

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia¹, Milda Istiqomah², Faizin Sulistio³

¹Master of Law Program, Faculty of Law, Malang

^{2 3}Faculty of Law/Brawijaya University, Malang

Correspondent Email: yessika@student.ub.ac.id¹, milda.istiqomah@ub.ac.id², faizin@ub.ac.id³

Received : 15 September 2025

Revised : 10 October 2025

Accepted : 31 October 2025

Published : 17 November 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i6.4417>

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

Abstract

The criminal justice system in Indonesia has not explicitly regulated the requirements, procedures for submitting, and the position of amicus curiae in the criminal justice system in Indonesia. There are judges who reject the submission of Amicus curiae because there is no procedural law governing it, judges argue that procedural law in the judicial process is very important in realizing legal certainty in Indonesia. Meanwhile, judges who accept amicus curiae applications use Article 5 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power as the basis for accepting amicus curiae in trials. Progressive judges use Amicus curiae in their consideration of their decisions both from a philosophical, juridical and sociological perspective, where the hope is that the judge's decision will not only provide legal certainty but also truly provide a sense of justice and benefit to the parties. This study aims to determine the role of amicus curiae or friends of the judiciary in improving the quality of judges' decisions in the criminal justice system process in Indonesia. This research uses normative juridical method by using statutory approach and comparative approach. The results showed that the existence of amicus curiae can make a positive contribution to the decision of criminal cases in Indonesia. It is time for a regulation regarding the role and position of amicus curiae in the criminal justice system in Indonesia, so that there is an increase in the quality of decisions by accommodating the values of life and development in society.

Keywords: *Amicus curiae, Criminal Case, Judge's Decision*

INTRODUCTION

The development of information technology has increased public participation in court proceedings. Active public participation in monitoring the administration of justice in Indonesia, particularly in cases that are in the public spotlight, such as human rights violations and cases involving the livelihoods of many people, is important in Indonesia's democratic system. Historically, Indonesia is a country that adheres to the civil law system, although in its development it also applies principles that exist in common law countries.¹ In line with the development of civilization in the 14th century, Amicus curiae began to be practiced in common law countries. Indonesia basically does not recognize Amicus curiae in the judicial system, especially the criminal justice system.² The independence of judicial institutions, which is guaranteed by Article 24 paragraph (1) of the 1945 Constitution in conjunction with Article 3 of Law Number 48 of 2009 concerning Judicial Authority, is the basis for judges to carry out their duties and functions without interference from any party. In addition, judges are also required to explore, follow, and understand the legal values and sense of justice that exist in society. Judges are not merely mouthpieces for the law; the quality of their decisions must be assessed not only in terms of legal certainty, but also in terms of the sense of justice and benefits that will be received by the parties and

¹ Gao, H. S. (2006). Amicus curiae in WTO dispute settlement: Theory and practice. *China Right Forum*, 1, 51

² Aulia, F., & Muksin, M. R. S. (2020). *The Position of Amicus Curiae under the Indonesian Law of Evidence*. *Jurnal Media Hukum*, 27(2), 218, <https://doi.org/10.18196/jmh.20201152>

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia **et al**

the wider community. Judges occupy a central position in every judicial process because they are expected to deliver justice in every decision. Oemar Senoadji, in his book entitled "Law, Criminal Judges," states that court decisions are very important for judges. Senoadji likens them to a crown that symbolizes the pinnacle of a judge's authority and responsibility in carrying out their duties.³ In an effort to deliver justice through their decisions, judges must examine and decide on a case after considering many factors. In this context, outside parties involved in the case, through their perspective as amicus curiae, can help judges to see the values that exist within society, so that judges can be confident that their court decisions are based on broad considerations. In practice, individuals, groups, or organizations with expertise or a particular interest in the issue being processed in court can usually submit a request to present their opinions or information to the court as amici. The opinions or information presented can be used as material for consideration by the panel of judges in assessing the case at hand. Amicus curiae helps judges to consider the broader social implications of their decisions. Based on this background, this study aims to analyze the role of amicus curiae in improving the quality of judges' decisions in criminal cases in Indonesia.

