

Comparative Study Application of Amicus Curiae (Friends of The Court) In Criminal Courts In Indonesia and The United States

Hafidz Akbar Ghiffary^{1*}, Lisa Umami²

¹Universitas Jenderal Soedirman

²Universitas Pendidikan Indonesia

✉ hafidzaghiffary@gmail.com

Submitted : 16/05/2025

Revised : 08/07/2025

Accepted : 09/07/2025

Abstract

Amicus Curiae (friend of the court) refers to a third party, not directly involved in litigation, who voluntarily offers legal opinions or insights relevant to a case in order to assist the court in its deliberations. This practice has long been recognized and systematically regulated in common law jurisdictions, particularly in the United States. In contrast, Indonesia—operating under a civil law system—has begun to incorporate the use of Amicus Curiae in several criminal cases, despite the absence of formal and standardized procedural rules. This legal study aims to analyze the application of Amicus Curiae in the Indonesian context and to compare its implementation in the criminal justice systems of Indonesia and the United States. Employing a normative and comparative juridical approach, this research is grounded in normative legal methodology and relies primarily on secondary data obtained through comprehensive literature review and presented systematically. The study identifies two key findings: first, although Indonesia lacks explicit legal provisions regulating Amicus Curiae, its application has been permitted in certain criminal cases based on the authority granted under Article 5(1) of Law No. 48 of 2009 on Judicial Power; second, in contrast to the United States, Indonesia does not possess a codified framework that clearly governs the submission and evaluation of Amicus Curiae briefs. In light of these findings, this paper argues for the urgent need to develop standardized legal guidelines for Amicus Curiae in Indonesia, in order to ensure consistency, transparency, and legal certainty within the criminal justice process.

Keywords: Amicus Curiae; Civil Law System; Common Law System.

Copyright©2024 Jurnal Idea Hukum. All rights reserved.

Introduction

A system is a unified entity composed of interrelated elements that function through mutual interaction. Ideally, a system seeks harmony among its components; any arising conflicts are addressed and resolved internally by the system itself.¹ According to J.H. Merryman, the legal system is a set of operations that includes institution, procedures, the rule of law, the legal system of each nation separately, and there are different legal systems as well as in the European Economic Community and the United Nations Organizations.² The legal system in the world is divided into three kinds of family legal systems, or the main legal tradition that has become a practice and is generally recognized, The three legal families are: Civil law, common law, and socialist law represent distinct legal

¹ Teguh Prasetyo and Abdul Halim Barkatullah, *Filsafat, Teori, & Ilmu Hukum* (Jakarta: Rajagrafindo Persada, 2012).

² Ade Maman Suherman, *Pengantar Perbandingan Sistem Hukum, Civil Law, Common Law, Hukum Islam* (Jakarta: Rajagrafindo Persada, 2004).

traditions. A legal tradition refers to a historically grounded and deeply embedded framework of beliefs and attitudes concerning the nature of law, the function of law within society, political ideology, and the structure and operation of the legal system.³

The term "family legal system" (parent legal system) is commonly used by comparative legal experts to name an organizational order that is most important in the framework of analyzing the legal systems of various countries in the world. Family law is the eponymous model of certain laws that can be considered typical. A representative of a family that groups a number of laws. Thus, the term family legal system can be equated with major legal systems (major legal system) or even simply written as a legal Family (Legal family, *famille juridique*).⁴ The judicial system adopted by Continental European countries, known as civil law, is rooted in Roman law. It is termed 'civil law' because Roman law originated from Emperor Justinian's monumental compilation, *Corpus Juris Civilis*. Civil law was brought by France when colonizing the Netherlands which is in René David's classification of the Romano Germanic Legal Family, so that the Indonesian legal system until now is the result of Dutch colonization in Indonesia for more than three centuries. This legal system closely resembles that of several Continental European nations, which is why it is frequently referred to as the Continental European legal system or Civil Law tradition.⁵

The system developed in England because it is based on the original law of the English people is called common law, this system is adhered to by the Anglican and Saxon tribes that inhabit most of England so it is called the Anglo-Saxon system.⁶ Former British colonies adhere to the common law system, one of which is the United States which is a former British colony that uses the common law system. In implementing the common law system, known as the term *Amicus Curiae* which has the meaning of "friends of court".⁷ As Salmon LJ's opinion in *Allen v. Sir Alfred McAlpine Sons Ltd.* (1968) in the United States Supreme Court (us) demonstrates, the function of *Amicus Curiae* is not only to assist the court but also to advance the development of the law itself: "I had always understood that the role of an *Amicus Curiae* was to help the court by expounding the law impartially, or if one of the parties were unrepresented, by advancing the legal arguments on his behalf".⁸

Amicus Curiae is traditionally associated with the common law legal system. However, as legal developments progress in Indonesia, its application has emerged in various Indonesian courts, particularly within the criminal justice system. The incorporation of certain judicial principles from common law—such as the presumption of innocence—into Indonesia's criminal justice process has made the

³ Peter De Cruz, *Perbandingan Sistem Hukum*, Translated by Narulita Yusron (Bandung: Nusamedia, 2017).

⁴ Yesmil Anwar, *Pembaruan Hukum Pidana: Reformasi Hukum* (Grasindo, 2008).

⁵ Choky Ramadhan, "Konvergensi Civil Law dan Common Law di Indonesia dalam Penemuan dan Pembentukan Hukum" (2018) 30:2 *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 213–229. <https://doi.org/10.29303/ulrev.v4i2.126>

⁶ Peter Mahmud Marzuki and M S Sh, *Pengantar Ilmu Hukum* (Prenada Media, 2021).

⁷ Aminah Siti, "Menjadi Sahabat Keadilan: Panduan Menyusun Amicus Brief," *The Indonesian Legal Resource Center (ILRC)*, 2014, <https://mitrahukum.org/wp-content/uploads/2015/02/Amicus-Brief.pdf>.

⁸ Siti.

use of *Amicus Curiae* in criminal cases increasingly relevant and appropriate.⁹ The purpose of the *Amicus Curiae* is to provide an overview of the law and the case to parties who do not participate in court and also to assess the law and the case independently. *Amicus Curiae* does not constitute an intervention intended to influence a court's ruling. Instead, it represents the exercise of a party's right—whether an individual or institution—to express a legal opinion regarding a case under judicial review. This is particularly relevant when the court's decision is expected to have broader implications beyond the immediate litigants.¹⁰

The development of *Amicus Curiae* in countries that embrace the common law legal system never stops, until finally all countries in the world that use the common law legal system recognize the practice of *Amicus Curiae*. This does not just happen.¹¹ In the United States, for example, the United States Supreme Court initially did not allow *Amicus Curiae* participation in proceedings until the nineteenth century, when the United States Supreme Court allowed *Amicus Curiae* participation in trials.¹² *Amicus Curiae* is a new legal concept in the judicial system in Indonesia. This is a legal result of the democratic system adopted by Indonesia.¹³ Citizen participation in law enforcement is manifested through the practice of *Amicus Curiae*; however, this practice remains unregulated by positive law in Indonesia. This lack of formal regulation is attributable to Indonesia's adherence to the civil law legal system.¹⁴ Institutions engaged in social and humanitarian affairs do not cease to provide explanations about the legal facts in a case in Indonesia, although *Amicus Curiae* has not been regulated in Indonesia.

