

# **PEOPLE'S CONSULTATIVE ASSEMBLY**

**(MAJELIS PERMUSYAWARATAN RAKYAT)**

SOEDIJANA

## **INTRODUCTION**

On October 1, 1972, the People's Consultative Assembly (MPR = Majelis Permusyawaratan Rakyat) was formally inaugurated in Jakarta. The PCA is the people's supreme council of the Republic of Indonesia. This PCA is the first one formed in full accordance with the 1945 Constitution and whose members were selected through the 1971 General Election.

This inauguration was followed by preparatory sessions to ensure due preparation for its plenary sessions of March 1973, the date going to be of the expiration of Soeharto's mandate as President. It is no wonder that the political climate in the country is dominated by the coming session of the PCA. This can be clearly observed from the fact that great numbers of Regional Houses of Representatives, even those Houses of Representatives from the less active regions, have called for sessions in order to discuss material sent for the coming PCA sessions. Moreover the PCA has become a frequent topic in various publications. This fact is as it should be, since the PCA is the institution that exercises fully the people's sovereignty and thus is the highest authority in the Republic.

## **THE MPR ACCORDING TO THE 1945 CONSTITUTION**

### **1. Status**

Sovereignty shall be vested in the people and is fully exercised by the People's Consultative Assembly. So reads the formulation in Article 1 no. 2 of the 1945 Constitution. It is therefore the people that holds sovereignty. And this sovereignty of the people is carried out through the PCA. Consequently, the PCA is the highest authority in the Republic. This means that all other political institutions are under the PCA, while the decrees issued by the PCA are to be

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observed by all and no other political institution has the right to act against those decrees or to neglect them.

How is then the people's sovereignty to be realized by this PCA ? As the supreme authority in the Republic the PCA has the full right to make a Constitution. The PCA itself has naturally to obey and to act according to the decreed Constitution. As the supreme political institution, the PCA has the right and duty to define the basic political principles or the basic guidelines for the State, which we can call the Outlines of State Policy.

It is due to this supreme legislative power that the PCA has the right to elect the President and the Vice-President. And so it is that the President of the Republic of Indonesia is accountable to the PCA since he is mandated by it and is responsible to the PCA. Therefore if the PCA considers that the President is not acting in line with its decrees, namely the Constitution and the Outlines of State Policy, then the PCA has the right to withdraw the President's mandate even when the presidential term has not yet been completed.

It is obviously impossible for the PCA to exercise efficiently a daily supervision of the President and his activities. Hence this function of supervision of the President is carried out by the House of Representatives, the members of which are ex-officio and are expected to convene at least once a year.

This does not mean that the President is then to be responsible to the House of Representatives (DPR). Indeed the DPR is to supervise the President, but he is not responsible to it. However the DPR's position is by no means weak, since it has the authority to call for a special session of the PCA in the event that the DPR considers the President has acted against the Constitution or any PCA decrees. And in such a special session the President is to account for his actions.

### 2. Function

From the above explanation the following conclusions can be drawn as to the functions of the PCA. These are:

1. To exercise the sovereignty of the people (Article 1 no. 2 1945 Constitution)
2. To draw up the Constitution (Article 3 1945 Constitution)
3. To draw up the Outlines of State Policy (Article 3 1945 Constitution)
4. To elect the President and Vice-President (Article 6 no. 2 1945 Constitution).

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5. To accept or reject the President's account of his mandate (This function is formulated in the General Explanation on the Constitution, concerning the Government system in the Republic)
6. To convene at least once every five years (Article 2 no. 2 1945 Constitution)

Further explanations will be given on how these functions are brought into practice.

### 3. Structure

According to Article 2 no. 1 of the 1945 Constitution, the PCA consists of the members of the House of Representatives with the addition of delegates from regional territories and the group representatives. All these are to be further defined by subsequent legislations.

The authentic commentary on the 1945 Constitution does not give any explanation of what is meant by regional delegates. Only concerning the group delegation, explanation is given that the meaning of the so-called group-delegation is: institutions such as Corporatives and Labour Unions. This idea is in line with existing social development. As the authentic explanation suggests the fostering of Corporatives, it can be concluded that the so-called group delegation has an economic connotation. So this is the authentic commentary.

Disputes may arise concerning the exact meaning intended by the authentic commentary. What, for example, is meant exactly by the term 'corporatives'? Does it mean corporatives in a specific sense, or does it imply corporatives in general? This is quite disputable since there are many kinds of corporatives, such as corporatives for consumption and corporatives for production.

But Article 3 no. 1 of the Constitution declares that: ..... "all are to be defined by further legislation". This means that the explanation concerning this disputable terminology is to be looked for in the respective legislation. And this is found in 'Statute No. 16/1969. This matter however will be explained later "when we speak of the MPR after the General Election".

Due to the importance of these group delegations for the understanding of the political process in Indonesia, some notes on them are necessary. Formally, this group delegation implies fundamentally a professional-ingrouping (such as farmers, labourers etc) and social-ingrouping (such as women, youth etc). Materially however, the so-called group delegation implies concretely representatives of various political parties, based on political ideologies. Hence those representatives are in fact affiliated with their respective political parties, such as the PNI (Nationalist Party), the PKI (Communist

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Party), the Nahdatul Ulama (a Moslem Party) etc. Here is precisely the political irony that at last the group delegation means exactly the same as a delegation from the existing political parties. This is the reason why in the latest legislation, namely statute No. 16/1968 distinction is to be made between political groups and functional groups. This will be clarified further on.

### **SOME HISTORICAL NOTES ON THE PEOPLE'S CONSULTATIVE ASSEMBLY**

#### **1. The Period of the Central Indonesian National Committee**

On the day following the proclamation of independence (17 August 1945), the Indonesian Independence Preparatory Committee ratified the 1945 Constitution and elected Soekarno and Hatta as President and Vice-President of the Republic. The political conditions made a full observation of the Constitution hardly feasible. Only the Transitory Articles of the Constitution were capable of observance, particularly these concerning the PCA. Article IV of the Transitory Regulations says that: "before the Majelis Permusyawaratan Rakyat has been formed, all their rights are to be supplied by the President assisted by a National Committee.