RESEARCH METHODS

The type of research conducted in this study is normative legal research. Legal research focuses on legal aspects by referring to applicable laws and regulations.⁴ Meanwhile, normative research in the field of law aims to identify relevant legal rules and doctrines in order to provide solutions to legal problems encountered. The researcher used this type of research with the aim of analyzing the role, position, and practice of amicus curiae in the criminal justice system in Indonesia in improving the quality of judges' decisions through a statute approach and a comparative approach. The types of interpretation used were grammatical interpretation, systematic interpretation, and comparative and futuristic interpretation. Data collection techniques were carried out through literature research, which aimed to obtain legal materials, both primary, secondary, and tertiary. In this study, the primary legal materials used included laws and regulations related to the role of amicus curiae in the criminal justice system, as well as relevant legal theories. Meanwhile, secondary legal materials consist of doctrines and expert opinions, which can be found in law books and papers written by experts in the field.

RESULTS AND DISCUSSION

1.1 The Position of Amicus Curiae in the Criminal Justice System in Indonesia

In Western literature, Amicus Curiae is the plural form of amici curiae, known as friend of the court.⁵ Amicus curiae is generally translated into Indonesian as *sahabat pengadilan* (friend of the court). According to Purwantono and Sembiring in "Amicus curiae (Concept, Practice, and Challenges in its Application in Indonesia)," when looking at the term amicus curiae or friend of the court, aside from being literally translated as friend of the court, in terms of substance and essence, it can also be translated as friend of the court. According to the law, the court is an official institution that administers the judicial system, which includes the process of examining, assessing, and deciding on cases. On the other hand, adjudication can be defined as the entire series of processes carried out in court, which includes the tasks of examining, deciding, and adjudicating cases based on the application of the law. In this case, the law is applied concretely, where judges apply legal provisions to the facts before them for analysis and adjudication.⁶ According to the Online Etymology Dictionary, amicus curiae comes from Latin, amicus meaning friend, closely related to to amare "to love," and curia meaning court.⁷ Black's Law Dictionary⁸ defines it as "a person not a party in a case who proposes or is asked by the court to propose a letter because such person has a strong interest

³ Amarini, I. (2019). Implementation of Judicial Activism in Judge's Decision. *Journal of Law and Justice*, 8(1), 22, <http://dx.doi.org/10.25216/jhp.8.1.2019.21-38>

⁴ Peter Mahmud Marzuki, Legal Research, (Prenada Media Group: Jakarta, 2005), p. 35

⁵ Legal Information Institute. (n.d.). *Amicus curiae*. Cornell Law School. Available from https://www.law.cornell.edu/wex/amicus_curiae (Accessed on October 6, 2025)

⁶ Purwantono, R. A., & Sembiring, S. N. (2024). *Amicus curiae (Concept, Practice, and Challenges of Implementation in Indonesia)*. Depok: Rajawali Pers, p. 8

⁷ Online Etymology Dictionary. (n.d.). *Amicus Curiae*. Available from <https://www.etymonline.com/word/amicus%20curiae> (Accessed on October 6, 2025)

⁸ Garner, B. A. (Ed.). (2009). *Black's law dictionary* (9th ed.). West Thomson Reuters, p. 98.

in a certain court case."The criminal justice system in Indonesia does not yet explicitly regulate the requirements, procedures for submission, and position of amicus curiae in the Indonesian criminal justice system. However, the legal basis in the criminal justice system that can be used for amicus curiae is Article 180 paragraph (1) of the Criminal Procedure Code, which states that "In the event that it is necessary to clarify an issue that arises in court, the presiding judge may request expert testimony and may also request that new evidence be submitted by the interested parties." This article is often used by activists and legal academics as the basis for submitting amicus curiae briefs in criminal cases. However, this article does not necessarily constitute the legal basis for the regulation of amicus curiae in the criminal justice system. Amicus curiae is not witness or expert testimony as regulated as valid evidence in the Criminal Procedure Code, but rather amicus curiae is a form of public participation whose opinions can be accepted and considered by judges.⁹ The lack of clarity regarding amicus curiae regulations raises concerns about the independence of judges in examining, adjudicating, and deciding cases. This is because there are no clear limits on the extent to which judges can use amicus briefs in their consideration of examining, deliberating, and deciding cases.

