true democracy."<sup>6</sup>

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<sup>6</sup> "Bogyoke Aung San's Address at the Convention Held at the Jubilee Hall, Rangoon, on the 23rd May, 1947," in Josef Silverstein, ed., *The Political Legacy of Aung San*, Ithaca, 1993, pp. 151–161. Note that Aung San actually wrote very little in his lifetime and this volume brings together most of the extant speeches and publications.

This anti-imperialist, anti-capitalist focus can be seen in Prime Minister U Nu's introduction of the motion to adopt the 1947 constitution. He began his speech to the Constituent Assembly by explaining "what Burma . . . will be":

I might say, at once, that it will be Leftist. And a Leftist country is one in which the people working together to the best of their power and ability strive to convert the natural resources and the produce of the land . . . into consumer commodities to which everybody will be entitled according to his need. . . . [I]n such a country the aim of production is not profit for the few but comfort and the happiness of a full life for the many.<sup>7</sup>

Even earlier, the emphasis on the need to build a strong state and the disregard for the establishment of liberal democratic institutions was made particularly clear by Aung San, never a "liberal democrat." He wrote: "What we want is a strong state administration as exemplified in Germany and Italy. There shall be only one nation, one state, one party, one leader. There shall be no parliamentary opposition, no nonsense of individualism."<sup>8</sup>

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*In "democratic" Burma, the government routinely imprisoned critics . . . , suspended habeas corpus, shut down newspapers and arrested their editors and publishers, banned novels . . . , and closed down fractious student unions.*

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### ***Institutionalizing Unity and Uniformity***

Throughout the early years following independence, concerns that individualism would undermine the nationalist project resulted in an emphasis not on the liberal democratic pursuit of difference and competition but instead on unity and uniformity. This emphasis had already led to the near collapse of the AFPFL and its government in 1947 and 1948 and later would spark widespread government and party repression of the free expression of dissenting opinions throughout the "democratic" era. Immediately after World War II, Aung San and the leadership of the AFPFL—which in 1945 was a united front of rather incompatible political parties, including Fabian socialists, communists, and conservative elements—were able to command uniformity and unity in the struggle to gain independence from the British regime. But in January 1947, when the British agreed to grant Burma independence the following year, each of the constituent parties in the united front began to press for its own vision of the future, and the AFPFL and the government it had created unraveled. Having grown out of a highly decentralized resistance organization, where no dialogue and consensual processes were possible under wartime conditions, the AFPFL never developed any mechanisms to accommodate and resolve conflicting political views, visions, and objectives.

As the exigencies of rule led to the rightward drift of AFPFL leadership, the more left-leaning spokesmen of the rank-and-file majority of the League led their followers into rebellion against the government.<sup>9</sup> At least one-third of the army joined the Communist Party insurrection in 1948, as did the majority of the nationwide People's Volunteer Organization, ostensibly a veterans' affairs group but in reality the paramilitary wing of the AFPFL. In 1949, the Karen National Defense

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<sup>7</sup> From the translation of U Nu's speech to the Constituent Assembly, September 24, 1947, in Union of Burma Government, *Burma's Fight for Freedom*, Rangoon, 1948.

<sup>8</sup> "Blue Print for Burma," in Josef Silverstein, ed., *Burma: Military Rule*, *op. cit.*, pp. 19–22.

<sup>9</sup> For a discussion of the rightward drift of the AFPFL leadership during these years, see Robert H. Taylor, *The State in Burma*, London, 1987, pp. 217–290.

Organization revolted, prompting the defection of the Karen-dominated artillery units from the government's army. By this time, important cities such as Mandalay, Maymyo, Prome, and even Insein (a suburb of Rangoon) had fallen to insurgent control. By the time Ne Win assumed his position as Supreme Commander in 1949, he commanded fewer than two thousand troops. At the time, most observers referred to the Government of the Union of Burma as "the Rangoon Government," reflecting the actual extent of territory that Prime Minister U Nu controlled.<sup>10</sup>

While what remained of the AFPFL and army leadership was able by 1952 to regain the upper hand in this civil war against their former colleagues, the experience institutionalized certain mechanisms that squashed public expressions of dissent. From the days leading up to independence, the leadership of the national front made its emphasis on unity and uniformity unconditional. For example, in his address to the AFPFL Convention in May 1947, Aung San ranked as top priority the purge of dissenters from the national front: "[The] AFPFL and affiliated people's organizations should carry out a thorough cleansing process right through in order to be purged of rottenness in the blood."<sup>11</sup>

As the civil war escalated, what little tolerance that existed for dissenting points of view soon evaporated. Throughout the first decade of independence, the U Nu government and the *tatmadaw* clamped down on any and all criticism of the shaky government by invoking emergency provisions and other legal devices. In "democratic" Burma, the government routinely imprisoned critics (at times for years before they were even brought to trial), suspended *habeas corpus*, shut down newspapers and arrested their editors and publishers, banned novels that "were deemed likely to cause disaffection against the Government," and closed down fractious student unions.<sup>12</sup>

One of the more repressive tools, Section 5 of the 1947 Public Order (Preservation) Act, or PO(P)A, was strengthened soon after the outbreak of the civil war in order to allow local police to arrest possible rebels and detain them indefinitely, even without any significant evidence of criminal or treasonous acts. Over the next decade, PO(P)A was used by both national and local politicians and their followers to detain many opposition politicians. In fact, during the 1950s nearly every major opposition politician—including U Ba Pe, Thakin Ba Sein, and Thakin Lwin—was detained under Section 5 of the PO(P)A, some for more than two years without ever coming to trial. It is not surprising that many of the thousands of PO(P)A arrests occurred in the months leading up to the national elections of 1951, 1956, and 1960. As one newspaper editorial noted: "[P]olitical rivals, or just any cantankerous person who exercised his freedom to speak out against the AFPFL, have been arrested and held without trial."<sup>13</sup>

<sup>10</sup> U San Nyein and Dr. Myint Kyi, *Myanmar Politics from 1958 to 1962* [in Burmese], Rangoon, 1991, vol. 1, p. 95.

<sup>11</sup> "Bogyoke Aung San's Address at the Convention Held at the Jubilee Hall, Rangoon, on the 23rd May, 1947," in Josef Silverstein, ed., *Burma: Military Rule*, *op. cit.*, pp. 151–161.

<sup>12</sup> Quotation is from a news article about the police seizure of copies of a novel by Bhamo Tin Aung, *The Nation*, November 20, 1953. Bhamo Tin Aung served several years in jail for having published two novels that were critical of the government.

It is interesting to note that many of these repressive tools were revitalized versions of the same ones the British colonial regime used to suppress the ideas of nationalist movement leaders during the 1920s and 1930s.

<sup>13</sup> *The Nation*, June 20, 1958. Compare the concerns raised in the editorial with the concerns raised by Aung San regarding British colonial practices in 1946:

[Q]uite a considerable number of politicians and law-abiding citizens have been arrested or prosecuted under the Defense Act for various alleged charges, both political and criminal . . . I must also point out the scandalous way in which the Defense Act is abused. Several of those charged with criminal offenses were at first arrested and detained under the Defense Act for six months, at the end of which instead of being released, they were detained further by bringing cases in dug up or framed up against them.

From Aung San's "Critique of British Imperialism," Address Delivered to the Second Session of the Supreme Council of AFPFL, May 16, 1946, in Josef Silverstein, ed., *Burma: Military Rule*, *op. cit.*, pp. 119–120.

This characterization of the use of Section 5 PO(P)A should not be taken to imply that the law was not used for its original purpose of containing the rebellion. However, even in that regard it was greatly abused. For example, a number of Karens were detained under Section 5 in January 1949 when the Karen insurrection broke out; all were held without trial, until June 1951, when the Supreme Court finally approved their *habeas corpus* application. [*The Nation*, July 10, 1951.] Additionally, newspapers also reported incidents in which police officers made arrests under Section 5 PO(P)A of individuals suspected of certain non-PO(P)A crimes when there was not enough evidence to arrest them for the crimes of which they were suspected. See, for example, the case of the Rangoon trishaw union leaders who were suspected of murdering the vice president of the Chinese Chamber of Commerce; there was not much evidence to link the trishaw union leaders to the murder, so the Rangoon police arrested them under Section 5. [*The Nation*, October 2, 1951.]



This is not to argue that the era of parliamentary rule in Burma was a total facade. Rather, because the particular unity-conscious focus of Burma's young leaders came within the exigencies of a collapsing state, harsh methods of ensuring unity became normal practices of governance. Over the long term, the obsession with unity and uniformity would impede the development of party and government institutions that could tolerate and process competition and difference in political ideas.

### ***Governing Independent Burma***

To pacify the countryside at the escalation of the insurrection, U Nu's government revived the village and town militia that had fought in the anti-Japanese resistance during World War II. Organized under local politicians loosely connected to the Socialist Party in the AFPFL, these units were armed with either homemade weapons or weapons abandoned by retreating British and Japanese soldiers during the war. Called by various names (People's Peace Guerrillas, *Sitwundan*, *Pyusawhti*), these units were not tied to a centrally based chain of command. They were formed in their home villages and rarely moved or saw action beyond village and town limits. Discipline was weak among many of these militia groups, and throughout the 1950s there were frequent reports of robbery, banditry, bribery, and murder committed by their members. Moreover, once formed to fight against the insurgents, these militias also became electoral tools of local political bosses, who deployed them during election campaigns to ensure victories for themselves or their followers.<sup>14</sup> Consequently, throughout the 1950s, elections often were characterized by coercion and violence, with politically motivated murders not uncommon.<sup>15</sup> Although the government tried several times during the decade to disarm and demobilize these militia groups, as well as to bring the local political bosses under more central party control, its efforts never succeeded.

Already crippled by the flight of most of the senior civil servants in 1947 and 1948, the government unwittingly destroyed any possibility of building the strong central state of Aung San's dreams by launching this highly decentralized campaign to salvage the AFPFL government in the first few years after independence.<sup>16</sup> By relying on the decentralized forces of local politicians to fight off the very real threat to the government during 1948–1952, the Nu government revived and strengthened local power bases. Those bases continued throughout the 1950s to block central government efforts to obtain the economic resources and the cooperation from outside of Rangoon that were needed to finance the League's ambitious socialist economic program.

Moreover, the areas near the British-drawn borders of Burma were even further beyond the "reach of the state."<sup>17</sup> Under British rule, for the first time ever these regions officially were delineated as parts of a territory called Burma. The British initially called these regions "frontier areas," then later, "excluded" areas, and they were left largely untouched by the British rulers. Authority rested in the hands of indigenous leaders of the Shans, Chins, Arakanese, and Kachins. In February 1947, a complicated set of agreements was reached at the second Panglong Conference in February 1947, which promised substantial local autonomy to the Shans and Kachins, while providing some constitutional measure of autonomy to the Chins. At the time, Aung San

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<sup>14</sup> See the reports of the enquiry commission that looked into the cases of election fraud and intimidation by local politicians and their militia in the 1956 parliamentary elections in Government of the Union of Burma, *Reports of the Parliamentary Election Petition Enquiry Commission (Extracts)*, Rangoon, 1959.

<sup>15</sup> For a description of political violence in one region (Mergui) during the 1950s, see Mary Callahan, "The Sinking Schooner: Murder and the State in Independent Burma: 1948–1958," in Carl Trocki, ed., *Gangsters, the State and Democracy in Southeast Asia*, Ithaca, NY: Cornell University Press, forthcoming (May 1998).

<sup>16</sup> James Guyot, "Bureaucratic Transformation in Burma," in Ralph Braibanti, ed., *Asian Bureaucratic Systems Emergent from the British Imperial Tradition*, Durham, NC, 1966, pp. 354–443.

<sup>17</sup> Term drawn from Vivienne Shue, *The Reach of the State: Sketches of the Chinese Body Politic*, Stanford, 1988.

and AFPFL leaders were confident that the peoples of the minority regions would develop loyalty to the Union of Burma as the socialist economic development programs brought wealth, progress, and comfort. However, as the civil war derailed the AFPFL's economic and social programs, the weakened government was too busy fighting off threats to Rangoon to worry about these regions, some of which launched separatist insurgencies.

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*The territory that comprises Burma has never been integrated in any politically or economically meaningful way.*

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### ***State-building throughout Burma***

The territory that comprises Burma has never been integrated in any politically or economically meaningful way. During the colonial period, residents of central Burma, including Burmans and Karens, had no reason or opportunity to visit the ethnic-minority, frontier areas. Those Burmans and Karens in government service or the military police were posted only in Burma proper; only British or Indian civil servants were deployed to the frontier, and even they were sent only on the rarest occasions. Ethnic minority residents of the frontier areas likewise made few journeys into central Burma. Unlike in central Burma, the British established no government schools in the frontier regions, and graduates of indigenous schools from these regions were not admitted to college or university in Burma proper (although the sons of some Shan princes were educated in England). As Martin Smith argues, throughout most of the colonial period, “the Frontier Areas remained largely forgotten” by the British and largely unknown for the Burmans.<sup>18</sup>

Although the 1947 constitution established institutions such as the Chamber of Nationalities in Rangoon that brought minority leaders into the capital on a regular basis, the only significant reverse traffic came under the auspices of the army. In the early years of independence, the military ordered its ethnic Burman troops out to distant minority-dominated regions to fight against communist insurgents. In 1952, U Nu also sent the army to the Shan state to displace some of the princes and set up an army administration when the U.S.-backed Kuomintang (KMT)—fleeing from the communists in China and also gearing up to retake China in the future—began moving deeper into Burma.<sup>19</sup> Some Shan leaders perceived the *tatmadaw* intervention as an attack on their local power and later led armed, anti-Rangoon, separatist movements that fought the government until the mid-1990s.

This move of army field and staff commanders into the administration of the frontier of Burma represented the first real—albeit unconscious—attempt at building state institutions that stretched beyond the central region. No state institution in either pre-colonial or colonial Burmese history had ever established centralized control throughout the territory enclosed by the borders drawn by the British in the nineteenth century. The construction of the loosely integrated federal system in the 1947 constitution was based on a dream that participation of national minorities in legislative politics in Rangoon would forge an overarching national identity. In fact, since minority participation in the 1950s legislature was concentrated in the weaker of the two chambers, it probably did more to reinforce ethnic identification than it did to create a sense of shared purpose, identity, and future.

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<sup>18</sup> Martin Smith, *Ethnic Groups in Burma: Development, Democracy and Human Rights*, London, 1994, p. 23.

<sup>19</sup> U Nu initially attempted to bring the region under some kind of centralized control so that the borders could be defended from further Kuomintang incursions; his great concern was that the presence of the U.S.-backed anti-People's Republic of China force in Burmese territory might serve as a pretext for a Chinese invasion or annexation of that territory. However, the *sawbwas* balked at Nu's proposals for a kind of power sharing that would lessen the *sawbwas'* authority while strengthening the Rangoon government's powers in the region. This ultimately led to Nu sending in the *tatmadaw*.

The significance of the *tatmadaw* being at the helm of this first-ever effort to extend authority to minority frontier areas cannot be overstated. When the AFPFL assumed power in 1948, there was little in the way of administrative personnel or resources left from the collapsed colonial regime. After the insurrections in 1948 and 1949, there was even less. However, as the 1950s wore on, the army emerged among the three major national institutions as the only one capable of building nationwide structures of authority throughout the territory. In the early 1950s, the army became significantly more centralized and more institutionally capable of exerting influence over regions beyond the greater Rangoon area than either of the other two major national institutions—the ruling AFPFL and the bureaucracy. This point can be illustrated by the fact that by around 1954, the army was able to order locally recruited members of its field units to move to other parts of Burma and the War Office orders were followed with some degree of consistency. Neither the AFPFL nor the bureaucracy were able to do the same thing at any point from 1948 to 1962.

### ***Evaluating the “Democratic” 1950s***

Was the collapse of the “democratic,” parliamentary system inescapable? Although the parliamentary collapse was never preordained, it was, however, inevitable that the parliamentary structure of governance—as established by the hastily-written 1947 constitution—would have to be modified in the early years of independence. From the beginning there were incompatible tensions that could be glossed over in the somewhat rushed production of constitutional arrangements in 1947, but these problems could not be resolved in an enduring way without innovation, accommodation, and change. Most importantly, the patched-together constitutional “solutions” for the minority-dominated areas aggravated existing ethnic tensions by delaying any serious dialogue about how to harmonize never-before integrated portions of this territory into a functional nation-state. This was not a new problem: in fact, the more powerful colonial regime had never tried to do so, recognizing that Burma was not governable in the reaches of territory that stretched beyond the limited systems of roads, telegraph wires, and railroads. Burma was even less governable in the early post-independence years, characterized as they were by civil war, economic decay, and political instability.

In assessing the 1950s, it is clear that democratic, parliamentary politics was *not* the problem that crashed the system. The problem was governability, and this problem was found not only in minority-dominated frontier areas but also in the regions where railroads and telegraphs could transport policies. Tax records indicate that the AFPFL regime never attained the level of collections of taxes on land, customs, and income that the British had obtained under *laissez-faire*, minimalist, colonial rule. What little in the way of state institutional capacity was bequeathed by the British to the AFPFL disintegrated in the chaotic early years of independence. From 1947 to 1948, most senior civil servants resigned from office because of political differences with the incoming AFPFL leadership. The bureaucracy was decimated at all levels. Additionally, the government’s desperate devolution of power to local pocket armies at the outbreak of the civil war left all upcountry administration in the hands of political bosses, who frequently ignored and undermined requests from the Union government. In other words, there were very few skilled administrators, tools, or resources left for the Nu government to deploy to implement policy, collect taxes, or even just maintain the status quo.

Beyond Rangoon—and even within Rangoon—the state was decrepit. Set against the centuries-old centrifugal aspirations of the frontier area peoples, the Nu regime was in no position to start the state-building processes that would have been necessary to fulfill Aung San’s dream of winning the loyalty of the national minorities by distributing social resources fairly and justly to minorities and Burmans alike. In the throes of these turbulent conditions, Aung San’s oft-quoted promise to the frontier people at the 1947 Panglong Conference, “If [central] Burma receives one kyat, you will also get one kyat,” was soon forgotten.



## ***The Advent of Military Rule***

The fact that the 1947 constitution needed revision did not make inevitable the arrival of strong, authoritarian rule under military leadership in postwar Burma. At independence, no one could have predicted that the *tatmadaw* would emerge from the chaos of mutinies, defections, and materiel losses in 1948 and 1949 as the powerful force that would dominate state and society for nearly four decades. In the throes of that chaos, there were few signs that the military leadership or anyone else could even envision such a future. The *tatmadaw* was but one of numerous armies that emerged at independence in 1948; many were illegal, anti-state armies, but there also were quasi-legal paramilitary squads maintained by cabinet members and other politicians in the Socialist party and the AFPFL. The “democratic era” was replete with challenges both to and within the *tatmadaw* and the state. Most challenges were backed by arms and violence.

