

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

1. Conclusion

Based on discussion in chapter IV, the researcher arrives at the conclusion that the Constitutional Basis of President Authority in enacting Government Regulation in Lieu of Law is emphasizing in Article 22 paragraph 1 of the 1945 Constitution which states “In compelling crisis situations, the President shall have the right to issue Government Regulations in Lieu of Law”. Article 22 paragraph 1 of the 1945 Constitution does not clearly explain the criteria of compelling crisis situations. So, it further asserts by the Constitutional Court Decision Number 138/PUU/V-II/2009 which gives the criteria of the President shall have right to issue Government Regulation in Lieu of Law as follows:

- a. The existence of a situation that is an urgent need to solve legal problems quickly based on the law;
- b. The required legislation is not available so there is a vacuum of law, or there is a law but is inadequate;
- c. The vacuum of law can not be solve by making the law in a normal procedure because it will take a long time while the emergency circumstances need legal certainty to resolve.

With the enactment Government Regulation in Lieu of Law Number 2 of 2017 on Community Organization by the President. The President violate the principles of checks and balances in the state because it has eliminated the role of judicial institution in the process of revocation of community organization in Indonesia.

2. Recommendation

Based on the problems that have been discussed, the house of representative should take initiative to amend Law Number 16 of 2017 about the enacting Government Regulation in Lieu of Law Number 2 of 2017 on Community Organization contain the principles of *contrario actus*. It is principles violate the fundamental rights of citizens which protected by the 1945 Constitution. The house of representatives has to pay attention the principles of checks and balances in Indonesia. Indonesia is a state based on the rule of law (*rechtsstaat*). Therefore, involving court in the process of dissolution of Community organization is still needed.