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THE GOVERNMENT OF INDONESIAN DAERAHs

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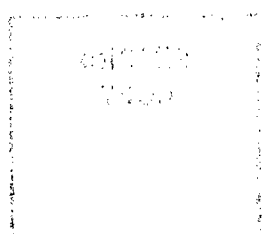
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FOREWORD

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THE GOVERNMENT OF INDONESIAN DAERAHs

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[Article I is a translation of major portions of the book, Regional Government in Indonesia (Pemerintahan Daerah di Indonesia) by Doctoral Candidate The Liang-gie, which analyzes the system of regional government in Indonesia under Law No 1 of 1957 and compares this law with earlier legislation on the same subject.

Articles II-V are translations of several decrees issued by the Indonesian government in 1959 modifying Law No 1 of 1957.

A translation of Law No 1 of 1957 appears in JPRS Translation 921-N, Texts of Indonesian Law No 32 (on Fiscal Apportionment) and Law No 1 of 1957 (on Regional Government).

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I. REGIONAL GOVERNMENT IN INDONESIA

Pemerintahan Daerah di
Indonesia /Regional
Government in Indonesia/
Djakarta, 1958; pp v-viii,
1-183, 265-275

Doctoral Candidate The Liang-gie

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PREFACE

This book is intended as an analysis of regional government in Indonesia as it exists under the provisions of Law No 1 of 1957 Concerning the Principles of Regional Government. The book also compares the provisions of Basic Law No 22 of 1948 Concerning Regional Government, which was issued by the early Republic of Indonesia, and of the Law Concerning the Government of the Regions of East Indonesia, which was issued by the former State of East Indonesia and which appears as Item No 44 in the 1950 Statute Book of East Indonesia.

A formal method has been followed in organizing the analysis, that is, it has been accommodated to the items which have been regulated and decided on in legislation which has been placed in effect. No opinions or interpretations have been presented, neither those of the author nor those of other writers.

The Author

Djakarta, 2 July 1957

Chapter I. FOREWORD

A. Early Legislation

Part IV, Articles 131 through 133 of the Provisional Constitution of the Republic of Indonesia (which appears as No 56 in the 1950 State Gazette of the Republic of the United States of Indonesia, and its explication as Supplement No 37 to the State Gazette) contain decisions pertaining to the government of regions and sultanates. [Translator has appended a list of the Indonesian territorial terms appearing in this book to this translation].

These articles confirmed, among other things, that the territory of Indonesia was to be divided into large and small regions which would have the right to administer their own affairs (autonomy), that the form of governmental organization of these regions would be established in law, and that they would observe and recognize the principles of consultation and representation existing in the system of national government. The articles further established that the position of sultanates would be regulated in law and that the decisions and principles employed in regard to the large and small autonomous regions would also apply to the sultanates.

Until the end of 1956 the Republic of Indonesia had not ratified a law to implement the decisions contained in the provisional constitution. Nevertheless, various laws and decrees did exist which regulated the government of autonomous regions and sultanates and which were being implemented within the nation. These were:

Basic Law Concerning Regional Government of the early Republic of Indonesia (Law No 22 of 1948). This Law served as the basis for the formation of the autonomous provinces, regencies, and cities in Java, Madura, Sumatra, Borneo, and West Irian;

Law Concerning the Government of the Regions of East Indonesia of the State of East Indonesia. This state existed during the period of the Republic of the United States of Indonesia. The law appears as item No 44 in the 1950 Statute Book of the State of East Indonesia; it served as the basis for the formation of autonomous regions in the Celebes, Moluccas, and Lesser Sundas. [Hereafter, this law will be referred to as Law No 44 of 1950];

Law Concerning the Government of Djakarta Raya (Republic of Indonesia Law No 1 of 1956; it appears as item No 2 in the 1956 State Gazette, and its explication as Supplement No 941 to the State Gazette). This law served as the basis for the establishment of the municipality of Djakarta Raya as a region with the right to administer its own affairs, within the territory established by Directive of the President of the Republic of the United States of Indonesia No 125, dated 24 March 1950;

Other laws and decrees issued by the Dutch East Indies government both before and after the Second World War, for example:

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municipal ordinances (No 365 of the 1926 Statute Book, as amended by No 226 of the 1940 Statute Book); municipal ordinances for foreign lands (No 131 of the 1938 Statute Book, as amended by No 226 of the 1940 Statute Book); native municipal ordinances (No 83 of the 1906 Statute Book, as amended by No 485 of the 1933 Statute Book); native municipal ordinances for foreign lands (No 490 in conjunction with No 681 of the 1938 Statute Book); the 1938 self-government regulation (No 529 of the 1938 Statute Book); and others. These laws and decrees of the Dutch East Indies government served as the basis for the regulation of regional government in various areas throughout Indonesia.

Thus, until late 1953 we had a number of different laws and decrees which regulated the division, formation, governmental organization, authority, duties, responsibilities, and other matters of those areas which had the right to administer their own affairs.

B. Recent Legislation

The existence of these various types of laws and decrees, which differed one from another and which, in part, were not in accordance with the spirit of and the principles contained in the provisional constitution of the Republic of Indonesia, complicated the government's efforts to administer and establish autonomous regions as the provisional constitution intended.

Thus, the Ministry of Internal Affairs was engaged for several years in drafting a law on regional government, a law which would be valid for all of Indonesia and which would replace the laws and decrees referred to above.

The Draft law of Minister of Internal Affairs Professor Master of Laws Doctor Hazairin was concurred in by the Ali (Wongso)-Arifin cabinet and first submitted to Parliament, accompanied by a Presidential note, on 22 January 1954 as Bill No 267 of 1954. Subsequently, changes were made and it was resubmitted on 11 June 1956 as Bill No 1715 of 1956.

Finally, on 14 December 1956 and after lengthy readings and discussions, Parliament ratified the bill into law; a law which represented the implementation of the decisions contained in Part IV of the Provisional Constitution of the Republic of Indonesia, namely, the 1956 Law Concerning the Principles of Regional Government /also called Law No 1 of 1957, see following paragraph/.

The law was approved by the government on 17 January 1957 and was promulgated on the following day, 18 January, as Law No 1 of 1957, with its placement in the 1957 State Gazette as item No 6; the explication to the law appears as Supplement No 1143 to the State Gazette.

Law No 1 of 1957, although permitting certain rulings to remain in effect for an interim period, canceled and replaced Law No 22 of 1946, Law No 44 of 1950, and all other laws and decrees which pertained to

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regions having the right to administer their own affairs. Thus, as of 18 January 1957, Law No 1 of 1957 constituted the sole law for the regulation of regional government in Indonesia.

Law No 1 of 1957 was the result of the cooperative effort of the government and the elected Parliament. It is composed of 9 parts and 76 articles, and exists in the following form.

Part I. General Decisions (Article 1)

Part II. The Division of the Territory of the Republic of Indonesia Into Autonomous Daerahs (Articles 2-4)

Part III. The Form and Organization of Daerah Government

Section A. General Decisions (Articles 5-6)

Section B. The DPRD /Translator has appended a list of the abbreviations used in this book/ (Articles 7-13)

Section C. Sessions and Meetings of the DPRD (Articles 14-18)

Section D. The DPD (Articles 19-22)

Section E. The Chief of Daerah

Part IV. The Authority Duties and Responsibilities of the Daerah Government

Section A. The DPRD (Articles 31-43)

Section B. The DPD (Articles 43-49)

Section C. Neglect or Non-Performance of Duties and Responsibilities (Article 50)

Part V. Secretary and Daerah Personnel

Section A. General Decisions (Article 51)

Section B. The Daerah Secretary (Article 52)

Section C. Daerah Personnel (Articles 53-55)

Part VI. Daerah Finance

Section A. General Decisions (Articles 56-59)

Section B. Control of Daerah Finances (Article 60)

Section C. Daerah Budget (Article 61)

Part VII. Supervision Over the Daeran

Section A. Authorization and the Period for Authorization (Articles 62-63)

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- Section B. Revocation and Suspension (Articles 64-69)
- Section C. Disputes Pertaining to the Government of the Daerah (Article 70)
- Section D. Inspection and Investigation by the Government (Article 71)
- Section E. Promulgation (Article 72)

Part VIII. Interim Regulations (Articles 73-75)

Part IX. Closing Regulations (Article 76)

Law No 22 of 1948 was the result of the efforts of the government of the proclaimed state of the Republic of Indonesia and the Working Board of the Central National Committee. It served to implement Article 18 of the former [1945] constitution of the Republic of Indonesia. This article also stated that the territory would be divided into large and small regions, that the form of their governmental organization would be established in law, that the principle of consultation existing in the system of national government would be observed and recognized, and that hereditary rights would obtain in regions having a special nature.

Law No 22 of 1948 was established and took effect on 10 July 1948. It is comprised of 5 Parts and 47 Articles, and the explication. It exists in the following form.

Part I. Concerning the Division of the State Into Large and Small Regions Which May Regulate and Administer Their Own Affairs. (Article 1)

Part II. Concerning the Form and Organization of Regional Government

- Section A. General Regulations (Article 2)
- Section B. The DPRD (Articles 3-7)
- Section C. Sessions and Meetings of the DPRD (Articles 8-12)
- Section D. The DPD (Articles 13-17)
- Section E. The Chief of Region (Articles 18-19)
- Section F. The Secretary and Other Regional Officials (Articles 20-22)

Part III. Concerning the Authority and Responsibility of the Regional Government

- Section A. The DPRD (Articles 23-33)
- Section B. The DPD (Articles 34-35)
- Section C. The Chief of Region (Article 36)

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Part IV. Concerning Regional Finance

Section A. Income of the Region (Article 37)

Section B. Financial Affairs of the Region
(Article 38)

Section C. Budget of Income and Expenses
(Articles 39-40)

Section D. Calculation of the Budget of Income
and Expenses (Article 41)

Part V. Concerning Supervision Over the Region (Articles
42-45)

Interim Regulations (Article 46)

Closing Article (Article 47)

Law No 44 of 1950 is an emergency law which was established by the government of the State of East Indonesia on 15 June 1950. There are less articles in the law than in Law No 22 of 1948, namely 35 articles, and their content and the explication to the law is briefer. The form of the law is as follows.

Part I. Concerning the Division of East Indonesia
Into Regions Which May Regulate and Administer
Their Own Affairs (Article 1)

Part II. Concerning the Form and Organization of Regional
Government

Section A. General Regulations (Article 2)

Section B. The DPR (Articles 3-12)

Section C. The DP (Articles 13-16)

Section D. The Chief of the Region, of the Regional
Division, and of the Regional Sub-Div-
ision (Article 17)

Part III. Concerning the Authority and Responsibility of
the Regional Government

Section A. The DPR of the Region, the Regional
Division, and the Regional Sub-Division
(Articles 18-28)

Section B. The DP of the Region (Article 29)

Section C. The Chief of the Region, of the Regional
Division, and of the Regional Sub-Div-
ision (Article 30)

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Part IV. Concerning the Supervision of the Region
(Articles 31-33)

Part V. Interim Regulations (Articles 34-35)

Law No 1 of 1957 has been amended twice since being placed in effect; these changes were accomplished with the following laws: [Still other changes in the forms of regional government took place after this book was published; the pertinent decrees may be found in the latter part of this paper.]

Emergency Law No 6, dated 30 January 1957 (No 9 in the 1957 State Gazette): This emergency law amended Article 8, Sub b, which deals with the qualification on place of residence. The amendment made it possible for a resident of a municipality whose territory was encircled by the territory of another Daerah II to become a member of the DPRD of the encircling Daerah II;

Emergency Law No 8, dated 7 May 1957 (No 50 in the 1957 State Gazette, Supplement No 1274 to the State Gazette).

This emergency law amended Article 7, Paragraph (1), Sub a, which dealt with the population figures from which the number of members of the DPRD of a Daerah I were calculated. This amendment made it possible for the municipality of Djakarta Raya to have the number of members in its DPRD which the needs of the community required.

Thus, with the existence of Law No 1 of 1957, the history of regional government in Indonesia entered a new phase.

Chapter II. THE DIVISION OF THE STATE INTO DAERAHs

A. The Ideal of Decentralization

Part IV of the Provisional Constitution of the Republic of Indonesia contains the ideal of decentralization, namely, the bestowal of the authority for government upon territorial units throughout all the Indonesian land by the central government. This ideal will be implemented with the division of the territory of the Republic of Indonesia into large and small regions having the right to administer their own affairs (autonomy).

Thus, Law No 1 of 1957, which regulates this ideal of decentralization further and more completely, states in Article 2 Paragraph (1) that the territory of the Republic of Indonesia will be divided into large and small daerahs having the right to administer their own affairs.

The law further states that the term daerah has become and is being used as a technical term, a term which means a region having the right to administer its own affairs (autonomy), as is intended in Article 131, Paragraph (1) of the provisional constitution which contains the ideal of decentralization referred to above. In regard to the meaning of autonomy, as stated in the foregoing, both the provisional constitution and Law No 1 of 1957 formulate the word with the phrase, having the right to administer its own affairs.

Law No 22 of 1948 deviates somewhat from this formula. The heading to Part I of this law employs the phrase, which may regulate and administer their own affairs. Even so, here and there among the articles of this law the phrase having the right to regulate and administer their own affairs occurs.

Law No 44 of 1950 employs the phrase, which may regulate and administer their own affairs (see the heading to Part I of this law).

Law No 1 of 1957, which employs the term daerah [region] in a technical sense, also employs the term wilayah [territory] in the sense of gebied [Dutch word for territory]. This is done both as regards the territory of the Republic of Indonesia as a whole, and as regards the territory of a specific daerah, which term now has a meaning of its own.

Law No 22 of 1948 and Law No 44 of 1950 did not differentiate between the two terms; the term daerah was used also where gebied was meant.

B. Autonomous Daerahs and Special Daerahs

Law No 1 of 1957 distinguishes between two types of daerahs: the autonomous daerah and the special daerah. Therefore, a daerah having the right to administer its own affairs may exist in the form of either an autonomous daerah or a special daerah (Law No 1 of 1957, Article 1, Paragraph 1).

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The autonomous daerah is an ordinary territory which is formed and established as daerah having the right to administer its own affairs. The special daerah is a sultanate, as intended in Article 132 of the Provisional Constitution (during the period of the Dutch East Indies government it was called a self-governing area or a principality), which is established as a daerah having the right to administer its own affairs.

Even though their names are different, there is no difference between an autonomous daerah and a special daerah as regards method of formation, level, form of governmental organization, authority, duties, and responsibilities. The only difference between these two types of daerahs exists in respect to their chiefs of daerah, that is, the special nature of a special daerah lies in the position of the chief of daerah. The chief of a special daerah occupies a special status as compared to the position occupied by the chief of an autonomous daerah (this special position is analyzed in Chapter VIII, Section E).

Law No 22 of 1948 also differentiates between an ordinary region and a special region; in referring to an ordinary region the law employs the term autonomous region.

The term autonomous daerah is a new term. Law No 1 of 1957 provided it with a legal basis for use in official correspondence.

Law No 44 of 1950 did not differentiate between the two types of regions, as did Law No 1 of 1957 and Law No 22 of 1948. This does not mean, however, that the law does not contain decision pertaining to sultanates, as Article 17, Paragraph (5) regulates the appointment of the chief of a sultanate.

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Chapter III. THE DIVISION OF DAERAHs

A. Three Daerah Levels

Article 2 of Law No 1 of 1957 divides daerahs (autonomous daerahs as well as special daerahs) into three levels, that is, first level daerahs, second level daerahs, and third level daerahs.

1. The Daerah I

The Daerah I occupies the highest position in the three daerah levels. The territory of a Daerah I can be divided into Daerahs II, in which case the territories of the respective Daerahs II constitute portions of the territory of the Daerah I. The Daerah I is then situated as the next higher daerah to the Daerahs II which lies within its territory. An understanding of this point is important as references to the relation existing between a daerah and its next higher daerah are interspersed throughout Law No 1 of 1957. This relationship must be understood in terms of the meaning intended above.

2. The Daerah II

This daerah is the mid-level daerah, the second level daerah. As already indicated, its territory lies within the territory of a specific Daerah I, and the Daerah II exists at the level next below that of the Daerah I concerned.

The territory of every Daerah II can be divided into smaller units, namely, Daerahs III. As in the case above, the territories of the respective Daerahs III constitute portions of the territory of the divided Daerah II, and the Daerah II is situated at the level next above that of the Daerahs III which lie within its territory.

3. The Daerah III

The Daerah III is the lowest level daerah in the three level framework of daerahs having the right to administer their own affairs. Its territory lies within the territory of the Daerah II situated above it, and also lies within the territory of the Daerah I situated above the Daerah II concerned. [To date, no Daerahs III have been formed in Indonesia].

Therefore, if a specific Daerah I is divided into Daerahs II, and each of these Daerahs II are divided into Daerahs III, then the territories of each of the three levels of daerahs all lie within the same area, with the understanding that the territory of a Daerah III constitutes a part of the territory of the Daerah II which is its next higher daerah, and also constitutes a part of the territory of a specific Daerah I.

In regard to the names for the respective levels of autonomous daerahs, the government, in answering the general debate on Law No 1

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of 1957, stated at a session of Parliament that it concurred in the proposal that the Daerahs I be named provinces and that the Daerahs II be named regencies, as both of these names were in general use, and that the name for Daerahs III would be provided in their formative legislation.

Article 1, Paragraph (1) of Law No 22 of 1948 also divides the regions which may or have the right to regulate and administer their own affairs into three levels: the province, as the highest level; the regency and the major city, as the middle level; and the minor city, indigenous district, village, and so forth, as the lowest level.

Regions which could regulate and administer their own affairs were also divided into three groups in Article 1, Paragraph 1 of Law No 44 of 1950. These were, from highest to lowest, as follows: regions, regional divisions, and regional subdivisions.

B. Municipalities

Law No 1 of 1957 refers to cities which have the right to administer their own affairs as municipalities. The position of the municipality is established at the same level as that of the Daerah II. Thus, a Daerah I can be divided into Daerahs II (regencies) and into municipalities, each of which have their own specific territories.

The territory of a Daerah II is larger than the territory of a municipality and, generally, surrounds the territory of the municipality. In cases where a municipality is surrounded by a Daerah II, then the territory of the Daerah II is diminished by the amount of the territory of the municipality. Thus, a part of the area within the territory of a Daerah II can be occupied by a daerah which exists at the same level as and is not beneath that Daerah II.

Article 4, Paragraph (2) of Law No 1 of 1957 states that lower level daerahs, Daerahs III, may not be formed within the territory of a municipality, even though municipalities rank as Daerahs II. The principle upon which this decision is based is that the formation of a Daerah III within a municipality might possibly be damaging to the municipality, as the existence of this lower level daerah would certainly reduce the sources of revenue available to the municipality.

As is known, every daerah which has the right to administer its own affairs must have the money to finance the requirements of these affairs, therefore, it must have its own sources of revenue. Should lower level daerahs be formed in a municipality then these daerahs, in order to finance themselves, would have to take a part of the revenue which should properly enter the treasury of the municipality. And, beyond doubt, this would certainly result in a reduction of the municipality's income.

With a single exception, all municipalities are Daerahs II. The municipality of Djakarta Raya has been given the position of a Daerah I in connection with:

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The unique history of the formation of the municipality;
The extent of the territory of the municipality, that is, some 560 square kilometers which include 6 districts, 20 sub-districts, 137 precincts, and the territory of the government of the new city of Kebajoran;

Its position as the capital of the Republic of Indonesia;
Its very rapid development in all aspects of community life.

The decision that lower level daerahs cannot be formed within the territory of a municipality does not apply to Djakarta Raya, as lower level daerahs may be formed here whenever developments in the current situation make such action desirable. This is connected with the fact that the sources of revenue in Djakarta Raya are of sufficient size and dimension as to make the excavation of them require a greater intensity. Thus, the formation of lower level daerahs in Djakarta Raya is not only not disadvantageous, but it will facilitate the course of government within the municipality.

Law No 22 of 1948, unlike Law No 1 of 1957, divided into two types the cities which could or had the right to regulate and administer their own affairs. These were the major city, which was situated as a region at the middle level, and the minor city, which was given the status of a region at the lowest level. Furthermore, a statement made by the government to a meeting of the Working Board of the Central National Committee, which was then discussing the bill concerning regional government, explained that autonomous regions could be formed within the area of a major city. (see part I, Figure 3 of the explication to Law No 16 of 1950 concerning the Establishment of Major Cities Within the Areas of the Provinces of East Java, Central Java, West Java, and the Special Region of Jogjakarta). This opinion of the government was also inserted in Law No 22 of 1948, as the explication to Article 1 of the law states that the possibility has been opened that lower level autonomous regions, that is, minor cities and village districts, might be formed within the area of a major city, a middle level region.

What of the decisions contained in Law No 44 of 1950? This law makes no mention of cities which can regulate and administer their own affairs. Although such cities exist in the territory of the former state of East Indonesia, their rights stem from other legislation.

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Chapter IV. THE FORMATION OF DAERAHs

A. Formative Legislation

Article 3 of Law No 1 of 1957 states that the formation and establishment of an area as an autonomous daerah must be carried out in law, thus, must be regulated in an act drawn up by the government together with Parliament.

The establishment of a sultanate as a daerah which has the right to administer its own affairs, as intended in the provisional constitution, must be carried out in law. Two possibilities are open to every sultanate which is faced with a change in its status. A sultanate, according to its importance and the development of its society at a given time, can be established as a first, second, or third level autonomous daerah, or as a first, second, or third level special daerah.

When a sultanate has been established as a special daerah or as an autonomous daerah it means that its status as a sultanate no longer exists and that it has been given a new status, that is, status as a daerah which has the right to administer its own affairs, as intended in the provisional constitution and in accordance with the ideal and principles found therein. When a sultanate is established as a special daerah then its chief of daerah possesses a special status, but when a sultanate is established as an autonomous daerah then its position is no different from that of any other autonomous daerah.

As has been explained, the formation and establishment of a daerah is carried out in law. This formative legislation generally regulates and established the following matters: the name and level of the daerah; its territorial limits; its capital city; the number of members in the daerah government (the DPRD and DPD); the specific affairs which it can administer as of the moment of its formation; assigned legislation which will enable the daerah government to carry out the decisions contained within it; and special matters pertaining to the newly formed daerah.

Should changing conditions make it desirable that the territory of a daerah be increased or reduced, then such a change must also be carried out in law. Certainly, a change of this nature would only be executed after the agreement of the daerah concerned had been obtained.

A number of daerahs have been formed on the basis of Law No 1 of 1957. The first of these was the autonomous daerah and province of Central Borneo. However, this daerah was not formed with a law, but with an emergency law. Thus, it was formed by, and on the responsibility of, the government, and without the prior agreement of Parliament. An emergency law - undang-undang darurat - may be promulgated by the government, but it must be ratified by the next session of Parliament or it becomes invalid 7. The legislation intended is Emergency Law No 10 of 1957 (No 53 of the 1957 State Gazette, Supplement No 1284 to the State Gazette).

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Under Law No 22 of 1948 the formation of regions also had to be accomplished through law. The government of the early Republic of Indonesia formed these regions by employing the government-ordinance-in-lieu-of-a-law (which is the same thing as the present day emergency law). Thus, Parliament (then the central National Committee or its Working Board) did not participate in the forming of these regions, the responsibility was borne by the government itself. These acts were: Government Ordinance In Lieu of A Law No 3 of 1950 Concerning the Formation of the Province of South Sumatra; Government Ordinance In Lieu of a Law No 4 of 1950 Concerning the Formation of the Province of Central Sumatra; and Government Ordinance In Lieu of a Law No 5 of 1950 Concerning the Formation of the Province of North Sumatra.

This practice was continued by the government of the present Republic of Indonesia until Law No 1 of 1957 went into effect, that is, regions were formed on the basis of Law No 22 of 1948 through the employment of emergency laws. These were:

Emergency Law No 2 of 1953 Concerning the Formation of the Autonomous Region/Province of Borneo (No 8 in the 1953 State Gazette, Supplement No 351 to the State Gazette);

Emergency Law No 3 of 1953 Concerning the Formation of Autonomous Regions/Regencies, Special Regions at the Regency Level, and Major Cities within the Territory of the Province of Borneo (No 9 in the 1953 State Gazette, Supplement No 352 to the State Gazette);

Emergency Law No 4 of 1956 Concerning the Formation of Autonomous Regions/Regencies in the Province of South Sumatra (No 55 in the 1956 State Gazette, Supplement No 1091 to the State Gazette);

Emergency Law No 5 of 1956 Concerning the Formation of Autonomous Regions/Major Cities in the Province of South Sumatra (No 56 in the 1956 State Gazette, Supplement 1091 to the State Gazette);

Emergency Law No 6 of 1956 Concerning the Formation of Autonomous Regions/Minor Cities in the Province of South Sumatra (No 57 in the 1956 State Gazette, Supplement No 1091 to the State Gazette);

Emergency Law No 7 of 1956 Concerning the Formation of Autonomous Regions/Regencies in the Province of North Sumatra (No 58 in the 1956 State Gazette, Supplement No 1092 to the State Gazette);

Emergency Law No 8 of 1956 Concerning the Formation of Autonomous Regions/Major Cities in the Province of North Sumatra (No 59 in the 1956 State Gazette, Supplement No 1092 to the State Gazette).

And Emergency Law No 9 of 1956 Concerning the Formation of Autonomous Regions/Minor Cities in the Province of North Sumatra (No 60 in the 1956 State Gazette, Supplement No 1092 to the State Gazette).

The establishment of autonomous regions under Law No 44 of 1950 was somewhat different. This law established the regions of itself, that is, Article 1, Paragraph (2) of the law states that the autonomous regions intended in the law are the same as those established by the Ordinance For The Formation of the State of East Indonesia, No 143 in the 1946 Statute Book (according to this law the State of East Indonesia was divided into 13 regions).

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Subsequently, the government of the present Republic of Indonesia dissolved 4 of these 13 regions and divided their territories into new regions. These new regions were established at the same level as the regencies of Law no 22 of 1948 and were formed with government ordinances, as follows:

Government Ordinance No 33 of 1952 Concerning the Dissolution of the Region of Central Celebes and the Division of Its Territory Into Autonomous Regions (No 47 in the State Gazette of 1952, Supplement No 262 to the State Gazette; as amended by Government Ordinance No 1 of 1953, No 1 in the State Gazette of 1953);

Government Ordinance No 34 of 1952 Concerning the Dissolution of the Region of South Celebes and the Division of Its Territory Into Autonomous Regions (No 48 in the 1952 State Gazette, Supplement No 263 to the State Gazette; as amended By Government Ordinance No 2 of 1953, No 2 in the State Gazette of 1953);

Government Ordinance No 35 of 1952 Concerning the Dissolution of the Region of South Moluccas and the Formation of the Region of Central Moluccas and the Region of Southeast Moluccas (No 49 in the 1952 State Gazette, Supplement No 264 to the State Gazette; as amended by Government Ordinance No 3 of 1953, No 3 in the State Gazette of 1953);

Government Ordinance No 11 of 1953 Concerning the Dissolution of the Region of North Celebes and the Formation of a Region Described as a Region Having the Nature of a National Unit and Having the Right to Regulate and Administer Its Own Affairs (No 17 in the State Gazette of 1953, Supplement No 367 to the State Gazette).

The government of the Republic of Indonesia also employed government ordinances to change the status of and establish as regions other areas in the territory of the former State of East Indonesia. These were:

Government Ordinance No 42 of 1953 Concerning the Change of Status of the Regional Division of the City of Manado Into the Region of Manado, Which has the Right to Regulate and Administer Its own Affairs (No 87 of the 1953 State Gazette, Supplement No 491 to the State Gazette; as amended by Government Ordinance No 56 of 1954, No 97 in the State Gazette of 1954, Supplement No 693 to the State Gazette);

Government Ordinance No 24 of 1954 Concerning the Establishment of the Joint Territory of Bolaang Mongondow as a Region Having the Right to Regulate and Administer Its Own Affairs (No 43 of the 1954 State Gazette, Supplement No 554 to the State Gazette);

Government Ordinance No 15 of 1955 Concerning the Establishment of the City of Ambon as a Region Having the Right to Regulate and administer Its Own Affairs (No 30 of the 1955 State Gazette, Supplement No 809 to the State Gazette).

Subsequently, the three new regions formed with Government Ordinance No 34 of 1952, referred to above, were dissolved and new regions formed in their former territories. The government of the Republic of Indonesia used emergency laws for this purpose. These were:

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Emergency Law No 2 of 1957 Concerning the Dissolution of the Region of Makassar and the Formation of the Region of Gowa, the Region of Makassar, and the Region of Djeneponto-Takalar (No 2 in the 1957 State Gazette, Supplement No 1137 to the State Gazette);

Emergency Law No 3 of 1957 Concerning the Dissolution of the Region of Luwu and the Formation of the Region of Tanah Toradja and the Region of Luwu (No 3 in the 1957 State Gazette, Supplement No 1138 to The State Gazette);

Emergency Law No 4 of 1957 Concerning the Dissolution of the Region of Bone and the Formation of the Region of Wadjo, the Region of Soppeng, and the Region of Bone (No 4 in the 1957 State Gazette, Supplement No 1139 to the State Gazette).

These have been the establishments carried out by the government of the present Republic of Indonesia in the territory of the former State of East Indonesia, establishments based on Law No 44 of 1950.

According to Article 1, Paragraph 3 of Law No 44 of 1950, regional divisions and regional sub-divisions could be established via an Ordinance of the President of the State of East Indonesia. However, a presidential ordinance forming a regional division or a regional sub-division was never issued during the existence of the State of East Indonesia. [The author does not explain the reference to the regional division of the city of Manado in Government Ordinance No 42 of 1953, which he has listed above].

B. The Guide To and Principles Behind the Formation of Daerahs

Article 4, Paragraph (1) of Law No 1 of 1957 establishes that an area which contains a group of residences and, as a guide, a population of at least 50,000 persons may be established as a municipality. This population figure is not an absolute figure, one which must be continuously observed in qualifying for establishment as a municipality. The figure of 50,000 is only a guide.

A city which has a population of less than 50,000, and whose importance in the structure of the state is clearly evident, may also be established as a municipality. The capitals of the former residencies outside Java, which were not densely populated, are examples of this type of city.

Law No 1 of 1957 did not establish a population guide in regard to the formation of daerahs other than municipalities.

What principles are employed in the formation of and establishment of daerahs?

It is evident from the explication to Law No 1 of 1957, from the discussions in Parliament, and from the answers by the government to the general debates on the bill in Parliament that the formateurs of Law No 1 of 1957 adhered to the following principles in regard to the establishment of daerahs:

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The formation of a daerah can be carried out only after a review has been made of the various aspects of the daerahs potential for continued life and development. Most important of these aspects is the financial one, the sources of revenue, which must convincingly demonstrate the right of the daerah to exist. In addition, a review must be requested of the DPRD of the Daerah I for a candidate Daerah II lying within the territory of that Daerah I, and of the DPRD of the Daerah II for a candidate Daerah III which is beneath it. A daerah can be established upon the proposal of the DPRD of the next higher level daerah, however, the review of the various aspects referred to above must be observed;

The decision as to the level at which a daerah will be established is taken after due consideration has been given the existing economic, geographic, cultural, and sociological factors and the factors for development within the daerah concerned;

The division of an area into three daerah levels is neither imperative nor required. The three levels of daerahs will be established. However, in areas wherein the conditions of society do not permit the formation of all three levels, for an interim period only two levels will be formed. These will be the two higher levels, the Daerah I and the Daerah II;

Close attention must be given the establishment of third level daerahs. These daerahs will be the foundation of the structure of the state and their formation must be carried out correctly. Furthermore, these daerahs will exist in direct connection with the social units recognized in Indonesian law. These units are many faceted and it will be difficult to establish them as daerahs which conform to a single model;

Essentially, these Daerahs III will not be simply produced, but will be established as autonomous units which are based on the legal social units which exist in Indonesia, that is, units which are based on societies founded in traditional law, the village districts and indigenous districts.

Basically, these are the principles which have become the guide to the formation of daerahs throughout Indonesia with the promulgation of Law No 1 of 1957.

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Chapter V. THE CONTROL RELATIONSHIP BETWEEN THE DAERAH AND THE CENTRAL GOVERNMENT

A. The content of Autonomy

1. Autonomy

In implementing decentralization in any nation, the control relationship which exists between the regional and central governments is a very important matter. The balance in this control relationship will determine the amount of autonomy (the right to regulate and administer its own affairs) held by the region. The more heavy the balance on the side of the region, the more extensive its autonomy; the more heavy the balance on the side of the central government, the more restricted the autonomy held by the regions formed within the state.

Article 131, Paragraph (2) of the Provisional Constitution established that the large and small regions throughout Indonesia would be granted as much autonomy as possible with which to administer their own affairs.

Basically, the greater part of the problem in the control relationship between the daerah and central government is that of determining what affairs constitute affairs of the daerah government and what affairs are affairs and interests of the central government. Thus, the problem becomes one of determining the content of autonomy in any specific daerah.

The explication to Law No 1 of 1957 states that due to the growth and dynamics of community life, and due to the factors existing within society itself, it is impossible to definitely establish which affairs should be controlled by the daerah and which by the central government. Essentially then, there has been no division of control which specifies, item by item, the affairs which are to be administered by the daerah government and the affairs which are to be administered by the central government in the implementation of decentralization in Indonesia. Therefore, Law No 1 of 1957 does not establish definitely the matters to be included among the affairs of the daerah governments and the matters to be included in the sphere of responsibility of the central government.

However, it was decided, as a general rule, that the affairs of the central government would encompass everything which the central government assigned to itself, for regulation and administration, through its laws and decrees; this in keeping with the fact that the Republic of Indonesia is a nation of law, that is, law in the meaning of written law. At the same time, those affairs and interests of the central government which are not regulated in laws and decrees are understood to lie within the realm of the general interest. The general interest has no

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other meaning than the national interest, namely, that which pertains to the state and the people as an entity.

Those affairs and interests other than those referred to above, are the affairs and interests of the daerah governments.

Law No 1 of 1957, in providing autonomy to the Daerahs, and guided by the fact that community life is replete with dynamism and growth, adheres to a system described as a System of Real Autonomy. This is a system of state structure which is arrived at through decentralization, which is based on existing factors and conditions, and which accords with the real capacities and requirements of both the daerahs and the central government and with the growth which is taking place in community life.

This system can, perhaps, create general desires within the society which accord with the condition and organization of the society, and can create the opportunity for the daerah to fully accomplish its duties in accordance with its natural abilities and capacities, thus enabling its extensive development.

In connection with the matters referred to above, and with the content of autonomy within the daerahs, Articles 31 and 38 of Law No 1 of 1957 establish that:

Each DPRD shall regulate and administer all affairs within the daerah except those which have been transferred to another authority by Law No 1 of 1957;

A DPRD may not regulate fundamentals and matters in the ordinances which it established when such fundamentals and matters have been regulated earlier in the legislation of the central government or in the legislation of a higher level daerah. The term peraturan perundangan /legislation/ is intended to signify that which is referred to in the Dutch language as wettelijk regeling [statutory regulations]. The legislation of the central government takes the form of laws, emergency laws, and government ordinances. The legislation of the daerah takes the form of daerah ordinances;

An ordinance drafted by a DPRD may not be in opposition to legislation existing at a higher level (that of a superior daerah or of the central government) or to the general interest;

To provide a basic authority which will enable the rapid implementation of the right of autonomy, then every area which is formed as an autonomous daerah will have established in its formative legislation the specific affairs which it is permitted to regulate and administer as of the moment of its formation.