The Constitutional Court has issued Constitutional Court Regulation Number 2 of 2021, which regulates procedural rules in the review of laws. This regulation covers various important aspects, such as the subject matter of the petition and the existence of the parties, the stages of case handling, and the process of petitions submitted by the petitioner, statements from witnesses, and statements from related parties. In addition, this regulation also regulates the hearings and decisions handed down by the Court. Article 26 paragraph (1) of PMK Number 2 of 2021 regulates related parties who can file a petition to be involved in the trial process, namely parties who have a direct interest and/or parties who have an indirect interest in the subject matter of the petition. Parties with a direct interest are those whose rights and/or authorities are directly affected by the subject matter of the petition, while parties with an indirect interest are those whose rights, authorities, and/or interests are not directly affected by the subject matter of the petition but, due to their concern for the petition, may submit their statements as *ad informandum*.¹⁰ Some argue that Indirectly Interested Parties are similar to the concept of amicus curiae. Essentially, these parties have no direct impact on the substance of the petition, but their involvement in the case arises from a sense of concern. These parties may provide opinions or information in the case under discussion. However, it should be noted that this provision only applies to petitions for judicial review of laws or government regulations in lieu of laws before the Constitutional Court.

In judicial review proceedings at the Constitutional Court, parties who are not directly involved in the case but have an interest in the issues being discussed have been given the opportunity to provide information for the record. This information does not need to be heard in court but can be taken into consideration by the Court.¹¹ This is different from the position of directly interested parties whose statements are heard during court proceedings for consideration by the court.¹² Furthermore, the information provided by the parties is considered as evidence in the case examination process, because the Related Parties who are not directly involved are also considered as parties in this judicial review case.¹³ In addition, judges in judicial review cases may request the parties to present experts or witnesses.¹⁴ The provisions regarding statements from indirectly interested parties are similar to the concept of amicus curiae in terms of their purpose, which is to provide additional information to the judge. However, the difference lies in their position, whereby indirectly interested parties are considered parties to the case, and their statements are used as evidence.¹⁵

⁹ Pralampita, L. A. (2020) The position of amicus curiae in the Indonesian judicial system, p. 570

¹⁰ Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 26 paragraph (3)

¹¹ Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 57 paragraph (3)

¹² Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 57 paragraph (2)

¹³ Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 59

¹⁴ Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 59

¹⁵ Regulation of the Constitutional Court of the Republic of Indonesia Number 2/PMK/2021 concerning Guidelines for Proceedings in Cases of Judicial Review of Laws, Article 61 paragraph (1) and Article 62 paragraph (1)

Provisions regarding amicus curiae can be implicitly found in Article 89 paragraph (3) letter h of Law Number 39 of 1999 concerning Human Rights, which states "the provision of opinions based on the approval of the Chief Justice on certain cases that are currently in the judicial process, when there are human rights violations in public matters and court proceedings, and the opinion of Komnas HAM must then be communicated by the judge to the parties."¹⁶ This article emphasizes that the submission of opinions must first obtain the approval of the chief justice, and that the opinion must also be communicated to the parties involved. However, this article only limits the provision of opinions to Komnas HAM and does not specifically determine the type of human rights violations referred to, whether limited to criminal cases or all types of cases.¹⁷

The existence of Amicus curiae provided for academics is very important for the following reasons:¹⁸

- a. Participating in the realization of a democratic state based on the rule of law;
- b. Maintaining the law enforcement process by encouraging judges to continuously update their knowledge;
- c. Maintaining academic freedom by exploring science and opinions broadly, without being bound to the interests of any party;
- d. Increasing efficiency by eliminating the need to set aside special time to attend court.

