



The Role of Ad Informandum in Indonesia's Judicial System: Perspectives on Ethics, Procedural Law, and Human Rights

Didi Jubaidi¹

ARTICLE INFO

Keywords:

Ad Informandum; Judicial Ethics; Procedural Law, Human Rights; Access to Justice.

How to cite:

Jubaidi, D., (2025). The Role of Ad Informandum in Indonesia's Judicial System: Perspectives on Ethics, Procedural Law, and Human Rights. *Amsir Law Journal*, 7(1), 12-29.

DOI:

10.36746/alj.v7i1.699

Received:

August 06, 2025

Accepted:

October 30, 2025

Published:

October 31, 2025

ABSTRACT

This study examines the legal and ethical dimensions of ad informandum—the submission of third-party information to judges—within Indonesia's judicial process. Although not explicitly regulated in procedural law, ad informandum has gained relevance in cases involving public interest and human rights, raising questions about its legitimacy, consistency, and impact on judicial integrity. Using a normative juridical research method combined with a comparative perspective on amicus curiae practices, this study analyzes statutory provisions, court decisions, and academic literature to clarify the position of ad informandum in Indonesia's legal system. The findings indicate that ad informandum contributes to more informed and transparent judicial reasoning but remains normatively fragile due to the absence of procedural recognition and ethical safeguards. Without a clear legal basis, its use may lead to inconsistency or compromise due process principles. The study concludes that establishing explicit procedural guidelines for ad informandum would enhance accountability, ensure fairness, and align Indonesia's judiciary with international human rights and judicial ethics standards. This contributes to the broader discourse on judicial reform and the integration of ethical reasoning in adjudication.

Copyright © 2025 ALJ. All rights reserved.

1. Introduction

Indonesia's ongoing judicial reform has increasingly emphasized transparency, accountability, and the protection of human rights as core elements of a modern legal system.² Within this context, the emerging practice of *ad informandum judicem*, a procedural mechanism through which third parties provide information or opinions to the court has

¹ Faculty of Law, University of August 17, 1945 Jakarta, Jakarta, Indonesia. E-mail: didijubaidi@gmail.com

² Jubaidi, D., & Khoirunnisa, K. (2025). Islam and human rights in the Muslim World: Essentialist and socio-historical perspectives. *SOSIOHUMANIORA: Jurnal Ilmiah Ilmu Sosial dan Humaniora*, 11(2), 492-515. <https://doi.org/10.30738/sosio.v11i2.20313>

attracted growing attention. Although this practice has appeared in several judicial settings, particularly within the Constitutional Court, it remains outside the formal scope of Indonesia's procedural law frameworks, such as the Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana*, KUHAP). This legal ambiguity raises fundamental questions about its admissibility, procedural legitimacy, and potential contribution to the realization of participatory justice.³

The term *ad informandum judicem* is relatively uncommon in Indonesia's legal discourse and is often compared with the *amicus curiae* (friend of the court) mechanism found in common law jurisdictions. While both involve third-party inputs aimed at assisting judges, their procedural contexts differ.⁴ In Indonesia, *ad informandum* functions informally without codified guidelines, whereas *amicus curiae* in jurisdictions such as India or South Africa operates under explicit procedural rules that ensure transparency and judicial consistency. The distinction is therefore not merely terminological but reflects a structural gap in Indonesia's judicial practice, where the absence of procedural codification leaves courts without clear standards for accepting or weighing such submissions.

This regulatory gap has practical implications. Institutions such as Komnas HAM and Komnas Perempuan have submitted *ad informandum* statements in cases concerning constitutional rights, including matters of religious freedom and gender equality. However, judicial responses to these inputs have been inconsistent; some briefs have been acknowledged in judicial reasoning, while others have been disregarded entirely. The lack of procedural clarity thus undermines both predictability and legitimacy in judicial deliberation. Although certain legal instruments such as Constitutional Court Regulation (PMK) No. 2 of 2021 indirectly acknowledge the role of external parties through *amicus curiae*-like provisions, these remain fragmented and insufficient to establish coherent procedural recognition.