On August 22, 1945, the Preparatory Committee session decided to establish the intended National Committee. Hence on August 29 the Preparatory Committee was dissolved by the President and in its place the Komite Nasional Indonesia Pusat (KNIP — the Central Indonesian National Committee), was established. In line with Article IV of the Transitory Regulations, the CINC function was merely to assist the President in supplying the functions of the PCA, the DPR and the DPA. The CINC had therefore only an assisting function to the President, while the functions, the rights and duties proper to the PCA were then basically in the hands of the President.

On October 16, 1945, a decree was issued signed by the Vice-President. This is then the reason why the decree was called the Vice-Presidential Decree, number 'X'. This decree has special importance, since it changed the status of the CINC. The decree stated that the CINC is to be vested with full legislative powers and had the right to outline the Outlines of State Policy together with the President, as long as the PCA and the DPR had not been established. It was further stipulated in the decree that the CINC would delegate its power to a permanent organ, called the Badan Pekerja or the Working Committee of the CINC. This was considered necessary due to the crucial political situation at the time and the

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difficulty for the whole of the CINC to convene frequently. The Badan Pekerja however was to be responsible to the CINC.

Through this decree the CINC was no mere assisting institution for the President, but it had an equal status and position, since it was fully vested with legislative powers and rights to set up the Outlines of State Policy jointly with the President. In this new scheme, the power of the PCA to decree Outlines of State Policy is supplied by the President and the CINC.

The CINC as well as its Badan Pekerja had in fact issued several statutes. Their right to decree Outlines of State Policy was once realized when they gave political proposals to the Government, which was afterwards understood as the "Political Manifesto" of November 1, 1945. Later, the CINC and its Badan Pekerja made many important decisions in their general sessions, especially in the fifth and sixth general sessions, in which the Linggarjati Agreements and the Round Table Conference Decrees were discussed.

The period of the CINC was ended on December 27, 1949, since by that time the Republic of Indonesia had transferred her sovereignty to the Republic of the United States of Indonesia, in which the Republic of Indonesia became one of sixteen other federal states.

From its inauguration on August 29, 1945, to its dissolution on December 27, 1949, the CINC had six general sessions:

1. August 29, 1945, in Jakarta.
2. October 16 — 17, 1945, in Jakarta.
3. November 25 — 27, 1945, in Jakarta.
4. February 23 — March 3, 1946, in Solo.
5. February 25 — March 6, 1947, in Malang.
6. December 6 — 15, 1945, in Jogjakarta.

### **2. The Period of the Constitution of the Republic of the United States of Indonesia and the Period of the 1950 Provisional Constitution**

The People's Consultative Assembly, as decreed in the 1945 Constitution, is not found in the Constitution of the Republik Indonesia Serikat (Republic of the United States of Indonesia) in 1949. According to the Republic of the United States' Constitution: "the sovereignty power of the Republic of the United States of Indonesia is exercised by the Government jointly with the Parliament and the Senate" (Article 4 no. 2, RIS Constitution). Meanwhile the power to enforce the Constitutions is in the hands of the Constitution Assembly jointly with the Government (Article 186 of the same Constitution). The President is elected by the delegates from the respective federal states (Article 69 no. 2 of the same Constitution).

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In the 1950 provisional Constitution as well the People's Consultative Assembly of the 1945 Constitution does not exist. Indeed in the 1950 Provisional Constitution it is stated that "the sovereignty of the Republic of Indonesia is in the hands of the People", but these Provisional Constitutions further decree that : "the sovereignty is exercised by the Government jointly with the Parliament" (Article 1 no. 2 of the 1950 Provisionary Constitution), while the 1945 Constitution decrees that the sovereignty of the Republic of Indonesia lies in the hands of the People, "and is fully implemented by the People's Consultative Assembly" (Article 1 no. 2 1945 Constitution).

According to the 1950 Provisional Constitution, the power to draw up the Constitution is exercised by the Constituent Assembly jointly with the Government (Article 134 1950 Provisional Constitution). Hence there emerged a different constitutional system from that of the 1945 Constitution. The same is the case with the power of electing the President and the Vice-President. According to the 1945 Constitution it is the People's Consultative Assembly which is to elect them (Article 6 no. 2), while the 1950 Provisional Constitution declares that this power is to be defined by further legislation (Article 45 no. 3).

In conclusion: in the period of the 1949 Constitution of the Republic of the United States of Indonesia as well as of the 1950 Provisional Constitution, the People's Consultative Assembly as outlined in the 1945 Constitution is not found, and the powers ascribed to the PCA by the 1945 Constitution are given to other bodies.

### 3. The Period of Guided Democracy

On July 5, 1959, President Soekarno issued a decree declaring the re-enforcement of the 1945 Constitution, in which we find the following statement:

1. The Constituent Assembly is to be dissolved.
2. The Constitutional re-enforcement of the 1945 Constitution is for the whole of Indonesian people and all Indonesian territories dating from this decree's proclamation, and hence the provisional 1950 Constitution had become null.
3. The People's Consultative Assembly, which consists of members of the House of Representatives together with delegates from regional territories and of other groups as well as the Dewan Pertimbangan Agung (the Supreme Advisory Council) are to be set up and organised as soon as possible.

In accordance with the decree, the President had in his presidential Order no. 2/1959 established the People's Provisional Consul-

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tative Assembly. Article 1 of this Order laid down the following prescriptions:

1. Before the establishment of the People's Consultative Assembly which will be fully in accordance with Article 2 no. 1 of the 1945 Constitution, a Provisionary Council (MPRS) is to be established consisting of members of the House of Representatives as defined in this same order, together with delegates from regional territories and from groups provided for by the order's regulations.
2. The number of the members of the People's Consultative Assembly is to be decided by the President.

Meanwhile article 2 of this presidential Order decreed that the number of delegates from the regional territories were to be increased by delegates from other groups was specified as delegates from provinces and from functional groups in society.

In the general elucidation of this presidential Order it was stated that membership of the People's Consultative Assembly was fully in accordance with article 3 no. 1 of the 1945 Constitution, and that the President was to be accountable for this presidential Order only in front of the People's Consultative Assembly.

Article 3 of the presidential Order declared that some members of the People's Consultative Assembly were to be named by the president. In the elucidation, it was stated as a consequence of the principle of Guided Democracy that the President had the right to determine the number as well as to nominate the members of the People's Consultative Assembly.