1.2 The Role of Amicus Curiae in Improving the Quality of Judicial Decisions in Criminal Cases in Indonesia

In recent decades, the Indonesian criminal justice system has received numerous Amicus curiae submissions during court proceedings. There are various opinions among legal experts regarding the origin of the term Amicus curiae. Many legal experts believe that this concept originated from Roman legal tradition. The first Amicus curiae submission was known in a civil case between Soeharto and Time Magazine in 2008. This case began when the Asian edition of Time magazine, published on May 24, 1999, Volume 153 No. 20, published a full article with pictures about the plaintiff, Suharto. The article was titled "SUHARTO INC. How Indonesia's longtime boss built a family fortune."¹⁹ This case originated from a news report involving Time magazine as the defendant. At the first level of court, the panel of judges rejected all of the plaintiff's claims on the grounds that Time magazine's reporting did not meet the criteria for unlawful acts as stipulated in Articles 1365 and 1372 of the Civil Code. At the appellate level, the judge also upheld the decision of the Central Jakarta District Court. However, at the cassation stage, the Supreme Court issued a ruling overturning the decisions of the first instance and appellate courts. In response to the cassation decision, Time magazine, as the defendant, filed an extraordinary legal remedy in the form of a review.²⁰ In the case of Time v. Soeharto, the Press Council, Tempo Magazine, The Jakarta Post, and the Alliance of Independent Journalists (AJI) jointly submitted an amicus curiae brief to the Central Jakarta District Court on July 17, 2008. The opinion was then forwarded by the Deputy Registrar of the Central Jakarta District Court, Koreana J. Saragi, to the Registrar of the Supreme Court (MA). The purpose of this amicus brief was to support the guarantee of press freedom in Indonesia. In addition to these four institutions, around 23 international media outlets and non-governmental organizations (NGOs) also issued statements as "friends of the court." There is speculation that the submission of this amicus brief represents a breakthrough in judicial practice in Indonesia.²¹ Amicus curiae differs significantly from parties in civil intervention cases. This is because amicus curiae do not act as parties in the case, but rather express their particular interest in a case. The explanations provided by amicus curiae are usually submitted in the form of a written document known as an "amicus brief." Although these explanations can

¹⁶ Law No. 39 of 1999 on Human Rights, Article 89 paragraph (3) letter h

¹⁷ Notohamidjojo, O. (2011). Key issues in legal philosophy. Salatiga: Griya Media, p. 292-293

¹⁸ Aminah, S. (2014). *Becoming a sabahat of justice: A guide to drafting amicus briefs*. The Indonesian Legal Resource Centre (ILRC), p. 22

¹⁹ Ali, R. (2022, Agustus 12). Amicus curiae is used to assist in PK petitions. Hukumonline. Available from <https://www.hukumonline.com/berita/a/iamicus-curiae-dipakai-membantu-permohonan-pk--hol19896/> (Accessed on October 18, 2025)

²⁰ Institute for Criminal Justice Reform. (2012, Februari 22). Amicus curiae Time vs Soeharto. Available from <https://icjr.or.id/amicus-curiae-time-vs-suharto/> (Accessed on October 8, 2025)

²¹ Ali, R. (2022, October 12). Amicus curiae is used to assist in PK petitions. Hukumonline. Available from <https://www.hukumonline.com/berita/a/iamicus-curiae-dipakai-membantu-permohonan-pk--hol19896/?page=all> (Accessed on October 30, 2025)

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia **et al**

sometimes be delivered orally in court, the common practice is to submit them in written form.²² In the development of judicial practice in Indonesia, various interested parties often submit Amicus curiae briefs in various cases. The application of the Amicus curiae concept is not limited to certain types of judicial bodies and can be submitted to all judicial institutions at every level of the judiciary.²³