As has been stated, community life exists in a state of continual development. Therefore, matters which today are constituted as affairs and duties of the central government may, tomorrow, be felt to be more properly regulated and administered by the daerah, because of the developing situation. At the same time, matters which are now in the sphere of daerah affairs may, because of developments, be felt to be unsuitable for further administration by the daerah.

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In this connection and in accordance with the adherence to a system of real autonomy, Articles 31 and 38 of Law No 1 of 1957 establish that the central government may, at any time, and with attention to the capacity and ability of a daerah, transfer to a daerah affairs which are then being regulated and administered by the central government. The transfer of affairs to the daerah will be accomplished with a government ordinance, and upon the proposal of the DPRD of the daerah concerned. Whenever said transfer is made to the government of a Daerah II or a Daerah III, then a review of the transfer must first be requested of the daerah government at the next higher level.

To facilitate the transfer of affairs from the central to the daerah government, the central government will establish a Autonomy and Decentralization Council. This council will be composed of either the prime minister or a deputy prime minister as chairman, the minister of internal affairs as deputy chairman, and other members as will be established in a government ordinance. Several of these members will be members of Parliament who have been designated by Parliament's section on internal affairs.

A transfer of affairs which increases the affairs of a daerah may be carried out by the central government and by a higher daerah to its subordinate daerahs. Thus, whenever developments in the situation make such a transfer desirable, the DPRD of a daerah may transfer affairs which it is then regulating and administering to daerahs beneath it. Such a transfer must be accomplished via a daerah ordinance of the transferring daerah, and must conform to the decisions contained in Law No 1 of 1957 on this matter.

Whenever the central government or a higher level daerah takes over the regulation of certain affairs which had been regulated by a daerah, then the daerah ordinance of the latter daerah which pertains to these affairs shall, of itself, become void. In this connection Law No 1 of 1957 differentiates between subjects and points: points constitute a part of a subject. This differentiation was established to meet the need for determining the position held by the ordinance which becomes void. It has been decided that when legislation existing at a higher level regulates the same subjects as those regulated in an ordinance of a lower daerah, then the ordinance of the lower daerah shall become totally void: on the other hand, when higher legislation contains only a few of the points of a subject regulated in the ordinance of a lower daerah, then the ordinance of the lower daerah shall not become completely void, but shall become void only insofar as it pertains to these respective points. Thus, the daerah ordinance shall continue in effect except as it pertains to those points which are regulated in legislation existing at a higher level.

2. Participating Government

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Article 131, Paragraph (3) of the provisional constitution establishes that the administration of certain duties which are not included among the affairs of a region can be transferred to a region via a law. This can be understood by noting that not all of the affairs of the central government, which are regulated in the legislation of the central government, can be regulated and administered by the agencies of the central government alone. In such cases the central government may request the assistance of the daerah government in implementing, within the territory of the daerah, the provisions of a particular piece of central government legislation.

The rendering of assistance by a daerah in implementing legislation of the central government is called participating government */medebewind*⁷. In the execution of participating government, the affairs which are administered by the daerah government continue to exist as affairs of the central government; they do not become the affairs of the daerah concerned.

The provision of duties to a daerah, so that it may render the assistance intended above, may be included in the law forming the daerah, in another law, or in an ordinance based on a law. Thus, this transfer of duties can also be accomplished with a government ordinance.

As was the case with autonomy, the transfer of duties intended above may be accomplished by both the central government and by a superior level daerah to a lower level daerah; in the latter case a daerah ordinance is passed by the transferring daerah. Thus, in some instances, the affairs of a daerah may be administered by other lower-ranking daerahs (Article 33, Law No 1 of 1957).

As regards the requesting of assistance, Law No 1 of 1957 states that a daerah can request assistance from a subordinate daerah only if it possesses autonomy over the matters for which the assistance is requested. In other words, a daerah cannot assign affairs which are not its own affairs to a subordinate daerah to be carried out through participating government unless the legislation which originally transferred these affairs to it specifically permitted such action.

When the central government transfers duties to a Daerah I, so that the daerah may assist the central government in implementing certain of its legislation within the territory of the daerah, then the Daerah I may not transfer these duties to its subordinate daerahs, as the duties transferred to the Daerah I are not included among the affairs over which the Daerah I holds autonomy, rather, as has been stated above, they remain the affairs of the central government.

Thus also, that which has been transferred into participating government with a Daerah II by either the central government or a Daerah I, cannot be transferred by the Daerah II to a Daerah III within its territory, unless the pertinent legislation of the central government or the Daerah I permits such action.

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This, then, is the system and content of autonomy set forth in Law No 1 of 1957. What of the system and content of autonomy in Law No 22 of 1948 and Law No 44 of 1950? As regards the provision of autonomy, both laws adhered to a material system, that is, the affairs over which a region was granted autonomy were set forth distinctly and individually.

Law No 22 of 1948 stated that the DPRD would regulate and administer the affairs of the region and that the matters included as affairs of the region would be set forth in the laws forming each region. Law No 44 of 1950 contains nearly identical decisions: the DPR would regulate and administer the affairs of the region and that the matters included as affairs of the region would be set forth in law.

When we review the laws passed by the early Republic of Indonesia in forming provinces, regencies, major cities, and minor cities based on the provisions contained in Law No 22 of 1948, we see that each piece of formative legislation contained and classified those affairs which were to be constituted as the affairs of the region being formed, and also those affairs which the central government was assigning to the region for management through the system of participating government.

Formally, and in accordance with that which was set forth in the respective pieces of formative legislation, the content of autonomy regions formed on the basis of Law No 22 of 1948, which adhered to the material system, was as follows:

a. Provinces

The various laws which established provinces or special regions at the provincial level, for example, the province of East Java (Law No 2 of 1950, as amended by Law No 18 of 1950), the special region of Jogjakarta (Law No 3 of 1950, as amended by Law No 19 of 1950), the province of Central Java (Law No 10 of 1950), the province of West Java (Law No 11 of 1950), and others, grouped the affairs of the provinces into the following categories.

- 1) General Affairs (Administration)
- 2) General Government Affairs
- 3) Agrarian Affairs
- 4) Irrigation, Road, and Building Affairs
- 5) Agricultural, Fishery, and Cooperative Affairs
- 6) Livestock Affairs
- 7) Handicraft, Trade, and Industrial Affairs
- 8) Labor Affairs
- 9) Social Affairs
- 10) Distribution Affairs
- 11) Information Affairs
- 12) Education, Training, and Cultural Affairs

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- 13) Health Affairs
- 14) Traffic and Motor Transport Affairs
- 15) Business Affairs

Appendix A to each of the laws establishing provinces contained a full specification of the content of the affairs set forth above, both as regards those affairs which the region itself had autonomy over, and the affairs which were placed in participating government. Generally, the tasks which were transferred to most of the provinces were those of providing guidance and supervision to the regions subordinate to them.

The following matters were included in the affairs listed above.

- 1) General Affairs
 - a) Preparation of the province's DPRD;
 - b) Preparation of a draft budget; calculation of income and expenses and other matters concerned with the budget;
 - c) Financial work of the province;
 - d) Personnel affairs;
 - e) Archives and the forwarding of material;
 - f) Examination and calculation of the budgets of regencies and major cities, preparatory to authorization;
 - g) Supervision of the financial affairs of the regencies and major cities;
- 2) General Government Affairs
 - a) Supervision of the implementation of provincial ordinances;
 - b) Supervision of ordinances pertaining to police and security matters (participating government);
 - c) Guidance and supervision of the work of subordinate autonomous regions;
 - d) Implementation of the establishment of, or change in, the borders of subordinate regions (participating government);
 - e) Citizenship matters (participating government);
 - f) Hotel and tourism matters;
 - g) All other work not specifically included under another heading.
- 3) Agrarian Affairs
 - a) Acceptance of the transfer of eigendom [Dutch proprietary] rights on eigendom land to the state (participating government);
 - b) Transfer of state lands (assignment of control) to offices, ministries, or autonomous regions (participating government);
 - c) Granting permission to restore eigendom and onstal [building rights on leased land] on land rights, if one or both parties involved are foreigners; (participating government);
 - d) Supervision of the work of subordinate autonomous regions in agrarian matters (that part which exists in participating government).

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4) Irrigation, Road, and Building Affairs

- a) Control over the general irrigation works which have been transferred to the province by the central government, that is, control over the rivers, wells, lakes, and canals, their borders, banks, and dikes, and over the government owned buildings which are on or beside these waters and which are used to carry, contain or release water;
- b) Control over the use of water, for agriculture and for other interests of the region and the state, from irrigation works which have been transferred to the province by the central government;
- c) Control over the roads which have been transferred to the province by the central government, and over the land, buildings, and trees bordering them;
- d) Control over state buildings which have been transferred to the province by the central government;
- e) The transfers referred to in a) through d) above are included in participating government.

5) Agricultural, Fishery, and Cooperative Affairs

- a) Inspection and planning of matters capable of animating the modern farmer and of dynamizing farm society;
- b) Establishing coordination in technical fields (participating government);
- c) Establishing central estates for the investigations of fruits, vegetables, chemicals, and trade crops;
- d) Guiding the fight against any plant disease which spreads beyond a single regency;
- e) Provide information on agricultural matters;
- f) Inspect fisheries in subordinate regions (participating government);
- g) Investigate and collect materials to improve and raise the level of inland fisheries, assist the ministry in its work (participating government);
- h) Matters dealing with cooperatives will be established at the time of transfer.

6) Livestock Affairs

- a) Inspect subordinate regions and work on the checking and elimination of infectious diseases; quarantine and laboratory work (participating government);
- b) Coordinate the eradication of non-infectious illnesses in subordinate regions;
- c) Supervise veterinary hygiene as employed with respect to meat and milk;

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- d) Inspect the transportation of animals continuously;
- e) Prevent mistreatment of animals;
- f) Supervise the care of hogs;
- g) Support the animal trade regulations in areas outside the province and coordinate the trade in animals within the province;
- h) Organize breeding stations, coordinate and supervise the breeding of animals in subordinate regions, and eradicate clandestine abattoirs.

7) Handicraft, Domestic Trade, and Industrial Affairs

- a) Matters dealing with these affairs will be established at the time of transfer.

8) Labor affairs

- a) Transmit data on unemployment from subordinate autonomous regions to the Ministry of Labor (participating government);
- b) Report all unemployment statistics covering a given period to the Ministry of Labor (participating government);
- c) Manage the mobilization, division, and transfer of labor forces to areas where they are needed in the respective regions (participating government);
- d) Devise new fields of work in an effort to eliminate unemployment (participating government);
- e) Organize information on the selection of trades and fields of work (participating government);
- f) Organize training to better the special skills of unemployment persons and youths (participating governments);
- g) Supervise the work of subordinate autonomous regions in labor affairs (participating government).

9) Social Affairs

Guide and supervise subordinate regions.

10) Distribution Affairs

- a) Establish regulation of distribution in subordinate regions;
- b) Determine the percentage of increase in the selling price of distributed goods necessary to meet costs (both a and b are in participating government).

11) Information Affairs

- a) Assist the Ministry of Information in disseminating general information;

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b) Organize local information activities

12) Education, Training, and Cultural Affairs

a) Establish and direct primary schools, but not primary training schools, and provide subsidies to primary schools managed by private groups;

b) Establish and direct general knowledge courses and provide subsidies for courses of this type that are managed by private groups;

c) Establish libraries for the people;

d) Serve as the connection between the central government and the youth movements;

e) Guide and develop regional art;

f) Establish teacher training courses for those who bear the responsibility of teaching.

13) Health Affairs

a) Train elementary technical forces;

b) Curative work - manage general and central hospitals and supervise private hospitals;

c) Preventive work - carry out resettlement within the province;

d) Guide, supervise, and coordinate the medical offices in subordinate regions.

14) Traffic and Motor Transport Affairs

a) Inspect traffic;

b) Inspect vehicles and the government shops transferred to the province;

c) Maintain supplies;

d) Direct official transportation;

e) Direct public transportation.

15) Business Affairs

Enterprises can be managed by the province according to need.

This then, is a material classification of the affairs of a province, including the affairs which must be administered through participating government. Every law forming a province has stated that both the affairs of the province and the responsibilities of the central government which have been transferred to the province may be expanded via law and with regard to existing conditions. Law No 2 of 1950, which dealt with the formation of the province of East Java,

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contained two appendices. Appendix A contained the list of affairs set forth above and Appendix B contained a list of the roads which had been transferred to the province of East Java by the central government.

b. Regencies

The laws issued by the early Republic of Indonesia government on the formation of regencies also listed those affairs over which the regencies possessed autonomy. These laws were: Law No 12 of 1950 Concerning the Formation of Regencies Within the Territory of the Province of East Java; Law No 13 of 1950 Concerning the Formation of Regencies Within the Territory of the Province of Central Java; Law No 14 of 1950 Concerning the Formation of Regencies Within the Territory of the Province of West Java; and Law No 15 of 1950 Concerning the Formation of Regencies Within the Territory of the Special Region of Jogjakarta.

According to the explication to these laws, the general types of affairs controlled by the regencies were the same general types as those controlled by the province. Thus, the regency was an extension of the province, maintaining autonomy over its own affairs and carrying out participating government with the central government.

An Appendix A was also attached to these laws. The appendix contained a complete categorization of the affairs and other responsibilities of the regencies. This categorization was as follows:

1) General Affairs

- a) Preparation of the regency's DPRD;
- b) Preparation of a draft budget, calculation of income and expenses and other matters connected with the budget;
- c) Financial Work of the regency;
- d) Personnel affairs;
- e) Archives and the forwarding of material;
- f) Examination and calculation of the budgets of subordinate autonomous regions, for authorization;
- g) Supervision of the financial affairs of subordinate autonomous regions.

2) General Government Affairs

- a) Supervision of the implementation of regency ordinances;
- b) Guidance and supervision of the work of subordinate autonomous regions;
- c) Implementation of the establishment of, or change in, the borders of subordinate regions;

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- d) Citizenship matters (participating government);
- e) Confirmation of the election of a village chief;
- f) Investigating and settling village claims;
- g) Issuance of permits for celebrations;
- h) Notarization of private contracts;
- i) Registrar for various groups of residents to whom pertinent legislation applies (participating government);
- j) Swearing-in of government employees who hold responsible positions (participating government);
- k) Issuances of passes for the pilgrimage to Mecca (participating government);
- l) Issuance of permits for solicitations for charity;
- m) Quarantining an area due to the spread of an infectious disease affecting either men or animals (participating government);
- n) Executing warrants and court decisions (participating government);
- o) Collecting fines and court costs (participating government);
- p) Confirming, appointing, and discharging village officials;
- q) Establishing the committee for the election of the village chief (participating government);
- r) Establishing an assessment committee for income, wealth, and personal taxes (participating government);
- s) All other work not specifically included under another heading.

3) Agrarian Affairs

- a) Investigation and authorization of land contracts between Indonesian citizens and aliens (participating governments);
- b) Issuance of permits for the opening of land to subordinate regions or to Indonesian citizens (participating government);
- c) Issuance of permits for the occupation of undeveloped lands by aliens (participating government);

4) Irrigation, Road, and Building Affairs

- a) Execution of provincial ordinances which pertain to the use of water from general irrigation works for agriculture and for other interests of the region and the state (participating government);
- b) Control over the roads which have been transferred to the regency by the central government, and over the land, buildings, and trees bordering them (participating government);

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c) Control over state buildings which have been transferred to the regency by the central government (participating government);

5) Agricultural, Fishery, and Cooperative Affairs

a) Providing guidance and supervision to subordinate regions, carrying out the programs received from the province (participating government);

b) Establishing new seed beds and maintaining those already existing (both rice and second crop seeds);

c) Establishing fruit and vegetable estates for the production and dissemination of selected seeds;

d) Holding of agricultural and estate demonstrations;

e) Building supplies of seed, agricultural equipment, fertilizer, and so forth;

f) Establishing courses for farmers;

g) Eradicating plant diseases and animal illnesses;

h) Establishing and promoting the care of fresh water fish and regulating the sale of fresh water and ocean fish (participating government);

i) Activating, guiding, and assisting cooperatives within the region.

6) Livestock Affairs

a) Eradicating and checking the spread of infectious diseases at the direction of the province (participating government);

b) Eradicate non-infectious animal illnesses (participating government);

c) Promote the observance of the rules of veterinary hygiene;

d) Regulate the trade in animals with other regions and coordinate the trade in animals within the regency;

e) Promote animal husbandry by developing the quality and quantity already attained (check on castration and the slaughter of dams, control the number of trade animals exported from the region, hold livestock displays); breed animals at the proper time; improve the care and use of animals; eradicate clandestine abattoirs;

f) Promote efforts which will give livestock a more significant economic position.

7) Handicraft, Domestic Trade, and Industrial Affairs

Develop, activate, support, and guide the activities of the people in the fields of handicraft, trade, and industry.

8) Labor Affairs

- a) Conduct a registration of the labor force, the unemployment in particular, and compile materials and make analyses on the condition of the labor force during specific periods (participating government);
- b) Bring together those who are seeking work and those who are seeking workers (participating government);
- c) Provide the unemployment with support (participating government);
- d) Carry out such other efforts pertaining to the welfare of the unemployed as are necessary (participating government);
- e) Supervise the work of subordinate autonomous regions in the field of labor affairs (participating government);

9) Social Affairs

- a) Provide information on and training in social welfare to the people (participating government);
- b) Provide training for beggars, tramps, and loafers (participating government);
- c) Provide training to abandoned or delinquent children (participating government);
- d) Provide training to morally degraded persons (prostitutes, gamblers, opium addicts) for their betterment (participating government);
- e) Inspect the difficulties borne by the people (participating government);
- f) Improve housing and kampongs (participating government);
- g) Eradicate and prevent moral degradation (participating government);
- h) provide care for beggars, tramps, and loafers;
- i) Provide care for orphans, abandoned children, and delinquent children;
- j) Assist displaced persons;
- k) Assist victims of natural calamities, refugees, and victims of armed strife (participating government);
- l) Assist private charitable groups.

10) Distribution Affairs

Assist the province in carrying out ordinances pertaining to distribution.

11) Information Affairs

Carry information to the people, particularly that of a local nature.

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12) Education, Training, and Cultural Affairs

- a) Establish and direct anti-illiteracy courses and subsidize such of these courses as are offered by private groups;
- b) Establish and direct general knowledge courses and provide subsidies for courses of this type that are managed by private groups;
- c) Propose and assist in the establishment of courses in such skills as are needed in the region;
- d) Establish libraries for the people;
- e) Guide and develop regional art.

13) Health Affairs

- a) Curative work - manage hospitals and polyclinics;
- b) Preventive work - establish consultation bureaus to provide information on the care of infants and to pregnant women;
- c) Supervise the medical offices in subordinate regions;
- d) Carry out work assigned by the Ministry of Health and the province.

14) Business Affairs [unlike the preceding section on provinces, this section contained no listing for traffic and motor transport affairs]

Enterprises can be managed by the regency according to need.

The affairs of the regency and the responsibilities of the central government which have been transferred to the regency, as listed above, may, at any time, be expanded via law and with regard to existing conditions.

c. Major Cities

The explication to Law No 16 of 1950, which law deals with the establishment of major cities within the provinces of East Java, Central Java, West Java, and the special region of Jogjakarta, states that the position occupied by a major city is the same as that occupied by a regency (both constitute mid-level regions). Therefore, the rights to autonomy and participating government which are held by both regions are generally the same.

However, the major cities possess specific rights which are not found in the regencies. Further, the autonomy and the amount of participating government held by the major city may be more extensive than that held by the regency, as there has been more growth in the political, economic, and cultural fields in the major cities.

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Although the affairs of the major city are the same as those of the regency they are not necessarily of the same dimension. For example, the major city does not possess as much agricultural land as does the regency, thus, in implementing this aspect of its autonomy, it is unnecessary for the major city to emulate the regency, as to do so would be to incur an improper expense.

Law No 16 of 1950, referred to above, also contained an Appendix A. This appendix was a specification of the affairs over which the major cities possessed autonomy, and of their other responsibilities. This specification was the same as that found in the laws dealing with the formation of regencies.

d. Minor Cities

A specification of the content of autonomy and the amount of participating government permitted minor cities appears in Appendix A of Law No 17 of 1950, which deals with the establishment of minor cities in the provinces of East Java, Central Java, and West Java.

The explication to this law states that the affairs over which a minor city has autonomy are nearly the same as those of the regency, although the extent of some of the affairs is reduced as the minor city lies within the territory of the regency, and as the regency is responsible for the supervision of the implementation of autonomy and participating government on the part of the minor city.

The specification of the affairs of the minor city and of the affairs transferred into participating government is as follows:

1) General Affairs

- a) Preparation of the minor city's DPRD;
- b) Preparation of a draft budget, calculation of income and expenses and so forth;
- c) Financial work of the minor city;
- d) Personnel affairs;
- e) Archives and the forwarding of material.

2) General Government Affairs

- a) Supervision of the implementation of the ordinances of the minor city;
- b) Citizenship affairs (participating government);
- c) Issuance of permits for celebrations;
- d) Notarization of private contracts;
- e) Registrar for various groups of residents to whom pertinent legislation applies (participating government);
- f) Issuance of permits for solicitations for charity;
- g) Execution of warrants and of court decisions (participating government);

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h) Collection of fines and court costs (participating government);

i) Establishing an assesment committee for income, wealth, and personal taxes (participating government);

j) All other work not specifically included under another heading.

3) Agrarian Affairs

a) Investigation and authorization of land rental contracts between Indonesian citizens and aliens (participating government);

b) Issuance of permits for the occupation of undeveloped lands by aliens (participating government);

4) Irrigation, Road, and Building Affairs

a) Control over the roads which have been transferred to the minor city by the central government, and over the land, buildings, and trees bordering them;

b) Control over the state buildings which have been transferred to the minor city by the central government (participating government).

5) Agricultural, Fishery, and Cooperative Affairs

a) Carrying out the programs received from the regency (participating government);

b) Establishing new seed beds and maintaining those already existing (both rice and second crop seeds);

c) Holding of agricultural and estate demonstrations;

d) Building supplies of seed, agricultural equipment, fertilizer, and so forth;

e) Establishing courses for farmers;

f) Eradicating plant diseases and animal illnesses;

g) Establishing and promoting the care of fresh water fish and regulating the sale of fresh water and ocean fish (participating government);

h) Activating, guiding, and assisting cooperatives within the region.

6) Livestock Affairs

a) Eradication of non-infectious animal illnesses;

b) Promote the observance of the rules of veterinary hygiene;

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c) Promote animal husbandry by developing the quality and quantity already attained (check on castration and the slaughter of dams, control of the number of trade animals exported from the region, hold livestock displays); breed animals at the proper time; improve the care and use of animals; eradicate clandestine abattoirs.

7) Handicraft, Domestic Trade and Industrial Affairs

Develop, activate, support, and guide the activities of the people in the fields of handicraft, trade, and industry.

8) Labor Affairs

a) Conduct a registration of the labor force, the unemployed in particular, and compile materials and make analyses on the condition of the labor force during specific periods (participating government);

b) Bring together those who are seeking work and those who are seeking workers (participating government);

c) Provide the unemployed with support (participating government);

d) Carry out such other efforts pertaining to the welfare of the unemployed as are necessary (participating government).

9) Social Affairs

a) Provide information on and training in social welfare to the people (participating government);

b) Provide training for beggars, tramps, and loafers (participating government);

c) Provide training to abandoned or delinquent children (participating government);

d) Provide training to morally degraded persons, (prostitutes, gamblers, opium addicts) for their betterment (participating government);

e) Statistics and documentation (participating government);

f) Inspect the difficulties borne by the people (participating government);

g) Improve housing and kampongs (participating government);

h) Eradicate and prevent moral degradation (participating government);

i) Provide care for beggars, tramps and loafers;

j) Provide care for orphans, abandoned children, and delinquent children;

k) Assist displaced persons;

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1) Assist victims of natural calamities, refugees, and victims of armed strife;

m) Assist private charitable groups.

10) Distribution Affairs

Assist the regency in carrying out ordinances pertaining to distribution.

11) Information Affairs

Carry information to the people, particularly that of a local nature (participating government);

12) Education, Training, and Cultural Affairs

a) Establish and direct anti-illiteracy courses and subsidize such of these courses as are offered by private groups;

b) Establish and direct general knowledge courses and provide subsidies for courses of this type that are managed by private groups;

c) Propose and assist in the establishment of courses in such skills as are needed in the region;

d) Establish libraries for the people;

e) Guide and develop regional art.

13) Health Affairs

a) Curative work - manage hospitals and polyclinics;

b) Preventive Work - establish consultation bureaus to provide information on the care of infants and to pregnant women;

c) Carry out work assigned by the Ministry of Health and by superior regions.

14) Business Affairs [this section contained no listing for traffic and motor transport affairs]

Enterprises can be managed by the minor city according to need.

The above are the specification on the content of the autonomy held by the various regions under Law No 22 of 1948, which adhered to the material system (an item by item specification).

Law No 1 of 1957 states that the specific affairs which are to be regulated and administered by the daerah concerned, from the moment of its establishment on, shall be contained in the legislation based on Law No 22 of 1948, which was drafted by the government of the

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early Republic of Indonesia, states that the existence of a complete specification of the affairs over which the region has autonomy in the formative legislation does not mean that each region may regulate and administer all the affairs so specified. These affairs were being administered by the central government at the time these regions were being established. Thus, every region had to await the actual transfer of each of the specified affairs before it was entitled to regulate and administer these affairs. Those provisions relating to regional affairs in the various laws establishing provinces, regencies, major cities, and minor cities were only promissory statements to the effect that the regions being formed could regulate these affairs at a future date. As long as these affairs were being administered by the central government, and had not been transferred, in fact, to the regions concerned, the regions did not have the right to regulate and administer the affairs.

The government of the early Republic of Indonesia was in no hurry to transfer any of these affairs to the regions which had been formed. The transfer of these affairs was carried out by the government of the present Republic of Indonesia, and then only since 1951. The actual transfer of affairs to the regions was carried out by the central government via government ordinances. Those affairs which have been transferred, in fact, by the central government to the regions are contained in the following lists of government ordinances.

Livestock

Government Ordinance No 30 of 1951, concerning the implementation of the transfer of a part of the affairs of the central government in the field of livestock to the province of West Java (No 49 in the 1951 State Gazette, Supplement No 119 to the State Gazette; as amended by Government Ordinance No 16 of 1952, No 22 in the 1952 State Gazette, Supplement No 207 to the State Gazette);

Government Ordinance No 33 of 1951, idem to the province of Central Java (No 52 in the 1951 State Gazette, Supplement No 122 to the State Gazette [all of the following government ordinances on livestock affairs were amended by Government Ordinance No 16 of 1952, referred to above]);

Government ordinance No 39 of 1951, idem to the special region of Jogjakarta (No 55 in the 1951 State Gazette, Supplement No 128 to the State Gazette);

Government Ordinance No 33 of 1951, idem to the province of Central Java (No 55 in the 1951 State Gazette, Supplement No 125 to the State Gazette);

Government Ordinance No 42 of 1951, idem to the province of South Sumatra (No 61 in the 1951 State Gazette, Supplement No 131 to the State Gazette);

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Government Ordinance No 45 of 1951, idem to the province of Central Sumatra (No 64 in the 1951 State Gazette, Supplement No 134 to the State Gazette);

Government Ordinance No 48 of 1951, idem to the Province of North Sumatra (No 67 in the 1951 State Gazette, Supplement No 137 to the State Gazette).

Health

Government Ordinance No 49 of 1952, concerning the implementation of the transfer of a part of the affairs pertaining to health of the central government to the autonomous regions/provinces in Java (including the special region of Jogjakarta) (No 80 in the 1952 State Gazette, Supplement No 336 to the State Gazette);

Government Ordinance No 50 of 1952, idem to the autonomous regions/regencies, major cities, minor cities in Java (No 81 in the 1952 State Gazette, Supplement No 337 to the State Gazette);

Government Ordinance No 51 of 1952, idem to the autonomous regions/provinces in Sumatra (No 82 in the 1952 State Gazette, Supplement No 338 to the State Gazette).

Public Works

Government Ordinance No 18 of 1953 concerning the implementation of the transfer of a part of the affairs pertaining to public works of the central government to the provinces, and the confirmation of public works assignments to the regencies, major cities and minor cities, in Java (No 31 in the 1953 State Gazette, Supplement No 395 to the State Gazette);

Education, Training, and Culture

Government Ordinance No 65 of 1951 concerning the implementation of the transfer of a part of the affairs of the central government in the field of education, training, and culture to the provinces (No 110 in the 1951 State Gazette, Supplement No 173 to the State Gazette).

Inland Fisheries

Government Ordinance No 31 of 1951, concerning the implementation of the transfer of a part of the affairs of the central government in the field of inland fisheries to the province of West Java (No 50 in the 1951 State Gazette, Supplement No 120 to the State Gazette);

Government Ordinance No 34 of 1951, idem to the province of Central Java (No 53 in the 1951 State Gazette, Supplement No 123 to the State Gazette);

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Government Ordinance No 37 of 1951, idem to the province of East Java (No 56 in the 1951 State Gazette, Supplement No 126 to the State Gazette);

Government Ordinance No 40 of 1951, idem to the special region of Jogjakarta (No 59 in the 1951 State Gazette, Supplement No 129 to the State Gazette);

Government Ordinance No 43 of 1951, idem to the province of South Sumatra (No 62 in the 1951 State Gazette, Supplement No 132 to the State Gazette);

Government Ordinance No 46 of 1951, idem to the province of Central Sumatra (No 65 in the 1951 State Gazette, Supplement No 135 to the State Gazette);

Government Ordinance No 49 of 1951, idem to the province of North Sumatra (No 68 in the 1951 State Gazette, Supplement No 138 to the State Gazette).

Industry

Government Ordinance No 12 of 1954 concerning the implementation of the transfer of a part of the affairs of the central government in the field of industry to the provinces (No 24 in the 1954 State Gazette, Supplement No 527 to the State Gazette).

Agriculture

Government Ordinance No 29 of 1951, concerning the implementation of the transfer of a part of the affairs of the central government in the field of agriculture to the province of West Java (No 48 in the 1951 State Gazette, Supplement No 118 to the State Gazette);

Government Ordinance No 32 of 1951, idem to the province of Central Java (No 51 of the 1951 State Gazette, Supplement No 121 to the State Gazette);

Government Ordinance No 35 of 1951, idem to the province of East Java (No 54 in the 1951 State Gazette, Supplement No 124 to the State Gazette);

Government Ordinance No 38 of 1951, idem to the special region of Jogjakarta (No 57 in the 1951 State Gazette, Supplement No 127 to the State Gazette);

Government Ordinance No 41 of 1951, idem to the province of South Sumatra (No 60 in the 1951 State Gazette, Supplement No 130 to the State Gazette);

Government Ordinance No 44 of 1951, idem to the province of Central Sumatra (No 63 in the 1951 State Gazette, Supplement No 133 to the State Gazette);

Government Ordinance No 47 of 1951, idem to the province of North Sumatra (No 66 in the 1951 State Gazette, Supplement No 136 to the State Gazette).

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Social

Government Ordinance No 45 of 1952 concerning the implementation of the transfer of a part of the affairs of the central government in the social field to the provinces (No 73 in the 1952 State Gazette, Supplement No 303 to the State Gazette).

It is evident from the government ordinances listed above that at the time Law No 1 of 1957 went into effect the central government had still not transferred to the regions concerned all of the affairs which had been promised them in the Appendices A of their various formative laws.

The legislators who drafted Law No 1 of 1957 believed that the system of material autonomy utilized in Law No 22 of 1948 delayed the advancement of regions with initiative, as the regions were forced to await the transfer of every affairs. There were times when an individual affair became a source of dispute, as it was not being administered by the central government and, because it had not been transferred, could not be administered by the regional government. Therefore, Law No 1 of 1957 utilized the real system of autonomy and the material system of autonomy was abandoned.

What was the situation in the former State of East Indonesia?

As has been stated, both Law No 44 of 1950 and Law No 22 of 1948 adhered to the material system of autonomy. Under Law No 44 of 1950 those affairs which were to be constituted as the affairs of the region, the regional division, or the regional sub-division would be established in legislation. However, the State of East Indonesia, until the moment of its dissolution, had not had the opportunity to draft a law establishing these affairs.

Law No 44 of 1950, itself, confirmed the existence of 13 regions in the territory of the State of East Indonesia, and that these regions could regulate and administer their own affairs. The explication to the law stated that the autonomy of the respective regions was established as of that time, and that it would subsequently be reviewed by a special committee.

It has been explained in Chapter IV, Part A of this book that the government of the present Republic of Indonesia dissolved several of these 13 regions and established new regions in their former territory. Subsequently, several of these new regions were themselves dissolved and still other new regions established. All of these new regions were established at the same level and position as the regencies formed under Law No 22 of 1948.

The affairs which could be administered by these new regions and the responsibilities transferred to them by the central government, which the new regions could immediately regulate, were specified in the laws establishing the new regions.

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In general, the specification of the content of autonomy and participating government of each of the new regions, which were formed on the basis of the provisions contained in Law No 44 of 1950, was as follows.

- 1) General Affairs
 - a) Preparation of the regional DPR;
 - b) Establishment of a draft budget for the region;
 - c) Giving provisional authorization to the budget and supervising the finances of the sultanates;
 - d) Personnel affairs;
 - e) Archives and the forwarding of material.

The implementation of the affairs intended in b) and c) would be further regulated by the Minister of Internal Affairs.
- 2) General Government Affairs
 - a) Carrying out the duties and authority of the resident, as intended in the Self Government Regulation of 1938 (Item 529 in the 1938 Statute Book) Article 2, sub 2 and 3; Article 3, sub 4 and 5; Article 4, sub 1 and 3; Article 5, sub 1 and 2; Article 10, sub 1, 2, 3, and 4; Article 11, sub 1; and Article 22, sub 2;
 - b) Carrying out the regulations pertaining to the gathering of oysters, pearls, sea cucumbers, sponges, and other ocean products;
 - c) Carrying out the regulations pertaining to legalization affairs;
 - d) Carrying out housing regulations;
 - e) Carrying out the registration of inhabitants in conformance with the regulations concerned;
 - f) Enforcing the regulation on rabid animals;
 - g) Carrying out the rights of the Resident as set forth in the Native Municipal Ordinance for Foreign Lands (No 490 in the 1938 Statute Book);
 - h) Carrying out the regulations pertaining to the maintenance of forest and wild-life reserves.
- 3) Road and Building Affairs
 - a) Building, repairing, maintaining, and controlling such public roads as are not directly administered by a superior government;
 - b) Building, repairing, maintaining, and controlling buildings and such other public construction as has been transferred to the region by the government.