On April 14, 2022, the Registrar of the Supreme Court received *Amicus Curiae* for the material test of Permendikbud number 30 of 2021 on the prevention and handling of sexual violence in the college environment from the Civil Society Coalition, which is a combination of several CSOs (civil society organizations), namely Lembaga Advokasi untuk Independensi Peradilan, Yayasan Lembaga Bantuan Hukum Indonesia, the Institute for Criminal Justice Reform, Masyarakat Pemantauan Peradilan Indonesia Fakultas Hukum Universitas Indonesia, Yayasan Lembaga Bantuan Hukum Asosiasi Perempuan untuk Keadilan, and the Southeast Asia Freedom of Expression Network.¹⁵ The *Amicus Curiae* contains written comments on the A quo case so that it can be considered by the panel of judges and hopes that the Supreme Court can issue regulations containing *Amicus Curiae*-related arrangements that apply to all courts under the Supreme Court of the Republic of Indonesia. The practice of *Amicus Curiae* is a legal practice derived

⁹ Sukinta, "Konsep dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia" (2021) 4:1 Administration Law Government Journal 89–98. <https://doi.org/10.33061/wh.v2i4.616>

¹⁰ Siti, "Menjadi Sahabat Keadilan: Panduan Menyusun Amicus Brief."

¹¹ Steven Kochevar, "Amici Curiae in Civil Law Jurisdictions," *Yale LJ* 122 (2012): 1653, <https://doi.org/https://doi.org/10.5167/uclivre-102682>.

¹² Henry Shuchao Gao, "Amicus Curiae Briefs in the WTO Dispute Settlement System: Theory and Practice," *China Rights Forum: The Journal of Human Rights in China* 11 (2004): 388–416.

¹³ Sukinta, "Konsep Dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia," 2021.

¹⁴ Nia Juniawati Ma'ruf, "Kedudukan Amicus Curiae Dalam Penyelesaian Tindak Pidana Pencemaran Nama Baik Di Pengadilan (Studi Kasus Putusan Nomor 1269/Pid. B/2009/Pn. Tng)" (Universitas Islam Indonesia, 2018), <https://dspace.uui.ac.id/handle/123456789/6782>.

¹⁵ Asep Nursobah, "Melalui Panitera MA, Koalisi Masyarakat Sipil Serahkan Amicus Curiae," Mahkamah Agung RI, 2022.

from the common law legal system. However, because the boundary between the common law and civil law systems is very thin, *Amicus Curiae* has become a common practice among litigants in the Indonesian judiciary.¹⁶

This research is a new research that has never been conducted by previous researchers. Several academic journals that raise the same issue of *Amicus Curiae* and are references for this research include. First, Perry and Keyzer highlights the practical difficulties faced by applicants who wish to become *amicus curiae* in Australian courts to present oral arguments.¹⁷ Second, Sukinta highlights *Amicus Curiae* is a common practice in the Common Law legal system.¹⁸ Third, Aulia and Mukhsin highlights the use of *amicus curiae* has been common in Indonesia, especially in criminal courts.¹⁹ Based on the foregoing, this study will examine the use of *Amicus Curiae* in criminal justice in Indonesia, a country that follows the civil law system, and compare it to the use of *Amicus Curiae* in the United States, which follows the common law system and is the origin of the *Amicus Curiae*. This study was chosen as a final project with the title Comparative Study Application of *Amicus Curiae* (Friends of The Court) In Criminal Courts In Indonesia And The United States. The results of this study are expected to be useful practically in the form of input for law enforcement officers in terms of implementing *Amicus Curiae* in the criminal justice system in Indonesia. In addition, the results of this writing are expected to add insight to the author and reader in the application of *Amicus Curiae*, which is a new term to be applied in the criminal system in Indonesia that uses the civil law system.

Research Problems

Based on the above background, the researcher formulated the problem as follows: first, Is *Amicus Curiae* (friends of the court) can be applied in Indonesia?; Second, How are the similarities and differences in the application of *Amicus Curiae* (friends of the court) in criminal justice in Indonesia and the United States?

Method

This legal research aims to analyze the application of *Amicus Curiae* in the Indonesian context and compare its application in the Indonesian and United States criminal justice systems using normative and comparative legal approaches. The research was conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are sourced from Law Number 48 of 2009 concerning Judicial Power, Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), the Supreme Court of the United States, and other regulations. Secondary legal materials are obtained through literature studies in the form of law books, official documents, and legal journals containing basic principles

¹⁶ Nursobah.

¹⁷ H W Perry and Patrick Keyzer, "Human Rights Issues in Constitutional Courts: Why Amici Curiae Are Important in the US, and What Australia Can Learn from the US Experience," *Law in Context* 37, no. 1 (2020): 66–98, <https://doi.org/http://dx.doi.org/10.26826/law-in-context.v37i1.127>.

¹⁸ Sukinta, "Konsep Dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia," *Administrative Law and Governance Journal* 4, no. 1 (2021): 89–98, <https://doi.org/https://doi.org/10.14710/alj.v4i1.89-98>.

¹⁹ Fadil Aulia and Muchlas Rastra Samara Muksin, "The Position of Amicus Curiae under the Indonesian Law of Evidence," *Jurnal Media Hukum* 27, no. 2 (2020), <https://doi.org/10.18196/jmh.20200152>.

(principles) of law, views of legal experts (doctrines), legal research results, articles, and documents related to the application of *Amicus Curiae*. Tertiary legal materials (non-legal materials) used include other dictionaries, encyclopedias, and others. Data analysis was conducted qualitatively, normatively by describing prescriptively based on legal norms or legal rules applicable in the application of *Amicus Curiae*.²⁰ Furthermore, comparative analysis was conducted by comparing criminal law policies on the application of *Amicus Curiae* in Indonesia and the United States.²¹

Discussions

1. Application of *Amicus Curiae* in Criminal Justice in Indonesia.

Although the application of *Amicus Curiae* is not explicitly regulated within the Criminal Procedure Code or other legislation, it has been practiced on several occasions within Indonesia's criminal justice system. The legal basis for filing *Amicus Curiae* relies on Article 5 Paragraph (1) of Law No. 48 of 2009 on Judicial Power, which mandates judges and constitutional judges to explore, follow, and understand the legal values and sense of justice prevailing in society. The presence of these societal legal values and justice perceptions motivates individuals or organizations to submit *Amicus Curiae*, as it serves as a medium for conveying community opinions and values regarding law and justice. The Code of Criminal Procedure or Law No. 8 of 1981 on Criminal Procedure in Article 180 paragraph (1) States "... *Hakim ketua sidang dapat minta keterangan ahli dan dapat pula agar diajukan bahan baru oleh yang berkepentingan*". The sentence indirectly refers to the concept of *Amicus Curiae* as a person or organization that has an interest in proposing a new material.