In part, the *tatmadaw* developed the governing capabilities that made military rule possible at the request of its civilian rulers when the army was deployed to remote parts of Burma to fight communists and KMTs, to enforce martial law, or to establish military administration during internal crises. The military was alone among the state’s three major institutions—the others being the bureaucracy and the AFPFL—in consolidating some kind of authority that stretched to the borders. But the development of the Cold War also privileged the *tatmadaw* among these three institutions. Responding to the insecurity of Burma’s geographical and ideological position in the Cold War, the War Office, General Ne Win, and some field commanders bought arms on the world market and negotiated programs of military assistance with virtually no oversight by civilian politicians.<sup>20</sup>

In fact, the *tatmadaw* took a leading role in managing the impact of the world economy and of the Cold War confrontation in the 1950s. By the end of the decade, the army fully managed the impact of the world economy on the national economy through the import-export operations established under the Defense Services Institute.<sup>21</sup> Its effectiveness and autonomy in doing so contrasted with the position of the ruling AFPFL, and suggests yet another early source of the army’s growing strength vis-à-vis other institutions within the postcolonial state. As weak civilian institutions came apart under the domestic and global pressures of the 1950s, the *tatmadaw* was busy with what can only be seen in hindsight as state-building activities. During this period, the army extended the geographical “reach of the state” by creating a bureaucracy that ensured the implementation of central government policies in territory beyond the seat of government.<sup>22</sup> It must be noted, however, that there is no evidence that Ne Win or any other army leaders conspired from the outset to build an army capable of running the Burmese polity over the next several decades. That this happened was simply an unintended consequence of the turbulent 1950s.

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<sup>20</sup> General Ne Win negotiated arms deals with the Indian government and on the black market in Italy in the early period of the civil war when Great Britain and the United States refused to sell arms or provide assistance to the *tatmadaw*. Purchasing missions that included War Office, field command, and navy and air force personnel traveled around the world and brought back fighter-bombers from the Israelis, Italian advisors to establish the first ammunition factory, and U.S. counterintelligence trainers from the CIA.

<sup>21</sup> In September 1950, Major Aung Gyi established the Defense Services Institute as a commissary-style supply system to provide soldiers with consumer items at low prices. By 1960, DSI operated international shipping lines, banks, and the largest import-export operation in the country. See Major Kyaw Soe, “The Defense Services Institute,” n.d. [probably 1958–1960], at the Defense Services Historical Research Institute, Document DR 8117.

<sup>22</sup> This argument assumes an important analytical distinction between state-building and nation-building. State-building involves the creation of concrete, identifiable administrative and political institutions. Nation-building is the process in which a population develops a sense of community (real or imagined) as the basis of individual and group political identity, which in turn influences political action.

## Democracy: Past, Present, and Future

A careful analysis of postwar history demonstrates that the “democratic” 1950s does not hold the solutions for Burma in the 1990s and beyond. In fact, if anything, the decade provides some sobering warnings for pro-democratic forces inside and outside the country. In many ways, major political problems of the 1990s are the same ones faced by the parliamentary AFPFL government in the 1950s (and arguably by the colonial regime prior to World War II). The most serious dilemmas today are the unworkable nature of federalism in this multi-ethnic society, the continued crisis of state capacity in a highly fragmented society, and the institutional intolerance for any form of dissent.

### *The Unworkable Nature of Federalism*

There is a degree to which the assumptions that underlie the concept of Burma—that is, the delineation of a nation-state stretching across the territory bounded by the British-drawn borders—are impossible propositions. Given the financial and topographical barriers to integration, no state has ever even come close to the Weberian ideal of exerting authority throughout the territory. But beyond the non-integration of this territory, there are clear and recent historical barriers to the realization of this “Burma.” In the colonial period, frontier areas were deliberately kept separate from central administrative operations. Additionally, after Burman nationalists initially cooperated with the Japanese during World War II, British and U.S. special forces operating in border areas encouraged minority peoples to kill ethnic Burmans, and promised the minorities political independence from the Burmans in the postwar period.<sup>23</sup> These two historical barriers contributed directly to the start of separatist movements in these regions in the 1950s and 1960s and reinforced the difficulties of developing any basis for establishing an integrated polity. As Martin Smith has observed: “Over the years, there have been few moments of lasting reconciliation or compromise.”<sup>24</sup>

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*In some respects, the junta’s ad hoc attempt at a kind of federal system that provides extensive local autonomy for minority groups along the border areas represents the most extreme concession of central control over Burmese territory in modern history. . . .*

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Some might argue that the recent cease-fire movement in ethnic war zones represents a step toward enduring reconciliation and compromise.<sup>25</sup> However, these arrangements are nothing more than temporary, ad hoc answers to complex, centuries-old structural problems. As many observers have noted, the cease-fires have broken down in a number of regions. Most importantly, the agreements have provided ethnic groups with the authority to hold on to their arms, to police their own territory, and to use their former rebel armies as private security forces to protect both legal and illegal business operations. This authority, however, is due to run out when the junta’s hand-picked National Convention completes a new constitution. At that point, it is difficult to imagine that the SLORC/SPDC will be able to convince ethnic warlords to turn in their weapons peacefully.

<sup>23</sup> Andrew Selth, “Race and Resistance in Burma, 1942–1945,” *Modern Asian Studies*, vol. XX (1986), pp. 483–507.

<sup>24</sup> Martin Smith, “Burma at the Crossroads,” *Burma Debate*, Nov/Dec 1996, pp. 4–13.

<sup>25</sup> Lieutenant General Khin Nyunt initiated the cease-fire negotiations with ethnic rebel groups in 1989 soon after the Communist Party of Burma collapsed. Since 1989, seventeen of the twenty-one major anti-government forces (with as many as 50,000 troops) have concluded cease-fire agreements with SLORC, *Ibid.*, p. 7.

In some respects, the junta's ad hoc attempt at a kind of federal system that provides extensive local autonomy for minority groups along the border areas represents the most extreme concession of central control over Burmese territory in modern history, even more extreme than U Nu's plans in 1962 to grant statehood to the Mons and Arakanese and to consider seriously Shan and Kayah efforts to exercise their secession rights.<sup>26</sup> Moreover, former SLORC chairman Senior General Saw Maung's ill-conceived ethnic policy—that of dividing the dozen or so major national ethnic groups into what he claimed were 135 races—has apparently derailed preparation of a constitution by the National Convention. According to one member of a Convention committee assigned to deal with the ethnic problem, “We have to accept the 135 races theory, but now all 135 want their own states.”<sup>27</sup>

The difficulty of ensuring minority rights within a sovereign national state would not go away if a democratically-elected government were to take over the regime. It would be virtually impossible for a democratic government be able to collect taxes or implement social or economic policy in, for example, the Kokang region, where local elites are profiting greatly from being left alone by the Rangoon government. Without access to revenues generated by the extraction of resources such as gems and teak in the border areas, how would a democratic regime finance programs to alleviate the suffering of local populations throughout the frontier regions who are trying to find their way out of two generations of war? Some minority leaders currently question whether democratic leaders from central Burma would really commit national resources to development programs for the border areas. As one ethnic Pao leader told Martin Smith: “The issue of democracy is often put before ethnic nationality questions, but in our view it [the ethnic question] needs to come first.”<sup>28</sup> With the world focusing on Aung San Suu Kyi and her party, some minority leaders are justified in their worry that the needs of their people are not being considered, either by the National League for Democracy or by well-meaning democratizers around the world.

### ***The Dilemma of Ethnicity and Democracy in Comparative Perspective***

From a comparative perspective, there are very few instances in which a postcolonial, multi-ethnic state has been able to democratize its political system at the same time that it builds administrative, economic, and cultural linkages between geographically dispersed ethnic communities. Prime Minister Jawaharlal Nehru may have engineered the most successful case of this combined project when he led India to significant progress in assuaging ethnic tensions. However, that process also led to the Pakistan solution, which may still prove to have been the wrong answer for India. In fact, if Hindu nationalists seeking to convert India into a Hindu nation-state win power in the near future, India's 110 million Muslims will no doubt react badly—with grave consequences for democracy.

Furthermore, as recent history in the former Soviet Union, Eastern Europe, and some African nations (such as Somalia) has shown, federal systems in which the state components are constitutionally defined largely by ethnicity, and in which the institutional, economic, and cultural linkages between ethnic majority and minority populations are minimal, frequently have not proven to be viable solutions to the problems of multi-ethnicity in a modern society. A federal constitution—such as the one envisioned by the NLD that would revisit the 1947 constitu-

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<sup>26</sup> Chapter X of the 1947 constitution guaranteed to the Shan and Kayah (or Karenni) states the right to secede from the Union no earlier than ten years after independence. In order to invoke this clause, the state had to pass a secession resolution by two-thirds of the members of the State Council, after which the Union President would order a plebiscite to be held to poll the people of the state.

<sup>27</sup> Interview, anonymous source, September 22, 1997.

<sup>28</sup> Khun Okker, foreign affairs spokesperson for the National Democratic Front, quoted in Martin Smith, “Burma at the Crossroads,” *op. cit.*, p. 8.

tional provisions or the SLORC/SPDC's plan that would maintain the current range of ethnic states while establishing new "self-administered areas" for smaller minorities (such as the Pao, Palaung, and Kokang in the Shan state)—is not likely to produce a sustainable, integrated Burma.

For this kind of integration to take place, a future regime might need to try some of the tactics of consociationalism.<sup>29</sup> It could, for example, provide for mutual veto in decision-making; education and mass media in minority languages; and army, university, and bureaucracy recruitment and promotion practices that favor previously excluded minorities.<sup>30</sup> However, these kinds of policies face a major obstacle in Burma. Elsewhere, they have generally been successful in countries where there is either a ruling ethnic group (of either majority or minority status) that for some reason has been pressured to give up its privileged position and to commit itself to proportionally fewer demands on national resources in the future (e.g., contemporary South Africa), or in societies where there is no clear single majority group (e.g., Lebanon from 1943–1975). Although it is difficult to measure, in the current environment it seems unlikely that ethnic Burmans—most of whom have never had access to reliable information about the plight of Karen, Kokang, Shan, or other minority groups and have developed little in the way of cross-ethnic empathy—will be content to give up university places, officer commissions, or other opportunities to members of other nationality groups.

### ***Fragmentation and State Capacity***

In terms of the second dilemma—state capacity—the SLORC/SPDC regime has developed to perhaps their highest form the tools of coercion and repression to maintain its hold over the government. However, the apparently unthreatened monopoly over guns and prisons that the regime needs to hold on to power does not translate into any kind of significant capacity or capability for what the SPDC considers its most pressing task: transforming Burma into a more modern, market-oriented, and productive society. In fact, many overseas investors have pulled their capital out of Burma because the junta's nine-year track record has shown little real progress toward restructuring the agrarian economy into one that could support export-driven production. Will a democratically-elected regime have any greater success in this arena?

From the experiences of other transitional societies that have attempted to concurrently liberalize their markets and democratize, it seems clear that these two processes often work at odds with each other. Market reforms frequently produce economic losers who become constituents for anti-democratic politicians. Not every member of society will be better off under a democratic or market system. Hence, the dislocations created in society can lead to a backlash that may be serious to a democratic regime at the helm of a weak state such as Burma.<sup>31</sup>

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<sup>29</sup> In consociational political systems, minority groups gain representation in all administrative and governing institutions, particularly in the executive branch of government. Minority groups are given veto power over decisions that affect their most important interests. Additionally, minority groups are provided extensive autonomy over issues that are of concern only to them. The strength of this kind of system is that it ensures significant minority participation in all aspects of governance. The weaknesses are that it perpetuates competition for scarce resources among majority and minority groups and it relies mainly on quotas and vetoes to protect minority interests. The classic formulation of consociationalism is provided by Arend Lijphart in *Democracy in Plural Societies*, New Haven, 1977. For a critique, see Timothy Sisk, *Power Sharing and International Mediation in Ethnic Conflicts*, Washington, D.C., 1996, ch. 3.

<sup>30</sup> Arend Lijphart, *Democracy in Plural Societies*, *op. cit.*, pp. 25–52.

<sup>31</sup> See also the rather cynical assessment of the potential for this kind of backlash in transitional societies in central Europe in Richard C. Morais, "Beware of Billionaires Bearing Gifts," *Forbes*, April 7, 1997, pp. 82–87. For a systematic analysis linking the mode of transition to the type of backlash, see Gerardo L. Munck and Carol Skalnik Leff, "Modes of Transition and Democratization: South America and Eastern Europe in Comparative Perspective," *Comparative Politics*, vol. XXIX (1997), pp. 343–362. For an interesting attempt at prescribing market policies to transitional nations, see Deborah Brautigam, "Managing Economic Reform in New Democracies," *Economic Reform Today*, vol. 4 (1997), available online: <<http://www.cipe.org/e26/braute26.html>> [January 30, 1998].



If the SLORC/SPDC does give way to a more open, representative kind of government, Burma will become what political scientist Atul Kohli calls a “low-income democracy.”<sup>32</sup> Like India—the subject of Kohli’s analysis—Burma represents a “highly fragmented political society.” In the Burmese case, this social fragmentation has been overcome in only two instances in history, during which charismatic leaders have built powerful, cross-class, cross-ethnicity coalitions. This occurred first during the anti-Japanese resistance, when Aung San was able to bring together leftists, rightists, Burmans, Karens, peasants, and entrepreneurs to end the Japanese occupation. This united front was strong enough to end the occupation, but disintegrated upon taking office in 1948. Aung San’s dreams of building an integrated, prosperous, socialist Burma disappeared with the resignations of bureaucrats, the ascension of local political bosses to power, and the increasing alienation of ethnic minority peoples. The AFPFL leaders in the 1950s—like India’s Indira Gandhi in the 1970s and Rajiv Gandhi in the 1980s—never built territorially expansive party organizations or state institutions that could restructure social relations and implement the reforms necessary to build an integrated nation-state. Only the army managed to do so in the 1950s.

The second instance in which social fragmentation was overcome by a united political organization came from 1988 to 1990, when Aung San Suu Kyi attracted a broad-ranging political following that crossed ethnic, class, and—at times—even military lines. Her vision, charisma, and leadership carried her party, the NLD, to an overwhelming victory in the 1990 parliamentary elections, despite attempts by the military regime to hamper party-building and campaign activities. The junta’s subsequent refusal to honor the election results, the arrests and flight of many successful opposition candidates, the five-year house arrest of Suu Kyi, and the numerous restrictions on party activities over the last eight years have all but decimated the loosely-organized, populist party that carried the electoral victory in 1990. Any transition of authority to the NLD at this point would place the party in the difficult position of having to run a “low-income democracy” with little party organization to rely on.

While the NLD’s weakness may not lessen Suu Kyi’s popular appeal in future elections, it will certainly affect the ability of the resulting regime to govern. Suu Kyi’s visionary reform proposals, which echo her father’s concerns for providing for the welfare of all individuals in Burma, will require fairly major socioeconomic restructuring. However, as Kohli notes, in other cases where extremely popular leaders or parties take power with populist reform plans but with few established linkages to social forces, the governments never succeed in any significant way to bring about change. Such reforms require those prospering under the old system to commit resources to reforms that may undermine their future prosperity in favor of improving the lot of weaker groups in society. The dilemma for the low income democracy, according to Kohli, is that if

the polity is organized as a democracy, coercion definitely cannot be the main currency that leaders utilize to influence socioeconomic change. Instead, positive and negative incentives, persuasion, and selective use of laws backed by the threat of coercion—legitimate domination—take on an increased significance. Within a democracy, therefore, the capacity to initiate major developmental changes from above comes to rest on a prior capacity of leaders to institutionalize ‘blocs of consensus,’ or to build majority coalitions to support a specific path of change. . . . [This] requires that the link between rulers and supporters, or between the political center and the social periphery, be durable. This durability is likely to exist if the relationship of leaders and supporters is institutionalized through such mechanisms as political parties.<sup>33</sup>

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<sup>32</sup> “Centralization and Powerlessness: India’s Democracy in a Comparative Perspective,” in Atul Kohli, Vivienne Shue, Joel Migdal, eds., *State Power and Social Forces*, Cambridge, 1995, pp. 89–107.

<sup>33</sup> *Ibid.*, p. 98.

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Burma any real experience with political institutions that allow,  
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### ***Institutionalizing Dissent***

Finally, regarding the third dilemma—institutional intolerance for dissent—the four decades since the 1950s have not given Burma any real experience with political institutions that allow, accommodate, and incorporate dissent, dialogue, and difference. The current regime clearly is unwilling to risk reforms in this regard. Moreover, the opposition also exhibits characteristics that seem rather intolerant of and inimical to the development of democratic processes. For example, in January 1997, the opposition National League for Democracy expelled Than Tun and Thein Kyi, two elected members of the never-convened parliament, for insubordination when they refused to sign a mandate giving the NLD's Central Executive Committee full power to act on behalf of the party. Than Tun and Thein Kyi claimed after the expulsion that their differences with party leaders were over whether to compromise in the process of bringing SLORC to the negotiating table. According to Than Tun: "We are trying to put up these different ideas and ways for the NLD to survive through these difficult times. . . . We must get dialogue first . . . the SLORC is ignoring us all the time. They [NLD leaders] want to stick to principles. To get compromise you must not always stick to principles."<sup>34</sup> Given the censorship of political information, it is difficult to know whether such actions are justified (i.e., if the NLD had evidence that the two members were SLORC plants, as some diplomats have suggested), representative, or taken out of context. However, anti-government student groups and political parties over the last nine years have shown a distinct tendency either to expel purveyors of minority views (who then form their own party or group) or to fragment around leaders of uncompromising positions.<sup>35</sup>

Some might argue that intolerance for dissent suggests an immutable cultural flaw in the Burmese personality. Yet the 1950s were not a completely lost cause for democratic practices, institutions, and dissent. While in practice the elections, constitutionalism, and civilian rule had their flaws and proved untenable in the crises of the 1950s, Burmese culture did not impede the emergence of such promising developments as loyal opposition (even under great repression), an independent judiciary, and a mobilized electorate.

