

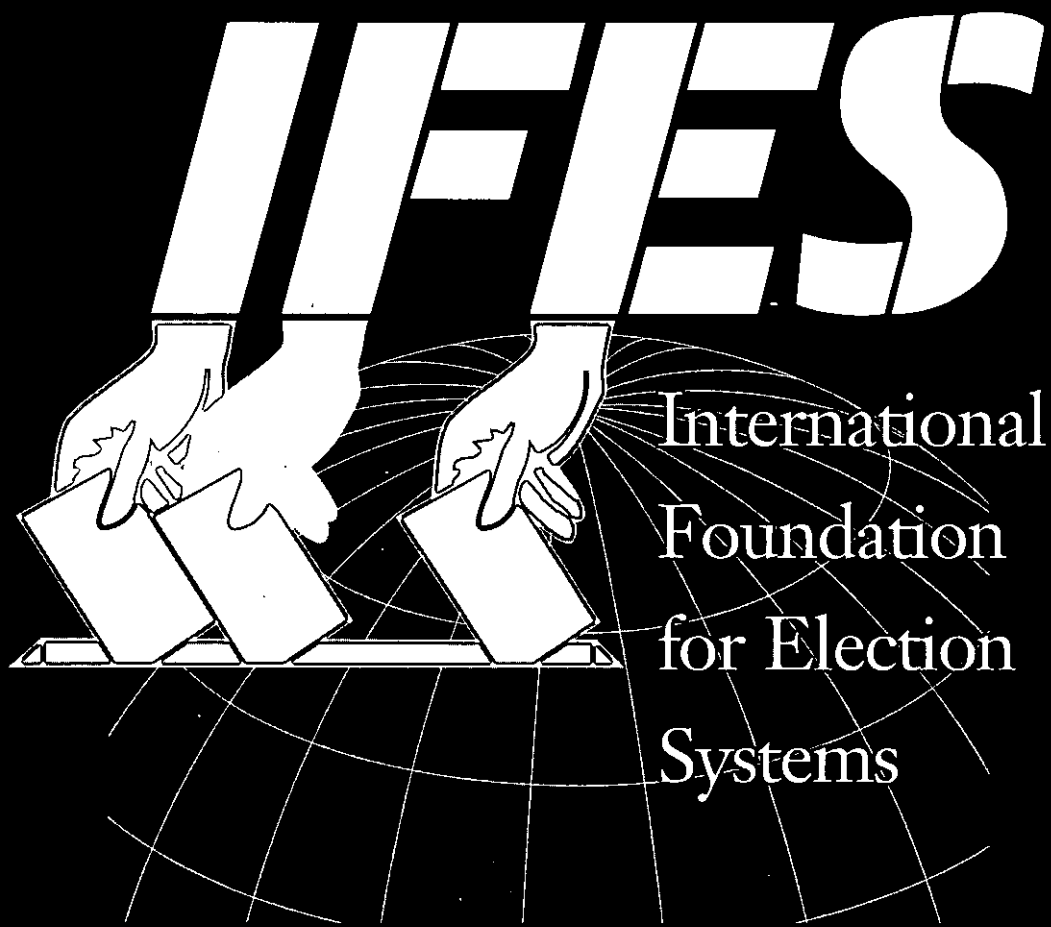
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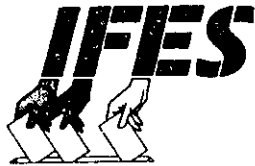


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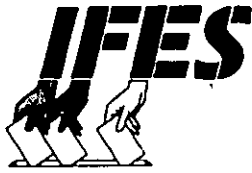
**REPUBLIC OF INDONESIA  
PRE-ELECTION  
TECHNICAL ASSESSMENT  
OCTOBER 1998**

*A Report by the  
International Foundation for Election Systems*

***F. Clifton White Resource Center  
International Foundation  
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REPUBLIC OF INDONESIA  
PRE-ELECTION TECHNICAL ASSESSMENT

October 1998

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## *TABLE OF CONTENTS*

### I. INTRODUCTION

- A. Scope of Work
- B. Country Background

### II. CURRENT PROCESS OF ELECTION LAW REVISION

- A. Timing of Elections
- B. Drafting Process Within Government
- C. Alternative Drafts Outside Government
- D. Consideration by the People's Representative Council (DPR)
- E. Issuance of Election Regulations

### III. EVALUATION OF ELECTORAL PROCESS ISSUES (LAW DRAFTS)

- A. Scope of Elections
- B. Political Role of the Military (ABRI)
- C. Choice of Voting System
  - 1. Proportional Representation vs. Plurality Voting (Single-Member Districts)
  - 2. Hybrid ("Mixed") Voting Methods
- D. Election Administration Authorities
  - 1. Election Commission Structure  
Recommendations
  - 2. Adjudication of Complaints and Disputes  
Recommendations

E. Political Parties and Candidate Ballot Qualification

1. Changing Role of Political Parties
2. Organizational and Signature Requirements for Ballot Access
3. Recommendations

F. Voter Lists and Registration

1. Procedures
2. Recommendations

G. Campaign Finance

H. Election Day and Voting Procedures

1. Procedures and Transparency
2. Recommendations

I. Counting and Tabulation

1. Procedures and Transparency
2. Recommendations

J. Election Administration Funding

IV. CIVIL SOCIETY SECTOR

A. Overview

B. Relevant Issues

C. Voter Education Efforts

D. Recommendations

V. ATTACHMENTS

## I. INTRODUCTION

### A. Scope of Work

The International Foundation for Election Systems (IFES) conducted a three-week on-site assessment of the Indonesian electoral process in August-September 1998. The assessment focused on the following aspects of the process: status of reform measures; scope, extent and timetable for democratic elections; and actions which must be taken in order for democratic election reform to be facilitated. The mission had the following objectives:

- Provide an assessment of the current legal and procedural environment relating to the electoral and political system in Indonesia; and
- Provide recommendations to the GOI and the donor community for actions to take to implement democratic reform, e.g. measures to reform electoral laws, procedures to strengthen the administration of elections, and practices to create a transparent campaign and election process.

The assessment team consisted of an election law specialist, an election administration specialist, and an IFES staff member. They reviewed background information on Indonesia including articles on current political conditions, major drafts of the law on election to the legislative assembly (DPR) and the political parties law, and reports from other organizations. The team conducted interviews and met with approximately 100 people representing government ministries, government departments, the legislative assembly, political parties, election bureaus, non-governmental organizations, the media, and international organizations (See attachment 4). Most interviews were conducted in Jakarta. The election administration specialist also held meetings in the districts of Bankalan and Pasaruan in East Java and Madura.

### B. Country Background

Indonesia's political establishment was dramatically transformed with President Suharto's resignation on May 21, 1998 following 32 years of authoritarian rule. His successor, President B.J. Habibie, responded to the democratic aspirations of the Indonesian people whose protests led to the demise of Suharto's presidency. He has promised to revise electoral laws and hold democratic legislative elections by May or June 1999; the People's Consultative Assembly (MPR) will select a new president by December 1999. In fact, the Indonesian government previously had taken steps toward considering changes to its electoral laws<sup>1</sup>. Nonetheless, the future of electoral reform is extremely unpredictable due to numerous factors including student

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<sup>1</sup> These changes are based on a report issued by the Indonesian Institute of Social Sciences (LIPI) completed in 1996. Its suggestions were planned to have been phased in over a ten year period. *Far Eastern Economic Review*, June 4, 1998.

agitation, economic hardship, Habibie's ability to stay in power despite early calls for his resignation, military support for reform, and social unrest. Because of these and other "moving targets," the parameters of upcoming elections are nearly impossible to predict at this moment. However, the Indonesian government must use this transitional period to lay a firm foundation for its first open and transparent elections in over 30 years.

### **Political History, 1945 to 1998**

The Republic of Indonesia was proclaimed independent on August 17, 1945 and officially recognized by the Netherlands in 1949.<sup>2</sup> Indonesia adopted a new constitution which formed a parliamentary system of government. The Constitution provided for a limited separation of powers with parliament choosing and overseeing the executive. Judges were considered employees of the executive branch. The legislative branch consisted of a house of representatives called the People's Representative Council (DPR), and the People's Consultative Assembly (MPR). There were to be 400 elected members of the DPR and 100 appointed members. The People's Consultative Assembly (MPR), technically the highest state authority, consisted of the House plus an equal number of appointed members, totaling 1,000. The Constitution states that the MPR is to meet only once in five years with the purpose of formulating government principles and aims, and electing a new president.

Indonesia held its first nationwide election in 1955. Before and after the election, Indonesia had many political parties; therefore, it was difficult to build and maintain stable government coalitions. For this reason, and after a long succession of short-lived rebellions in the Sumatra and Sulawesi regions, the parliamentary system became discredited in the eyes of the people. In 1959, when President Sukarno reinstated the 1945 constitution providing a broad presidential authority, there was little opposition. President Sukarno's new policy was named "Guided Democracy" and was basically a form of authoritarian rule. It was further characterized by Sukarno's favoring the Indonesian Communist Party (PKI). This policy led to conflict when the PKI began to arm itself and its supporters, attempting to take over the national army. General Suharto led the army's resistance to this coup resulting in tens of thousands dead, including many members of the Communist Party.

By March of 1966, President Sukarno was trying to restore himself and his reputation, which was heavily tarnished due to his support of the communists. However, public confidence in him was far too eroded and although he remained president, he transferred his political and military powers to General Suharto. In March 1967, General Suharto was named acting president and instituted a "New Order" in Indonesian politics which was chiefly characterized by a

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<sup>2</sup> The Dutch retained control over the Western Half of New Guinea until 1961 when armed clashes broke out between the Indonesians and the Dutch. In August of 1962, the two countries agreed that the Indonesians would take control of administrative responsibilities in May of 1963. The transfer of power was confirmed under UN supervision in 1969 with the Act of Free Choice.



rehabilitation of the economy. The Peoples Consultative Assembly (MPR) subsequently elected Suharto to five-year presidential terms in 1973, 1978, 1983, 1988, 1993 and 1998. Although Suharto began his seventh term in 1998, as early as 1990 there were significant calls for him to step down. Starting in 1992, the MPR accepted proposals to discuss the limiting of terms. President Suharto, however, disagreed with the concept of term limitation. In 1990, surveys showed that approximately 90% of the people supported term limits for the president.

Under the Indonesian system, only three parties were sanctioned by the government to contest the general elections. These include the *Functional Groups* party (GOLKAR), which has been in power since the early 1970's. Late in 1994, the GOLKAR Council firmly rejected calls for legalizing additional parties, appealing to LAW No. 3/1985 concerning political parties, a position which was earlier invoked by the Minister of Home Affairs.<sup>3</sup> This policy received extensive complaint from the *Nahdlatul Ulama* (NU) Islamic group during its national congress in December 1994.

An additional argument presented by the *Indonesian Democratic Party* (PDI) and the *United Development Party* (PPP) contested the "floating mass" system which barred the rural masses from politics except during official election periods. Under this policy, political organizations were barred from setting up branch offices below regency or mayoralty levels, thus preventing equal access to reach the grassroots supporters in villages so these parties could compete on an equal footing.<sup>4</sup> GOLKAR was not subject to the restriction as, technically, it was not considered a political party. Since government officials down to the village level belonged to GOLKAR, it has had a considerable advantage in grassroots organization.

Until his resignation on May 21, 1998, President Suharto continued to present to the opposition the argument that although his leadership, in name, had not changed in 32 years of power, his policies and those of the new *Broad Guidelines of State Policies* and other unspecified legislation had evolved dramatically.

Shortly after President B. J. Habibie assumed office, he called for democratic elections in response to the aspirations of the Indonesian people whose protests led to the demise of Suharto's presidency. Efforts were undertaken to develop drafts for four new laws to reshape the political landscape: an election law, a law on political parties, a law on the legislative assembly, and a law on regional autonomy. These draft laws address, among other things, constituency-based elections and political pluralism. Nevertheless, the future of electoral reform in Indonesia and the transparency and legitimacy of elections scheduled for May 1999 remain in question due to factors including worsening economic conditions and an uncertain political environment.

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<sup>3</sup> According to Indonesian press *PELITA* - 19 September 1994.

<sup>4</sup> *The Jakarta Post*, 22 February 1994.