Table 1. Cases Involving Amicus Curiae Participation in Indonesia

No.	Case Number	Issue	Judicial Policy	Judge's Decision
1.	Tangerang District Court Decision No. 1269/PID.B/2009/P N.TNG	Freedom of opinion and expression/writing	The judge accepted the amicus brief as supplementary information.	The judge acquitted the defendant.
2.	Kupang District Court Decision No. Pid.Sus/2020/PN Kpg.	Right to Health Services in the Narcotics Law	The judge did not consider the amicus brief in his decision, nor did he explain whether the amicus curiae was accepted or rejected.	The judge sentenced the Defendant to 10 (ten) months in prison.
3.	Batulicin District Court Decision No. 268/Criminal/2021/PN Bln.	Cases of assault	The judge rejected the amicus brief because the content of the conviction decision was limited to the provisions of Article 197 of the Criminal Procedure Code, so that the Amicus curiae was not further considered by the Panel of Judges.	Sentencing the Defendant to 8 (eight) months imprisonment.
4.	South Jakarta District Court Decision No. 798/Crim.B/2022/P N.Jkt.Sel.	The murder case of Brigadier Nofriansyah Yosua Hutabarat	The judge accepted the amicus brief as material for consideration in determining the severity of the sentence.	The judge sentenced the defendant to 1 year and 6 months in prison.
5.	East Jakarta District Court Decision Number 202/Pid.Sus/2023/P N. Jkt Tim.	Freedom of opinion and expression/writing	The judge did not consider the amicus brief in his decision, nor did he explain whether the amicus curiae was accepted or rejected.	The judge acquitted the defendant.
6.	District Court Decision Number	Freedom of opinion and expression/writing	The judge did not consider the amicus brief. The amicus brief	Sentencing the Defendant to 6 (six) months imprisonment.

²² Rahmadi, A. A. G., & Budiana, I. N. (2021). Amicus curiae in the prosecution of criminal cases in court. *Kertha Semaya Journal*, 9, 332.

²³ Thomas, J., & Liman, V. (2024). *Analysis of opportunities for implementing the amicus curiae concept as a form of public participation in the judicial system in Indonesia*. *Journal of Law and Justice*, 13(1), 17.

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia **et al**

	99/Pid.Sus/2018/P N Ksn		was submitted as evidence by the Defendant/Defendant's Attorney during the trial.	
--	----------------------------	--	---	--

Source: Supreme Court Decision Directory, <https://putusan3.mahkamahagung.go.id/>

Based on the data and facts outlined above, the role of Amicus curiae is inseparable from the realization of public participation. This participation is related to cases with public and governmental dimensions that attract the attention of civil society organizations, academics, experts, and activists.²⁴ Active participation of the public as Amicus curiae will contribute to a better judicial process, resulting in fair and beneficial court decisions. The effectiveness of Amicus curiae depends on its ability to present convincing arguments that are in line with judicial considerations. Amicus curiae provides perspectives that may not be conveyed by the parties involved, thereby enriching the court's understanding of complex legal issues. With a variety of perspectives, Amicus curiae contributes to greater transparency in the judicial process, ensuring that decisions are made with a comprehensive understanding of the potential impact on society. Input from amicus curiae can assist judges in handling difficult cases where legal precedents may be unclear or where the public interest is at stake, thereby encouraging independent decision-making based on broader societal values. The existence of amicus curiae can serve as a legal innovation in providing additional material or information for judges in their deliberations. Amicus curiae can be a new source that helps judges in forming their opinions. In addition, amicus curiae also supports judges in carrying out their duties to explore and understand the values of justice that are developing in society.²⁵ The existence of amicus curiae has brought about legal breakthroughs, especially in finding additional materials and information that can support the judge's considerations. Thus, Amicus Curiae serves as a source of "new material" that can help judges in forming their opinions. In addition, amicus curiae also plays an important role in helping judges carry out their duties to explore the values of justice that exist in society. In this case, the party submitting the amicus curiae provides valuable new information to the judge.²⁶ The judge's decision not only contains legal considerations, but also broader considerations, namely the sociological impact that will arise from the decision.

Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Authority, which states that "Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that exist in society." This article emphasizes that judges may accept views from various parties who have an interest in the legal issue in question so that the decision meets the values of justice that exist in society. However, it should be noted that Amicus curiae petitions must not interfere with the independence of judges in deciding cases, which is guaranteed in Article 3 paragraph (1) and paragraph (2) of Law Number 48 of 2009. Judges also have the right to reject Amicus curiae petitions if, in their opinion, the arguments presented lack strong and credible legal reasoning and evidence. In practice, there are judges who reject Amicus curiae submissions because there are no procedural laws governing such provisions, given that procedural law in the judicial process is very important in realizing legal certainty in Indonesia. However, in some criminal cases, progressive judges accept and recognize the existence of Amicus curiae. The independence of judicial power, which is guaranteed by the constitution and applicable laws and regulations, is inherent in judges at all levels of the court system. This reflects that the courts exercise their authority in the field of justice. With an independent judiciary, Indonesia affirms itself as a country based on the rule of law.²⁷ Through judges who are members of judicial bodies, the principles of the rule of law, legal foundations, and justice can be upheld. Although in the process there may be many conflicts, the struggle to uphold the law, or what is often referred to as the rule of law, must still be carried out firmly.²⁸

²⁴ Suntoro, A. (2022). Urgence And Challenges of Regulation of Amicus Curiae in The Judicial System. *Journal of Law and Justice*, 11(3), 530, <http://dx.doi.org/10.25216/jhp.11.3.2022.523-544>

²⁵ Sukinta, S. (2021). The concept and practice of amicus curiae in the Indonesian criminal justice system. *Administrative Law and Governance Journal*, 4(1), 95, <https://doi.org/10.14710/alj.v4i1.89> - 98

²⁶ Soares, C. A., & Iswara, I. M. A. M. (2019). Amicus Curiae in The Criminal Evidence System in Indonesia. *Sociological Jurisprudence Journal*, 2(1), 71, <https://doi.org/10.22225/scj.2.1.1002.67-72>

²⁷ Kusnita, E., Rani, F. A., & Syahbandir, M. (2015). Limits on cassation in realizing judicial independence. *Journal of Legal Science*, 3(2), 49

²⁸ Busthami, D. (2017). Judicial power in the perspective of the rule of law in Indonesia. *Journal of Legal Issues*, 46(4), 340, DOI: 10.14710/mmh.46.4.2017

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia **et al**

Amicus curiae is one form of democratic system implementation. Democracy, which is at the core of the concept of good governance, requires the participation of all elements of society in every process of government administration. Public participation in every government activity is one of the main pillars of a democratic country. Thus, public participation is related to the function of one of the branches of power, namely the judiciary, in terms of law enforcement, which is manifested through the form of Amicus curiae.²⁹ Thus, such public participation is related to the function of one branch of government, namely the judiciary, in terms of law enforcement, which is manifested through the form of Amicus curiae.³⁰ The presence of Amicus curiae in the criminal justice system is a form of oversight and concern by Indonesian society regarding the administration of justice. The submission of Amicus curiae briefs can enrich the information available to judges, enabling them to consider various perspectives and expert analyses that may not be presented by the parties involved. This is particularly useful in cases involving complex legal questions or social implications. Although these opinions are not binding, they can influence judicial considerations by providing additional context and insight into the values that exist in society today. While the involvement of amicus curiae has potential benefits, there are still many challenges to be addressed, such as the lack of detailed procedural rules governing the submission of amicus curiae briefs, which can lead to inconsistencies in how judges receive and consider these contributions. The existence of amicus curiae is an important legal breakthrough in providing additional information to judges in their legal deliberations. Amicus curiae can be a new source that helps judges form their convictions and explore the values of justice that exist in society.³¹ However, there should be clear limits on the forms of public participation that can support the judiciary in improving accountability without compromising its independence.³² There are no clear provisions regarding when amicus curiae can be submitted, nor the criteria that must be met by individuals or institutions wishing to submit it. In addition, there is still no adequate explanation regarding the position of amicus curiae, its legal force in proving a criminal act, and the benefits and legal basis that can be used as a reference by judges in considering it. This lack of clarity has led to confusion regarding how, when, and on what basis judges can use amicus curiae as evidence. Therefore, it is important to clarify the legal basis and legal force of amicus curiae in the context of the evidentiary system under Indonesian criminal procedure law.³³