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4) Agricultural, Fishery, and Forestry Affairs

- a) Establishing, managing, and maintaining seed beds (rice and second crop) and distributing selected seeds;
- b) Establishing, managing, and maintaining fruit, vegetables, and trade crop estates for the production and dissemination of selected seeds;
- c) Holding agricultural and estate demonstrations;
- d) Building supplies of seed, agricultural equipment, fertilizer, and so forth;
- e) Conducting courses for farmers;
- f) Eradicating plant disease and animal husbandry;
- g) Establishing and promoting the care of fresh water fish and regulating the sale of fresh water and ocean fish;
- h) Regulating the taking of lumber and other forest products;
- i) Designating forest reserves and forested area reserves, such designation requiring the concurrence of the sultanate concerned when the lands lie within a sultanate;
- j) Cancelling, either totally or in part, the designation of the areas referred to in b) above, such cancellation requiring the concurrence of the sultanate when the lands lie within a sultanate;
- k) Supervising and managing all forests and forested areas in sultanates which lie within the territory of the region and which are not owned by a third party and are not needed for agriculture;
- l) Deciding, with the concurrence of the government of the sultanate concerned, whether a forest or forested area is needed or is not needed for agriculture;
- m) Carrying out other regulations pertaining to forestry affairs;
- n) Administering the planting and maintenance of forests and guarding them.

5) Livestock Affairs

- a) Eradicating and controlling infectious animal diseases;
- b) Eradicating non-infectious animal illnesses;
- c) Promoting the observance of the rules of veterinary hygiene;
- d) Promoting animal husbandry by developing the quality and quantity already attained (check on castration and the slaughter of dams, control animal trade within the region, and hold livestock displays); improve the care and use of animals, eradicate clandestine abattoirs.

6) Education, Training, and Cultural Affairs

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- a) Administer primary school affairs, except the affairs of those primary schools still administered by the sultanate concerned;
 - b) Establish and direct anti-illiteracy courses and provide subsidies for courses of this type that are managed by private groups;
 - c) Establish and direct general knowledge courses and provide subsidies for courses of this type that are managed by private groups;
 - d) Propose and assist in the establishment of courses in such skills as are needed in the region;
 - e) Establish libraries for the people;
 - f) Guide and develop regional art.
- 7) Health Affairs

Regulate all affairs which are closely connected with the health of the people and which are not directly administered by a superior government, which matters will be established in a special government ordinance, among others: construction and maintenance of a regional leprosy hospital; construction of regional hospitals, pharmacies, and sanitariums; general eradication of malaria and implementation of sanitation projects for the better control of malaria.

So reads the specification on the content of autonomy and participating government of the new regions formed in the territory of the former State of East Indonesia. The affairs referred to in 3) through 7) above were subject to the guidance of the central government, depending upon the nature of the affairs involved and upon existing conditions. Further, it was established that the rights and responsibilities set forth in the specification above were not fixed, rather that the central government, with regard to existing conditions, could change or expand them with a government ordinance at any time.

In general, both Law No 22 of 1948 and Law No 44 of 1950 contained provisions concerning participating government which were nearly the same as those contained in Law No 1 of 1957. Article 24 of Law No 22 of 1948 provides that the affairs for which the central government holds responsibility in the regions, and which are not included among the affairs of the region, may be transferred, via legislation, to the DPRD or DPD of the region for implementation; and that, a region may transfer its responsibility, via a regional ordinance, to a subordinate DPRD or DPD for implementation.

Article 19 of Law No 44 of 1950 states that those responsibilities held in participating government which are not included among the affairs of a region, regional division, or regional subdivision may be transferred via a law of the government of the State of East Indonesia or an ordinance issued by its executive council to subordinate DPRs or DPs for implementation.

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This, then, is the control relationship between the regions and the central government as regards the content of autonomy within a region and as regulated in the three laws dealing with regional government in Indonesia.

B. The Control of Autonomy

The control relationship between the regions and the central government exists both as regards the content of autonomy within the regions and as regards the supervision which the central government must certainly carry out over the authority of the regions to regulate and administer their own affairs.

Within a unitary state which is decentralizing, the extensive rights and freedoms of the regions to regulate and administer their own affairs must not, incidentally, result in damage to the relationship between the state and its regions. Therefore, a correct and harmonious control relationship must exist between the central government and the regions. In this way each region can attain full freedom in administering its own government and the state will be maintained as an intact and harmonious entity.

To enable the realization of this condition, Law No 1 of 1957 stipulates certain powers which are to be carried out by the central government over the regions, these are: the right of supervision, the right of inquiry, and the right of sanction. These rights are held not only by the central government, but have also been bestowed upon regions for implementation in respect of subordinate regions. Therefore, without minimizing the decision that the central government supervises the course of all regional government within the state in accordance with methods which are regulated in government ordinances, the control of autonomy through the rights referred to above is carried out, by: the Minister of Interior (or an official designated by him) for Daerahs I; the government of a Daerah I (its DPD) for Daerahs II lying within its territory; the government of a Daerah II for Daerahs III lying within its territory.

Law No 22 of 1948 and Law No 44 of 1950 contain somewhat different decisions as regards the authority responsible for carrying out this control of autonomy.

According to Law No 22 of 1948 these rights are to be carried out by the President for a province, and by the DPD of the superior of other regions (regencies, minor cities, and so forth). Thus, in this law, a decision similar to that taken in Law No 1 of 1957 applies to mid-level and low-level regions.

Under Law No 44 of 1950 the control of autonomy was carried out by the government of the State of East Indonesia for the region, and by the DP of the region for regional divisions and regional subdivisions.

1. Right of Supervision

This right is absolutely necessary to the existence of a unitary state. The right of supervision is exercised over all the decisions of the government of a region, and the term decision is understood to include the ordinances passed by the government of a region.

As viewed from the aspect of the necessity for the existence of a unified state, then, basically, this supervision is centered on guarding against any decision or measure of a regional government being opposed to legislation emanating from a higher level, or to the general interest, as such would damage or disrupt the harmonious unity of the state.

There are two types of supervision: preventive supervision and repressive supervision. Preventive comes from the word prevention which means to forestall; repressive comes from the word repression, which means to check or curb.

The differences between preventive supervision and repressive supervision exist both as regards the area in which they take effect, and as regards the time at which they are implemented, their design, and the period in which they are in effect. These differences are as follows.

a. The Areas in which the Two Types of Supervision Take Effect

Preventive supervision is exercised over decisions which are connected with major interests, or over decisions which may create unrest or disturbances in the maintenance of the general interest, when such decisions have not been established in the best possible manner by the regional government.

Repressive supervision is exercised over all decisions of the regional government, without exception. Thus, the area of application of repressive supervision is much more extensive than that of preventive supervision.

Under Law No 1 of 1957, preventive supervision must be exercised over such of those decisions of the daerahs as are concerned with the following matters:

A regulation passed by a DPRD which pertains to session pay, travel expenses, and lodging expenses of members of the DPRD, or to honorariums for the chairman or deputy chairman of the DPRD (Article 1, Paragraph 3);

A regulation on the rules of order of a DPRD which is passed by the DPRD concerned (article 16);

A guide drawn up by a DPRD detailing the methods to be followed by the DPD in carrying out its authority and responsibilities (Article 21, Paragraph 2);

A regulation passed by a DPRD which pertains to the travel expenses, lodging expenses, and honorariums which may be received by the members of the DPD of the daerah concerned (Article 22, Paragraph 2);

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A regulation passed by a DPRD which regulates the amount of wages, travel expenses, lodging expenses, and any other authorized income which is connected with the post of the chief of the daerah (Article 28, Paragraph 2);

A daerah ordinance which transfers certain of the affairs of the daerah to a lower level daerah for their regulation and administration by that lower level daerah (Article 31, Paragraph 4);

A daerah ordinance which contains a decision or article in which criminal prosecution is threatened for violation of the ordinance (Article 39, Paragraph 4);

A joint decision of several daerahs which regulates and administers a joint interest of the daerahs, thus also, the amendment or revocation of such joint decision (Article 42, Paragraph 2);

A daerah ordinance which deals with the appointment, removal temporary removal, wages, pensions, and other matters connected with the situation of employees of the daerah (Article 53, Paragraph 2);

A daerah ordinance which establishes, amends, or revokes any tax or repayment of the daerah. As regards this matter, preventive supervision is exercised by the official, and in accordance with the manner, designated in the law establishing the tax or repayment (Article 56, Paragraph 3);

A decision by the DPRD dealing with the daerah budget or changes in the budget (Article 61, Paragraphs 3 and 4);

Other matters which may be established in laws or government ordinances (Article 62).

Preventive supervision must be exercised over these daerah decisions by the Minister of Interior for Daerahs I, and by a superior DPD for other daerahs.

The matters established by both Law No 22 of 1948 and Law No 44 of 1950 as matters requiring the preventive supervision of superior authorities were, in general, the same as those established in Law No 1 of 1957.

b. The Time of Implementation of the Two Types of Supervisions

The Preventive supervision is implemented before the decisions referred to above are put in to effect, thus, before the decisions are carried out.

Repressive supervision is implemented after a decision of a daerah has been placed in effect and while it is being carried out.

c. The Design of the Two Types of Supervision

Preventive supervision establishes the condition that authorization must be obtained from the supervising authority before a decision of a daerah, on any of the matters referred to above, can be put into effect and carried out. Thus, on the one hand, this

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supervision is constituted as the supervising authority's right of authorization (the supervising authority may provide or withhold authorization) and, on the other hand, as the obligation of the supervised daerah to request authorization.

A Daerah I must request authorization of decisions on the matters referred to above from the Minister of Interior before it can carry them out, and other daerahs must request authorization from the DPD of the daerah at the next higher level.

Whenever the supervising authority believes that the decision for which authorization is requested is in opposition to legislation existing at a higher level, or to the general interest, then the supervising authority may withhold authorization. The daerah government concerned is then informed that authorization has been withheld and is given an explanation as to why it was withheld. A decision for which authorization is requested may not be implemented if that authorization is withheld, as Law No 1 of 1957 establishes that decisions which deal with the matters referred to above may not be placed in effect or carried out before they have been authorized by the supervising authority.

It is another matter, however, for those decisions of the daerah which are not concerned with the matters referred to above, which are not subject to preventive supervision. Such decisions do not require the authorization of the supervising authority and may be implemented as soon as they are passed by the daerah government, however, such decisions are subject to repressive supervision. Under repressive supervision the supervising authority may suspend or revoke decisions then being carried out (Article 64 of Law No 1 Of 1957).

The suspension or revocation of a decision may be instituted when the decision is in opposition to legislation existing at a higher level or the general interest.

Suspension. Whenever a decision of a daerah which is being carried out is presumed to be, or is considered possibly to be, in opposition to legislation existing at a higher level, or the general interest, by the authority responsible for the repressive supervision of that decision, then that authority may suspend the decision.

The suspension is intended as an act to halt the carrying out of the decision for an interim period, during which period the decision will be reviewed to determine if its revocation is necessary. Thus, suspension is the first step toward revocation. After the decision has been suspended the supervising authority will make a further review and investigation of the decision to determine whether or not it is necessary to revoke the decision.

When a supervising authority decides to suspend a decision of a daerah it must notify the daerah government concerned and submit the reasons for the suspension. The letter of suspension must be also to establish the length of the period of suspension, although

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Law No 1 of 1957 establishes that the length of the period of suspension may not exceed 6 months (Article 67, Paragraph 2).

The decision concerned is provisionally suspended at the moment the suspension is established. The decision may be placed in effect again when the period of suspension has passed and no notice has been received that the decision has been revoked.

Revocation. Revocation is intended to nullify and abolish such decisions of a daerah as are in obvious opposition to legislation existing at a higher level or to the general interest.

Any decision which has been placed in effect and carried out and is then revoked must, of necessity, have occasioned certain results. When such a decision is revoked by a supervising authority, what is the connection between this revocation and the results created by the decision prior to its revocation? Law No 22 of 1948 refers to this problem in its explication; Law No 44 of 1950 does not touch on the problem; Law No 1 of 1957 answers the problems in Article 66.

As earlier stated, a decision of a daerah can be revoked if it is in opposition to the general interest or to legislation existing at a higher level. Law No 1 of 1957 provides that when a decision is revoked by a supervising authority because the decision is in opposition to legislation existing at a higher level, then this revocation, of itself, is also a revocation of all the results occasioned by the revoked decision, as long as such results are capable of being revoked; the law also provides that when a decision is revoked because it is in opposition to the general interest, then this revocation also applies to such of the results of the decision as are in opposition to the general interest, but not to the results of the decision which are not in opposition to the general interest.

These are methods in which preventive supervision and repressive supervision are carried out. As has been stated, preventive and repressive supervision are carried out by the Ministry of Interior, or by an official designated by him, for Daerahs I, and by the superior DPDs for other daerahs. Nevertheless, the central government (in this case, the Minister of Interior) bears the final responsibility for the implementation and maintenance of a policy of decentralization within the state. Therefore, whenever the daerah government responsible does not carry out the repressive supervision of its subordinate Daerah II or Daerahs III, this supervision shall be carried out by the Minister of Interior or an official designated by him.

Whenever a decision of a Daerah II or a Daerah III exists in opposition to legislation existing at a higher level, or to the general interest, and is not suspended or revoked by the DPD of the Daerah I or Daerah II concerned, then the suspension or revocation shall be accomplished by the Minister of Interior, or by an official designated by him. Before a decision is revoked, the opinion of the superior DPD, which possesses the authority to revoke the decision, will be heard.

In the implementation of repressive supervision, an official of the central government or of the DPD of a Daerah I or Daerah II, who is acting in the name of the Minister of Interior, is intended by the phrase, an official designated by the Minister of Interior.

d. The Period In Which the Two Types of Supervision Are In Effect

Preventive supervision is in effect for a period of three months, that is, the Minister of Interior or superior DPD has the opportunity to either ratify or reject a decision for a period of three months after the decision has been forwarded to them. The decision form may be implemented if this three month period passes without any action being taken on the decision, that is, if the supervising authority does not respond to the request to ratify the decision within a three month period, then the decision may be considered to have been ratified. If the decision requires a more extensive review, then the supervising authority may extend the three month period by another three months; the regional government concerned must be notified of the extension (Article 63, Paragraphs 1 and 2).

Repressive supervision is carried out for an indefinite period. As long as the decision is being carried out it may be suspended or revoked at any time.

The above has described the rights of supervision held by superior authorities. Both types of supervision are important methods used in guaranteeing the maintenance of the state as a harmonious entity.

2. Right of Inquiry

The right of inquiry is the right to carry out an investigation or inspection of a daerah. The Minister of Interior or an official of the central government acting in his name, thus also, a superior daerah government, may, in the general interest, investigate or inspect any of the affairs of a regional government which pertain to the implementation of autonomy or participating government (Article 71).

The regional government concerned, in the interests of supervision, is obligated to provide all information requested by the Ministry of Interior, or by the official designated by him, or by the superior DPD (Article 68).

The right of inquiry, which is held by these superior authorities, is intended as a guarantee that each regional government will carry out its duties and responsibilities in the best possible manner. With the exercise of this right, regional affairs will not become a source of dispute or be ill-executed, which occurrences would be injurious to the general interest and to the state.

3. Right of Sanction

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What happens when the government of a daerah does not carry out its duties and responsibilities in administering its own affairs and thus damages the interests of the daerah or the state?

Article 50 of Law No 1 of 1957 establishes that when the government of a daerah neglects the administration of its own affairs then the central government, via a government ordinance, may establish the methods considered to be suitable for administering the remiss daerah. Various measures may be undertaken by the central government.

Whenever the DPRD of a daerah is negligent in the administration of autonomy, then the central government may transfer the duties of the DPRD to the DPD of the region concerned, or may take such other measures as considered suitable. Should all soft measures undertaken by the central government to solve the problem prove unsuccessful, then, as a final measure, the central government may suspend the negligent DPRD for a specific period, or may dissolve it. The central government, should it be forced to dissolve a DPRD, is obligated to begin an election of members to a new DPRD within one month after the dissolution, thus to fill the vacuum in democracy which exists in the daerah.

Should the government of a daerah not carry out the duties of assistance (participating government) which have been transferred to it by the central government or by the government of a superior daerah, then the government which transferred these duties may designate other government agencies to carry them out, and at the expense of the negligent daerah. Such designation is accomplished by the central government through a government ordinance and by other daerahs through a daerah ordinance which is drawn up by the DPRD which assigned the duties.

The above has been a description of the right of supervision, the right of inquiry, and the right of sanction; rights which are held by the central government and the governments of superior daerahs for the purpose of this control of autonomy it is hoped that the autonomous daerahs will be maintained in their best possible form through Indonesia.

4. Right of Adjudication

In addition to the three types of rights referred to above there exists yet another right which is held by superior authorities. This right can, perhaps, be considered as the right to adjudicate, that is, the right to settle disputes between daerahs and to render decisions on appeals and objections which have been submitted by daerahs.

Generally, this right of adjudication is carried out by superior authorities in connection with the following matters.

a. A dispute over Government or Administration between two Daerahs.

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When a dispute occurs between two daerahs over a matter of regional government, then the dispute is submitted to a superior authority for decision. Disputes between two Daerahs I, between a Daerah I and a Daerah II or a Daerah III, and disputes between daerahs which do not lie within the territory of a single Daerah I are submitted to the Minister of Interior for decision. Disputes between Daerahs II which lie within the territory of a single Daerah I and disputes between a Daerah II and a Daerah III which lie within the territory of a single Daerah I are submitted to the government of that Daerah I (the DPD) for settlement. Disputes between Daerahs III which lie within the territory of a single Daerah II are submitted to the government of that Daerah II for settlement.

The daerahs concerned are informed of the decision of the superior authority and the decision is promulgated in either the State Report [Bertita Negara] of the Republic of Indonesia or in the Daerah I Gazette [Lembaran Daerah tingkat ke-I]; the DPDs of the daerahs concerned also publish the decision within the daerah.

b. A Dispute Over the Amendment or Cancellation of a Joint Decision

Article 42 of Law No 1 of 1957 establishes that several daerahs may cooperate in regulating and administering a common interest of the daerahs; this cooperation is implemented via a joint decision. If, subsequently, there is a difference of opinion regarding the amendment or cancellation of this joint decision, then the dispute is submitted to a superior authority for decision and settlement.

A dispute between Daerahs I over a joint decision is settled by the Minister of Interior; a dispute between other daerahs, which daerahs exist at the same level, is settled by the DPD existing at the next higher level; a dispute over a joint decision by daerahs of dis-similar levels (between a Daerah II and a Daerah III, for example) is settled by the authority situated at the level next above that of the highest level daerah involved in the dispute.

c. Appealing a Veto

As has been explained, certain of the decisions of each daerah must be submitted for ratification to a superior authority before they may be implemented. When ratification is refused by the superior authority, then the government of the daerah whose decision has been vetoed may submit an objection or an appeal; the objection or appeal must be submitted within one month after notification of the veto has been received.

Objections and appeals are submitted to and decided on by the President for a veto passed by the Minister of Interior, that is, for those decisions of a Daerah I over which the Minister of Interior

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exercises preventive supervision; the Minister of Interior for a veto passed by the DPD of a Daerah I; the DPD of a Daerah I for vetoes passed by a DPD of a Daerah II over decisions of a Daerah III.

Paragraph 4), Article 30 of Law No 22 of 1948 establishes that an objection to a veto passed by the DPD of a province shall be submitted to the President.

Law No 44 of 1950 establishes that the DPR of a regional division or a regional sub-division may submit an objection to a veto passed by the DP of a region to the government of the State of East Indonesia, and that an appeal of a veto passed by the government of the State of East Indonesia (on the decision of a region) may be submitted to the supreme government (pemerintah agung) of the government of the Republic of the United States of Indonesia (Article 26, Paragraphs 4 and 5).

The above has been a description of the control relationship between the central government and the regions and the provisions for the control of autonomy by superior authorities over subordinate regions.

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Chapter VI. THE FINANCIAL RELATIONSHIP BETWEEN THE DAERAH AND THE
CENTRAL GOVERNMENT

A. Fiscal Apportionment

Funds are required for the regulation and administration of each region, and each region which implements the right to regulate and administer its own affairs is responsible for these funds; thus, each region which regulates and administers its own affairs does so at its own expense. This requires that each region have its own money (treasury), separate from that of the central government, with which to finance all expenditures arising from its administration of its own affairs and its rendering of assistance /participating government/. The more affairs there are to be administered, the more money must be expended on these affairs. Therefore, if the principle of the most extensive possible autonomy is to be observed, as set forth in Paragraph 2), Article 131 of the Provisional Constitution, then it is desirable that each region have the greatest possible financial capability.

Certainly, each region must have the specific sources of income needed to complement its treasury if it is to meet its expenditure requirements, just as the central government has its own sources and treasury for meeting the needs of the national government. Thus, the financial relationship between the central government and each region must be regulated in the best possible way, particularly as regards the division of their respective sources of revenue, so that a correct and harmonious apportionment may be achieved and maintained.

What decisions does Law No 1 of 1957 make as regards the sources of revenue of the regions?

Article 56 of this law states that each daerah has the right to collect daerah taxes and daerah repayments, and that further decisions pertaining to the circumstances of collection will be established in a specific law.

Articles 57 and 58 of Law No 1 of 1957 established: that the central government could transfer state taxes to the daerahs, thus, that specific taxes being collected by the state would become daerah taxes and would be collected by the daerahs; that the central government could give all or a part of its tax revenue to the daerahs, thus, that specific tax revenues being received by the central government would be transferred to the daerahs to strengthen daerah finances; and that the central government could provide the daerahs with monetary compensation, subsidies, and contributions.

This transfer and provision of revenue has been regulated in a specific Law and confirmed by Parliament and the government. This law is Law No 32 of 1956 Concerning Fiscal Apportionment Between the State and the Daerahs Which Have the Right to Administer Their Own Affairs, or in short, the 1957 Law on Fiscal Apportionment (No 77

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in the 1956 State Gazette). Basically, this law deals with those matters which pertain to the sources of revenue of the daerahs.

The 1957 Law on Fiscal Apportionment constitutes a main artery in the continued development of the daerahs. This is because it: provides decisions which guarantee the finances of the daerahs; supports the well-being of daerah affairs; encourages the daerahs to cultivate their sources of revenue and to establish new sources; cultivates a feeling of responsibility in the daerahs in the administration of their own affairs; and allows the daerahs more freedom in carrying out their own financial policies in the performance of their duties.

The 1957 Law on Fiscal Apportionment took effect on 1 January 1957, however, its taking effect did not mean that the financial relationship between the central government and the daerahs had been completely regulated. Only the major lines of the relationship were regulated in the law, the details of the relationship required further regulation in government ordinances.

The government has issued three government regulations to implement and further regulate the provisions of this law, these are: Government Ordinance No 3 of 1957 Concerning the Transfer of State Taxes to the Daerahs (No 10 in the 1957 State Gazette, Supplement No 1155 to the State Gazette), which implements Article 3 of the law; Government Ordinance No 4 of 1957 Concerning the Provision of Compensation, Subsidies, and Contributions to the Daerahs (No 11 in the 1957 State Gazette, Supplement No 1156 to the State Gazette), which implements Articles 7, 8, and 9 of the law; and Government Ordinance No 5 of 1957 Concerning the State Committee on Fiscal Apportionment (No 12 in the 1957 State Gazette, Supplement No 1157 to the State Gazette), which implements Article 10 of the law.

The existence of the 1957 Law on Fiscal Apportionment, and of its implementary ordinances, does not mean that the problem of regional finance, particularly as it relates to the revenue of the central government and to the most suitable fiscal apportionment between the daerahs and the central government, is settled and finished. Problems centering on this financial relationship will certainly arise in the implementation of this law on fiscal apportionment, and these problems will require a precise solution. Therefore, the central government has considered it necessary to establish a permanent advisory committee to provide advice and suggestions on the financial relationship between the central government and the daerahs. The provisions pertaining to the formation of this committee were set forth in Article 10 of the 1957 Law on Fiscal Apportionment, and were further regulated in Government Ordinance No 5 of 1957, as mentioned above.

According to Government Ordinance No 5 of 1957, the committee is to be called the State Committee on Fiscal Apportionment (Panitia Negara Perimbangan Keuangan) and its members are to be appointed by the government, on the joint recommendation of the Minister of Interior and the Minister of Finance, for a period of three years. Persons who

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reside in the national capital are to be given preference in deciding upon appointments. The chairman of the committee is to be appointed by the government from among the members of the committee, following the joint recommendation of both ministers and with attention to the proposal of the committee itself (Articles 1-3), Paragraph 1), Article 10 of the 1957 Law on Fiscal Apportionment establishes that the committee shall be composed of seven members.

Members of the State Committee on Fiscal Apportionment may not serve concurrently as: president; vice-president, prime minister; ministers; chairman or member of the Supreme Court; chairman or member of the Office of the Attorney General; secretary general, treasurer general, director general, or other official post at that level; chief of daerah; or member of a DPR or DPRD. The committee has a secretary and an assistant secretary who are responsible for drafting the minutes of the meetings and all other work which the chairman considers necessary to the committee's interests. They are appointed and removed by the Minister of Interior on the committee's recommendation (Article 10, Government Ordinance No 5 of 1957).

The State Committee on Fiscal Apportionment has the primary responsibilities of: giving advice to the government of the implementation of the fiscal apportionment law and on the implementation of the government ordinances and other enabling legislation which pertain to this law; and, on its own initiative, making recommendations to the government on problems connected with fiscal apportionment (Article 12 of Government Ordinance No 5 of 1957).

The government, in arriving at decisions during the implementation of the 1957 Law on Fiscal Apportionment and the government ordinances and other enabling legislation which pertain to the law, must always request the advice of the State Committee on Fiscal Apportionment. However, the advice rendered by the committee is not binding on the government. The advice is of a secret nature; it may be announced only if the government considers such announcement necessary (Article 13 of Government Ordinance No 5 of 1957).

The committee, in carrying out its duties and obligations, may request that one or more specialists participate in the discussion of a specific problem if it considers this participation necessary. These specialists may or may not be government personnel; by the same token, members of the DPRs and DPRD's may also be appointed to the committee as specialists (Article 8 of Government Ordinance No 5 of 1957).

With the existence of a permanent committee for the conscientious study of problems connected with the financial relationship between the central government and the regions, it is expected that the central government will possess the capability of regulating and settling the problems of this relationship in the best possible way, for, in this way, the daerahs throughout Indonesia will possess the capability of developing the best possible way.

What decisions do Law No 22 of 1948 and Law No 44 of 1950 make in regard to regional finance?

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Law No 22 of 1948 contains formulations somewhat different from those in Law No 1 of 1957. Article 32 of Law No 22 of 1948 states that the DPRDs have the right to establish ordinances dealing with the collection of regional taxes. Article 37 of the law states that regional revenue stems from: regional taxes, including repayments; the proceeds of regional firms; state taxes transferred to the region; and other sources. According to the explication to the law, the other sources referred to in the law are: loans; subsidies; the sale or rental of commodities owned by the region; and other sources.

Law No 44 of 1950 refers to the collection of regional taxes in Paragraph 2, Article 27 but does not refer to any other sources of revenue for the regions.

Neither Law No 22 of 1948 nor Law No 44 of 1950 make any mention of a fiscal apportionment law.

B. Daerah Income

Basically, as has been explained above, the 1957 Law on Fiscal Apportionment regulates and establishes the sources of revenue of the daerahs which have the right to administer their own affairs.

According to Article 2 of this law, the principal sources of income of the daerahs are: daerah taxes, daerah repayments, state income transferred to the daerah, and the proceeds from state enterprises.

1. Daerah Taxes

Article 117 of the Provisional Constitution of the Republic of Indonesia establishes that the collection of taxes, duties, and excise taxes for the use of the state treasury is not permissible unless such collection is based on a law or is performed under the authority of a law. In this connection, Law No 1 of 1957 gives the daerahs the power (right) to levy taxes. Thus, a daerah may collect taxes under the authority of Law No 1 of 1957.

The taxes which are levied and collected by a daerah are called daerah taxes. They are levied in areas which are not being utilized or effected by the central government and they pertain to matters which are, basically, of a regional nature.

Law No 1 of 1957 established that further regulations pertaining to the circumstances of tax collection would be set forth in a specific law and that this law would serve as a guide for each daerah, as, in this way, perhaps, an increase in the burden borne by the people, or one that exceeded set limits, could be avoided. This law has already been passed by the government; it is Emergency Law No 11 Concerning the General Regulation of Daerah Taxes, dated 22 May 1957, or, in brief, the Emergency Law on Daerah Taxes (No 56 in the 1957 State Gazette, Supplement No 1287 to the State Gazette).

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According to Article 2 of this emergency law, daerah taxes are the money collected by the daerah, in accordance with the tax regulations established by the daerah, to finance its functioning as a public corporate body. The emergency law also states that the tax field of the daerah is the tax field which is not being utilized or effected by the state (the central government) and, for lower level daerah, the tax field which is not being utilized by the state or by a superior level daerah. Therefore, when the central government or a superior level daerah is collecting a certain tax, the motor vehicle tax, for instance, the daerah or lower level daerah concerned cannot collect that same tax.

Although a lower level daerah cannot act in the same tax field as its superior level daerah, the superior level daerah can establish, in its tax regulations, that the lower level daerah is permitted to collect an additional percentage of the tax of the superior level daerah. The amount of the percentage is determined by the authority that established the amount of the basic tax which is subject to the percentage; both the percentage and the basic tax are collected by the authority who has been given the responsibility of collecting the basic tax (Emergency Law On Daerah Taxes, Paragraph 3, Article 12, and Articles 24 and 38).

What taxes have been constituted as daerah taxes?

Article 13 of the Emergency Law on Daerah Taxes establishes that the daerah taxes which can be collected by a Daerah I, in addition to those taxes designated by or based on other legislation, are: taxes on licenses to catch fish in the public waters of the area; school taxes which will be used to finance the construction of primary schools, for which the daerah is responsible; additional percentages of the basic wealth tax, which is a state tax collected by the central government; and additional percentages of the excise tax on gasoline sales.

The daerah taxes which may be collected by daerahs which are not Daerahs I are, among others, as follows:

- a. Tax on public shows and fairs;
- b. Tax on such advertising as does not appear in magazines and newspapers;
- c. Tax on dogs;
- d. Tax on the sale and manufacture of fireworks;
- e. Tax on the sale of alcoholic beverages;
- f. Tax on non-motorized vehicles (bicycles, pedicabs, wagons, and so forth);
- g. Tax on gambling permits;
- h. Tax on signs of luxury, as indicated by the size and ornamentation of graves;
- i. Tax on the act of residing in an area for more than 120 days during a single tax year, except when confined to a hospital or sanatorium, and on maintaining a furnished house for self or family for more than 120 days during a single tax year, providing that a per-

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manent residence is not maintained in the area; persons residing away from home for the performance of duties assigned them by the state or a daerah are not subject to this tax;

j. Tax on property in the form of buildings and grounds which lie near, or are bordered by, public thoroughfares of either the land or water type, also vacant lands which are connected by road with, or are bordered by, such thoroughfares; this tax can be collected as a suitable donation for the expense borne by the daerah in providing lighting, water, and sewage removal facilities;

k. Tax on property in the form of buildings or additions to them, or on vacant lands, which lie in certain parts of the daerah; this tax can be collected annually for, at most, 30 years as a suitable donation for the expense of work performed by, or with the assistance of, the daerah and which has resulted in an improvement of said property;

l. Tax on property in the form of buildings and grounds which are bordered by a public thoroughfare of either the land or water type or by fields; tax on land which will be utilized as a construction program of a daerah and which lies in an area designated by the DPRD;

m. School taxes which are to be used for the construction of primary schools and the purchase of supplies;

n. Additional percentages on the basic taxes of a superior level daerah when the collection of these additional percentages has been provided for in the tax regulations of the superior daerah.

These, then, are the daerah taxes which the daerah itself may collect. The establishment of various types of daerah taxes is not limited; these types of taxes may be increased by the daerah on its own initiative.

The municipality of Djakarta Raya, which is a Daerah I and has not been divided into lower level daerahs, may collect the same daerah taxes as those listed above, except for items m and n, together with such other taxes as have been designated by, or are based on, other legislation. (Article 15 of the Emergency Law on Daerah Taxes).

In addition to the daerah taxes, we also have certain state taxes which the central government collects; these are;

a. Ground Tax; set forth in the 1928 Ground Tax Ordinance (No 342 in the 1928 Statute Book, as amended by No 83 in the 1953 State Gazette);

b. Indonesian Ground Tax; set forth in the Native Ground Tax Ordinance (No 425 in the 1923 Statute Book, as amended by No 423 in the 1931 Statute Book);

c. Household Tax, set forth in the 1908 Property Tax Ordinance (No 13 in the 1908 Statute Book, as amended by No 5 in the 1953 State Gazette);

d. Motor Vehicle Tax, set forth in the 1934 Motor Vehicle Tax Ordinance (No 718 in the 1934 Statute Book, as amended by No 376 in the 1949 Statute Book);

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- e. Road Tax, as set forth in the 1942 Road Tax Ordinance (No 97 in the 1941 Statute Book);
- f. Slaughter Tax, as set forth in the 1936 Slaughter Tax Ordinance (No 671 in the 1936 Statute Book, as amended by No 317 in the 1949 Statute Book);
- g. Copra Tax, as set forth in the Law of the State of East Indonesia on the Copra Tax (No 16 in the 1949 Statute Book of the State of East Indonesia);
- h. Construction Tax, as set forth in Law Concerning the Construction Tax, I (Law of the early Republic of Indonesia No 14 of 1947, as amended by Law No 20 of 1948);
- i. Transition Tax, as set forth in the 1944 Transition Tax Ordinance (No 17 in the 1944 Statute Book, as amended by No 84 in the 1953 State Gazette);
- j. Wage Tax, as set forth in the Wage Tax Ordinance (No 611 in the 1934 Statute Book, as amended by No 87 in the 1952 State Gazette);
- k. Stamp Tax (Duty), as set forth in the 1921 Stamp Regulation (No 498 in the 1921 Statute Book, as amended by No 47 in the 1956 State Gazette);
- l. Wealth Tax, as set forth in the 1932 Property Tax Ordinance (No 405 in the 1932 Statute Book, as amended by No 47 in the 1956 State Gazette);
- m. Company Tax, as set forth in the 1933 Company Tax Ordinance (No 405 in the 1932 Statute Book, as amended by No 47 in the 1956 State Gazette);
- n. Radio Tax, as set forth in the Radio Tax Law (Law of the early Republic of Indonesia No 12 of 1947, as amended by Law No 21 of 1948);
- o. Sales Tax, as set forth in the 1951 Sales Tax Law (Emergency Law No 19 of 1951, No 94 in the 1951 State Gazette, Supplement No 157 to the State Gazette; confirmed as law by No 85 in the 1953 State Gazette);
- p. Change of Name Tax (Duty), as set forth in the Right of Transfer Ordinance (No 291 in the 1924 Statute Book, as amended by No 48 in the 1949 Statute Book);
- q. Succession Tax, as set forth in the 1901 Succession Ordinance (No 471 in the 1901 Statute Book, as amended by No 48 in the 1949 Statute Book);
- r. Alien Tax, as set forth in Emergency Law No 16 of 1957 (No 63 in the 1957 State Gazette).

As mentioned earlier, Article 57 of Law No 1 of 1957 stipulates that several state taxes, which the central government collects, will be transferred to the daerahs for their subsequent collection as daerah taxes. The determination as to which state taxes would be declared to be daerah taxes was set forth in the 1957 Law on Fiscal Apportionment (Article 3) and was further regulated in Government Ordinance No 3 of 1957, which has been referred to above [page 81].