## II. CURRENT PROCESS OF ELECTION LAW REVISION

### A. Timing of Elections

As a cornerstone of political reform and democratic development in Indonesia, President B. J. Habibie has pledged that elections for the People's Representative Council (DPR) would be held in May or June of 1999. DPR elections were most recently expected for May 26, 1999 but there is increasing speculation that the elections may be pushed back to June or even July, due to somewhat slower pace of election law development and DPR consideration. The MPR will officially set the general election date at the MPR's session scheduled for mid-November 1998, but may do so in a broad time frame (e.g., in 1999).

Absent genuine necessity or an extraordinary national crisis, any significant delay in holding elections beyond the May-June period should be viewed with great concern by the international community, particularly if postponement results from arbitrary government action or inaction.

### B. Drafting Process Within Government

In June, following the resignation of President Suharto, the Minister of Home Affairs appointed a working group of seven noted political scientists to prepare draft laws regarding political parties, elections to the DPR, the organization of the DPR and MPR, and regional autonomy.<sup>5</sup> The team was headed by Dr. Ryaas Rasyid, Director General of Public Administration and Local Autonomy in the Ministry of Home Affairs. By all accounts, Dr. Rasyid and the working group have vigorously pursued their task, producing drafts of political laws that have served as the primary vehicle for debate and discussion in Indonesia during this period.

A government-wide working group, including representatives of the Ministry of Justice, Ministry of Defense, the State Secretariat and the Ministry of Home Affairs, has served as a means of broader review and discussion within the government prior to presenting draft laws to the present DPR. The Ministry of Justice also prepared draft laws (with important differences from the drafts of the Rasyid working group), but has acknowledged Justice's secondary and supportive role to Home Affairs in this process. Thus, the government's draft laws, presented to the DPR on September 17<sup>th</sup>, are primarily based on the Rasyid group's drafts for the Ministry of Home Affairs (hereafter referred to as the "MHA" draft). Key elements of the government drafts for the law on election to the DPR and the political party law are discussed in subsequent sections of this report. (See Attachment Three for a summary of recent revisions to the draft laws for general elections and political parties.)

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<sup>5</sup> This report addresses the law on elections to the DPR and the law on political parties. It does not address the other two laws--the law on the organization of the DPR and MPR, and the law on regional autonomy.

### **C. Alternative Drafts Outside Government**

Several political parties, institutes, and non-governmental organizations were also said to have prepared drafts for the election law and political party law during the period of June-August 1998. Two drafting efforts were most notable among these groups; first was one by the Indonesian Institute of Sciences (LIPI), a research institute funded by the government; a second was done by the Konsorsium Reformasi Hukum Nasional (KRHN), composed of legal advocacy NGOs: IKADIN (an Indonesian lawyers association), ICEL (an environmental law foundation), and YLBHI (the Indonesian Legal Aid Foundation). The LIPI and Konsorsium drafts are also discussed throughout this report.

### **D. Consideration by the People's Representative Council (DPR)**

IFES was told that an "outreach" process began in August within the DPR to permit non-governmental groups and academics with an interest and expertise in political laws to express their views on unofficial drafts then in circulation. While apparently not involving formal hearings, experts were invited to present their positions to the standing DPR committee with primary responsibility for the political laws' consideration.

The government (MHA) draft laws were sent to the DPR in mid-September. The government formally presented the three draft bills to a plenary session of the DPR on October 2. All four factions within the DPR (the three parties and the military representatives) provided their views on the bills during a plenary session held October 14th. Another plenary session was held on October 21st, at which the Minister of Home Affairs responded to the factions. During October, factions held several separate meetings at which some political parties were invited to give their views on the bills. Following the November 10 special session of the MPR, a DPR-wide special committee will work on the three bills. Actual passage of the three political laws had been expected by the end of the year, but will likely now be postponed until January 1999. Obviously, timely consideration and completion of the political laws is essential in order to accommodate the tight time frame for conducting the elections set out in the draft laws.

Public perception of the legitimacy of these new laws will largely depend on the extent to which DPR consideration of them involves genuinely substantive deliberations and encourages and assimilates input from new political elements and from the general public. That type of serious, independent legislative consideration would be a significant break from DPR practice.

### **E. Issuance of Election Regulations**

IFES was informed that the process of drafting implementing regulations for the new laws for DPR elections and political parties has already begun within the Institute of General Elections (LPU), the functional election authority within the Ministry of Home Affairs. Effort is reportedly being made to reduce the prior regulations' complexity, particularly as to election administration and the campaigning process.

Although administrative procedures are not clear, election regulations developed by MHA have traditionally been subject to review and comment by LIPI and experts with the University of Indonesia, and subject to approval by the DPR and the President. Allowing wider review and input in regulation drafting by political elements and the general public would greatly further democratic values of fairness and transparency. If the political laws are passed by DPR in January, the Ministry of Home Affairs is expected to issue the implementing regulations immediately thereafter.

### III. EVALUATION OF ELECTORAL PROCESS ISSUES

#### A. Scope of Elections

General elections in Indonesia have customarily involved voting for legislative assemblies at the national, provincial, and local levels (DPR, DPRD I, DPRD II). The draft general election laws proposed by the Ministry of Justice and the Indonesian Institute of Sciences (LIPI) would continue that tradition. Drafts by the Konsorsium and the Ministry of Home Affairs (MHA), now the government draft before the DPR, provide for elections for national DPR to be held first and separately.

IFES appreciates the desire for broad democratic change in Indonesia as soon as possible, and the need for provincial and local governments to quickly gain legitimacy. IFES also realizes some practical efficiency in election administration gained by conducting elections simultaneously. IFES notes, however, several advantages to holding elections for DPR separately next year:

- Conducting elections for all three levels of legislative assembly would place a considerable strain upon the election administrative process within an already short preparation time. That strain would be particularly evident with respect to election commission operations, ballot access determinations (such as verification of-signature lists), ballot preparation, and vote tabulation.
- Simultaneous elections would heavily burden political parties (especially newer parties), in meeting legal requirements for ballot access for their candidates, in candidate recruitment, in funding and coordinating campaign activities, and in facilitating transparency through participation in election commissions. Holding all three levels of elections at the same time would also inhibit long-range candidate development by parties, under which good candidates who lose for DPR could try for provincial or local office the next year.
- Perhaps most significantly, elections for all three levels would diffuse voter concentration and complicate voter education efforts. Simultaneous elections would discourage voter focus upon candidates and issues beyond broader political party identification.

- Holding separate elections for DPR signals to voters that real democratic change is taking place. Free and fair DPR elections would set a strong precedent upon which subsequent elections for provincial and local legislative assemblies (or other offices) can build.

Nevertheless, IFES cannot recommend separate elections for DPR in 1999 without significant qualification. The MHA draft law regarding the structure of the MPR provides that 81 regional representatives (three from each province) are to be selected by the members of provincial legislatures soon after the inauguration of the new DPR. Absent new elections at the provincial level, these MPR representatives would reflect the old order and heavily favor the government-linked political party GOLKAR. The MPR, of course, will select the President of Indonesia late next year. Thus, IFES cannot recommend DPR elections only--despite the clear administrative and political advantages of holding separate elections for DPR--until new procedures for selecting the additional MPR delegates are developed that are genuinely democratic.

## **B. Political Role of the Military (ABRI)**

The political aspect of the "dual function" of the armed forces in Indonesia (ABRI) is unique to Indonesia, and continues to be controversial. Reform elements view giving ABRI seats in an elected legislative assembly to be wholly undemocratic and a throwback to the New Order being replaced through these elections. As described below, the government (MHA) draft election law provides for ABRI to appoint 55 DPR members (10% of total seats), which is a reduction from 75 seats ABRI currently holds in the DPR; the MHA draft also continues the current practice of not permitting military personnel to vote. The draft general election laws of the Konsorsium and LIPI do not provide for ABRI seats, but permit military personnel to vote (estimated to be about 600,000 persons). Under all proposals, members of the armed forces must resign from their military position to run for elective office.

Such a preeminent position of the military in political affairs is highly unusual, and generally disfavored under international standards. IFES recommends this remaining vestige of the old New Order be left behind, and the military be returned to its appropriate national security function without a special role in politics (but granting military personnel the right to vote). However, IFES recognizes Indonesia's recent history renders this an issue that must be resolved by Indonesians themselves. Current political dialogue in Indonesia appears to be addressing this situation frankly and vigorously.

## **C. Choice of Voting System**

### **1. Proportional Representation vs. Plurality Voting (Single-Member Districts)**

The method by which voters select DPR members and seats are awarded to candidates has been widely debated since June in Indonesia. The fundamental choice is between proportional representation and plurality voting (single member district) outcomes, although hybrid ("mixed") systems are also under discussion. The issue continues to cause disagreement between and

among political parties, other organizations in society and government drafters.

The relative merits of the main choices of voting system are now well known in Indonesia. Proportional representation gives full representation to all voter choices, including minor parties. Plurality voting in single-member districts tends to exaggerate the success of major parties, but provides a more direct link between a representative and constituency. A choice of voting system inevitably involves weighing alternative values and philosophy about democratic representation, and it is greatly dependent upon a country's cultural and political circumstances. IFES makes no recommendation on this fundamental electoral decision, but offers further analysis and comment.

### *District proposal*

The final government (MHA) draft for the election law presented to the DPR provides for a 550 member legislative body, chosen as follows:

- 428 seats are distributed according to plurality vote outcomes in single-member districts;
- 55 seats are allocated to ABRI (discussed above); and
- 67 seats are reserved for proportional "adjustment" to counterbalance disparities in party representation resulting from single-member district plurality outcomes.

There appears to be wide political agreement in Indonesia that seats in the DPR should be distributed equally between (1) Java and Bali and (2) the rest of the country, even though Java and Bali comprise 60% of Indonesia's population. Thus, the MHA draft contemplates 215 seats from Java and Bali and 213 seats for the remainder of the country.

The geographic distribution of 428 seats through single member districts under the MHA plan uses the 314 traditional administrative districts below the provincial level ("kabupaten" or "kotamadya"). The districting plan is based upon a representational quota of 600,000 people per electoral district but, significantly, includes a guarantee of at least one DPR seat for each of the traditional districts. (The MHA draft submitted to the DPR excludes from this guarantee the six administrative districts with population of less than 50,000 people.) The guarantee of at least one electoral district per administrative district produces wide differences in population represented by each district representative--as much as a tenfold difference. That results in a clear deviation from a "one man, one vote (value)" standard in the proposed districting, (see Attachment Two), and means some districts will be much "cheaper" to win than others. The draft law also indicates the national election commission will determine new constituency lines within larger administrative districts that will receive more than one seat; this process will apparently occur prior to political party and civil society participation in the election administration bodies.

The 67 adjustment (“compensatory”) seats are distributed through national lists of candidates presented by political parties qualified to field candidates in the single-member districts (national party list cannot include persons running as candidates in single-member districts). All votes of losing candidates in each single member district are pooled at the national level by political party (i.e., plurality votes which succeed in electing a representative would be excluded). The total number of votes in this pool is to be divided by 60 to determine a representational quota. Qualified parties are entitled to their share of the 67 seats according to their total “lost votes” divided by the quota. Remaining seats not awarded in the distribution based upon the quota are distributed according to the “highest remainders” method (highest “leftover” political party vote).

An earlier MHA draft had provided for 420 single-member districts and 75 “adjustment” seats. The draft presented to the DPR was modified to account for recognition of an additional administrative district in two provinces, exclusion of the six administrative districts with populations under 50,000, and recalculation of the representational quota according to updated population figures.

#### *Proportional representation*

The general election law drafts of LIPI (which provides for 500 DPR seats) and the Konsorsium (for 590 seats) continue to use a proportional representation system for the DPR based upon the 27 provinces of Indonesia. Under both plans, allocation of the total number of seats to each province begins with the existing administrative districts. (As indicated above, there was uncertainty about the exact number of such districts--now viewed as 314.) Each district qualifies the province for one seat; remaining seats are distributed to provinces according to a population quota. Seats are awarded to political parties according to their percentage of the vote in each province. Party’s candidates are awarded seats according to their ranking on the party list. In the past, each party was represented on the ballot by only a symbol; new proposals provide for the party’s list of candidates to be presented on the ballot.

