Constitutional Change and Democracy in Indonesia

After the fall of its authoritarian regime in 1998, Indonesia pursued an unusual course of democratization. It was insider-dominated and gradualist, and it involved free elections before a lengthy process of constitutional reform. At the end of the process, Indonesia’s amended constitution was essentially a new and thoroughly democratic document. By proceeding as they did, the Indonesians averted the conflict that would have arisen between adherents of the old constitution and proponents of radical, immediate reform. Gradual reform also made possible the adoption of institutions that preserved pluralism and pushed politics toward the center. The resulting democracy has a number of prominent flaws, many attributable to the process chosen, but is a better outcome than the most likely alternatives. Donald L. Horowitz documents the decisions that gave rise to this distinctive constitutional process. He then traces the effects of the new institutions on Indonesian politics and discusses their shortcomings as well as their achievements in steering Indonesia away from the dangers of polarization and violence, all the while placing the Indonesian story in the context of comparative experience with constitutional design and intergroup conflict.

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Preface

There is some consensus among political scientists and constitutional lawyers that the choice of process matters for constitution making. Likewise, the choice of political institutions matters for democratization and for the reduction of the conflict potential of ethnic or cultural cleavages. There is, however, no consensus on which process and which institutions are most apt for these objectives. In considerable measure, this is because the search for broad generalizations has obscured the importance of starting conditions for making appropriate processual and institutional choices in particular countries.

Initial conditions, especially the relations of political forces and the structure of cleavages, are constraints that limit choices and suggest to decision makers what may be suitable methods of proceeding and ways to structure the reformed political system. There is, then, no universal solvent in choice of constitutional reform process or in institutional arrangements to reduce conflict in ways that comport with democracy. Rather, there are likely to be several appropriate paths for each, including Indonesia’s.

Following a long period of authoritarian rule that ended in 1998, Indonesian politicians made a number of critical choices, first about the process by which they would reform their political institutions and then about what those institutions should be. The distinctive problems they faced and the specific fears they entertained shaped the way they chose to do their job. That process in turn affected the bargains they struck and the political structures they created, as well as the old-regime practices they left intact. To understand this causal chain, it is necessary to ask why the Indonesian democratizers and constitution drafters took the steps they
did in the sequence they did – in other words, to explicate the micrologic of the process and its results.

On the whole, the distinctive Indonesian path to reform was well suited to the situation that confronted the participants and for the aims and apprehensions that animated them. This is true even though they utilized an in-house and nonparticipatory process of constitutional renovation that some scholars regard as inappropriate for crafting democratic institutions. Their institutional choices also had a generally benign impact on the rather dangerous conflict situation that the country faced as it made the transition to democracy. The Indonesian reformers chose certain institutions that tended to reinforce a multipolar structure of cleavages and to avert the emergence of more dangerous bipolar alignments. These institutions also made political cooperation across the lines of multiple groups attractive to politicians operating under those institutions. Some of these choices were made with such effects in mind, while others were made on other grounds and produced their effects on group relations inadvertently.

Challenges in group relations in Indonesia certainly persist, and there are recurrent problems in the polity that have been neglected or treated inadequately. The particular process that was chosen in Indonesia had its costs. Moreover, the Indonesians have by no means finished tinkering with their political institutions. Further refinement of some political structures – such as a better-designed upper house – could create a stronger democracy. Amendment of others – such as an electoral system that dramatically reduces the number of parties – might well produce retrogression in the handling of group relations by the political system.

Nevertheless, there is no gainsaying the Indonesian achievements, which have brought the country very far from where it was in 1998. What the Indonesian experience shows is that unconventional processes can produce democratic outcomes and that unusual configurations of institutions can produce political incentives for intergroup accommodation.

As the research and writing for this book were being carried out, I incurred a great many debts. Released time was provided by a generous Bost Research Professorship, funded by the Charles A. Cannon Trust, at Duke Law School. Grants for the larger constitutional design project in which this book began its life were provided by the United States Institute of Peace, the Harry Frank Guggenheim Foundation, and the Carnegie Scholars Program of the Carnegie Corporation. I am grateful to all of these grantors. I have also been heavily dependent on the resourcefulness of librarians, in this case most notably the extraordinary reference services provided by Melanie Dunshee, Molly Brownfield, and Jennifer
Behrens at Duke. Research assistance was provided by Ong Kian Ming, Anoop Sadanandan, Melissa Meek, and Simon Weschle, all of whom made important contributions to the project at various stages. Dian Abdul Hamed Shah made particularly helpful and substantial contributions toward the end of the project. My faculty assistant, Tia Williams, provided indispensable help along the way. Several of the chapters were written during stays at Robert Black College of Hong Kong University, which is well known around the world for its congenial atmosphere and friendly staff.