Article 4 of the presidential Order declared that the nominated members of the Assembly had to take the oath of office in presence of the President or of the Chairman of the Provisional Assembly authorized by the President to take his place. From this presidential Order it is evident that membership of the Provisional People's Consultative Assembly (MPRS) was composed of:

1. Members of the House of Representatives (members of the Parliament chosen in the general election of September 29, 1955, according to the Legislation on General Elections, no. 7, 1953).
2. Delegates from functional groups (the so-called Golongan Karya).
3. Delegates from provinces.

From the very fact that the membership of the Assembly, and even the individual members of the Assembly, were nominated by the President, and from the very fact that those members had to swear a solemn oath in presence of the President, it is difficult to see that the President is indeed mandated by the council and is to be responsible to it. It is indeed very difficult to see that the Provisional Assembly was the highest authority in the Republic. This was

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affirmed by a subsequent order which decreed that the Chairman as well as the Vice-Chairman of the Provisional Assembly were to be named by the President (Article 5 no. 2 of the Presidential Order no. 2/1959). Hence they were by no means elected by the Assembly itself. It was even stated that in case there was a vacancy of chairmanship or of vice-chairmanship the President was to be informed immediately, so that he could immediately name their successors (Article 7 no. 4 of the Ordinance of the Provisional Assembly; Decree of the Provisional Assembly, no. 1/1960).

The status as well as the function of the People's Consultative, which was to be the Supreme Council holding the highest authority in the Republic while exercising the sovereignty of the People, had become increasingly confused and degraded. It came to resemble a force when the Chairman and the Vice-Chairman of the Provisional Assembly were nominated as Ministers.

It is clear therefore that the Provisional People's Consultative Assembly in the period of Guided Democracy was absolutely under the President. No wonder, therefore, that the Provisional Assembly through its Decree No. III/1963, May 18, 1963, declared Dr. Ir. Haji Soekarno, Great Leader of the Revolution, President of the Republic of Indonesia, to be "President for life of the Republic of Indonesia".

The Provisional had indeed issued Decrees on Outlines of State Policy. It is of some importance to mention them, namely:

1. Decree No. I/1960, issuing the Manifesto Politik (Political Manifest) of the Republic of Indonesia, drawing up the basic Outlines of State Policy.
2. Decree No. II/1960 issuing basic Outlines for an Overall National Development Plan for 1961 — 1969.

### **4. Period of the New Order**

#### **A. The Period before the 1971 General Elections**

Certain data has been given concerning political facts indicating deviation from Pancasila and from the 1945 Constitution. One of the most fundamental deviations had been the identification of Pancasila with the so-called Nasakom (a kind of political syncretism comprising nationalism, religion and communism). The tragedy began when Pancasila was at one time compressed into Trisila (Three Basic Principles), which was further compressed into Ekasila (One Basic Principle) which was gotong-royong. This was then further explained by the late President Soekarno as explicitated in the so-called Nasakom, which was meant as cooperation (gotong-royong) among Nationalist groups, Religious groups and the Communists.

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Through their several attempts at rebellion it was later shown that the Communists could not possibly foster nor live up to the ideals of Pancasila. However, President Soekarno repeatedly affirmed that there was no Pancasila without the Indonesian Communist Party (PKI). No wonder then that the PKI rebellion on September 30, 1965, (known afterwards as Gerakan 30 September — the 30 September Movement — abbreviated as G.30.S) was considered by President Soekarno as only a drop in the ocean.

It was largely due to Lieutenant General Soeharto's leadership that the G.30.S/PKI was then crushed. On March 11, 1966, an Order was issued by President Soekarno to Lieutenant General Soeharto to take all necessary actions to maintain peace and security needed for stabilizing the Government and the Revolution, for the sake of national integrity of the People and the Republic. This was the beginning of the New Order.

In his official speech before the House of Representatives on August 16, 1970, President Soeharto declared that: "..... The New Order is merely the restructuring of the lives of the whole population, of the Nation and of the State, founded again upon consistent and authentic implementation of Pancasila and of the 1945 Constitution".

The political deviations from Pancasila have indeed brought about certain unfortunate setbacks in many aspects of the social life: economic calamity (hyperinflation), legal disorder (no existing legal certainty), social catastrophe (poverty, moral decadence). All these were caused by those leaders and Ministers directly as well as indirectly involved in the 30 September Movement. It was the youth and the students who launched vigorous demonstrations demanding what they called the Threefold Demands of the People's Conscience (Tri Tuntutan Hati Nurani Rakyat, or Tritura), consisting of:

1. Dissolution of the PKI
2. Dissolution of the existing Dwikora Cabinet
3. Lowering of the price of rice.

The political situation had become increasingly critical. However, due to genuine cooperation among the Armed Forces, youth and students and the common people, one day after the Order of March 11, by the Presidential Decree No. 1/3/1966, on March 12, 1966, the PKI was dissolved while Lieutenant General Soeharto resolutely purged the Cabinet, purifying it from the elements involved in the September 30 Movement and of corruptors.

a. **The Fourth Plenary Session of the Assembly**

All these political events have been outlined to describe the political situation in Indonesia before the Fourth Plenary Session of the Provisional People's Consultative Assembly. The session took place on June 20 — July 5, 1966. Aware of the serious deviations of the Old Order, the Provisional PCA had only one objective and intention, namely to provide for a restructuring of the life of the People, of the Nation and of the State, founded upon consistent and authentic implementation of Pancasila and of the 1945 Constitution. Thus through this assembly the Provisional PCA recovered its true status and function as it had been constituted by the 1945 Constitution. This plenary session of the Provisional Assembly demanded the President to account for the responsible exercise of his mandate. Meanwhile, the assembly had drawn up some fundamental decrees concerning the basic Outlines of State Policy, on the Republic's foreign and domestic policy, on economic and financial policy, on national development as well as social welfare, on defence and security and on law.

President Soekarno gave his accountability in a speech that afterwards was known as Nawaksara, which however was rejected by the MPRS as being incomplete. The speech was considered as imperfect and relevant, and the President was asked to give additional reports, particularly concerning the causes of the September 30 Movement. The President was to account for his responsibility for the epilogue of the September 30 Movement, and for the economic and cultural setbacks. In the future it was hoped that the President would submit a complete accountability report in accordance with the 1945 Constitution (Decree of the Provisional PCA No. 5/1966 Article 1 and 3).

