

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the discussion in chapter four, it could be concluded that the recruitment system of the constitutional court judges in Indonesia still have some problems. The problems are:

First, in the requirement of being constitutional judges. There are some requirements that are still considered unclear, namely that the constitutional judge must have integrity, good morality, and statesmanship and devoted him/herself to God. The requirements cannot be guaranteed with a certificate or other written data. Unfortunately, so far there is no clear way to determine that a judge has met these requirements. If talking about healthy, there is a medical checkup. But, there is no tool to check whether he/she already fulfill the requirement as a person who devotes himself to God and have good morality.

Second, in the selection mechanism of constitutional judges. There are some problems in the selection mechanism, they are: *Firstly*, some institutions such as the Supreme Court and the President do not use a transparent and open system of selection for the public. Therefore, the society do not know the selection process and cannot give an opinion or testimony on the candidates of

constitutional judges. *Secondly*, the selection standards used by the three institutions are not the same. Therefore, the standards applied by the three judges of this institution can be different.

B. Recommendation

Based on the problem that has been discussed there are some recommendation which can be proposed to the House of Representative and the President, as follows:

First, regarding to the requirements of being a constitutional judges. There are still unclear requirements i.e. the requirements of integrity, good morals, statesman and devoted him/herself to God. There should be an assessment tool to confirm whether the candidate of judge is a person who devoted him/herself to God and has good morality. There is no other way except tracking candidates' record. The system that conducted in Islam to recruit the judge is used head hunting (doing fit and proper test and tracking the record) to know the quality of the judge' candidate. By tracking the record, the morals and the nature of a potential judge can be accountable. So, the Committee that select the constitutional judges should do tracking record of the candidates.

Second, regarding to the selection mechanism of constitutional judges, there are several things should be evaluated, they are:

- i. The selection mechanism of constitutional judges shall be transparent and open to public in order to accommodate public opinion related to the record of the candidates. Selection mechanism that implemented in South Korea, that conducted by three institutions shall be transparent and open to the public. It can be a lesson for better selection mechanism of constitutional judge in Indonesia.
- ii. The selection mechanism candidated by three institutions should be clearly regulated in the Constitutional Court Law. So the selected judges by the three institutions will have the same standard.
- iii. Involving the Judicial Commission in the selection mechanism. The purpose of the involvement of the Judicial Commission is to involve a neutral institution in the election of constitutional judges. It is expected that the involvement of the Judicial Commission will reduce the political involvement among the candidates.