

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the discussion above, it may arrive at conclusion that the position of an *ultra petita* in the Constitutional Court decision is recognized by Justices of the Constitutional Court but it should be selectively applied. The concept of *ultra petita* cannot be implemented in the Constitutional Court Law Procedure especially for the constitutional review case because there is an existing principle, namely the principle of *erga omnes* which means the decision in the Constitutional Court binds all people and the principle of *ex aequo et bono* which means the Justices of the Constitutional Court should be decided in the fairest decision, for example in the Constitutional Court decision No. 001-021-022/PUU-I/2003 and case No. 006/PUU-IV/2006. If the prohibition of *ultra petita* is applied in the Constitutional Court decision, it will give impairment not only for the applicant interest but also to all society because the Constitutional Court decision has nature of *erga omnes* or general binding.

B. Recommendation

Based on the problems that found in the position of the Constitutional Court that valid to issue the *ultra petita* decision in accordance with the previous discussion, the author suggests to the Constitutional Court to provide the restriction of authority in form of Constitutional Court Act. So, the Constitutional Court does not touch the

field of House of Representative as a positive legislator and the Constitutional Court remains as a negative legislator.