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The 1957 Law on Fiscal Apportionment declared the state taxes which have been listed in figures a through h above to be daerah taxes. Subsequently, Government Ordinance No 3 of 1957 transferred three of these eight taxes to Daerahs I and the remainder to Daerah II and the regions in the former territory of the State of East Indonesia. The household tax, motor vehicle tax, and ground tax were transferred to the former; the road tax, copra tax, slaughter tax, construction tax, and Indonesian ground tax to the latter.

The government was guided by the following considerations in deciding which level daerah the respective taxes should be transferred to.

First. Daerahs I received those taxes having the smaller amounts of revenue. It was felt best to transfer such taxes to that level of daerah of which there were a fewer number, the Daerahs I, than to that level daerah of which there were a greater number, the Daerahs II, due to the fact that a division of the taxes among many daerahs would result in a lack of proportionality between the revenue received and the collection costs. The amount expended for collection by 100 Daerahs II would, obviously, be much greater than that expended by 10 Daerahs I.

Second. The motor vehicle tax was transferred to the Daerahs I on the basis of the consideration that transportation firms are situated in important locations, therefore, if the tax were to be transferred to Daerahs II there would be a possibility that only a few Daerahs II would enjoy any revenue from this tax. Further, the routes of a transportation firm usually cover the entire territory of a Daerah I, transiting the boundaries of the Daerahs II and, often, even the boundaries of the Daerah I. Thus, it is proper that the tax be transferred to the Daerahs I for these reasons and because the Daerahs I bear most of the expense for the maintenance of public roads.

Third. The transfer of the slaughter tax and the construction tax to the Daerah II was based on the consideration that the control of clandestine abattoirs and the supervision of the payment of the construction tax by the shops could be better accomplished by the level daerah having the least territory, the Daerah II, than by the Daerah I, which, certainly, would find it difficult to enforce the tax to the best advantage.

Government Ordinance No 3 of 1957 also specified that those Daerahs I whose territory had not been divided into lower level daerahs would assume the taxes whose transfer to a lower level daerah was intended. The Daerah I concerned would collect these taxes for an interim period and, upon the formation of lower level daerahs within its territory, would then retire from this tax field.

The transfer of these state taxes to the daerahs is accomplished via a joint decision of the Minister of Interior and the Minister of Finance. This is done after the daerah has passed a daerah ordinance

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pertaining to the taxes in question, and after it has readied an agency of the daerah for the job of collecting the taxes (Article 4 of Government Ordinance No 3 of 1957).

Should the transfer of a tax via a joint decision not be carried out, a daerah might not be prepared to make collection, for example, then, the collection of the tax shall be carried out by the central government. Subsequently, beginning with the 1957 service year, the central government shall transfer 90 percent of the resultant revenues to the daerah concerned, retaining 10 percent for administration and collection costs (Paragraph 3, Article 3 of the 1957 Law on Fiscal Apportionment).

The Emergency Law on Daerah Taxes establishes the following general decisions of the collection of taxes:

a. The levying, amendment, or revocation of a daerah tax must be established in a daerah ordinance and this ordinance must be ratified by the President of the Republic of Indonesia before it may be placed in effect. If a six month period passes without the President making a decision on the ordinance, then the ordinance shall be considered to have been ratified and may be placed in effect (Paragraph 1, Article 3, Article 16, and Paragraph 4, Article 19 of the Emergency Law on Daerah Taxes);

b. The daerah tax ordinance shall list the commodities subject to tax and their derivation. Commodities which constitute needs of life cannot be subject to direct taxation, nor can the daerah tax constitute an obstacle to their entrance or exit, nor to the transportation of goods into or out of the daerah concerned (Paragraph 2, Article 3, and Paragraphs 1-2, Article 6);

c. The amount of the tax must be established in the tax ordinance itself, or, at the least, the amount must be capable of being calculated from the determinations of the ordinance (Paragraph 1, Article 5);

d. No special privilege can be given, or distinction made, which advantages and individual, group, or religion, within the body of the tax ordinance (Paragraph 3, Article 6);

e. The decision may be taken within the daerah tax ordinance that public corporate bodies are exempted from the tax, as long as such body performs its role; the Indonesian Red Cross, for example;

f. Ministers, consuls, and persons who are members of ministries and consulates may not be exempted from the tax other than via a decision of the President of the Republic of Indonesia, as the President represents the state of the Republic of Indonesia in its foreign relations (Paragraph 4, Article 6, and Article 9);

g. The daerah tax ordinance may threaten financial penalties and either detention not to exceed 3 months or a fine not to exceed 1,000 rupiahs (Paragraph 2, Article 7 and Paragraph 2, Article 29);

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g. In the collection of taxes, pledges may not be made nor may payments be made in installments (Article 4).

Concerning the general regulation of daerah taxes, the Law on Daerah Taxes regulates and establishes the matters which must be observed by the daerah in the administration and collection of taxes, that is, assessments, registration, tax registers, reductions, partial and whole exemptions, letters of notification, objections, appeals, warrants, and so on.

2. Daerah Repayments

Each daerah has the right to collect daerah repayments (retribusi), and everything subject to such collection must be regulated by the provisions of a specific law.

As was the case with the Emergency Law on Daerah Taxes, the central government has passed Emergency Law No 12 Concerning the Central Regulation of Daerah Repayments, dated 22 May 1957, or, in short, the Emergency Law on Daerah Repayments (No 57 in the 1957 State Gazette, Supplement No 1288 to the State Gazette). This law is intended to serve as the legal basis and as a guide for all daerahs in availing themselves of the sources of revenue in the field of repayments.

The Emergency Law on Daerah Repayments specifies that daerah repayments are that which is collected by the daerah as payment for the services received from, or for the use of, a project, effort, or property of the daerah, or for services provided by the daerah. Examples are: duty paid for the inspection of milk or livestock, costs for storing vehicles, school fees, rental of a meeting hall or sports field and so forth.

The amount collected is to accord with the amount of use of the project, effort, or property of the daerah, or with the services provided by the daerah, and may not exceed the amount necessary to guarantee the daerah a fair profit. Repayments may not constitute an obstacle to the entrance or exist or the transportation of goods into or out of the daerah concerned (Article 4, and Paragraph 1, Article 5 of the Emergency Law on Daerah Repayments).

The revenue as the director of a firm, or of an effort which might be considered to be a firm, a water company or market bank, for instance, or the revenue collected by a board or service of the daerah which functions as a firm, are not considered to be daerah repayments.

The revenue which is collected by daerah firms, such revenue not being daerah payments, is not subject to the limitations imposed by the Emergency Law on Daerah Repayments on repayments; for example, it is not subject to the stipulation that the amount collected cannot exceed that necessary to guarantee the daerah a fair profit, or the

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stipulation that the daerah ordinance establishing the repayment must be ratified, or to the other provisions pertaining to daerah repayments. Thus, it is possible for the daerah to avail themselves of additional profits from the firms they administer.

It is evident from the explanation of daerah repayments which has been given above that the payment of a daerah repayment, unlike the payment of a daerah tax, is rendered for an actual service of the daerah; it is not necessary for the daerah to provide a service for the payment of a daerah tax. Herein lies the most important difference between a tax and a repayment.

As the collection of repayments requires that an actual service be rendered by the daerah, then the scope of daerah repayments covers all fields in which the daerah provides services. The fact that such fields may also be utilized by the central government or by a superior level daerah is immaterial. There is no division of these fields between the central government and the daerah or between the higher and lower level daerahs. This is the opposite procedure to that followed with regard to daerah taxes, where a division is made. This being the case, the possibility exists that agencies of both the central and daerah governments within a single area may collect repayments for services which they render respectively but which are connected with the same project, for example, the Central Post Office collects vehicle storage fees on vehicles storage fees on vehicles shipped through its offices, and the daerahs do the same.

Obviously, those persons who do not avail themselves of the services provided by the central and daerah governments are not required to make repayments. Therefore, repayments are not collected from everyone; they are collected only from those persons who, voluntarily, utilize or benefit from a service of the daerah.

Article 8 of the Emergency Law on Daerah Repayments states that among the types of repayment which may be collected by the daerah are the following: legal fees, tolls, road duties, harbor fees, ferry fees, abattoir fees, inspection fees, border duties, fees for construction permits, fees for the use of land, and interment costs. These are not all the types of repayments; as stated above, the field of daerah repayments covers everything for which collection is made as a result of a service rendered by the daerah.

The following general regulations are set forth in the Emergency Law on Daerah Repayments:

a. The levying, amendment, or revocation of a daerah repayment must be established in a daerah ordinance. A repayment ordinance of a Daerah I may not be placed in effect until it is ratified by the President. A repayment ordinance of a Daerah II or a Daerah III may not be placed in effect until it is ratified by the DPD of the Daerah I concerned. If a six month period passes without a superior authority making a decision on the ordinance, then the ordinance shall be considered to have been ratified and may be placed in effect (Article

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3, Article 9, and Paragraph 5 of Article 12 of the Emergency Law on Daerah Repayments). The daerah tax ordinances /unlike the daerah repayment ordinances/ of all daerahs are ratified by the President; this is based on the principle that the central government must guard that the tax burden is equally distributed throughout the territory of the state.

b. A daerah repayment ordinance which has been ratified by the DPD of a Daerah I may be suspended or revoked, either wholly or in part, by the President if it conflicts with a law, government ordinance, ordinance of a superior level daerah, or with the general interest. If a daerah repayment ordinance is suspended, then that suspension may not exceed a period of one year. Should this one year period elapse without the ordinance being revoked by the President, then the ordinance may be placed in effect again. An ordinance which has been once suspended may not be suspended again (Articles 14, 16 and 18).

c. No special privilege can be given, or distinction made, which advantages an individual, group, or religion, within the body of the repayment ordinance (Paragraph 2, Article 5).

d. A daerah repayment ordinance may stipulate that in cases where the obligation to pay is not met, then such payment may be increased by a certain amount or by a certain percentage. The ordinance may also threaten persons who violate or disobey its provisions with a fine of no more than 1,000 rupiahs or detention for no longer than 3 months (Paragraph 2, Article 6 and Paragraph 2, Article 23).

e. Daerah repayments and the fees for reminder notices, warning notices, and for the serving of a warrant may be collected with a warrant issued by the chairman of the DPD of the daerah concerned, such warrant to have the same strength and to be executed in the same manner as an irreversible verdict in civil law (Articles 22, 24, and 27).

f. A daerah repayment ordinance shall contain a stipulation as to the period in which a repayment is to be made or claimed. If a set period is not provided for in the ordinance, then all claims of the daerah shall expire five years after the date on which the daerah first had a valid claim (Article 30).

The above has been a description of daerah repayments as one source of daerah revenue.

3. State Revenue Which Is Transferred to the Daerah

Article 4 of the 1957 Law on Fiscal Apportionment stipulates that no less than 75 percent and no more than 90 percent of the revenue from certain state taxes will be transferred to the daerahs. These taxes are the transition tax, the wage tax, and the stamp tax. The article also stipulates that a part of the revenue from two other state taxes, the percentage to be established annually in a government ordinance, will be transferred to the daerahs. These taxes are the wealth tax and the company tax.

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These five taxes are state taxes which are collected by the central government in the respective daerahs, however, the majority of the revenue from these taxes is transferred to the daerahs.

Article 5 of the 1957 Law on Fiscal Apportionment stipulates that a part of the revenue from import duties, export duties, and excise taxes which is received by the central government will be transferred to the daerahs. In addition, daerahs which produce a commodity will also be given an additional share of the revenue resulting from the export duties and excise taxes levied on that commodity. The amount of revenue from import duties, export duties, and excise taxes which is transferred to the daerahs, also the amount of the additional share of the revenue from export duties and excise taxes which is given to a producing daerah, as intended above, is determined annually in a government ordinance.

The regulation and further implementation of the transfer of the portions of the revenue from the five state taxes, and from import duties, export duties, and excise taxes, to the daerahs is provided for with the establishment of a separate government ordinance. In establishing this ordinance the government gives its attention to the factors which influence the financial situation of the daerah, these include: the size of the daerah; the amount of population; the daerah's economic potential, including agriculture, estates, livestock, industry, mining, fisheries, shipping, and so forth; the educational level of the people; prices on the daerah; the length of roadway administered by the daerah; the length of canalway administered by the daerah; whether the daerah is made up of islands, either wholly or in part, and other matters.

As the factors which influence the financial position of each daerah are not the same, then the amount of revenue which is transferred to each daerah is not the same. Rather, the amount accords with the differing levels of development of the daerahs, and a figure is arrived at which enables daerahs whose autonomous development is retarded to make progress within a short period.

As regards the method of division of the of the revenue, the central government is of the opinion that the best method of division should have two stages of implementation.

First. An initial stage of division between Daerahs I; these daerahs are generally constituted as similar units and have similar fields of income and expenses.

Second. A secondary stage of division between each Daerah I and the daerahs lying within their respective territories. In accomplishing this division the DPD of the Daerah I concerned can ask the central government for advice.

With the employment of the guides and methods described above, it is to be hoped that the division of the state revenue which is transferred to the daerahs will be carried out as justly as possible and that the interests of the daerahs will be guaranteed as fully as possible.

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4. Income from Daerah Firms

Each daerah, in regulating and administering its own affairs, must give its attention to the implementation of efforts which will heighten the prosperity and welfare of the residents of the daerah. This accords with the stipulation in the Provisional Constitution, which states that the authority [concerned] shall constantly effect to heighten the prosperity of the people (First sentence of Paragraph 1, Article 37 of the Provisional Constitution).

In this connection, Article 59 of Law No 1 of 1957 states that each daerah has the right to establish its own enterprises. These enterprises must be of advantage to the society and the residents of the daerah, for example, water works, abattoirs, market banks, and so forth. Thus, these daerah firms, in accordance with the stipulations contained in Articles 37 and 38 of the Provisional Constitution, must have a social function and must not be established solely to seek out the greatest profits, even though the income from the firms is one of the sources of revenues of the daerah.

The financial position of the daerah may not be damaged by the establishment of a daerah firm. For instance, all or a large part of the daerah's finances may not be used to capitalize the firm as the daerah would experience financial difficulties until such time as the firm began to provide a revenue. Generally, the capital used to establish a firm must be obtained through a loan, such loan to be repaid in installments, as in this way the financial equilibrium of the daerah is not disturbed.

C. Assistance From the Central Government

The basic revenues of the daerah, which have been analyzed above, cannot always guarantee an equilibrium between the expenditures and income of the daerah. Even though the daerah has and utilizes specific sources of income, it is possible that the daerah may experience financial difficulties in financing its affairs or in carrying out its duties of assistance [participating government]. Therefore, outside assistance may be needed.

In certain situations and for specific matters the central government will provide the daerah with financial assistance. According to Article 58 of Law No 1 of 1957 and Articles 7, 8, and 8 of 1957 Law on Fiscal Apportionment, there are three categories of financial assistance, namely, compensation, subsidy, and contribution. The regulation and implementation of the financial assistance of the types referred to above has been provided for in a specific government ordinance, that is, Government Ordinance No 4 of 1957 (Government Ordinance Concerning the Provision of Compensation, Subsidies, and Contributions to the Daerahs, No 11 in the 1957 State Gazette, Supplement No 1156 to the State Gazette).

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1. Compensation

The central government provides three types of compensation:

a. Compensation connected with the obligation to perform certain duties of the central government. This is money which is transferred to a daerah because it is carrying out duties of the central government (carrying out the duty of assistance). The amount of compensation is based upon the amount expended by the daerah. In this way the daerah is recompensed for the performance of jobs which have been assigned to it, but which are not included among its affairs.

b. Compensation connected with affairs which become the affairs of the daerah upon their transfer from the central government, and after the taking effect of the 1957 Law on Fiscal Apportionment. This is money which is transferred to the daerah upon the transfer of certain duties from the central government, such duties then becoming the affairs of the daerah itself. When an affair of the central government is transferred to, and becomes an affair of, the daerah, generally, the daerah cannot immediately bear the additional expense involved or cannot quickly accomodate the additional expense to its budget. Thus, it is necessary that compensation be provided the daerah for an interim period so that it will have an opportunity to take the measures which are required for assuming the additional expense, which results from the transfer of new affairs to it.

c. Compensation connected with duties of the central government which have become affairs of a daerah, the implementation of which exceeds the financial capabilities of the daerah even with the existence of the 1957 Law on Fiscal Apportionment. This is money which is transferred to a daerah to finance affairs which, either totally or in part, cannot be carried out by the daerah because of local conditions or developments. The provision of this compensation is based on the consideration that the level of advancement of newly formed daerahs is far behind that of long existent daerahs, and thus the money held by the new daerahs does not exist in amounts sufficient to fully finance the affairs which have been transferred to, and become the affairs of, the new daerahs. The central government must provide support to help these daerahs advance and develop, and this is done with the provision of this type of compensation. This type of compensation is nothing other than an extension of the type of financial assistance described in b above (compensation connected with affairs which become the affairs of the daerah upon their transfer from the central government). The Minister of Interior must take the initiative in providing this type of compensation, and this compensation is of a temporary nature.

The government, in providing compensation, gives primary attention to the amount expended by the daerah in implementing a certain affair, and regardless of the financial strength of the daerah. Thus,

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a daerah cannot hope for full compensation for its performance of a job if the amount it expends exceeds normal requirements.

Amounts of compensation are determined annually and, generally, are taken from the budget of the Ministry of Interior (Article 2 and Article 13 of Government Ordinance 4 of 1957).

The opinion of the existence of compensation is as follows: daerah requires no little time to adapt its financial position to the assumption of the increased expenditures which result when duties are transferred to it; the central government cannot free itself entirely from the responsibility of implementing regional autonomy as elements of the general interests reside in the duties carried out by each daerah, and the supervision of these elements is, basically, also a duty of the state (central government).

2. Subsidies

A subsidy is financial assistance which the central government provides to the daerah to finance the performance of efforts and/or jobs, when the costs of such work exceed the financial strength of the daerah. Following are examples:

a. For the performance of a job, or effort of the daerah which, although not urgently required, is needed, or for an increase in performance which the daerah may desire but which is not absolutely necessary, when the costs for such performance exceed the financial strength of the daerah.

b. For the repair of major damage to daerah projects which has resulted from unusual conditions, earthquakes or floods, for instance, when the cost of these repairs cannot be born by the daerah without disrupting its financial equilibrium.

c. For the performance of a specific job by the daerah which is both in the local interest and in the general interest, thus, a project whose financing should properly be done by both the central and daerah governments.

The daerah requiring a subsidy must always take the initiative in obtaining it. The request and the grounds for the request are forwarded to the Minister of Interior and a copy is sent to the State Committee on Fiscal Apportionment. The request must also contain an estimate of the cost of the project for which the subsidy has been requested and an estimate of the amount of subsidy required. The Minister of Interior, after hearing the advice of the State Committee on Fiscal Apportionment, decides whether or not the subsidy will be granted, and, if so, in what amount. In authorizing a subsidy, a review of the financial strength of the daerah is always made.

3. Contributions

A contribution is financial assistance which is given an area to cover a deficit in its budget, such deficit resulting from unusual

conditions which have caused the daerah to experience financial difficulties. Obviously, it is not impossible for unusual conditions to cause a daerah to experience financial difficulties, and a resultant budgetary deficit. In such cases the Minister of Interior investigates the budget and financial administration of the daerah and determines whether or not the deficit can be covered by economizing and/or expanding revenue. If, upon the conclusion of said investigation, it is evident that the deficit in the budget cannot be undone, then the Minister of Interior, after hearing the advice of the State Committee on Fiscal Apportionment, provides a contribution to the daerah. This contribution is taken from an extraordinary budget and may only be issued under exceptional conditions.

Should contributions be made to a daerah too frequently, then the central government will establish an intensive supervision over the daerah, over its administration of finance, in particular. Thus, there will be a stern economizing in the daerahs financial dealings and a strong effort will be made to locate all sources of revenue.

Contributions and subsidies are expenses borne by the budget of the Minister of Interior.

The foregoing has been a description of the financial assistance which may be provided to a daerah by the central government.

D. The Daerah Budget

Each daerah drafts an annual budget in which it estimates and plans the expenditures necessary for the regulation of its affairs and the income which will be received to finance these expenditures.

The initial budgets of newly formed Daerahs I and Daerahs II are confirmed by the central government in a law, and the initial budgets of Daerahs III in a government ordinance. This initial budget contains, among other things, a plan of expenses for: the needs connected with the formation of the daerah; the affairs of the daerah, according to the situation existing at the time of its formation; and the affairs of the central government which have been transferred or assigned to the daerah, in accordance with the entries in the national budget.

The initial budgets of Daerahs I and Daerahs II are confirmed in law due to the fact that the duties transferred to them include certain of the duties of the various ministries. This transfer requires a thorough-going review as changes will have to be made to the national budget. It is probably sufficient for the initial budgets of Daerahs III to be confirmed in a government ordinance.

The second and subsequent daerah budgets will be established by the daerahs themselves, using the initial budget as a guide (Paragraph 2, Article 61 of Law No 1 of 1957).

The budgets which the daerahs establish themselves must be authorized by superior authorities before they may take effect; the

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Minister of Interior ratifies the budgets of Daerahs I and the DPDs of superior daerahs ratify the budgets of lower daerahs. This decision is based upon the consideration that great financial power cannot be transferred to the daerahs to be implemented in whatever way they may wish, as, in the implementation of the general interest in a unitary state, the finances of each region cannot stand apart from, and must be accommodated to, the financial situation of the state as a whole.

Thus also, each amendment to a daerah budget, both the initial budget and subsequent ones, must be ratified by a superior authority before it can take effect; exception is made when the matter controlled by other provisions in the budget.

Everything connected with the budgets of the daerahs is established and regulated by the daerahs themselves. The DPRD of each daerah has full power to draw up daerah ordinances for the establishment and regulation of the following and other matters: the organization of the daerah budget; the extension of the draft budget to the authority having the right to ratify it; the employment of daerah finances on authorized projects; the inspection of estimates of, and responsibility, for daerah finances; the calculation of the daerah budget (See the explication to Article 60 of Law No 1 of 1957).

Both Law No 22 of 1948 and Law No 44 of 1950 used the phrase budget of income and expenses for the term budget.

Law No 22 of 1948 contains decisions on budgetary matters which are somewhat different from those contained in Law No 1 of 1957, and, in several instances, regulates budgetary matters more completely. Article 39 of this law reads as follows:

"1. In the first instance, the regional budget of income and expenses will be established in a law.

"2. Thereafter the regional budget of income and expenses will be established by the DPRD.

"3. Subsequent to the first year, the regional budget of income and expenses of a province must be ratified by the President, that of other regions must be ratified by the DPD of the next higher region.

"4. Any ratification or rejection applies to the entire budget of income and expenses.

"5. Each amendment to a budget of income and expenses must also be ratified.

"6. When ratification cannot be accomplished, such must be reported to the DPRD of the region concerned within one month from the day such decision was taken, together with the reasons.

"7. When ratification is rejected the DPRD concerned may submit an objection to the DPD at the level next higher than that of the DPD from which the rejection emanated. If the rejection emanated from a provincial DPD the objection may be submitted to the President.

"8. Should the budget of income and expenses not have been ratified by 1 January of the year concerned, then the budget of the past year shall be utilized as a guide for an interim period.

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Articles 40 and 41 of Law No 22 of 1948 establish that government ordinances shall be employed to regulate: the method of organizing the budget of income and expenses; the method of calculating the budget of income and expenses; and the responsibility which an official which shall bear for the funds expended by him.

Law No 44 of 1950, unlike the other two laws, contains only brief regulations on budgetary matters. Paragraph 1, Article 27 of the law states that the rights and responsibilities of establishing, calculating, and amending the budget of income and expenses which would be carried out in accordance with existent regulations, with the understanding that these rights and responsibilities were held by the DPR.

The ratification of budgets of income and expenses in the State of East Indonesia was carried out by the government of the State of East Indonesia when a region was concerned, and by the DP of a region when a regional division or regional sub-division was concerned (Article 28 of Law No 44 of 1950).

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Chapter VII. THE PERSONNEL RELATIONSHIP BETWEEN THE DAERAH AND THE
CENTRAL GOVERNMENT

A. Attached Personnel

Law No 1 of 1957 recognizes the existence of a control relationship and a financial relationship between the daerah and the central government, and also the existence of another relationship, the personnel relationship.

A newly formed daerah generally lacks skilled personnel, as do some daerahs which have been long established. To facilitate the government of the daerah it is necessary, perhaps, for the central government to render assistance by attaching some of its personnel to the daerahs requiring them. The type and conditions of the job of the attached government employee (central government) is regulated in a government ordinance (Paragraph 1, Article 54 of Law No 1 of 1957).

Those daerahs which have been long established and which have a personnel corps which is skilled and experienced in the implementation of regional government may attach their personnel to daerahs requiring their services. The types and conditions of the work they are to perform is regulated by the assigning daerah in a daerah ordinance.

The wages of the state personnel and the daerah personnel who have been attached to another daerah are paid by the daerah which receives this assistance, unless the ordinances referred to above determine otherwise. Generally, then, a daerah utilizing the services of an official attached to it must issue funds to pay the wages of that official (Paragraph 2, Article 54).

The dues for the pension and the child allotment of the attached official are collected by the daerah utilizing his services and are subsequently deposited in the state treasury or in the treasury of the daerah from which he was assigned (Paragraph 3, Article 54).

Article 22 of Law No 22 of 1948 contains, in general, decisions similar to those described above. However, the law does not stipulate that the type and conditions of the job must be regulated in a government ordinance or in an ordinance of the daerah concerned.

Law No 44 of 1950 does not deal with the personnel relationship.

B. Assigned Personnel

In addition to attached personnel, the personnel relationship between the daerah and the central government also provides for assigned personnel.

Article 55 of Law No 1 of 1957 states that upon the request of a daerah, and with the approval of a minister of the Republic of Indonesia or an official designated by him, an official working in the ministerial sphere may be assigned to implement certain affairs in the interests of the requesting daerah. If confirmation of the

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legal position of the assigned official is necessary, then the working conditions of the official and his relationship with the agencies of the daerah government are to be regulated in a decision issued by the minister.

Thus, a daerah may request that it be assisted by state officials in the implementation of certain of the affairs of the daerah. This may occur when the daerah, itself, does not have the personnel to implement the project, or when a new affair is transferred to the daerah by the central government and the daerah does not have the specialists it needs to organize the new service.

The status of the assigned state official is different from that of the attached official: the assigned official remains an employee of the state and his name is carried on the rolls of the ministry or office from which he was assigned.

Neither Law No 22 of 1948 nor Law No 44 of 1950 mention assigned officials.

The foregoing has been a description of the relationship between the daerah and the central government in another field, a field whose existence was made possible by Law No 1 of 1957.

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Chapter VIII. THE ORGANIZATION OF DAERAH GOVERNMENT

A. Daerah Government

Each daerah possesses agencies with which to implement autonomy and participating government within the daerah; these agencies are called the daerah government.

Law No 1 of 1957 also makes certain stipulations regarding the chief of daerah (kepala daerah). However, the chief of daerah cannot be described as an agency of the daerah because, according to the system adhered to in Law No 1 of 1957, the chief of daerah is a complement of the DPD and acts as a part of the DPD unit in carrying out the government of the daerah.

Article 5 of Law No 1 of 1957 states that the daerah government is made up of two bodies, namely, the Regional Peoples Representative Assembly (DPRD), and the Regional Executive Council (DPD).

Both Law No 22 of 1948 and Law No 44 of 1950 contain the same determinations on the regional government as does Law No 1 of 1957, that is, that the representative assembly and the executive council are its agencies.

The explication to Article 2 of Law No 22 of 1948 distinguishes between the terms pemerintahan and pemerintah. The explication states that that which is intended by the term pemerintahan is the activity of government, and that which is meant by the term pemerintah are the agencies or apparatus which conduct the activity of government.

B. The DPRD

1. Organization

The DPRD is a representative body; it represents the residents of a daerah in conducting the regional government of the daerah. The DPRD is composed of the chairman, the deputy chairman, and the members.

The number of members permitted a DPRD is established in the legislation forming the daerah. The following calculations are used.

a. In Daerahs I: one representative for every 200,000 residents, with a total membership of no less than 30 and no more than 75 representatives.

In the municipality of Djakarta Raya: one representative for every 45,000 residents, with a total membership of no less than 30 and no more than 50 representatives.

b. In Daerahs II: one representative for every 10,000 residents, with a total membership of no less than 15 and no more than 35 representatives.

c. In Daerahs III: one representative for every 2,000 residents, with a total membership of no less than 10 and no more than 20 representatives.

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The minimum figures were established on the basis of the consideration that sparsely populated daerahs should possess an adequate number of representatives in their DPRD's, the maximum figures were established to prevent the membership of the DPRD's from becoming so large as to hamper the body in the performance of its work.

As conditions in each of the daerahs are developing constantly, then the total population of a daerah does not remain fixed at a specific figure, rather, it is a constantly changing figure. Therefore, the number of members allowed the DPRD in its formative legislation must change in accordance with the change in the population of the daerah. In this connection, Law No 1 of 1957 states that a change in the number of members allowed a DPRD shall be made by the Minister of Interior (Paragraph 2, Article 7).

Law No 22 of 1948 does not contain any decision which provides a basis for calculating the number of members allowed the DPRD of a region. However, the following guides were adhered to in the legislation used to establish regions on the basis of Law No 22 of 1948.

a. The explication to Law No 10 of 1950, which deals with the formation of the province of Central Java, Law No 2 of 1950, which deals with the formation of the province of East Java, and Law No 12 of 1950, which deals with the formation of regencies within the province of East Java, state that the membership of the provincial DPRD's is to be calculated on a basis of one representative for every 220,000 to 240,000 residents.

The explication to Emergency Law No 2 of 1953, which deals with the formation of the autonomous region/province of Borneo, states that for Borneo the calculation is to be one representative for every 150,000 residents (No 3 in the 1953 State Gazette, Supplement No 351 to the State Gazette). This calculation was based on the fact that Borneo is sparsely populated, here there are some 4 million people in an area 5 times as large as Java, which has a population of 50 million.

b. The explication to Law No 12 of 1950 states that the membership of the regency DPRD's is to be calculated on a basis of one representative for every 20,000 residents, and that there are to be no less than 20 and no more than 35 representatives.

The number of members permitted the DPRD's in the regencies in Borneo is calculated on a basis of one representative for every 15,000 residents, with the understanding that one more representative may be added if there is a remainder of 7,500 or more residents. There may be no less than 20 and no more than 35 members. (Explication to Emergency Law No 3 of 1953 Concerning the Formation of the Autonomous Regions/Regencies, Special Regions at the Regency Level, and Major Cities Within the Territory of the Province of Borneo, No 9 in the 1953 State Gazette, Supplement No 352 to the State Gazette).

c. The explication to Law No 16 of 1950, which deals with the formation of major cities within the provinces of East Java, Central

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Java, West Java and the Special Region of Jogjakarta, states that the membership of the DPRD of the major cities is to be calculated on the basis of one representative for every 10,000 residents, and that there are to be no less than 15 and no more than 25 representatives.

Thus, the legislation used to establish regions on the basis of Law No 22 of 1948, unlike Law No 1 of 1957, differentiated between the calculations on which the membership of the DPRD of the regencies and of the major cities was to be based, and also upon their minimum and maximum amounts, even though the regencies and the major cities both existed at the same level. This distinction was made because the territories of the two regions were not of the same size, that is, the territory of the regency was larger than that of the major city.

d. The explication to Law No 17 of 1950, which deals with the formation of minor cities in the provinces of West Java, Central Java, and East Java, states that the membership of the DPRD of the minor cities is to be calculated on the basis of one representative for every 5,000 residents, and that there are to be no less than 10 and no more than 15 representatives.

What provisions does Law No 44 of 1950 make in this regard? Article 3 of this law states that the government of the State of East Indonesia, after reviewing such factors as the extent of autonomy, financial strength, amount of population, and political climate, will determine the number of members allowed the DPRs of the regions, regional divisions, and regional sub-divisions.

The representative assemblies within a democratic state are characterized, particularly by the fact that they are of the people and by the people. This characteristic must be given being in the representative assemblies in both the regions and Djakarta through the elective process, and not through appointments or other methods. Thus, Law No 1 of 1957 stipulates that the formation of each DPRD will be accomplished via an election.

The circumstances pertaining to an election to the DPRD are set forth in a specific law. This is Law No 19 of 1956 Concerning the Election of Members of the Regional Peoples Representative Assembly, or, in brief, the Regional Election Law (No 44 in the 1956 State Gazette, Supplement No 1072 to the State Gazette).

The Regional Election Law was established by Parliament in August 1956, several months before Law No 1 of 1957 was placed in effect. This was due to the fact that it was considered very necessary that a single regulation governing the election of DPRD members be placed in effect throughout Indonesia. With this law, and in the interests of the best possible democratization of regional government in Indonesia, each daerah was enabled to form a new DPRD.

The provisions of the Regional Election Law were further regulated and implemented in Government Ordinance No 29 of 1956, which

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dealt with the implementation of the Regional Election Law (No 52 in the 1956 State Gazette, Supplement No 1075 to the State Gazette).

According to the Regional Election Law, every autonomous region, whether at the first, second, or third level, represented one election region. Thus, a province, in electing the members of the provincial DPRD, was constituted as a single election region. Thus, also, regencies, municipalities, and lower level regions were each constituted as single election regions for the purpose of electing the members of their DPRDs.

The explication to the Regional Election Law states that the existence of municipalities and the lowest level autonomous regions as single election regions accords with the nature of these regions, as each constitutes a unit which cannot be sub-divided into lower autonomous regions. The province and the regency, on the other hand, can be further subdivided. Even though it is fitting for the DPRDs of the provinces and regencies to be made up of members from all parts of each region, rather than from one or several parts of the region, each province and regency had been established as a single election regions for the election of members to their DPRDs. This was done on the basis of the consideration that, for the development of political party life and democracy in Indonesia, the time had come, perhaps, for the transfer of basic matters to the political parties, so that they could bear the full responsibility for the government of the regions. The feeling was that the regulation of the policies to be followed in carrying out regional government through the DPRDs, and the organization and selection of the members who were to sit on these councils, should be transferred to the political parties and organizations in each of the regions.

In this regard the government stated, while addressing Parliament on the draft of the Regional Election Law, that one two courses could be followed in the election of members to the DPRDs of provinces and regencies:

First, that a number of election regions could be established within each province or regency;

Second, that the apportionment of chairs in the DPRDs of the provinces and regencies could be transferred to the political parties and organizations who took part in the election; in which case it would not be necessary to establish a number of election regions within the provinces and regencies, as a single election region in each would be adequate.

The government chose the latter course. It established one election region in each province and regency, without distinction as to the level of the region, and left the apportionment of seats among the representatives from the various parts of each region in the hands of the political parties and organizations. The government was convinced that the parties and organizations would select candidates who would be capable of drawing voters from all parts of the region concerned.

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Article 16 of the Regional Election Law establishes that every sub-district is to be constituted as a voting region (daerah pemungutan suara) of the election region (daerah pemilihan) in which it is located. The Minister of Interior, for the requirements of the election to the DPRD's, will divide into units such autonomous regions as have not been divided, or have not been completely divided, into subdistricts. These units, for the purposes of the election, will be considered to be sub-districts and individuals will be appointed to function as their chiefs.