The legal basis for the submission of *Amicus Curiae*, which is still explicit, makes the legal position of the amicus brief in the criminal justice legal system in Indonesia unclear because there are no regulations that explicitly discuss the legal position of the amicus brief. Regardless of whether it is regarded as testimonial evidence, expert testimony, documentary evidence, or circumstantial evidence, there have been instances where *Amicus Curiae* submissions have been utilized as evidence, either in the form of expert opinions or documentary materials. There are two points of view regarding the application of the amicus brief: the formal and the material points of view. From a formal point of view, the amicus brief is admissible evidence that has evidentiary value only if it is related to other forms of evidence, while from a material point of view, the judge has the freedom to judge the evidence in the amicus brief.²² According to researchers, the application of *Amicus Curiae* in Indonesia is several times put on the letter evidence, *Amicus Curiae* through his opinion in writing called amicus brief. The opinion of *Amicus Curiae* is not mandatory for consideration by the judge, but the amicus brief containing new information will greatly assist the judge in understanding the case

²⁰ Ishaq Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi* (Bandung: Alfabeta, 2017).

²¹ Sunaryati Hartono, *Penelitian Hukum Di Indonesia Pada Akhir Abad Ke-20* (Bandung: Alumni, 1994).

²² Fadil Aulia and Muchlas Rastra Samara Muksin, "The Position of *Amicus Curiae* under the Indonesian Law of Evidence," *Jurnal Media Hukum* 27, no. 2 (2020): 217-27, <https://doi.org/https://doi.org/10.18196/jmh.20201152>. <https://doi.org/10.18196/jmh.20201152>

being judged. *Amicus Curiae* in Indonesia is given only in favor or defense of the accused only.

Indonesia adopts a closed and restrictive evidentiary system, whereby parties are not permitted unrestricted freedom to present any type or form of evidence during the case resolution process. The law has strictly defined the types of evidence that can be legally recognized. Restrictions on the freedom to present evidence also apply to judges. If the litigant submits evidence that falls outside the procedural requirements stipulated by the applicable law, the judge is obligated to reject and disregard such evidence in the case resolution process.²³ The qualification of *Amicus Curiae* as evidence in the criminal justice system in the Indonesian court is still a matter of debate, referred to not as a means of evidence because the settlement of a case in the Indonesian court is still normatively based on the Criminal Procedure Code (*KUHAP*) at this time, as well as the evidence is still guided by the evidence that has been presented.²⁴ According to Gatot Sarwadi, *Amicus Curiae* cannot be categorized as one of the types of evidence listed in the Criminal Procedure Code. *Amicus Curiae* is categorized as new evidence that the material does not have a standard form because it has not been formally regulated in the current legislation. The evidentiary power of the *Amicus Curiae* lies in the judge's confidence in assessing the content and relevance of the related *Amicus Curiae*.²⁵

The application of *Amicus Curiae* in Indonesia was ruled out by a panel of judges of the North Jakarta District Court filed by Komisi untuk Orang Hilang dan Korban Tindak Kekerasan or commonly known dengan KontraS in the case of an attack on Novel Baswedan on 18 June 2020. Considering that the criminal justice system in Indonesia, regulated by the Criminal Procedure Code, does not recognize what is called *Amicus Curiae*, The presiding judge, Djuyamto, explained: "The panel of judges understands the purpose of the *Amicus Curiae* submitted by KontraS. However, considering that the function of criminal procedural law is to affirm substantive criminal law, where the panel or court serves as a forum to examine the results of the investigation and prosecution regarding alleged violations of substantive criminal law, any matters related to the investigation or prosecution stages cannot be directly considered by the panel or the court."²⁶ According to the judge in the case, the *Amicus Curiae* submitted by KontraS was excluded because it was not directly related to the case in his judicial practice in Indonesia. Criminal law lecturer Abdul Fickar Hadjar stated "*Hakim yang tidak mempertimbangkan Amicus Curiae berpotensi menjadi hakim yang ditinggalkan zamannya*".²⁷

²³ M Yahya Harahap, *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan* (Jakarta: Sinar Garfika, 2017).

²⁴ Rizal Hussein Abdul Malik, Antonius Sidik Maryono, and Pramono Suko Legowo, "Penerapan *Amicus Curiae* Dalam Pemeriksaan Perkara Di Pengadilan Negeri Tangerang," *Soedirman Law Review* 4, no. 2 (2022), <https://doi.org/https://doi.org/10.20884/1.slr.2022.4.2.189>.

²⁵ Malik, Maryono, and Legowo.

²⁶ M Yusuf Manurung and Juli Hantoro, "Hakim Tolak *Amicus Curiae* KontraS Untuk Novel Baswedan," *Tempo*, 2020.

²⁷ Ramadhan, "*Amicus Curiae*' Dari KontraS Yang Ditolak Hakim Dalam Kasus Penyerangan Novel Baswedan," 2021.

The provisions of Article 24 paragraph (1) of the 1945 Constitution stipulate that the judicial power is an independent power to administer the judiciary in order to enforce law and justice. This is one of the characteristics of the rule of law: the judiciary must be free (independent) and impartial. An independent court is essentially related to the desire to obtain a fair decision through the consideration and authority of an independent judge without the influence and interference of other parties. The authority of impartial judges over the justice seeker service process is intended to keep justice seekers from engaging in negative behavior. Independence concerns substantial values, while impartiality relates to the values of procedures.²⁸ Each judge has an independence that must be respected, including by the Supreme Court itself. Therefore, if a judge is given an opinion by *Amicus Curiae* (friends of the court), the judge has the right to ignore or reject the opinion based on the nature of the independence that is not bound by anyone.

2. Similarities and Differences in The Application of *Amicus Curiae* (Friends of The Court) to Criminal Justice in Indonesia and the United.

Law is a system, i.e. a set of norms. As a system, law has the general nature of a system. There are at least three general characteristics that are whole (whole), have several elements (elements), are interrelated (relations), and then form a structure (structure). Based on this, the legal system has its own way of working to measure the validity of a norm in a legal system.²⁹ Most legal systems in the world today have a number of characteristics that are specifically identified with one or two of the three main legal traditions, or "parent legal families," namely civil law, common law, and socialist law. This, of course, does not mean that these three things encompass all possible legal systems in the modern world. In some regions, such as Asia, Africa, and Islamic countries, a very strong element of customary law (which is not of European origin) still prevails and is quite clearly seen in varying degrees.³⁰

The legal system in Indonesia uses the civil law system, where legal material is planned and made in written form, namely the law. The civil law system is a continental or mainland European legal system. Then it was adopted by many countries in the world through a certain dissemination process, so that its adherent countries were included in the civil law system group. When the civil law system is accepted and enforced by a country, the coordinated "enacted law" becomes a characteristic and at the same time a source of law.³¹ While the legal system in the United States uses the common law system, the law under the common law system is customary and tested through concrete cases in court, and the court's decision will set a precedent for the cases examined later. The term "common law" comes from the French "commune-ley" (from Lat: *communis lex*), which refers to an

²⁸ M. Hatta Ali, *Peradilan Sederhana, Cepat, & Biaya Ringan Menuju Keadilan Restoratif* (Bandung: PT Alumni, 2012).

²⁹ Parman Soeparman, *Pengaturan Hak Mengajukan Upaya Hukum Peninjauan Kembali Dalam Perkara Pidana Bagi Korban Kejahatan* (Refika Aditama, 2007).