## **2. Hybrid (“Mixed”) Voting Methods**

As described above, the MHA draft provides for 67 national adjustment seats for political parties in addition to the 428 seats awarded through single-member districts. This combination, intended to compensate political parties for “lost” votes of their losing candidates, is an interesting form of mixed electoral system. However, the proposed method does not produce true proportionality. It does not take into account seats won, and rewards major parties for their second and third place showings on top of their first place wins; a party winning 20% of the vote nationwide but not gaining a plurality win in any districts could end up with only 20% of the 67 extra seats (13 rather than 85 of the 428). This system also does not take into account “lost” votes of winning candidates (votes beyond those needed to come in first in a district). Thus, political parties with large victories in some single-member districts and poor performance in others (though unlikely) will be disadvantaged in distribution of “adjustment” seats under the MHA plan.

### *Proportional Plus*

Some political party activists, academics, and DPR members have suggested trying to introduce a district element to a proportional voting method to facilitate values of local representation – an approach that is being called “proportional plus.” However, it is difficult to imagine how proportional representation could be implemented below the provincial level in Indonesia. Proportional representation requires multi-member districts, since it distributes legislative seats according to the percentage of the vote achieved by each political party in each electoral district. Moreover, proportionality in distribution of seats decreases significantly as the number of seats per district decreases – greatly reducing the opportunity for more than 2 or 3 parties to qualify for seats. Experts in electoral systems generally recommend at least five seats per district, and ideally more, as a minimum for proportional systems. (Israel and the Netherlands use the entire country as one multi-member district to provide as much representation to competing parties as possible.)

In contrast, the vast majority (74%) of Indonesia’s 314 administrative districts would qualify for no more than their one guaranteed seat (many would not qualify for a seat at all based solely upon population); only ten of these administrative districts would qualify for four or more seats. (See Attachment Two) Indeed, as a beginning point, 14 of the 27 provinces encompass seven or fewer of the “kabupaten/kotamadya” districts, which means many provinces are barely suitable as multi-member districts for use in proportional representation. Thus, introducing a form of proportional representation below the provincial level seems practically impossible. Better alternatives might be found in the electoral systems of Germany and New Zealand, which combine district voting and party list voting to achieve overall proportional results.

The LIPI draft indicates another effort at representational values by imposing a one-year residency requirement by administrative district upon candidates, by requiring parties to field candidates on their lists from each of the administrative districts within the province, and by identifying the residence of the candidate on the ballot. (Parties retain the right to rank order their list as they choose; but see next section.) This requirement appears intended to discourage parties from fielding candidates out in the provinces who are largely from Jakarta, Java, or provincial capital cities. It is unclear, however, what political impact these requirements would have upon voter behavior in the context of party list voting.

### *Open list PR*

Although not contained in their draft law proposals, both LIPI and the Konsorsium are apparently now endorsing the idea of “open list PR,” under which voters could indicate a preference for one candidate on the political party list in addition to, or as a means of, voting for a preferred political party. IFES notes the following comment from David M. Farrell, Comparing Electoral Systems (Prentice Hall, 1997), page 76:



*In theory, placing a 'preference' next to one of the candidates has the effect of moving that candidate higher up the rank ordering. In practice, however, if a candidate has been placed low in the rank-order to begin with, then, unless a large proportion of voters express the preferences for the same candidate, there is little chance that he or she will succeed in being elected. Research has shown that although about half of Belgian voters make use of candidate votes, only a tiny proportion of seat allocations are affected. [further citation omitted].*

A desire for a compromise approach between proportional and plurality voting methods is certainly understandable. However, world experience indicates that utilization of "open list PR" significantly complicates the vote tabulation process and voter education efforts. It also greatly increases the likelihood of invalid (spoiled) ballots due to voter confusion, which raises the level of disputes among election commissions over such ballots. These problems seem to outweigh any marginal advantage of additional voter choice under this approach.

#### **D. Election Administration Authorities**

A strong, independent, open, participatory, and widely monitored election commission structure is essential to a successful democracy. IFES views transparency and proper functioning of election commissions to be of utmost importance to the political process (including its capacity for fair adjudication of grievances). IFES is preparing a follow-up report comparing proposals in Indonesia to international practices. This report will discuss significant issues related to election commissions: size and composition, selection procedures, political party representation, duties and responsibilities, and administrative effectiveness. In advance of that comparative analysis, IFES presents the following overview of past and proposed election commission structure in Indonesia, and preliminary recommendations.

##### **1. Election Commission Structure**

###### *Traditional election authority structure*

For the 1997 general elections, as previously, the administration of elections was conducted through a three-channel system of institutions with nominally separate functions but with largely parallel jurisdiction:

- General election commissions were formed at the national (LPU), provincial, and district level (elections were held for legislative assemblies at all three levels). These commissions were officially composed of representatives of government, political parties (GOLKAR, PPP, and PDI--the three parties permitted by law), and general society. They were viewed as the central policy-making "steering committees," including having authority to interpret the election law.
- Election committees were formed at all levels of government administration to implement the law and regulations and actually conduct the elections. These election administration

groups were comprised of the Indonesian Election Committee at the national (PPI), provincial (PPD-I), district (PPD-II), sub-district (PPK), municipality/village (PPS or KPPS), and polling station (TPS) levels. Members of the committees were appointed by the election commissions at the three upper levels and by appropriate government officials at the levels below, and were composed entirely of government employees.

- A hierarchy of supervisory panels formed at the national, provincial, district, and sub-district level was called Panwaslak. The national Panwaslak was composed of 15 members: 3 representatives of the three official political parties (9), government employees (5) and a Supreme Court justice serving as chairman. Lower levels replicated this representation with fewer members and with a judge from the appropriate level court as chairman. Panwaslak's supervisory responsibilities particularly included monitoring voter registration, the campaign process, voting, and vote counting. Most significantly, Panwaslak was the election authority charged with hearing and resolving complaints and disputes, and referring violations of the law to enforcement authorities.

#### *Draft law proposals*

It is widely acknowledged in Indonesia that open and fair general elections will require establishing an independent election administration authority. The government (MHA) draft election law presented for consideration by DPR largely carries over pre-existing institutional arrangements, though stating normative goals of greater transparency and accountability in their operations. The LIPI draft also proposes an election administration structure similar to current practice, including an "autonomous" Indonesian Election Committee appointed by the President.

The MHA draft provides for a national General Election Commission (called KPU), a provincial level KPUH-I, and a district level KPUH-II. The KPU, described as an "independent institution," is to be composed of five representatives of the government, five representatives of society (NGOs and other community and social organizations), and representatives of each of the political parties qualified to contest the general election, but with a cumulative vote for party representatives of five. The KPU is given the following tasks and authority: — —

- To plan and prepare for elections;
- To determine election constituencies (allocate seats and set district boundaries);
- To direct and supervise provincial KPUs and the national Indonesia Election Committee (PPI);
- To determine election results in single-member district constituencies and for the national compensatory seat distribution;
- To collect election results;
- To "facilitate the implementation of the general election."

The draft does not specifically give the KPU authority to allocate free media time to candidates.

The multi-tiered *implementation* election committees are also retained in the MHA draft (and the LIPI draft)--including PPI at the national level, a village level KPPS (which is to be composed of five community representatives), and TPS at the polling site. No provision is made for participation by non-government personnel in the polling site commission, except that witnesses authorized by qualified political parties may be present to observe voting and counting.

Government involvement is seen as inescapable for purposes of facilitating the conduct of elections. (Government employees will inevitably be the source of administrative and functional workers.) The revised MHA draft election law submitted to the DPR on September 17th now provides for a "Secretariat" led by a "Secretariat Head" to assist election commissions at the national, provincial, and municipal levels. (See Attachment Three, Article 9-11) These offices are described as accountable to both government executives (Minister of Home Affairs at the national level) and election commissions.

This belated MHA proposal for a position of "Secretariat Head" and office of "Secretariat" may not be so ominous if only intended to codify that administrative and clerical staff will be provided to the election commissions. However, as presented in the draft law, the new provision raises several serious concerns: their responsibilities and powers are not clearly defined; their duty to two masters would create confusion and conflict; the introduction to the system of a fourth election administration entity adds further complication and would undermine transparency; and most importantly, the proposal seems to improperly further the role and dominance of government personnel within the operations of the election commissions. IFES again emphasizes that administrative personnel implementing the elections should only be answerable to and directed by independent election commissions.

IFES strongly recommends that government direction over the election process be wholly subordinate to control by the political parties and society through a strong, independent, and transparent election commission structure. Government appointees must be independent (not representing particular government ministries, departments, or interests), and remain in the minority on the commissions (holding not more than the proposed one-third of the planned seats), so as to maintain a system of checks and balances on the commissions. — —

The MHA draft law would also establish a Supervisory Committee for the General Election -- Panwaslak -- at the national, provincial and district levels. Members of Panwaslak are to be appointed by the Chairman of the highest respective court at each level, and specifically may not include representatives of the political parties. The responsibilities of Panwaslak are described as follows:

- To supervise preparation and implementation of the elections;
- To supervise the conduct of the campaign;
- To supervise voting, vote counting, and results certification;
- To settle disputes arising from the holding of elections;
- To "bring all forms of violation in holding the elections to justice."

## Recommendations

As described at the beginning of this section, IFES is preparing a more comprehensive report on issues related to election commission structure and operations and will present specific recommendations in that report. Generally, however, IFES recommends Indonesia's new law for general elections abandon the old institutions for conducting elections in order to provide greater transparency, accountability, and effectiveness in election administration. The three nominally separate election institutions formerly employed (LPU, PPI, and Panwaslak) should be integrated into one election commission structure responsible for policy, implementation, and supervision of the election process (including a primary role in adjudicating complaints and disputes, discussed in the next section).

A streamlined system permits quicker action by election authorities. Members of election commissions would have greater control, access to information, and decision-making authority in all phases of the election process than under previous election administration structures. A unified system also allows for consistent and focused monitoring of election commission actions by the news media and other critical observers, rather than having to follow a maze of decision-making through separate, government-dominated implementation (PPI) and supervision (Panwaslak) institutions.

The MHA draft proposes equal participation by representatives of qualified political parties, non-governmental community and social groups, and the government itself. IFES encourages careful consideration be given to the practical impact of these proposals regarding composition and selection of members of the national election commission (KPU) and subordinate commissions. IFES' follow-up report on these topics is intended to assist that process.

Preliminarily, IFES also recommends the following election administration issues be addressed in the new election law:

- Procedures for appointment and possible removal of election commission members, and the precise time frame of their term of office, should be more clearly defined.
- Specific guarantees of information and document access for commission members should be written into the law.
- Regulations formulated by the Ministry of Home Affairs to implement the election law should be subject to approval and amendment by the national election commission (perhaps by an extraordinary two-thirds vote).
- Funding and budget process for election administration should be more specifically defined (*see* section below).

- Intent to train civil servants involved in the elections should be specified in the law: civil servants employed to implement and facilitate the election process will be provided extensive training about the procedures and requirements under the law, including violations proscribed under it, and must take an oath to uphold the law.

## 2. Adjudication of Complaints and Disputes

Complaints and disputes arising out of elections are often mistakenly viewed as a sign of problems or weaknesses within emerging democracies. Adjudication of complaints and resolution of disputes is then treated as an annoyance, and inadequate attention is given to these processes. In truth, however, the proper handling of complaints and disputes is essential to free and fair elections, and the degree to which such matters are handled fairly, openly, and expeditiously is a critical measure of an election system's success.

As in every element of election administration, a good system requires strong rules and structure. As described above, the institution of Panwaslak was formerly charged with adjudicative responsibilities during elections. In practice, however, Panwaslak appears to have served more as a cover for government administration of the elections than as an independent monitoring or adjudicative body; complaints about the integrity of the election process were routinely dismissed.

### Recommendations

As discussed above, IFES recommends the separate, appointed, supervisory institution of Panwaslak be abandoned in favor of a newly unified commission structure combining all three roles of policy-making, implementation and supervision. An election commission structure should inherently have the greatest capacity for non-partisan and multi-partisan independence, election law expertise, and openness to public scrutiny than any other institution.