Instead, I would argue that there may be a more historically discrete factor that accounts for institutionalized intolerance across the generations of "democratic," "socialist," and the SPDC's Burma. Under colonial, parliamentary, socialist, and post-1988 military rule, conflicts over views, visions, and policies have always been framed as winner-take-all battles. As most national-level leaders (including the NLD executive committee in early 1997) have conceived of themselves as fighters against an old regime or imperialism or authoritarianism, they have behaved as though the only answer to conflict was to eliminate it. Accordingly, the only way to eliminate conflict was to enforce unity and solidarity. The future of Burma will continue to look bleak until its leaders develop organizational frameworks that manage and moderate conflict.

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<sup>34</sup> Reuters, February 4, 1997.

<sup>35</sup> Ma Thanegi, a former political prisoner and confidante of Aung San Suu Kyi, noted the NLD's intolerance for dissenting opinions in her recent essay in *Far Eastern Economic Review*. According to Ma Thanegi, "it seems almost impossible to call for pragmatism. Political correctness has grown so fanatical that any public criticism of the National League for Democracy or its leadership is instantly met with accusations of treachery." Ma Thanegi, "The Burmese Fairy Tale," *Far Eastern Economic Review*, February 19, 1998.

This last dilemma appears to paralyze leaders of contemporary Burma within and outside the government and to make the prospects of sustaining any kind of democratic reform very doubtful. As political theorist Bonnie Honig recently noted, democracy cannot exist without contest and contestation and without differences in opinions, outlooks, dreams, and demands.

To take difference . . . seriously in democratic theory is to affirm the inescapability of conflict and the ineradicability of resistance to the political and moral projects of ordering subjects, institutions and values. Moreover, it requires that we recast the task of democratic theory, and move it beyond that of simply orchestrating multiple and conflicting group needs and toward a new responsiveness to that first task's propensity to involve democratic cultures and institutions in violent and resentful dynamics of identity/difference. It is to give up on the dream of a place called home, a place free of power, conflict, and struggle, a place—an identity, a form of life, a group vision—unmarked or unruined by difference . . .<sup>36</sup>

Common to both the SLORC and the NLD is an overarching emphasis on unity and solidarity that is simply inimical to the development of institutional mechanisms that can accommodate the needs and demands of the broad range of social forces that exist throughout the country. This political debate could come right out of the debates of 1946 and 1947, during which Aung San was attempting to rally disunited forces to stand up to the British one more time for the cause of independence: "We must take care that 'United we stand' not 'United we fall.' [sic] . . . Unity is the foundation. Let this fact be engraved in your memory, ye who hearken to me, and go ye to your appointed tasks with diligence."<sup>37</sup> As a means to independence, this unified show of force was probably critical in moving the British to grant independence. However, unity became an end in itself, and in many ways, by virtue of historical habit, politics has never grown out of this phase.

### Rethinking U.S Policy

If pro-democracy policies must be tailored "to the specific circumstances of each country," as John Shattuck, U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor, recently told Congress, then the historical legacies that have shaped Burma's political system since independence must be addressed in any assessment of U.S. policy.<sup>38</sup> The review of Burma's experiment in democracy—from 1948 to 1958, and again from 1960 to 1962—has pointed to three systemic barriers to the development of democratic governance. These barriers weakened and ultimately contributed to the end of democracy in the 1950s, and would do the same again unless careful reforms are crafted to eliminate the structural problems. Some of those policies can only come from Burmese government and opposition leaders. But in its single-minded focus on eliminating military rule and in its tendency to ignore long-term barriers to reform, U.S. policy probably impedes progress toward the establishment of sustainable democratic political institutions.

The first structural weakness identified was that of establishing a federal political system that could serve as the basis of an integrated "Burma" by granting concrete concessions and rights to minority populations. This study suggests that ethnic Burman and minority leaders inside the country should look into consociational approaches to this kind of reform. Where the United States might play a bigger role is through a more judicious allocation of pro-democracy assistance by the National Endowment for Democracy. Most of the more than \$2 million in

<sup>36</sup> Bonnie Honig, "Difference, Dilemmas, and the Politics of Home," in Seyla Benhabib, ed., *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton, 1996, pp. 257–277.

<sup>37</sup> From "Bogyoke Aung San's Address at the Convention Held at the Jubilee Hall, Rangoon, on the 23rd May, 1947," in Josef Silverstein, ed., *Burma: Military Rule, op. cit.*, pp. 151–161. The last sentence apparently is a translation of a Pali proverb.

<sup>38</sup> "Statement of Hon. John Shattuck to House International Relations Subcommittee on Asia and the Pacific hearing on U.S. Democracy Promotion Activities in Asia," September 17, 1997, available online: <<http://www.usia.gov/regional/ea/burma/shttck18.htm>> [January 30, 1998].



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*Without establishing concrete cross-ethnic linkages between minorities and between minority and majority ethnicities, “Burma” remains and will remain in the future a fantasy, unrealizable by democratic and authoritarian rulers alike.*

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democracy assistance funds allocated to Burmese groups has gone to single-ethnicity, minority groups fighting the SLORC/SPDC; the NLD exiles who fled Burma after the 1988–1990 interlude; and the National Coalition for the Government of the Union of Burma, the government-in-exile formed by Dr. Sein Win and others who were elected to parliament in 1990 but forced to flee the country.<sup>39</sup> To the degree that the United States has supported coalition-building across ethnic boundaries, it has been based purely on an anti-junta appeal. While each of these groups is doing important work, the NED grants show little emphasis on developing the kind of cross-ethnic empathy that will be necessary to forging a multi-ethnic, democratic state. Such programs should not be geared toward “Burmanizing” the minorities, but instead should attempt to raise the level of understanding among majority Burmans and all the minorities about their fellow citizens’ respective plights. For example, it is significant that no grants have ever been requested or awarded to establish a program to teach ethnic-majority Burmans to speak the languages of their fellow citizens of minority ethnicity, although a significant number of grants support the publication of anti-SLORC/SPDC literature in the Burmese language. Without establishing concrete cross-ethnic linkages between minorities and between minority and majority ethnicities, “Burma” remains and will remain in the future a fantasy, unrealizable by democratic and authoritarian rulers alike.

The second dilemma, that of the weakness of national-level institutions across a socially-fragmented society, requires far more prudent policies on the part of the United States in the fostering of horizontal linkages among different fragments of the population of Burma. Certainly, there should be no attempt to do this by strengthening state capacity vis-à-vis society under the current regime. Hence, pro-democracy advocates should turn to the strengthening of civil society as a means to overcome the centuries-old cellurization of Burmese society.<sup>40</sup> However, the diplomatic and economic repudiation of SLORC/SPDC has cost the United States the opportunity to support the development of the kind of autonomous, associational life that has played a role in the transitions from authoritarian rule in other countries. Currently, U.S. democratic assistance programs can finance the efforts only of expatriate and overseas groups, many of which have weak links to individuals or nascent associations inside Burma. These overseas groups may play a role in a future transition, but there is no guarantee that an expatriate movement’s overseas mobilization techniques and organizations will address the fragmentation inside Burma that has long made all varieties of governance difficult, and democratic governance—in particular—unsustainable.

Finally, in regard to the third dilemma, current U.S. policy reinforces historical intolerance toward dissenting opinions. U.S. policy aims primarily at dethroning SLORC/SPDC and in doing so frames the debate over Burma around an unrealistic and politically dangerous dualism. This dualism pits the forces of good (Suu Kyi, the NLD, and the United States) against the forces of

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<sup>39</sup> A complete list of NED grants is available from Democracy Grants Database web page. Available online: <[http://www.ned.org/page\\_5/wais.html](http://www.ned.org/page_5/wais.html)> [January 30, 1998].

<sup>40</sup> For a summary of the debate over both descriptive and prescriptive uses of the concept, “civil society,” see John A. Hall, “In Search of Civil Society,” in John A. Hall, ed., *Civil Society: Theory, History and Comparison*, Cambridge, 1995, pp. 1–31. See also K. Kumar, “Civil Society: An Inquiry into the Usefulness of an Historical Concept,” *British Journal of Sociology*, vol. 44 (1993).

evil (the SLORC/SPDC and the military). This mirrors the SLORC/SPDC world view which simply reverses the line-up of forces. As in the 1950s, politics in this framework remains an all-or-nothing struggle. In comparative historical perspective, the problem with this formulation is that such a rigid structuring of politics is unlikely to facilitate reform, either in the case of the government or the opposition. If we examine the actual experiences that have led to the establishment of sustainable, responsive, representative systems of governance in other repressive political systems, transitions from authoritarian rule have occurred in two ways. In a few instances, a national catastrophe destroyed the existing political system, creating a historical rupture that allowed populist, democratic forces to rebuild the system in a more open, transparent, responsive way. An example of this route would be Argentina's political liberalization following the military regime's debacle in the Falklands-Malvinas war in 1982.<sup>41</sup> Most successful transitions, however, have been "pacted" ones in which reform-minded leaders of the authoritarian system separated themselves from the hard-line authoritarians in the governing elite and began cooperating with moderate pro-democratic reformers, who in turn abandoned earlier alliances with anti-regime radicals demanding the outright destruction of every leader and institution of the old regime.<sup>42</sup>

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Unless democracy advocates are counting on a national catastrophe in Burma, the pro-democracy movement appears aimed not at democratization, but only at unseating SLORC/SPDC. Demonization of the regime raises the costs of conciliation for all parties involved, as compromise can be interpreted only as capitulation in such an all-or-nothing environment. Upon Suu Kyi's release from house arrest, it was apparent that she realized the inefficacy of the good-vs.-evil framework when she preached conciliation and negotiation with the SLORC. At the time, she hoped to bring about reform without repeating the bloodshed of 1988's national catastrophe. However, the regime's refusal to meet with her weakened her position within the opposition, as the more radically anti-junta members of the NLD leadership held up the failure at conciliation as evidence that the NLD would never be able to work with SLORC/SPDC.

SLORC's closure of that window of opportunity for a peaceful transition appears to have led pro-reform forces to conclude that there is no hope for the junta to ever "pact" a transition or tolerate dissent, unless the United States and the international community forces it to do so. However, there may be other ways to take a longer-term approach to lowering the costs of

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<sup>41</sup>On paths toward democratization, see Scott Mainwaring, Guillermo O'Donnell, and Samuel Valenzuela, eds., *Issues in Democratic Consolidation*, Notre Dame, 1992, pp. 105-53; Alfred Stepan, "Paths Toward Redemocratization: Theoretical and Comparative Perspectives," in Guillermo O'Donnell, Philippe C. Schmitter, and Laurence Whitehead, eds., *Transitions from Authoritarian Rule: Comparative Perspectives*, Baltimore, 1986, pp. 64-84. On the Argentina case, see Edward C. Epstein, ed., *The New Argentine Democracy: The Search for a Successful Formula*, New York, 1992; David Pion-Berlin, *Through the Corridors of Power: Institutions and Civil-Military Relations in Argentina*, University Park, 1997; Maria Susana Ricci and J. Samuel Fitch, "Ending Military Regimes in Argentina: 1966-73 and 1976-83," in Louis W. Goodman, Johanna Mendelson, and Juan Rial, eds., *The Military and Democracy: The Future of Civil-Military Relations in Latin America*, Lexington, Mass, 1990, pp. 55-74.

<sup>42</sup>Terry Lynn Karl, "Dilemmas of Democratization in Latin America," in Dankwart A. Rustow and Kenneth Paul Erickson, eds., *Comparative Political Dynamics: Global Research Perspectives*, New York, 1991, pp. 163-91; Adam Przeworski, "The Games of Transition," in Scott Mainwaring, Guillermo O'Donnell, and Samuel Valenzuela, eds., *Issues in Democratic Consolidation*, op. cit., pp. 105-53. For case analyses in which pacts played important roles in transitions, see Felipe Aguero, *Soldiers, Citizens and Democracy: Post-Franco Spain in Comparative Perspective*, Baltimore, 1995 and the case studies on Brazil, Hungary, and Poland in Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*, Baltimore, 1996.

negotiation for the regime. If democracy advocates would abandon the good-vs.-evil framework for interpreting the present situation, it might be possible to approach transition issues based on a better, more realistic understanding of the complexity of Burma's barriers to democracy. For example, democracy advocates need to recognize that the destruction of the apparently evil military may not be in the best interests of the Burmese population, a view concealed by the pro-democracy movement's conflation of the politically oppressive junta with the 400,000-strong military. Reform advocates need to keep in mind that although there is no reason to maintain such bloated force levels in the future *tatmadaw*, no prospective Burmese regime—democratic or authoritarian—can forego reliance on a security force of some magnitude given the piracy, drug problems, and Chinese threat in the region. Moreover, the polarized nature of the debate has concealed the fact that the outright dissolution or massive demobilization of the *tatmadaw* is frankly not in the interests of most Burmese families. It is difficult to find a family in Burma today that does not rely on some member, distant or immediate, whose service in the armed forces provides the family with access to higher-quality rice, cheaper cooking oil, and other necessities that they cannot afford on the inflationary market. The United States must keep these realities in mind and should take a longer term view toward the development of democratic institutions that will improve the capacity to govern the country over the long term. In this respect, the United States might support programs to educate Burmese opposition leaders and citizens about the role of militaries in other transitions to democracies, covering such basic issues as demobilization and reintegration into society of former soldiers; the establishment of civilian control of the military; and rule of law. An opposition that shows a nuanced understanding of these issues—rather than one that simply denounces the military *en masse*—can lower the costs of compromise for members of the junta who may be leaning toward reform.

## Conclusion

At this point, U.S. policy sanctions the military regime for its anti-democratic behavior. To date, Congress has allocated more than \$2 million to assist anti-junta groups outside of Burma in their efforts to fight the regime. Very little can be done with groups inside Burma because of the junta's restrictions on opposition collaboration with foreigners and because of the very minimal U.S. government presence in Burma. As currently configured, U.S. policy may help to bring down the SLORC/SPDC, but because it does not address the other decades-old obstacles to democratization, it is unlikely to advance the cause of sustainable, long-term democracy in the very difficult conditions that characterize Burma today.

While it is difficult to assess the effects of the ban on U.S. investment because of its relative recency and the unavailability of accurate economic data, it is possible to look back over the last decade to determine whether the punitive policies of the United States in general have resulted in any major concessions by the junta. In fact, if we look at the major political concession that the regime has made over the last nine years of military rule, the linkages to U.S. policy are tenuous. It is possible that the decision to release Aung San Suu Kyi from house arrest in July 1995 may have been influenced by international diplomatic pressure; her release came three days before a hearing was scheduled in the U.S. Congress to debate economic sanctions against SLORC. However, this linkage cannot be overstated since the junta paid no attention when the United States demanded that SLORC begin meeting with NLD leaders to discuss reform, and upon its refusal, retaliated with the investment ban in 1997. This suggests that other factors were at work in 1995. SLORC would never have heeded U.S. pressure to release Suu Kyi if it had not resolved a dangerous internal split the month before. In the first five years of junta rule, tensions mounted between powerful regional commanders and the Rangoon-based leadership. Throughout the first half of 1995, SLORC struggled to curb the incipient warlordism of upcountry regional commanders. It finally managed in June 1995 to lure the most powerful commanders to Rangoon where

they took on lucrative portfolios and where SLORC could tighten its control over them. Confidence in its hold on power—not fear of retaliation by foreign countries—led the junta to release Suu Kyi.

This is not to suggest that international pressure has not weakened the junta or moved it toward important changes. Disgruntled hotel operators boasting very high vacancy rates report that Aung San Suu Kyi's call on the world to boycott Burma's Year of the Tourist, which ran from late 1996 through 1997, accounts for the utter failure of the regime's attempt to promote tourism as a first step toward generating capital for its market reforms. During one mid-evening journey around Rangoon in September 1997, I counted fewer than two dozen lights on in the hundreds of guest rooms at the Sedona and Traders' hotels. It was no coincidence that the cabinet minister responsible for tourism was one of the first to go in the November 1997 cabinet reshuffle.

However, U.S. sanctions against SLORC/SPDC had nothing to do with this campaign and subsequent junta reform. In fact, the U.S. government's pro-democracy, anti-junta policy failed to get any results in Burma. More importantly, because of its disregard for the lessons learned in other transitions from repressive regimes to sustainable, responsive, representative systems of governance, U.S. policy is probably counterproductive in its single-minded focus on destroying the junta. Unless the United States is counting on a national catastrophe, U.S. policy is very likely to result not in democratization, but only in the unseating of SLORC/SPDC. The latter may happen, but, unfortunately, only at the cost of the former. Policymakers should take a longer-term view and help to facilitate the development of democratic institutions that will have the capacity to govern the country.

# INDONESIA'S COMING SUCCESSION: CONSTITUTIONAL TEXT, HISTORICAL CONTEXT, AND RECOMMENDATIONS FOR U.S. POLICY IN A TIME OF CRISIS

Donald K. Emmerson

*Indonesian President Soeharto acquired his seventh five-year term in March 1998, but he is nearly 77 years old and faces an uncertain future. In the event that he is unable to complete his new term, will his vice president, B. J. Habibie, automatically take over, or will steps be taken that could give others a shot at the top job? How should the United States respond to events in Indonesia? The author reviews constitutional and historical evidence helpful to answering these questions. The author shows how the ambiguous Indonesian constitution has been used to rationalize past regimes, and how it may be used in the future. Should succession occur before March 2003, and if a nominating body for some reason cannot be convened to witness the transfer, Habibie could be sworn in by the Supreme Court. However, there could be calls for such a body to meet, and constitutionally an assembly would have to be convened by 2003. Such a body might renew a Habibie presidency, or it could support, or be made to support, someone else. The new president could use the constitution to rationalize autocracy, as in the past, but he or she could also use the document to legitimize a more democratic order. Regarding American policy, the author suggests that rather than isolate Indonesia or embrace Soeharto, the United States should channel significant humanitarian and development assistance to ordinary Indonesians and promote nongovernmental interaction between Americans and Indonesians. This would encourage economic and political reforms toward better governance, greater adherence to the rule of law, and a more robust civil society.*

Putting it bluntly, I might die on my feet . . . Perhaps that is what they want so I can be replaced. But if they want to replace me with someone else using unconstitutional means, I will clobber them no matter if they are politicians or generals.

—Soeharto, *President of Indonesia, continuously in office, 1968–??*<sup>1</sup>

According to public law expert Prof. Dr. Sri Soemantri SH of Padjadjaran University, the People's Consultative Assembly, as the institution that has given the president his mandate, could indeed meet in a special session should the Seventh Development Cabinet [1998–2003] fail to put the Indonesian national economy back on its feet . . . At such a special session, the Assembly could even withdraw the president's mandate, if the government is judged to have failed to improve national conditions.