The normative tension surrounding *ad informandum* extends beyond technical procedure. It illustrates the broader challenge of reconciling judicial independence and legal certainty with growing demands for participatory and transparent justice. Indonesia's commitment to human rights, as reflected in Law No. 39 of 1999 and the ratification of the ICCPR, provides normative grounds for courts to consider relevant third-party perspectives in cases of public importance.⁵ From an ethical standpoint, permitting *ad informandum* submissions can strengthen judicial integrity by enabling judges to access broader social, empirical, or normative insights without compromising impartiality.⁶ Yet, without formal regulation, the risk of inconsistent application or even external influence remains.⁷

Therefore, the central problem addressed in this study is the absence of formal procedural regulation governing *ad informandum judicem* in Indonesia, which creates uncertainty regarding its legal standing and ethical legitimacy. By critically examining this issue through the lenses of judicial ethics, procedural law, and human rights, this article seeks to determine whether *ad informandum* can be systematically incorporated into Indonesia's legal

³ Noormansyah, A., & Sanjaya, U. H. (2022). The Legal Vacuum of Interreligious Marriage In Indonesia: The Study of Judges' Consideration In Interreligious Marriage Court Decisions 2010-2021. *Prophetic Law Review*, 177-194. <https://doi.org/10.20885/PLR.vol4.iss2.art3>

⁴ Sukinta, S. (2021). Konsep dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia. *Administrative Law and Governance Journal*, 4(1), 89-98. <https://doi.org/10.14710/alj.v4i1.89%20-%2098>

⁵ Latipulhayat, A., & Harijanti, S. D. (2022). Indonesia's Approach to International Treaties. *Padjadjaran Journal of International Law*, 6(2), 201-216. <https://doi.org/10.23920/pjil.v6i2.915>

⁶ Pralampita, L. A. (2020). Kedudukan Amicus Curiae Dalam Sistem Peradilan di Indonesia.

⁷ Tiara Amanda Putri. (2015) "Mengenal Ad Informandum dalam Praktik Hukum Indonesia," *Hukumonline.com*. <https://www.hukumonline.com/klinik/a/mengenal-ad-informandum-dalam-praktik-hukum-indonesia-lt6826d8786a584/>

system as a legitimate and accountable mechanism for participatory justice.⁸ The analysis also considers comparative experiences, particularly from jurisdictions where *amicus curiae* has been successfully institutionalized, to identify principles that could guide Indonesia's procedural reform toward greater coherence and inclusivity.

To address this question, it is essential to first situate the discussion within existing scholarly debates on third-party participation in judicial proceedings, both in Indonesia and in comparative contexts.

Scholarly discourse on third-party participation in judicial proceedings whether under the established *amicus curiae* model or the less formal *ad informandum judicem* practice has developed alongside global demands for more inclusive and transparent justice. In many common law jurisdictions, *amicus curiae* has long served as a procedural tool that allows external parties to submit legal or technical opinions to assist the court. However, in Indonesia, its application remains fragmented and largely unregulated, reflecting broader gaps in procedural law and judicial practice. Most existing studies have focused on criminal proceedings, emphasizing the absence of statutory standards governing the acceptance and weight of such briefs.

Through a normative legal approach, suggested that the Supreme Court should formalize *amicus curiae* through a specific regulation to prevent inconsistent judicial interpretations. Similarly, Yanti (2024) examined a corruption case (No. 9/Pid.Sus-TPK/2022/PN Plk) in which an *amicus* brief was partially considered by the court, showing that such inputs although not evidence under KUHAP can inform judicial reasoning.⁹ Safitri (2024) arrived at comparable conclusions, arguing that procedural clarity is essential to define the advisory role of third-party submissions in criminal cases. Expanding beyond criminal law, Cindy, Haryadi, and Wahyudi (2024) explored the use of *amicus curiae* in child protection cases, finding that third-party perspectives enrich judicial understanding of complex social and psychological dimensions.