³⁰ Ida Keumala Jeumpa, "Contempt of Court: Suatu Perbandingan Antara Berbagai Sistem Hukum," *Kanun Jurnal Ilmu Hukum* 16, no. 1 (2014): 147–76. <https://doi.org/10.24815/kanun.v16i1.6024>

³¹ Louisa Yesami Krisnalita et al, "The Legal Position of *Amicus Curiae*'s Opinion on Criminal Judicial Processes in Indonesia" (2022) 6:1 *Justitia Jurnal Hukum*. <http://dx.doi.org/10.57185/joss.v4i3.440>.

unwritten English custom and through which the decisions of judges are made legally enforceable.³²

The organization of criminal justice in the United States is experiencing the development of several models. The model in question is not something that appears to be real in a system adopted by a country, but a value system that is built on the basis of observations of criminal justice practices in various countries. In the implementation of criminal justice in the United States, two models are known in the process of examining criminal cases (two models of the criminal process) namely; Due Process Model dan Crime Control Model.³³ The tradition of the common law system in court proceedings strongly emphasizes "orality," so it uses speech more often than written documents. This system is called the adversary system, in which the parties and their legal counsel control the case; they strategize, dig up evidence, and present it in court. Both sides fought, generally putting witnesses on the stand and asking questions.³⁴

The highest source of law in the common law system is the custom of the community that has been developed in court or has become a court decision, so the source of law is derived from this custom, which then makes this legal system called the common law system or unwritten law.³⁵ One of the characteristics of a legal state that adheres to the common law system is the presence of precedent, which is the tradition of the common law system itself. Precedent binds judges to the decisions of previous judges when facing the same or similar cases.³⁶ The United States as a common law country used to file *Amicus Curiae* for cases that were in the process of appeal and in which issues of public interest, such as social issues or civil liberties, were being debated and whose judges' rulings would have far-reaching repercussions on people's rights.³⁷ Function of *Amicus Curiae* according to Samuel Krislov, namely: "The function of the *Amicus Curiae* at common law was one of oral Shepardizing".³⁸ Shepardizing That is, to ensure a legal decision's subsequent treatment, thereby placing its precedent value in a complete context.

In the common law tradition, *Amicus Curiae* are widely recorded in the All England Report. As we know, Indonesia, in its development, has embraced mixed types (mixture) in the Indonesian criminal justice system.³⁹ The description of *Amicus Curiae* in Indonesia is the way in which the court is given permission to invite third parties who have an interest in or concern for the case, or on their own

³² Budiono Kusumohamidjojo, *Perbandingan Hukum Kontrak (Comparative Contract Law)* (Bandung: Mandar Maju, 2015).

³³ Supriyanto, "Perkembangan Sistem Peradilan Pidana," *Jurnal Wacana Hukum* 2, no. 4 (2003), <https://doi.org/https://doi.org/10.33061/wh.v2i4.616>.

³⁴ Lawrence M Friedman, *American Law: An Introduction*, Trans by Wishnu Basuki (Jakarta: PT Tatanusa, 2001).

³⁵ Farihan Aulia and Sholahuddin Al-Fatih, "Perbandingan Sistem Hukum Common Law, Civil Law Dan Islamic Law Dalam Perspektif Sejarah Dan Karakteristik Berpikir," *Legality: Jurnal Ilmiah Hukum* 25, no. 1 (2017): 98–113. <https://doi.org/10.18196/jmh.20201152>

³⁶ Zaka Firma Aditya, "Judicial Consistency Dalam Putusan Mahkamah Konstitusi Tentang Pengujian Undang-Undang Penodaan Agama," *Jurnal Konstitusi* 17, no. 1 (May 2020): 080, <https://doi.org/10.31078/jk1714>. <https://doi.org/10.31078/jk1714>

³⁷ Siti, "Menjadi Sahabat Keadilan: Panduan Menyusun Amicus Brief."

³⁸ Samuel Krislov, "The Amicus Curiae Brief: From Friendship to Advocacy," *Yale LJ* 72 (1962): 694, <https://doi.org/http://hdl.handle.net/20.500.13051/14846>.

³⁹ Romli Atmasasmita, *Sistem Peradilan Pidana Kontemporer* (Bandung: PT Rafika Aditama, 2010).

initiative, to assist the court by providing information or legal facts related to issues that are not yet familiar.⁴⁰ *Amicus Curiae*, which literally translates as "friends of the court," is a legal concept that allows a third party who feels an interest in a case to give his legal opinion to the court. The "involvement" of interested parties in a case, giving an opinion, not fighting like *Derden Verzet*.⁴¹ People who are not lawyers can participate in ongoing cases in court through *Amicus Curiae*, either orally in the trial or in writing. A written document is called an *amicus* brief. *Amicus Curiae* did not have to attend the trial to express its opinion. *Amicus Curiae* serves to help judges be fair and wise in deciding a case.⁴² The involvement of several credible international NGOs in the development of *Amicus Curiae* demonstrates that the practice of *Amicus Curiae* has received widespread recognition as one of the positive mechanisms that citizens who want to participate in the judicial process can use.⁴³

Amicus Curiae may testify at trial at his own request or as requested by the court but must have the permission of the Chief of Courts. The purpose of *Amicus Curiae* is to provide information to aid the examination and to participate in some way. The information given can also be in the form of facts or scientific legal opinions.⁴⁴ The form of participation of third parties is not known in the Criminal Procedure Code, which means that in the case of litigation, other parties are not known, in addition to law enforcement officers (prosecutors), suspects (legal advisers), and judges. While in civil law there are other parties interested in entering into a dispute called "intervention."⁴⁵

Through the *Amicus Curiae* mechanism, the court is given permission to receive and invite third parties to provide information or legal facts related to unfamiliar issues. In countries that have recognized and accommodated *Amicus Curiae* or international courts related to human rights violations, the judge will usually consider and assess *Amicus Curiae* in his or her decision.⁴⁶ The submission of *Amicus Curiae* is considered by the judge if a case is casuistic (the opinion/decision taken only applies to certain events). Expert qualifications actually have special expertise, as regulated in Article 1 Number 28, which states that: "*keterangan ahli adalah keterangan yang diberikan oleh seorang ahli yang memiliki keahlian khusus tentang hal yang diperlukan untuk membuat terang suatu perkara pidana guna kepentingan pemeriksaan.*"⁴⁷ The oral filing of *Amicus Curiae*

⁴⁰ Refki Saputra, "Refleksi Peran Kantor Penghubung Komisi Yudisial dan Partisipasi Masyarakat dalam Pengawasan Peradilan di Indonesia" (2018) 6 Peran Partisipasi Publik Dalam Upaya Pembinaan Pengadilan Di Indonesia 17–29. <https://doi.org/10.33369/ubelaj.6.2.114-132>.

⁴¹ Ali Salmande, "Dasar Hukum Sahabat Pengadilan (*Amicus Curiae*) Di Indonesia," Hukum Online, 2011.

⁴² Sukinta, "Konsep Dan Praktik Pelaksanaan *Amicus Curiae* Dalam Sistem Peradilan Pidana Indonesia," 2021.

⁴³ Kochevar, "Amici Curiae in Civil Law Jurisdictions."

⁴⁴ Linda Ayu Pralampita, "Kedudukan *Amicus Curiae* Dalam Sistem Peradilan Di Indonesia" (2020) 5:3 Journal Lex Renaissance, online: <<https://journal.uui.ac.id/Lex-Renaissance/article/view/17677/pdf>>. <https://doi.org/10.20885/JLR.vol5.iss3.art4>

⁴⁵ Cesaltina Angela Soares & I Made Agus Mahendra Iswara, "Amicus Curiae In The Criminal Evidence System In Indonesia" (2019) 2:1 Sociology Jurisprudence Journal 67–72. <https://doi.org/10.22225/scj.2.1.1002.67-72>

⁴⁶ Salmande, "Dasar Hukum Sahabat Pengadilan (*Amicus Curiae*) Di Indonesia."

