Chapter VI
Summary

Most people in Indonesia will try to avoid dispute. If they face dispute, they will settle it through informal negotiations. Most are successful as Indonesian are non-law minded society. If they fail, they usually opt for extra judicial dispute resolution rather than resolve their dispute through formal mechanism. Therefore, eventhough the formal mechanism for settling dispute is not efficient, it had not caused significant problem in the society.

Overall, the formal mechanism of dispute resolutions in Indonesia be it court or out of court, is considered to be not efficient and sometimes complicated. The various dispute resolutions mechanisms are not people-friendly. The institutions, such as court, arbitration, even formal mediation and conciliation, do not have roots within the majority of Indonesian. They have little knowledge of the mechanism. For this reasons formal mechanism is not being pursued or, even, becomes an alternative for resolving dispute. This conclusion, however, may not apply to Indonesian living in the cities, which have a degree of familiarity. Nevertheless, for them dispute resolution mechanism will be used as a last resort rather than to be pursued at initial stage of dispute.

It can be concluded that for most Indonesian court dispute resolution if possible is being averted. Many felt that court is not the best mechanism for settling dispute. The reasons, among others, are time consuming, very costly in particular with irregular payment, and only protects the powerful.

Formal ADR mechanism, such as arbitration is also not a panacea for settling dispute in Indonesia. Arbitration is an institution not widely known to many Indonesian. Only a limited number of people know the institution, such as the business circle.

There are several points to be noted based on the study on consumer protection, labor and environmental disputes resolution mechanism.

The first finding is provisions on dispute settlement provided under Consumer Protection Act, Labor Dispute Act and Environmental Act have not yet been proven to be effective. Some provisions contradict with the principles of law, such as the non-

exclusivity once parties in dispute choose arbitration or a similar institution. In addition, the provisions are sometimes confusing and difficult to understand. Such as what is meant by ‘objection’ and whether it is the same as ‘appeal.’ Furthermore, the Acts have put too much burden to the Supreme Court as every case will end up there. The Acts do not give any role to the High Court to review objection in the out of court mechanism. This is unfortunate since if all cases have to be reviewed by the Supreme Court there will be more backlog cases in the Supreme Court.

Second, the study showed that most disputes in the area of consumer protection, labor and environment are settled through negotiations. If, disputes are settled through formal mechanism it is because parties do not have other choice. In the consumer protection and environmental disputes, those who sustain injury will pursue formal mechanism if only they are assisted by NGO. It is a rare for individual to litigate in consumer and environmental issues in court or arbitration, as it requires money and time. If individual litigate through court and arbitration without any assistance from NGO, the individual is most certain mostly belongs to the middle-upper class.

As for labor dispute, most are settled through the LDSC, as it is compulsory for labor and employer. There have not been too many labor cases that are brought to court or arbitration. Only the middle-upper class or group of labors that will choose court mechanism to resolve their dispute. In many occasions, the employer instead of the labor pursues the court mechanism.