Despite these valuable contributions, the literature remains largely silent on *ad informandum judicem*, particularly regarding its legal legitimacy, ethical implications, and compatibility with human rights principles. Unlike *amicus curiae*, *ad informandum* has not been systematically theorized or codified within Indonesian law. This gap underscores the need for a structured legal and normative assessment of *ad informandum* within Indonesia's judicial system, which this study seeks to address. Building upon these gaps identified in previous research, the present study adopts an integrated theoretical framework to assess the procedural, ethical, and human rights dimensions of *ad informandum judicem* in Indonesia.

Conceptually, this analysis draws from three complementary theoretical foundations: procedural law, legal ethics, and human rights theory. From the standpoint of procedural law, the notion of *due process* and its derivative principle of procedural fairness provides the analytical core.¹⁰ *Due process* ensures that judicial proceedings are fair, transparent, and impartial, requiring that judges base their decisions on complete and relevant information. Because *ad informandum* introduces external input beyond the parties in litigation, this study evaluates whether such practice supports or contradicts procedural fairness.

⁸ Rondo, P. A. M., & Firmansyah, H. (2023). Pengaruh Peran Amicus Curiae Terhadap Proses Peradilan dan Kepastian Hukum. *UNES Law Review*, 6(2), 4463-4468. <https://doi.org/10.31933/unesrev.v6i2.1283>

⁹ Safitri, N. (2024). The position of amicus curiae in judges' decisions according to Indonesia's criminal justice system (Case No. 798/Pid.B/2022/PN Jkt.Sel) [Master's thesis, Universitas Muhammadiyah Malang]. Universitas Muhammadiyah Malang Institutional Repository. <https://eprints.umm.ac.id/id/eprint/10028/>

¹⁰ Nagin, D. S., & Telep, C. W. (2020). Procedural justice and legal compliance: A revisionist perspective. *Criminology & Public Policy*, 19(3), 761–786. <https://doi.org/10.1111/1745-9133.12499>

From the perspective of legal ethics, judicial impartiality and integrity are central. The practice of *ad informandum* raises important ethical questions about neutrality and the boundary between informed judgment and external influence.¹¹ Drawing from normative theories of judicial ethics, this study examines whether receiving *ad informandum* submissions strengthens the ethical responsibility of judges to render socially responsive yet impartial decisions.

Finally, from a human rights perspective, the analysis references Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to a fair trial before an independent and impartial tribunal. This theoretical lens situates *ad informandum* within the broader framework of participatory justice and examines its potential to either reinforce or undermine the protection of fundamental rights, particularly in cases involving public interest and marginalized communities.

Through this integrated conceptual and theoretical grounding, the study establishes that the central issue is not merely procedural ambiguity but the broader normative question of how *ad informandum judicem* can contribute to participatory, transparent, and ethically grounded justice within Indonesia's evolving judicial system.

2. Method

This study adopts a qualitative normative juridical approach to examine the intersection of legal norms, judicial ethics, and human rights principles in the practice of *ad informandum* within Indonesia's judiciary.¹² This approach allows an in-depth exploration of legal reasoning and institutional practice through the analysis of legal texts and their normative implications.¹³

The research primarily relies on doctrinal legal analysis, focusing on Indonesian statutes, court decisions, and scholarly commentaries related to procedural law, judicial ethics, and human rights. These are complemented by secondary sources such as academic journals, monographs, and relevant international legal instruments to contextualize the practice within comparative perspectives.

Data were collected through an extensive literature and document review using databases including JSTOR, HeinOnline, and Google Scholar. Emphasis was placed on materials published within the last five years to ensure contemporary relevance. Key search terms included "ad informandum," "procedural law in Indonesia," "judicial ethics," and "human rights in judicial proceedings." For data analysis, the study employs thematic content analysis, identifying recurring patterns and principles across legal sources to reveal how *ad informandum* operates within Indonesia's legal and ethical framework. To strengthen validity, triangulation was applied by cross-referencing statutory provisions, judicial rulings, and academic interpretations.