Furthermore through its Decree No. 18/1966, the Provisional PCA abolished the decree establishing the Great Leader of the Revolution as President for life.

Concerning the presidency and vice-presidency, the Provisional PCA did not draw up any decree. This was because of political and psychological considerations. The Assembly declared that it would not elect the Vice-President. In case the President would be handicapped for some reason, the holder of the Order of March 11 was to fulfill the function of President, assisted by the Chairman of the Provisional PCA as well as those of the Provisional House of Representatives (Decree of the Provisional MPR No. 15/1966).

In the case of the President's death, resignation or incapacitation, an Acting President was to be elected by the

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Provisional PCA. He was to carry on the presidential functions until the reformation of the PCA through a general election.

There were special decrees concerning the PKI and Communism. Through its Decree No. 25/1966, the Provisional PCA dissolved the PKI and any other organisations affiliated to the PKI for all Indonesian territories. This decree was a confirmation of the Presidential Order No. 1/3/1966, March 12, 1966, which has been explained above. Furthermore, the Provisional PCA prohibited any activity fostering and spreading doctrines or ideologies based on Communism or Marxism-Leninism in any form. Exception was made for scientific studies such as those in Universities for the purpose of defending Pancasila. This decree had one fundamental objective, namely to maintain and purify the authenticity of Pancasila.

Finally, the Assembly through its Decree No. 11/1966 verified the Order of March 11, and decreed that the holder of this Order held the powers granted by the Order until the reformation of the PCA by a general election. This decree was in fact very important.

Through the decree of this Provisional PCA No. 9/1966, the holder of the Order of March 11 was permitted to form an Ampera Cabinet (a new Cabinet) and to dissolve the second Dwikora Cabinet, since this Dwikora Cabinet by no means had the confidence of the people. People were already sceptical enough about the fulfillment of the Threefold Demands of the People's Conscience.

In this plenary session the Provisional PCA had rediscovered its function. It began to realize concretely the authentic implementation of Pancasila and of the 1945 Constitution. This beginning was to be continued in succeeding sessions.

### **b. The Special Session of the Provisional People's Consultative Assembly (MPRS)**

The supplement to the Nawaksara (the President's accountability report), demanded by the Provisional PCA was sent as a written document to the Chairman of the Provisional PCA on January 10, 1967. It was evident then that President Soekarno declined to account for his responsibility to the Provisional Assembly. Among other things he said that the Nawaksara speech was given by President Soekarno himself and that the September 30 Movement was absolutely unexpected also for him. The September 30 Movement was just an error committed by the leaders of the PKI. It was also due to the shrewdness of the Neo-colonialists and

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moreover due to the Presence of some unintelligent persons. In this supplement Soekarno even accused other people so that it was those people who had to answer for their accountability: "Why should I account for my responsibility on the so-called Septembar 30 Movement, which I myself prefer to call Gestok (October First Movement). Was the Defense-Minister not responsible for it? Is he not to account for his responsibility?"

The tense political situation had become more and more critical, especially after the delivery of the Nawaksara speech and its supplement, because of reactions to the speech in the PCA, House of Representatives, and among the people.

It was in this situation that a resolution was passed in the Provisional House of Representatives (by Nuddin Lubis and others) to call for a special session of the Provisional PCA. After having deliberated, the Provisional House of Representatives accepted the proposal. It was to be on February 9, 1967. Meanwhile the Provisional House of Representatives had issued a Memorandum on President Soekarno's accountability speech and on his presidential leadership. In this Memorandum the following conclusions were noted :

1. That the presidential leadership of Soekarno, constitutionally, politically and ideologically was endangering national security and the integrity of the Nation, of the State and of Pancasila.
2. The account for his responsibility in carrying out his mandate as president, especially the Nawaksara speech and its supplement, did not fulfill the demands of the 1945 Constitution, and was therefore being rejected by the Provisional House of Representatives.
3. There had been some indications that the President had been involved in the September 30 Movement. The Commander for Restoration of Security and Order was to organize further investigations.

The Provisional House of Representatives was convinced that the President as a 'Mandatar' of the Provisional People's Consultative Assembly had neglected basic directives drawn up by the Assembly. Hence the Provisional House of Representatives demanded the Chairmen of the Provisional People's Consultative Assembly to call a special session for the purpose of :

1. Putting an end to Soekarno's term as president and to elect an Acting President in accordance with the

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decree of the Provisional People's Consultative Assembly No. 15/1966.

2. Commanding the competent judicial institution to initiate legal investigation and prosecution of President Soekarno.

The Provisional People's Consultative Assembly then called for special session. It took place on March 7 — 12, 1967. The Assembly issued only four decrees, which were, however, of great importance, since they were to pave the way for a new political period. The importance of this session was due to several factors :

1. The special session was a constitutional precedence in restoring the constitutional status and function of the House of Representatives.
2. The special session had restored the constitutional dignity of the People's Consultative Assembly as the people's supreme council, by the fact that in this special session the Provisional People's Consultative Assembly terminated Soekarno's presidency. Hence the position of the Assembly was shown to be superior to that of the President, which was actually in accordance with the 1945 Constitution. The Assembly demanded that President Soekarno account for his responsibility, and finally, convinced that the President had gone against the basic directives of the Provisional People's Consultative Assembly, the Assembly therefore terminated his presidency.
3. The special session paved the way for the consistent and authentic implementation of the 1945 Constitution, through its decree to revise the so-called Political Manifesto and to draw up new Outlines of State Policy to meet the demands and expectations of the changing situation.

In order to ensure the authentic implementation of Pancasila and to abolish any existing 'cult devoted to an individual person', the special session issued a decree to abolish the committee for the rectification of the doctrines of Bung Karno, on the principle that he was to be regarded as one among other writers in Indonesian society. Furthermore, the title "Great Leader of the Revolution" was abolished.

As a consequence of the decrees issued, the special session of the Provisional People's Consultative Assembly in accordance with the decree of the same Provisional People's Consultative Assembly No. 15/1966, elected General Soeharto

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as Acting President. This was constituted in its decree no. 23/1967.