—*Kompas Online*, March 16, 1998<sup>2</sup>

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<sup>1</sup> Michael Vatikiotis, *Indonesian Politics under Suharto: Order, Development and Pressure for Change*, London: Routledge, 1993, p. 156, citing his "Succession Scenarios," *Far Eastern Economic Review*, September 28, 1989, p. 31.

<sup>2</sup> "MPR Bisa Sidang Istimewa Jika Kabinet Gagal Pulihkan Ekonomi" ["The MPR May Meet in Special Session If the Cabinet Fails to Repair the Economy"], *Kompas Online*, March 16, 1998, <<http://www.kompas.com/9803/16/POLITIK/mpr.htm>>. The author is responsible for all translations from Indonesian-language sources used in this essay, except for quotations in English of translations by others.



The world's fourth most populous country, host to more Muslims than any other, a strategic bridge between the Pacific and Indian Oceans, a major exporter of natural gas . . . these are but some of the aspects of Indonesia that have long recommended that country to American attention. But true to their working definition of news as sensation, the mainstream American media withheld regular coverage of Indonesia—East Timor's violence excepted—until the archipelago's currency and equity markets collapsed in 1997. That debacle triggered scarcities, panic buying, inflation, and food riots in towns around the country. Suddenly there was plenty of news.

Dramatically heightening interest in Indonesia was the endangered personality of Soeharto and his three-decades-old regime. Here was a gothic tale worthy of the Latin American fabulist Gabriel Garcia Marquez: an Asian “general in his labyrinth” facing an “autumn of the patriarch” rife with corruption. Embodying the latter theme were General Soeharto's children, whose greed and ambition could be scripted into a compelling docudrama: The aging and nepotistic dictator hangs on to power so that he and his family can hang on to their vast wealth—come what may.

The general had acquired full use of the title “President of the Republic” in 1968. That year the presidency had finally and definitively been taken from his predecessor, Soekarno, who had held it since declaring Indonesian independence in 1945. By 1992 the political longevity of the second president—his continuous tenure as head of government—had surpassed that of anyone but Fidel Castro. On June 8, 1998, Soeharto would reach the age of seventy-seven, an achievement that would beat by fifteen years the life expectancy of an average Indonesian born in 1995, let alone that of Soeharto's own contemporaries born in 1921 when lifespans were shorter.<sup>3</sup>

But in 1997 the president's health had faltered in tandem with the economy's, triggering questions in Jakarta and major capitals around the world. Would Soeharto obtain a seventh term as president from 1998 to 2003? The answer was yes. On March 10, 1998, the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, or MPR)—a main focus of this essay—acclaimed him president again. Who would be his vice president? The answer was Bacharuddin Jusuf Habibie. The longest continuously serving cabinet member in the history of Soeharto's “New Order” regime, Habibie had been minister of research and technology since 1978. On March 11, 1998, the MPR applauded him into the republic's second-highest office for a five-year term.

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*. . . the constitution provided for an automatic succession from president to vice president should the former die in office. Or did it?*

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The vice-presidency as such was unimportant. What mattered was its location a heartbeat away from the presidency, for the constitution provided for an automatic succession from president to vice president should the former die in office. Or did it? Journalists, businesspeople, and other observers were unsure. And if they wondered what the constitution might “say” about the succession, many of them also were not sure how the problem had been handled the last time around, in the 1960s, when Soeharto had replaced Soekarno.

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<sup>3</sup> The 1995 average is from *World Development Indicators 1997*, Washington, DC: The World Bank, 1997, p. 87.

In 1988 Soeharto himself acknowledged having exceeded statistically normal longevity. Contemplating the prospect of turning 72 after completing his fifth presidential term in 1993, he wrote: “Remembering that the average age of Indonesians is 56 (if I'm not mistaken), 72 years would be considered more than average, considered old enough. Were my inauguration on March 11, 1988, therefore said to have been my last one as president, it would not feel like an exaggeration . . .”

The quote is from Soeharto, *Soeharto: Pikiran, Ucapan, dan Tindakan Saya—Otobiografi* [Soeharto: *My Thoughts, Statements, and Actions—Autobiography*], as told to G. Dwipayana and Ramadhan K. H., Jakarta: Citra Lamtoro Gung Persada, 1989, p. 555.

Handicapping the rumored contenders for Soeharto's job is not the purpose of this essay. It is not primarily about personalities and their chances. Nor is it about economic crisis or political violence. These are important subjects, but they have been covered extensively in the media. By comparison, almost no attention has been paid to constitutional and historical dimensions of the coming succession. While knowledge of these aspects hardly will enable the knower to predict the nature of the transition—how and by whom Soeharto is going to be replaced—being unaware of them certainly will impede that ability. For whoever replaces the president, and in whatever manner, he—or she—will surely try to claim legitimacy in relation to the Indonesian constitution and its provisions.

Or she? In the run-up to the March 1998 MPR and its decisions, President Soekarno's daughter Megawati Sukarnoputri had announced her candidacy to succeed President Soeharto. The Indonesian constitution contains no language that would prevent a woman from becoming president. But Megawati never really had a chance. She was too weak, and Soeharto far too strong.

Soeharto's eldest daughter, Siti Hardijanti ("Tutut") Rukmana, was another matter. The cabinet that was announced on March 14, 1998, included her as minister of social affairs. [The full cabinet is identified in Appendix I.] Of Soeharto's six children,<sup>4</sup> she had been the most visibly active in preparing for the MPR. Reportedly she played a key role in helping her father form the new cabinet. A Tutut presidency, though unlikely, was substantially less inconceivable than a Megawati presidency.

The Indonesian constitution is among the briefest in the world. Unusual too is the accompanying official clarification of its articles. That clarification defends the charter's brevity as flexibility. A longer and more detailed document could have become obsolete sooner, and might have been amended; this one never has been. But ever since it was written in 1945, Indonesia's founding text has been explicated and characterized, again and again. So long as it remains in force, that discourse will go on.

Constitutions are meant to be interpreted. But who can predict with confidence *how* they will be interpreted? Nor, if competing interpretations are advanced, can we know for sure which one will win out. Of an unstable polity we cannot even assume that its constitution will not be ignored, abrogated, or replaced, making interpretation moot.

Indonesia is not exempt from these uncertainties. The details of the succession, including its timing and how it unfolds, will depend much less on what might occur, or be said to occur, in the body of the constitution than on what will occur to Soeharto and happen to his own body—and the reactions of others to his moves and condition. Nevertheless, when the transition does come, the character of the constitution will matter. Whether it is observed or not, it almost certainly will be invoked.

The more ambiguous any document is, the easier it is to differ about what it "says." The less ambiguous it is, the more it "speaks for itself," apart from what any power-seeker might wish it to mean. One may think of a constitution as a dry riverbed unevenly grooved. The bed's topography, even its direction, can be reshaped. Yet doing so is not cost-free, and to the extent that the bed is configured to allow some future rivulets to move faster than others, it can affect the manner in which water is likely to flow—or a political succession is likely to proceed.

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<sup>4</sup> Listed in declining order of age, their names (including nicknames, but not names added because of marriage) are: Siti Hardijanti Hastuti ("Tutut"); Sigit ("Sigit") Harjojudanto [M]; Bambang ("Bambang") Trihatmodjo; Siti Hediati ("Titiek") Harijadi; Hutomo ("Tommy") Mandala Putra; and Siti Hutami Endang ("Endang") Adiningsih. When she married Indra Rukmana, Tutut added Rukmana to her name. Similar changes have affected the names of her sisters, who are also married—Titiek to Prabowo Subianto and Endang to Pratikto Prayitno Singgih. Prabowo, an army general, is a potential successor to Soeharto.



A revolution would flood the riverbed, overriding constitutional channels. But revolutions are extremely rare. Coups are somewhat less so. But Indonesia is one of those countries whose existing constitutions are highly regarded instruments of symbolic legitimation. In such places coup-makers are apt, if not almost certain, to portray their extraordinary actions as “constitutional.” The ability of a usurper to do this convincingly will not be unlimited, but will depend to an extent on the malleability of the text actually at hand. At the same time, the intensity of a usurper’s motivation to gloss the document will reflect, among other factors, the extent of public respect for the constitution itself—its power as a legitimating tool. And that necessarily takes us not only to the text, but to its context, including its history.

### **The 1945 Constitution: Articles of Succession—and Democracy?**

Indonesia’s constitution was adopted on August 18, 1945, the day after Soekarno had declared national independence. The timing was crucial. Months earlier the archipelago would still have been occupied by the Japanese; Tokyo had surrendered to the Americans and their allies on August 15. Months later the Dutch would return to reclaim their former colony; the allies would land on the core Indonesian island of Java on September 29. Indonesian nationalists seized the resulting six-week window of opportunity to proclaim an independent nation with its own constitution.

Frantically, its leaders tried to outfit the new republic with enough of the trappings of sovereignty for the allies to take it seriously, and thus to diminish the prospect of resubjugation by the Dutch. One cannot appreciate the constitution’s brevity and vagueness without recalling the ambience of its creation: the sense of crisis and the need for quick *faits accomplis*—statements and structures now, details later.

Indonesians do not call the charter written and launched in such unsettled conditions merely “the constitution.” It is “the 1945 constitution.” The date conveniently distinguishes it from the two other national charters the country has known since 1949, when Indonesians finally acquired sovereignty after four years of revolution against the Dutch. But as the year in which that revolution began, “1945” also retains connotations of nationalism that still imbue with value the constitution to which that year’s events were so dramatically linked.

These circumstances help to explain why the country’s first two presidents should have wrapped themselves in the mantle of the 1945 constitution—and why the third president when he or she appears probably will as well. Even a future democratizer of Indonesia might prefer not to replace the charter if civil rights and freedoms, competitive elections, and accountable institutions could be read into it. Helpful in this regard are the first official English translation of the 1945 text and a more recent and tentative official revision of that translation. Both render Article 28 of the constitution as a promise that freedoms of association and expression “shall be prescribed” by law or statute. And both of these authorized English-language versions annotate that promise as a response to the citizenry’s desire for democracy.<sup>5</sup> [This and the other articles from the constitution cited in this essay are translated in Appendix III.]

In March 1998 the obstacles to political liberalization in Indonesia seemed daunting, but if and when such barriers diminish, it should not be too difficult to enlist Article 28 to that end.

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<sup>5</sup> My source is *The 1945 Constitution of the Republic of Indonesia*, [Jakarta]: Republic of Indonesia, Department of Information, [n.d.]. All references below to official English translations of the constitution and its clarification imply this document.

To a liberal democrat, the Indonesian text of Article 28 is both more encouraging and more disappointing than these translations suggest. Encouragingly, the inclusive phrase “and so on” after the specified freedoms—assembly, association, expression—allows for others to be added. Disappointingly, however, these freedoms are to be *ditetapkan*, that is, “determined” in future laws. This broad verb could be read to permit their partial modification or curtailment.

Having continuously rationalized authoritarian regimes in Jakarta since 1959, the constitution of 1945 could continue to do so. But it could also be reglossed in ways conducive to the growth of a more liberal-democratic polity. It is the diversity of things that can be read into it that make a Rorschach blot useful.

In the light of this background on the 1945 constitution, we may turn to its provisions regarding succession. Exercising popular sovereignty, the People's Consultative Assembly (MPR), meets "at least once every five years" (Article 2). The MPR elects the president and vice president of the republic (Article 6). The document further specifies a five-year term for the president and for the vice president and allows them to be reelected (by the MPR) an unspecified number of times (Article 7). The path opened by Article 6 amounts to the constitutionally normal scenario for succession.

According to Article 2, all MPR decisions are to be made according to the principle of "the most votes"—in Indonesian, *suara yang terbanyak*. Article 6 applies this principle as well to the MPR's election of a president and vice president. The two official English versions of the constitution render *suara yang terbanyak* as "a majority vote." But what kind of a majority? Absolute, that is, more than half? Or simple, meaning more than any alternative also voted on, which could be less than half?

If someday Indonesia democratizes, and if the 1945 constitution is reconstrued to facilitate the shift, this ambiguity could become controversial. The more candidates for president or vice president the MPR votes on, other things equal, the harder it will be for any one of them to obtain an absolute majority. But multiple candidates may be insisted upon by a future MPR that is more fully elected than the one that Soeharto relied on yet again to recertify himself in March 1998. Multiple candidacies for the two top slots could create the case for taking *suara yang terbanyak* in Article 6 to mean a simple majority (a plurality). Yet some may oppose such an interpretation, or propose limiting the number of presidential and vice presidential candidates, lest leaders be elected with too small a share of MPR votes to legitimate their victory.<sup>6</sup>

Alternatively, the constitution could be amended to provide for the popular election of the president and the vice president, as in the United States. The relevant portion of Article 6 would have to be changed. But the 1945 charter does allow for its own amendment, and entrusts that right solely to the MPR. Altering the charter in conformity with the charter's own rules would require a two-thirds majority of a quorum consisting of no less than two-thirds of all assembly members (Article 37).

This two-thirds-of-two-thirds rule opens up some intriguing possibilities. Assume for convenience that a future MPR, like the present one, has 1,000 seats. Picture such an MPR in legal session with 667 members present—the necessary minimum. Imagine further that of these members, 445 voted for and 222 against a constitutional amendment. Under Article 37, the amendment would pass, even though fewer than half of all MPR members voted for it. In March 1998 this math was academic, but potentially it could be implicated in various scenarios.

By helping supporters attend such a session while keeping opponents away, a president might be able to engineer a minority just large enough to change the charter to make it either more or less authoritarian. The character and previous usage of the constitution make the former course seem redundant. Slightly more conceivable is the chance that Indonesia could someday

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<sup>6</sup> This assumes actual voting, and that in itself will be an innovation. Sessions of the MPR that for three decades renewed President Soeharto's mandate acted by acclamation based on presumed consensus. Votes were taken from time to time in closed-door meetings of committees of the MPR, so divisions of the house were not entirely untried. But for voting in plenary sessions to occur, the assembly will have to overcome the ethos of unanimous consent that has lent itself so readily in the past to authoritarian manipulation.

be democratized undemocratically. That could occur, for example, if the MPR were packed in advance with reformists and anti-reform members were prevented from attending a session convened to amend the constitution to assure the full popular election of representative bodies.

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*. . . the constitution has never been amended. Instead, those in power have continually interpreted and reinterpreted it to their advantage.*

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I am not predicting such an outcome. As I have noted, the constitution has never been amended. Instead, those in power have continually interpreted and reinterpreted it to their advantage. Manipulating the charter's articles has been made easier by their brevity and by the large number of questions they either do not mention, leave to the government to answer, or both. There is, for example, no provision for judicial review of the constitutionality of legislation. And if the constitution is understood to allow what it does not forbid, the MPR could fill in the blanks, as it were, and avoid the need for amendment. The assembly could, for example, restrict future presidents to two five-year terms and portray the limit as constitutional on the grounds that the charter does not say how many turns a president may serve.

Also, would-be amenders of the constitution may be hard put to reconcile their desire to revise the text with its status as a national symbol. As some Indonesians surely would caution, changing the charter for the first time would lower the barrier to changing it a second, third, fourth—nth—time, to unforeseeable effect. Such a warning could evoke the evils of instability and deadlock still associated with the country's ill-fated experiment with parliamentary democracy in the 1950s. Meanwhile, the flexibility of the charter will continue to weaken the case for changing it.

Its manipulability helped the country's first two heads of state use the 1945 charter, unamended, to consolidate their power—Soekarno beginning in 1959, Soeharto since 1966. Depending on how the transition to a third president occurs, it is not unreasonable to expect him or her to succumb to the same temptation, or for Soeharto to use the document's articles to clothe his own efforts to retain power and control its transfer in "constitutional" terms.

### **MPR + S: Provisionality and Its Uses**

As already noted, the constitution requires the MPR to meet at least once in five years (Article 2); empowers it to elect the president (Article 6); and allots to him or her a five-year renewable term (Article 7). Central to President Soeharto's claim to be a constitutional leader has been his implementation of these provisions. On six quinquennial occasions Soeharto has assembled the members of the MPR, who have returned the favor by renewing his presidency: in 1973, 1978, 1983, 1988, 1993, and most recently in March 1998. Previously, a Provisional People's Consultative Assembly (Majelis Permusyawaratan Rakyat Sementara, or MPRS) had also met six times: in 1960, 1963, and 1965 under President Soekarno; in 1966 to ratify the transfer of power to General Soeharto; in 1967 to name Soeharto acting president; and in 1968 to remove the qualifier "acting" from Soeharto's new title.

The "S" in MPRS stands for "Sementara," which means "Provisional." The 1945 constitution does not mention a Provisional MPR, only the regular, "S"-less kind. But the official clarification of Article 2 not only reaffirms the permissibility of MPR meetings held more often than quinquennially. They are given a name: "special" sessions.

An authoritarian ruler of Indonesia wishing to increase his or her authority might like to dispense with the MPR entirely, or convene it, say, once every ten years. But doing so would exceed the five-year limit specified by Article 2. Such an autocrat could try to pack the assembly with his or her own supporters. And if times were troubled, or could be made to appear troubled, or if just the right amount of trouble could be fomented, then perhaps an emergency could be declared and used to justify calling the resulting “provisional” assembly into “special” session *more* often than once in five years.

Very roughly, omitting differences and details, Soekarno in 1960–65 and Soeharto in 1966–68 pursued constitutionally similar gambits. These ploys involved packing and convoking in “special” session a relatively docile “provisional” assembly to refresh, stage by stage, the legality of a series of moves to change not just the government but the larger regime—from parliamentary to “guided” democracy under Soekarno, then to “Pancasila” democracy under Soeharto.<sup>7</sup> Of these three regimes, only the first and earliest was democratic.

Also according to Article 2, the MPR’s meetings are to be held in the capital of Indonesia. Yet President Soekarno organized the first three sessions of the MPRS not in Jakarta but in the cooler climate of the upland city of Bandung to the south. Although, as noted, the constitution does not provide for a provisional MPR, it could be argued that by adding “Provisional” to the name of the MPR that he called into session in Bandung in 1960, 1963, and 1965, Soekarno escaped the requirement that the MPR as such gather in Jakarta.

For purposes of the succession, Article 2 makes it that much more important for an incumbent or a challenger to control Jakarta—its political climate, material resources, and physical security. In March 1998 the top commanders of troops in the capital city were all former personal associates of Soeharto, promoted by him to these posts in full knowledge of the importance and sensitivity of Jakarta as the political cockpit of the country. [Appendix II lists military leaders.] Article 2 also crimps the freedom of the favorite son (or daughter) of a particular region to convene an MPR locally in hopes of gaining a home-field advantage.