Throughout the process, the research adheres to academic integrity standards, ensuring accurate citation and attribution of all sources. In sum, the methodology integrates doctrinal analysis and thematic interpretation to provide a clear, structured, and contextually grounded understanding of *ad informandum* as part of Indonesia's judicial process.

¹¹ Thomas, J. (2024). Amicus Curiae Mechanism in Indonesian Legal System. *Jurnal Hukum dan Peradilan*.

¹² Juliardi, B., Runtuwuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode penelitian hukum*. CV. Gita Lentera.

¹³ 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. <https://doi.org/10.25216/jhp.13.1.2024.1-32>

3. Analysis or Results

Judicial Discretion, Ethical Integrity, and Procedural Fairness

This research's thematic and doctrinal analysis demonstrates that *ad informandum* occupies a contested yet pivotal position in Indonesia's judicial process situated at the nexus of judicial discretion, ethical integrity, and the protection of human rights. The discussion is structured around two interrelated themes: (1) *Judicial Discretion, Ethical Integrity, and Procedural Fairness*, and (2) *Human Rights and Legal Pluralism: Aligning Ad Informandum with Fair Trial Principles*.

The exercise of *ad informandum* reflects Indonesia's judicial tendency to prioritize substantive justice over rigid procedural formality. Judges often invoke *ad informandum* to fill evidentiary gaps or to better understand complex factual contexts particularly in administrative, environmental, or public interest cases.¹⁴ This practice exemplifies judicial pragmatism, empowering courts to render decisions grounded in broader social realities and moral fairness. It underscores the belief that justice should not be confined by procedural technicalities but should aim for outcomes that reflect the truth of the case.¹⁵

However, this broad discretion simultaneously exposes tensions between *das sein* the reality of judicial practice and *das sollen* the procedural ideals of fairness and transparency.¹⁶ Without clear procedural safeguards, judges' independent inquiries may inadvertently compromise the principle of *audi alteram partem* (the right of all parties to be heard). When information obtained *ad informandum* is not disclosed or tested through adversarial processes, litigants lose the opportunity to challenge it, thereby weakening equality of arms and due process.¹⁷

From an ethical standpoint, *ad informandum* presents a double-edged dilemma. While it may stem from a judge's duty to prevent injustice, it also risks blurring the boundaries of impartiality and accountability.¹⁸ The absence of procedural checks allows subjective judgment or external influence to seep into decisions, potentially undermining judicial independence. Furthermore, because *ad informandum* materials are often not recorded in case files, appellate courts face difficulties reviewing their validity reducing transparency and eroding public trust.¹⁹

To reconcile these ethical and procedural tensions, Indonesia's judiciary must establish clear ethical and procedural standards governing *ad informandum*.²⁰ These should include the duty to disclose external information to all parties, allow contestation, and record its use within the trial dossier. Strengthening these safeguards would preserve the advantages of

¹⁴ Manaf, A. (2024). Telaah Terhadap Kedudukan Amicus Curiae Dalam Perkara Perkara Perselisihan Pemilihan Umum Di Mahkamah Konstitusi. *Borneo Law Review*, 8(2), 174-189. <https://jurnal.borneo.ac.id/index.php/bolrev/article/view/6201>

¹⁵ Ayudia Aura, Ancesar Putri, and Gerry Putra Rizky, "Meninjau Peran Amicus Curiae Dalam Hukum Acara Mahkamah Konstitusi: Urgensi Pengaturan Dan Pencegahan Bias," *Jurnal Ilmu Hukum* 2, no. 4 (2025): 268–75, <https://doi.org/https://doi.org/10.62017/syariah>.

¹⁶ Kahar, A. (2025). The Urgency of Implicit Bias Education for Judges to Realise Justice: Urgensi Pendidikan Bias Implisit bagi Hakim untuk Mewujudkan Keadilan. *Judex Laguens*, 3(1), 113-134.