CONCLUSION

The influence of amicus curiae on court decisions shows that the presence of opinions from third parties can significantly affect the outcome of a judge's decision. Amicus curiae provides new and relevant perspectives and information, enriching the judge's understanding of complex legal issues and helping them make decisions that are more fair and reflect the values of society. The implementation of amicus curiae supports transparency in the judicial process and allows judges to consider arguments that may not be presented by the parties involved. This is particularly important in cases that face profound legal challenges or social implications. However, there are challenges that must be overcome, such as the lack of clear regulations on the procedure for submitting amicus curiae, which can lead to uncertainty in its acceptance. Judges also have the right to reject opinions that are deemed not credible or irrelevant, so it is important to ensure that amicus curiae contributions continue to support the independence of judges in deciding cases. Overall, active public participation through amicus curiae has the potential to improve the quality of judicial decisions, but requires better regulation to optimize its effectiveness in the Indonesian legal system.

REFERENCES

-
- ²⁹ Gandryani, F., & Hadi, F. (2023). The role of higher education institutions in law enforcement in Indonesia through amicus curiae. *Judicial Journal*, 16(2), 173.
- ³⁰ Gandryani, F., & Hadi, F. (2023). The role of higher education institutions in law enforcement in Indonesia through amicus curiae. *Judicial Journal*, 16(2), 173.
- ³¹ Suntoro, A. *Op.Cit.*, 527
- ³² Hapsoro, F. L. (2021). Public scrutiny of judges' decisions in corruption cases: Perspectives on accountability and independence of judicial power (Thesis, Padjadjaran University, Bandung).
- ³³ Sucipta, D. H., & Darma, I. M. W. (2022). Amicus Curiae as the development of evidence in the Criminal Procedure Code. *Bina Mulia Law Journal*, 7(1), 19, <https://doi.org/10.23920/jbmh.v7i1.576>