Relevant too is the remarkable content of Article 12, which allows the president to declare a state of emergency whose criteria and consequences “shall be determined by law.” This provision gives a beleaguered president considerable leeway to declare an emergency; to assume emergency powers; to justify, specify, and use them; and only then to get a suitably manipulated or intimidated legislature—the People’s Representative Council (Dewan Perwakilan Rakyat, or DPR)—to ratify these actions by passing an appropriate law. Thus might an incumbent president set about “constitutionally” to violate the constitution itself, including Article 1, which places national sovereignty “in the hands of the people” and its exercise fully in the hands of the MPR.

In the history of the republic prior to March 1998, measured by the frequency of sittings by the two types of assembly—MPR and MPRS—provisional gatherings have been more common than the regular kind. Depending on how fully institutionalized one takes Soeharto’s regime to be, this mixed record suggests that one or even more “special” sessions of the MPR, or even of an MPRS, could be convened to warrant a future succession in Indonesia, after the 1998 MPR but before the one due in 2003.

This is not a prediction, but depending on Soeharto’s health, his political competition, and the state of the economy, among other variables, it could occur. The upshot of such events would not necessarily be a setback to democracy. As already noted, a democratizer or a democratizing

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<sup>7</sup> “Pancasila” refers to the five principles listed in the preamble to the 1945 constitution as the basis of the Indonesian state. Loosely translated, they are: monotheism, humanitarianism, national unity, consultative democracy, and social justice.

movement that was unwilling or unable to replace or amend the constitution outright could instead put in motion some version of the Soekarno/Soeharto gambit, but use it to relax rather than tighten political control.

Potentially helpful in this regard is the 1945 charter's official clarification, which allows the MPR to be convoked in special session to hear the president, in effect, account for his or her performance.<sup>8</sup> Even if Soeharto's health remains robust enough to enable him to discharge his presidential duties from 1998 to 2003, the economic crisis of 1997–98 could smolder and flare repeatedly over that period. Such conditions could foster intensifying pressure to hold a special MPR session, or an MPRS, to bring to account his government, conceivably even his regime. Or, if in this same atmosphere Soeharto were to die, such a session could be called to discredit his presidency, even his system, and prepare for major political change.

In view of its articulation by a Padjadjaran University law professor, Sri Soemantri, as quoted in one of the epigraphs at the head of this essay, the possibility of convening an MPR to bring Soeharto and his regime to account, and conceivably even to replace them, may be called "the Soemantri scenario." In March 1998 it was hard to imagine it. But it could occur. The institutions of the New Order might not be obstacles to regime change after all.

### **Provisionality in 1998: The MPR and Habibie**

By 1998 Soeharto had proven himself too shrewd a political operator not to be aware of the Soemantri scenario and other potential threats to his incumbency and legacy. The question for him was: How to prevent them?

Of the many different sets of answers to this question that come to mind, one set involves legality, a second concerns personality, and both illustrate Soeharto's use of provisionality to entrench and prolong his rule. In 1973 and every five years thereafter through 1988, the president obtained from his docile MPR a resolution delegating to him the authority to take unspecified "necessary steps" to restore and safeguard national unity and prevent subversion. In 1983 the MPR added coping with "social symptoms," presumably including social unrest, to these already broad justifications for provisionally concentrating even more power in Soeharto's hands.<sup>9</sup>

In 1993, for the first time in twenty years, Soeharto did not request such emergency authority from the MPR. Perhaps he felt that conditions had become stable enough to make the resolution's readoption unnecessary. If so, by 1997 he had changed his mind. In March 1998 the MPR dutifully gave him, yet again, the additional provisional powers he desired.

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For most outside observers, the economic crisis of 1997–98 could only destabilize Soeharto's rule. Collapsing currency and equity markets and the ensuing squeeze on the real economy did

<sup>8</sup> "Sistem Pemerintahan Negara" ["The Governmental System"], VII, "Penjelasan tentang Undang-Undang Dasar Negara Indonesia," *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* ["Clarification regarding the Indonesian Constitution," *The 1945 Constitution of the Republic of Indonesia*], any edition.

<sup>9</sup> *Inventarisasi dan Himpunan Ketetapan-Ketetapan MPR RI 1960–1988* [*Inventory and Compilation of Decisions of the MPR of the Indonesian Republic 1960–1988*], Jakarta: Badan Penerbit Alda, 1989, pp. 375–378, 507–511, 661–666, 773–777.



stoke opposition to the president and his suddenly ineffective regime. But the emergency also enabled the president to claim emergency powers. In real terms, one more authorizing piece of paper from an already compliant MPR did not matter much. Yet its adoption reflected more than the subservience of its source. It catered as well to the sense among some Indonesians, including many in the vulnerable and anxious ranks of the middle class, that a crisis such as the one that had shaken the country since 1997 did warrant temporarily strengthening the power, and therefore the ability, of the government to overcome it.

Picking the right personality to succeed him—someone who would be sure to protect him and his family and their interests—was another obvious means Soeharto could have used to prolong his regime. In March 1998 foreign observers wondered whether just such reasoning might explain the president's decision to select B. J. Habibie as vice president. Soeharto, then age 76, had known Habibie, then 61, for some 45 years. Habibie had expressed his admiration for the older man in superlative terms. He had called the president "SGS" for "Super Genius Soeharto."

The president had reciprocated this admiration by continually renaming Habibie to the cabinet, making him the longest serving minister in the history of the regime. The two men also shared an enjoyment of machines, from planes and ships to Soeharto's Harley-Davidson motorcycle, in which Habibie was once photographed sitting in the sidecar while his boss took it out for a spin. But Habibie was not the heir apparent. In March 1998 Soeharto had every intention of completing his new five-year term. Far from indicating a decision by the older man to transfer power to the younger one, Habibie's selection may have been made at least in part to reinforce Soeharto's own supremacy.

Habibie was a civilian. As research and technology czar he had at times used the armed forces as a captive market for military equipment that he had decided the military needed. A controversial case in point had been his purchase of decrepit ships from the former East German navy. Soeharto had also allowed Habibie to become identified with politically vocal Muslims. Moreover, Habibie was not a Javanese.

One may at least speculate that in appointing Habibie the president knew that these characteristics made the younger man appear, in the eyes of some in the armed forces, unsuitable for the presidency. For some Indonesians, Habibie's elevation may have strengthened Soeharto's own position as the preferred alternative. In any case, over much of his presidential career, Soeharto has played one person or group against another, never casting his own lot wholly with one individual or faction, but letting them all retain some hope of gaining influence. Whenever someone has grown too openly ambitious for the top slot, he (she, in Megawati's case in 1996) has been cut out of the system.

"Provisionality" in this broadened sense applied not only to Soeharto's use of the MPRS in the late 1960s to consolidate his authority. It applied to the president's colleagues and rivals as well, who came and went while he endured. On the other hand, of course, the older he grew, the shorter his remaining time. Habibie had a better chance of surviving his boss than previous vice presidents, assuming his own health kept up.

Constitutional aspects of this prospect will be taken up later. In the meantime, it will be helpful to examine a little more closely the MPR and the MPRS as sources of political legitimation.

### **MPR + S? Questions of Elections**

I have noted the distinction in timing between the quinquennial MPR and the earlier MPRS. The two types of assembly have also been distinguished by whether any of their members had been elected. A regular MPR included some members who had been popularly voted into their

seats. An assembly of delegates that had all been appointed by the president was considered provisional, that is, an MPRS.

The electoral contrast highlights the MPRS as a body created from the top down and convened, in effect, to legitimate, and thus help to perpetuate, an unconstitutional usurpation of power. However, the MPR too has been mostly a top-down body. Only 425 of the 1,000 members of the 1998 MPR had been voted into their seats, and national balloting, held in 1997, had been heavily constrained and managed. (So had all previous general elections, more or less, save the first one in 1955.) In 1998, as with previous convocations of the MPR, the fact that even a minority of its delegates owed their seats to votes implied enough normality and legality in Soeharto's eyes to warrant omitting the "S" from the assembly's name.

In the 1945 constitution and its official annotation there are but two references to the election of candidates for office: Articles 6 and 7. These involve only the president and vice president, whom the MPR is to choose or choose again using the "most votes" principle. If elections grant legitimacy to those elected, then the constitution legitimates the top executive leadership—the president, assisted by a vice president—without requiring any of the members of the country's representative institutions, including the MPR that elects the leadership, to be elected themselves and thus legitimate in that same sense.

The constitution legitimates the MPR by associating it with the sovereign Indonesian people, not by requiring its election. The relevant portion of Article 1 reads: "Sovereignty shall be in the hands of the people, and shall be exercised in full by the People's Consultative Assembly [MPR]." That sentence can, though it need not, be taken for an invitation to dictatorship.

Consider this argument: According to Article 1, the people possess sovereignty but do not exercise it. It is the MPR that fully exercises sovereignty. Because neither Article 1 nor the rest of the charter, nor the appended official clarification, says anything about whether the MPR is to be elected or appointed, then appointing all of them is not unconstitutional. Appointing the entire MPR must therefore *be* constitutional.

In this way an authoritarian leader could treat the 1945 charter as a license and a recipe for a "constitutional" coup. Seize power. Dismiss the MPR. Reconstitute it. Convene it. Make it elect you president. Repeat every five years for as long as you live. The constitution does not rule out coups. It does not refer to them. It does not state that election by the MPR is the sole path to the presidency. It does not require the MPR to be elected. How sweet the unsaid can be.

Article 2 does specify three components of the MPR: "members of the DPR augmented by delegates from regions [provinces] and groups [such as labor unions and cooperatives] in accordance with regulations to be determined by law." These categories need not deter a resolute coup-planner. If anything they help him or her by offering a handy corporatist facade of spatial and functional representation.

Nor is "by law" in Article 2 much more than a speed bump. In an emergency, which a president can declare (Article 12), the president acquires the right to issue regulations in place of laws (Article 22), presumably including regulations enabling him to appoint the entire DPR. By passing a resolution rejecting such regulations, an existing, still partly elected DPR can oblige the president to resubmit them to "the DPR" for approval or disapproval within a year (Articles 19 and 22). But which "DPR" would that be? The existing, partly elected, rebellious one? Or its more docile replacement under the regulations-as-laws that the presidentially determined state of danger "constitutionally" justifies? Again, the charter is eloquently silent, and again, in the resulting cult of provisionality, one may sense the paradigmatic example of the emergency of August 1945.



I am not trying to discredit the constitution. But first Soekarno and then Soeharto employed variations on this spinning of the charter and the sort of MPR it authorizes to justify his authoritarian rule. In 1963 Soekarno even had his rubber-stamp MPRS elect him president for life. The self-justifying text of that decision cited Article 1, which entrusts the exercise of popular sovereignty entirely to the MPR, and Article 7, which limits the president's term to five years but allows him to be reelected an unspecified number of times.<sup>10</sup>

It was as if the 1963 MPRS had been prompted by Soekarno to say, "We have supreme power according to the constitution. The constitution specifically authorizes us to reelect Soekarno every five years ad infinitum, if we wish to. Therefore, by deciding not to bother going through these motions over and over, but instead to guarantee in advance the outcome they would achieve, that is, by making Soekarno president for life, we are behaving in accord with the constitution."

I do not know whether the third president of Indonesia will follow the example of Soekarno in 1959–63 and Soeharto in 1965–68 by also appropriating power and then having that step ratified "constitutionally" by an MPRS that has been revamped or intimidated to ensure compliance. But so long as the 1945 charter is retained as the law of the land, that temptation will remain. While Professor Soemantri meant for his scenario to be benign, it need not be.

### MPR + S? Provisionality à la Soekarno

The MPR and the DPR are the only representative bodies called for in the constitution. Neither the means of forming either forum, nor its size, is specified in the charter. But DPR members are supposed to belong to the MPR as well (Article 2). This provision facilitated the enlargement of the latter body under Soekarno and Soeharto to the point where because of its size—a thousand members, as noted, in 1998—it could hardly be expected to review, let alone supervise or control, the actions of government in any detail. In 1960 when the MPRS first met, Soekarno emphasized that its members should stay away from details and lay down only the "broad outlines of the state's orientation [*haluan*]" as required by Article 3.<sup>11</sup>

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The official English versions of Article 3 translate *haluan* as a matter of policy not orientation. Conceivably a democratizing leadership might someday select this narrower meaning of *haluan* to justify reforms that would enable the MPR to exercise meaningful control over the specifics

<sup>10</sup> "Ketetapan MPRS tentang Pengangkatan Pemimpin Besar Revolusi Indonesia Bung Karno Mendjadi President Republic Indonesia Seumur Hidup" ["MPRS Decision concerning the Elevation of the Great Leader of the Revolution Bung Karno to Become President of the Indonesian Republic for Life"], adopted May 13, 1963, in *Ketetapan MPRS dan Peraturan Negara jang Penting bagi Anggauta Angkatan Bersendjata* [MPRS Decisions and State Regulations of Importance to Members of the Armed Forces], Muhono, comp., Jakarta: Government of Indonesia, 1967, p. 526.

<sup>11</sup> Soekarno, "Amanat Negara President Soekarno pada Pembukaan Sidang Pertama Madjelis Permusjawaratan Rakyat Sementara" ["President Soekarno's State Speech at the Opening of the First Session of the Provisional People's Consultative Assembly"], delivered November 10, 1960, in *Ketetapan MPRS, op. cit.*, pp. 46 and 50–51.

of government policy. But *haluan* connotes the general course taken by the ship of state, its overall direction, more than what is happening on board at any given time. Hence my preference for the vaguer English word “orientation.” That translation, unfortunately, makes it marginally easier for an authoritarian president to claim as constitutional mere perfunctory guidance by the MPR—not policies, platitudes.

What is more, although the official clarification of Article 3 sweepingly entitles the MPR to review every five years “everything that has happened” over that period, the MPR is supposed to use that review not to criticize the government’s past performance, which could promote accountability, but merely to decide which “orientations should be used in the future.”

Soeharto has taken clever advantage of this annotation of Article 3 to keep the MPR facing hopefully ahead, not glancing critically back at what the government actually has done or not done. Both the president and the members of the MPR serve for five years, but under the schedule in place since the early 1970s, the assembly’s cycle has ended just prior to the president’s. By recomposing the MPR, partly through a managed election, on the eve of his renewal in office, Soeharto has avoided ever having to face exactly the same delegates who elected and mandated him the last time around.

Against the autocratic thrust of these interpretations, probably the strongest constitutional argument to be made for rendering the government more accountable to the MPR lies in the uniquely powerful position of the latter body. Article 1 places no limits whatsoever on the MPR’s authority to exercise popular sovereignty. Plausibly that authority encompasses all that a given government does and decides day by day. The official clarification of Article 3 runs thus: “Because the People’s Consultative Assembly holds the sovereignty of the state, its authority is unlimited.” Assuming, of course, that “its” refers to the MPR and not to the abstract noun “the state.”

Rendering the MPR itself more accountable is another matter. Why should the MPR be elected if the constitution fails to require it? Indeed, if the 1945 charter is so dictator-friendly, and if its silence regarding popular elections could make it appear constitutional to pack the entire MPR by appointing one’s own supporters to all of the seats in the assembly, then why has Soeharto bothered to allow any elections to take place at all, even compromised ones such as those he organized in 1971, 1977, 1982, 1987, 1992, and 1997?

The ubiquity of the legitimacy of elections is part of the answer. Even dictators like to hold them. But part of the rest of the answer requires scanning Indonesian history at least back to 1959. In July of that year Soekarno personally and unilaterally abrogated the parliamentary-democratic constitution that had underpinned the republic since 1950, and activated the 1945 constitution, which Indonesia had formally abandoned upon gaining sovereignty in 1949.

To legitimate his action post facto in the newly valid charter’s own terms, Soekarno would have had to convene the MPR so that it could exercise its right, specified in Article 3, to adopt the 1945 constitution as the highest law of the land. Instead, he convened a provisional assembly, explicitly naming it the MPRS, and told its delegates that they would *not* be asked to activate the 1945 charter under Article 3. Why did he pass up this chance for the MPRS to bring the constitution into effect? Should he not have been eager to have his unilateral move ratified and legitimated after the fact?

Soekarno gave two reasons for not asking the MPRS to vote to bring the constitution into force. First, none of this *provisional* assembly’s members had been popularly elected. Although he was discreet enough not to mention it, Soekarno himself had seen to this. Earlier in 1960, when the DPR that was formed as a result of the 1955 elections had refused to pass his budget, he had

suspended that body and replaced it with a more docile version whose composition he had approved. According to the 1945 charter only some of the members of the MPR are also DPR members; the others are not. But Soekarno had also screened the rest of that larger body. In short, he had stacked the deck.

In a nimble but brazen sleight-of-hand, Soekarno now used his own manipulation of the MPR and its component DPR to justify not asking the assembly that had resulted from his manipulation to declare the 1945 charter valid. After all, he said, the DPR members in the hall (as members of the larger assembly) had “not yet been *elected by the people*.”<sup>12</sup> They could go ahead and deal with the broad orientation of the state, as required by the second part of Article 3. But they could not take it upon themselves to bring the 1945 constitution into effect, notwithstanding Article 3. His implied message to the delegates was: You are not legitimate enough.

The second explanation given by Soekarno to his domesticated assembly in 1960 for not asking it to activate the 1945 charter was that the document was already in effect. By implication, assembly approval had become superfluous. Again Soekarno was careful not to mention it, but it was he himself who had signed and issued the decree of July 5, 1959, that had declared the 1945 constitution to be in force.<sup>13</sup>

Thus did Indonesia’s first president pioneer the art of keeping democracy at bay. By denying the right of the gathered delegates to authorize the constitution, Soekarno avoided letting them behave as if they enjoyed sovereign authority, the authority to which the constitution entitled the MPR. In this way he could portray them as subordinate to him, rather than the other way round as the constitution could have been read to imply. By naming the assembly merely “provisional”—an MPRS not an MPR—he further curtailed its authority by making it inferior to the regular MPR that had been granted supreme authority in the 1945 charter.

### MPR + S? Soeharto Follows Suit

One result of Soekarno’s maneuvers, ironically, was to strengthen the association between electoral means and legitimate results. In justifying the inferiority of the MPRS—its subordination to himself—on the grounds that it had *not* been popularly elected, he had to imply that a regular, fully fledged MPR *would* have to be at least partly elected. Only such an MPR would deserve, and thus could assume, the full responsibility for exercising the popular sovereignty assigned to it under Article 1. By reminding the delegates to the first gathering of the MPRS in 1960 that they had not been elected, and by using this as a reason why they could not exercise full sovereignty under the constitution, Soekarno had in effect posed as a would-be procedural democrat. He made it appear that he *did* want the MPR (more precisely, the DPR-inside-the-MPR) to be elected, eventually, and to discharge its full constitutional role, eventually.