Complaints by any person about election commission decisions or operations should first be taken to the election commission involved. Appeals from any election commission decisions should then be routed through the higher levels of election commission in DPR elections: district, provincial, and national. Similarly, complaints or disputes involving other public or private actions related to elections (including activity of political parties, candidates, the news media, and government officials) should be routed through the election commission hierarchy. The law should provide for tight timetables for consideration of complaints and disputes at each level. As with all aspects of election administration, adjudication of grievances by election commissions should be conducted in an open and fair manner and subject to careful scrutiny by the press, public, and political participants.

Indonesia's judicial system is perceived as lacking credibility and independence; it should not play a role in adjudication of complaints or disputes in the election process. Rather than burden the Supreme Court, appeals from decisions of the national election commission should be taken

to a special national panel of judges or former judges selected for ability and independence and trained in the new election laws. Such a panel could be formed under the supervision of, or with input from, Indonesia's National Commission on Human Rights.

The election law should require that decisions made by the national and provincial election commissions regarding election disputes (and appeals from lower commission) be in writing, explain the reason for the decision, and be published at the national level to permit access by the public. Over time, a valuable body of election commission and court cases can be developed regarding adjudication of election-related grievances. This accumulated experience can serve to enlarge understanding of the election process and to guide legal and regulatory revision.

Finally, to enable vigorous prosecution of election-related offenses, a group of prosecutors within the Attorney General's Office should be given specialized and intensive training about the new election laws and these types of cases, and assigned to such cases accordingly.

## **E. Political Party and Candidate Ballot Qualification**

### **1. Changing Role of Political Parties**

The New Order in Indonesia under former President Suharto allowed for only three participating political parties that were approved and closely supervised by the government. Except for the ruling party, GOLKAR, political organizations were not permitted to organize at the local level.

Current draft laws for political parties and for the general election provide for an unlimited number of political parties to participate in the next election process. Registration as a political party is fairly easy. Under the MHA draft (see Attachment Three), any citizen of Indonesia 21 years or older may establish a political party by meeting the following criteria:

- Party is established by at least fifty people;
- Party adheres to the national ideology of "Pancasila"; and
- Representative registers notarized document with the Ministry of Justice.

It is now reported that more than ninety "political parties" had been announced and/or registered. As discussed next, however, the formal establishing of a party does not mean the party is qualified under the MHA election law draft to gain ballot access for its candidates.

### **2. Organizational and Signature Requirements for Ballot Access**

#### *Political party qualification to participate in the general election*

Extensive debate is occurring in Indonesia regarding the issue of the number of political parties that should participate in the general election and the degree to which the election law should discourage minor parties. That decision has a large impact on not only political alliances and the

election outcome, but on election administration issues such as political party participation in election commissions and allocation of broadcast time to parties and candidates. A consensus seems to be building for qualification requirements that balance the value of new and diverse parties in the process with a demand for a threshold showing of seriousness and voter support.

The MHA draft law is based primarily on voting for candidates for DPR through single-member districts. The draft submitted to the DPR on September 17th provides that political parties must meet the following requirements to qualify to field candidates on the ballot:

- Be registered as a political party.
- Have branches (committees) in at least fourteen provinces, i.e., more than half of the twenty-seven provinces in Indonesia.
- Have branches (committees) in more than half of the existing municipalities in each of the fourteen provinces mentioned above.
- Failing the two organizational conditions above, submit a signature list of 1,000,000 (one million) voters within the fourteen provinces showing their name, address, ID card number and signature.
- Submit signature lists on behalf of each candidate in single-member districts. The requirement ranges in five steps between 3000 signatures (in a district with a population of 150,000 or less) to 15,000 signatures (in a district with a population of over 600,000).

A significant change in the draft political party law submitted to the DPR on September 17th now makes the organizational requirements and signature requirements for political party qualification alternative, i.e., a party must either demonstrate it has committees in the requisite provinces and districts or collect the necessary signatures. (See Attachment Three) That seems an odd choice: absent more specific and stringent requirements for establishing “committees,” the signature alternative would seem to be a much harder hurdle to cross than the organizational requirement.

#### *Signature verification*

Under the MHA draft law, responsibility for signature verification is with the national General Election Commission (KPU). The draft appears to contemplate a role for the provincial election commission in confirming whether a party has met the requirement for local committees to be established, and (without detail) places responsibility for verification of signatures for the particular candidates upon the national, provincial, and district election commissions.

The verification process itself, however, provides for the random checking of only 100 names on the signature list presented by parties seeking qualification (0.01% of the one million names). If

10 names are found to be “unverified”, i.e., 10 names are found to be non-existent people or incorrect in detail, the political party is given 15 days to rectify the list. After the list is resubmitted a further 100 names are randomly checked. Should 10 names again be found to be “unverified,” the political party loses its right to participate in the election.

The requirement to provide a list of one million names is clearly a high figure, and it is widely believed that amount would be reduced substantially in any final law. In contrast, checking only 100 names to verify the signature lists is an extremely small sampling. That effort is practically meaningless and could easily be manipulated to the advantage or disadvantage of certain political parties. For example, a political party could have its list closely scrutinized until sufficient errors are detected to have the list returned. Or the list could be examined to find twenty or more incorrect names, but the party is only informed of problems with ten unverified names. The party would resubmit the list with the other ten unverified names and be subject to disqualification from participating in the election.

#### *Candidate qualification*

Formerly, each participating party was required to submit a list of prospective candidates which was examined to ensure that each candidate (in addition to the normal qualifications of citizenship, age, or minimal fitness) was “suitable” to be a candidate. These lists were then made public and members of the public were given an opportunity to object to any candidate appearing on the list. These objections were then examined and political parties were advised of any serious objection; supposedly, parties would voluntarily withdraw unsuitable candidates. This system of interference by the government in the nomination of candidates by political parties was clearly contrary to democratic principles.

As described above, draft proposals for the election laws clearly contemplate candidate nomination being within the authority of each political party, subject to signature requirements to demonstrate seriousness of popular support. All political participants should strongly resist any interference by the government in the internal operations and nomination procedures of the political parties. (See recommendation below.)

#### *Qualifying to contest the subsequent election*

The draft law proposes that for political parties to qualify for subsequent elections they must obtain at least 10% of the seats contested in the current election. This means that parties who win as many as 42 seats (out of the proposed 428 single-member seats), would be permitted to fill the seats won in that election but would not be able to contest the following election without merging with another party or parties (or otherwise formally changing its identity). Further, under the draft proposal, political parties that win 10% or more of the seats are exempt from the requirement of providing a list of one million names to qualify at the next election. The standard of party qualification of 10% of seats won in the election is extremely high and particularly unfair to new parties achieving some (but not enormous) success in the elections.



### Recommendations

The draft proposals' provisions with respect to political party and candidate qualification to participate in the general election are in need of clarification and revision. IFES recommends consideration be given to the following ballot qualification issues:

- Clear definition and more detailed requirements should be provided by the law as to what constitutes a branch "office" or "committee" of a political party in a province and district.
- The total signature requirement for political party participation in the elections should be reduced by at least half from the one million figure proposed by the MHA draft.
- The MHA draft law seems to contemplate that the party signature list should be compiled from throughout the 14 or more provinces in which the party has offices, but does not specify minimum requirements of signatures per province. To give meaning to the organizational requirement and integrate it with the signature requirements, political party qualification and candidate qualification through signature collection should be combined at the district level. (A cumulative national signature requirement based on district level petitions could still be imposed).
- If the national political party signature requirement were apportioned per district, the provincial election commission could be charged with signature verification, rather than the national commission. Given the far greater responsibilities of the national commission (particularly if elections are only for the national DPR), this division of labor could permit verification on a far more extensive basis than currently contemplated (the sample could be a more effective level of five or ten percent of total signatures) and place the task at a position closer to the necessary voter information.
- Random checking of any signature list should be clearly regulated so that the selection of names to be checked is done via a predetermined, mathematical selection process that can not be changed by election officials.
- To insure against any recurrence of the former practice, the election law should specifically prohibit any government interference in the right of parties to nominate candidates of their own choosing.
- Any threshold for political party qualifications based on vote outcomes in this election should be reduced to a more conventional standard, such as 5% of total vote. This standard could be applied in circumstances such as qualification for the 75 seats distributed in the national "compensatory" mechanism under the MHA draft law as well as exemption from signature collection in the next election.

- Disqualification from future election participation should not be based on vote outcomes. Poor performance in the elections by political parties is its own reward. The election law should let the political marketplace sort out winners and losers. Those groups continually failing to meet a minimal threshold of success will increasingly find organizational and signature requirements (and candidate recruitment) difficult to achieve.

## **F. Voter Lists and Registration**

A new Voters List is prepared for each General Election in Indonesia. The previous Voters List is used solely as a reference tool. Voter registration in 1997 totaled 124,740,948 and consisted of 63,464,674 females and 61,276,313 males.

The registration of voters has been performed by Voters Registration Committees (Pantarlih) who visited each household within a predetermined voting area for the purpose of completing registration forms (including the signature of the applicant). Personnel recruited as Voters Registration Committees were generally then appointed to serve as the Polling Station Committee members.

The method of registration used requires the Voters Registration Committee to visit each house a second time should they not find every person entitled to register on their first visit. If after the second visit persons were still not registered, they were advised to attend the committee office to complete the registration form. These offices were often distant and difficult to reach for voters.

The Ministry of Home Affairs draft provides for a change in these procedures: rather than the Voters Registration Committees visiting each household, the individual will need to attend the office to obtain registration. Some election officials interviewed favor being proactive and wish to continue to visit households, as they believe that leaving it to individuals will result in very low registration.

It is anticipated that the usual public display of preliminary lists will continue giving individuals an opportunity to check local lists and lodge applications for amendments or additions (or objections) to the list.

A formal letter (invitation) is forwarded to each voter advising them of the location of the voting station at which they will be required to vote. This document is deemed to be absolute proof of entitlement to vote.

In the past, the registration process has taken approximately three months. However, due to the reduced time available for the 1999 elections, voter registration will need to be streamlined to enable the process to be completed in a much shorter time period.

*Active vs. passive registration*

The process of registering voters by Voter Registration Committees going from house to house provides an opportunity for these committees to be "selective" as to which house to visit and/or which person they may choose to register or not register. A number of allegations were raised to the IFES team, ranging from not registering individuals or even an entire village of opposition party supporters to registering party supporters more than once using variations in their names. The basic idea of being proactive in the registration process is commendable and does provide for a comprehensive, complete and accurate voters registry, provided manipulation is not injected into the process.

The Ministry of Home Affairs draft election law provides for registration to be performed by means of the individual going to the registration committee office and completing the necessary application form. While this would eliminate most of the above-mentioned concerns, the time period that is likely to be available for this process might dampen the number of registrations, and officials in local areas could discourage certain people from registering.

Recommendations

IFES offers the following recommendations with regard to the voter registration process:

- An interim answer to the question of whether registration should be conducted by the government or be the responsibility of voters could be fashioned. The registration committees visit each house as has been customary, which will ensure a good rate of registration, but coupled with monitoring of the process by political parties, NGOs, and interested community organizations. Participating political parties should also be provided with free copies of the temporary and final voter lists to enable them to check and ensure that their supporters have been correctly registered. A comprehensive public education campaign should also be introduced to ensure that members of the public are fully aware of their rights and obligations and that the registration process is taking place.
- The specific type of voter information collected during the registration process should be re-examined, particularly the need to collect occupation and office address, now that introduction of voting on a public holiday is likely to be introduced.
- A more comprehensive, computerized system of voter registration should be considered for the future. That would enable not only an efficient continuation of the register, but also provide for checks and balances regarding duplicate registration across voting areas and districts. It would also permit a variety of other statistical information which would be of great assistance to the newly created permanent election bodies at the national and provincial levels.

## G. Campaign Finance

The draft general election law developed by the working group of the Ministry of Home Affairs (and the LIPI draft) included a rudimentary but potentially workable campaign finance limitation and disclosure regime:

- Candidates for DPR may contribute up to fifty million rupiah<sup>6</sup> to their campaign from their own funds.
- Political parties may also contribute up to fifty million rupiah to each of their candidates.
- Individuals may contribute up to one million rupiah to candidates.
- Business corporations and equivalent legal entities may contribute up to ten million rupiah to candidates.
- Candidates are to report information about sources of contributions of over one hundred thousand rupiah to Panwaslak “periodically” – each month prior to Election Day, ten days prior to Election Day and thirty days after vote counting.
- All campaign funds “shall be audited by Certified Public Accountant.”