### c. **The Fifth Plenary Session of the Provisional People's Consultative Assembly**

To implement the decree issued by the Fourth Plenary Session of the Provisional People's Consultative Assembly, due preparation was made to call for the Fifth Plenary Session of the same Assembly. According to the suggested time-schedule and due to General Soeharto's planned visit to Japan, the Fifth Plenary Session of the Provisional People's Consultative Assembly took place from March 21 to 27, 1968. This proposed time-schedule had to be changed, as Committee II and Committee III found crucial difficulties in drawing up the prepared Outlines of State Policy, on Human Rights, on Supplements to the 1945 Constitution and on the Allocation of Powers for Political Institutions defined by the 1945 Constitution, so that the Assembly had to be prolonged until March 30, 1968, without, however, positive consent from the two committees mentioned above. On the other hand the other two committees had worked smoothly. In Committee II and Committee III political and ideological tensions were unavoidable, quite the same experience as in the 1959 Constituent Assembly. This Fifth Plenary Session of the Provisional People's Consultative Assembly did nonetheless issue several important decrees, namely :

Decree No. 41/1968 : on the postponement of the General Election from July 5, 1968, to July 5, 1971.

Decree No. 41/1968 : on the main programs for the Pembangunan Cabinet (Cabinet for Development)

Decree No. 44/1968 : on the nomination of the Holder of the March 11 Order as President of the Republic of Indonesia.

Other important decrees were: no. 37/1968 on guidelines concerning the implementation of the democratic principle in the Council and in Representation, and the decree which renders null the decree no. 8/1965 of the Provisional People's Consultative Assembly.

### d. **Chairmanship of the Provisional People's Consultative Assembly and its Working Committee**

Some clarification is obviously needed concerning the chairmanship of the Provisional Assembly as well as the Working Committee of the Provisional People's Consultative

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Assembly. These two institutions have in fact an important role and function. This is evident from the Ordinances of the Provisional People's Consultative Assembly.

The functions of the Chairmen of the Provisional People's Consultative Assembly are defined by the Ordinances as follows :

- a. To preside at the Provisional People's Consultative Assembly and to act as its representatives.
- b. To observe and to control the implementations of the decrees issued by the Provisional People's Consultative Assembly.
- c. To plan the functions and describe the jobs of the Chairman and the Vice-Chairmen respectively.
- d. To collect and to study all materials suggested by the members of the Provisional People's Consultative Assembly. The suggestions can be presented during the session as well as outside the session of the Provisional People's Consultative Assembly.
- e. To make due preparation for the Assembly and its session. To preside over the sessions of the Provisional People's Consultative Assembly, and to see that the plenary session is carried out in an orderly way according to the Ordinances, based upon the principles of democracy as in Pancasila, that is to arrive at a consensus through thoughtful deliberation among all representatives.
- f. To deliver to the President the decrees issued by the Assembly.

Some comments should be made on the functions vested in the chairmanship of the Provisional Assembly. Especially those concerning two functions should be noted, namely that of presiding and representing the Assembly and that of observing and controlling the implementation of the decrees. Some critical evaluation of those two functions has been expressed as follows :

1. Due to those Ordinances, the function vested in the chairmanship of the Assembly has become institutionalized, and this can be carried out during sessions of the Assembly as well as outside the session period.
2. No definite regulation is laid down concerning the accountability of the chairmanship of the Assembly to whom accountability is to be given.
3. In line with the Constitution the function to observe and to control the implementation of the decrees issued

by the Assembly is to be vested in the House of Representatives, and not in the chairmanship of the Assembly.

4. The so-called institutionalised 'chairmanship' has created a dualism.
5. The People's Consultative Assembly as the people's supreme council, exercising the sovereignty of the people can by no means be represented by particular persons except for a particular task, within a specified time and with the duty of accountability to the Provisional People's Consultative Assembly. This task of "representation" is an exaggeration.

Finally, concerning the Working Committee of the Assembly. First of all, we should note that the Working Committee or the Badan Pekerja of the Assembly is to be subordinate to the Chairmanship of the Assembly. These are the functions vested in this Badan Pekerja according to the Ordinances of the Provisional People's Consultative Assembly:

1. To decree the sessions of the Assembly.
2. To plan the agenda for the sessions.
3. To prepare the projects, decrees and decisions, to be issued by the Assembly.
4. To collect and synthesize all reports received.
5. To observe and to control the implementation of the decrees issued.
6. To carry on the administrative functions of the Assembly, including personnel management.
7. To make a study of the proposed Budget of the Assembly, prepared by the Secretary General of the Provisional Assembly.

Comments and critical evaluation are in order on the functions of this Badan Pekerja. The Badan Pekerja has become institutionalized, and this can easily create political, administrative and even budgetary confusion.

There are naturally other bodies in the Assembly, such as Committees. These are common for all assemblies or conferences. Hence no special description or comment is needed. Furthermore, we shall examine this question in our discussion of the People's Consultative Assembly as it has been constituted after the General Election of 1971.

## **B. The People's Consultative Assembly after the General Election**

In accordance with the decree of the Provisional People's Con-

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sultative Assembly and on further legislation in statutes No. 15/1969 and No. 16/1969, a General Election was held on July 5, 1971. This General Election was based upon the principle of an election which is free, direct, secret, and public. The election has as aim the choice of members of the House of Representatives as well as of the Provincial House of Representatives. Moreover, the election was at the same time in order to select the members of the People's Consultative Assembly.

### a. People's Consultative Assembly Membership

Article 2 no. 1 of the 1945 Constitution declares that the People's Consultative Assembly shall be composed of:

1. members of the House of Representatives
2. delegates from regional territories
3. delegates from other groups

There are 460 members of the House of Representatives, who are ex-officio members of the People's Consultative Assembly, of whom 360 have been chosen through a general election while the other 100 have been nominated by the President. This is in accordance with the legislation in statute no. 16/1969.

Delegates from regional territories are understood as delegates from the Provinces, of which there are 26 in the Republic. However the number of delegates from these provinces is determined by the population in the respective provinces. Article 8 of statute no. 16/1969 gives the following directions:

1. provinces with a population of less than 1 million will have 4 representatives.
2. provinces with a population of 1 — 5 million will have 5 representatives.
3. provinces with a population of 5 — 10 million will have 6 representatives.
4. provinces with a population of more than 10 million will have 7 representatives.