⁴⁷ Ilma Aulia Nabila, Elis Rusmiati, and Imamulhadi Imamulhadi, "Amicus Curiae Sebagai Bentuk Peran Serta Lembaga Swadaya Masyarakat Dalam Penegakan Hukum Pidana Lingkungan Hidup,"

is provided for in Supreme Court Rule Article 37, paragraph (3), and Federal Rule of Appeal Procedure Rule 29, paragraph (8). In practice, obtaining permission to file an oral *Amicus Curiae* opinion in the American judiciary is not as easy as filing a brief. The courts of the United States more often than not give the attorney general permission to verbally argue as an *Amicus Curiae* in court, but private amici or non-governmental organizations almost never accept that luxury.⁴⁸ Typically, there are two occasions to file an *amicus* brief in the United States Supreme Court, the most famous of which is a brief on the merits after a case has been accepted for a ruling. However, before that, while the review is being sought, supporters and opponents can also submit an *amicus* brief in favor of or against certiorari (certainty regarding something).⁴⁹

The difference between the United States and Indonesia in implementing their legal systems makes a jurist who studies foreign legal regulations in certain legal fields consciously or instinctively compare the draft and substantive content of those foreign legal regulations with the rules of the legal system in his own country.⁵⁰ However, Indonesia does not yet have a firm arrangement for applying restrictions that would allow the public to be involved in the judicial process. Because of this, the court does not have enough protection to resist the pressure of public participation, which often obscures and even removes the independent feel of the judge when passing a verdict.⁵¹

Legal benchmarking means confronting the comparable elements of two or more legal systems against each other in order to find differences and similarities between those systems.⁵² In law in the United States, comparative law is often referred to as "conflict of laws" or translated into "dispute law," which means to be another for legal education in Indonesia.⁵³ Comparative law, according to Rudolf B. Schelesinger, is a method of investigation with the goal of law gaining more knowledge about certain legal materials; comparative law is not a set of rules and principles of law, nor is it a branch of law, but rather a technique to deal with elements of a legal problem. Winterton has another opinion; he explained that comparative law is a method that involves the comparison of legal systems, and the comparison produces data that compares the legal systems.⁵⁴ Legal benchmarking provides a better understanding of the legal system in their own country because it allows a jurist to see the legal system in their own country from a new perspective and gain a better understanding of the functions and values of

Widya Yuridika 4, no. 2 (n.d.): 550011, <https://doi.org/https://doi.org/10.31328/wy.v4i2.2336>.
<https://doi.org/10.31328/wy.v4i2.2336>.

⁴⁸ Krisnalita et al., "The Legal Position of Amicus Curiae's Opinion on Criminal Judicial Processes in Indonesia."

⁴⁹ Perry and Keyzer, "Human Rights Issues in Constitutional Courts: Why Amici Curiae Are Important in the US, and What Australia Can Learn from the US Experience."
<http://dx.doi.org/10.26826/law-in-context.v37i1.127>

⁵⁰ Michel Bogdan, *Pengantar Perbandingan Sistem Hukum* (Nusamedia, 2019).

⁵¹ Muhammad Rizaldi & Sri B Praptadina, "Menakar Partisipasi Publik dalam Mengawasi Kinerja Aparat Penegak Hukum Pada Persidangan Pidana" (2017) 6 Jurnal Peradilan Indonesia Teropong, online: <https://mappifhui.org/wp-content/uploads/2018/02/Jurnal-Teropong-Vol-6-Juli-Desember-2017.pdf>.

⁵² Bogdan, *Pengantar Perbandingan Sistem Hukum*.

⁵³ Atmasasmita, *Sistem Peradilan Pidana Kontemporer*.

⁵⁴ Bogdan, *Pengantar Perbandingan Sistem Hukum*.

legal phenomena that are well known in law in their own country.⁵⁵ this becomes important in cases when lawyers work *de lege ferenda*, for example judges make precedents or legal scholars recommend legal updates.⁵⁶ Based on the results of research on the application of *Amicus Curiae* in Indonesia and the United States, the two countries have some similarities and differences in its application, among others:

a. Similarities of Application of *Amicus Curiae* in Criminal Justice In Indonesia and the United States.

The application of *Amicus Curiae* in Indonesia and the United States has the same purpose, namely to provide a picture of the law and the case outside the parties who do not participate in court and also to assess the law and the case independently so as to influence the outcome of the decision and provide information to the court. The opinion submitted by *Amici(s)* is not required to be enforced by the court, even if *Amici(s)* is an individual or organization with expertise, because Indonesia and the United States guarantee that the court and the judge are independent. The Table below provides a more detailed explanation of the use of *Amicus Curiae* in criminal justice in Indonesia and the United States.

Table 1. Similarities in the Application of *Amicus Curiae* to Criminal Justice Indonesia and the United States

Similarities Factor in the Application of <i>Amicus Curiae</i>	Indonesia dan the United States	Description
<i>Amici(s)/the Amicus Curiae</i> (Friends Of The Court)	<i>A person or organization, as a third party who is not a party to a case, but has an interest or concern in the case.</i>	<i>Amicus Curiae</i> in practice can be proposed by a person, a group of people, or an organization. When the <i>Amicus Curiae</i> is more than one person or done by a group of people, the designation is <i>Amici Curiae</i> while the submission referred to as <i>amici(s)</i> .
Interests of <i>Amicus Curiae</i>	<ul style="list-style-type: none"> a. Own interests or the interests of the group it represents; b. The interest of one of the parties in matters; c. Public interest. 	<p><i>Amicus Curiae</i> may serve three types of <i>interests</i>:</p> <ul style="list-style-type: none"> a. To represent its own interests or those of a group it represents, particularly when the court's decision may have a broader impact beyond the disputing parties. In such cases, the court does not solely rely on the arguments submitted by the litigants; b. To support the position of one of the litigating parties by reinforcing its legal arguments, thereby assisting the court in reaching a decision in favor of that parties; c. To represent the public interest, whereby the <i>Amicus Curiae</i> submission reflects the concerns of the broader community that may be affected by the court's ruling.
Function <i>Amicus Curiae</i>	<ul style="list-style-type: none"> a. Support the opinion previously made by the party in the case being examined by the court; b. give a new opinion on a case that has not been introduced before; 	<i>Amicus Curiae</i> is described as a disinterested party; its role is to allow the court to address the shortcomings of the adversarial system by giving voice to others potentially affected by the lawsuit. An important function of the <i>Amicus Curiae</i> is to inform the court of collusion charges. Third parties, who may not have a position but whose interests are affected,

⁵⁵ Bogdan.

⁵⁶ Bogdan.