The election of members to the DPRD's is supervised by boards of election supervisors:

- a. Regional Election Committees (Panitia Pemilihan Daerah): these committees are located in regional capitals, or in a place designated by the Minister of the Interior; they prepare, guide, and supervise the election and supervise the collection of ballots;
- b. Voting Committees (Panitia Pemungutan Suara): these committees are located at the office of the sub-district chief; they approve the lists of voters, assist in the preparations for the election, and supervise the collection of ballots;
- c. Voter Registration Committees (Panitia Pendaftaran Pemilu): these are located in each village which has a village chief; they register voters, organize the list of voters, and assist in the preparations for the election.

A person may vote in an election of DPRD members if he is an Indonesian citizen who is at least 18 years of age, or who is married if he is not 18, and who has maintained his primary residence in the region for the preceding 6 months.

No Indonesian citizen is permitted to exercise the right to vote if:

- a. He is not registered on the voting lists;
- b. He has lost the right to vote by virtue of an irrevocable decision of a court;
- c. He is serving a prison sentence under an irrevocable decision of a court;
- d. He is of unsound mind.

According to the Regional Election Law an individual may place himself in candidacy for a seat in the DPRD by following one of two methods:

- a. He may enter as an independent on an individual list;
- b. He may enter with other candidates on the cumulative list of a single party. Each cumulative list may contain a number of candidates equal to the number of members which has been authorized the DPRD of the region, plus a certain additional number. For first level regions this number is 20, for second level regions 15, and for third level regions 10. Thus, in a first level region whose DPRD membership has been set at 50, each cumulative list of candidates may contain as many as 70 names, 50 plus 20.

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These candidates must be nominated by voters whose names appear on the voting lists of the election regions concerned. An independent candidate and the initial candidate on a cumulative list may be nominated by at least 400 voters in an election in a first level region, by at least 200 voters in an election in a second level region, and by at least 100 voters in an election in a third level region. The other candidates on cumulative lists must be nominated by at least 50, 30, and 20 voters for first, second, and third level regions respectively.

An individual who is a candidate on one list may not be a candidate on another list in the same election. A voter who has nominated one candidate may not nominate another candidate in the same election.

To meet the requirement for the subsequent division of seats an individual list or a cumulative list may be combined with another cumulative list, however, a statement to this effect must be made at the time candidacy is entered (Article 29 of the Regional Election Law).

Voting takes place on the day stipulated in the regional ordinances issued by the respective regions. Voting does not take place if the number of candidates entered in the election is the same, or less than, the number of members allowed the DPRD. In this case, all candidates are considered to have been elected (Article 56).

Votes are cast secretly in a room constructed especially for this purpose. Voters may cast their vote for a single candidate who has been nominated as an independent, for a candidate on a cumulative list, or for a cumulative list. If voting for a single candidate, the voter writes the number of the list and the number and name of the candidate in the space provided on the ballot, however, if the voter wants to vote for a cumulative list he punches a hole through the emblem on the ballot which represents that list.

After the voting has been completed the boards of election supervisors count the votes to determine the division of seats among the lists. The regional election committee then determines the election divisor figure, which is the round figure which results from the division of the number of votes cast in the electoral region by the number of members which is allowed the DPRD of the region. For example, the province of West Java has a population of 14,400,000 and 7,870,000 legal votes are cast there in an election of members of the DPRD; the number of members which can be elected to the DPRD is 72, or 14,400,000 divided by 200,000 [one member for every 200,000 residents]; thus, the election divisor figure for the province of West Java is 109,305, that is, 7,870,000 votes divided by 72 seats.

An individual list which receives 109,305 or more votes confirms the candidate named on the list as a member of the DPRD. Cumulative lists receive one seat for every 109,305 votes they receive. No list may receive a number of seats greater than the number of candidates which appear on the list.

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After this division of seats is completed not all seats in the DPRD may be filled. For example, after one seat is awarded for each 109,305 votes cast, only 55 seats may be occupied. In this case the remaining seats are assigned to a combined list (if such exists) [this may be a reference to the combining a list mentioned in the fifth paragraph above] which has received a number of votes equal to the election divisor figure, that is, the combined lists receive one seat for every 109,305 votes they have received. If after this division there are still unassigned seats, then the remaining seats are apportioned among the lists and combined lists having the largest remaining votes [after the 109,305 vote units have been subtracted]. These seats are allotted one by one until all have been assigned (Article 75 of the Regional Election Law).

The DPRD which is to implement the autonomy and participating government of the region concerned obtains its full complement of members via the procedure described above.

2. Membership

Under Law No 1 of 1957 the term of office for a member of the DPRD is 4 years, under Law No 22 of 1948 it was 5 years, and under Law No 44 of 1950 it was 3 years (Paragraph 3, Article 7 of Law No 1 of 1957; Paragraph 2 Article 3 of Law No 22 of 1948; Paragraph 2 Article 3 of Law No 44 of 1950). However, the original members of the DPRD's occupy their positions for the period specified in the formative legislation of each of their daerahs, not for a 4 year term. This decision was taken to enable the respective daerahs to hold their elections at the same time, even though they had been formed different dates. (Paragraph 5, Article 7 of Law No 1 of 1957).

Law No 1 of 1957 also stipulates that any person filling a vacancy in a DPRD, and thus becoming a member, retains his membership only for the remaining period of the 4 year term (Paragraph 4, Article 7). The filling of vacancies is regulated in the Regional Election Law. This law states that when a vacancy occurs during the term of office of a DPRD, the regional election committee that supervised the election will appoint an individual to fill the vacancy. The following regulations govern the selection of this individual.

a. If the vacancy was created by a member who was nominated as an independent, then he is replaced by the [Independent] candidate who received the most votes among those candidates not elected.

b. If the vacancy was created by a member who was a candidate on a cumulative list, then he is replaced by the candidate occupying the highest place among the non-elected candidates on the list. If all candidates on the list were elected, replacement is made according to the provisions of sub a above (Articles 87 and 96 of the Regional Election Law).

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Who may become a member of the DPRD? Article 8 of Law No 1 of 1957 stipulates that to become a member of a DPRD an individual must be a citizen of Indonesia who:

- a. Is at least 21 years of age.
- b. Has maintained his primary residence in the area concerned for the preceding 6 months, or, for members of DPRD of Daerah II, has maintained his primary residence in either the Daerah II concerned or in a municipality contained by the territory of the Daerah II.
- c. Can read and write the Indonesian language in the Latin script.
- d. Has not lost the right to control or administer his property due to an irrevocable decision of the court.
- e. Has not lost his right to elect or be elected due to an irrevocable decision of the court.
- f. Is not of unsound mind.

Both Law No 22 of 1948 and Law No 44 of 1950 contained the same qualifications for membership in a DPRD may not serve concurrently as:

- a. President or vice president.
- b. Prime minister or minister, including deputy prime minister and vice minister.
- c. Chairman or member of the Financial Auditors Council (Dewan Pengawas Keuangan).
- d. Member of a DPD or chairman of a DPRD of a higher or lower level.
- e. Chief of a daerah service, secretary of a daerah, or an official holding responsibility for the finances of the daerah concerned; by daerah service is meant a special division of a function of a daerah, for example, the agricultural service, the public works service, the education service, and so forth - a section of the office of the secretary or a section of another office is not intended to be understood as a daerah service.

In addition, according to Article 10 of Law No 1 of 1957 a member of a DPRD may not:

- a. Serve as an attorney, lawyer, or authority in a case involving his daerah.
- b. Participate in the voting on a decision or authorization of a reckoning which has been drawn up by a board on which he sits as an administrative member, except when such reckoning is concerned with the budget of the daerah.
- c. Directly or indirectly participate in, underwrite, or contract for an enterprise which engages in the business of public works or transportation in the interests of the daerah.
- d. Carry out other projects that are directly connected with the daerah and which are injurious to the daerah or from which he derives profit.

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These provisions are intended to prevent members of a DPRD from misusing their positions by entering into enterprises or projects which are, either directly or indirectly, injurious to the daerah or from which they derive profit. Obviously, such activity would, in the eyes of the people, lower the prestige and honor held by a member of a DPRD, and would reduce the confidence and esteem the people have for their DPRD.

However, when the interests of the daerah make it necessary, the DPRD can make an exception to the prohibition against engaging in an enterprise or project as intended above. For example, there may not be a legal figure or building contractor in a daerah other than an individual who is, incidentally, a member of the DPRD; in this case the member may be excepted from the prohibition, if the interests of the daerah make such exception desirable.

Both law No 22 of 1948 and Law No 44 of 1950 (Articles 5 and 6 in both laws) stipulated that no DPRD member would be permitted to serve concurrently as:

- a. President or vice president.
- b. Prime minister, deputy prime minister, minister, or vice minister.
- c. State commissioner. (Law No 22 of 1948 only).
- d. Chairman or member of the Financial Auditors Council.
- e. Chief of the region concerned, or chief of a superior region.
- f. Member of a superior DPRD.
- g. An official holding responsibility for the finances of the region concerned.
- h. Head of an office of the region concerned, or secretary of the region.

Both laws also stipulated that no member of a DPRD could engage in work from which he derived a profit, if such work was connected with the affairs of the region.

At the first meeting of the DPRD, and before assuming his position, each member of the DPRD must give his oath (for those who adhere to a religion) or pledge (for those who have no religion) before the Minister of Interior or an official designated by him. In responding to this ceremony each DPRD member declares that in becoming a member and in carrying out his duties he has not given or promised, and will not give, anything to anyone; that he will not accept, either directly or indirectly, a gift or promise from anyone; that he will fulfill his obligations as a member of the DPRD to the best of his ability and honestly; that he will assist in maintaining all regulations in effect in the Republic of Indonesia; that he will work with all his might to advance the welfare of the daerah; that he will be loyal to the state of the Republic of Indonesia; and that he will uphold constantly the honor of the state and the daerah

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Neither Law No 22 of 1948 nor Law No 44 of 1950 contained any stipulation as to the swearing-in of members of the DPRD prior to their taking their posts.

During their terms of office the members of the DPRD receive session pay, travel expenses, and lodging expenses; these allowances are made in accordance with the regulations established by the DPRD concerned (Article 12 of Law No 1 of 1957).

Membership in the DPRD terminates when a member dies and when:

a. A member violates the prohibition against engaging in certain enterprises or projects, as analyzed above; for example, should he become a lawyer in a legal case involving the daerah. In this case the termination of his membership is carried out by the DPRD concerned after the member has been given the opportunity to defend himself either orally or in writing. A member may appeal such termination within one month. An appeal from a member of the DPRD of a Daerah I is submitted to the President, an appeal from a member of a DPRD of any other level is submitted to the DPD at the next higher level (Paragraphs 3 and 4, Article 10 of Law No 1 of 1957).

b. A member asks to be terminated.

c. A member no longer possesses the qualifications necessary for membership, for instance, should he suffer from mental illness.

d. A member is assigned a post which he cannot hold concurrently with his membership in the DPRD, for instance, should he become a minister.

e. A member violates any legislation of the central government (a law, emergency law, or government ordinance) which has been established to apply particularly to DPRD members.

The terminations referred to in sub b through e above are performed by the Minister of Interior, on the proposal of the DPD concerned for a member of the DPRD of a Daerah I; and by the next higher level DPD, on the proposal of the DPD concerned, for a member of a DPRD of any other level daerah.

A termination performed by the DPD of a Daerah I may be appealed by the member concerned, within one month's time, to the President. A member of the DPRD of a Daerah III whose membership has been terminated by the DPD of a Daerah II, may appeal to the DPD of the Daerah I concerned (Article 11 of Law No 1 of 1957).

Law No 22 of 1948 and Law No 44 of 1950 stipulate only that the DPRD concerned may terminate a member for violating the prohibition against engaging in work from which he derived a profit, such work being connected with the affairs of the region.

3. Meetings and Sessions

To carry out its authority, duties, and responsibilities the DPRD must meet, that is, the members of the council must gather at

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specific periods to confer on and discuss any or several matters. A session is a series of meetings which are held by the DPRD within a specific period.

The DPRD meets or convenes, on the summons of the chairman, when the chairman considers such action to be necessary, or upon the request of the DPD, or upon the request of at least one-fifth of the members of the DPRD. However, the DPRD must convene at least once every 3 months. Upon the request of the DPD, or one-fifth of the members of the DPRD, that a meeting/session be convened, the chairman of the DPRD is obligated to set a time for the meeting/session, and to convene the meeting/session, within a period of one month after the request was issued.

A meeting of the DPRD is presided over by the chairman or deputy chairman; should the chairman or deputy chairman not be present, the eldest member present presides over the meeting. To facilitate, regulate, and meet the requirements for meetings, it is necessary that each DPRD draw up its own rules of order (Paragraph 4, Article 6, and Article 16 of Law No 1 of 1957).

Must a meeting of the DPRD be attended by all members? A meeting attended by one or two members would not reflect the opinions held by the DPRD as a whole. Therefore, it is necessary that a decision be made as to the minimum number of members who must be present if the decisions taken are to be considered valid and a reflection of the desire of all members of the DPRD.

What is the minimum number of members which must be present (quorum) for a meeting of the DPRD to be valid? Article 17 of Law No 1 of 1957 stipulates that more than one-half of the number of members authorized the DPRD in formative legislation of the daerah concerned must be present before the meeting can be considered valid and decision taken. A quorum attained at the beginning of a meeting is considered to exist throughout the meeting. Exception is made if a vote is to be taken, at which time a full quorum must exist. If a quorum is not attained at a meeting, the meeting must be convened at another time. A meeting may not be held until a quorum is attained.

Both Law No 22 of 1948 and Law No 44 of 1950 make a somewhat different stipulation on the quorum problem. These laws state that more than one-half of the number of members who actually sit in the DPRD must be present to constitute a quorum, but not one-half of the number of members authorized the DPRD in the formative legislation of the region. These two figures are not always the same, as there may be vacant seats in the DPRD which have not yet been filled.

Generally, the decisions of the DPRD are arrived at through a vote of the members. A decision is considered to be valid when it is passed by a majority vote of the numbers present (Paragraph 2, Article 17 of Law No 1 of 1957).

In voting on a matter, an ordinance on a dog tax, for instance, in which there is a tie vote, then the vote is repeated at the next

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meeting. If the number of pro and con votes is still the same, then the motion concerned is declared to be unacceptable (Paragraph 3, Article 17).

Any voting which is done in regard to an individual must be in writing and must not be signed by the voter. If the number of votes is equally divided, the vote is repeated. If the votes are still equally divided, the decision is made in a drawing.

The explication to Article 11 of Law No 22 of 1948 states that blank votes are not permitted in the taking of a vote and that the voter must firmly state that he is agreed or not agreed. No mention is made of this point in the explication to Law No 1 of 1957.

Law No 22 of 1948 also states, in regard to voting which pertains to an individual, that it is not necessary to take a second vote when the votes are equally divided. In this case a drawing is held immediately to arrive at a decision. Law No 44 of 1950 makes the same stipulation.

Meetings of the DPRD are open to the public. This is in keeping with the spirit of democracy, wherein the public can follow and be informed of everything that is being discussed by their representatives in the DPRD. However, in special instances the DPRD can decide to meet behind closed doors, that is, the public is not permitted to attend or listen to the meeting. The motion to convene a closed meeting may be made by the chairman or by no less than five members.

A closed meeting may not be convened if certain matters are to be discussed. Article 15 of Law No 1 of 1957 stipulates that certain matters may not be discussed by the DPRD in a closed meeting; these are:

- a. The daerah budget, and calculations on and amendments to the daerah budget.
- b. the levying, amendment, or revocation of a tax,
- c. the making of a loan.
- d. the implementation of projects, the transfer of goods, or the transportation of commodities, where no public notice has been given.
- e. The cancellation of a claim, either wholly or in part.
- f. An agreement on the settlement of a civil case.
- g. The acceptance of a new member.
- h. The position of the goods and rights of the daerah.
- i. The establishment of any effort which may injure or detract from the general interest.
- j. The sale, assumption, rent, lease, or loan of goods or rights, either wholly or in part.

The DPRD may discuss and decide on matters other than those listed above in meetings closed to the public. Each person present in a closed meeting is obligated to keep secret all matters discussed. This applies to both members and employees of the DPRD, also to those

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who, though not present at the meeting, may gain knowledge of anything discussed at the meeting through correspondence or in any other way (Paragraphs 3 and 4, Article 14 of Law No 1 of 1957).

The obligation to maintain secrecy continues until the DPRD concerned cancels (nullifies) the obligation. Persons not observing this obligation may be sentenced under the Code of Criminal Law (No 732 in the 1915 Statute Book and Nos 497 and 645 in the 1917 Statute Book) to prison for not more than 9 months or may be fined no more than 600 repiahs. These penalties may be increased by one-third if the person involved is a government employee (Article 52 in the Code of Criminal Law).

Law No 1 of 1957 guarantees that members of the DPRD may express their opinions freely in the DPRD, that is, members of the DPRD (including the chairman and deputy chairman) may not be prosecuted for something they have said in a meeting or for an article they have submitted at a meeting. Even though they have been granted this immunity, all members of a DPRD must maintain propriety and may not use obscene language, or words which offend others, in their discussions and writings at meetings of a DPRD (Article 18 of Law No 1 of 1957).

Generally speaking, both Law No 22 of 1948 and Law No 44 of 1950 contain determinations on open and closed meetings and on the immunity of members of the DPRD which are the same as those above.

4. Authority, Duties, and Responsibilities

The DPRD is the highest agency in a daerah which has the right to administer its own affairs. As the highest authority in the daerah, the DPRD regulates and administers all the affairs of the daerah, except those affairs which have been transferred to another authority by Law No 1 of 1957. The DPRD also holds full authority for the general administration of daerah finances, except in those areas where control has been transferred to another authority through legislation (Articles 51 and 60 of Law No 1 of 1957).

The central government is to provide the daerahs with guides and directives, via a government ordinance, on the control of daerah finances. These guides and directives will deal with:

- a. Making a loan or underwriting a loan in the interests of the daerah.
- b. The sale, assumption, rent, lease or loan of goods or rights either wholly or in part.
- c. The implementation of projects, the transfer of goods, or the transportation of commodities, where no public notice has been given.
- d. The cancellation of a claim, either wholly or in part.
- e. An agreement on the settlement of a civil case.
- f. Other matters connected with the administration of the finances of the daerah.

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Law No 1 of 1957 also stipulates that certain matters are included within the sphere of authority, duty, and responsibility of each DPRD; a complete summation of these matters follows:

- a. Electing the chairman and deputy chairman of the DPRD (Paragraph 2, Article 6).
- b. Terminating a DPRD member who has violated the prohibition against engaging in certain enterprises or projects, as analyzed in the foregoing (Paragraph 3, Article 10).
- c. Drafting an ordinance on the amount of session pay, travel expenses, and lodging expenses allowed its members (Paragraph 1, Article 12).
- d. Drafting an ordinance on the provision of honorariums to the chairman and deputy chairman of the DPRD (Paragraph 2, Article 12).
- e. Meeting at least once every 3 months (Paragraph 2, Article 14).
- f. Conducting closed meetings, and cancelling the obligation to maintain secrecy on the subjects of discussion in these closed meetings (Paragraph 4, Article 14 and Paragraph 2, Article 15).
- g. Drafting rules of order for sessions and meetings (Article 16).
- h. Electing the members of the DPD (Paragraph 1, Article 19).
- i. Drafting a guide for the DPD to follow in regulating the procedures it employs in exercising its authority and responsibilities (Paragraph 1, Article 21).
- j. Authorizing the rules of order for DPD meetings (Paragraph 3, Article 21).
- k. Drafting an ordinance on the amount of honorarium, travel expenses, and lodging expenses allowed members of the DPD (Paragraph 1, Article 22).
- l. Electing the chief of daerah, until such time as a law exists which regulates the direct election of a chief of daerah by the people (Paragraph 1, Article 24).
- m. For the DPRD of a special daerah: nominating a chief of a special daerah and a deputy chief of a special daerah to the central government (Paragraph 1, Article 25).
- n. For the DPRD of an autonomous daerah: drafting an ordinance on the provision of a salary, travel expenses, lodging expenses, and all other legal emoluments which are connected with the post of the chief of daerah (Paragraph 1, Article 28).
- o. Transferring affairs of the daerah to lower-level daerahs so that they may be regulated and administered by these lower-level daerahs, whenever such action is deemed necessary (Paragraph 4, Article 31).
- p. Assigning the duty of rendering assistance in the implementation of ordinances to lower level daerahs, via an ordinance (Article 33).
- q. Defending the interests of the daerah and its residents before the central government and Parliament or before the government of a superior daerah (Article 35).

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r. Drafting ordinances in the interest of the daerah and to implement the conduct of autonomy and participating government, whenever such action is considered necessary by the DPRD. An ordinance drafted by a DPRD shall be titled a Daerah Ordinance and shall include the name of the daerah, for example, Daerah Ordinance of the Municipality of Djakarta Raja.

A daerah ordinance of a Daerah I and the daerah ordinances of lower-level daerahs subordinate to that Daerah I must be promulgated in the Daerah Gazette (Lembaran Daerah) of that Daerah I, if they are to have binding authority. A daerah ordinance of the municipality of Djakarta Raja must be promulgated in the Djakarta Raja Municipal Gazette (Lembaran Kotapradja). If said gazette does not exist, the daerah ordinance will be promulgated in accordance with methods set forth in a government ordinance.

A daerah ordinance takes effect on the day stipulated in the ordinance itself. Certain daerah ordinances must be ratified by a superior authority, as has been explained earlier, and this fact must be taken into account. If the daerah ordinance does not stipulate the date on which it is to take effect, then, according to Paragraph 2, Article 37 of Law No 1 of 1957, it shall take effect on the thirtieth day following its promulgation.

s. If the DPRD considers such action to be necessary, it may, in drafting an ordinance, stipulate that a violation of the ordinance is punishable by confinement for no longer than 6 months or by a fine of no more than 5,000 rupiahs, and that any goods connected with the violation may be confiscated. If the violation is a second violation and occurs within one year after the passing of sentence for the first violation, then the penalty may be doubled. The act intended in said daerah ordinance is to be classed as a misdemeanor (Article 39).

t. Should the DPRD consider such action necessary, it may draft an ordinance designating certain officials of the daerah to investigate violations of daerah ordinances (Article 40).

u. Should the DPRD consider such action necessary, it may stipulate in the pertinent ordinance that all expenses incurred by another agency for assistance rendered in the implementation of a decision of the daerah are to be borne by the offender (Article 41).

v. Cooperation may be established with another daerah (daerahs) to regulate and administer a joint interest, if such action should be considered necessary (Paragraph 1, Article 42).

w. Committees of DPRD members may be formed to engage in projects which will facilitate their performance of their duties, if such action should be considered necessary (Article 43).

x. An ordinance may be drafted designating certain agencies to carry out matters whose implementation has been neglected by subordinate daerahs in their rendering of assistance; these agencies are to be recompensed from the funds of the daerah which was remiss in carrying out the duties of participating government (Paragraph 3, Article 50).

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y. Appointing and removing the secretary of the daerah (Paragraph 1, Article 52).

z. Via an ordinance, regulating the appointment, removal, suspension, salary, pension, and other matters pertaining to employees of the daerah (Paragraph 1, Article 53).

aa. Via an ordinance, regulating the working conditions of daerah employees attached to another daerah (Paragraph 1, Article 54).

bb. Requesting the central government to assign certain of its officials to the daerah for carrying out specific affairs in the interest of the daerah, if such action should be considered necessary (Paragraph 1, Article 55).

cc. Levying daerah taxes or daerah repayments in a daerah ordinance (Paragraph 1, Article 56).

dd. Establishing certain daerah enterprises, should such action be considered necessary (Paragraph 1, Article 59).

ee. Establishing and amending a daerah budget (Article 61).

ff. Providing such information as is requested by the Minister of Interior, or by an official designated by him, or by the government of the next higher level daerah (Article 68).

gg. Investigating and inspecting anything concerned with the administration of affairs or the performance of the duty of assistance ~~[participating government]~~ by subordinate daerahs, when such action is considered in the general interest (Paragraph 2, Article 71).

hh. When, within a period of 3 months after the initial formation of a DPRD, a chief of Daerah has not been elected in accordance with the provisions contained in Paragraph 1, Article 24 of Law No 1 of 1957 (that is, elected by the DPRD concerned), then the DPRD may nominate no less than 2 and no more than 4 candidates for the post of chief of daerah, so that a chief of daerah may be appointed by the central government (Paragraph 4, Article 74).

The above has been a summation of the authority, duties, and responsibilities of the DPRD as contained in Law No 1 of 1957. Both Law No 22 of 1948 and Law No 44 of 1950 contained stipulations which are nearly the same as those listed above, however, these stipulations are not as complete as those contained in Law No 1 of 1957 and, in certain instances, differ, in conformance with the system of autonomy followed.

C. The Chairman of the DPRD

1. Position

Under Law No 1 of 1957, the chairman of the DPRD has an important position and function. The chairman and deputy chairman of the DPRD are elected by and from among the members of the DPRD (Paragraph 2, Article 6 of Law No 1 of 1957). As they are members of the DPRD, the prohibitions which apply to the other members also apply to them. Law No 1 of 1957 also stipulates that the chairman and deputy chairman may not serve as

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members of the DPD of the daerah concerned (Paragraph 2, Article 19). The chairman and deputy chairman hold their posts throughout the term of office of the DPRD, in accordance with their term of office as members of the DPRD.

Both Law No 22 of 1948 and Law No 44 of 1950 contain the same determinations on this matter as Law No 1 of 1957 (Paragraph 2, Article 2 and Paragraph 2, Article 13 of both Law No 22 of 1948 and Law No 44 of 1950).

2. Authority, Duties, and Responsibilities

The following matters are included within the sphere of the authority, duties, and responsibilities of the chairman of the DPRD.

a. Administering the oath/pledge to an individual who is filling a vacancy in the DPRD which has occurred during its tenure. (Paragraph 2, Article 13, of Law No 1 of 1957).

b. Setting the time for a meeting or session of the DPRD, inviting the members to attend, and presiding over the meeting or session (Paragraph 1, Article 14).

c. For the chairman of a DPRD in an autonomous daerah: carrying out the duties and responsibilities of a DPD which has been terminated (dissolved) by a decision of the DPRD concerned until a new DPD is formed (Paragraph 3, Article 26).

d. For the chairman of the DPRD in an autonomous daerah: administering the oath/pledge to the chief of daerah (Paragraph 1, Article 30).

e. Signing daerah ordinances which have been passed by the DPRD (Paragraph 1, Article 36).

When the chairman of the DPRD is prevented from carrying out his authority, duties, and responsibilities, the deputy chairman of the DPRD acts in his stead.

Neither Law No 22 of 1948 nor Law No 44 of 1950 contained the stipulation that the chairman of the DPRD should carry out the duties and responsibilities of a DPD which had been dissolved, or the stipulation that the chairman of the DPRD should administer the oath/pledge to the chief of daerah. And, unlike Law No 1 of 1957, both laws provided that the chief of daerah should sign the daerah ordinances (Paragraph 6, Article 28 of Law No 22 of 1948; Paragraph 6, Article 24 of Law No 44 of 1950).

D. The DPD

1. Organization

Another agency of daerah government is the DPD. Each DPD is composed of a chairman, a deputy chairman, and members. The number of members allowed a DPD is established in the legislation forming the daerah concerned (Paragraph 3, Article 19 of Law No 1 of 1957).

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The deputy chairman of the DPD is elected by the members of the DPD from among their own number (Paragraph 3, Article 6 of Law No 1 of 1957).

Members of the DPD are elected by and from among the members of the DPRD on a basis of proportional representation. The members to be employed in carrying out this election on a basis of proportional representation have been set forth in Government Ordinance No 32 of 1957 Concerning the Bases for the Election and Replacement of DPD Members (No 85 in the 1957 State Gazette, Supplement No 1403 to the State Gazette), which was amended shortly after it was issued by Government Ordinance No 36 of 1957 (No 90 in the 1957 State Gazette).

According to Government Ordinance No 32 of 1957, the DPD must be formed within 3 months after the DPRD is installed (Paragraph 1, Article 2). The formative procedure is the same as that employed in the election of DPRD members, that is, nominations are made, a vote is taken, and seats are divided.

Candidates for the DPD are nominated on lists. Each list must be introduced by at least 5 DPRD members if the election is for the DPD of a Daerah I, and by at least 3 DPRD members if the election is for the DPD of a Daerah II. A list may contain the names of twice as many candidates as there are seats in the DPRD or it may contain as little as one name (Articles 5 to 7).

After the nomination are made a drawing is held in which each list of candidates is assigned a letter. All members of the DPRD then vote on the candidates. Each member has one vote. He must give this vote to a candidate by naming the candidate and the letter of the list containing the candidate's name. After the voting the seats are divided among the respective lists of candidates and the chosen candidates are confirmed as members of the DPD.

The seats in the DPD are divided among the lists of candidates in accordance with the number of votes received by each list. The number of seats each list is to receive is calculated by dividing the total number of valid votes cast into the number of votes received by each list, and then multiplying the resultant figure by the number of seats in the DPD (Article 10).

Example: The province of West Java has 72 DPRD members (voters) and there are 5 seats in its DPD. In an election of DPD members all voters cast a valid vote. List A receives 26 votes; the number of seats to be received by List A is calculated as follows:

$26/72$ times 5 equals 1 and $58/72$ seats.

List B receives 29 votes, List C receives 2 votes, and List D receives 15 votes; thus:

List B receives 2 and $1/72$ seats;

List C receives $10/72$ seats;

List D receives 1 and $3/72$ seats.

Thus, in the initial division of seats, Lists A, B, and D receive 1, 2, and 1 seats, respectively.

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In the initial division each list is assigned a number of seats corresponding to the whole number contained in the figure resulting from the calculation. If unassigned seats remain after this is done, these seats are assigned to the lists which have the largest remaining fraction. In the example above the DPD has 5 seats. Four of these seats are assigned in the initial division, then, the remaining seat is assigned to List A as this list has the largest remaining fraction. Should two lists have the same fraction, that fraction being greater than those of other lists, then a drawing is held to determine which of the two lists receives the remaining seat.

After the seats have been divided among the respective lists, the problem still remains as to what candidates on the lists are to become members of the DPD. To do this, the election quotient must first be determined. The election quotient is determined by dividing the total number of votes cast by the number of seats in the DPD plus 1. The resultant figure is then raised to the next whole number.

Example: Using the figures for the province of West Java, the election quotient would be calculated as follows:

$$72/6 \text{ (5 plus 1) equals 12}$$

The figure 12 is then raised to the next whole number, giving an election quotient of 13.

To be elected as a member of the DPD, a candidate on a list which has been assigned a seat or seats must have received at least 13 votes. Should no candidate have received 13 votes, the seats are assigned to candidates who received the largest number of votes (Article 11 of Government Ordinance No 32 of 1957).

Using the above example, the candidates on List A received 28 votes and the list was assigned 2 seats. Let us say List A contained the names of 5 candidates and these candidates received the following number of votes.

Candidate No 1 received 14 votes,

Candidate No 2 received 1 vote,

Candidate No 3 received 3 votes,

Candidate No 4 received 0 votes,

Candidate No 5 received 8 votes.

In this instance, candidates No 1 and No 5 would receive seats in the DPD.

Government Ordinance No 32 of 1957 also states that the surplus votes of an elected candidate (one who has attained the election quotient) are to be awarded to a candidate on the list who has received less than the election quotient.

Example: The candidates on List B received 29 votes and the list was assigned 2 seats. Let us say that the votes were apportioned among the candidates in the following manner:

Candidate No 1 received 6 votes,

Candidate No 2 received 3 votes,

Candidate No 3 received 20 votes,

Candidate No 4 through 10 did not receive any votes.

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In this instance, Candidate No 3 would be elected and would still have 7 surplus votes (20 minus 13, the election quotient). These surplus votes would be assigned to Candidate No 1 and he would be elected also.

In cases where two or more candidates on a list have received the same number of votes, the seat is assigned to the candidate who occupies the highest position on the list.

The above has been a description of how the DPD is constructed on a basis of proportional representation.

Members of the DPD hold their posts for the term of office of the DPRD. A member who is assigned to fill a vacancy which has occurred in mid-term, holds this position for the remainder of the term (Article 20 of Law No 1 of 1957).

Government Ordinance No 32 of 1957 also provides for the filling of vacancies which may occur in the DPD. When a seat becomes vacant it is assigned to the list of candidates from which the original holder of the seat was elected. The seat is given to the non-elected candidate on this list who received the largest number of votes, or, if this is not possible, the seat is given to the non-elected candidate who occupies the highest position on the list. If there are no non-elected candidates on the list, the DPRD members who nominated the candidates on the list, the DPRD members who nominated the candidates on the list originally, are asked to supply the name of a new candidate (Article 13 of Government Ordinance No 32 of 1957).

In performing their duties and responsibilities, the members of the DPD receive an honorarium, travel expenses, and lodging expenses. The amounts of these allowances are stipulated in an ordinance drafted by the DPRD.

The members of the DPD need not be sworn in to hold their posts, as they have earlier been sworn in as members of the DPRD. However, Law No 22 of 1948 provides that each DPD member must be sworn in before he can assume his post on the DPD. Another difference found in Law No 22 of 1948 is that it does not definitely provide for a Deputy chairman of the DPD. Article 19 of the law states that the members of the DPD shall designate one of their number to represent the chairman of the DPD when the chairman is absent.

In general, Law No 44 of 1950 contains the same determinations as Law No 22 of 1948. Law No 44 of 1950 does, however, make a different stipulation as regards the number of members allowed the DP / the DP and the DPD are essentially the same; Law No 44 of 1950 refers to the body as the DP, Laws No 22 of 1948 and 1 of 1957 refer to it as the DPD. Both Law No 22 of 1948 and Law No 1 of 1957 stipulate that the number of members allowed a DPD is to be established in the legislation forming each autonomous region; Law No 44 of 1950 states that the number of members allowed the DPs of a region, regional division, and regional sub-division is to be determined by the government of the State of East Indonesia after reviewing such factors as the extent of

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autonomy, financial strength, number of residents, and the local political atmosphere. Unlike both Law No 1 of 1957 and Law No 22 of 1948, Law No 44 of 1950 states that persons who are not members of the DPR ~~DP~~ in Law No 44 of 1950, DPRD in the other two laws may be elected to the DP.

2. Authority, Duties, and Responsibilities

Law No 1 of 1957 stipulates that the day-to-day government of the daerah is to be carried out by the DPD (Paragraph 2, Article 44). The DPRD, as the supreme authority within the daerah, administers the general government. All decisions of the DPRD are carried out by the DPD, therefore, the primary authority and responsibility of the DPD is in the executive field. The DPD may perform such duties of participating government as have not been transferred to the DPRD and also possesses the right to supervise the control of autonomy.

All members of the DPD are collectively responsible to the DPRD in carrying out their authority and responsibility, thus, Law No 1 of 1957 does not adhere to a system of individual responsibility. Both Law No 22 of 1948 and Law No 44 of 1950 make it possible for a member of the DPD to be held individually responsible; these laws state that the DPD is to carry out the day-to-day government and that the members of the DPD are collectively or individually responsible to the DPRD.

In respect to this collective responsibility, should the DPRD lose confidence in the DPDs performance of its duties and responsibilities, then all members of the DPD must resign and reassume their original positions as members of the DPRD.