¹⁷ Graaf, C. V. D. (2021). Procedural fairness: Between human rights law and social psychology. *Netherlands Quarterly of Human Rights*, 39(1), 11-29. <https://journals.sagepub.com/doi/abs/10.1177/0924051921992749>

¹⁸ Kartikasari, D., & Risky, S. (2025). The Idea of Independent Judicial Ethics Courts in Indonesia: Gagasan Pengadilan Etik Kehakiman Independen Di Indonesia. *JAPHTN-HAN*, 4(1), 65-84. <https://www.japhtnhan.id/index.php/japhtnhan/article/view/156>

¹⁹ Sucipta, D. H., & Dharma, I. M. W. (2022). Amicus Curiae As the Development of Evidence in Criminal Procedure Code. *Jurnal Bina Mulia Hukum*, 7(1), 17-30. <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/576>

²⁰ Kartikasari, D., & Risky, S. (2025). The Idea of Independent Judicial Ethics Courts in Indonesia: Gagasan Pengadilan Etik Kehakiman Independen Di Indonesia. *JAPHTN-HAN*, 4(1), 65-84. <https://www.japhtnhan.id/index.php/japhtnhan/article/view/156>

judicial discretion while upholding fairness, transparency, and integrity the essential elements of procedural justice.²¹

From a human rights perspective, the discretionary use of *ad informandum* directly intersects with the right to a fair trial as guaranteed by Article 14 of the International Covenant on Civil and Political Rights (ICCPR) and Article 28D paragraph (1) of the 1945 Indonesian Constitution. The essence of this right lies in procedural fairness, the assurance that all evidence considered by a court must be disclosed, subject to challenge, and adjudicated by an impartial and independent tribunal.²² When judges rely on undisclosed information gathered independently, these fundamental safeguards are jeopardized, raising concerns of arbitrariness and unequal treatment before the law. Although *ad informandum* may be intended to provide judges with contextual understanding of a case, its unregulated use risks transforming a procedural tool into a source of bias. The very nature of justice depends on transparency and the opportunity for all parties to test and respond to every piece of information relied upon by the court.²³

In principle, *ad informandum* can function as a legitimate judicial mechanism to fill informational gaps in the pursuit of substantive justice, particularly when written law does not fully address the complexity of social realities.²⁴ Nevertheless, discretion must be exercised within strict procedural boundaries. The Human Rights Committee, in General Comment No. 32 interpreting Article 14 of the ICCPR, affirms that all parties must have the opportunity to contest evidence and arguments considered by the court. Any reliance on undisclosed information is incompatible with this standard, as it prevents effective participation and violates the equality of arms between prosecution and defense. Judicial independence cannot be equated with unlimited discretion; rather, it must be guided by procedural fairness and accountability.²⁵

The problem is further complicated by Indonesia's pluralistic legal system, which blends statutory law, customary norms, and informal judicial practices. Legal pluralism in Indonesia reflects historical and cultural realities where formal law coexists with *adat* traditions and local values. In some regions, especially those with strong customary influence, judges may justify their reliance on *ad informandum* as part of moral reasoning or local wisdom.²⁶ For instance, where *adat* emphasizes communal harmony or restorative justice, the consideration of extra-legal information may appear consistent with local expectations of fairness.²⁷ Yet this flexibility, while socially grounded, can lead to inconsistency when compared to the national procedural standard and the universal principles of human rights.

²¹ Sucipta, D. H., & Darma, I. M. W. (2022). Amicus Curiae As the Development of Evidence in Criminal Procedure Code. *Jurnal Bina Mulia Hukum*, 7(1), 17-30. <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/576>

²² Kahar, A. (2025). The Urgency of Implicit Bias Education for Judges to Realise Justice: Urgensi Pendidikan Bias Implisit bagi Hakim untuk Mewujudkan Keadilan. *Judex Laguens*, 3(1), 113-134.