	<ul style="list-style-type: none"> c. provide an opinion to the court regarding the consequences of a decision (for example: the judgment the court will appear on is political, economic, social, or legal). 	<p>can be heard. Thus, in times of <i>Amicus Curiae</i>, it may not be a friend of the court, like a friend of similar interests or a specific person. Initially, the community proposed <i>Amicus Curiae</i> for:</p> <ul style="list-style-type: none"> a. Support the opinion previously made by the party in the case being examined by the court; b. give a new opinion on a case that has not been introduced before; c. provide an opinion to the court regarding the consequences of a decision (for example: the judgment the court will appear on is political, economic, social, or legal).
Purpose of <i>Amicus Curiae</i>	<ul style="list-style-type: none"> a. Affect the outcome of the verdict b. Provide information that helps the examination and as a form of participation. 	<p>The objectives of the <i>amici(s)</i> involvement in the implementation of <i>Amicus Curiae</i> are as follows:</p> <ul style="list-style-type: none"> a. Affect the outcome of the verdict, <i>Amicus Curiae</i> does not constitute an intervention intended to influence the court's decision, but rather serves as an exercise of the right to express a legal opinion on the issues being adjudicated by the court, whether by an individual or an institution, for which the court's decision has an impact not only on the parties to the court but beyond that. b. Provide information that helps the examination and as a form of participation, in its involvement, an <i>amici(s)</i> provides information or an opinion based on its competence on legal matters, legal facts, or other matters related to the case to the court. The purpose of providing such information or an opinion is to assist the court in examining and deciding the case.
Description form <i>Amicus Curiae</i>	It can be written or given orally in a court proceedings.	The participation of <i>Amicus Curiae</i> can be done orally, and writing on the judicial process of the case in progress is said to be <i>Amicus Curiae</i> , while the written file is commonly referred to as an <i>amicus</i> brief.
The judge is not required to consider <i>Amicus Curiae</i>	Indonesia and the United States ensure that courts and judges are independent, <i>Amicus Curiae</i> can be ruled out and even rejected.	<i>Amicus Curiae</i> represents a legal value that has developed within society and originates from the common law tradition. Although it has been incorporated into Indonesia's judicial practice, its nature as an external opinion—submitted by parties not directly involved in the litigation—means that judges are not bound to adopt it. Consequently, judges retain full discretion and independence in forming their own legal judgments.
The court of Appeal <i>Amicus Curiae</i>	The lowest court, until the court at a high level. State courts, State High Courts, Federal Courts, until highest court in the United States. Indonesia start from the District Court, the High Court, to the Supreme Court.	The lowest court, until the court at a high level. State courts, State High Courts, Federal Courts, until highest court in the United States. Indonesia start from the District Court, the High Court, to the Supreme Court.

Source: processed by researchers, 2022

b. Differences in the Application of *Amicus Curiae* in Criminal Justice in Indonesia and the United States.

Differences in the application of *Amicus Curiae* in Indonesia and the United States can be seen from the settings in its application: in the United States, the application of *Amicus Curiae* is regulated specifically by the supreme court rules of the United States, while in Indonesia, the application of *Amicus Curiae* is not specifically regulated in law, but the position of *Amicus Curiae* is regulated implicitly. The next difference lies in the procedures for making amicus briefs. In Indonesia, the procedures for making amicus briefs are not regulated by law, but the book *A Friends of Justice Guide to Preparing Amicus Briefs*, published by the Indonesian Legal Resource Center and compiled by Siti Aminah, is a reference to *Amicus Curiae* in Indonesia for making amicus briefs. While in the United States, the procedure for making amicus briefs itself is regulated by the Supreme Court Rules of the United States: 33.1 (d), (e), (g), (xi), (xiii), and 34.1, 34.2, 37.4, 37.5, and 37.6. The following table presents the differences in the application of *Amicus Curiae* in Indonesia and the United States in criminal justice.

Table 2. Differences in the Application of *Amicus Curiae* in Criminal Justice in Indonesia and the United States

Difference Factor in the Application of <i>Amicus Curiae</i>	Indonesia	The United States
Legal System	Civil Law system, the source of the rules of law made by the Legislature.	Common Law system, the source of its rules comes from jurisprudence.
Proof System	Evidence system based on the law in a negative and closed.	Evidence with a jury, but in this case the judge is still given the authority to convict so that it must be in accordance with the conviction of the judge and is not limited only to the law
Setting in the application of <i>Amicus Curiae</i>	There is no specific regulation in the law	There are special arrangements in supreme court rules of the United States
The position of the amicus curie brief in the trial	There is no rule explaining the position of <i>Amicus Curiae</i> , but so far, what has been found is only in favor of the defendant.	Rule 37.2, which mentions the amicus brief in favor of the plaintiff, in favor of the defendant.
Procedure for making amicus brief	The book "Menjadi Sahabat Keadilan Panduan Menyusun Amicus Brief," compiled by Siti Aminah, is a reference for making amicus briefs, despite not being regulated by law.	Arranged in Supreme court rules of the United States Rule 33.1 (d), (e), (g), (xi), (xiii), and 34.1, 34.2, 37.4, 37.5, 37.6.
Filling deadline <i>Amicus Curiae</i>	There is no deadline rule in filing <i>Amicus Curiae</i>	In cases supporting a petitioner or appellant, an <i>Amicus Curiae</i> brief must be filed within 30 days after the case is entered into the docket or the Court issues a request for a response. Meanwhile, in matters involving a motion for leave to file a bill of complaint in an original jurisdiction case, the filing deadline for <i>Amicus Curiae</i> briefs is 60 days from the date the case appears on the docket.

Prosecutors filed for <i>Amicus Curiae</i>	Indonesian prosecutors have never filed as <i>Amicus Curiae</i>	The practice of prosecutors in America filing <i>Amicus Curiae</i> has become frequent
-----------------------------------------------	--------------------------------------------------------------------	----------------------------------------------------------------------------------------------

Source: processed by researchers, 2022

Based on the above presentation on the differences in the application of *Amicus Curiae* in criminal justice in Indonesia and the United States, researchers will explain in more detail in the following description.

1) Legal System

Amicus Curiae, or Friends of the Court, is a legal practice originating in ancient Rome with a common law legal system dating back to the 9th century. The United States adheres to the Common Law system; the source of the rules comes from jurisprudence, and the legal system used in the United States comes from a British Commonwealth country with a traditional common law legal system. This common law system is valid as positive law, so it is binding on all citizens of the United States. While Indonesia adheres to the Civil Law system, where the source of the rules of law is made by the Legislature, although this practice comes from common law, in Indonesia, which uses the Civil Law legal system, *Amicus Curiae* has been applied.

The participation of *Amicus Curiae* in Indonesian courts in criminal cases has been recorded several times; the *Amicus Curiae* are given by various institutions, organizations, and even individuals. Based on the results of research that has been conducted by researchers, normatively, the application of *Amicus Curiae* will greatly assist judges in understanding the latest legal developments because it is possible that judges can experience information lag or a lack of understanding of a law that lives in society. In the civil law legal system, the principle of *Ius Curia Novit* is known, which considers that "the judge knows the law", therefore it is the judge's obligation to determine what law should be applied to a case and how it is applied, so that the application of *Amicus Curiae* will help the judge in determining the law to be applied.

2) Proof System

Proof of criminal justice in Indonesia uses a negative proof system and a closed system, where the parties are not free to submit the type or form of evidence in the case resolution process. The law has strictly defined the means of evidence that can be legally recognized. Evidence in the United States is not limited to what is in the law. However, using generally accepted laws, habits that live in the midst of society, and the principle of the binding of precedent.