The DPD, in addition to carrying out the day-to-day government and the decisions of the DPRD, has other functions. Included within the sphere of its authority, duties and responsibilities are the following matters:

a. Electing a deputy chairman from among the members of the DPD (Paragraph 3, Article 6 of Law No 1 of 1957).

b. Suspending any member of the DPRD who violates the prohibition against engaging in certain enterprises or projects, as intended in Paragraph 1, Article 10 of Law No 1 of 1957 (Paragraph 3, Article 10).

c. Rendering a decision on an objection or an appeal submitted by a member of a DPRD at the next lower level who has been terminated or suspended by the government of his daerah for violating the prohibition intended in Paragraph 1, Article 10 of Law No 1 of 1957 (Paragraph 4, Article 10).

d. Proposing the termination of the membership of a DPRD member who: has asked to be terminated; no longer possesses the qualifications for membership; is in violation of the prohibition against serving concurrently in certain posts; or is in violation of legislation of the central government which pertains to DPRD members (Paragraph 2, Article 11).

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e. Rendering a decision on a proposal for the termination of membership of a DPRD member for any of the matters intended in sub d above, which proposal has been submitted by the DPD of a daerah at the next lower level (Paragraph 2, Article 11).

f. Rendering a decision on an objection or an appeal submitted by a member of a DPRD at the next lower level whose membership has been terminated by his DPD (Paragraph 3, Article 11).

g. Requesting the chairman of the DPRD to convene a meeting or session of the DPRD, should such action be considered necessary (Paragraph 1, Article 14).

h. Drafting the rules of order for meetings of the DPRD (Paragraph 3, Article 21).

i. Carrying out the duties of assistance (participating government) which have been transferred to the Daerah (Article 34).

j. Rendering a decision on petitions submitted to the DPD by the DPRD's of subordinate daerahs (Article 35).

k. Establishing enabling acts for daerah ordinances, when said ordinances have provided for this function (Article 45).

l. Preparing any and all materials which must be reviewed and decided on by the DPRD (Article 47).

m. Providing information requested by the DPRD (Article 48).

n. Representing the daerah both in and out of court; a proxy can be designated in this regard (Article 49).

o. Exercising supervisory powers over all daerah employees and over all state employees and employees of another daerah who have been attached to the daerah (Article 51).

p. Proposing the appointment or termination of the daerah secretary to the DPRD (Paragraph 1, Article 52).

q. Designating another official to represent the daerah secretary in his absence (Paragraph 3, Article 52).

r. Ratifying such decisions or other legislation of the DPRD's at the next lower level as must be ratified before they can take effect (exercising preventive supervision) (Articles 62 and 63).

s. Rendering decisions on objections or appeals on objections or appeals submitted by DPRD's whose decisions have not been ratified by a DPD at the next lower level (Paragraph 4, Article 63).

t. Suspending or revoking decisions of the government of the next lower level daerah (exercising repressive supervision) (Article 64).

u. Providing information requested by the government of the next higher level daerah or by the Minister of Interior (Article 68).

v. Rendering a decision on a dispute between subordinate daerahs over regional government or over an amendment or cancellation of a joint decision of the daerahs (exercising the right of adjudication) (Paragraph 3, Article 42, and Paragraph 1, Article 70).

w. Promulgating every decision which related to a dispute on matters of regional government or to the revocation of a decision; the

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DPDs of the [lower level] daerahs concerned also promulgate these decisions in their respective areas (Article 72).

The foregoing has been a description of the authority, duties, and responsibilities of the DPDs as contained in Law No 1 of 1957.

The provisions contained in Law No 22 of 1948 and Law No 44 of 1950 are not as complete as those contained in Law No 1 of 1957; neither of the first two laws makes any mention of authority, duties and responsibilities of the DPDs in the following matters:

- a. Proposing, deciding on, or appealing the termination of the members of a DPRD/DPR in their own or subordinate regions (the laws made no provision for the termination of membership).
- b. Drafting rules of order for meetings.
- c. The possibility of being given the assignment of drafting an enabling act for a regional ordinance.
- d. Preparing materials for the review and decisions of the DPRD/DPR.
- e. Exercising supervisory authority over all employees.
- f. Providing the information requested by superior authorities.

In general, neither of these laws differed from Law No 1 of 1957 in regard to other matters.

E. The Chief of Daerah

Under Law No 1 of 1957 the chief of daerah is not constituted as an agency of the daerah which stands apart from the DPRD and DPD and governs independently. The chief of daerah, by virtue of his post, serves concurrently as the chairman and a member of the DPD, thus, he is a part of the DPD and governs jointly with the DPD. The chief of daerah, in performing his duties and responsibilities, is, with the other members of the DPD, collectively responsible to the DPRD. When the DPD falls, the chief of daerah falls with it.

Both Law No 22 of 1948 and Law No 44 of 1950 stipulate that the chief of a region also serves as a chairman and member of the DPD/DP, however, unlike Law No 1 of 1957, these laws state that he may supervise the work of the DPRD/DPR and DPD/DP of his region and defend the implementation of such of their decisions as may be considered to be in opposition to the general interest or to the legislation of a superior authority. Here, then the chief of a region governs independently, that is, he functions in a field of the central government in that he supervises the agencies of government in his region (Article 36 of Law No 22 of 1948 and Article 30 of Law No 44 of 1950). In addition, according to the provisions contained in these two laws, should the DPRD/DPR overthrow the DPD/DP, the chief of region does not fall with it.

The legislators who drew up Law No 1 of 1957 did not permit the chief of daerah to retain this dualistic function. According to the law the chief of daerah carries out only those duties which are in-

cluded among the affairs of the daerah. He carries these duties out jointly with the other members of the DPD, in a collegial manner and subject to collective responsibility.

It was pointed out that Law No 1 of 1957 differentiates between two types of daerahs, namely, the autonomous daerah and the special daerah. The difference between these two daerahs lies in the position held by the chief of daerah. The chief of daerah of a special daerah holds a special position, as compared to the position held by the chief of an autonomous daerah.

1. Position of the Chief of an Autonomous Daerah

According to Article 23 of Law No 1 of 1957, the chief of an autonomous daerah is to be elected directly by the people of the daerah and in accordance with provisions which are to be set forth in a specific law.

The legislators who drafted Law No 1 of 1957 were, however, of the opinion that the actual condition and development of society in the daerahs at that time had not reached a level capable of guaranteeing that the election of a chief of daerah would be carried out in such a way as to produce the best possible results. Therefore, it was stated in Article 24 of Law No 1 of 1957 that, for an interim period, the post of chief of daerah would be filled in a method other than that of a direct election by the people. It was hoped that this interim period would not exceed four years.

Article 24 stipulates that for an interim period prior to the enactment of a law regulating the election of a chief of daerah, the chief of each autonomous daerah will be elected by the DPRD of the daerah concerned. The chief of daerah may be elected from among the members of the DPRD or from among outsiders (persons who are not members of the DPRD). Attention must be given to the capability and knowledge of the individual who is to fill this post. The qualifications required in this respect and the methods to be followed in the election and authorization of a chief of daerah are to be set forth in a government ordinance.

The election of a chief of daerah by the DPRD of each autonomous daerah must be approved by a superior authority; the President is to approve the election of a chief of daerah of a Daerah I, and the Minister of Interior, or an official designated by him, is to approve the election of a chief of daerah of a Daerah II or Daerah III.

This approval is not bestowed automatically, rather, it is given only after a review has been made as to whether all the qualifications (capability and knowledge) for appointment to this post have been met and fulfilled. When a superior authority is unable to grant this approval, the authority will explain to this DPRD concerned why approval was withheld and will call for a new election.

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Before assuming his post the chief of daerah will take the oath (pledge) before the chairman of the DPRD at a meeting of the DPRD. This ceremony will be witnessed by an official of the central government (Paragraph 1, Article 30 of Law No 1 of 1957). The oath or pledge taken by the chief of an autonomous daerah is the same as that taken by the members of the DPRD, thus, a member of the DPRD who becomes a chief of daerah is sworn two times.

The chief of daerah holds his post for the term of office of the DPRD (4 years). An individual who is elected to fill a vacancy which has occurred in the post of chief of daerah holds this post for the period remaining in the term of office (Paragraph 3, Article 24).

The chief of an autonomous daerah, in the performance of his duties, receives a salary, travel expenses, lodging expenses, and any other legal emoluments connected with the post, the amounts and types of which are established in an ordinance drafted by the DPRD. Other matters which relate to the legal position of the chief of daerah may be regulated in this ordinance (Article 28).

The fact that the chief of daerah is, by virtue of his post, also the chairman and a member of the DPD has already been mentioned (Paragraph 1, Article 6). Should the chief of daerah be absent or resign from his post, he is represented by the deputy chairman of the DPD; should the deputy chairman of the DPD also be absent or resign, the eldest member of the DPD assumes the post of chief of daerah (Paragraphs 1 and 2 of Article 26).

The chief of an autonomous daerah shall be removed from his post upon:

- a. His death
- b. The expiration of the term of office of the DPRD concerned.
- c. A cession of the DPRD which terminates his membership in the DPRD (this is primarily directed at a chief of daerah who has been elected from among the members of the DPRD and against whom the prohibition against engaging in certain enterprises or projects has been applied).
- d. The submission of his resignation.
- e. A decision of the DPRD dismissing him as chief of daerah.
- f. A decision of the DPRD dismissing the DPD (the DPRD may dismiss the DPD if it does not approve of the policy being implemented by the DPD).

The removal of a chief of daerah from his post for any of the reasons given in sub c through f above requires the authorization of the authority who approved his election as chief of daerah.

Law No 22 of 1948 provided, in Article 18, that the chief of a province was to be appointed by the President from among no less than 2 and no more than 4 candidates that the DPRD of the province nominated; that the chief of a regency and the chief of a major city were to be appointed by the Minister of Interior; and that the chief of a village district and the chief of a minor city were to be appointed by the chief of the province concerned, also from among no less than 2 and no more

than 4 candidates that the DPRD of the region concerned had nominated. Under Law No 22 of 1948 the chief of region was appointed for an indefinite period; he could be dismissed by the appointing authority at the request of the DPRD concerned.

Article 17 of Law No 44 of 1950 stipulated that the chief of a region was to be appointed by the president of the State of East Indonesia from among no less than 2 and no more than 4 candidates that the DPR of the region concerned nominated; also, that the chief of a regional division and the chief of a regional sub-division were to be appointed by the DP of the superior region concerned from among no less than 2 and no more than 4 candidates that the DPR of the regional division or regional sub-division had nominated. The other provisions made by Law No 44 of 1950 in regard to the chief of a region were the same, generally, as those contained in Law No 22 of 1948.

2. Position of the Chief of A Special Daerah

According to Law No 1 of 1957, the chief of a first-level special daerah is appointed by the President and the chiefs of second and third-level special daerahs are appointed by the Minister of Interior or by an official designated by him. The DPRD of the special daerah concerned nominates a candidate from among the members of the family which held power in the region (former sultanate) prior to the establishment of the Republic of Indonesia and which still holds power in the region. The DPRD must consider the traditions of the region and the capability, honesty, and loyalty of the person they nominate. The appointing authority may dismiss the chief of a special daerah (Article 25 of Law No 1 of 1957).

Both Law No 22 of 1948 and Law No 44 of 1950 make the same stipulations in regard to the chief of a special region as does Law No 1 of 1957. Law No 44 of 1950, however, uses the phrase chief of a sultanate rather than the phrase chief of a special region.

Under Law No 1 of 1957 a special daerah may be formed from the territory of several former sultanates. The authority who appoints the chief of a special daerah may also appoint a deputy chief; the methods and determinations followed in the appointment of a chief of a special daerah are also followed in the appointment of a deputy chief of a special daerah.

The chief and the deputy chief of a special daerah are, by virtue of their posts, also the chairman and deputy chairman and members of the DPD of the special daerah. Should the chief of daerah be absent or resign from his post, he is represented by the deputy chief of daerah; should the deputy chief of daerah also be absent or resign, he is represented by a member of the DPD who is chosen by and from among the members of the DPD. When a special daerah has no deputy chief and the chief of daerah is absent or resigns, then, the deputy chairman of the DPD represents the chief of daerah. The deputy chairman of the DPD is chosen by and from among the members of the DPD.

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Before assuming their offices, the chief and the deputy chief of a special daerah are sworn in before an official designated by the central government at a meeting of the DPRD. The oath or pledge they take reads as follows:

"I swear (pledge) that I will fulfill my responsibilities as chief of the Special Daerah of honestly and to the best of my ability, that I will help to maintain all regulations in effect in the Republic of Indonesia and that I will use all my resources to advance the welfare of the daerah.

"I swear (pledge) that I will be loyal to the State of the Republic of Indonesia and that I will uphold constantly the honor of the state and the daerah".

Law No 1 of 1957 differentiates between the chief of a special daerah and the chief of an autonomous daerah in the following ways:

A. Relation to the DPRD

The chief of a special daerah cannot be dismissed by the DPRD. When the DPD of a special daerah is dissolved by the DPRD, the chief of the special daerah [chairman of the DPD] is not dismissed although the other members of the DPD are.

The chief of an autonomous daerah can be dismissed by the DPRD when the DPD is dissolved and in other instances.

b. Financial position

The salary, travel expenses, lodging expenses, and all other legal emoluments of the chief and deputy chief of a special daerah are set forth in a government ordinance, thus, are established by the central government (Article 29).

Where the chief of an autonomous daerah is concerned these matters are established in a daerah ordinance drafted by the DPRD.

c. Executive duties when the DPD is dissolved

When the DPD of a special daerah resigns or is dissolved at the decision of the DPRD, the duties of the DPD are performed by the chief of the special daerah until a new DPD is formed (Paragraph 4, Article 27).

When the DPD of an autonomous daerah is dissolved its duties are taken over by the chairman and deputy chairman of the DPRD. The chief of the autonomous daerah cannot take over these duties as he was dismissed together with the other members of the DPD.

The above has been a description of the differences between the posts of the chief of a special daerah and the chief of a autonomous daerah. These differences have led to the recognition of two types of daerahs, both having the right to regulate and administer their own affairs, in Law No 1 of 1957, namely, the autonomous daerah and the special daerah.

3. Authority, Duties, and Responsibilities of the Chief of Daerah

There is no difference in the nature of the authority, duties, and responsibilities for which the chiefs of the two types of daerahs

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are responsible. Both the chief of the autonomous daerah and the chief of the special daerah possess and carry out the same functions, namely:

- a. Promulgating daerah ordinances (Paragraph 1, Article 37).
- b. As chairman of the DPD, signing decisions of the DPD (Article 46).
- c. For an interim period, carrying out the duties and obligations of the government of the daerah when the DPRD of the daerah has been negligent in its administration, and before a government ordinance has been promulgated establishing another method of government for the daerah (Paragraph 4, Article 50).

Neither Law No 22 of 1948 nor Law No 44 of 1950 contained any of the above stipulations.

F. Daerah Personnel

Each daerah has, in addition to the DPRD, the DPD, and the chief of daerah, its own employees. These employees also join in turning the wheels of regional government. In this respect, Law No 1 of 1957 makes specific provisions in regard to one certain official, the daerah secretary.

1. The Daerah Secretary

The daerah secretary is an employee of the daerah and is appointed and removed by the DPRD upon the recommendation of the DPD. The daerah secretary serves as the secretary of the DPRD and the DPD. Should he be absent or resign from his post, the DPD designates another employee of the daerah to represent him.

According to Law No 22 of 1948, the secretary of the DPRD also served as the secretary of the DPD and the secretary of the chief of the region. Under Law No 1 of 1957 it would not have been fitting to position the daerah secretary as secretary to the chief of daerah, as the chief of daerah performs his duties in conjunction with the DPD.

2. Other Personnel

Article 51 of Law No 1 of 1957 states that the DPD exercises supervisory authority over all employees of the daerah. Even so, the regulations dealing with the appointment, termination, suspension, wages, pension, and other matters dealing with the legal position of daerah employees are established by the DPRD in a daerah ordinance. The regulations established by the DPRD are accommodated, to the extent possible with those regulations established by the central government for state employees. Assigned employees and attached employees may also be found in a daerah, as has been explained in Chapter VII. Law No 22 of 1948 contains provisions on employees which are generally the same as those contained in Law No 1 of 1957. Law No 44 of 1950 does not regulate the circumstances pertaining to regional employees, including the regional secretary.

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Chapter IX. REGULATING THE TRANSITION

A. Existent Regions

As was explained in Chapter I, prior to the existence of Law No 1 of 1957 there were a number of laws and decrees under which regional government was carried out in Indonesia. Regions which possessed the right to regulate and administer their own affairs had been formed on the basis of these laws and decrees. The following regions were in existence when Law No 1 of 1957 was placed in effect (18 January 1957).

1. Regions Formed on the Basis of Law No 22 of 1948

Both the governments of the early Republic of Indonesia and the governments of the present Republic of Indonesia have formed regions based on the provisions contained in Law No 22 of 1948, these are:

a. Provinces

- 1) Djawa Timur (East Java); with Law No 2 of 1950, as amended by Law No 18 of 1950.
- 2) Djawa Tengah (Central Java); with Law No 10 of 1950.
- 3) Djawa Barat (West Java); with Law No 11 of 1950.
- 4) Sumatera Selatan (South Sumatra); with Government Ordinance in Lieu of A Law No 3 of 1950, as amended by Emergency Law No 16 of 1955 (No 52 in the 1955 State Gazette, Supplement to the State Gazette No 855).
- 5) Sumatera Tengah (Central Sumatra); with Government Ordinance In Lieu of A Law No 4 of 1950, as amended by Emergency Law No 16 of 1955.
- 6) Sumatera Utara (North Sumatra); with Government Ordinance In Lieu of A Law No 5 of 1950, as amended by Emergency Law no 16 of 1955, and as subsequently reconstituted with Law No 24 of 1956 (No 64 in the 1956 State Gazette, Supplement No 1103 to the State Gazette).
- 7) Atjeh; Law No 24 of 1956.
- 8) Kalimantan Barat (West Borneo); with Law No 25 of 1956 (No 65 in the 1956 State Gazette, Supplement No 1106 to the State Gazette);
- 9) Kalimantan Selatan (South Borneo); with Law No 25 of 1956.
- 10) Kalimantan Timur (East Borneo); with Law No 25 of 1956.
- 11) Irian Barat (West Irian); with Law No 15 of 1956 (No 33 in the 1956 State Gazette).

b. Special Region At the Provincial Level

- 12) Jogjakarta; with Law No 3 of 1950, as amended by Law No 19 of 1950 and Law No 9 of 1955 (No 43 in the 1955 State Gazette, Supplement No 827 to the State Gazette).

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c. Regencies

In the Province of Djawa Timur, with Law No 12 of

1950:

- 1) Surabaya
- 2) Modjokerto
- 3) Sidohardjo
- 4) Djombang
- 5) Bangkalan
- 6) Pamekasan
- 7) Sumenep
- 8) Sampang
- 9) Panarukan
- 10) Djember
- 11) Bondowoso
- 12) Banjuwangi
- 13) Malang
- 14) Pasuruan
- 15) Probolinggo
- 16) Lumadjang
- 17) Kediri
- 18) Tulungagung
- 19) Trenggalek
- 20) Blitar
- 21) Ngandjuk
- 22) Madiun
- 23) Ponorogo
- 24) Magetan
- 25) Patjitan
- 26) Ngawi
- 27) Bodjonegoro
- 28) Tuban
- 29) Lamongan

In the province of Djawa Tengah, with Law No 13 of 1950:

- 30) Semarang
- 31) Kendal
- 32) Demak
- 33) Grobogan
- 34) Pekalongan
- 35) Pemalang
- 36) Tegal
- 37) Brebes
- 38) Pati
- 39) Kudus
- 40) Djepara
- 41) Rembang
- 42) Blora
- 43) Banjumas
- 44) Tjilatjap

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- 45) Purbolinggo
- 46) Bandjarnegara
- 47) Magelang
- 48) Temanggung
- 49) Wonosobo
- 50) Purworedjo
- 51) Kebumen
- 52) Klaten
- 53) Bojolali
- 54) Sragen
- 55) Sukogardjo
- 56) Karanganyar
- 57) Wonogiri

In the province of Djawa Barat, with Law No 14 of

1950:

- 58) Tangerang
- 59) Bekasi
- 60) Krawang
- 61) Purwakarta
- 62) Serang
- 63) Pandeglang
- 64) Lebak
- 65) Bogor
- 66) Sukabumi
- 67) Tjiandjur
- 68) Bandung
- 69) Sumedang
- 70) Carut
- 71) Tasikmalaja
- 72) Tjiamis
- 73) Tjirebon
- 74) Kuningan
- 75) Indramaju
- 76) Madjalengka

In the province of Sumatera Selatan, with Emergency Law No 4 of 1956 (No 55 in the 1956 State Gazette, Supplement No 1091 to the State Gazette):

- 77) Musi-Banjuaasin
- 78) Ogan-Komering Ilir
- 79) Ogan-Komering Ulu
- 80) Muaraenim
- 81) Lahat
- 82) Musi-Rawas
- 83) Lampung Utara
- 84) Lampung Tengah
- 85) Lampung Selatan
- 86) Bengkulu Utara
- 87) Bengkulu Selatan

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88) Redjang Lebong

89) Bangka

90) Belitung

In the province of Sumatera Tengah, with Law No 12 of 1956 (No 25 in the 1956 State Gazette);

91) Agam

92) Padang-Pariaman

93) Solok

94) Pasaman

95) Sawahlunto-Sidjungdjung

96) Limapuluh Kota

97) Pesisir Selatan-Kerintji

98) Tanah datar

99) Kampar

100) Inderagiri

101) Bengkalis

102) Kepulauan Riau

103) Merangin

104) Batanghari

In the province of Sumatera Utara, with Emergency Law No 7 of 1956 (No 58 in the 1956 State Gazette, Supplement No 1092 to the State Gazette), as amended by Law No 24 of 1956:

105) Tapanuli Tengah

106) Tapanuli Utara

107) Tapanuli Selatan

108) Mias

109) Langkat

110) Karo

111) Deli-Serdang

112) Simelungun

113) Asahan

114) Labuhan Batu

In the province of Atjeh, with Emergency Law No 7 of 1956:

115) Atjeh Besar

116) Pidie

117) Atjeh Utara

118) Atjeh Timur

119) Atjeh Tengah

120) Atjeh Barat

121) Atjeh Selatan

In the province of Kalimantan Barat, with Emergency Law No 3 of 1953 (No 9 in the 1953 State Gazette, Supplement No 352 to the State Gazette), in conjunction with Law No 25 of 1956:

122) Sambas

123) Pontianak

124) Ketapang

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- 125) Sanggau
- 126) Sintang
- 127) Kapuas Hulu

In the province of Kalimantan Selatan, with Emergency

Law No 3 of 1953, in conjunction with Law No 25 of 1956:

- 128) Bandjar
- 129) Hulusungai Selatan
- 130) Hulusungai Utara
- 131) Barito
- 132) Kapuas
- 133) Kotawaringin
- 134) Kotabaru

In the special region of Jogjakarta, with Law No

15 of 1950:

- 135) Bantul
- 136) Sleman
- 137) Gunungkidul
- 138) Kulonprogo
- 139) Adikarto

d. Special Regions At the Regency Level

In the province of Kalimantan Timur, with Emergency

Law No 3 of 1953, in conjunction with Law No 25 of 1956:

- 140) Kutai
- 141) Berau
- 142) Bulongan

e. Major Cities

In the province of Djawa Timur, with Law No 16 of 1950:

- 1. Surabaya
- 2. Malang
- 3. Madiun
- 4. Kediri

In the province of Djawa Tengah, with Law No 16 of

1950:

- 5. Semarang
- 6. Pekalongan
- 7. Surakarta
- 8. Tegal; established originally as a minor city

with Law No 17 of 1950, it became a major city with Law No 13 of 1954

(No 40 in the 1954 State Gazette, Supplement No 551 to the State Gazette)

In the province of Djawa Barat, with Law No 16 of 1950:

- 9) Bandung
- 10) Bogor
- 11) Tjirebon

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In the province of Sumatera Selatan, with Emergency Law No 5 of 1956 (No 56 in the 1956 State Gazette, Supplement No 551 to the State Gazette):

- 12) Palembang
- 13) Tandjungkarang-Telukbetung

In the province of Sumatera Tengah, with Law No 9 of 1956 (No 20 in the 1956 State Gazette):

- 14) Bukittinggi
- 15) Padang
- 16) Jambi

In the province of Sumatera Utara, with Emergency Law No 8 of 1956 (No 59 in the 1956 State Gazette, Supplement No 1092 to the State Gazette), as amended Law No 24 of 1956:

- 17) Medan
- 18) Pematang Siantar
- 19) In the province of Atjeh, with Emergency Law

No 8 of 1956:

- 20) Kutaradja

In the province of Kalimantan Barat, with Emergency Law No 3 of 1953, in conjunction with Law No 25 of 1956:

- 21) Pontianak

In the province of Kalimantan Selatan, with Emergency Law No 3 of 1953, in conjunction with Law No 25 of 1956:

- 22) Bandjarmasin

In the special region of Jogjakarta, with Law No 16 of 1950:

- 23) Jogjakarta

f. Minor Cities

In the province of Djawa Timur, with Law No 17 of 1950:

- 1) Modjokerto
- 2) Pasuruan
- 3) Probolinggo
- 4) Elitar

In the province of Djawa Tengah, with Law No 17 of 1950:

- 5) Salatiga
- 6) Magelang

In the province of Djawa Barat, with Law No 17 of 1950:

- 7) Sukabumi

In the province of Sumatera Selatan, with Emergency Law No 6 of 1956 (No 57 in the 1956 State Gazette, Supplement No 1091 to the State Gazette):

- 8) Bengkulu
- 9) Pangkalpinang

In the province of Sumatera Tengah, with Law No 8 of 1956 (No 19 in the 1956 State Gazette):

- 10) Pekanbaru
- 11) Sawahlunto

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- 12) Pandangpandjang
- 13) Solok
- 14) Pajakumbuh

In the province of Sumatera Utara, with Emergency Law No 9 of 1956 (No 60 in the 1956 State Gazette, Supplement No 1092 to the State Gazette):

- 15) Tandjungbalai
- 16) Bindjai
- 17) Tebingtinggi

The above are the regions which were formed on the basis of Law No 22 of 1948. They include 12 provinces (including one special region at the provincial level), 142 regencies (including 3 special regions at the regency level), 23 major cities, and 17 minor cities.

2. The Municipality of Djakarta Raja

The municipality of Djakarta Raja has its own history of formation and growth as a city with the right to administer and regulate its own affairs.

Until 1905 the city of Djakarta (Batavia) was constituted as an administrative area which was governed directly by the Dutch East Indies government through Dutch civil service officials. The issuance of the Decentralization Law (No 329 in the 1903 Statute Book) and its enabling legislation, namely, the Decentralization Resolution (No 137 in the 1905 Statute Book) and the Local Council Ordinance (No 181 in the 1905 Statute Book), made possible the formation of regions having the right to regulate and administer their own affairs. Then, on 1 April 1905, with the issuance of Regulation No 204 in the 1905 Statute Book, the city of Batavia was established as a municipality and was permitted to carry out regional government within certain limits.

The issuance of the 1922 Government Reorganization Law (No 216 in the 1922 Statute Book) made possible the implementation of even more decentralization. On the basis of this law, the Dutch East Indies government issued a municipal ordinance (No 365 in the 1926 Statute Book) on the regulation of the government of a municipality of Batavia was re-established (on 1 October 1926) as a municipality which could regulate and administer its own affairs in conformance with the provisions contained in this municipal ordinance.

The municipality of Batavia was included in the province of West Java (Djawa Barat). This province had been formed, on the basis of the provisions contained in the 1922 Government Reorganization Law, with Regulation No 378 in the 1925 Statute Book, in conjunction with a provincial ordinance (No 74 in the 1924 Statute Book).

After World War II ended, the Dutch East Indies government re-occupied West Java (including Djakarta) and other territory of the Republic of Indonesia. Djakarta, after completing an interim period of transition and regulation, was re-established as a municipality by the

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Dutch East Indies government with Temporary Ordinance Providing for the Government of Municipalities in Java (No 195 in the 1948 Statute Book), in conjunction with Regulation No 68 in the 1949 Statute Book.

Djakarta became the capital of the Republic of the United States of Indonesia following the restoration of sovereignty to Indonesia by the Dutch. In view of Djakarta's important position and the possibilities for its subsequent development, its territory was increased by the territory of several neighboring sub-districts, including Pulau Seribu (Thousand Islands). Following this increase was accomplished with Decision of the President of the Republic of the United States of Indonesia No 125, dated 24 March 1950.

Subsequently, and for the purpose of regulating all matters connected with the government of the city of Djakarta, which, according to Article 50 of the Constitution of the Republic of the United States of Indonesia in accordance with provisions to be established in a specific law, the government of the Republic of the United States of Indonesia established Emergency Law No 20, dated 13 May 1950. This law was titled: Law for the Government of Djakarta Raja (No 31 in the 1950 State Gazette, Supplement No 15 to the State Gazette).

The Law for the Government of Djakarta Raja, in addition to regulating the position of the city of Djakarta as a unit of administrative government under the direct authority of the Republic of the United States of Indonesia, also established the government of the municipality of Djakarta as a political unit administering its own affairs within the territorial limits set forth in the Decision of the President of the Republic of the United States of Indonesia No 125 of 1950. The law also stated that the municipality of Djakarta, which was established as an autonomous region, would, in view of its increased territorial size, be given a new name: the Municipality of Djakarta Raja (Kota-pradja Djakarta Raja).

The municipality of Djakarta Raja exercised its autonomy and engaged in the duties of participating government on the basis of the provisions contained in earlier decentralization legislation, that is, the Municipal Ordinance and the Temporary Ordinance Providing for the Government of Djakarta Raja stipulated that the authority, responsibilities, and duties, (connected with the supervision of the former municipality of Djakarta) which were held by the governor, DPD, and DPRD of the province of West Java and by the [Dutch] secretary of state for the interior, in conformance with the provisions contained in decentralization legislation and other regulations, were transferred to the minister of interior (of the Republic of the United States of Indonesia).

The Law for the Government of Djakarta Raja, an emergency law, was reconstituted by the central government and Parliament as Law No 1 of 1956 (No 2 in the 1956 State Gazette, Supplement No 941 to the State Gazette). According to the terms of the new law, the administration of government in the municipality of Djakarta Raja would be under the direct

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supervision of the Minister of Interior of the Republic of Indonesia, and the municipality itself would not exist within the sphere of authority of a specific province (West Java).

It is clear from the foregoing that the municipality of Djakarta Raja is an autonomous daerah positioned at the provincial level (a Daerah I), even though during the Dutch East Indies period it exercised its autonomy and engaged in participating government in accordance with the provisions contained in the Municipal Ordinance, and thus existed as a med-level region (Daerah II) at that time.

3. Regions Formed On the Basis of Law No 44 of 1950

The formation of regions on the basis of the provisions contained in the Law On the Government Of East Indonesian Regions (Law No 44 of 1950) can, perhaps, be divided into several phases. The first phase was the formation of regions on the basis of the provisions contained in Law No 44 of 1950 itself; it was explained earlier that Article 1 of this law stated that the regions referred to in the law were those regions which had been established via the Ordinance for the Formation of the State of East Indonesia (No 143 in the 1946 Statute Book). According to this ordinance the State of East Indonesia was comprised of 13 regions, namely:

- a. Sulawesi Selatan (South Celebes)
- b. Sulawesi Tengah (Central Celebes)
- c. Sulawesi Utara (North Celebes)
- d. Maluku Selatan (South Moluccas)
- e. Maluku Utara (North Moluccas)
- f. Minahasa
- g. Sangihe and Talaud
- h. Bali
- i. Lombok
- j. Sumbawa
- k. Sumba
- l. Flores
- m. Timor

Thus, the State of East Indonesia was comprised of 13 regions during the period of its existence; regional divisions and regional sub-divisions were never established.

The State of East Indonesia was dissolved with the formation of the unitary state of the Republic of Indonesia. The government of the Republic of Indonesia then implemented the spirit of decentralization in East Indonesia, using the provisions contained in Law No 44 of 1950 as a guide.

The central government, in view of the desires of the people and of political developments, and to facilitate the course of government, dissolved 4 of the 13 original regions (a through d above) and formed new regions. This was the second phase in the formation of regions on the basis of the provisions contained in Law No 44 of 1950, that is, the

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second phase saw the dissolution of regions formed in the first phase and the establishment of new regions.

The regions which were dissolved and the new regions which were formed are as follows:

a. Sulawesi Selatan, with Government Ordinance No 34 of 1952 Concerning the Dissolution of the Region of Sulawesi Selatan and the Division of Its Territory Into Autonomous Regions (No 48 in the 1952 State Gazette, Supplement No 263 to the State Gazette) as amended by Government Ordinance No 2 of 1953 (No 2 in the 1953 State Gazette). The new regions formed were:

- 1) Makassar
- 2) Luwu
- 3) Bone
- 4) Bonthain
- 5) Parepare
- 6) Mandar
- 7) Sulawesi Tenggara

b. Sulawesi Tengah, with Government Ordinance No 33 of 1952 Concerning the Dissolution of the Region of Sulawesi Tengah and the Division of Its Territory Into Autonomous Regions (No 47 in the 1952 State Gazette, Supplement No 262 to the State Gazette), as amended by Government Ordinance No 1 of 1953 (No 1 on the 1953 State Gazette). Its territory was divided into:

- 1) Donggala
- 2) Poso

c. Sulawesi Utara, with Government Ordinance No 11 of 1953 Concerning the Dissolution of the Region of Sulawesi Utara and the Formation of Said Region as a Region Having the Nature of a Political Unit and the Right to Administer and Regulate Its Own Affairs (No 17 in the 1953 State Gazette, Supplement No 367 to the State Gazette). The region of Sulawesi Utara was dissolved and reformed as the new region of Sulawesi Utara (the name remained the same). Subsequently, the borders of Sulawesi Utara were changed via Government Ordinance No 23 of 1954 (No 42 in the 1954 State Gazette, Supplement No 553 to the State Gazette), that is, its territory was diminished by that of the Joint Territory of Bolaang Mongondow.

d. Maluku Selatan, with Government Ordinance No 35 of 1952 Concerning the Dissolution of the Region of Maluku Selatan and the Formation of the Regions of Maluku Tengah and Maluku Tenggara (No 49 in the 1952 State Gazette, Supplement No 264 to the State Gazette), as amended by Government Ordinance No 3 of 1953 (No 3 in the 1953 State Gazette). Thus, its territory became:

- 1) Maluku Tengah
- 2) Maluku Tenggara

The government of the Republic of Indonesia, in addition to forming these regions, formed two other regions, via:

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e. Government Ordinance No 42 of 1953 Concerning the Change of Status of the Regional Division of the City of Manado, Which Has the Right to Regulate and Administer Its Own Affairs (No 87 in the 1953 State Gazette, Supplement No 491 to the State Gazette), as amended by Government Ordinance No 56 of 1954 (No 97 in the 1954 State Gazette, Supplement No 693 to the State Gazette). Government Ordinance No 42 of 1953 changed the status of the regional division of the city of Manado, which was formed via Decision of the Acting Governor of the Province of Sulawesi No 129, dated 29 March 1951, from regional division to region.

f. Government Ordinance No 15 of 1955 Concerning the Formation of the City of Ambon as a Region Having the Right to Administer and Regulate Its Own Affairs (No 30 in the 1955 State Gazette, Supplement No 809 to the State Gazette). This ordinance established the city of Ambon as a region and positioned it at the same level as the major cities formed on the basis of Law No 22 of 1948.