- Ali, R. (2022, Agustus 12). Amicus curiae dipakai membantu permohonan PK. Hukumonline. Available from <https://www.hukumonline.com/berita/a/iamicus-curiae-dipakai-membantu-permohonan-pk--hol19896/>.
- Amarini, I. (2019). Implementation of Judicial Activism in Judge's Decision. *Jurnal Hukum dan Peradilan*, 8(1), 21-38, <http://dx.doi.org/10.25216/jhp.8.1.2019.21-38>.
- Aminah, S. (2014). Becoming a sabahat of justice: A guide to drafting amicus briefs. The Indonesian Legal Resource Centre (ILRC).
- Aulia, F., & Muksin, M. R. S. (2020). The Position of Amicus Curiae under the Indonesian Law of Evidence. *Jurnal Media Hukum*, 27(2), 217:227, <https://doi.org/10.18196/jmh.20201152>.
- Busthami, D. (2017). Kekuasaan kehakiman dalam perspektif negara hukum di Indonesia. *Jurnal Masalah-Masalah Hukum*, 46(4), 336-342 DOI: 10.14710/mmh.46.4.2017.
- DeMatteo, D., & Wiltsie, K. (2023). When Amicus Curiae Briefs are Inimicus Curiae Briefs: Amicus Curiae Briefs and the Bypassing of Admissibility Standards (SSRN Scholarly Paper No. 4662644). SSRN Scholarly Paper Series.
- Gandryani, F., & Hadi, F. (2023). Peran perguruan tinggi dalam penegakan hukum di Indonesia melalui amicus curiae. *Jurnal Yudisial*, 16(2), 161-182.
- Gao, H. S. (2006). Amicus curiae in WTO dispute settlement: Theory and practice. *China Right Forum*, 1, 51.
- Garner, B. A. (Ed.). (2009). *Black's law dictionary* (9th ed.). West Thomson Reuters, p. 98.
- Hapsoro, F. L. (2021). Eksaminasi publik terhadap putusan hakim kasus korupsi: Perspektif akuntabilitas dan independensi kekuasaan kehakiman (Tesis, Universitas Padjadjaran, Bandung).
- Institute for Criminal Justice Reform. (2012, Februari 22). Amicus curiae Time vs Soeharto. Available from <https://icjr.or.id/amicus-curiae-time-vs-suharto/>.
- Kochevar, S. (2013). Amici Curiae In Civil Law Jurisdictions. *The Yale Law Journal*, 122(6).
- Kusnita, E., Rani, F. A., & Syahbandir, M. (2015). Kasasi limit dalam mewujudkan independensi hakim. *Jurnal Ilmu Hukum*, 3(2), 46-54.
- Legal Information Institute. (n.d.). Amicus curiae. Cornell Law School. Available from https://www.law.cornell.edu/wex/amicus_curiae.
- Muhammadiyah. (2013). Partisipasi publik sebagai strategi mewujudkan good governance otonomi daerah. *Otoritas: Jurnal Ilmu Pemerintahan*, 3(1).
- Notohamidjojo, O. (2011). Soal-soal pokok filsafat hukum. Salatiga: Griya Media.
- Online Etymology Dictionary. (n.d.). Amicus Curiae. Available from <https://www.etymonline.com/word/amicus%20curiae>.
- Peter Mahmud Marzuki, Penelitian Hukum, (Prenada Media Group: Jakarta, 2005).
- Pralampita, L. A. (2020). Kedudukan amicus curiae dalam sistem peradilan di Indonesia, p. 558-570
- Prayoga, M. N. (2024). Amicus Curiae dalam Sistem Peradilan Pidana: Perspektif KUHP Nasional dan Perbandingan. *Recht Studiosum Law Review*, 3(2), p. 139-152, <https://doi.org/10.32734/rsr.v3i2.16299>.
- Purwantono, R. A., & Sembiring, S. N. (2024). Amicus curiae (Konsep, Praktik, dan Tantangan Penerapannya di Indonesia. Depok: Rajawali Pers.
- Rahmadi, A. A. G., & Budiana, I. N. (2021). Amicus curiae dalam pembuktian perkara pidana di pengadilan. *Jurnal Kertha Semaya*.
- Soares, C. A., & Iswara, I. M. A. M. (2019). Amicus Curiae in The Criminal Evidence System in Indonesia. *Sociological Jurisprudence Journal*, 2(1), 67-72, <https://doi.org/10.22225/scj.2.1.1002.67-72>
- Sucipta, D. H., & Darma, I. M. W. (2022). Amicus Curiae as the development of evidence in the Criminal Procedure Code. *Jurnal Bina Mulia Hukum*, 7(1), 17-30, <https://doi.org/10.23920/jbmh.v7i1.576>
- Sukinta, S. (2021). Konsep dan praktik pelaksanaan amicus curiae dalam sistem peradilan pidana Indonesia. *Administrative Law and Governance Journal*, 4(1), 95, <https://doi.org/10.14710/alj.v4i1.89> - 98
- Suntoro, A. (2022). Urgence And Challenges of Regulation of Amicus Curiae in The Judicial System. *Jurnal Hukum dan Peradilan*, 11(3), 530, <http://dx.doi.org/10.25216/jhp.11.3.2022.523-544>
- Thomas, J., & Liman, V. (2024). Analysis of opportunities for implementing the amicus curiae concept as a form of public participation in the judicial system in Indonesia. *Jurnal Hukum dan Peradilan*, 13(1), 1-32.

Peraturan Perundang-Undangan

Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana

THE ROLE OF AMICUS CURIAE IN IMPROVING THE QUALITY OF JUDICIAL DECISIONS IN CRIMINAL CASES IN INDONESIA

Yessika Florencia **et al**

Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia

Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman

Peraturan Mahkamah Konstitusi Republik Indonesia Nomor 2/PMK/2021 tentang Pedoman Beracara dalam Perkara Pengujian Undang-Undang