3) Setting in the application of *Amicus Curiae*

The Supreme Court Rules specifically regulate the application of *Amicus Curiae* in the United States in Rule 33.1, which states that amicus briefs must be accompanied by a certificate signed by a lawyer, unrepresented party, or document maker stating that the brief is in accordance with the Limits; Rule 34 contains document preparation: general requirements; and Rule 37 contains. Meanwhile, in Indonesia, *Amicus Curiae* is not a practice listed in the Criminal Procedure Code, but

Amicus Curiae in its application is used as new evidence that has not been clearly regulated and formalized in the legislation, so it is called not having a standard form in law in Indonesia.

4) The position of the amicus brief in the trial

The position of the amicus brief in a United States criminal trial is set out in Supreme court rules United States rule 37.2 which states that:

- 2) (a) *An Amicus Curiae brief submitted before the Court's consideration of a petition for a writ of certiorari, motion for leave to file a bill of complaint, jurisdictional statement, or petition for an extraordinary writ may be filed if it reflects that written consent of all parties has been provided, or if the Court grants leave to file under subparagraph*
(b) *of this Rule. An Amicus Curiae brief in support of a petitioner or appellant shall be filed within 30 days after the case is placed on the docket or a response is called for by the Court, whichever is later, and that time will not be extended. An Amicus Curiae brief in support of a motion of a plaintiff for leave to file a bill of complaint in an original action shall be filed within 60 days after the case is placed on the docket, and that time will not be extended. An Amicus Curiae brief in support of a respondent, an appellee, or a defendant shall be submitted within the time allowed for filing a brief in opposition or a motion to dismiss or affirm. An Amicus Curiae filing a brief under this subparagraph shall ensure that the counsel of record for all parties receive notice of its intention to file an Amicus Curiae brief at least 10 days prior to the due date for the Amicus Curiae brief, unless the Amicus Curiae brief is filed earlier than 10 days before the due date. Only one signatory to any Amicus Curiae brief filed jointly by more than one Amicus Curiae must timely notify the parties of its intent to file that brief. The Amicus Curiae brief shall indicate that counsel of record received timely notice of the intent to file the brief under this Rule and shall specify whether consent was granted, and its cover shall identify the party supported.*

5) Procedure for making amicus brief

The procedure for making amicus briefs in the United States is governed by United States Supreme Court Rule 33.1 (d), (e), (g), (xi), (xiii), and 34.1, 34.2, 37.4, 37.5, and 37.6. While the procedures for making amicus briefs in Indonesia do not have rules regarding the procedures for making amicus briefs in the law, the book, *A Friends of Justice Guide to Preparing amicus Briefs*, published by the Indonesian Legal Resource Center and compiled by Siti Aminah, can be a reference for *Amicus Curiae* in Indonesia when making amicus briefs.

6) Filling deadline *Amicus Curiae*

The United States has a deadline for filing *Amicus Curiae*, it is stated in the Supreme court rules of the United States in Rule 37 that:

a. support of a petitioner or appellant is 30 days after the case is placed on the docket or the Court calls for a response. support of a motion for leave to file a bill of complaint in an original action is 60 days after the case is placed on the docket, while in Indonesia, there is no set deadline in the submission of Amicus Curiae.

7) Prosecutors filed for *Amicus Curiae*

In Indonesia, prosecutors have not yet exercised the practice of submitting *Amicus Curiae* briefs, likely due to the absence of specific legal provisions regulating such participation in court proceedings. This reflects the influence of Indonesia's civil law tradition, which emphasizes formal procedures and written codes. In contrast, in the United States—a common law jurisdiction—prosecutors, particularly the Department of Justice, frequently file *Amicus Curiae* briefs in various cases, including those before the Supreme Court. These briefs are often used to provide legal perspectives, clarify interpretations of law, or advocate for broader public interests, and they are accepted as part of a well-established legal culture that values judicial input from third parties.

Conclusion

Indonesia, as a civil law country, has adopted several legal practices from common law systems, including *Amicus Curiae*. Although not explicitly regulated, the practice has been applied in several criminal cases in Indonesia. Its implementation is justified by Article 5(1) of Law No. 48 of 2009 concerning Judicial Power, which mandates judges to explore and uphold the living values of justice within society. *Amicus Curiae*, as one such value derived from the common law tradition, contributes to the judicial process by offering external perspectives. However, since it is merely an opinion from a third party, judges are not bound to adopt it, thus preserving judicial independence. There are notable similarities and differences in the application of *Amicus Curiae* in Indonesia and the United States. Similarities include its role as a third-party contribution, its various interest bases (public, private, or supporting litigants), its aim to assist the court and influence outcomes, and the flexibility of its format (oral or written). In both jurisdictions, courts retain discretion regarding whether to consider such input, maintaining judicial impartiality. However, significant differences stem from the distinct legal systems. The United States, as a common law country, has formal and detailed regulations for *Amicus Curiae*, including filing procedures, deadlines, and recognition of prosecutors as potential *amici*. In contrast, Indonesia lacks explicit legal provisions or procedural guidelines for such practices, resulting in legal uncertainty. The evidentiary systems also differ, with Indonesia adhering to a stricter closed evidentiary framework. Therefore, to enhance legal clarity and effectiveness, Indonesia should establish comprehensive regulations governing the application of *Amicus Curiae* within its criminal justice system.

Suggestion

Based on the research findings discussed in the previous chapter, several recommendations can be proposed to enhance the implementation of *Amicus Curiae* in Indonesia. Firstly, although *Amicus Curiae* (Friend of the Court) has been utilized in several cases within the Indonesian judicial system, there is still no specific legal provision regulating its use. Therefore, it is recommended that a dedicated and explicit legal framework be established to govern the application of *Amicus Curiae* in Indonesia's criminal justice system. Secondly, Indonesia's evidentiary system operates under a closed and restrictive model, which often results in the exclusion of *Amicus Curiae* submissions, as they are not clearly regulated under the Criminal Procedure Code. Consequently, it is advisable that future revisions of the Criminal Procedure Code adopt a more open evidentiary approach, allowing for the formal inclusion and recognition of *Amicus Curiae* in criminal proceedings.