Helpful to Soekarno in taking this stance were the emergency circumstances at the time. Military insubordination in 1956, followed by insurrections that would sputter on into the 1960s, were a good pretext to postpone elections and to employ the MPRS format to fend off the prospect of democracy “provisionally.” This strategy lasted until 1965, when a leftist intramilitary conspiracy finally gave General Soeharto the crisis that he could use to warrant taking power “constitutionally.”

<sup>12</sup> Soekarno, “Amanat,” in *Ketetapan MPRS*, *op. cit.*, p. 44; italics in original.

<sup>13</sup> Later, in a memoir—*Sukarno: An Autobiography*, as told to Cindy Adams, Hong Kong: Gunung Agung, 1966 [1965], p. 279—he recalled the matter this way:

In July, 1959, nationwide pressure decreed a return to the 1945 Constitution. . . . We no longer had to please the Dutch and it suddenly seemed pointless to play the figurehead role legally when I assumed the dominant one actually. . . . Indonesians breathed a sigh of relief. They had what they wanted: leadership. Westerners shivered in the moonlight. They had what they “feared”: Sukarno.

The story of how Soeharto gained power may be summarized very briefly: In 1963 then-Major General Soeharto had been assigned to head the Army Strategic Reserve Command (Komando Cadangan Strategis Angkatan Darat, or Kostrad) based in Jakarta. On October 1, 1965, leftist conspirators inside the army kidnapped and assassinated six senior generals. Soeharto stepped into the breach, took command of the army, and blamed the killings on the Indonesian Communist Party. He then presided over the bloody eradication of the party—hundreds of thousands of real and suspected communists were killed or jailed—and the staged replacement of Soekarno's regime with his own anticommunist "New Order."

In 1966 Soeharto had three generals extract from President Soekarno a letter granting Soeharto emergency authority. Soeharto had himself named acting president in 1967 and full president in 1968. To "constitutionalize" this succession, Soeharto was careful, in each of these years, to pack and convoke an MPRS that would acclaim the latest steps taken away from the old and toward the new regime.

The parallel should not be overdrawn, but it is clear. As Soeharto, in a kind of political slow motion, neutralized, ousted, and replaced Soekarno, the ascendant general accepted and reinforced the same "constitutional" assumptions that Soekarno had used to warrant concentrating power in his own hands in the late 1950s and early 1960s. Far from challenging the legality of his predecessor's unilateral activation of the 1945 constitution, Soeharto acknowledged it as valid. Far from challenging Soekarno's use of provisionality to rationalize autocracy, Soeharto imitated it. Far from abandoning the MPRS as a tool, Soeharto used it (after de-Soekarnoizing it by replacing its members) to ratify after the fact the dismantling of Soekarno's authority. In each transitional year—in 1966, 1967, and 1968—MPRS delegates obliged Soeharto by driving another nail into Soekarno's political coffin. Sequestered and silenced by the new regime, Soekarno died a broken man in 1970.

By innovating a body that the constitution did not mention—the MPRS—Soekarno had given Soeharto a valuable tool to use. Between 1966 and 1968 the general made this tool appear more properly constitutional by calling it into special session as allowed by the official clarification of Article 2. He picked up the thread of his predecessor's speech in 1960, when Soekarno had implied that regularizing the MPR would eventually require holding elections for at least some portion of the DPR, which would be encompassed by that larger body. On July 5, 1966, the MPRS, as revamped by Soeharto, approved a resolution promising a democratic national election—"direct, general, free," and with "secret" balloting—no later than July 5, 1968.<sup>14</sup> Even the day and month were Soekarno's, representing as they did the anniversary of the edict he had issued in 1959 to bring the 1945 charter into effect.

The election promised for 1968 was not held until 1971, but it was held. Only a minority of the seats in the resulting assembly were filled by voting. The rest were appointed. Nor was the poll itself democratic. In 1965-66 the left and its political organs had been demonized and destroyed. Parties that Soekarno had banned in 1960 stayed banned. The 1971 exercise allowed Soeharto to convene the first normal session of a regular assembly in 1973 that began the periodic reelection of himself as president of Indonesia. Starting with the election of 1977 and the MPR of 1978, Soeharto's "New Order" settled down to a soon familiar rhythm: Every five years, a managed national poll would be held that met Soekarno's argument that some portion of a regular MPR should be elected. A year later this "fully constitutional" MPR would recrown Soeharto king.

An MPRS is an effort to generate legitimacy in the absence of an election. If an MPR signals a continuing regime already underway, an MPRS indicates troubled times between regimes. In

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<sup>14</sup> "Ketetapan MPRS tentang Pemilihan Umum," in *Ketetapan MPRS, op. cit.*, p. 1,502.

early 1998, the apparent jeopardizing of Soeharto's rule by mounting economic and political crises seemed to reopen the possibility of a reversion to a politics of provisionality and special sessions.

In March 1998, depending on how troubled and how democratic upcoming times in Indonesia turned out to be, one could envision an MPR being held in 2003 and preceded in 2002 by a more—or less—free election. One could also imagine a reversion to the gambit of 1960–65 and 1966–68: dispensing with an even partly elected MPR and holding an MPRS instead.

In neither of these scenarios would the 1945 constitution or the institutions that it authorizes cease to exist. That could happen, of course, but the MPR and the DPR are provided for in a prestigious and flexible founding text under which both regimes—Soekarno's and Soeharto's—have claimed to operate. These representative bodies may be reformed to make them more democratic. I hope they will be. But they are unlikely to disappear, and neither is the constitution. As of March 1998, despite the turmoil racking the country, no Indonesian of any real or potential influence, either inside the regime or against it, was seriously proposing that the 1945 charter be scrapped and replaced with what would become the country's fourth national text since 1949.

That said, in view of the 1945 constitution, what kind of a succession might occur? This question can be recast as two smaller ones, to be addressed in sequence: Constitutionally, under what conditions may the vice president replace the president, and how is the replacement to be accomplished?

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*. . . upon the death of a president, the article's explicit rule that the late incumbent is to be replaced by the vice president certainly reduces the chance that someone other than the vice president will "fill the vacuum" by declaring himself or herself president.*

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### Conditions of Replacement: Interpreting Article 8

Here, with my bracketed inserts and italics, is the pivotal content of Article 8 of the 1945 constitution:

Should the president *die, resign/ cease to perform, or be unable to perform* his or her duties during his or her [five-year] term of office, he or she shall be replaced by the vice president until the end of its duration.

It will be helpful to consider seriatim these four distinct but overlapping alternatives.

#### **Death**

Soeharto has had heart and kidney problems. He is rumored to have had one or more minor strokes. Will his health improve? Will it worsen? Will it worsen to the point of demise? When? What is clear is this: If he does succumb to his afflictions, or if his life is otherwise ended, anyone other than the sitting vice president who might wish immediately to replace the president will be hard put to justify such an action as constitutional.

The existence of Article 8 hardly rules out a coup. However, upon the death of a president, the article's explicit rule that the late incumbent is to be replaced by the vice president certainly



reduces the chance that someone other than the vice president will “fill the vacuum” by declaring himself or herself president. Anyone plotting to seize the presidency over the corpse of its occupant must be prepared to confront and repress intense criticism for having violated a constitution traditionally and still widely viewed by Indonesians not merely as a legal document but as emblematic of the 1945 revolution that spawned the republic itself.

Consider the following scenario: At some point before his term is up in March 2003, Soeharto dies unexpectedly. Assuming that Vice President Habibie is at that time still in office and able to serve, he would very probably assume Soeharto’s duties on an interim basis in conformity with Article 8. Instantly, however, at least two positions would become available for support and contestation: one favoring the consolidation of the vice president’s new status, the other opposing it. Variations of the latter position could in turn be linked to several groups, each with its own preferred candidate to become president. The probability of conflict could rise.

In the event of presidential death—or, for that matter, resignation, cessation, or inability—does the vice president become president through Article 8 automatically? Must the MPR meet? The constitutional answers to these much debated questions are, respectively, no and no. The vice president cannot become president without taking the oath of presidential office, but the MPR need not be convened for that purpose.

In 1973 the MPR itself clarified this matter by adopting a resolution stating that if the president is permanently prevented from continuing in office—for example, because of death—the vice president shall take over, but only upon being sworn into the presidency before the DPR or, if the DPR cannot be convened, before the Supreme Court. Not having to call together the 1,000-member MPR will considerably speed such a transfer, should it occur. Only in the less likely event that both the president and the vice president are permanently prevented from continuing in office must the MPR, within one month, be convened.<sup>15</sup>

The mere existence of Article 8 is, of course, no guarantee that a preemptive coup will not occur. Suppose that the president’s death is not sudden but comes at the end of a prolonged and debilitating illness. Not only might such a slow disabling of the president tempt an ambitious conspirator to move; the clarity of Article 8 might strengthen the temptation. If the president were sick enough for it to become debatable whether he could perform the duties of his office any longer, a would-be coup-maker and rival of the vice president might wish to move before Article 8 could be invoked, thereby preempting a constitutional transfer of power to the vice president. In this admittedly speculative sense, the sudden death of the president might be less destabilizing than his gradual decline. I will return later to the implications of illness.

Alongside the suddenness of death, its timing also could be important. If the president dies early in the 1998–2003 quinquennium—toward the end of 1998, say, or early in 1999—and assuming the vice president wants not only to become but to remain Indonesia’s third president, the authority of Article 8 could be tested. If the vice president has a serious competitor for power, that rival might be unwilling to wait all those years until the MPR could be convened again in 2003. Such a rival might instead engineer public or military pressure for an MPRS to be held before 2003 to decide the leadership question, that is, to elect himself or herself president, replacing the ex-vice president who had just claimed the job under Article 8. Conversely, the nearer to the scheduled convening of the MPR in 2003 presidential death occurs, especially if death is unexpected, the harder it will be for the vice president’s rival to move. There might not be time.

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<sup>15</sup> “Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia Nomor VII/MPR/1973 tentang Keadaan President dan/atau Wakil President Republik Indonesia Berhalangan” [“Decision Number VII/MPR/1973 of the People’s Consultative Assembly of the Indonesian Republic concerning a Situation in which the President and/or Vice President of the Indonesian Republic Are/Is Hindered”], in *Inventarisasi, op. cit.*, p. 363.

Such a rival would also have trouble portraying the maneuver—superseding Article 8 with an MPRS—as constitutional. For the imminence of a regular fifth-year MPR under Article 2 would serve as reassurance that the vice president’s use of Article 8 was obviously temporary and transitional. That judgment, other things equal, could hamper the ability of a usurper suddenly to pack and convene an MPRS. The outcome would depend substantially on the relative political strength of the two contenders at the time.

To return to the constitutional question: Who is entitled immediately to replace the president in the event of death? The answer is inescapable: the vice president. In the scriptural riverbed, this channel is clearly and deeply cut. Barring surprises, Habibie is indeed a heartbeat from the top slot.

### ***Resignation or Cessation***

In translating Article 8 I have rendered the ambiguous Indonesian verb *berhenti* in two ways: as *resign* and as *cease to perform*. The English translations of the constitution differ in the same way. The earlier one, first published in 1950, gives *cease from executing* [presidential duties]. The later one has *resign*.

Conceivably, the difference between these two meanings of *berhenti* could become important. Compared with ceasing to perform one’s duties, a resignation is in principle proactive and easily apprehended. If the president resigns on television, the evidence would be patent. If by letter, controversy could surround how it had been written (under duress?) and by whom, including whether his signature could have been forged. Yet a resignation would at least require something tangible and seemingly authentic.

An announcement that the president had ceased performing his duties would raise different questions. Just how extensive were those duties? How much visible and aural evidence of his presence, movement, and voice would be needed—and at what sort of occasions, from substantive to ceremonial—to satisfy the constitutional requirement that he be on the job? If one of his duties were delegating his responsibilities, who could say whether the president’s absence from this or that official function amounted to a relevant nonperformance that might trigger Article 8? Indeed, just who would be able to say, and make the saying stick? Vice President Habibie, who if he sought the top job would be constitutionally equipped with a motive to want the president to cease performing? Or Soeharto’s minister of social affairs, his daughter Tutut?

Tutut’s mother (the president’s wife) died in 1996. Since then the daughter has gained greater political responsibility and visibility than any of Soeharto’s five other children. In March 1998 she became the first member of the president’s family to receive a cabinet post. Who more than she would be tempted to assume the role of her ailing father’s proxy-cum-interpreter to the outside world, assuring the public that he was still doing his duties while shielding him from the scrutiny needed to confirm that assurance? Tutut’s motivation to do this could only be enhanced by other desires she might have: to protect the first family’s vast fortunes, for instance, and to keep at bay her father’s political opponents.

She might also wish to succeed her father, and even if not, she might use her role as chief guardian of the ailing patriarch to build support for someone else to take over as president and defend the family’s interests.<sup>16</sup>

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<sup>16</sup> If the first children split over whether to back Tutut or another successor, more scenarios can be made to flow well beyond the bounds of this essay.

Could growing sociopolitical unrest cause the army to step in and decide whether the president is or is not performing his duties? Conceivably, yes. One can stretch one's imagination even farther by picturing a faction in the military placing the president under house arrest, thus preventing him from doing his duties, and then declaring a constitutional obligation under Article 8 to insert its own candidate into the presidency until the assembly meets. This scenario could imply civil war.

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*. . . although the circumstances that might be cited to explain a presidential resignation or cessation could be controversial, once a determination is definitively made that such a state of affairs exists, the constitution unambiguously provides for the vice president to take over.*

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In any event, although the circumstances that might be cited to explain a presidential resignation or cessation could be controversial, once a determination is definitively made that such a state of affairs exists, the constitution unambiguously provides for the vice president to take over.

### ***Inability***

The difference between not doing one's job and being unable to do it is subtle and debatable. Should the occasion to make such a judgment arise, there may be a natural inclination to understand inability as disability and picture a president too sick to work. But the question is, again, who would certify the extent of his disability? Would the certifier be able to make the certification authoritative?

Relevant in this context is the possibility that Tutut could do for her father what Deng Xiaoping's daughter did for him, namely, issue assurances about his condition, interpret and relay his intentions, and protect his interests while his health slowly worsens. As of March 1998, however, a major difference made the Indonesian situation more explosive than the Chinese one was before Deng's death: the absence in Jakarta of an Indonesian Jiang Zemin. In Beijing the National People's Congress elected Jiang president of China in March 1993—four years before Deng died. In March 1998 no such transition took place in Jakarta, nor was it clear that Habibie's promotion to the vice-presidency was meant to groom him for the presidency. Soeharto had not publicly anointed Habibie to succeed him. Thus many believed that if the new vice president were to take over under Article 8, he would merely warm the seat for a more credible successor to Soeharto to be named no later than March 2003—by the MPR in regular or special session, or by an MPRS, should an emergency yet again prompt recourse to deck-stacking "provisionality."

Some speculated that this eventual successor might be Soeharto's son-in-law Prabowo Subianto, an army general married not to Tutut but to Soeharto's second daughter, Titiek. But for Prabowo, or Tutut, to become president one would have to assume what cannot be assumed: that having been part of Soeharto's family will not be a crippling liability when succession finally occurs.

In constitutional terms, as with death, resignation, and cessation, presidential inability too is ambiguous with regard to the scenarios that could yield an authoritative determination that the president no longer can perform his duties. But Article 8 makes the consequence of that finding plain: It is the vice president, and no one else, who takes over.

## Means of Replacement: Implementing Article 8

It should be clear from the discussion so far that a key question in an Article-8 transition could be how automatically and for how long the vice president (Habibie) replaces the president (Soeharto). Arguments citing the constitution on one side or another of this question are likely to highlight two broad aspects of succession: precedent and authority.

### *Precedent*

Article 8 was the constitutional hinge used by General Soeharto to swing himself into the presidency in March 1967 with the approval of the MPRS. Adopted on March 12 that year, MPRS Decision 33/MPRS/1967 named General Soeharto “acting president *based on Article 8* of the 1945 constitution” for a term to last until a president could be named by an MPR.<sup>17</sup> Of the operative criteria to be found in Article 8, it was inability that the MPRS invoked as reason to strip President Soekarno of his authority.

Newly Acting President Soeharto specified the meaning of “inability” in a speech the next day. Without mentioning Article 8, he attributed the decision to deprive Soekarno of all presidential authority to

the explanation by a team of competent doctors—an explanation given under professional oath—that the condition of the health of Bung Karno [that is, Soekarno] has in reality deteriorated to the point that it is appropriate for us as a people inspired by the generosity of Pancasila [the official doctrine whose principles include humanitarianism] to treat him in accordance with this health condition.<sup>18</sup>

Soeharto’s language was tactfully indirect, not to mention falsely beneficent. Inspired by generosity and humaneness? Ambition would be more accurate. He could afford to be diplomatic, however, because by March 1967 he was fully in charge. Treating Soekarno “in accordance with this health condition” meant isolating and ignoring him. If “Bung Karno” is deleted and replaced by “Pak Harto,” as Soeharto is familiarly known, the above bit of text becomes suitable for recitation by Indonesia’s third head of state should he or she find it useful to warrant post facto his or her own ascension to the presidency.

Indeed, the quote is more suitable for the third president than it was for the second, for Article 8 specifies an emergency transfer of authority to the vice president, a position Soeharto never held. That could be why, on March 12, 1967, unlike the MPRS in its decision the day before, he did not mention Article 8. As for Soekarno’s true physical condition in March 1967, it probably was still good enough for him to have continued to serve as president for a while. More than three years would elapse before his death in June 1970.

The full story of how Soeharto managed to varnish his de facto seizure of power with seemingly de jure conformity to the constitution exceeds my scope. But it is crucial to recall that 1965–67 in Indonesia was an exceptionally violent time—an acute national emergency in which legal niceties could hardly be expected to govern political outcomes. In March 1998, one could picture violent events pulling Indonesia “back to the future.” Then again, decades of material growth

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<sup>17</sup> “Ketetapan MPRS tentang Pentjabutan Kekuasaan Pemerintahan Negara dari President Sukarno” [“MPRS Decision concerning the Withdrawal of Governmental Authority from President Sukarno”], in *Ketetapan MPRS, op. cit.*, p. 1,594; italics added. Neither “acting president” nor any comparably provisional title appears in Article 8 or anywhere else in the constitution.