In the third and last phase several of the regions which had been formed in the second phase were dissolved and new regions formed in their former territories. These were the regions of Makassar, Luwu, and Bone.

a. The region of Makassar was dissolved and 3 new regions formed in its former territory via Emergency Law No 2 of 1957 (No 2 in the 1957 State Gazette, Supplement No 1137 to the State Gazette). The three new regions were:

- 1) Gowa
- 2) Makassar
- 3) Djeneoponto-Takalar

b. The region of Luwu was dissolved via Emergency Law No 3 of 1957 (No 3 in the 1957 State Gazette, Supplement No 1138 to the State Gazette) and its former territory was divided into:

- 1) Yanah Toradja
- 2) Luwu

c. The region of Bone was dissolved via Emergency Law No 4 of 1957 (No 4 in the 1957 State Gazette, Supplement No 1139 to the State Gazette) and became the regions of:

- 1) Bone
- 2) Wadjo
- 3) Soppeng

The joint territory of Bonaang Mongondow, which, via Government Ordinance No 23 of 1954, had become excised from the region of Sulawesi Utara, which, in turn, had been reformed with Government Ordinance No 11 of 1953, also became a region with the right to regulate and administer its own affairs. This was accomplished via Government Ordinance No 24 of 1954 (No 43 in the 1954 State Gazette, Supplement No 554 to the State Gazette).

These, then were the regions which were formed on the basis of Law No 44 of 1950. In the first phase, 13 regions were formed; in the second phase, 14 regions were formed and 4 regions were dissolved; in the

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final phase 9 regions were formed and 3 regions were dissolved. Thus, when Law No 1 of 1957 took effect there were 29 regions in the territory of the former State of East Indonesia. According to the terms of the formative legislation, regions which were newly formed by the government of the Republic of Indonesia and which conducted their regional governments in accordance with the provisions contained in Law No 44 of 1950 were classed at the same level as the regencies which were established under Law No 22 of 1948.

In addition to the provinces, regencies, major cities, minor cities, regions, and the municipality of Djakarta Raja, all of which have been discussed above, there were still other regions in Indonesia which had the right to regulate and administer their own affairs, these were:

a. Village districts, indigenous districts, and so forth; on the basis of Native Municipal Ordinances and Native Municipal Ordinance for Foreign Lands;

b. The neo-municipality of Makassar (a new type of municipality established under Regulation No 21 in the 1947 Statute Book); on the basis of Provisional Regulation Relating to Government in the Provinces of Borneo and the Great East (No 17 in the 1946 Statute Book) in conjunction with the municipal ordinances for foreign lands;

c. The local municipalities of Ternate and Kupang (autonomous cities formed by sultanates); on the basis of the Regulation in Behalf of the Self-Governing localities in Borneo and the Great East Within the Framework of the New Political Relationship (No 27 in the 1946 Statute Book).

d. Various sultanates; on the basis of the 1938 Self-Government Regulation and other legislation.

These, then were the various types of regions which existed in Indonesia at the time Law No 1 of 1957 took effect.

B. The Position of Existent Regions

What positions were to be assigned the autonomous regions and special regions? These regions had been formed on the basis of Law No 22 of 1948 and other early legislation before the issuance of Law No 1 of 1957, which regulated everything pertaining to the regions in Indonesia and replaced all the various types of decentralization legislation.

The Decisions on Transition, Article 73 of Law No 1 of 1957, provided the answer to this problem. The law divided the existent regions into two groups: those autonomous regions and special regions which had been formed on the basis of Law No 22 of 1948 and the municipality of Djakarta Raja; and those autonomous regions and sultanates which had been formed on the basis of Law No 44 of 1950 and all other decentralization legislation.

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In regard to the first group, Law No 1 of 1957 stipulated that all provinces and special regions at the provincial level which had been formed on the basis of Law No 22 of 1948 would not have to be dissolved and reconstituted, rather, they would be considered to have become Daerahs I as of the moment Law No 1 of 1957 took effect (Paragraph 1, Article 73). Nor was it necessary for the regencies to be reconstituted, as they were considered to have become Daerahs II as of the moment the law took effect. Both the major cities and minor cities became municipalities at the Daerah II level; thus, such minor cities as Blitar, Magelang, Sukabumi, Pangkalpinang, Sawahlunto, Bindjai, and others, which had been third level regions under Law No 22 of 1948, became second level regions. The municipality of Djakarta Raja, in accordance with the provisions of the new law, became a Daerah I when the law took effect.

In regard to the second group, Article 73 of Law No 1 of 1957 also stipulated that all regions with the right to regulate and administer their own affairs and which had been formed on the basis of Law No 44 of 1950 or any other decentralization legislation, would continue to govern themselves on the basis of the provisions contained in these laws until the regions were modified, dissolved, or reconstituted on the basis of Law No 1 of 1957. Thus, these regions will be gradually modified or will be dissolved and reconstituted as special daerahs and/or autonomous daerahs in conformance with the provisions of Law No 1 of 1957. Until this is done these regions will continue to govern themselves in accordance with the terms of their formative legislation, and the provisions of Law No 1 of 1957 will not be carried out in their respective territories.

C. The Position of Existent Regional Governments

It was explained above that it was not necessary for the municipality of Djakarta Raja and the autonomous regions and special regions formed on the basis of Law No 22 of 1948 to be reconstituted, rather, that they would become daerahs which would implement their own autonomy and engage in participating government on the basis of the provisions of Law No 1 of 1957 on the date that the law took effect (18 January 1957).

The regional governments (the DPRD's and DPD's, including the chiefs of region) of these regions were established before Law No 1 of 1957 took effect, and, therefore, were not based on the provisions of this law. What position was to be assigned the regional governments of these regions?

Law No 1 of 1957 stipulated that those regions which did not have to be reconstituted would be governed for an interim period by their existent regional government, that is, by the transitional DPRD's and the transitional DPD's which had been formed on the basis of Law No 14 of 1956, which provided for the formation of transitional DPRD's and transitional DPD's (No 30 in the 1956 State Gazette, Supplement No 1017 in the State Gazette).

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These regions are to elect new DPRDs, following the procedures outlined in the Regional Election Law, to replace their old DPRDs (the transitional DPRDs) within a period of 2 years after Law No 1 takes effect. Within 3 months after the new DPRD is formed each region must elect, following the procedures outlined in Law No 1 of 1957 and pertinent enabling legislation, a chief of daerah, a chairman and deputy chairman of the DPRD, and the members of the DPD.

Special stipulations are made in regard to the chief of daerah:

First. When a new chief of daerah has not been elected because a new DPRD has not been formed within the 2 year limit (this pertains to the chief of an autonomous daerah, who is elected by the DPRD), then the central government shall appoint a new chief of daerah to replace the person holding the office at the time Law No 1 of 1957 took effect. The president shall appoint the chief of a Daerah I; the Minister of Interior or an official designated by him, shall appoint the chief of a Daerah II and the chief of a Daerah III.

Second. When a new DPRD has been formed but has not elected a new chief of daerah within the 3 month time limit, then the President shall appoint a new chief of daerah where a Daerah I is concerned, and the Minister of Interior, or an official designated by him, shall appoint a new chief of daerah where any other level daerah is concerned. These appointments shall, to the extent possible, be made from no less than 2 and nor more 4 candidates which the DPRD concerned nominates.

Article 75 of Law No 1 of 1957 states that the central government will designate officials to implement the governmental authority held by new daerahs which have been formed on the basis of Law No 1 of 1957 until such time as these daerahs are implementing this authority themselves and in conformance with the provisions of Law No 1 of 1957. Such an occurrence might take place before the DPRD or DPD of the daerah concerned had been elected.

D. The Position of Existent Legislation

One of the transitional regulations contained in Law No 1 of 1957 (Article 75) states that all earlier legislation which deals with matters which, in conformance with the terms of Law No 1 of 1957, are to be regulated in specific laws or decrees shall continue in effect until such time as they are amended, expanded, or revoked. For example, Law No 1 of 1957 stipulates that a general regulation on the establishment of daerah firms is to appear in a government ordinance, however, a regulation of this type was in effect before Law No 1 of 1957 was issued; in this case, the old regulation will continue in effect and will be utilized by the daerahs as a guide until such time as the central government determines otherwise. As another example, Article 60 of Law No 1 of 1957 states that guides on the administration of daerah finances will be established in a government ordinance, however, until such time as

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the central government issues this ordinance everything connected with the administration of daerah finance by the daerahs will be carried out in conformance with the regulations and guides which already exist. These, then are the circumstances pertaining to regional government in Indonesia according to the legislation now in effect.

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Appendix: LIST OF THE AUTONOMOUS DAERAHs AND SPECIAL DAERAHs
IN INDONESIA

A. Daerahs I (Provinces)

<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
1. Djawa Timur	Surabaya	Law No 2 of 1950
2. Djawa Tengah	Semarang	Law No 10 of 1950
3. Djawa Barat	Bandung	Law No 11 of 1950
4. Sumatera Selatan	Palembang	Government Ordinance In Lieu of A Law No 3 of 1950
5. Sumatera Utara	Medan	Government Ordinance In Lieu of A Law No 5 of 1950 in conjunction with Law No 24 of 1956
6. Atjeh	Kutaradja	Law No 24 of 1956
7. Sumatera Barat	Bukittinggi	Emergency Law No 19 of 1957
8. Riau	Tandjungpinang	Idem
9. Djambi	Djambi	Idem
10. Kalimantan Barat	Oontianak	Law No 25 of 1956
11. Kalimantan Timur	Samarinda	Idem
12. Kalimantan Selatan	Bandjarmasin	Law No 25 of 1956, in conjunction with Emergency Law No 10 of 1957
13. Kalimantan Tengah	Panhandut	Emergency Law No 10 of 1957
14. Maluku	Ambon	Emergency Law No 22 of 1957
15. Irian Barat	Soasio	Law No 15 of 1956
16. Jogjakarta (Special Daerah)	Jogjakarta	Law No 3 of 1950
17. Djakarta Raya	Djakarta	Law No 1 of 1956, in conjunction with Presidential Decision No 125 of 1950

[Three Daerahs I have been formed in the Lesser Sundas: Bali, Nusatenggara Barat, and Nusatenggara Timur. Sulawesi has been divided into two administrative provinces: Sulawesi Utara and Sulawesi Selatan; they are not autonomous daerahs/.

B. Daerahs II (Regencies)

<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
1. Surabaya	Gresik	Law No 12 of 1950
2. Modjokerto	Modjokerto	Idem
3. Sidohardjo	Sidohardjo	Idem
4. Djombang	Djombang	Idem

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<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
5. Bangkalan	Bangkalan	Idem
6. Pamekasan	Pamekasan	Idem
7. Sumenep	Sumenep	Idem
8. Sampang	Sampang	Idem
9. Panarukan	Panarukan	Idem
10. Djember	Djember	Idem
11. Bondowoso	Bondowoso	Idem
12. Banjuwangi	Banjuwangi	Idem
13. Malang	Malang	Idem
14. Pasuruan	Pasuruan	Idem
15. Probolinggo	Probolinggo	Idem
16. Lumadjang	Lumadjang	Idem
17. Kediri	Kediri	Idem
18. Tulungagung	Tulungagung	Idem
19. Trenggalek	Trenggalek	Idem
20. Blitar	Blitar	Idem
21. Ngandjuk	Ngandjuk	Idem
22. Madiun	Madiun	Idem
23. Ponorogo	Ponorogo	Idem
24. Magetan	Magetan	Idem
25. Patjitan	Patjitan	Idem
26. Ngawi	Ngawi	Law No 12 of 1950
27. Bodjonegoro	Bodjonegoro	Idem
28. Tuban	Tuban	Idem
29. Lamongan	Lamongan	Idem

The following Daerahs II are found in the Daerah I of Djawa Tengah.

30. Semarang	Semarang	Law No 13 of 1950
31. Kendal	Kendal	Idem
32. Demak	Demak	Idem
33. Grobogan	Grobogan	Idem
34. Pekalongan	Pekalongan	Idem
35. Pemalang	Pemalang	Idem
36. Tegal	Tegal	Idem
37. Brebes	Brebes	Idem
38. Pati	Pati	Idem
39. Kudus	Kudus	Idem
40. Djepara	Djepara	Idem
41. Rembang	Rembang	Idem
42. Blora	Blora	Idem
43. Banjumas	Banjumas	Idem
44. Tjilatjap	Tjilatjap	Idem
45. Purbolinggo	Purbolinggo	Idem
46. Bandjarnegara	Bandjarnegara	Idem

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<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
47. Magelang	Magelang	Idem
48. Temanggung	Temanggung	Idem
49. Wonosobo	Wonosobo	Idem
50. Purworedjo	Purworedjo	Idem
51. Kebumen	Kebumen	Idem
52. Klaten	Klaten	Idem
53. Bojoldali	Bojoldali	Idem
54. Sragen	Sragen	Idem
55. Sukohardjo	Sukohardjo	Idem
56. Karanganyar	Karanganyar	Idem
57. Wonogiri	Wonogiri	Idem

The following Daerahs II are found in the Daerah I of Djawa Barat.

58. Tangerang	Tangerang	Law No 14 of 1950
59. Bekasi	Bekasi	Idem
60. Krawang	Krawang	Idem
61. Purwakarta	Purwakarta	Idem
62. Serang	Serang	Idem
63. Pandeglang	Pandeglang	Idem
64. Lebak	Lebak	Idem
65. Bogor	Bogor	Idem
66. Sukabumi	Sukabumi	Idem
67. Tjiandjur	Tjiandjur	Idem
68. Bandung	Bandung	Idem
69. Sumedang	Sumedang	Idem
70. Garut	Garut	Idem
71. Tasikmalaja	Tasikmalaja	Idem
72. Tjiamis	Tjiamis	Idem
73. Tjirebon	Tjirebon	Idem
74. Kuningan	Kuningan	Idem
75. Indramaju	Indramaju	Idem
76. Madjalengka	Madjalengka	Idem

The following Daerahs II are found in the Daerah I of Sumatera Selatan.

<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
77. Masi-Banjuasin	Palembang	Emergency Law No 4 of 1956
78. Ogan-Komering Ilir	Kajuangung	Idem
79. Ogan-Komering Ulu	Baturadja	Idem
80. Muaraenim	Muaraenim	Idem

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<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
81. Lahat	Lahat	Idem
82. Musi-Rawas	Lubuklinggau	Idem
83. Lampung Utara	Kotabumi	Idem
84. Lampung Tengah	Metro	Idem
85. Lampung Selatan	Telukbetung	Idem
86. Bengkulu Utara	Bengkulu	Idem
87. Bengkulu Selatan	Manna	Idem
88. Redjang Lebong-	Tjurup	Idem
89. Bangka	Pangkalpinang	Idem
90. Belitung	Tandjungpendan	Idem

The following Daerahs II are found in the Daerah I of Sumatera Utara.

91. Tapanuli Tengah	Sibloga	Emergency Law No 7 of 1956
92. Tapanuli Utara	Tarutung	Idem
93. Tapanuli Selatan	Padangsidempuan	Idem
94. Nias	Gunung Sitoli	Idem
95. Langkat	Bindjai	Idem
96. Karo	Kabandjahe	Idem
97. Deli-Serdang	Medan	Idem
98. Simelungun	Pematang Siantar	Idem
99. Asahan	Tandjungbalai	Idem
100. Labuhan Batu	Rantau Prapat	Idem

The following Daerahs II are found in the Daerah I of Atjeh.

101. Atjeh Besar	Kutaradja	Emergency Law No 7 of 1956
102. Pidi	Sigli	Idem
103. Atjeh Utara	Lhokseumawe	Idem
104. Atjeh Timur	Langsa	Idem
105. Atjeh Tengah	Takengon	Idem
106. Atjeh Barat	Meulaboh	Idem
107. Atjeh Selatan	Tapaktuan	Idem

The following daerahs II are found in the Daerah I of Sumatera Barat.

108. Agam	Bukittinggi	Law No 12 of 1956
109. Padang-Pariaman	Pariaman	Idem
110. Solok	Solok	Idem
111. Pasaman	Lubuksikaping	Idem
112. Sawahlunto-Sidjungdjung	Sidjungdjung	Idem
113. Limapuluh Kota	Pajakumbuh	Idem

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<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
114. Pesisir Selatan	Painan	Law No 12 of 1956, in conjunction with Emergency Law No 21 of 1957
115. Tanahdatar	Batusangkar	Law No 12 of 1956
The following Daerahs II are found in the Daerah I of Riau.		
116. Bengkalis	Bengkalis	Law No 12 of 1956
117. Kampar	Bangkinang	Idem
118. Indragiri	Rengat	Idem
119. Kepulauan Riau	Tandjungpinang	Idem

The following Daerahs II are found in the Daerah I of Djambi.

120. Batanghari	Djambi	Law No 12 of 1956
121. Merangin	Muarabungo	Idem
122. Kerintji	Sungaipenuh	Emergency Law No 21 of 1957

The following Daerahs II are found in the Daerah I of Kalimantan Barat.

123. Sambas	Sambas	Emergency Law No 3 of 1953
124. Pontianak	Pontianak	Idem
125. Ketapang	Ketapang	Idem
126. Sanggau	Sanggau	Idem
127. Sintang	Sintang	Idem
128. Kapuas Hulu	Putus Sibau	Idem

The following Daerahs II are found in the Daerah of Kalimantan Timur.

129. Kutai (Special Daerah)	Samarinda	Emergency Law No 3 of 1953
130. Berau (Special Daerah)	Tandjung Redeb	Idem
131. Bulongan (Special Daerah)	Tandjung Selor	Idem

These three daerahs are now autonomous daerahs, their status being changed from that of special daerahs. A fourth daerah, Pasir Daerah II, was formed in this region with the incorporation of a part of the territory of Kalimantan Selatan into Kalimantan Timur.

The following Daerahs II are found in the Daerah I of Kalimantan Selatan.

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Name	Capital	Formed With
132. Bandjar	Martapura	Emergency Law No 3 of 1953
133. Hulusungai Selatan	Kandangan	Idem
134. Hulusungai Utara	Amuntai	Idem
135. Kotabaru	Kotabaru	Emergency Law No 3 of 1953

[A fifth Daerah II has been formed in Kalimantan Selatan: Hulusungai Tengah Daerah II].

The following Daerahs II are found in the Daerah I of Kalimantan Tengah.

136. Barito	Muaratewe	Emergency Law No 3 of 1953
137. Kapuas	Kuala Kapuas	Idem
138. Kotawaringin	Sampit	Idem

[There are now six Daerahs II in Kalimantan Tengah; Barito was divided into Barito Utara and Barito Selatan, Kapuas was divided into Baritokula and Kapuas, Kotawaringin was divided into Kotawaringin Barat and Kotawaringin Timur].

The following Daerahs II are found in the Daerah I of Maluku.

139. Maluku Utara	Ternate	Emergency Law No 22 of 1957
140. Maluku Tengah	Amahai	Idem
141. Maluku Tenggara	Tual	Idem

The following Daerahs II are found in the Daerah I of Irian Barat.

None.

The following Daerahs II are found in the Special Daerah I of Jogjakarta.

142. Bantul	Bantul	Law No 15 of 1950
143. Sleman	Sleman	Idem
144. Gunungkidul	Wonosari	Idem
145. Kulonprogo	Sentolo	Idem
146. Adikarto	Wates	Idem

The following Daerahs II are found in the Daerah I of Djakarta Raja.

None.

C. Municipalities

The following municipalities are found in the Daerah I of Djawa Timur.

<u>Name</u>	<u>Formed With</u>
1. Surabaya	Law No 16 of 1950
2. Malang	Idem
3. Madiun	Idem
4. Kediri	Idem
5. Modjokerto	Law No 17 of 1950
6. Pasuruan	Idem
7. Probolinggo	Idem
3. Blitar	Idem

The following municipalities are found in the Daerah I of Djawa Tengah.

9. Semarang	Law No 16 of 1950
10. Pekalongan	Idem
11. Surakarta	Idem
12. Tegal	Law No 17 of 1950, in conjunction with Law No 13 of 1954
13. Salatiga	Law No 17 of 1950
14. Magelang	Idem

The following municipalities are found in the Daerah I of Djawa Barat.

15. Bogor	Law No 16 of 1950
16. Bandung	Idem
17. Tjirebon	Idem
18. Sukabumi	Law No 17 of 1950

The following municipalities are found in the Daerah I of Sumatera Selatan.

19. Palembang	Emergency Law No 5 of 1956
20. Tandjungkarang-Telukbetung	Idem
21. Bengkulu	Emergency Law No 6 of 1956
22. Pangkalpinang	Idem

The following municipalities are found in the Daerah I of Sumatera Utara.

23. Medan	Emergency Law No 8 of 1956
24. Pematang Siantar	Idem
25. Sibolga	Idem
26. Tandjungbalai	Emergency Law No 9 of 1956

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<u>Name</u>	<u>Formed With</u>
27. Bindjai	Idem
28. Tebingtinggi	Idem

The following municipality is found in the Daerah I of Atjeh.

29. Kutaradja	Emergency Law No 8 of 1956
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The following municipalities are found in the Daerah I of Sumatera Barat.

30. Bukittinggi	Law No 9 of 1956
31. Padang	Idem
32. Sawahlunto	Law No 8 of 1956
33. Padangpandjang	Idem
34. Solok	Idem
35. Pajakumbuh	Idem

The following municipality is found in the Daerah I of Riau.

36. Pekanbaru	Law No 8 of 1956
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The following municipality is found in the Daerah I of Djambi.

37. Djambi	Law No 9 of 1956
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The following municipality is found in the Daerah I of Kalimantan Barat.

38. Pontianak	Emergency Law No 3 of 1953
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The following municipalities are found in the Daerah I of Kalimantan Timur.

None

According to the Indonesian press, Samarinda and Balikpapan have been established as municipalities.

The following municipality is found in the Daerah I of Kalimantan Tengah.

39. Bandjarmasin	Emergency Law No 3 of 1953
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The following municipalities are found in the Daerah I of Kalimantan Tengah.

None

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The following municipality is found in the Daerah I of Maluku.

40. Ambon

Emergency Law No 23 of 1957

The following municipalities are found in the Daerah I of Irian Barat.

None.

The following municipality is found in the Special Daerah I of Jogjakarta.

41. Jogjakarta

Law No 16 of 1950

The following municipalities are found in the Daerah I of Djakarta Raya.

None

According to the Indonesian press, Mado and Gorontalo have been established as municipalities in the administrative province of Sulawesi Utara, and Makassar and Parepare have been established as municipalities in the administrative province of Sulawesi Selatan.

D. Regions in the Former State of East Indonesia

<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
1. Minahasa	Manado	Law No 143 in the 1945 Statute Book, in conjunction with State of East Indonesian Law No 44 of 1950
2. Sangihe and Talaud	Taruna	Idem
3. Bali	Denpasar	Idem
4. Lombok	Mataram	Idem
5. Sumbawa	Sumbawa Besar	Idem
6. Sumba	Waingapu	Idem
7. Flores	Ende	Idem
8. Timor	Kupang	Idem
9. Donggala	Palu	Government Ordinance No 33 of 1952
10. Poso	Pese	Idem
11. Bonthain	Bonthain	Government Ordinance No 34 of 1952
12. Parepare	Parepare	Government Ordinance No 34 of 1952
13. Mandar	Madjene	Idem
14. Sulawesi Tenggara	Baubau	Idem
15. Sulawesi Utara	Gorontalo	Government Ordinance No 11 of 1953

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<u>Name</u>	<u>Capital</u>	<u>Formed With</u>
16. Manado	Manado	Government Ordinance No 42 of 1953
17. Bolaang Mongondow	Kotamobagu	Government Ordinance No 24 of 1954
18. Gowa	Sungguminasa	Emergency Law No 2 of 1957
19. Makassar	Pangkadjene	Idem
20. Djendponto-Takalar	Djenepono	Idem
21. Tanah Toradja	Makale	Emergency Law No 3 of 1957
22. Luwu	Palopo	Idem
23. Bone	Watampone	Emergency Law No 3 of 1957
24. Wadjo	Songkang	Idem
25. Soppeng	Watansoppeng	Idem

In addition, the neo-municipality of Makassar (not a true municipality) was formed with Law No 21 in the 1947 Statute Book, in conjunction with State of East Indonesia Law No 3 of 1949; and the local municipalities of Ternate (in Maluku Utara) and Kupang (in Timor) were formed by the sultanates concerned on the basis of Law No 27 of the 1946 Statute Book.

□ The Indonesian press has reported that the following Daerchs II were formed in the Celebes and the Lesser Sundas in 1958 and 1959.

In the administrative province of Sulawesi Utara: Sangihe-Talaud, Minahasa, Bolaang Mongondow, Gorontalo, Buol-Tolitoli, Donggala, poso, and Banggai.

In the administration province of Sulawesi Selatan: Manudju, Madjene, Polewali-Mamasa, Tanah Toradja, Pinrang, Enrekang, Sideareng-Rappang, Barru, Pangkadjene dan Kepulauan, Maros, Gowa, Takalar, djenepono, Bonthain, Bulukumba, Salajar, Sindjai, Bone, Soppeng, Wadjo, Luwu, Kolaka, Kendari, Muna, and Buton.

In the Daerah I of Bali: Djembrana, Bueleng, Tabanan, Badung, Gianjar, Klungkung, Bangli, and Karangasam.

In the Daerah I of Nusatenggara Barat: Lombok Barat, Lombok Tengah, Lombok Timur, Sumbawa, Dompu and Bima.

In the Daerah I of Nusatenggara Timur: Sumba Barat, Sumba Timur, Manggarai, Ngada, Ende, Sikka, Flores Timur, Alor, Kupang, Timor Tengah Selatan, Timor Tengah Utara, and Belu 7.

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Translator(s List of Renditions of the Indonesian Territorial

Terms appearing In this Book

Indonesian territorial terms have been rendered in their English equivalent except for the term "daerah". The term "daerah" has not been translated when used in reference to an autonomous unit established under Law No 1 of 1957, but, when used generally, or when used in reference to an autonomous unit established in East Indonesia under Law No 44 of 1950, it has been translated as region.

<u>English</u>	<u>Indonesian</u>
autonomous daerah	daerah swatantra
autonomous region	daerah otonom
city	kota
daerah	daerah
Daerah I	daerah tingkat ke-I
Daerah II	daerah tingkat ke-II
Daerah III	daerah tingkat ke-III
district	kewedanaan
indigenous district	kuria, marga, negeri
joint territory	wilajah gabungan
major city	kota besar
minor city	kota ketjil
municipality	kotapradja
ordinary region	daerah biasa
precinct	keluruhan
province	propinsi
regency	kabupaten
region	daerah
regional division	daerah bahagian
regional sub-division	daerah anak bahagian
residency	keresidenan
special daerah	daerah istimewa
special region	daerah istimewa
sub-district	ketjamatan
sultanate	sqapradja, daerah swqpradja
territory	wilajah
village district	desa

The following abbreviations have been used in the text:

For the governing bodies of Daerahs I, Daerahs II, and municipalities established under Law No 1 of 1957:

DPRD, Dewan Perwakilan Rakjat Daerah, Daerah Peoples Representative Assembly;

DPD, Dewan Pemerintah Daerah, Daerah Executive Council.

For the governing bodies of provinces, regencies, major cities, and minor cities established under Law No 22 of 1948:

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DPRD, Dewan Perwakilan Rakyat Daerah, Regional Peoples Representative Assembly;

DPD, Dewan Pemerintah Daerah, Regional Executive Council.

For the governing bodies of regions established by the former State of East Indonesia under Law No 44 of 1950:

DPR, Dewan Perwakilan Rakyat, Peoples Representative Assembly;

DP, Dewan Pemerintah, Executive Council.

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II. DECISION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA NO 6 OF 1959

Penetapan Presiden Republik
Indonesia No 6 Tahun 1959
Tentang Pemerintah Daerah
(Disempurnakan) / Decision
of the President of the
Republic of Indonesia No 6
of 1959 Concerning Regional
Government (Perfected),
Djakarta, 1959, pp 1-29

Government of
The Republic of
Indonesia

FOREWORD

After hearing and contemplating the views, analyses, and opinions of the members of the Provisional Supreme Advisory Council on the subject of Presidential Decision No 6 of 1959 on 20 October 1959 during the third 1959 session of the council, the discussions at this meeting being participated in by Minister of Internal Affairs and Daerah Autonomy Epik Gandamana and the meeting being attended by First Minister Engineer K. Djuanda, the President, on 21 October 1959, made the decision to perfect Presidential Decision No 6 of 1959 as follows:

First: The procedure for the nomination and appointment of a Chief of Daerah I and a Chief of Daerah II.

The following decisions will be observed in the appointment of a Chief of Daerah:

a. A chief of Daerah I shall be appointed by the President from among candidates nominated by the Daerah Peoples Representative Assembly (DPRD, Dewan Perwakilan Rakyat Daerah) concerned. In the event none of these candidates fulfill the qualifications for appointment as Chief of Daerah, the DPRD concerned shall be invited to nominate candidates for the post a second time. In the event none of the candidates proposed in the second nomination fulfill the qualifications, the President shall appoint as Chief of Daerah a person who was not among those nominated.

b. A chief of Daerah II shall be appointed by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President from among candidates nominated by the DPRD concerned. In the event none of these candidates fulfill the qualifications for appointment as Chief of Daerah by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, the DPRD concerned shall be invited to nominate candidates for the post a second time. In the event none of the candidates proposed in the second nomination fulfill the qualifications for appointment as Chief of Daerah by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, the President shall appoint as Chief of Daerah a person who was not among those nominated.

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Second: The position of members of the Daily Government Board (BPH. Badan Pemerintach Earian) as assistants of the Chief of Daerah, and the position of the Chief of Daerah as an instrument of the daerah government.

It is affirmed that:

a. The members of the BPH are the assistants of the Chief of Daerah, just as the Ministers of State are the assistants of the President; (this is the spirit of the 1945 Constitution).

b. The Chief of Daerah shall be responsible to the DPRD, with the understanding the Chief of Daerah cannot be removed by the DPRD.

c. The Chief of Daerah may assign certain fields of work to the members of the BPH, for which they are responsible to the Chief of Daerah; (witness the relationship between the President and the Ministers of State).

d. Should it be considered necessary, the Chief of Daerah may delegate a member of the BPH to provide information connected with his field of work to the DPRD in the name of the Chief of Daerah.

Third: The President will observe the development of the implementation of Presidential Decision No 6 of 1959 for one year (a one year trial period).

Fourth: Any further perfection, such as that above, will be inserted in the structure of: Decision of the President of the Republic of Indonesia No 6 of 1959 Concerning Regional Government (Perfected).

Department of Information

DECISION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NO 6 of 1959
CONCERNING REGIONAL GOVERNMENT
(PERFECTED)

The President of the Republic of Indonesia,
Considering:

a. That it is necessary to establish quickly both the form and organization and the authority, duty, and responsibility of regional government in furtherance of the Decree of the President and Supreme Commander of the Armed Forces concerning the return to the 1945 Constitution, dated 5 July 1959.

b. That a constitutional situation which endangers the unity and well-being of the state, the country, and the people and which impedes the overall development necessary to the attainment of a just and prosperous society must be faced by the field of central government and the field of regional government.

With due regard to:

The Decree of the President and Supreme Commander of the Armed Forces, dated 5 July 1959, and Article 18 of the 1945 Constitution

Having heard:

a. The discussion of the Kerdja Cabinet on 1 September 1959:

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b. The discussion of the Supreme Advisory Council on 20 October 1959.

Has Resolved:

To Establish:

Presidential Decision Concerning Regional Government (Perfected).

Part I

Form and Organization of the Daerah Government

Section I. General Decisions

Article 1.

The government of a daerah shall be composed of a Chief of Daerah and a DPRD.

Article 2.

The Chief of Daerah shall be assisted in the performance of his duties by a BPH.

Article 3.

Unless otherwise determined, the term Chief of Daerah also intends the Chief of the Special Daerah of Jogjakarta.

Section II. The Chief of Daerah

Article 4.

(1) A Chief of Daerah shall be appointed and removed by:

- a. The President, where a Daerah I is concerned;
- b. The minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, where a Daerah II is concerned.

(2) The Chief of a Daerah I shall be appointed by the President from among candidates nominated by the DPRD concerned.

In the event none of these candidates fulfill the qualifications for appointment as Chief of Daerah, the Minister of Internal Affairs and Daerah Autonomy shall request the DPRD concerned, in the name of the President, to nominate candidates for the post of a second time.

In the event none of these candidates proposed in the second nomination fulfill the qualifications, the President shall appoint as Chief of Daerah a person who was not among those nominated.

(3) The Chief of a Daerah II shall be appointed by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, from among candidates nominated by the DPRD concerned.

In the event none of these candidates fulfill the qualifications for appointment as Chief of Daerah by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, the Minister of Internal Affairs and Daerah Autonomy shall request the DPRD concerned to nominate candidates for the post a second time.

In the event none of the candidates proposed in the second nomination fulfill the qualifications for appointment as Chief of Daerah by the Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the President, the President shall appoint as Chief of Daerah a person who was not among those nominated.

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(4) The appointment of a Chief of Daerah, as set forth in Paragraphs (2) and (3) of this article, shall be made with attention to the qualifications for training, capability, and experience in government in which are to be set forth in a presidential ordinance.

(5) The Chief of Daerah is an employee of the state. The name of his post and his title, position, and emoluments shall be regulated more completely in a presidential ordinance.

(6) The Chief of Daerah shall be appointed to a term of office corresponding to that of the DPRD concerned. He may be re-appointed at the expiration of his term of office.

(7) The chief of daerah cannot be removed by a decision of the DPRD Article 5.

The Minister of Internal Affairs and Daerah Autonomy shall draft a directive designating the official who is to represent the Chief of Daerah during an absence.
Article 6.

(1) The Chief of a Special Daerah shall be appointed from among the descendants of the family which was empowered to govern in the region prior to the formation of the Republic of Indonesia, and which is still empowered to govern in the region. The qualifications of capability, honesty, and loyalty to the government of the Republic of Indonesia, and the traditions of the area shall be observed. Appointment and removal shall be done by the President.

(2) A Deputy Chief of Special Daerah may be appointed for the Special Daerah of Jogjakarta. He shall be appointed and removed by the President, with attention to the qualifications set forth in Paragraph (1) of this article. Article 7.

The Chief and Deputy Chief of the Special Daerah of Jogjakarta shall receive such salary, travel expenses, lodging expenses, and such other valid emoluments as are connected with their posts as shall be decided on in a presidential ordinance.
Article 8.

(1) Before assuming his post, the Chief of Daerah, and the Chief and Deputy Chief of the Special Daerah of Jogjakarta, shall, at a meeting of the DPRD, take an oath or be pledged before the Minister of Internal Affairs and Daerah Autonomy, or an official designated by him.

(2) The wording of the oath or pledge intended in Paragraph (1) of this article shall be decided on by the Minister of Internal Affairs and Daerah Autonomy.

Section III. The BPH

Article 9.

The BPH shall consist of no less than 3 and no more than 5 members, except in the instance referred in Article 19.

Article 10.

(1) The members of the BPH shall be appointed and removed in accordance with the terms of an ordinance which will be established by the Minister of Internal Affairs and Daerah Autonomy.