According to an ordinance issued by the Minister of Domestic Affairs there are 130 delegates from the provinces, according to the following ratios :

- |                  |   |
|------------------|---|
| 1. Aceh          | 5 |
| 2. North Sumatra | 6 |
| 3. West Sumatra  | 5 |
| 4. Riau          | 4 |
| 5. South Sumatra | 5 |

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6. Jambi	4
7. Bengkulu	4
8. Lampung	5
9. West Java	7
10. Jakarta	5
11. Central Java	7
12. East Java	7
13. Jogjakarta	5
14. West Kalimantan	5
15. Central Kalimantan	4
16. South Kalimantan	5
17. East Kalimantan	4
18. North Sulawesi	5
19. Central Sulawesi	4
20. South East Sulawesi	4
21. South Sulawesi	5
22. B a l i	5
23. East Nusatenggara	5
24. West Nusatenggara	5
25. M a l u k u	5
26. West Irian	4

The delegates from the provinces are chosen by their respective Provincial House of Representatives, whose members are chosen through the general election.

Article 1 no. 1 of statute no. 16/1969 declares that by delegation from other groups is intended those delegates coming from the political parties and functional groups (karya-groups). The number of delegates of each group is in proportion to the number of delegates from the respective group as a result of the general election.

Article 1 no. 3b of the same statute states that in the case that a particular group, either political or functional, receives no delegate as a result of the general election, it should be assured 1 delegate in the Assembly. However, the number of assured delegates should not exceed 10.

Another Ordinance of the Minister of Domestic Affairs, as Chairman of the Committee for General Elections, gives the following statement regarding the number of delegates from various groups :

1. Partai Katolik (Catholic Party)	1
2. Partai Serikat Islam Indonesia, abbreviated to PSII (United Moslem Party)	3
3. Nahdatul Ulama, abbreviated into NU (Nahdatul Ulama Moslem Party)	20

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4. Partai Muslimin Indonesia, abbreviated into Parmusi (Muslimin Party)	8
5. Parkindo (Christian Party)	2
6. Partai Nasional Indonesia, abbreviated into PNI (Nationalist Party)	7
7. Golongan Karya (Functional Group)	79
8. Ikatan Pendukung Kemerdekaan Indonesia, abbreviated into IPKI (which has no single delegate in the House of Representatives)	1
9. Murba (which has no single delegate in the House of Representatives)	1.

As to the total number of People's Consultative Assembly members the following explanation will give the exact data. Article 1 no. 2 of statute no. 16/1966 says that the number of People's Consultative Assembly members should be twice the number of the members of the House of Representatives or the DPR. Article 10 no. 3 of the same legislation defines that the number of members of the DPR or the House of Representatives will be 460. Hence the members of the People's Consultative Assembly will be 920. Article 1 no. 4 of the same statute states that the number of the nominated members will be one third of the total number of People's Consultative Assembly members. This means that there will be 307 members nominated, of whom 100 are nominated members for the House of Representatives.

This is then the detailed number of all members of the People's Consultative Assembly after the last General Election :

Elected members	360	(members of the DPR or the House of Representatives)
Members from the delegation of the provinces	130	
Nominated members	307	
Members from the delegations added to political as well as to functional group	123	
<b>Total</b>	<b>920</b>	

**b. Composition of the Factions in the People's Consultative Assembly**

The Ordinances of the Provisional People's Consultative Assembly stated that every People's Consultative Assembly

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member was to belong to a faction according to his choice. Article 5 of this Ordinance decreed that there were 5 factions designated on the basis of existing political groupings and political convictions :

- These were :
1. The faction of Nationalists
  2. The faction of Moslems
  3. The faction of Protestants and Catholics
  4. The faction of Functional Groups
  5. The faction of regional interests.

Is the People's Consultative Assembly which has resulted from the last General Election going to follow this Ordinance? Obviously the People's Consultative Assembly of the General Election, which has recently been inaugurated will follow the organization into factions as set down in the Ordinances of the DPR of the General Elections. The following principles are found in this Ordinance :

1. The faction is meant to be a grouping of the members of the House of Representatives based upon the real political constellation in Indonesian society, which primarily comprises: the political group and the functional group.
2. The faction is composed to make for greater efficiency among the members as they exercise their functions.
3. Each member is to belong to a faction.
4. According to this article (no. 1 and 2) factions in the House of Representatives are to be as follows :
  - a. The Armed-Forces Faction
  - b. The Democratic Development Faction
  - c. The Functional Development Faction
  - d. The Unified Development Faction.

The appendix of the Ordinance indicates that the plenary session of the House of Representatives, October 19, 1972, has ratified the proposed composition of factions. Hence there are at present only 4 factions in the House of Representatives.

The ABRI Faction is the faction of the Armed Forces. The Democratic Development faction consists of: Nationalist Party, Protestant Party, Catholic Party. The Unified Development faction comprises 4 Moslem Political Parties, namely: Nahdatul Ulama, Parmusi, PSII and Perti.

Compared to the composition of the factions on the Provisional House of Representatives the present composition constitutes real progress. This organization has brought about the simplification of the political structure in Indonesian society. Furthermore this composition has ensured

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greater efficiency for the members in exercising their functions. One question to be raised is that concerning the nominated members. To which faction do they belong? Obviously the nominated members belong to the Karya Faction or the faction of the Functional Group, since they are nominated precisely because they do not belong to any political group or to any organization affiliated to a political group. If the composition of Factions in the House of Representatives is accepted by the People's Consultative Assembly, then the nominated members in the People's Consultative Assembly will naturally belong to the Karya Faction.

There seems to be no real difficulty about the delegates from the so-called 'other groups'. As they come either from a political group or a functional group in Indonesian society, so they naturally belong to the respective grouping in the People's Consultative Assembly.

One special remark is to be made here, namely concerning those delegates from the Provinces. They have their proper function. Obviously there should be a Regional Faction in the People's Consultative Assembly, a faction which consists of delegates from the Provinces.

### c. **The Function of the Present People's Consultative Assembly**

As has been explained in the beginning, the present People's Consultative Assembly, which has been inaugurated on October 1, 1972, will have its plenary session in March 1973. Since the present People's Consultative Assembly is composed in accordance with the 1945 Constitution, its function is to fulfill what has been decreed by the Constitution. One question which could be raised is whether or not the present People's Consultative Assembly must exercise all functions defined by the 1945 Constitution.

#### **Drafting of the Constitution**

The 1945 Constitution states that the People's Consultative Assembly has as function to draw up the Constitution. Is the present People's Consultative Assembly also to draw up the Constitution?

