

## CHAPTER V

### CLOSING

#### Conclusion

Based on the previous discussion, it may take some conclusion, as follows:

Firstly, adding the constitutional complaint mechanism to the Constitutional Court in Indonesia is necessarily needed and urgent. There are some reasons why constitutional complaint need to be implemented in Indonesia:

1. There are many cases of constitutional complaint arised. However, there is no legal mechanism on how to solve it. While, human rights issues are very important discussion that the state has to protect it through the Constitution. But Indonesia has no mechanism to protect it legally before the Court;
2. Constitutional complaint is a mean of respecting of the rights of people as granted in the 1945 Constitution. Guarantee of the fundamental right of citizen is one of the essence of democracy. Democracy arise in Indonesia is to protect the rights without any abuse of power from the government. In fact, there are many miss-conducts from government that violated the constitutional rights of citizens;
3. Constitutional complaint theoretically and practically is a legal effort to protect his/her basic rights that mandated by the

Constitution. The legal effort is the rights to get the guarantee and justice from the in running his/her authority from the violation of rights. Constitutional complaint, in Indonesia still has not implemented yet, while constitutional complaint is very urgent to be implemented as a kind of legal effort to protect right of poeple. Mostly, the cases decided by the Constitutional Court rejected because it has no authority in solving that case;

4. Constitutional complaint can be implemented in Indonesia by looking at some countries on how to implement authority. Then, Indonesia will have the mechanism on how they protect the constitutional rights in Indonesia.
5. Constitutional complaint in Indonesia can be synchronized by giving its authority to the Constitutional Court, without deleting the existing court. Constitutional complaint shall be fulfil as the need of people to perceive justice.

Secondly, constitutional complaint mechanism needs to be implemented because it is to protect the constitutional right of citizen. The protection of constitutional right is a *condition sine qua non* in democratic and rule of law state.

### **Suggestion**

There are some suggestion relating to the problems faced by the Constitutional Court in adding the authority of constitutional complaint:

1. There shall be 5th amendment of the 1945 Constitution. Because through amendment there will no doubtness of the Constitutional Court to proceed constitutional complaint issues, exactly in Article 24C on the Constitutional Court;
2. The Constitutional Court needs more justices, or there shall be twin-court system which is implemented in Germany. There are two senate, one senate to settle dissolution of political party, impeachment, judicial review, settling dualism of state organs authority mandated by the constitution, and general election settlement, and one senate is focussed on constitutional complaint settlement;
3. Mechanism of constitutional complaint shall be regulated strictly and correctly on the selection of acceptance of constitutional complaint case to the Constitutional Court;
4. The Constitutional Court Act needs to be revised and adding the Exhasuted judiciary system before launching constitutional complaint before the Constitutional Court.