At several points, the research was facilitated by conversations with, suggestions from, and/or critical readings by, R. William Liddle, Blair King, Harold Crouch, Allan Bell, Dan Slater, Robert Cribb, Eddie Malesky, Arief Surowidjojo, Melvin Leffler, Alasdair Bowie, Aziz Huq, and two extremely helpful anonymous readers for Cambridge University Press. Andrew Ellis deserves special thanks for inviting me to participate from time to time in his enterprise at the National Democratic Institute’s Jakarta Office and to benefit from his many insights into the Indonesian constitutional process. The results are visible in the footnotes that refer to his NDI reports and to some interviews that we conducted jointly as well. During one stay, I also benefited from use of the facilities of the Freedom Institute, for which I am grateful. Finally, the coeditor of this series, Ian Shapiro, provided important assistance in the course of the publication process. None of these people bears the slightest responsibility for what is contained in this book.

Material from the book has been presented in lectures, conferences, and workshops at the Indonesian Institute of Sciences, the University of Indonesia, Bowdoin College, the University of Hawaii Law School, the George Washington University Law School Roundtable in Comparative Constitutional Law, the Association of Asian Studies, the George Washington University Comparative Politics Workshop, the University of Malaya Law Faculty, the Universiti Sains Malaysia Political Science Department, Institut Kajian Malaysia dan Antarabangsa, the University of Chicago Law School Conference on Comparative Constitutional Design, the German Institute of Global and Area Studies, the UCLA Human Rights Colloquium, and the Democracy Series at the Ash Center of the Kennedy School at Harvard University. I profited from critiques offered in these forums and from the hospitality of my hosts, most notably Ericka Albaugh, Alison Conner, David Fontana, Henry Hale, Khadijah Khalid, Rahman Embong, Tom Ginsburg, Matthias Basedau, Andreas Mehler,
Richard Steinberg, and Tarek Masoud. As usual, I also benefited from the subtle, patient prodding, tolerance, and support of my wife, Judy.

Between 1998 and 2009, I made five trips to Indonesia. The interview material I gathered there was based on a promise of anonymity to my respondents, most of whom were politicians, government officials, or NGO activists. For this reason, they are identified in footnotes only by their place in my field notes (abbreviated F.N., followed by volume and pages) and, where useful, by a short parenthetical description that enables the reader to place the respondent in the Indonesian political firmament.

This book is dedicated to the memory of Samuel P. Huntington. It is not the first book to be so dedicated, and it will not be the last. Sam Huntington had his own distinctive style and on occasion, as he himself said, a penchant for controversy. Yet he was eager to exchange ideas and had a certain catholicity of taste that led him habitually to gather round himself at the Harvard Center for International Affairs groups of young scholars whom he encouraged to go out and explore politics all over the globe. I was a beneficiary of that encouragement from graduate school on. That encouragement, together with the example of his piercing intellect, created for me an enduring bond, as it did for so many others.

Donald L. Horowitz
May 30, 2012
**Glossary**

**aliran** Literally, streams, denoting cultural communities, such as traditionalist Muslims, modernist Muslims, syncretists, and secularists.

**Barisan Nasional** National Front, an organization founded in Indonesia to insure that the country continued to have a secular state after the fall of Suharto in 1998; it was led by former military officers concerned about Muslim influence under then-president B. J. Habibie.

**bupati** An elected head of a kabupaten or regency.

**DPD** Dewan Perwakilan Daerah, the Regional Representatives Council, a second house of the legislature to represent provincial interests, but with very limited powers.

**DPR** Dewan Perwakilan Rakyat, the People’s Representatives Council, the powerful lower house of the Indonesian legislature.

**DPRD** Dewan Perwakilan Rakyat Daerah, the Council of Regional People’s Representatives, the local legislatures for regional governments.