The People's Consultative Assembly has obviously a political character. And this character will influence its decrees as well as its deliberations. We must be able to learn from past history. It has been an historical fact in Indonesia that every time the 1945 Constitution was discussed, political conflicts and tensions were unavoidable. The Decree

5 July (1959) the tensions in the Committee II and Committee III of the Provisional People's Consultative Assembly, can be best understood against this background.

The function of the People's Consultative Assembly as defined in the 1945 Constitution is naturally not meant to be a source of political tension in the Republic. On the contrary it should be a means to maintain order and security. Hence all disputation on the Constitution is to be avoided. Fortunately this is also a general conviction within the Indonesian society. Several Provincial Houses of Representatives have demanded that the Constitution should not be discussed in the coming plenary session. Political Functional Groups have also given assurance that they will make no trouble on the question of the 1945 Constitution.

This applies as well to Pancasila. Since the 1945 Constitution is the crystallization of the principles of Pancasila, then there should be no question of political disputation on Pancasila.

### **Amending the Constitution**

Article 37 of the 1945 Constitution gives the right to the People's Consultative Assembly to make modifications in the Constitution. Is the present People's Consultative Assembly going to make use of this right? It also seems unnecessary to exercise this function.

And for the following reasons: The Memorandum passed by the Provisional House of Representatives on June 9, 1966, declared that there should be no modifications in the Preamble to the 1945 Constitution. since to modify the Preamble of the 1945 Constitution would mean to change the very foundation of the Republic of Indonesia. This Memorandum was ratified by the Provisional People's Consultative Assembly and has become the Provisional People's Consultative Assembly's decree no. 20. Furthermore statute no. 16/1969 expressed the agreement between the Government and the Provisional House of Representatives that the general election should not be an occasion for changing of the principles of the Republic and of the 1945 Constitution neither partially nor entirely.

### **Election of the President and Vice-President**

This function is defined in Article 6 no. 2 of the 1945 Constitution. In March 1973 the presidential mandate of General Soeharto will end. Hence the People's Consultative Assembly is to elect the new President of the Republic. The problem of presidential election does not seem to be a

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crucial one at present, since all political circles seem to favor re-election of General Soeharto as President. Until now there is no political group which has another candidate or is declaring against re-election of General Soeharto.

The same is not true of the office of Vice-presidency. Sultan Hamengku Buwono has been mentioned by Major General Ali Moertopo as a possible candidate for the Vice-presidency. The idea has been seconded by the Persatuan Pembangunan Faction of the House of Representatives from the Jogjakarta Province. However, there seems to be a national consensus, that the Vice-President must be able to work in close collaboration with the President. This is needed for greater efficiency in exercising the president's function. One question seems to be answered then, namely, the procedure for proposing candidates for the vice-presidency. A suggestion might be made here: would it not be better if the President-elect has the right to suggest candidates for the People's Consultative Assembly to elect ?

### **Drafting of the Outlines of State Policy**

The decree of the Provisional People's Consultative Assembly no. 34/1967 has ordered the revision on the Political Manifesto and even the creation of a new manifesto to take its place. This was to have been done by Committee II of the Fifth Plenary Session of the Provisional People's Consultative Assembly. But this Committee proved to be a total failure. Coincidentally, this coming April (1973) marks the beginning of the Second Five Year Plan (Repelita).

It seems necessary that the present People's Consultative Assembly draw up the Outlines of State Policy. This is also in accordance with the decree of the Provisional People's Consultative Assembly no. 42, ordering that the People's Consultative Assembly chosen in a General Election in its sessions of March 1973 have as task:

1. election of the President and the Vice-President
2. drafting of the Outlines of State Policy
3. drafting a Basic Five-Year Development Plan.

### **Acceptance or Rejection of the President's Accountability Report.**

The President is responsible to the People's Consultative Assembly. Today a question has been raised as to whether or not President Soeharto is to be responsible to the People's Consultative Assembly after the General Election. The

reason is that President Soeharto was elected President by the Provisional People's Consultative Assembly and so he is responsible only to the Provisional People's Consultative Assembly. But the Provisional People's Consultative Assembly no longer exists.

This is obviously a pseudo-problem. Basically the President is responsible to the People, since the sovereignty is vested in the People. But the People's Consultative Assembly, as the people's supreme council, fully exercises that sovereignty. The Assembly is the "Vertretungsorgan des Willens des Staatvolkes".

Consequently the President is always responsible to any people's supreme council. Hence President Soeharto has also to account for his actions to the present People's Consultative Assembly while the present People's Consultative Assembly is to evaluate, to accept or to reject.

**d. Complementary Institutions of the People's Consultative Assembly**

To fulfill its role and exercise its functions, the People's Consultative Assembly must naturally have its complementary institutions or mechanisms. These are especially the chairmanship and the Working Committee, which we have described and concerning which we have made some notes and comments.

Obviously the People's Consultative Assembly needs a presiding officer, hence a chairmanship is evidently necessary. However it is necessary to avoid any dualism, as has been explained previously. There should be definite specifications as to the role and functions of the People's Consultative Assembly's chairmanship. The Chairmen of the People's Consultative Assembly has basically a routine function. It is not expedient to give to any one person the right to control the implementation of the People's Consultative Assembly decrees and to give the function of representing the People's Consultative Assembly at any time. The controlling function is vested to the House of Representatives, while the People's Consultative Assembly cannot be represented. Naturally the People's Consultative Assembly chairmen have the duty to receive the suggestions of the members. This however must be understood in its passive meaning, since it is not feasible for the People's Consultative Assembly chairman to travel around the country to collect suggestions. Again, the People's Consultative Assembly chairman has only a routine function, to make due preparations for the People's Consultative Assem-

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bly sessions, to preside over its sessions and to see that Ordinances are observed.

This does not mean that the People's Consultative Assembly chairmanship is not imbued with dignity. This is the reason why the Chairmen of the People's Consultative Assembly must always be able to keep up with changing situations, and have the ability to see and to understand all matters discussed in the sessions.

It is advisable that the Chairmen of the House of Representatives are ex-officio Chairmen of that people's supreme council. This is to meet all the requirements listed above.

If this idea of chairmanship is accepted, then a permanent working committee is by no means necessary. Committees are created according to the urgency demanded by sessions to be held. The People's Consultative Assembly has the right to create several ad hoc Committees, while administrative jobs can be accomplished by a General Secretariat.