<sup>18</sup> “Pidato Pendjelasan Pelaksanaan Pengamanan Ketetapan MPRS No. XXXIII/MPRS/1967 Diutjapkan oleh Djenderal TNI Soeharto selaku Pengemban Ketetapan MPRS No. IX/MPRS/1966” [“The Address Clarifying the Implementation of the Safeguarding of MPRS Decision No. XXXIII/MPRS/1967 Uttered by Army General Soeharto as the Executor of MPRS No. IX/MPRS/1966”], in *Ketetapan MPRS, op. cit.*, p. 1,597; bracketed comments added.

had by 1998 transformed Indonesian society, so that even if conditions continued to worsen, it might not necessarily follow that manipulating the constitution would be as easy to get away with in the next transition as it had been in the last.

Whatever the details, if succession occurs before March 2003, it probably will involve Article 8. It is hard to think of conditions in which a hiatus at the top of the polity would be considered desirable. Constitutionally, the president is both head of government and head of state. There is no prime minister to maintain continuity alongside an empty presidential chair. Even if an MPR or MPRS were quickly convened, some mechanism would still be needed to allow for an interim or acting president to be immediately, if temporarily, in charge.

The strong-presidency nature of the system outlined in the constitution reinforces this need. Without even an acting president, how could the government operate? On whose authority? Article 8 is the only constitutional alternative to what would amount to governmental self-decapitation. Post facto approval of an Article-8 succession by the MPR, the DPR, or an MPRS would improve its perceived constitutionality. But the charter does not require such approval, the 1967 precedent notwithstanding. As already noted, according to the MPR's 1973 resolution on the matter, an Article-8 president could even, in a pinch, be sworn in before the Supreme Court.

### **Authority**

No institution is more important under the constitution than the MPR. The president is explicitly made subject to its authority. The MPR determines the guidelines of the state's orientation, elects the president, and authorizes the president to implement state policy within the guidelines. The president is accountable to the MPR for executing that mandate.<sup>19</sup> This would suggest that Article 8 cannot come into play without the MPR. For how else would the president acquire the mandate?

If the composition of the MPR (or an MPRS) assures its support for an Article-8 incumbent in need of additional legitimation, it is hard to imagine the new president not convening such an assembly in order to bask in its mandate. But the presidency has potentially vast constitutional authority independent of the MPR. Hence the MPR need not be convened to make an Article-8 succession stick.

Article 22, for example, gives the president the right to issue decrees, whose authority and validity may replace that of laws adopted by the DPR, provided they are agreed to by the DPR "at its subsequent session." That session could be convened a year later and still be constitutional, leaving twelve months for an assiduous and skilled president to pack the DPR by reappointment, or manage its reelection under terms favorable to him or her. The MPR need not be involved.

The constitution also includes a set of "transitional rules" originally intended to enable the state to function during the emergency—war and revolution—that faced the country when the charter was proclaimed in 1945. The fourth of these provisions reads:

Before the People's Consultative Assembly, the People's Representative Council, and the Supreme Advisory Council are formed according to this constitution, *all of their powers* shall be exercised by the president with the help of a national committee.<sup>20</sup>

<sup>19</sup> "Sistem," III, "Pendjelasan," *Undang-Undang Dasar*, *op. cit.*

<sup>20</sup> "Aturan Peralihan" ["Transitional Rules"], Article IV, *Undang-Undang Dasar*, *op. cit.*; italics added. The Supreme Advisory Council's stated duties—answering questions posed to it by the president and making suggestions to him (Article 16)—are not significant.



Although it would be controversial, because this provision relates to a particular historical moment, one can imagine a future president claiming that a new national emergency had again activated this “transitional” part of the constitution and made the convening of the MPR unnecessary pending a resolution of the crisis by himself in cooperation with a “national committee.” That committee could be appointed by the president from among persons known to support him for the constitution does not specify how this interim body is to be formed. I am, to be sure, ignoring an accumulation of ordinary Indonesian laws and regulations whose validity suggests that elections are an accepted means of creating constitutional bodies. Yet all of these statutes could, conceivably, be jeopardized by a future authoritarian on the grounds that the constitution does not require them.

In order to fit the written rationale for announcing an emergency “national committee,” its creator would have to argue that the People’s Consultative Assembly, the People’s Representative Council, and the Supreme Advisory Council had not been formed according to the constitution. That would mean stating that Soeharto’s New Order had been thoroughly unconstitutional. It is on this basis that Soeharto’s successor or a power-seizing rival might then suspend these institutions and exercise “all of their powers with the help of a national committee.”

In March 1998, grabbing power while throwing together a “national committee” seemed far-fetched, notwithstanding price rises and protests in Jakarta and other urban areas. But this was due mainly to the historical association of such a committee with the unusual emergency conditions of August 1945. In 1998, in the midst of an unpredictably unfolding crisis, it is possible to imagine at some future time a usurper asserting that the MPR and DPR had never existed in fully constitutional form, neither under Soekarno nor under Soeharto.

Constitutionally, however, the author of such a sweeping accusation might not need to rely on the gimmicky anachronism of a “national committee.” According to the charter’s official clarification,

the People’s Representative Council may at all times *supervise* the actions of the president, and if the Council considers the president to have in fact violated the orientation of the state as laid down in the constitution or by the People’s Consultative Assembly, then the Assembly may be called into special session in order to ask for an accounting by the president of his or her responsibility [to the assembly].<sup>21</sup>

This is the Soemantri scenario. If the Indonesian economy does not recover soon, if protests in Jakarta grow larger and more vehement, if in response to rising disorder armed troops face unarmed civilians in the streets, and if major casualties result ... under such parlous conditions, a group of military officers might indeed decide that Soeharto, and perhaps his wealthy family with him, had become an intolerable obstacle to restoring economic and political stability.

This prospect warrants attention to the military as a factor in a more or less constitutional succession.

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*The relevance of the military to a future succession is twofold: as an institution, which could influence the outcome; and as a set of personalities, one of whom might become president.*

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<sup>21</sup> “Sistem,” VII, “Penjelasan,” *Undang-Undang Dasar, op. cit.* Both official English versions of this passage render the italicized Indonesian verb *mengawasi* more strongly than I have here by translating it “control.”

## Prabowo for President? A Note on the Military

The relevance of the military to a future succession is twofold: as an institution, which could influence the outcome; and as a set of personalities, one of whom might become president.

In the constitution's text and clarification, the armed forces as such are mentioned only once, in Article 10, which gives the president supreme authority over them. So long as Soeharto stays in office, Article 10 strengthens his position, but in the future it could be cited by a civilian president to justify civilian control over the military. The absence of any constitutional references to the military as the guardian of the nation could, at least in a small way, facilitate a broader disengagement of the military from political leadership.

In the meantime, the armed forces, and especially their core, the army, remain the most important institution other than the presidency. This judgment may even understate military power to the extent that the presidency is less an institution than an extension of Soeharto's personality. Nevertheless, for Soeharto and his system to survive, the military must be both united and unwilling to challenge him or change it.

In March 1998 these two conditions were still being met. Yet the role of the armed forces as a source of leaders could weaken its integrity and influence as an institution by disuniting its ranks. In particular, a polarity of potential importance inside the army may have formed between two groups. One is identified as supporting the president's son-in-law, Prabowo, whom Soeharto has rapidly promoted up the hierarchy to head the army's key strategic reserve (Kostrad). The other consists of officers who are not in Prabowo's camp, if indeed the group around Prabowo warrants being called a camp. Prabowo graduated from the Military Academy in 1974, later than any of his colleagues. [See Appendix II.] Like his sister-in-law, Tutut, he may need further seasoning and promotion before he can be considered a likely recipient of the role of heir apparent.

While it is not my purpose to handicap potential successors to Soeharto, in March 1998, in the wake of the president's latest changes in top military and civilian personnel, five names were especially likely to crop up in conversations about the succession. In addition to Habibie, Tutut, and Prabowo, they included Wiranto and Ginandjar Kartasasmita.<sup>22</sup>

Wiranto is an army general. In March 1998 he was appointed to head both the armed forces and the department of defense and security. Most observers placed him in the "non-Prabowo camp." If that description is accurate, it raises a question as to whether, despite his double promotion, Wiranto really enjoys Soeharto's support. In March it was unclear whether Wiranto would be allowed to retain command of the armed forces, or whether Soeharto would remove him from that office to make room, say, for the further promotion of Prabowo.

It is not even certain that Prabowo himself will enjoy Soeharto's favor when the time for succession arrives, or even how much Soeharto's favor will matter by then. In the run-up to the MPR, Prabowo's father publicly supported the quixotic vice-presidential candidacy of a technocrat, Emil Salim. And there was gossip that Prabowo was not getting along with his wife, Titiek, Soeharto's daughter. Rumors circulated that Soeharto might be unhappy with his son-in-law on both of these counts.

Also worth keeping in mind, though less often mentioned in such speculations, is a fifth name: Ginandjar Kartasasmita, the new coordinating minister for economy, finance, and industry.

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<sup>22</sup> These five are drawn, perhaps arbitrarily, from a rather longer list. I gladly avoid trying to be exhaustive on this subject, and of course it is impossible to be definitive. No one, not even Soeharto, can know for certain who the long-term successor will be.

Arguably, were the new cabinet able to turn the economy around, against the odds, Ginandjar would emerge with his presidential chances enhanced—though so might others in such a successful government, including Habibie.

What is striking about this quintet is that it violates a standard assumption about the third president widely held by Indonesia-watchers in the 1970s and 80s: that Soeharto's successor would most probably be, like Soeharto himself, a male, Muslim, Javanese general in the Indonesian army. Habibie, Tutut, Prabowo, Wiranto, and Ginandjar all meet only one of these criteria. All five are Muslims. But Habibie and Ginandjar are not Javanese, and Habibie and Tutut are civilians. As for Ginandjar's military background, it was in the air force not the army, and his career has been spent in nonmilitary jobs. Only Prabowo and Wiranto have had—in March 1998, still did have—troops under their command.

This is emphatically not to suggest that the military no longer matters. On the contrary, even if Soeharto could be expected to prefer a civilian such as Habibie or Tutut—itself a debatable point—should social conditions continue to worsen, threatening a general breakdown, the chance of military intervention surely would rise. Under such pressures, Wiranto or even Prabowo, or an officer not even being mentioned in March 1998, might indeed step into the breach to restore order, possibly even against Soeharto's wishes if he were still alive.

What the changes and speculations of March 1998 do imply, at least in the short run, is that Soeharto still matters, as much if not more than before. Tutut and Prabowo are his relatives. Habibie is his devotee. The military's leaders are his former staff. It is hard for outsiders to understand how an elderly man in questionable health facing social unrest in a reeling economy could be gaining power instead of losing it. However in 1997–98, the more threatened his system, the more Soeharto appeared to be tightening personal control over its command—hunkering down, as it were, with people he thought he could trust.

I have described how in March 1998 the president used the MPR to concentrate even more power in his own hands. In 1993 he had not bothered to ask the assembly's delegates to grant him additional provisional powers to deal with emergency conditions. In 1998 he did, and they complied. Apparently Soeharto felt a need for more authority to cope with the economic crisis and the political dangers that it posed. But some wondered if perhaps he had a longer-term calculation in mind.

The MPR has, after all, enlarged the power of the office of the presidency, whoever its incumbent might be. If Habibie takes over under Article 8, he too will enjoy the additional authority. Followers of Habibie in particular are inclined to believe that Soeharto has already decided on their man to be the successor. They think, or hope, that Soeharto has requested the emergency-powers resolution not so much to enlarge his own already ample authority as to shore up Habibie's in the event of a Habibie presidency under Article 8. As a civilian suddenly without Soeharto to promote and protect him, President Habibie would need all the authority he could get.

However, the assumption that Soeharto has already anointed Habibie to be his permanent successor is debatable. Another way of looking at Soeharto's game is to see it as a continuation of the strategy he has implemented for decades: Keep several people in play as potential successors, but do not give the nod to any one of them. Keep them guessing, and let them balance one another. Should any one of them appear to display presidential ambition too openly, to the point of seeming disloyal, reassert power by retiring, demoting, or otherwise removing him or her from the political stage.

In the early 1960s Soekarno too thought of himself as the indispensable puppet master, until suddenly he could no longer perform, while through General Soeharto, the army took on politi-

cal roles with a vengeance. If the new government cannot resolve Indonesia's present crisis, the exit from power of Indonesia's second president could accompany another reexpansion of military influence, unless civilian opposition forces in the interim have grown much stronger by then than they appeared to be in early 1998.

Before concluding this section, one final scenario that implicates the army may bear mentioning. Habibie has a history of heart trouble. He may not be all that much more robust than Soeharto. What if both the president and the vice president were permanently prevented from fulfilling their duties? The constitution is entirely silent on this score, but the MPR in 1973 was not. In that year the assembly ruled that the MPR shall meet within a month in special session to name a new president and vice president for the remainder of their predecessors' five-year terms. During the brief but critical interim period before the convening of such an MPR, presidential authority would be exercised jointly by the ministers of home and foreign affairs and the minister of defense.<sup>23</sup>

In the cabinet for 1998–2003, army generals are in charge of home affairs and defense. Of this potential troika's three horses, in other words, two are military. A double decapitation of Indonesia's polity is improbable. But if it happens while the cabinet formed in 1998 is still in place, and if the MPR's 1973 ruling is followed, military men will be centrally involved in the transition. They probably will be in any case, including events more realistic than the simultaneous deletion of Soeharto and Habibie from Indonesia's evolving political equation.

### **1966 and 1974: Clues to the Future?**

Looking back on the history of the New Order for hints as to how the next succession might unfold, two moments come to mind: March 1966 and January 1974. On the first occasion, in the anticommunist eyes of army leaders, Soekarno had become clearly and centrally part of the problem of instability and impoverishment. The problem could not be solved by him, in their judgment, so they obliged him to sign a letter authorizing then-Major General Soeharto to re-establish law and order. The letter enabled Soeharto to found a new regime under the guise of carrying out his president's instruction. At some risk of oversimplifying a complex picture in retrospect, one may say that in 1966 the army, its leftist officers having been purged as conspirators, was basically united behind Soeharto against Soekarno.

January 1974 was different. In that month socioeconomic grievances led to street riots in Jakarta that implicated two rival generals within the army. To prevent intramilitary tensions from being superimposed on social ones to explosive effect, Soeharto stepped in to impose discipline and restore unity.

A repetition of the second scenario presupposes more rivalry within the army than I could discern in early 1998, despite the far more parlous state of the Indonesian economy at that time compared with early 1974. If the story of 1974 is fully replayed, the result will not be civil war and Soeharto's downfall but a restoration of order and unity under his control. Pending evidence that pro- and anti-Prabowo sentiment within the army is intensifying, observers who entertain scenarios of destabilization have tended to look more toward a future variation on March 1966 than toward a rerun of January 1974.

Will a letter comparable to the one Soekarno signed on March 11, 1966—in effect, a power of political attorney—be inked under future duress by Soeharto, authorizing Indonesia's third president-to-be to do whatever it takes to restore stability? That would be too symmetrical to

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<sup>23</sup> "Ketetapan . . . Berhalangan," in *Inventarisasi*, *op. cit.*, pp. 363–364.

expect. But what if the economy is locked in a depression from which it cannot escape because domestic and foreign markets no longer believe in Soeharto's ability to stop the rot? And what if debilitating presidential infirmity corroborates that disbelief? Then yes, definitely, a de facto, extraconstitutional transfer could occur. That transfer could then be justified, retroactively, in constitutional terms, conceivably including a judgment, codified in decisions by constitutional bodies, that Soeharto's presidency had in the end betrayed the keystone text of 1945. Again, the Soemantri scenario.

Such a sequence of events could prepare the way for another authoritarian regime to restore political stability and economic growth, or it could help a less authoritarian system restore stability and growth while introducing more democratic procedures and greater respect for human rights. Mixed outcomes in between these alternatives are also possible.

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*One of the many differences between Soeharto's predicament in 1997–98 and Soekarno's in 1965–66 is the unwillingness in the current emergency of key foreigners to stand by and watch Indonesia collapse.*

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Alternatively, however, we may imagine Soeharto, his copilot Habibie, and their ministerial attendants somehow managing to pull the economy out of its nosedive in time to preserve more or less intact the president's mandate and reputation as the "Father of Development." One of the many differences between Soeharto's predicament in 1997–98 and Soekarno's in 1965–66 is the unwillingness in the current emergency of key foreigners to stand by and watch Indonesia collapse. Notable among these foreigners are the American and Japanese governments, the International Monetary Fund (IMF) and the World Bank, and Indonesia's neighbors in the Association of Southeast Asian Nations (ASEAN). For these actors, the ramifications of an Indonesian meltdown are too disturbing to be risked through neglect.

### **The *Times* Steps In: Should the United States?**

I hope that I have shown how knowledge of the 1945 constitution—its provisions and omissions and the history of its uses—can sensitize observers to the circumstances under which a change in leaders could occur, and how it might be rationalized by key actors. Such knowledge cannot, however, satisfy the desire for change itself.

That desire intensified in 1997–98 among foreign critics of the New Order. Their exasperation mounted over Soeharto's mishandling of the economic crisis, especially in view of his regime's long-standing violation of human rights, including East Timor's right to self-determination. Concomitantly, a conviction grew among these foreigners that Soeharto would have to exit the presidency before economic let alone political confidence in Indonesia could be restored. And that conviction naturally bred a related desire: to help remove from power this president who had so clearly become the problem.

I can sympathize with hopes for change. But I also believe that an awareness of the unique position of the constitution as a pillar of national political identity can be helpful if policies to encourage change are to succeed in doing good, rather than merely making foreign agents of change feel good. In particular, efforts by Americans to influence the course of Indonesian history at this delicate juncture should be undertaken with the greatest selectivity and care. An American attempt, for example, to divert the river of succession in this or that direction, toward



one person or away from another, will be seen by Indonesians as an assault on the authority of their constitution, and therefore on their national sovereignty and pride.

On February 16, 1998, the editors of *The New York Times* told readers what actions the United States government should be taking with regard to Indonesia. One of these steps was “discouraging Mr. Suharto’s re-election.”<sup>24</sup> The editors did not explain how this interference would be accomplished. Was President Bill Clinton supposed to go on television, address the MPR members, and urge them not to support Soeharto? Did the *Times* want Secretary of State Madeleine Albright to fax each MPR delegate making the same request?