**Forum Kota** City Forum, a student organization active in organizing street demonstrations against Suharto in 1998.

**fraksi** A fraction (faction) in the legislature, consisting of members of a party or parties.

**Gerindra** Partai Gerakan Indonesia Raya, the Great Indonesia Movement Party, a small secular party founded by Prabowo Subianto, former commander of the army special forces.
Golkar  Partai Golongan Karya, the Party of Functional Groups. Originally Suharto’s ruling party, it entered democratic political competition after his fall. Officially secular, it aspires to be a catchall party that appeals to Muslims and religious minorities alike.

Hanura  Partai Hati Nurani Rakyat, the People’s Conscience Party, a small secular party formed by former army commander Wiranto.

ICMI  Ikatan Cendekiawan Muslim Indonesia, the Indonesian Association of Muslim Intellectuals, founded in 1990, supported by Suharto, and led by B. J. Habibie, who eventually became his vice president and then successor as president when Suharto resigned. Because of its patronage by Suharto, ICMI’s founding signaled a turn by the then-president toward Islamic forces that could be influential in the regime.

kabupaten  A regency or subdivision of a province, headed by an elected bupati or regent. Also called a district.

kota  A city, headed by an elected wali kota or mayor.

Masjumi  A modernist Muslim party of the 1940s and 1950s that was outlawed by Sukarno in 1960.

modernist Islam  In Indonesia, a version of Islam that relies mainly on the Qu’ran and the Hadith, is often skeptical of interpretations drawn from later sources, and is hostile to syncretist practices. See also Muhammadiyah.

MPR  Majelis Permusyawaratan Rakyat, the People’s Consultative Assembly. Composed of the DPR and DPD, it has limited powers, principally concerning constitutional amendments and impeachment. Previously, it had power to choose the president and vice president and was said to be the repository of Indonesia’s sovereignty.

Muhammadiyah  The largest organization of modernist Muslims.

NU  Nahdlatul Ulama, Awakening of the Religious Scholars, the largest organization of traditionalist Muslims.

PAH I  Panitia Ad Hoc I, Ad Hoc Commission I, set up within the MPR in 1999 to draft amendments to the constitution.

PAN  Partai Amanat Nasional, the National Mandate Party, founded by Amien Rais, the former leader of Muhammadiyah. In spite of its roots in modernist Islam, the party has been open to non-Muslims.
Glossary

**Pancasila** Five Principles, the official ideological foundation of the Indonesian state, found in the preamble to the constitution. The principles consist of belief in one God, a just and civilized humanity, the unity of Indonesia, democracy guided by wisdom and deliberation, and social justice.

**PBB** Partai Bulan Bintang, Star Crescent Party, an Islamic party in the modernist Masjumi stream. The party failed to meet the threshold for legislative representation in 2009. See also Masjumi.

**PD** Partai Demokrat, the Democratic Party of Susilo Bambang Yudhoyono.

**PDI** Partai Demokrasi Indonesia, one of the three officially permitted parties in President Suharto’s authoritarian New Order regime.

**PDI-P** Partai Demokrasi Indonesia-Perjuangan, the Indonesian Democratic Party-Struggle, founded by Megawati Sukarnoputri after she was ousted from leadership of the PDI by allies of Suharto in 1996. A strongly secular party representing abangan Muslims, religious syncretists, and minorities.

**PDS** Partai Damai Sejahtera, the Prosperous Peace Party, a small Christian party with support in certain regions with large Christian populations. The party has antecedents in a Protestant party that gained legislative representation in the 1950s but failed to meet the threshold for seats in the 2009 national election.

**PKB** Partai Kebangkitan Bangsa, National Awakening Party, founded in 1998 by Abdurrahman Wahid and heavily based on NU, the traditionalist Muslim organization he led.

**PK(S)** Partai Keadilan, succeeded by Partai Keadilan Sejahtera, the Prosperous Justice Party, an Islamist party in the modernist stream. PKS grew out of student Islamic associations and has gained most support from educated youth and in urban areas.

**PPP** Partai Persatuan Pembangunan, Development Unity Party, a Muslim party with roots in both traditionalist and modernist Islam. Originally one of the three officially permitted parties of President Suharto’s New Order, it entered democratic competition after his fall.

**santri** Observant or orthodox practice of Islam.
Glossary

Tim Tujuh  The Team of Seven, a group of civil servants and academics charged by President Habibie in 1998 with drafting a series of political reform laws.

traditionalist Islam  In Indonesia, a version of Islam that relies on interpretation by scholars since the time of the Prophet Mohammed and is often accommodating of local custom. See also NU.

wali kota  An elected mayor of a city.