Article 12 of the MHA draft political party law states that political parties will receive an annual grant from the state budget commensurate with their earned vote in the previous election. Article 14 places limitations upon contributions to political parties and sets out record keeping requirements.

While no further detail was set forth in the MHA draft proposal for implementation of these provisions, more specific requirements will presumably be provided in the regulations implementing the election law and political party law. IFES supports this effort at a simple campaign finance system based upon reasonable contribution limits and routine disclosure, as long as the limitations do not reinforce the financial advantages of GOLKAR and unfairly inhibit the funding of new parties.

Moreover, campaign finance regulation will not be effective or even-handed without strong enforcement. Party leaders and candidates should be fully prosecuted for “off-the-books” spending that circumvents the contribution limits and reporting requirements.

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<sup>6</sup> US \$1.00 equals approximately 10,000 Rupiah at the time of this report.

During the assessment mission in August, IFES encouraged drafters to include several points in the new laws concerning the regulation of campaign finance. The following elements were added to the MHA drafts that were presented to DPR:

- Contributions to political parties as well as candidates will be brought within a limitation and disclosure regime (through the political party law). Parties will certainly engage in extensive organizational and promotional activity that would not be directly attributed as contributions to their candidates but should be accountable to the public.
- Contributions passed through an intermediary to avoid contribution limitations (“in the name of another”) will be prohibited.
- Donations to candidates and parties of anything of value--facilities, personnel, office equipment or supplies, commodities, vehicles, etc.--will be limited and reported in a manner equivalent to cash contributions.

### Recommendations

In the article in the MHA draft law immediately preceding the campaign finance section, it states that during the general election campaign it is prohibited to “use the government’s facilities and worship houses.” This narrowly crafted limitation should be more expansive and placed in the section regulating campaign funding to say, “Candidates and political parties shall not utilize, nor accept or authorize the use of, any funds, facilities (including worship houses), personnel, or other resources or assets of the government to conduct or assist their campaign activities.”

Additionally, IFES recommends that certain financial disclosure requirements be imposed at the time parties and candidates seek qualification for ballot access:

- Political parties should be required to file a statement of total financial assets at the time of ballot qualification, signed and sworn to by the party chairman.
- In addition to contributions received during the election period, candidates should be required to disclose all donations in support of their candidacies which they have received within the six months prior to ballot qualification.

## **H. Election Day and Voting Procedures**

### **Procedures and Transparency**

#### *Election Day*

Voting was always held on one day. Polling hours were 8:00 AM to 2:00 PM at 305,851 polling stations. The voter turnout in 1997 was 92%.

Voting day was formerly a working day and many voters had to cast their vote at a polling station set up within the vicinity of their workplace, which was easily controlled, since voters were registered showing their occupation and workplace address. This meant that civil servants were better “monitored” to ensure that they followed the open policy of supporting the government. They were then required to vote as a group at their workplace, which meant that all voters at the polling station were civil servants.

The voting process on voting day appears to have functioned efficiently and in accordance with the regulations. It was claimed that the majority of voters cast their vote by midday and that the final two hours of polling were very quiet. In general the voting procedures used conformed with the law and regulations and no major criticisms or complaints were raised by most of the people interviewed.

#### *Voting method*

Voters were required to present themselves to the first poll worker with suitable ID and the voting invitation so as to enable their voter information to be checked against the voters list. Voters are allowed to vote without the invitation, but they must have some form of ID. A picture ID is not necessary. After presenting the ID, voters would be instructed as to procedures for marking the ballot before being given the ballot cards.

The voter would then proceed to the voting booth (compartment) and punch a hole through the party symbol of his/her choice. The hole is punched through the ballot with a metal nail placed in the polling booth by the election commission. The voter would then refold the ballot card and present it to another official who would check to see that it was a ballot issued at that polling station before the voter was allowed to place it in the appropriate ballot box.

#### *Mobile polling stations*

Mobile voting committees were established to cover voters in hospitals, prisons and on board ships.

#### *Design of ballot cards*

The ballot card is printed on half a sheet of A4 paper. It is divided into two parts. The top half consists of the heading and description. The lower half is used to show the three political party names and symbols. Each section consists of an outer rectangle or border showing a number and the name of the party; immediately below this is a square containing the party symbol. The position of the three parties on the ballot card is, and has been since the creation of the three party system, as follows: left-- PPP, middle-- GOLKAR, right-- PDI.

It is anticipated that changes to the overall design of the ballot will be limited. Should the DPR adopt the single member district voting system then an additional section would be added

showing the name and photo of the candidate. The width of the ballot card will also vary depending on the number of parties qualifying to participate in the election. It was suggested that the each party would appear on a standard ballot card; if a party does not nominate a candidate in a particular district then the section below that party would appear blank.

On the reverse, the top half of the ballot has a heading and a section for an official poll worker to sign immediately prior to issuing the ballot card to the voter, authenticating the issue. This enables another poll worker controlling the ballot box to ensure that only correctly issued ballot cards are placed into the ballot box.

#### *Validity of ballot cards*

Generally the rules for the admittance of a ballot are straightforward. The voter must punch one hole through the center of the party symbol representing the party for which s/he wishes to vote. The rules or guidelines for the acceptance or rejection of ballot cards are open to interpretation. Indications are that, in fact, variation to the interpretation did exist. While it would be difficult to suggest that these interpretations were deliberate, it is undesirable to have varying interpretation on the validity rules.

#### *Monitoring*

The primary role of political party witnesses, in general, is to ensure that the correct procedures are followed at the polling station and that only persons entitled to vote are given that opportunity. In previous Indonesian elections witnesses were able to object to a person claiming a vote and could also object to the inclusion or rejection of ballot cards during the count. Party witnesses had to be appointed by the respective parties and were required to provide the chairman of the polling station with the appropriate appointment form. Generally, comments suggested that party witnesses did not perform their role correctly due to pressure to permit outcomes desired by the government.

#### Recommendations

IFES offers the following recommendations regarding the voting process:

While the design (both old and proposed) of ballots is functional and adequate, the current design is quite dated; therefore, a review of the ballot design would be beneficial. A change in design would also provide an additional visual change from the past elections. Further, the order on the ballot card should be determined by random selection at each election.

A clear, precise set of guidelines needs to be developed and issued regarding what constitutes invalid or "spoiled" ballots to ensure that all officials achieve a consistent interpretation of the rules. The guidelines should be enforceable by the provision of penalties for non-compliance with election regulations. This will also deter any deliberate attempts to reject or accept ballots based on whom the vote is for, and will provide official witnesses with the knowledge to enable them to object to incorrect decisions.

Political parties will play a major role in ensuring that elections are free, fair, and accurate. IFES strongly recommends that special attention be given to providing training and assistance to agents of political parties.

While voting procedures are generally adequate and would be viewed as acceptable practice throughout the world, allegations of intimidation and fraudulent voting and counting have been frequently made in past Indonesian elections. To counter these accusations, a system of monitoring by national monitors, international observers, and a higher participation of official party witnesses needs to be encouraged and introduced.

## **I. Counting and Tabulation**

### **Procedures and Transparency**

The counting of the votes took place at each polling station commencing immediately after voting closed at 2:00 PM. The method used was to empty the contents of the ballot box onto a table and then unfold and display each ballot card, one at a time, to the official witnesses. A poll worker would call out the party name for which the vote was cast, display the ballot to the official witnesses, and another poll worker would record the vote on a whiteboard.

This process continued until all the ballots were counted. The poll workers and party witnesses present would sign the result forms. The used ballot cards would be placed back into the ballot box, then it would be resealed and taken by the Chairman of the polling station committee to the district or sub-district election committee level as appropriate. Official witnesses and (room permitting) other poll workers would accompany the Chairman.

Tabulation of results took place at each level of election committee up the hierarchy, under the supervision of the comparable level of Panwaslak. Although procedures nominally provided for political party witnesses to provide transparency and accountability in counting and reporting of results, observers of the general process widely regard the system to have been government dominated and effectively closed to genuine scrutiny. For example, it was reported that witnesses were not allowed to follow ballot boxes from the polling station to district commissions, or to observe counting at district and provincial levels. They were also not given copies of the voting results.

### **Recommendations**

The MHA draft election law generally provides for transparency in the process of counting and tabulation, largely through allowance for party witnesses and thorough record-keeping. IFES regards this as a key area for careful drafting of implementing regulations to insure these safeguards are spelled out in detail. A unified election commission structure, as recommended above, will facilitate accountability in the process and efficiency in resolving any disputes over



election results. Also, political parties and other monitoring organizations must take advantage of opportunities under the law and procedures to follow election results up the tabulation hierarchy, and to match reported results at one level with the numbers attributed to those results in summary tables at the next level up.

## **J. Election Administration Funding**

The national budget for the 1997 elections was 236 billion Rupiah (USD 92.6 million).<sup>7</sup> The election budget was prepared by the General Election Committee using only basic information provided by the lower levels, such as the number of polling stations. No direct input was provided by the Provincial or District Election Committees. Factors such as differing production costs and localized needs were not taken into account by the General Election Committee, so that the amount provided to each level was always insufficient.

A system of "supplementation" was provided by the provincial governors. The Election Committees would seek additional funding from the governor for specific items such as security. Due to the high production costs in Jakarta it was stated that generally the supplementation bids from the governor in Jakarta amounted to as high as 60% of the overall budget.

Locally, the Polling Station Committees were always required to raise extra money from within the community to ensure adequate voting facilities. Each committee was responsible for the establishment of the voting station and the production of the polling booths (compartments). Generally the amount allocated to each voting committee was around Rp 14,000; it was said that in many instances the committees had to raise in the vicinity of Rp 1,500,000 in order to build a shelter for the polling station. Furniture was also often provided by members of the community free of charge to reduce the overall cost.

### Recommendations

The system of preparing a national budget needs to be overhauled with a view toward providing a system in which all levels of election management have an opportunity to provide budgetary bids and to receive more realistic funding. Election officials should not be preoccupied with financial concerns in the conduct of the election.

The dual system of a national budget and provincial supplementation appears to be inefficient and time consuming. It is recommended that a full review of the budgeting system be implemented with the view of incorporating provincial supplementation in the national budget. This would provide for a more efficient method of allocating funds, tighter and easier controls on expenditures, and a clearer auditing path.

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<sup>7</sup> The exchange rate during the 1997 election was approximately US \$1.00 equals 2,440 Rupiah.

## **IV. CIVIL SOCIETY SECTOR**

### **A. Overview**

There is a wide variety of active NGOs throughout Indonesia, up to 6000, that work in areas such as social and economic welfare, health, education, the environment, and human rights. The largest mass organizations are the Muslim-based, social-religious institutions Nahdlatul Ulama (NU) with 35 million members and Muhammadiyah with 28 million members. The Christian social-religious groups PGI and KWI have strong support in eastern Indonesia.

In addition to civil sector organizations at the national level, there is a network of regional NGOs that are good at advocacy but weak in organizational management (setting an agenda, sticking to the topic at hand, managing activities). They tend to focus on a few specific local issues, have limited knowledge about national issues, and don't have the human or financial resources to expand their mandates. They don't connect local issues with broader concepts of good governance. They are located in provincial centers, with limited operations at district or local levels.

Historically, NGOs were not allowed to work freely in political affairs. Under Suharto it was difficult for them to hold meetings or seminars. Permits and meeting space were hard to obtain for such venues, government agents were in attendance for intelligence-gathering, and speakers were guarded in their remarks. Meetings the government disapproved of were often forced to disband, or participants faced arrest due to a technicality in permit procedures. People were reluctant to openly support NGOs out of fear of government reprisal. Though this limited the popular appeal of NGOs that were working in civil society issues, NGOs played a leading role in pushing for democratic reform and improvements in human rights. However, it was student activists, not NGOs, who initiated the demonstrations that galvanized sufficient public support for the change in government and the resulting political reforms.

While there is much public discourse on the various draft laws and their consideration by the DPR, realistically, a limited percent of the population is engaged on the issue. With worsening economic conditions and a poverty line projected to rise upward from 40% of the population, people are also concerned about feeding and supporting their families. Interest in political reform, political parties, changing election system, or the upcoming elections must be viewed in the context of these economic conditions.