Presumably the editors had a more discreet démarche in mind. “If [Soeharto] is to be peacefully eased from power,” they wrote, “it will likely require the consent of Indonesia’s armed forces.” Did that mean having the U.S. ambassador in Jakarta look up the right general to make known American objections to another term for Soeharto? Which general would be the right one? The editors seemed not to have read the news story filed by their own correspondent in Jakarta and published in the very same issue, just eleven pages away. That piece correctly described Soeharto’s reelection as already “assured.”<sup>25</sup>

The *Times* editors did say that “democracy can only come about through Indonesian efforts.” But they did not explain how, in the face of that conclusion, they could nevertheless endorse American efforts to encourage democracy by “discouraging” renewal for Soeharto. Perhaps the *Times* was impatient that Indonesians themselves could ever make public life more democratic in “a country that has known only dictators in its 48 years of independent life,” that is, since 1950. The editors apparently were unaware of the period of parliamentary democracy that Indonesians had enjoyed during the early 1950s, including the remarkably free and fair election of 1955—before civil war, the army, and Soekarno had propelled the archipelago toward authoritarian rule.

Nor did the *Times* bother to name its candidate to become president of Indonesia. How could the *Times* be so sure that anyone would do better by Indonesia than Soeharto had? As for the situation that could result from the reelection of Soeharto despite American efforts to prevent it, the *Times* was silent on this point too. Did the editors expect Soeharto to forgive and forget? Had they themselves forgotten that CIA intervention against Soekarno in the 1950s had backfired and defeated its own purpose by enabling the president to wrap himself in the flag of Indonesian nationalism against the machinations of American imperialism?

The United States can and should empathically help Indonesians make their country a more democratic place, a place where elections are free and fair, civil liberties practiced, and human rights respected. The crisis of 1997–98 gives Americans an opportunity, carefully and subtly, to do so, especially in the context of multilateral efforts to rescue the Indonesian economy by helping it become less corrupt and more transparent. But asking the United States to intervene in Indonesia’s leadership crisis by “discouraging” Soeharto from being reconfirmed in office was a profoundly misguided idea.

### **Neither Complicity nor Ostracism: Policies for Americans**

Soeharto is still president. For the time being at least, the United States must live with him. If distinguishing Soeharto the authoritarian leader from Indonesia the suffering society is not possible, of course, the choice is stark: Embrace him and his country together, or spurn them

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<sup>24</sup> “Mr. Suharto’s Extended Run,” editorial, *The New York Times*, February 16, 1998, p. A14.

<sup>25</sup> Seth Mydans, “To Some Indonesians, Army Is Rock of Nation,” *The New York Times*, February 16, 1998, p. A3.

both. But this Manichean view is misplaced. It is possible—difficult in actual policy practice, but still possible—to distinguish the ruler from what and whom he rules.

The risk of shoring up Soeharto is not a valid reason to refuse to help the millions of Indonesians whose livelihoods have been jeopardized by the economic crisis that has swept the archipelago. Unfortunately, precisely when it is so badly needed, American economic assistance is being phased out. Under fiscal pressure, the U.S. Agency for International Development (USAID) has been planning to cut its budget for Indonesia to some \$16 million in Fiscal Year (FY) 2001. This will mean slashing by four-fifths the funding that was available to USAID in Indonesia in FY 1995 while demoting the program's status to that of a "limited presence."

It is vital in the light of the economic crisis that this reduction be canceled. Washington should also support the initiatives under way at the World Bank and other multilateral agencies to enlarge development aid to Indonesia. A particularly high priority should be given in this context to humanitarian and development assistance to those most likely to lose their jobs and become impoverished by the current recession. Such aid should include subsidies for the import of food to alleviate malnutrition in eastern Indonesia and other hard-hit regions.

Among American observers of Indonesian-IMF relations, the phrase "moral hazard" refers to the use of American loans through the Fund to repay foreign lenders who are owed money by insolvent Indonesian banks and firms. The hazard comes from rewarding creditors who should have known better than to make such unwise loans, and who should now be left to suffer the consequences of market risk. But there is another moral hazard at issue here: American complicity in imposing, through the IMF, austerities that could worsen the already precarious lot of millions of poor and innocent Indonesians. Avoiding this hazard means committing the United States, bilaterally and multilaterally, to helping these victims of a globalized world they never made. A third moral hazard for Americans stems from the record-breaking success of the U.S. economy, the concomitant dramatic reduction in the U.S. budget deficit, and the discredit these conditions would bring to a decision not to help Indonesians, or to help them only a little.

While backing pro-reform conditionalities in the IMF agreement that Soeharto signed on January 15, 1998, the United States should encourage cooperation between the new cabinet and the IMF based on a compromise understanding: that subsistence-threatening steps such as desubsidizing basic commodities will be postponed in return for the prompt implementation of steps to ensure, for example, a more transparent and competitive business environment, including an end to monopolies.

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*To the extent feasible, [U.S.] policies to engage and assist Indonesians . . . should be designed to encourage economic and administrative reforms toward more efficiency, transparency, accountability, and responsiveness to public as opposed to vested needs and interests.*

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Efforts should also be redoubled to promote American investment in Indonesia, which is so badly needed there and can benefit the American economy as well. Regarding the environment, the United States should provide expanded technical help in monitoring and suppressing the forest fires whose economic costs have already been so great. To the extent feasible, policies to engage and assist Indonesians in these and other ways should be designed to encourage economic and administrative reforms toward more efficiency, transparency, accountability, and responsive-

ness to public as opposed to vested needs and interests. Helpful in this connection would be steps to encourage ASEAN, including Indonesia, to endorse and implement the anticorruption treaty recently drawn up by the Organization for Economic Cooperation and Development.

Small but flexible and effective American and multilateral programs to help strengthen civil society and improve the quality of governance in Indonesia should be innovated or expanded. Illustrations include programs with objectives such as administrative disclosure, ethical business management, legal recourse for the poor, improved vocational training, and expanded opportunities for women. Particular attention should be paid to journalism and mass communications, especially independent media whose operations the recession has threatened, and to the legal profession, with a view toward encouraging judicial independence and the rule of law. Considering constraints on public funds and the greater flexibility of private-sector cooperation, efforts should also be made to encourage support for these and related purposes from American foundations, businesses, and other nongovernmental organizations.

Congressional pressure to ban all contacts between American and Indonesian military officers should be resisted. At the same time, a serious and comprehensive effort should be made to assess the actual effects of the American military training already received by Indonesian military personnel. While Congress has forced the American military to cut its interactions with Indonesian counterparts, interactions between Australian and Indonesian officers have been multiplying. These contrasting experiences should be compared, and policy lessons drawn. The goal should be to use empirical evidence to attempt to transcend the presently suppositional debate on this subject in Washington.

That debate is unproductive. On the one hand, lobbies for human rights and East Timor tend to advocate moral purity through noncontact. Against them, lobbies for business opportunity and security cooperation seek economic and strategic returns through engagement. Until the underlying issue is researched—just what interactions are compromising or counterproductive, in what sense, and with what prescriptive implications—American military policy toward Indonesia will continue to zig and zag between unproven prejudices on either side.

Of particular concern in this context should be the left-right alliance of convenience that has developed between human-rights-firsters who would just as soon overthrow Soeharto, and America-firsters who would rather spend money on Americans than waste it on foreigners. Both groups, for different reasons, would distance the United States from Indonesia. The longer the subject of Indonesian-American relations, and intermilitary relations in particular, is not brought back toward the center of the political spectrum, the greater the risk that in the American policy imagination Soeharto's Indonesia will segue into a Pacific equivalent of Saddam's Iraq—just another pariah state.

President Clinton is expected to attend the Asia Pacific Economic Cooperation (APEC) summit to be held in conjunction with other APEC meetings in Kuala Lumpur in November 1998. The last set of such gatherings, in Vancouver in November 1997, approved a "Manila agreement" to promote economic monitoring by East Asian governments to prevent future financial crises in the region. But APEC's Canadian round did not tackle the existing crisis.

In collaboration with its APEC partners, the United States should encourage attention to the present emergency at the November meetings in Malaysia. In the run up to November, academic and policy seminars in Jakarta should be held in which East Asian economists and analysts can share the experiences of their countries in handling the crisis: what worked and did not work, and why. Such a trading of policy experiences and advice seems particularly needed in Indonesia in view of the composition of the new cabinet, which Soeharto has in effect purged of the market-minded technocrats to whom he used to listen in times of economic crisis.

In the meantime Washington should hold out to Jakarta the possibility that, if significant progress toward reforming the Indonesian economy is made between now and November, President Clinton would be willing to meet with President Soeharto in Kuala Lumpur. The American commitment to reforms that could threaten the wealth of the president and his family would meanwhile be made clear, so that such a meeting could not reasonably be understood as supporting the personal interests of Soeharto or his children.

APEC should also be used as an appropriate forum in which to foster pressure on Japan to reflate its economy and thus enhance its role in absorbing the anticipated wave of exports from Indonesia and the other crisis-stricken economies of Southeast Asia. Such a shift in Japanese policy will help the region to recover while reducing America's trade deficit and thus the chance of a protectionist backlash in the U.S. Congress.

Meanwhile, in the United States, Indonesian graduate students in relevant disciplines should be brought together with foundation support to study the nature of the crisis in their country, evaluate alternative policies to overcome it, and make recommendations. Attention should also be paid to cushioning the financial blows to poor and talented students whose rupiah stipends have almost vanished in dollar terms, lest poverty force premature repatriation.

Finally, the long dormant practice of holding regular meetings of Indonesian and American analysts and policymakers should be revived on an annual basis, alternating between Indonesian and American sites. Care should be taken in this context to include in such events representatives of the younger generation of market-sensitive Indonesian economists who have been virtually driven into the opposition by Soeharto's turn away from the technocrats and toward technologists such as Habibie.

These are just a few of the recommendations that could be made. They are linked to the succession in that they amount to a refusal either to disengage from and ostracize Indonesia or to intervene there in hopes of ensuring that Indonesia's next president serves American interests. What Americans ought to be doing instead is increasing humanitarian relief and development aid, encouraging American investment, emphasizing needed reforms, promoting the growth of a civil society that could someday underpin a more democratic polity, and facilitating private-sector interactions between firms and nonprofit organizations on both sides of the Pacific whose cooperation serves these objectives.

In February 1998, contrary to the advice of *The New York Times*, trying to persuade the military to oppose Soeharto would have amounted to fomenting a coup, while trying to persuade the MPR to do so would have been no less unwise. If acted upon, the *Times'* counsel could have provoked an explosion of nationalist wrath that could have played into Soeharto's hands. It would have allowed him and his family to mobilize aggrieved nationalism on their behalf, impugn liberal democrats as neocolonial agents, and strengthen their own hold on power, thereby undercutting American influence over future events.

It is of course possible that the economy will continue to spiral downward as opposition to Soeharto among students and others escalates. If this happens, the temptation in Washington to intervene against Soeharto will mount. But it is precisely in such explosive circumstances that the temptation should be resisted, or at least carefully examined in the light of possible failure and backlash. American moral zeal, can-do hubris, and high-tech prowess notwithstanding, the political future of 202 million Indonesians cannot be programmed from thousands of miles away.

In this essay I have tried to explore various scenarios of succession in Indonesia in relation to the charter of 1945. Although Indonesia's presidents have used the ambiguities and omissions in that text to warrant authoritarian rule, I hope I have shown that autocracy is not the

only end to which the document can be bent. Suitably reinterpreted, the constitution can be made to justify democratization. In the meantime, it will help if Americans eager to make the world live up to their expectations think twice before proposing that the United States interfere in the process whereby President Soeharto will, as eventually he must, be replaced.



## APPENDIX

### I: Indonesia's Seventh Development Cabinet, 1998–2003

#### ***President and Vice President***

President	Soeharto
Vice President	B. J. Habibie

#### ***Coordinating Ministers for***

Politics and Security	Feisal Tanjung
Economy, Finance, and Industry	Ginandjar Kartasasmita <sup>26</sup>
Development Supervision and Efficient State Administration	Hartarto
People's Welfare and Poverty Alleviation	Haryono Suyono <sup>27</sup>

#### ***Ministers of***

Agriculture	Justika Sjarifudin Baharsjah
Communications	Giri Suseno Hadihardjono
Cooperatives and Small Business	Subiakto Tjakrawerdaya
Defense and Security	Wiranto <sup>28</sup>
Education and Culture	Wiranto Arismunandar
Finance	Fuad Bawazier
Foreign Affairs	Ali Alatas
Forestry and Plantations	Sumahadi
Health	Farid Anfasa Muluk
Home Affairs	Hartono
Industry and Trade	Mohamad Hasan
Information	Muhammad Alwi Dahlan <sup>29</sup>
Justice	Muladi
Manpower	Theo L. Sambuaga
Mining and Energy	Kuntoro Mangkusubroto
Public Works	Rachmadi Bambang Sumadhijo
Religion	Muhammad Quraish Shihab
Social Affairs	Siti Hardijanti Rukmana
Tourism, Arts, and Culture	Abdul Latief
Transmigration and Forest Dweller Resettlement	Abullah Mahmud Hendropriyono

<sup>26</sup> Simultaneously head of the national development planning agency (BAPPENAS).

<sup>27</sup> Simultaneously head of the national family planning agency (BKKBN).

<sup>28</sup> Simultaneously commander of the armed forces; see Appendix II.

<sup>29</sup> Simultaneously head of the agency to promote Pancasila (BP7); see text note 7.

**Ministers of State for**

Agrarian Affairs	Ary Mardjono <sup>30</sup>
Environment	Juwono Sudarsono
Food, Horticulture, and Medicine	Haryanto Dhanutirto
Investment	Sanyoto Sastrowardoyo <sup>31</sup>
Public Housing and Resettlement	Akbar Tandjung
Research and Technology	Rahardi Ramelan <sup>32</sup>
State Enterprise Efficiency	Tanri Abeng
State Secretariat	Saadilah Mursjid
Women's Affairs	Tutty Alawiyah
Youth and Sports	Agung Laksono

**Other Cabinet-level Posts**

Attorney General	Sudjono Chanafiah Atmonegoro
Central Bank Governor	Sjahril Sabirin

Sources: "Kabinet Pembangunan VII Republik Indonesia" ["The Seventh Development Cabinet of the Indonesian Republic"], *Kompas Online*, March 15, 1998, <<http://www.kompas.com/9803/15/UTAMA/susu01.htm>>; "Composition of the Seventh Development Cabinet," press release, Embassy of the Republic of Indonesia, Washington, DC, March 16, 1998.

## II: Ranks, Names, and Military Academy Graduation Years of Indonesian Armed Forces and Army Leaders, March 1998

<u>Position</u>	<u>Rank and Name</u>	<u>Graduating Class</u>
<b>Armed Forces</b>		
Commander in Chief	Gen. Wiranto <sup>33</sup>	1968
Chief of General Staff	Lt. Gen. Fachrul Razi	1970
Chief of Staff for Sociopolitical Affairs	Lt. Gen. Soesilo Bambang Yudhoyono	1973
<b>Army</b>		
Chief of Staff	Gen. Subagyo Hadisiswoyo	1970
Vice Chief of Staff	Lt. Gen. Sugiono	1971
Commander, Army Strategic Reserve Command <sup>34</sup>	Lt. Gen. Prabowo Subianto	1974
Commander, Special Forces Command <sup>35</sup>	Maj. Gen. Muchdi Purwopranjono	1970

Source: John B. Haseman, "Indonesia's Senior Armed Forces Posts Shuffled," *ISEAS Trends*, in *The Business Times* (Singapore), February 28–March 1, 1998, p. 12.

<sup>30</sup> Simultaneously head of the national land-use agency (BPN).

<sup>31</sup> Simultaneously head of the agency for investment coordination (BKPM).

<sup>32</sup> Simultaneously head of the agency for technology research and development (BPPT).

<sup>33</sup> Simultaneously minister of defense and security; see Appendix I.

<sup>34</sup> Komando Strategis Angkatan Darat (Kostrad).

<sup>35</sup> Komando Pasukan Khusus (Kopassus).

### III: Relevant Articles from Indonesia's 1945 Constitution

**Note:** Included below are only those articles referred to in the text of this essay. Neither abbreviations nor bracketed insertions appear in the original.

#### **Article 1**

- (1) The state of Indonesia shall be a unitary state that has the form of a republic.
- (2) Sovereignty shall be in the hands of the people, and shall be exercised in full  
b y  
the People's Consultative Assembly [MPR].

#### **Article 2**

- (1) The MPR shall consist of the members of the People's Representative Council [DPR] augmented by delegates from regions and groups in accordance with regulations to be determined by law.
- (2) The MPR shall meet at least once every five years in the national capital.
- (3) All decisions of the MPR shall be made according to the most votes principle.

#### **Article 3**

The MPR shall determine the constitution and the broad outlines of the state's orientation.

#### **Article 6**

- (1) The president shall be a native Indonesian.<sup>36</sup>
- (2) The president and vice president shall be elected by the MPR according to the most votes principle.

#### **Article 7**

The president and vice president shall hold office for a term of five years and be eligible for reelection.

#### **Article 8**

Should the president die, resign, cease to perform, or be unable to perform his or her duties during his or her term of office, he or she shall be replaced by the vice president until the end of its duration.

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<sup>36</sup> My literal English translation of *orang Indonesia asli*—(a) “a native Indonesian”—differs from the two official translations. They respectively render the same phrase as (b) “a native Indonesian citizen” and (c) “a native-born Indonesian.” Moving from (a) to (b) to (c) it becomes easier to argue that, constitutionally at least, an ethnically Chinese citizen of Indonesia who was born in the country could become its president.

**Article 9**

Before assuming his or her office, the president and vice president shall religiously swear, or wholeheartedly promise, in front of the MPR or the DPR, in these terms:

[There follow two nearly identical versions of the oath of office—one if the person to be sworn in chooses to swear by religion to fulfill the president's or vice president's duties, the other if he or she prefers to promise wholeheartedly to do so.]

**Article 10**

The president holds the highest authority over the army, the navy, and the air force.

**Article 12**

The president declares a state of emergency. The criteria and consequences of the emergency shall be determined by law.

**Article 16**

- (1) The composition of the Supreme Advisory Council shall be determined by law.
- (2) The Council shall have the duty of answering questions put by the president and the right to submit proposals to the government.

**Article 19**

- (1) The composition of the DPR shall be determined by law.
- (2) The DPR shall meet at least once a year.

**Article 22**

- (1) In the event of a compelling crisis, the president shall have the right to issue government regulations in lieu of laws.
- (2) Such regulations must be agreed to by the DPR at its subsequent session.
- (3) If they are not agreed to, such regulations must be revoked.

**Article 28**

The freedom to organize and assemble, to express thoughts orally and in writing, and so on, shall be determined by law.

**Article 37**

- (1) In order to alter the constitution, at least two thirds of the members of the MPR be present.
- (2) Such a decision shall be taken with the agreement of at least two thirds of the members who are present.