References

- Aditya, Zaka Firma. "Judicial Consistency Dalam Putusan Mahkamah Konstitusi Tentang Pengujian Undang-Undang Penodaan Agama." *Jurnal Konstitusi* 17, no. 1 (May 2020): 080. <https://doi.org/10.31078/jk1714>.
- Ali, M. Hatta. *Peradilan Sederhana, Cepat, & Biaya Ringan Menuju Keadilan Restoratif*. Bandung: PT Alumni, 2012.
- Anwar, Yesmil. *Pembaruan Hukum Pidana: Reformasi Hukum*. Grasindo, 2008.
- Atmasasmita, Romli. *Sistem Peradilan Pidana Kontemporer*. Bandung: PT Rafika Aditama, 2010.
- Aulia, Fadil, and Muchlas Rastra Samara Muksin. "The Position of *Amicus Curiae* under the Indonesian Law of Evidence." *Jurnal Media Hukum* 27, no. 2 (2020). <https://doi.org/10.18196/jmh.20200152>.
- Aulia, Farihan, and Sholahuddin Al-Fatih. "Perbandingan Sistem Hukum Common Law, Civil Law Dan Islamic Law Dalam Perspektif Sejarah Dan Karakteristik Berpikir." *Legality: Jurnal Ilmiah Hukum* 25, no. 1 (2017): 98–113.
- Ayu Pralampita, Linda. "Kedudukan *Amicus Curiae* Dalam Sistem Peradilan Di Indonesia." *Jurnal Lex Renaissance* 5, no. 3 (July 2020). <https://doi.org/10.20885/JLR.vol5.iss3.art4>.
- Bogdan, Michel. *Pengantar Perbandingan Sistem Hukum*. Nusamedia, 2019.
- Cruz, Peter De. *Perbandingan Sistem Hukum, Translated by Narulita Yusron*. Bandung: Nusamedia, 2017.
- Friedman, Lawrence M. *American Law: An Introduction, Trans by Wishnu Basuki*. Jakarta: PT Tatanusa, 2001.
- Gao, Henry Shuchao. "Amicus Curiae Briefs in the WTO Dispute Settlement System: Theory and Practice." *China Rights Forum: The Journal of Human Rights in China* 11 (2004): 388–416.
- Hartono, Sunaryati. *Penelitian Hukum Di Indonesia Pada Akhir Abad Ke-20*. Bandung: Alumni, 1994.
- Ishaq, Ishaq. *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi*. Bandung: Alfabeta, 2017.
- Jeumpa, Ida Keumala. "Contempt of Court: Suatu Perbandingan Antara Berbagai Sistem Hukum." *Kanun Jurnal Ilmu Hukum* 16, no. 1 (2014): 147–76.
- Kochevar, Steven. "Amici Curiae in Civil Law Jurisdictions." *Yale LJ* 122 (2012): 1653.

- <https://doi.org/https://doi.org/10.5167/uclivre-102682>.
- Krislov, Samuel. "The Amicus Curiae Brief: From Friendship to Advocacy." *Yale LJ* 72 (1962): 694. <https://doi.org/http://hdl.handle.net/20.500.13051/14846>.
- Krisnalita, Louisa Yesami, Mutiarany Mutiarany, Grace Sharon, and Ani Munirah Mohamad. "The Legal Position of Amicus Curiae's Opinion on Criminal Judicial Processes in Indonesia." *Justitia Jurnal Hukum* 6, no. 1 (2022). <https://doi.org/http://dx.doi.org/10.57185/joss.v4i3.440>.
- Kusumohamidjojo, Budiono. *Perbandingan Hukum Kontrak (Comparative Contract Law)*. Bandung: Mandar Maju, 2015.
- M Yahya Harahap. *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan*. Jakarta: Sinar Garfika, 2017.
- Ma'ruf, Nia Juniawati. "Kedudukan Amicus Curiae Dalam Penyelesaian Tindak Pidana Pencemaran Nama Baik Di Pengadilan (Studi Kasus Putusan Nomor 1269/Pid. B/2009/Pn. Tng)." Universitas Islam Indonesia, 2018. <https://dspace.uui.ac.id/handle/123456789/6782>.
- Malik, Rizal Hussein Abdul, Antonius Sidik Maryono, and Pramono Suko Legowo. "Penerapan Amicus Curiae Dalam Pemeriksaan Perkara Di Pengadilan Negeri Tangerang." *Soedirman Law Review* 4, no. 2 (2022). <https://doi.org/https://doi.org/10.20884/1.slr.2022.4.2.189>.
- Manurung, M Yusuf, and Juli Hantoro. "Hakim Tolak Amicus Curiae KontraS Untuk Novel Baswedan." *Tempo*, 2020.
- Marzuki, Peter Mahmud, and M S Sh. *Pengantar Ilmu Hukum*. Prenada Media, 2021.
- Nabila, Ilma Aulia, Elis Rusmiati, and Imamulhadi Imamulhadi. "Amicus Curiae Sebagai Bentuk Peran Serta Lembaga Swadaya Masyarakat Dalam Penegakan Hukum Pidana Lingkungan Hidup." *Widya Yuridika* 4, no. 2 (n.d.): 550011. <https://doi.org/https://doi.org/10.31328/wy.v4i2.2336>.
- Nursobah, Asep. "Melalui Panitera MA, Koalisi Masyarakat Sipil Serahkan Amicus Curiae." Mahkamah Agung RI, 2022.
- Perry, H W, and Patrick Keyzer. "Human Rights Issues in Constitutional Courts: Why Amici Curiae Are Important in the US, and What Australia Can Learn from the US Experience." *Law in Context* 37, no. 1 (2020): 66–98. <https://doi.org/http://dx.doi.org/10.26826/law-in-context.v37i1.127>.
- Prasetyo, Teguh, and Abdul Halim Barkatullah. *Filsafat, Teori, & Ilmu Hukum*. Jakarta: Rajagrafindo Persada, 2012.
- Ramadhan. "Amicus Curiae' Dari KontraS Yang Ditolak Hakim Dalam Kasus Penyerangan Novel Baswedan," 2021.
- Ramadhan, Choky. "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum." *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 30, no. 2 (2018): 213–29. <https://doi.org/https://doi.org/10.29303/ulrev.v4i2.126>.
- Rizaldi, Muhammad, and Sri B Praptadina. "Menakar Partisipasi Publik Dalam Mengawasi Kinerja Aparat Penegak Hukum Pada Persidangan Pidana." *Jurnal Peradilan Indonesia Teropong* 6 (2017).
- Salmande, Ali. "Dasar Hukum Sahabat Pengadilan (Amicus Curiae) Di Indonesia." *Hukum Online*, 2011.
- Saputra, Refki. "Refleksi Peran Kantor Penghubung Komisi Yudisial Dan Partisipasi Masyarakat Dalam Pengawasan Peradilan Di Indonesia." *Peran Partisipasi Publik Dalam Upaya Pembenahan Pengadilan Di Indonesia* 6 (2018): 17–29.

- <https://doi.org/https://doi.org/10.33369/ubelaj.6.2.114-132>.
- Siti, Aminah. "Menjadi Sahabat Keadilan: Panduan Menyusun Amicus Brief." *The Indonesian Legal Resource Center (ILRC)*, 2014. <https://mitrahukum.org/wp-content/uploads/2015/02/Amicus-Brief.pdf>.
- Soares, Cesaltina Angela, and I Made Agus Mahendra Iswara. "Amicus Curiae In The Criminal Evidence System In Indonesia." *Sociological Jurisprudence Journal* 2, no. 1 (2019): 67-72. <https://doi.org/https://doi.org/10.22225/scj.2.1.1002.67-72>.
- Soeparman, Parman. *Pengaturan Hak Mengajukan Upaya Hukum Peninjauan Kembali Dalam Perkara Pidana Bagi Korban Kejahatan*. Refika Aditama, 2007.
- Suherman, Ade Maman. *Pengantar Perbandingan Sistem Hukum, Civil Law, Common Law, Hukum Islam*. Jakarta: Rajagrafindo Persada, 2004.
- Sukinta. "Konsep Dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia." *Administrative Law and Governance Journal* 4, no. 1 (2021): 89-98. <https://doi.org/https://doi.org/10.14710/alj.v4i1.89%20-%2098>.
- Supriyanto. "Perkembangan Sistem Peradilan Pidana." *Jurnal Wacana Hukum* 2, no. 4 (2003). <https://doi.org/https://doi.org/10.33061/wh.v2i4.616>.