### **B. Relevant Issues**

People interviewed in all sectors expressed concern that too many changes were happening in Indonesia in too short a time. Some were afraid that Indonesia can't accommodate such changes, and pushing the reform agenda might lead to serious social instability. A number of people cited the proposed electoral system in their concern, specifically, the change from a proportional system to a single member district system. Even if they favor the district system, they think it's

better to make this change in the next election cycle.

If the economic crisis deepens, student activists or others may call for elections to be advanced. Depending on when this might happen, GOLKAR could be the only party that is organized and ready for elections. It has the best national infrastructure, down to the rural areas, as all local officials have belonged to GOLKAR. It also has financial resources and support of the military. But, it isn't as strong as previously, there are divisions within the party, and its nationwide base support is eroding. Generally, those active in reform recognize that they need time to develop and organize new political parties. Consequently, there is little objection to the proposed May election schedule.

Among Indonesians opposed to the Suharto regime, there is a sizeable credibility gap and lack of confidence in the current government. Many believe that Suharto's way of thinking still prevails in the minds of the government leadership, and that his techniques, money, and influence are still at work. They see Habibie as a continuation of the Suharto era, since the present regime was part of the previous regime and the GOLKAR bureaucracy is still in place. They believe that many people in government don't want democracy and may steal the elections. Consequently, they reason that if the government produces a new election law, establishes a new election system, and runs elections, then elections won't be fair and the new government won't be different from the former regime.

People in general are very concerned about intimidation in the campaign process and vote buying by GOLKAR, money politics practiced by well-funded politicians, and the schedule of elections. (There is some speculation that elections may be pushed back to June. While this will give GOLKAR additional time to organize its campaign, it will have the same effect on the new political parties.) Some are concerned that the expanded seats in the DPR will make it easier for the ruling party to put its own people in power. Some of those interviewed also noted that the lack of experience in democratic rule, the weak organization of new political parties, and the inexperience of new political leaders may leave the next elected government and the new democratic system vulnerable and susceptible to being overturned.

Opinion is mixed on several electoral issues: (1) whether East Timor, Irian Jaya, Kalimantan, and Aceh merit additional parliamentary seats; (2) whether people, especially in the rural areas, will perceive their vote as free and fair, and will understand the new choices (e.g., other than GOLKAR) that they have; and (3) what role ABRI should have in the new political system. Regarding the last point, ABRI promotes itself and is seen by some sectors as needed for protection in case of instability and riots. However, ABRI is widely feared and mistrusted and is credited by some as being a source of instability, itself. The LIPI and Konsorsium legal drafts called for ABRI to no longer be given seats in the DPR. The United Development Party (PPP), one of four existing DPR factions, has vigorously argued that ABRI should not receive appointed seats in the DPR.

### C. Voter Education Efforts

There was never an opportunity for NGOs to work in voter education (VE) in Indonesia, due to government control over previous elections. The government's election body ran a Get-Out-the-Vote campaign and distributed posters which demonstrated the voting process. Some NGOs are now beginning to become interested in VE. Most are focusing on pollwatching as the only element of VE, not having been exposed to other facets of the process. Three NGOs--WALHI, KIPP, and CPSM--have combined efforts and initiated discussion on potential VE activities for the pre-election period. These include establishing a network of local monitors; producing a newsletter and radio and TV programs with information and political analyses on the election process and the political parties; and conducting public debate on the new election and political reform laws.

One organization, KIPP, served as a watchdog in the last election, observing elections in a limited number of polling stations. Afterwards, KIPP documented accounts of election fraud. (These cases never advanced through the adjudication process under the Suharto regime.) While KIPP's efforts are commendable, it is widely recognized throughout the civil sector that it has not developed into a professional organization capable of spearheading the massive monitoring effort needed for the next election. KIPP will need to be rebuilt or replaced in order to improve its image and gain needed credibility in the civil sector. Initial efforts should be undertaken to institute solid management and accountability practices in the new or rebuilt organization. From there, a nationwide monitoring effort can be better organized.

The presence of international observers was viewed across all sectors as lending credibility to elections and giving voters confidence in the process. The IFES team believes that the most important element in the observation effort is the presence of domestic observers from political parties and NGOs. A fair representation of political party observers is needed at polling sites and during the transportation of results and ballot materials from polling stations to election commissions at the village level, and further up the hierarchy, so as not to influence results for one party. Observers are needed in every polling station, especially in rural areas, so results will be honest. The political parties are potentially the only organizations with nationwide capacity to reach all polling stations.

Other civic and voter education issues were noted by representatives of the civil sector:

- Political parties must organize themselves as manageable entities, develop their strategies and platforms, and present their views, programs, and the impact of their programs to the electorate. Currently, people are attracted to the personalities of the candidates, not the parties.
- It will be difficult to educate farmers and rural people about political parties, political platforms, and the distinctions among them due to limited information distribution channels and lower educational levels. This will make party and candidate selection

harder for these voters.

- VE is needed to discourage vote selling and election fraud. At the same time, the government needs to put measures into place to control fraud and corruption in the electoral process.
- Voters consider voting an obligation, but don't think their votes can bring about change. Voting in past elections was seen merely as a ritual, to show the outside world that Indonesia was a *democracy*.
- The new parties are inexperienced and not well organized. There is doubt as to whether they will be ready for elections in May, and strong enough to lead the country and repel anti-democratic forces they might face if elected.
- Concepts of democracy should be promoted to regional legislators, and NGOs should be trained in advocacy at this level.

### Recommendations

The Government of Indonesia faces a substantial credibility gap with representatives of the civil sector and the electorate at large. As it institutes new procedures to conform with the new election laws, the government will need to make an effort to (1) inform voters about the new electoral system and resulting procedures, and (2) convince voters that the reforms and procedures are credible. To this end, IFES recommends a VE campaign to educate voters about new registration procedures, the secrecy of the vote, the importance of voting, the integrity of the vote (e.g., "don't sell your vote"), the new voting system (choosing both candidates and parties), and procedures for registering complaints and grievances.

Social/religious organizations like NU, Muhammadiyah, and PGI and KWI in eastern Indonesia should be engaged in the VE effort. These organizations are a great resource for reaching large segments of Indonesian society. NU is planning to organize VE activities through its civic circles and to hold workshops and discussions on democracy and elections in its schools. NU and Muhammadiyah will influence voters through education, not active campaigning. NGOs such as WALHI and Women's Solidarity can also be good VE partners because of their national networks.

A national system of monitors and observers should be established, possibly through a network of NGOs under one umbrella organization. Organizations involved in the effort should be trained in the electoral process and how to monitor it. They should receive assistance in promoting public awareness of, and support for, domestic monitors. Just as important, a national network of political party observers should be organized and trained. Critical activities in the electoral process should be monitored by both sectors over the next year: announcement of the elections; candidate and party filing deadlines; opening and closing of the period for examining

and changing voters lists; signature verification for political party requirements; ballot printing; election day procedures; vote counting and tabulation; and adjudication of grievances. Monitors should also watch campaign finance practices of the political parties in order to impede and expose corruption.

Voters and candidates must be allowed to register and settle complaints of election fraud in a fair and transparent manner. In addition, NGOs should be trained to advocate for their democratic rights at the regional level.

Radio and TV may be the best media for reaching people nationwide in voter education activities. Workshops and exchanges for journalists and media representatives are recommended to help familiarize them with media methods in an open society (e.g., creating a code of conduct, and reporting objectively on campaigns and dispute resolution).

Political parties should focus on developing and communicating platforms which address Indonesia's economic, social, and political issues. So far, the electorate identifies parties by their leaders, and many of the leaders have not moved beyond general, popular issues (e.g., fighting corruption and cleaning up government). The political environment taking shape runs the risk of being defined by personalities, not issues. While this is to be expected from new political parties, all parties should move beyond generalities to more substantive discussion of specific issues.

**V. ATTACHMENTS**

**One OVERVIEW OF THE ELECTION PROCESS**

**Two DISTRIBUTION OF ELECTORAL SEATS FOR PEOPLES'S  
REPRESENTATIVE COUNCIL (DPR) UNDER DRAFT ELECTION LAW  
OF THE MINISTRY OF HOME AFFAIRS**

**Three SUMMARY OF RECENT REVISIONS TO DRAFT LAWS FOR  
POLITICAL PARTIES AND DPR ELECTIONS**

**Four LIST OF MEETINGS**

## Attachment One

### **OVERVIEW OF THE ELECTION PROCESS: Official Steps**

The former General Elections Committee at the national level (LPU) divided the election process into 12 steps for elections for DPR, DPRD I and DPRD II, spanning a period of approximately 17 months in 1996 and 1997. These 12 steps are briefly described below (with occasional comment).

#### **STEP 1: Voter Registration -- May 1 to July 20**

##### *Door to Door Visits: May 1 to May 20*

Voter registration was achieved by an official "door to door knock." Officials appointed by the Provincial or Regional Election Committees (PPS), known as Voter Registration Committees (Pantarlih), visited each dwelling for the purpose of counting of the population and registering all eligible voters. (It should be noted that the officials recruited as Voter Registration Committees were generally then appointed as the Polling Station Committees (TPS).)

Officials registered voters in each household based on the information provided to them by each individual. If the Voter Registration Committee was not successful in registering all those entitled during their first visit, then the committee would return a second time to register any that were not present during their first visit. If after the second visit persons were still not registered, the committee advised them to attend their office to claim registration.

A further opportunity for citizens to claim registration was available after the door to door knock by the individual going to the office of the Voter Registration Committee after the public display period described below.

##### *Preparation (Compilation) of the Voters' List: May 2 to May 31*

Once basic registration was completed, the voters' list was prepared manually and typed in alphabetical order using information from the original registration forms. The list was compiled using the boundaries of the local "RT" (a local administrative district used for purposes such as garbage collection and civil security). The lists were essentially prepared with voting day in mind, as each list provided a voting area list where a polling station would later be created.

The numbers registered per RT were determined and the RTs were then grouped so as to create voting areas. A maximum of 600 voters per voting area was set, but most voting areas came in well under this figure.



“Invitations” (acknowledgments) were eventually sent to voters acknowledging their registration and identifying where they were required to vote.

*Public Display (Inspection) of Temporary Voters List (DPS): June 1 to June 20*

The typed list was displayed locally and members of the public, political parties, and other interested groups were able to inspect them. During this period individuals were able to lodge complaints or requests for amendments to information on the list. Objections were also supposedly permitted if it was discovered that a person was registered more than once, in the wrong area, or fictitiously.

Furthermore, voters who were aware that they would not be at their place of residence (registration) on voting day were able to apply for a special authority enabling them to vote at any polling station. Reportedly, some voters were simply provided an invitation to vote at their place of work (or former residence) in addition to their place of residence.

*Legalizing (Certifying) the Voters' List: July 16 to July 20*

After taking into account any suggestions for revision of the contents of the temporary voters list, the Village Head or Voting Committee Chairman would legalize the voters' list to become the Permanent Voters' List (DPT). Once the Voters' List was legalized no further additions, amendments, or deletions were permitted on that main list.

*Further Period for Additions: June 21 to July 15*

A further period was then allowed for individuals to apply to have their names registered on the Additional Voters List (DP Tambahan).

*Finalizing the Additional Voters List: July 16 to July 20*

This additional voters list was then arranged in the same way as the final list and legalized by the Village Head or Voting Committee Chairman.

*Information Collected During Registration*

The details collected and used on the voters list are noted below:

- Full name
- Age/Date of birth
- Marital status
- Gender
- Occupation & office address
- Permanent address

**STEP 2: Determination of the Number of Seats -- July 20 to July 23**

The number of seats for the National, Provincial, and Regency levels of government were determined on the basis of the population according to the formulae provided by law.

**STEP 3: Registration of Political Party Name and Symbol -- May 1 to June 29**

The three participating political parties were required to register their party name and symbol during this period.

**STEP 4: Submission of List of Candidates -- July 30 to September 16**

Political parties submitted their lists of candidates for approval for the three levels of elections.

