

## **The Amendments of the 1945 Constitution**

Since the reformation era, the 1945 Constitution has experienced some amendments, additions, and completion for four times in the annual session of 1999, 2000, 2001 and 2002. The amendments were based on topics covering among other are the following issues:

### **1. Sovereignty**

The Constitution, the 1945 Constitution originally adhered an ideology that the sovereignty was vested in the people executed fully by the People's Consultative Assembly (Majelis Permusyawaratan Rakyat / MPR). It adhered an ideology of the PCA supremacy, making the PCA be a state institution that had unlimited authority because it became an institution of the sovereignty embodiment of all Indonesian people. Its huge and unlimited power caused MPR was unable to be controlled by any other state institutions. Accordingly, MPR became a super body state institution that in the structure of the matters pertaining to form of the government of the Republic of Indonesia was positioned as the highest state institution. To keep abreast to the changing era, the original 1945 Constitution views was no longer conforming to democracy ideology that required the implementation of checks and balances system among intra-state institutions. For that, its decree of the Article 2 section (1) was converted to the sovereignty is vested in the people and executed according to the constitution.

### **2. The Structure of the Membership Authority of the People's Consultative Assembly (Majelis Permusyawaratan Rakyat /MPR)**

Before the amendment, the structure of the membership of the MPR consisted of member of the House of Representative (Dewan Perwakilan Rakyat /DPR) included appointed members of the Indonesian Military /Police, the appointed Regional Delegates ( Utusan Daerah /UD), and Group / Delegates ( Utusan Golongan /UG). The member of DPR were elected in the General Election, while the UD and the UG were appointed. The appointment of some members of MPR was considered not conforming to with the teaching and spirit of democracy, therefore the formulation was changed by conforming that all members of MPR have to be chosen by the people through general election. With this amendment, the structure of the membership of MPR consists of DPR members and the Regional Representatives' Council members, a new representative institution in the structure of the matters pertaining to form of government of the Republic of Indonesia.

### **3. The Authority of the President**

The 1945 Constitution adheres presidential government system. Either in theoretic and practice of the matters pertaining to form of

government in countries following the presidential government system by this constitution, the president has such a quite big and important power and role. So does in Indonesia. Therefore, it was logical that there quite many materials related to the Presidential authority in the 1945 Constitution that spread over in various articles and sections, especially concerning his power begun from declaring war until granting abolition.

#### **4. Direct Election of the President and the Vice-President by the People**

Since the establishment of the Republic of Indonesia, the election of president and vice president had been executed by MPR by an indirect of representative mechanism. In accordance with the spirit of democracy that requiring the people are being given the right to elect the president and vice-president directly, so the current election system by MPR has to be changed to the direct election system by the people.

If the conditions of the first round general election are not fulfilled, the second round will be executed to appoint a candidate pair who has the majority vote from the first and second ranks. The couple that has the majority vote will be inaugurated as the president and vice-president.

#### **5. The Term of Office of the President and Vice-President**

Before having been amended, the formulation of the term of office of the president and vice-president in the 1945 Constitution was not decisive or concrete to arrange the frequency of the term. In consequence, it opened chance for more than one interpretation. The amended 1945 Constitution sets that the president and vicepresident hold the fixed term of five years and can be re-elected for another term. It means that an Indonesia citizen is only being able to be voted for the president and vice-president for 10 years consecutively.

#### **6. The Discharge of the President and Vice-President on Posts**

Prior, there was no decree in the 1945 Constitution which arranged the discharge of the president and/or vice-president from their offices. The constitution only stipulated a decree on the accountability of the president before the extraordinary session of MPR based on the invitation of the DPR. It is executed when DPR considers the president is really violating the basic state guidelines of state policy. Now the amended 1945 Constitution embodies casual factors and procedures of discharging the president and/or vice-president from their offices.

#### **7. The replacement of the President amid the Term by the Vice-President**

According to the amended 1945 Constitution, the position of the Vice-

President is to assist the President in discharging his/her duties. That position makes the Vicepresident automatically shall replace the president until the end of his/her term if the president die, resigns is discharged, or unable to discharge his/her duties during his/her term of office.

#### **8. The Executor of the Presidential Duties**

Although improbable, there remain another possibility of the emergency condition caused by, for example, the President and Vice-President at the same time die, resign, and are discharged, or are unable to discharge their duties of offices during on their terms. In this condition, prompt decision based on a strong law is needed.

Anticipating such case the amended 1945 Constitution, stipulates that in case that condition occurred, the executors of the presidential duties are that consisting of three cabinet members namely: the Foreign Affairs Minister, the Home Affairs Minister and the Defence Minister.

#### **9. The formation of the President Advisory Council and the Elimination of the Supreme Advisory Council (Dewan Pertimbangan Agung /DPA)**

The existence of DPA as a state institution, which was equal with the president and had a task to give advice and judgment to the president was viewed as less effective and efficient. It was due to unbinding of the advice and judgment to the president.

Based on that consideration, the amended 1945 Constitution eliminates the existence of DPA. To substitute for it the constitution gives the authority to the President to form the Advisory Council that has the task to give advice and judgment to the President.

#### **10.The State Ministry**

As a constitution adhering to the ideology of presidential government system, the amended 1945 Constitution asserts that the state ministers, who are appointed and discharged by him/her, are to assist the President.

#### **11.The Regional Government**

The regions are given the freedom and authorities to exploit and manage their natural resources, with the yield emphasized regulates to raise the regional progress and prosperity. The regional autonomy has to be executed and remains within the Unitary State of the Republic of Indonesia.

The newly amended Constitution also regulates the state recognition of and respect for regional administration units, which is special and

extraordinary in character.

**12. The Regional Representative's Council**

The amended 1945 Constitution introduces a new representative institution in the structure of the government of Indonesia. The institution is the Regional Representative Council (Dewan Perwakilan Daerah /DPD) as stated in the provisions of the Chapter VIIA concerning the DPD.