One suggestion may be noted here. If the Chairmen of the House will be ex-officio the Chairmen of the People's Consultative Assembly, it must then be kept in mind that delegates from regional territories must be represented. Hence if the composition of the House chairmanship is based upon the existing factions, then it is necessary that the Regional Faction be added.

To exercise its function the People's Consultative Assembly has naturally the right to compose factions as well as to organise Committees. As to the composition of factions, it would be advisable to take as model the composition of factions in the House of Representatives with the addition of the Regional Faction.

## CONCLUSION

As a conclusion to this basic informative data on the People's Consultative Assembly, a summary might be useful.

1. The KNIP (Central Indonesian National Committee) in accordance with Article IV of the Transition Regulations in the 1945 Constitution has the function to assist the President in his exercise of the functions of the People's Consultative Assembly, the House of Representatives and the Supreme Advisory Council. However, by Order of the Vice-President No. "X", the KNIP had a status equal to that of the President, since it was then vested

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with legislative powers and the right to draw up the Outlines of State Policy.

2. The People's Consultative Assembly was unknown in the period of the Republic of the United States of Indonesia as well as in the period of the 1950 Provisional Constitution. The functions vested in the People's Consultative Assembly were exercised by several political institutions.
3. A Provisional People's Consultative Assembly was established in the period of Guided Democracy, in line with the decree of the re-enforcement of the 1945 Constitution. However, it no longer exercised its proper function, and was even subordinated to the President. Hence it did not exercise the highest authority in the Republic. The Chairmen of the Provisional People's Consultative Assembly were nominated Ministers by President Soekarno.
4. The Provisional People's Consultative Assembly in the period of the New Order was aware of existing deviations from the authentic implementation of Pancasila and of the 1945 Constitution. It then began to work on a total restructuring in all dimensions of the life of the People, of the Nation and of the State, based upon the consistent and authentic implementation of Pancasila and the 1945 Constitution.

This restructuring began with the Fourth Plenary Session of the Provisional People's Consultative Assembly. The Provisional People's Consultative Assembly had restored its authority and demanded that the President account for his exercise of his mandate. The Nawaksara-speech of President Soekarno was rejected.

In its Special Plenary Session, the Provisional People's Consultative Assembly fully regained its authority. It terminated the presidency of Soekarno, and nominated General Soeharto as Acting-President.

The Fifth Plenary Session of the same Provisional People's Consultative Assembly elected General Soeharto as full President of the Republic and laid down basic directives for national development. The Provisional People's Consultative Assembly ordered a Development Cabinet to be formed. However, it had suffered some failures, namely in regard to Committees II and III.

5. It is in the period of the New Order that the People's Consultative Assembly has been established through a general election. This People's Consultative Assembly was inaugurated on October 1, 1972.
6. Finally, some suggestions are offered for the coming People's Consultative Assembly session in March 1973:
  - a. Pancasila and the 1945 Constitution need no longer be discussed. The discussion on Pancasila and on the 1945

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Constitution would only result in political conflicts and tensions endangering the very existence of the Republic of Indonesia. Moreover agreement has been reached that no existing political circle is going to bring Pancasila and the 1945 Constitution into the discussions.

- b. For the same reasons, the present People's Consultative Assembly need not modify the 1945 Constitution.
- c. Concerning the election of the President and the Vice-President: it is advisable that the President-elect suggest candidates for the Vice-Presidency the People's Consultative Assembly is to elect. This is due to the fact that genuine cooperation between the President and the Vice-President is absolutely necessary. Since there has been no candidate mentioned other than General Soeharto, it seems evident that there will be no difficulty in electing the President.
- d. President Soeharto is to account for the exercise of his mandate to the present People's Consultative Assembly, since the President is to account for his responsibility to any People's Consultative Assembly as the highest political institution exercising the sovereignty of the People.
- e. Concerning the institutions complementary to the People's Consultative Assembly the following are to be considered:
  - Any dualism in exercising functions is to be avoided. Hence the function of the People's Consultative Assembly Chairmen will be merely a routine function, as that of making due preparation for the coming sessions, presiding over the sessions and seeing that the Ordinances are observed. Hence there is no active function outside the session period. It is not for the People's Consultative Assembly chairmanship to observe and control the implementation of the decrees issued by the People's Consultative Assembly, since this function is proper to the House.
  - A permanent Working Committee is not necessary. All administrative activities are to be done by a General Secretariat. In matters involving political problems, the General Secretary must consult the Chairmen of the House of Representatives.
  - It is advisable that the Chairmen of the House of Representatives are ex-officio Chairmen of the People's Consultative Assembly. With the addition of a Regional Faction.
  - The People's Consultative Assembly has the right to establish necessary committees.

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— Factions in the People's Consultative Assembly are to be composed in the same way as they are composed in the House of Representatives. One faction, however, is to be added, namely the Regional Faction. To make this informative data complete, a scheme on the membership of the present People's Consultative Assembly is given in the following table :

### THE PEOPLE'S CONSULTATIVE ASSEMBLY (MAJELIS PERMUSYAWARATAN RAKYAT)

FACTIONS	POLITICAL GROUP ----- FUNCTION- AL GROUP	Members of the House of Represent- atives		Del- gates	Nomi- nated	Total
		elected	nominated			
<b>I. Unified</b>						
Development						
Faction	1. NU	58	—	20	—	78
	2. Parmusi	24	—	8	—	32
	3. PSII	10	—	3	—	13
	4. Perti	2	—	1	—	3
						126
<b>II. Democratic</b>						
Development						
Faction	1. PNI	20	—	7	—	27
	2. Parkindo	7	—	2	—	9
	3. Partai Katholik	3	—	1	—	4
	4. IPKI	—	—	1	—	1
	5. Murba	—	—	1	—	1
						42
<b>III. Functional</b>						
Development						
Faction	Functional Group (non- military)	236	25	79	—	51
<b>IV. Armed Forces</b>						
	Military Functional Group	—	75	—	—	156
<b>V. Regional Faction</b>						
(Provinces)		—	—	—	135	135
<b>T O T A L</b>		<b>360</b>	<b>100</b>	<b>123</b>	<b>135</b>	<b>207</b>
						<b>920</b>

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