**STEP 5: Election Committee Investigates Candidates -- September 17 to October 31**

The election committee first checked candidates on the list to determine if they had all the necessary qualifications and were not disqualified in accordance with the election law. Candidates were further examined to determine if they were "suitable" persons for candidacy.

**STEP 6: Public Inspection of Temporary Lists of Candidates -- December 1 to February 18**

Once the investigations were completed, the lists of candidates were announced and made available to the public and other interested organizations for inspection and objection to prospective candidates, if they wished. The Election Committee would investigate any objections to candidates and advise the appropriate political party of its findings. It is said the political party would then decide, based on the Election Committee's findings, whether to leave the candidate on the list or remove the candidate.

**STEP 7: Announcement of Permanent (Approved) Lists of Candidates -- February 19 to March 31**

The final approved lists of candidates were then published for each of the three levels, i.e., DPR, DPRD I and DPRD II.

**STEP 8: Campaign Period -- April 29 to May 23**

The campaign period was also administered by the Election Committee. The three participating parties were nominally given equal official access to national TV. In practice, the government-affiliated party GOLKAR received far more "news" coverage. All other activities such as publications, public meetings, and posters required prior approval.

**STEP 9: Election Day -- May 29 (1997)**

Polling stations were generally limited to 600 voters. Since Election Day was a working day, many polling stations were established immediately outside major government office buildings. Over 300,000 polling stations were employed across Indonesia.

Each polling station was the responsibility of a Polling Station Committee, and staffed by seven poll workers, two security guards and three official party witnesses. Each Committee was responsible for arranging the accommodation and voting booths (compartments), and was provided a budget for these purposes.

*Polling Station Procedures*

Voters were required to present themselves to the first poll worker with their ID and invitation. The poll worker would then check the voter's credentials and mark the voter's name on the register. The invitation was absolute evidence of the voter's entitlement to vote. The voter was then required to sit in a "waiting area."

The Chairman of the Voting Committee would then explain voting procedures to those waiting to vote, particularly how to mark the ballot by "punching" the party of the voter's choice. The rule for validity of ballots was that if a ballot was punched or torn in more than one place or had any other writing or markings, then it was invalid. The only way a ballot was deemed valid was when it was punched only once and within one of the outer rectangular boundaries for one of the three parties.

Ballots were then issued--three for regional level and two for provincial level. The poll worker issuing the ballot signed the back of the folded ballot in the prescribed section before handing it to the voter. Voters were asked to unfold the ballot paper and inspect it to satisfy themselves that the ballot was in order and not damaged in any way.

The voter would then proceed to the polling booth and punch a hole in the center of the party symbol representing the party of his/her choice. The elector would then re-fold the ballot and move to the ballot box. The ballot was pre-folded using four folds thus ensuring that the hole punched into the ballot could not be seen once re-folded.

Another poll worker ensured that the voter placed the correct ballot in the correct section of the ballot box and checked that it was correctly signed by the issuing official. Ballots for each level were uniquely colored for easy identification: DPR--yellow, DPRD I--white, and DPRD II--blue. After placing the ballots into the respective ballot box the voter left the polling station.

### *Spoiled Ballots*

A voter was given the opportunity to have a ballot replaced as a result of spoiling it. This was limited to three times. It is presumed that if an elector failed to “get it right” after three attempts then that voter forfeited the right to vote.

The procedure for replacing a spoiled ballot required the voter to present the spoiled ballot to the Chairman who would inspect the ballot before replacing it. This allowed the possibility for the Chairman to determine, depending on how the ballot was marked, how the voter did not wish to vote.

### *Special Polling Stations*

Special polling stations were also established for the purpose of accommodating voters in hospitals, prisons and on ships. While the hospital voting committees were recruited in the same manner as ordinary polling stations, the prison and ship committees were recruited from within/onboard the prisons and ships. Procedures were otherwise the same as ordinary polling stations.

Voting was also arranged through overseas missions for those who were abroad at the time of the election.

### **STEP 10: Counting and Tabulating Results -- May 30 to June 17**

The actual counting of the ballots was conducted at each polling station on Election Day, commencing immediately after the voting closed at 2:00 PM. It was frequently reported that the vast majority of voters had cast their votes by noon and that the last two hours of polling were extremely quiet with only a few late comers. It was claimed that, on average, counting would be completed within one to two hours.

The rules governing the validity of the ballot were basic but stringent. The hole punched in the ballot had to be within the outer border of the party symbol. Should the hole be anywhere else, whether or not the intention of the voter was clear, the ballot would be rejected as invalid. Likewise, if there was more than one hole or none at all, then the ballot would be rejected. Any other marking on the ballot would also render it invalid.

If a voter managed to place a ballot into the wrong ballot box for that level (e.g., DPR vote in the DPRD I box), then that ballot would also be rejected.

In addition to the official witnesses (political party agents), members of the public were entitled to be present during the counting. There was no limitation as to the number that could be present. It was suggested that in Jakarta the largest number of members of the public who attended the count was approximately 60. Candidates, however, were not permitted to be present during the count.

The results as counted at each polling station, together with the resealed ballot box containing the used ballots, were transported to the election committee at the regional or provincial level by the chairman of each polling station, ostensibly accompanied by official witnesses and (room permitting) other members of the voting committee.

The results were then entered into a computer and final results were determined for that level, regional or provincial. Other results were then transmitted to the provincial and/or national election committees, as required.

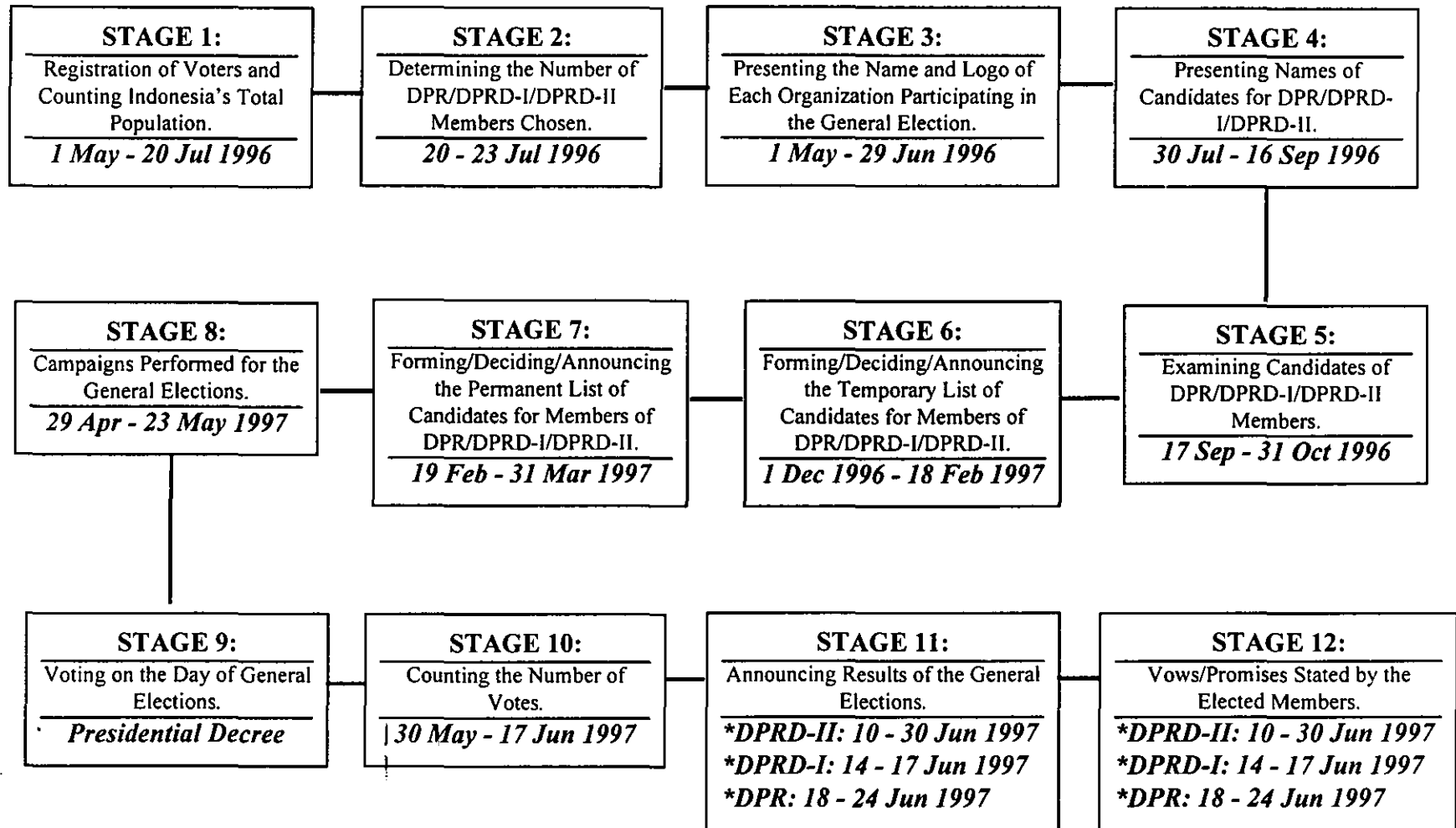
**STEP 11: Announcing Election Results: DPRD II - June 10 to June 13;  
DPRD I - June 14 to June 17; DPR - June 18 to June 24**

The election results were announced at each level after confirmation (Certification) of the results by the LPU.

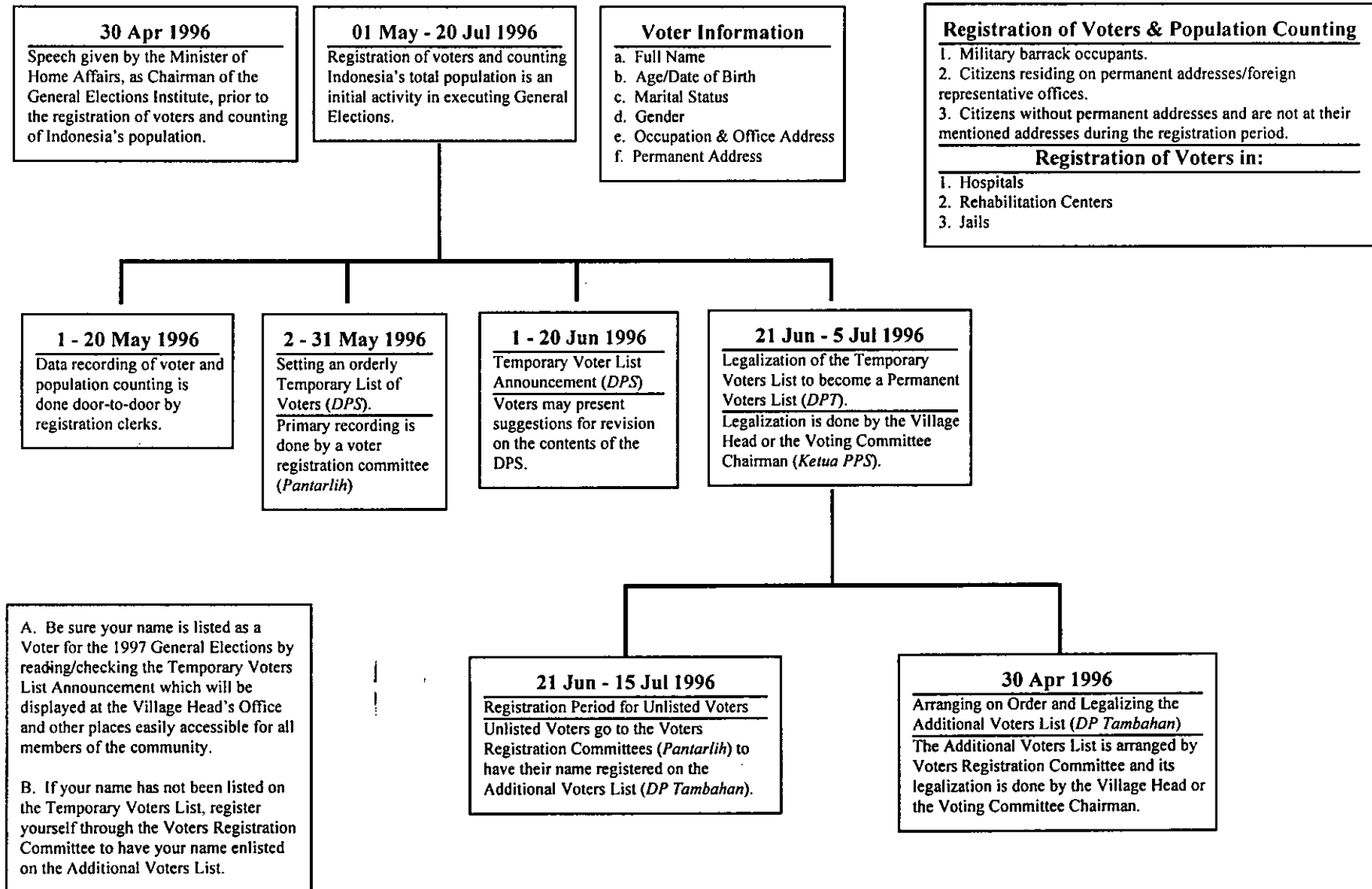
**STEP 12: Inauguration of Parliament: DPRD II - July 11, 1997;  
DPRD I - July 18, 1997; DPR/MPR - October 1, 1997**

The inauguration of each level of Parliament took place separately to enable the lower levels to appoint nominees to the DPR.

