

REGULATIONS IN FAR EASTERN COUNTRIES CONCERNING
MILITARY SERVICE BY ALIENS

The nationality laws of Indonesia, Cambodia, and Vietnam each contain specific provisions which stipulate that an individual who enters the service of a foreign army is to be deprived of his citizenship. These provisions are stated as follows:

Indonesia

Act No. 3 of 10 April 1946 Concerning Citizens and Residents of Indonesia

Article 8. Indonesian citizenship shall be forfeited by reason of:

- (1) Omitted.
- (2) Entry into the armed forces or government service of another country without prior leave of the President of the Republic of Indonesia.^{1/}

Cambodia

Kram No. 913-NS of 30 November 1954

Article 3.

Article 25 bis. Perhaps, by virtue of a judgment by the civil tribunal of Phnom-Penh, [the following] may forfeit his Cambodian nationality without prejudice if penal sanctions have been pronounced by the competent criminal court:

^{1/} "Indonesia" in Laws Concerning Nationality (United Nations Legislative Series), New York, 1954, p. 233.

- (1) A Cambodian who, without authorization, voluntarily enters the service of armed forces not connected with the Cambodian government. This authorization may result from an international treaty, among other things.
- (2) Omitted. 2/

Vietnam

Ordinance No. 10 of 7 December 1955 on the Vietnamese Nationality Code

Title XIII. Loss and Forfeiture of Vietnamese Nationality

Chapter I. Loss of Vietnamese Nationality

Article 90. A Vietnamese who, taking employment in the public service of a foreign country or in a foreign army, retains it despite an injunction of the Vietnam Government to resign, shall lose his Vietnamese nationality.

Six months after being notified of this injunction, the interested party shall be declared, by decree, to have lost Vietnamese nationality if he has not, during this period [six months], resigned from his employment, unless it is established that it had been absolutely impossible for him to do so. In the latter case, the six month period shall run only from the day whence the reason for the impossibility ceased to exist.

The interested party loses his Vietnamese nationality on the date on which the decree is promulgated.

Article 91. In all cases of loss of Vietnamese nationality, the interested party is freed from his allegiance to Vietnam, beginning on the day on which he loses his nationality. 3/

2/ "Cambodge" in Supplement to the Volume on Laws Concerning Nationality 1954 (United Nations Legislative Series), New York, 1959, p. 12.

3/ "Viet-Nam", Ibid., p. 175.

Neither Japan nor Korea nor the Republic of China have legislation which is concerned directly with the drafting or volunteering of aliens, draft evasion penalties for aliens, or the status of the citizenship of an individual who enters the service of a foreign army. However, all three of these countries have Penal Codes which contain provisions concerned with the punishment of citizens who enter the military service of a foreign country when that country is engaged in using armed force against the citizen's own country. Statements of these provisions are as follows:

Japan

Article 81 of the Penal Code provides:

A person who, when a foreign state uses armed force against Japan, sides with such state by engaging in the military service of such state, or otherwise affording military advantage to such state, shall be punished with death or with imprisonment at forced labor for life or not less than two years. 4/

Republic of Korea

Article 94 of the Penal Code provides:

1. A person who levies soldiers for any enemy country shall be sentenced to death or penal servitude for life.

4/ Law No. 43, April 24, 1957.

2. A person who applies for conscription as described in the preceding paragraph shall be sentenced to penal servitude for life or for not less than five years. 3/

Republic of China

Article 105 of the Criminal Code provides:

1. A citizen of the Republic of China who serves in the armed forces of an enemy or bears arms for an enemy against the Republic of China or against an ally of the Republic of China shall be punished with death or imprisonment for life.

2. An attempt to commit an offense specified in the preceding paragraph is punishable.

3. A person who conspires to commit an offense specified in paragraph 1 shall be punished with imprisonment for not less than three and not more than ten years. 4/

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3/ Law No. 293, September 16, 1953.

4/ "The Criminal Code and its Related Laws" in Laws of the Republic of China, trans. and comp. by Law Revision Planning Group, 2344, the Executive Yuan, Republic of China, Taiwan, 1961, p. 821.