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(2) The members of the BPH intended in Paragraph (1) of this article shall, to the extent possible, be appointed from among candidates nominated by the DPRD concerned. Said candidates may or may not be members of the DPRD.

Article 11

(1) Before assuming their posts, the members of the BPH shall take an oath or be pledged before the Chief of Daerah.

(2) The wording of the oath (pledge) shall be decided on by the Minister of Internal Affairs and Daerah Autonomy.

Article 12.

The members of the BPH shall receive an honorarium, travel expenses, lodging expenses, and other valid emoluments connected with their posts in accordance with the terms of an ordinance which shall be established by the Minister of Internal Affairs and Daerah Autonomy.

Section IV. The DPRD

Article 13.

For an interim period, the formation of a DPRD shall be carried out on the basis of legislation now in effect.

Part II

Authority, Duty, and Responsibility of the Daerah Government

Section I. The Chief of Daerah

Article 14.

(1) The Chief of Daerah is:

- a. An instrument of the central government;
- b. An instrument of the daerah government.

(2) As an instrument of the central government, the Chief of Daerah:

- a. Administers order and public security in the daerah;
- b. Implements coordination between the offices of the central government that are in the daerah and between said offices and the daerah government;
- c. Exercises supervision over the course of daerah government.
- d. Exercises such other general authority as is found in the field of central government affairs.

In accordance with existent legislation, a through d have been carried out until now by the governor of a Daerah I and by the regent/mayor of a Daerah II.

(3) As an instrument of the daerah government, the Chief of Daerah is responsible to the DPRD both as regards daerah affairs (autonomy) and as regards the duty of assistance in government [daerah admin-]

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istration of certain central government affairs⁷, however, the Chief of Daerah may not be removed as the result of a decision of the DPRD. Article 15.

(1) The Chief of a Daerah I holds the authority to suspend a decision of the DPRD of the Daerah I or of the government of a Daerah II when he considers such decision to be in conflict with the main lines of the course of the nation, the general interest, or higher legislation.

(2) The Chief of a Daerah II holds the authority to suspend a decision of the DPRD of the Daerah II when he considers such decisions to be in conflict with the main lines of the course of the nation, the general interest, or higher legislation.

(3) The Minister of Internal Affairs and Daerah Autonomy shall be to pass decisions referred to in Paragraphs (1) and (2) of this article; this shall not detract from his authority to suspend and/or revoke [other] decisions of the government of a Daerah I or of the government of a Daerah II when he considers such decisions to be in conflict with the main lines of the course of the nation, the general interest, or higher legislation.

Section II. The BPH

Article 16.

(1) The members of the BPH are assistants to the Chief of Daerah. They assist in the field of daerah affairs (autonomy) and in the duty of assistance in government.

(2) The members of the BPH:

a. Provide the Chief of Daerah with both solicited and unsolicited advice;

b. Engage in the specific field of work which has been assigned to them by the Chief of Daerah, and for which they are responsible to the Chief of Daerah.

(3) Should it be considered necessary, the Chief of Daerah may delegate a member of the BPH to provide information connected with his field of work to the DPRD in the name of the Chief of Daerah.

Section III. The DPRD

Article 17.

The DPRD shall carry out the authority, duty, and responsibility of the daerah government in accordance with the provisions of legislation now in effect, as long as said provisions are not in conflict with the determinations contained in this Presidential Decisions.

Part III

Decisions On the Transition

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Article 18.

(1) Existent DPRDs shall become DPRDs which conform to the terms of this Presidential Decision. Members shall take an oath or be pledged before the Minister of Internal Affairs and Daerah Autonomy or an official designated by him.

(2) The determination contained in Article 8, Paragraph (2) shall apply to the oath or pledge intended in Paragraph (1) of this article.

Article 19.

Existent Daerah Executive Councils (DPD, Dewan Pemerintah Daerah) shall be dissolved and the former members of said councils shall be appointed members of the BPHs, except for those persons who state that they are not prepared to be appointed as a member of a BPH.

Article 20.

(1) The following must have been accomplished within a period of not more than three months after the enactment of this Presidential Decision.

a. The taking of an oath or pledging of the members of the DPRD, as intended in Article 18;

b. The appointment of the Chief of Daerah in conformance with the decisions contained in Article 4;

c. The dissolution of existent DPDs, the formation of BPHs, and the taking of oath or pledging of the members concerned in these BPHs, as intended in Article 19.

(2) The Chiefs of Daerahs, DPRDs, and DPDs in office at the time of enactment of this Presidential Decision will continue in office until daerah governments are formed and organized in conformance with this Presidential Decision.

Part IV.

Closing Decisions

Article 21.

The implementation of regional government in the field of daerah affairs (autonomy) and in the duty of assistance in government shall continue to be carried out on the basis of the provisions contained in Law No 1 of 1957, except as such provisions conflict with the decisions contained in this Presidential Decision.

Article 22.

Difficulties which arise as a result of the implementation of this Presidential Decision shall be settled by the Minister of Internal Affairs and Daerah Autonomy.

Article 23.

This Presidential Decision shall take effect on the date that it is established and shall be retroactive to 7 September 1959.

Article 24.

So that all men may know of it, the promulgation of this Presidential Decision is ordered with the placing of it in the State Gazette of the Republic of Indonesia.

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Established in Bogor
on 7 November 1959.
The President of the Republic of Indonesia
SOEKARNO

Promulgated in Djakarta
on 16 November 1959.
The Deputy Minister of Justice
SAHARDJO

EXPLICATION

to

DECISION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NO 6 OF 1959
CONCERNING REGIONAL GOVERNMENT
(PERFECTED)

I. General

1. The nation and people of Indonesia entered a new world in their constitutional history with the re-enactment of the 1945 Constitution on the basis of the Presidential Decree of 5 July 1959.

The return to the 1945 Constitution means the abandonment of the system of liberal democracy adhered to in the Provisional Constitution, a system which obviously carried the unfinished revolution of the Indonesian people in a direction which endangered the unity of the state and the union of the people of Indonesia.

The constitutional revolution must be carried out not only horizontally, in which it affects the central government in Djakarta, but also vertically, in which it affects the daerah governments.

In addition, the return to the 1945 Constitution means the implementation of the system of guided democracy. Under this system the President has been responsible for all government policy to the Peoples consultative Congress (MPR, Majelis Permusjawaratan Rakyat) since 5 July 1959.

2. Therefore, the governing bodies, as instruments for the safeguarding of the revolution, must be accommodated to the decisions contained in the 1945 Constitution and in the program for the implementation of guided democracy. This accommodation must be carried out which a Presidential Decision, as this is an implementation of the Presidential Decree of 5 July 1959, and as this is the only way to broaden the current of constitutional revolution to the point where it can benefit the people throughout the territory of the Republic of Indonesia.

3. Meanwhile, two important problems must be given attention, namely:

- a. That the concept of territorial decentralization is honored and that the policy of deconcentration and decentralization is continued;
- b. That dualism in government leadership in the daerahs is eliminated, in the interests of the people, for the unity of the daerah governments, and to facilitate administration.

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4. Continuing the policy of deconcentration and decentralization means continuing to grant the daerahs the right to regulate and administer their own affairs, yet with attention to the capacities and capabilities of the respective daerahs.

Thus, the affairs which are now the responsibility of the central government will be steadily transposed to become the affairs of the daerah governments, in accordance with the decision contained in article 18 of the 1945 Constitution. To uphold the unitary state characteristic of the Republic of Indonesia, this policy of deconcentration and decentralization must be accompanied by certain decisions which guarantee a firm connection between the central government and the regional government and which accord with the spirit and vitality of the unitary state of the Republic of Indonesia and the 1945 Constitution.

5. Present government leadership in the daerahs is of a dualistic nature. Dual leadership exists; separated, yet administering two fields of work which, essentially, are closely connected.

These two fields are:

a. The field of general government, which is administered by the civil service employees under the central government;

b. The field of autonomy and the duty of assistance in government (participating government), which is administered by the daerah government.

It is necessary that the leadership in both of these fields be placed under a single authority.

6. On the basis of the factors mentioned above, and for the purpose of attaining the utmost efficiency, the daerah government has been given a form and structure, and the authority, duties, and responsibility which, basically, are as follows:

a. Leadership in the field of general government under the central government in the daerah, and leadership in the field of daerah government has been assigned to the Chief of Daerah;

b. The executive authority of the Chief of Daerah is not of a collegial nature; at the same time, the principle of consultation has not been abandoned in the system of government;

c. The members of the BPH are assistants of the Chief of Daerah; they must be free of political party membership, a matter which has been regulated in Presidential Ordinance No 2 of 1959;

d. The Chief of Daerah is an employee of the state; he may not be removed by a decision of the DPRD;

e. The Chief of Daerah possesses the authority to suspend decisions of the DPRD concerned and the decision of the governments of subordinate daerahs when he considers these decisions to be in conflict with the main lines of the course of the nation, the general interest, or higher legislation;

f. The DPRD holds responsibility for the budget, for regional development, and in the legislation field.

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7. Problems which arise in the transitional period following the enactment of this Presidential Decision will be regulated, in part, by this decision, for example, as regards the present DPDs and DPRD. They will also be regulated or settled by the Minister of Internal Affairs and Daerah Autonomy (Article 22).

8. Meanwhile, it is necessary to point out that this Presidential Decision has the goal of regulating regional government in conformance with the spirit and vitality of the 1945 Constitution and guided Democracy, and within the shortest possible time.

Future changes, for example, those which result for the implementation of the policy of deconcentration and decentralization, will be regulated and settled in a short time on the basis of existent legislation, Law No 6 of 1959, for example, or legislation which will be enacted.

II. Article by Article

Article 1.

Those daerahs which have the right to regulate and administer their own affairs on the basis of Law No 1 of 1957 are intended with the word daerah.

Article 2.

In view of the importance of the duties of the Chief of Daerah, it is necessary that he be assisted by persons who possess skills in the field of daerah government.

Article 3.

Sufficiently clear.

Article 4.

In view of the importance of the position of the Chief of Daerah as the focal point for work in both the field of central government and regional government, the Chief of Daerah is appointed by the central government and is assigned the position of an employee of the state. Attention is given to the opinions of civil authorities (for example, the Supervisory Board for the Activities of the State Apparatus, badan Pengawas Kegiatan Aparatur Negara) and military authorities (for example, the War/Emergency Administrator during a state of war/emergency).

The qualifications of training, capability, and experience in government have been emphasized due to the fact that the Chief of Daerah can perform his duties well only if he meets certain qualifications.

The Chief of Daerah is not responsible to the DPRD, therefore, it cannot be removed by a decision of the DPRD.

Article 5.

In view of the importance of the position of the Chief of Daerah, it is necessary that the designation of the official who is to represent him during an absence is regulated by the Minister of Internal Affairs and Daerah Autonomy.

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Article 6.

The principle of nomination is not included in this decision.

Article 7.

Sufficiently clear.

Article 8.

The working relationship between the Chief of Daerah and the DPRD constitutes an important element in facilitating the course of regional government, therefore, the taking of oath or being pledged before the Minister of Internal Affairs and Daerah Autonomy, or an official designated by him, is witnessed by the members of the DPRD.

Article 9.

These figures were established in the opinion that the number of members of the BPH should be as limited as possible.

Article 10.

The DPRD, by nominating candidate members of the BPH, can contribute its opinions and participate in the appointment of members to this body, in accordance with the spirit of guided democracy.

Article 11.

Sufficiently clear.

Article 12.

Sufficiently clear.

Article 13.

Until a new decision is made on the formation of the DPRD, the formation of the DPRD will be carried out on the basis of existent legislation.

Article 14.

Dualism in regional government is abolished with the placing of the leadership in the two fields of government under a single authority.

Article 15.

This article establishes, among other things, that:

a. The Chief of Daerah has the authority to suspend a decision of the DPRD concerned;

b. The authority to revoke a decision of the government of both a Daerah I and a Daerah II is held by the Minister of Internal Affairs and Daerah Autonomy.

Article 16.

The members of the BPH are the assistants of the Chief of Daerah, just as the ministers of state are the assistants of the President, in accordance with the spirit of the 1945 Constitution.

As the duties of the members of the BPH are in the nature of assistance which is rendered the Chief of Daerah, then, the Chief of Daerah is entitled to establish the methods of work and the scope of the duties of the members.

The relationship between the members of the BPH and the Chief of Daerah corresponds to the relationship between the ministers of state and the President.

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Article 17.

In view of the authority, duty, and responsibility of the DPRD, its members can limit their activities outside its meetings (plenary division, section) as, for example, in making local inspections, in communicating directly with the heads and employees of daerah offices, and so on. Properly, all such activity should be channeled through the Chief of Daerah, thus to facilitate the wheels of government and to economize in the daerah finances.

Article 18.

When a member of a DPRD does not, or is not prepared to, take oath or be pledged as intended in this article and within the period stipulated in Article 20, then his membership in the DPRD shall lapse.

Article 19.

A chief of Daerah who, under the program of implementation of this Presidential Decision, is not considered to be a Chief of Daerah, may be appointed as a member of a BPH on the basis of this article, should he declare himself willing.

Article 20.

The period of time stipulated in Paragraph (1) is intended to permit the decisions contained in this Presidential Decision to be given substance quickly.

The decision in Paragraph (2) was taken to prevent the occurrence of a vacuum in the daerah government.

Article 21.

Sufficiently clear.

Article 22.

The minister of Internal Affairs and Daerah Autonomy is responsible for the settlement of any difficulties which arise during the implementation of this Presidential Decision.

Difficulties could arise if, for example, the candidates nominated by the DPRD for the position of Chief of Daerah did not meet the qualifications referred to in Article 4, Paragraph (4).

Article 23.

No explication required.

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III. ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA NO 4 OF 1959

Sekitar Penetapan Presiden
NO 6 Tahun 1959 / About
Presidential Decision No 6
of 1959 /, Department of
Information of the
Republic of Indonesia,
Djakarta, 1959, PP 37-44

Government of the Rep-
ublic of Indonesia

ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NO 4 OF 1959
CONCERNING
THE QUALIFICATIONS OF EDUCATION, CAPABILITY, AND
EXPERIENCE IN GOVERNMENT OF THE CHIEF OF DAERAH

The President of the Republic of Indonesia,
Considering:

That it is necessary to establish the qualifications of education,
capability, and experience in government of the chief of daerah;

With regard to:

- a. Article 4, Paragraph (1) of the Constitution;
- b. Article 4, Paragraph (4) of Presidential Decision No 6 of 1959 (No 94 in the 1959 State Gazette);

Having heard:

The conference of the Kerdja Cabinet on 22 September 1959;

Has resolved:

To establish:

Presidential Ordinance Concerning the Qualifications of Education,
Capability, and Experience in Government of the Chief of Daerah.

Article 1.

To be appointed a Chief of Daerah an individual must be a citizen of Indonesia, must fulfill the qualifications for appointment as an employee of the state which are set forth in the personnel regulations, and must:

1. Be inspired by the proclamation [of independence] of 17 August 1945 and never have actively opposed the struggle for independence of the Republic of Indonesia;
2. Be willing and able to build regional government within the program of the [central] government;
3. Not have lost the right to control or administer his property by virtue of an irrevocable decision of the court;
4. Not have lost the right to elect or be elected by virtue of an irrevocable decision of the court;
5. Never have been sentenced for the commission of a felony;

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6. a. For a Daerah I:

Have at least an upper continuation school [senior high school] education, possess capability for an experience in government, and be at least 30 years of age;

b. For a Daerah II:

Have at least a lower continuation school [junior high school] education, possess capability for an experience in government, and be at least 30 years of age.

Article 2.

This Presidential Ordinance shall take effect on the day it is established.

So that all men may know, the promulgation of this Presidential Ordinance is ordered with the placing of it in the State Gazette of the Republic of Indonesia.

Established in Djakarta

on 26 September 1959

The President of the Republic of

Indonesia

SOEKARNO

Promulgated

on 28 September 1959

The Deputy Minister of Justice

SAHARDJO

EXPLANATION

TO

ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA

NO 4 of 1959

CONCERNING

THE QUALIFICATIONS OF EDUCATION, CAPABILITY, AND

EXPERIENCE IN GOVERNMENT OF THE CHIEF OF DAERAH

Article 4, Paragraph (4) of Presidential Decision No 6 of 1959 Concerning Regional Government necessitated the establishment of a Presidential Ordinance which would set forth the qualifications of education, capability, and experience in government required of a chief of Daerah.

The formulation of the qualifications of education, capability, and experience in government (in general government, in regional government, or in the offices of the central or regional governments) which is found in this ordinance contains both the negative qualifications which are to be possessed by those nominated and the positive qualifications of education, experience, and age. This formulation essays to establish a common ground between the political acceptability and the technical capability of a Chief of Daerah.

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To prevent any infringement of the qualifications contained in this ordinance, any candidate must possess valid proof of the correctness of the information provided, in accordance with the regulations which apply to the appointment of employees of the state.

Article by Article Explication

Article 1.

Sub 1. Those persons included in this category are persons who have never, either directly or indirectly, joined or assisted the enemies of the state of the Republic of Indonesia; this decision is considered important due to the fact that government leadership lies in the hands of the Chief of Daerah.

Sub 2. This decision is intended to provide the [central] government with firm control, thus enabling the program of the [central] government to be implemented in the best possible manner.

Sub 3. Sufficiently clear.

Sub 4. Sufficiently clear.

Sub 5. That which is intended here as a felony is a felony as defined in Part II of the Criminal Code. The sentencing of a person for the commission of a felony by a foreign authority, or by another authority under the protection of a foreign authority, when such act was committed in the struggle for, defense of, or maintenance of the independence of the Republic of Indonesia, is not included. Also included as a felony is any act which is declared to be a felony in a decision of a court.

Sub 6. Intended here are those persons who have an upper continuation school education or a lower continuation school education, or persons who have acquired an education which is equivalent to the education, provided by those schools at either state or private schools.

Article 2.

Sufficiently clear.

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IV. ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA NO 5 OF 1959

Sekitar Penetapan Presiden

Government of the Rep-

No 6 Tahun 1959 / About

ublic of Indonesia.

Presidential Decision No 6

of 1959 /, Department of

Information of the

Republic of Indonesia

Djakarta, 1959, PP 45-55

ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA

NO 5 OF 1959

CONCERNING

THE NAME OF THE POST, THE TITLE, THE POSITION
AND THE EMOLUMENTS OF THE CHIEF OF DAERAH AND OF THE CHIEF
AND DEPUTY CHIEF OF JOGJAKARTA SPECIAL DAERAH

The President of the Republic of Indonesia,

Considering:

That it is necessary to quickly establish the name of the post,
the title, the position, and the emoluments of the Chief of a Daerah I
and the Chief of a Daerah II and of the Chief of the Special Daerah
of Jogjakarta; With due regard to:

a. Article 4, Paragraph (1) of the Constitution;

b. Article 4, Paragraph (5) and Article 7 of Presidential de-
cision No 6 of 1959 (No 94 in the 1959 State Gazette);

Having heard:

The conference of the Kerdja Cabinet on 22 September 1959;

Has resolved:

To establish:

Presidential Ordinance Concerning the Name of the Post, the Title,
the Position, and the Emoluments of the Chief of Daerah and of the
Chief and Deputy Chief of Jogjakarta Special Daerah.

Part I.

The Name of the Post, the Title, and the Position of the Chief of
Daerah.

Article 1.

(1) The person intended by the term Chief of Daerah in this ord-
inance is a Chief of Daerah appointed on the basis of Presidential
Decision No 6 of 1959 Concerning the Regional Government.

(2) a. The name of the post and the rank of a Chief of Daerah I
is "Chief of Daerah I".

b. The name of the post and the rank of a Chief of Daerah
II is "Chief of Daerah II".

A Chief of Daerah II shall use the title "Regent".

c. The name of the post and the rank of a Chief of a Daerah
II municipality is "Chief of Municipality".

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A Chief of Municipality shall use the title "Mayor".

d. The name of the post and the rank of the Chief of Jogjakarta Special Daerah is "Chief of Jogjakarta Special Daerah".

The Chief of Jogjakarta Special Daerah may use the title "Governor".

(3) The Chief of Daerah intended in Paragraph (1) is an employee of the state.

(4) The decisions applicable to employees of the state shall apply to the Chief of Daerah, as long as such decisions do not conflict with those contained in Presidential Decision No 6 of 1959.

(5) An employee of the state who is appointed a Chief of Daerah shall reassume his original rank at the time he leaves the post of Chief of Daerah, unless the government determines otherwise.

Part II.

The Emoluments of the Chief of Daerah

Section I. The Salary, Allowance for Children, Daerah Costs of Living Allowance, State Contribution to Employee Taxes, and General Cost of Living Allowance

Article 2.

(1) A chief of Daerah I and the Chief of Jogjakarta Special Daerah shall receive a base salary of 2,572 rupiahs.

(2) The Deputy Chief of Jogjakarta Special Daerah shall receive a base salary of 2,448 rupiahs.

(3) A Chief of a Daerah II municipality which is the capital of a Daerah I shall receive a base salary of 2,324 rupiahs.

(4) A Chief of Daerah II, except as intended in Paragraph (3), shall receive a base salary of 2,250 rupiahs.

Article 3.

An allowance for children, a daerah cost of living allowance, a state contribution to employee taxes, and a general cost of living allowance shall also be provided, in conformance with the regulations which apply to employees of the state and in addition to the salary stipulated in Article 2.

Section II. Residence and Official Automobile or Other Vehicle

Article 4.

(1) An official residence shall be provided the Chief of Daerah, but not the chief and Deputy Chief of Jogjakarta Special Daerah.

(2) The costs for the maintenance of the residence and yard, and for the use of water and electricity, shall be borne by the government.

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Article 5.

(1) The Chief of Daerah and the Chief and Deputy Chief of Jogjakarta Special Daerah shall be provided with an official automobile or other official vehicle and a chauffeur.

(2) The costs for the maintenance and use of the official automobile or other official vehicle shall be borne by the government.

Section III. Travel Expenses and Lodging Expenses

Article 6.

The travel and lodging expenses of a Chief of Daerah and the Chief and Deputy Chief of Jogjakarta Special Daerah shall be recompensed in accordance with the provisions made in the official domestic travel regulations for Grade I employees of the state.

Section IV. Post Allowance

Article 7.

The Minister of Internal Affairs and Daerah Autonomy, with the concurrence of the Minister of Finance, shall establish a monthly post allowance for the Chief of Daerah.

a. For Daerahs I and for the Deputy Chief of the Jogjakarta Special Daerah; an amount of at least 500 rupiahs;

b. For Daerahs II: an amount of at least 350 rupiahs.

Section V. Token of Appreciation

Article 8.

The Chief of Daerah shall receive a monetary honorarium each time his term of office ends or whenever he is honorably discharged from his post. This honorarium shall be two times the base salary to which he was entitled at the time of discharge for each year he has held the post, but shall not exceed four times his base salary.

When the post has been held for less than a year, it shall be considered to have been held for a year.

Part III.

Closing Decisions

Article 9.

The implementation of this Presidential Ordinance shall be regulated and administered by the Minister of Internal Affairs and Daerah Autonomy.

Article 10.

This Presidential Ordinance shall take effect on the day it is established.

So that all men may know, the promulgation of this Presidential Ordinance is ordered with the placing of it in the State Gazette of the Republic of Indonesia.

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Established in Djakarta
on 26 September 1959

The President of the Republic of Indonesia
SOEKARNO

Promulgated
on 28 September 1959
The Deputy Minister of Justice
SAHARDJO

EXPLICATION

TO

ORDINANCE OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NO 5 OF 1959
CONCERNING
THE NAME OF THE POST, THE TITLE, THE POSITION
AND THE EMOLUMENTS OF THE CHIEF OF DAERAH AND OF THE CHIEF
AND DEPUTY CHIEF OF JOGJAKARTA SPECIAL DAERAH

General Explication

The accomodation of governing bodies to the decisions contained in the 1945 Constitution and in the program for the implementation of guided democracy, which is being done not only in the system of central government, but also in the system of regional government, introduces very meaningful changes into the form and structure and the duties and responsibilities of regional government.

Under the system followed by Law No 1 of 1957 the Chief of Daerah was not constituted as an agency of the daerah government, as were the DPRD (Dewan Perwakilan Rakyat Daerah, Daerah Peoples Representative Assembly,) and the DPD (Dewan Pemerinth Daerah, Daerah Executive Council), and, in carrying out his day-to-day work, he did not have an important function. With the enactment of Presidential Decision No 6 of 1959 the Chief of Daerah began to occupy a very important office in the Daerah, as all civil government is directed by this official.

The Chief of Daerah is not only an instrument of the daerah government, he is also an instrument of the central government. The work and the responsibilities of the Chief of Daerah are both very extensive and very heavy. This being the case, the position and the emoluments of the Chief of Daerah must be viewed in light of the important role which he performs.

The Chief of Daerah receives a fixed salary and holds a non-graduated rank which is bound to his term of office, therefore, the provisions of State Employee Wage Regulation which pertain to promotion and periodic salary increases do not apply to him. All other regulations which apply to state employees also apply to the Chief of Daerah.

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The Chief of Daerah is an employee of the state, thus, when a state employee is appointed to the post of Chief of Daerah and subsequently removes from this post for any of various reasons, he shall be reappointed as an official of the department of office where he originally worked and this rank shall be established in accordance with the provisions contained in the applicable personnel regulation. The positioning of a former Chief of Daerah who was a daerah employee earlier is to be handled in the same manner.

When ever a Chief of Daerah who was formerly a private individual removes from his office, then this removal shall be considered to be in the same nature as a removal from a state post and the right to provide a monetary token of appreciation, as intended in Article 7 of this ordinance, shall hold.

Until now, the Chief and the Deputy Chief of Jogjakarta Special Daerah have not been given any emolument in addition to that received on the basis of the "Palace Household Expenses" (Civil List). However, as these officials carry out the work of government in addition to heading an administering the palace household, it is only proper that they should be given emoluments similar to those received by a Chief of Daerah.

The emoluments given a Deputy Chief of Special Daerah are, in accordance with the position he occupies, somewhat less than those given a Chief of a Special Daerah.

Article by Article Explication

Article 1.

The phrase "an employee of the state" in Paragraph (5) also intends an employee of the daerah.

Articles 2 through 10.

No explication required.

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V. ORDINANCE OF THE MINISTER OF INTERNAL AFFAIRS AND DAERAH AUTONOMY NO
8 OF 1959

Sekitar Penetapan Presiden
No 6 Tahun 1959 / About
Presidential Decision No 6
of 1959 /, Department of
Information of the Republic
of Indonesia, Djakarta,
1959, PP 65-76

Government of the Republic
of Indonesia

ORDINANCE OF THE MINISTER OF INTERNAL AFFAIRS AND DAERAH
AUTONOMY NO 8 OF 1959
CONCERNING

THE APPOINTMENT AND REMOVAL OF
MEMBERS OF THE DAILY GOVERNMENT BOARDS

The Minister of Internal Affairs and Daerah Autonomy,
Considering:

That it is necessary to regulate the methods of appointment and
removal of the members of BPHs (Badan Pemerinth Harian, Daily Govern-
ment Board) of Daerahs I and Daerahs II;

With due regard to:

Articles 10 and 19 of Presidential Decision No 6 of 1959 (No 94 in
the 1959 State Gazette):

Has Resolved:

To establish:

Ordinance Concerning the Appointment and Removal of Members of the
BPHs

Concerning the Number of BPH Members

Article 1.

The number of members of a BPH is established:

- a. For a Daerah I at 5 persons.
- b. For a Daerah II at 4 persons.

Article 2.

(1) The number of members of a BPH, as set forth in Article 1, must
remain constant.

(2) Each time a vacancy occurs in the membership of a BPH, the
vacancy must be filled quickly.

Concerning the Qualifications for Membership in a BPH

Article 3.

To be appointed as a member of a BPH a person must be a citizen
of Indonesia and must:

- a. Be at least 25 years of age;

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b. Have his primary residence in the territory of the daerah concerned and must have maintained this residence as his primary residence for the preceding 6 months at least; a member of the BPH of a Daerah II which is not a municipality may have maintained his primary residence, during the preceding 6 months, at least, in a municipality which is surrounded by said Daerah II;

c. Possess an education:

1. For a Daerah I: Preferably an upper continuation school [senior high school] education, and must have capability for and experience in government;

2. For a Daerah II: Preferably a lower continuation school [junior high school] education, and must have capability for and experience in government;

d. Not have lost the right to control or administer his property by virtue of an irrevocable decision of the court;

e. Not have lost the right to elect or be elected by virtue of an irrevocable decision of the court;

f. Never have been sentenced for the commission of a felony;

g. Not be of unsound mind;

h. Be willing and able to assist the Chief of Daerah concerned;

i. Not be related to the Chief of Daerah either directly or indirectly, unless thrice removed; this includes the in-law relationship.

Concerning the Appointment and Removal of Members of a BPH

Article 4.

Members of a BPH of a Daerah I shall be appointed by the Minister of Internal Affairs and Daerah Autonomy. Members of a BPH of a Daerah II shall be appointed by the Chief of Daerah of the Daerah I whose territory includes the Daerah II concerned. Appointments shall be made, to the extent possible, from candidates nominated by the DPRD (Dewan Perwakilan Rakyat Daerah, Daerah Peoples Representative Council) concerned. Candidates nominated by the DPRD need not be members of the DPRD.

Article 5.

Membership in the BPH lapses upon the member's death. The authority who holds the right to appoint members may also remove them:

a. At the request of the member himself;

b. At the end of the term of office of the DPRD concerned;

c. For failing to meet the qualifications set forth in Article 3.

Article 6.

A member of a BPH may be removed by the authority who holds the right to appoint members if the member is serving concurrently in another post, as intended in Article 9.

Article 7.

A member of a BPH may be removed by the authority who holds the right to appoint members on the grounds that there is no longer any guarantee that the member will implement his duties of rendering assistance with facility.

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Article 8.

A copy of the directive of a Chief of Daerah, as intended in Articles 4, 5, 6, and 7, must be forwarded to the Minister of Internal Affairs and Daerah Autonomy within one week after the date on which it takes effect.

Concerning the Prohibition Against Serving In Another Post
And Other Prohibitions Which Apply to the Members of a BPH

Article 9.

A member of a BPH may not:

- a. Serve as a member of another DPRD or BPH;
- b. Serve as the daerah secretary or as an official who is responsible for the finances of the daerah concerned;
- c. Serve as a lawyer, attorney, or other authority in a legal case in which the daerah is concerned;
- d. Advise on the establishment or authorization of an accounting which is closely connected with the finances of the daerah and which was drawn up by a board on which the member sits as a director;
- e. Participate, either directly or indirectly, in a private agreement which pertains to any property of the daerah or in the purchase of any claim against the daerah if the claim has not been settled;
- f. Engage in or serve as the architect of work which is directly connected with the daerah concerned and from which the member derives a profit;
- g. Serve in such other positions as shall be designated by the Minister of Internal Affairs and Daerah Autonomy.

Decisions on the Transition

Article 10.

(1) A person who is a member of a DPD (Dewan Pemerintah Daerah, Daerah Executive Council) at the moment this ordinance takes effect and who is prepared to become a member of the BPH shall be appointed by the authority intended in Article 4 as a member of the BPH.

(2) All decisions in this ordinance, except those contained in Articles 1 and 4, shall apply in the formation and the appointment of members to BPHs, as intended in Paragraph (1).

(3) A vacancy shall exist in the BPH when the number of members is less than that established in Article 1 of this ordinance.

(4) The decision contained in Article 6 shall apply in the appointment and removal of members of the BPH, as intended in Paragraph (1).

Closing Decisions

Article 10.

(1) A person who is a member of a DPRD (Dewan Perwakilan Rakyat Daerah,

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Daerah Executive Council) at the moment this ordinance takes effect and why is prepared to become a member of the BPH shall be appointed by the authority intended in Article 4 as a member of the BPH.

(2) All decisions in this ordinance, except those contained in Articles 1 and 4, shall apply in the formation and the appointment of members to BPHs, as intended in Paragraph (1).

(3) A vacancy shall exist in the membership of the BPH when the number of members is less than that established in Article 1 of this ordinance.

(4) The decision contained in Article 8 shall apply in the appointment and removal of members of the BPH, as intended in Paragraph (1).

Closing Decisions

Article 11.

Matters not regulated in this ordinance shall be decided by the Minister of Internal Affairs and Daerah Autonomy.

Article 12.

This ordinance shall take effect on the day it is established.

Established in Djakarta

on 28 September 1959

The Minister of Internal Affairs and Daerah
Autonomy

IPIK GANDAMANA

EXPLICATION

TO

ORDINANCE OF THE MINISTER OF INTERNAL AFFAIRS AND DAERAH AUTONOMY

NO 8 OF 1959

CONCERNING

THE APPOINTMENT AND REMOVAL OF
MEMBERS OF THE DAILY GOVERNMENT BOARDS

General

On the basis of Article 16 of Presidential Decision No 6 of 1959, the Chief of Daerah is to be assisted by the members of the BPH in carrying out his duties and responsibilities. Several decisions have been set forth in this ordinance to enable this assistance to be truly realized and so that the Chief of Daerah can experience this assistance as an evident advantage in carrying out his duties and responsibilities. It is expected that these decisions will more greatly guarantee the implementation of these intentions. These decisions are as follows:

1. The number of members of the BPH has been established with regard to the nature and extend of the duties of the Chief of Daerah of the Daerahs I and the Daerahs II.

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2. The minimum qualifications required of a member of the BPH have been established.

3. The power of a superior authority to appoint the members of the BPH, with attention to the recommendations of the Chief of Daerah concerned, and to remove them, when it is evident that they are unable to carry out their duties in the best possible manner, has been established Articles 1 and 2

The specific number of members allowed each BPH has been established in this ordinance. It has also been established that this number of members shall remain constant, as in this way the Chief of Daerah will have all of his assistants at all times.

Article 3

In general, the qualifications which must be met for membership in a DPRD have been followed. However, as these persons are to be assistants of the Chief of Daerah, it was proper to include the qualifications for education and work experience in government which have been set forth in sub c. Personal factors received special attention in sub f, this to prevent the entrance of persons who do not possess a good name in society. Further, the persons concerned must declare their willingness to assist the Chief of Daerah so that the conviction will exist that they will perform their duties in all earnestness. To avoid the existence of any close family relationship between the Chief of Daerah and members of the BPH, a relationship which might possibly result in an improper situation, it was necessary to insert the qualification which appears in sub i.

Articles 4, 5, 6, 7, and 8

As has been explained in the general explication, this ordinance essays to place persons in the BPHs who can be truly expected to provide major assistance to the Chief of Daerah. Should it become evident that this expectation cannot be fulfilled, the persons concerned can be removed by the appropriate authority.

For the time being, the policy of attending to the wishes to the DPRD concerned may be followed, namely, be reviewing the candidates nominated by the DPRD for positions on the BPH. Such candidates may or may not be members of the DPRD. It is necessary to confirm the fact that the DPRD may not remove members of the BPH, either one individual or the collective board. Superior authorities will oversee the implementation of this ordinance and, when necessary, may provide suggestions on the settlement of difficulties which arise,

Article 9

Sufficiently clear.

Article 10.

It was considered necessary to establish decisions on the transition in this ordinance in view of the existence of the decision on the transition which appears in Article 19 of Presidential Decision No 6 of 1959.

Articles 11 and 12

Sufficiently clear

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