## TWELVE STAGES OF ACTIVITIES IN THE 1997 GENERAL ELECTIONS



## 1997 GENERAL ELECTIONS: REGISTRATION OF VOTERS & INDONESIA'S TOTAL POPULATION



Attachment Two

**DISTRIBUTION OF ELECTORAL SEATS  
FOR PEOPLES'S REPRESENTATIVE COUNCIL (DPR)  
UNDER DRAFT ELECTION LAW OF THE MINISTRY OF HOME AFFAIRS**

**Effects of Seat Distribution Based on Kabupaten / Kotamadya**

*The following analysis is based on data provided by the Ministry of Home Affairs.*

The MHA draft election law submitted to the DPR in September provides for 428 single member districts (and 67 national "adjustment" seats) for electing DPR members. Electoral districting is based on 314 traditional administrative districts (kabupaten/kotamadya) within 27 provinces. Each district is apportioned at least one seat, except for six administrative districts with a population of less than 50,000 people (which will be joined with a neighboring district). Additional electoral districts are provided more populous areas based upon a representational quota of 600,000 people.

The combination of guaranteeing one seat for 308 administrative districts and the representational quota yielded the number of 428 single member seats. This formula also worked efficiently to produce the desired political balance between Java/Bali (215 seats) and the provinces outside Java and Bali (213). If based solely upon population, 428 seats would be distributed: 257 within Java and Bali and 171 in the remainder of the country.

Number of Administrative Districts: 314\* (Within Java/Bali: 117; Outside Java/Bali: 197)

Number of Administrative Districts Entitled to One Seat Only: 232 (74%)	232
Within Java/Bali: 58	
Outside Java/Bali: 174	
Number of Administrative Districts Entitled to Two Seats: 52 (17%)	104
Within Java/Bali: 39	
Outside Java/Bali: 6	
Number of Administrative Districts Entitled to Three Seats: 14 (4%)	42
Within Java/Bali: 11	
Outside Java/Bali: 3	
Number of Administrative Districts Entitled to Four or More Seats: 10 (3%)	50
Within Java/Bali: 10	
Outside Java/Bali: 0	
Total Seats	<u>428</u>



\* (Six districts (2%) entitled to no seats)

Number of Administrative Districts With Population Under 50,000:	6
Within Java/Bali: 0	
Outside Java/Bali: 6	
Number of Administrative Districts With Population Between 50,000 – 150,000:	34
Within Java/Bali: 4	
Outside Java/Bali: 30	
Number of Administrative Districts With Population Between 150,000 - 300,000:	63
Within Java/Bali: 10	
Outside Java/Bali: 53	
Number of Administrative Districts With Population Between 300,000 - 450,000:	48
Within Java/Bali: 7	
Outside Java/Bali: 41	
Number of Administrative Districts With Population Between 450,000 - 600,000:	30
Within Java/Bali: 6	
Outside Java/Bali: 24	
Number of Administrative Districts With Population Between 600,000 - 750,000:	31
Within Java/Bali: 17	
Outside Java/Bali: 14	
Number of Administrative Districts With Population Between 750,000 - 900,000:	26
Within Java/Bali: 16	
Outside Java/Bali: 10	
Number of Administrative Districts With Population Between 900,000 - 1.5 million:	52
Within Java/Bali: 36	
Outside Java/Bali: 16	
Number of Administrative Districts With Population Over 1.5 million:	24
Within Java/Bali: 21	
Outside Java/Bali: 3	

*Administrative Districts Within Java/Bali With Population Over 600,000: 90 of 117 (77%)*

*Administrative Districts Outside Java/Bali With Population Under 600,000: 154 of 197 (78%)*

### Attachment Three

## SUMMARY OF RECENT REVISIONS TO DRAFT LAWS FOR POLITICAL PARTIES AND DPR ELECTIONS

Draft laws to govern Indonesia's political parties and next year's elections to the People's Representative Council (DPR) were submitted by the Government to the current DPR on September 17, 1998. These drafts were largely the product of a working group appointed by the Minister of Home Affairs and headed by Dr. Ryaas Rasyid of the Indonesian Institute of Government Studies. The versions submitted to the DPR for legislative action were also the result of extensive debate within a high level interdepartmental working group of the Government, and included the following new or revised provisions.

### POLITICAL PARTY LAW

#### Chapter II Provisions on Establishment

*Article 2.* Paragraph 2 contains an added condition for establishing a political party: parties must be established by at least fifty people. This condition is in addition to mentioning Pancasila as the sole principle in the party's charter. Characteristics of the party must not be contradictory to Pancasila, and the party must not be discriminatory in providing for membership.

*Article 4.* This section is revised to require political parties to register with the Ministry of Justice rather than a state court. The Ministry of Justice will determine if the party has met the requirements under Articles 2 and 3 and will announce a party's qualification in the state newspaper.

#### Chapter VI Funding

*Article 13.* Paragraph 2 formerly prohibited political parties from establishing a business entity or owning more than 10% shares of any business. The revision changes the latter part to prohibit parties from owning any shares of a business entity.

*Article 14.* This section places limitations upon contributions to political parties and sets out record keeping requirements. A new paragraph 5 has been added to specify that donations of tangible items ("in-kind" contributions) must be valued at market rates and treated like cash donations under the law.

## Chapter VII Supervision and Sanction

*Article 17.* Paragraph 3 has been revised to specify that persons who deliberately make a donation to a political party in excess of the limitations provided in Article 14 may be fined up to a maximum of one hundred million rupiah. Paragraphs 4 and 5 have been added to include prohibitions upon contributions in the name of another made to avoid contribution limits (both provisions also encompass "in-kind" contributions). Paragraph 4 provides that anyone who deliberately gives money or items to another person to be donated to a political party in excess of the limitations under Article 14 shall be subject to a maximum fine of one hundred million rupiah. Paragraph 5 imposes a maximum fine of ten million rupiah for anyone who deliberately accepts money or items from someone to be donated to a political party in excess of limits.

## Chapter VIII Transitional Rules

*Article 18.* Paragraph 1 now specifies PPP, GOLKAR and PDI as the political parties that are "assumed" to have met the requirements for establishing parties under Articles 2 and 4 by virtue of those parties having participated in the 1997 general election.

# GENERAL ELECTION LAW

## Chapter II Electoral Districts and the Number of Seats

*Article 3.* Paragraph 3 contains the general rule in districting under this draft that all administrative districts (kabupaten/kotamadya) are entitled to at least one electoral district for elections to DPR. An exception has now been added to exclude administrative districts with populations of less than 50,000 from this guarantee. (Six administrative districts [all outside Java and Bali] appear to have populations of less than 50,000.)

## Chapter III Execution and Organization

*Article 9.* Three new paragraphs have been added to provide for a Secretariat led by a "Secretariat Head" (appointed by the Minister of Home Affairs) to assist the National General Election Commission (KPU) in conducting elections. Paragraph 8 states that "The National KPU Secretariat Head will technically/administratively be accountable to the Minister of Home Affairs and will technically/operationally be accountable to the National KPU."

*Article 10.* Three new paragraphs provide for a corresponding secretariat and Secretariat Head (appointed by the Provincial Governor) to assist the First Level Provincial KPU in conducting elections. (See above)

*Article 11.* Three new paragraphs provide for a corresponding secretariat and Secretariat Head (appointed by the Municipality Head) to assist the Second Level Municipal KPU in conducting elections. (See above)

*Article 12.* Paragraph 2 has added as a responsibility of the National KPU the authority to determine whether political parties are qualified to participate in the general election.

#### Chapter VI Requirements to Participate in the General Election

*Article 30.* Paragraph 1 now provides that the requirements for political parties to qualify to participate in the general elections based upon organizational structure and signature collection are alternative conditions rather than cumulative; i.e., parties must either form central committees in at least half (14) of the provinces and in half of the municipalities within those provinces or collect at least one million signatures. New Paragraph 2 provides that registered political parties that fail to qualify to participate in the general election will continue to have their legal existence recognized.

#### Chapter VII The Right To Be Chosen and Candidacy

*Article 34.* This provision has been redrafted to specify that civil servants and members of the military must obtain a leave of absence from government service in order to be candidates in the election. (In the prior draft, this requirement was worded so that such candidates would be suspended or terminated from government service).

#### Chapter VIII Election Campaign

*Article 42.* Paragraph 3 now provides that reports submitted by candidates disclosing their receipt of contributions must be filed with the General Election Commission rather than Panwaslak (on the same time schedule). Paragraph 4 now specifies that donations to candidates of tangible items (“in-kind” contributions) must be valued at market rates and treated like cash donations under the law.

#### Chapter XIII Criminal Provisions and Offenses

*Article 60.* The list of punishable offenses and penalties has added three paragraphs relating to violations of campaign funding. Paragraph 13 provides that persons making a donation to a candidate in excess of contribution limits under Article 42 are subject to a maximum fine of one hundred million rupiah. Paragraph 14 provides for the same fine for persons who give money or items to another person to be donated to a candidate in excess of the limitations (contribution “in the name of another”). Paragraph 15 also imposes a maximum fine of one hundred million rupiah for anyone who deliberately accepts money or items from someone to be donated to a candidate in excess of limits.

**Attachment Four**

**LIST OF MEETINGS**

**Government of Indonesia**

Ministry of Home Affairs  
Ministry of Home Affairs Reform Team  
Jakarta Provincial Office  
Jakarta Provincial Election Office  
National Election Institute (LPU)  
Ministry of Justice  
Indonesian Institute of Sciences (LIPI)  
Bankalan District Officials, Madura  
Pasaruan District Officials, East Java

**Political Parties**

GOLKAR (Golongan Karya or Functioning Groups Party)  
PAN (Partai Amanat Nasional or National Mandate Party)  
Megawati's PDI (Partai Demokrasi Indonesia Perjuangan or Indonesia Democratic Party of Struggle)  
PPP (Partai Persatuan Pembangunan or United Development Party)  
PKB (Partai Kebangkitan Bangsa or National Awakening Party)

**NGOs, Social/Religious Organizations, Media**

Nahdlatul Ulama (NU)  
Ma'arif Study Institute  
*Far Eastern Economic Review*  
*The Jakarta Post*  
PT Intermatrix  
Free Flow of Information (ISAI)  
Konsorsium Reformasi Hukum Nasional  
Indonesian Legal Aid Foundation (YLBHI)  
Indonesian Legal Aid and Human Rights Association (PBHI)  
CPSM  
LP3ES  
INPI/PACT  
P3M  
INFID

**International Organizations and Governmental Agencies**

Embassy of the United States

United States Agency for International Development (USAID)

Office of Transition Initiatives (OTI), USAID

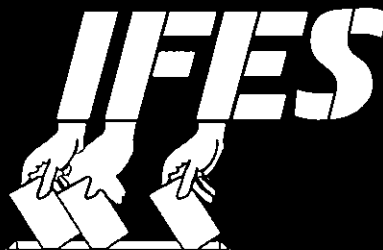
Management Systems International (MSI)

The Asia Foundation

National Democratic Institute (NDI)

International Republican Institute (IRI)

United Nations Development Programme (UNDP)



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