²³ Awawda, O. (2024). Assessment of De Jure Judicial Independence of Constitutional Court according to International Guidelines. *Const. Rev.*, 10, 202. https://heinonline.org/HOL/Page?handle=hein.journals/consrev10&div=13&g_sent=1&casa_token=

²⁴ Sucipta, D. H., & Darma, I. M. W. (2022). Amicus Curiae As the Development of Evidence in Criminal Procedure Code. *Jurnal Bina Mulia Hukum*, 7(1), 17-30. <https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/576>

²⁵ Awawda, O. (2024). Assessment of De Jure Judicial Independence of Constitutional Court according to International Guidelines. *Const. Rev.*, 10, 202. https://heinonline.org/HOL/Page?handle=hein.journals/consrev10&div=13&g_sent=1&casa_token=

²⁶ Samsudin, S. (2024). Kode Etik Dan Pedoman Perilaku Hakim (Studi Komparatif Kitab Adabu Al-Qāḍī dengan Kode Etik Hakim di Indonesia).

²⁷ Heliany, I., Widowati, W., & Sihotang, M. (2023). The Pluralism of Indonesian Criminal Law: Implications and Orientations in the Post-New Criminal Code. *SASI*, 29(3), 514-523. <https://fhukum.unpatti.ac.id/jurnal/sasi/article/view/1494>

Defendants in one region may experience a greater degree of judicial discretion and unpredictability than those in another, producing disparities based not on legal principle but on geographic and cultural context.²⁸

Such uneven application of *ad informandum* undermines the principle of legal certainty and the uniform protection of fair trial rights. The legitimacy of judicial decisions depends on their predictability, consistency, and transparency values that cannot coexist with unchecked discretion. Legal pluralism, while intrinsic to Indonesia's legal identity, must therefore be reconciled with the demands of a modern rule-of-law system. The challenge is not to eliminate pluralism but to ensure that it operates under the umbrella of procedural fairness and human rights protection. The coexistence of different legal sources should enhance justice, not compromise it.

In this context, harmonizing Indonesia's procedural norms with international human rights obligations becomes essential. Although Indonesia ratified the ICCPR through Law No. 12 of 2005, the operationalization of its fair trial guarantees remains uneven. Judicial practice often prioritizes pragmatic or moral reasoning over strict adherence to human rights standards. This partial integration reflects a broader structural issue: the absence of explicit procedural regulation defining the permissible scope of *ad informandum*. The development of a clear legal framework through a Supreme Court Regulation (PERMA) or amendments to procedural codes could provide necessary guidance.²⁹ Such regulation should ensure that any use of *ad informandum* follows defined procedural safeguards, such as mandatory disclosure to the parties, the right to contest its content, verification of its reliability, and clear judicial reasoning that explains its relevance to the verdict. These procedural anchors would align Indonesian practice with international standards articulated in the UN Basic Principles on the Independence of the Judiciary, which emphasize transparency, impartiality, and accountability as cornerstones of judicial integrity.

However, procedural regulation alone is insufficient. The internalization of human rights values within judicial reasoning requires sustained ethical and professional development. The Indonesian Judicial Commission (Komisi Yudisial) and the Supreme Court's Training Center (Pusdiklat MA) play a crucial role in shaping judicial attitudes and competencies.³⁰ Continuous education programs focusing on human rights law, comparative jurisprudence, and ethical decision-making can strengthen judges' understanding of how discretion should operate within the boundaries of fairness. Training should emphasize that *ad informandum* is an auxiliary instrument designed to assist the court in interpreting facts, not a substitute for evidence or a justification for bypassing due process. Ethical awareness and human rights sensitivity are particularly vital in a pluralistic society, where judges must navigate between formal law and local values without sacrificing procedural integrity.³¹

The broader goal is to construct a hybrid procedural model that reconciles flexibility with fairness. Indonesia's legal pluralism is not an obstacle but a potential foundation for developing a more context-sensitive yet rights-compliant judicial system. By harmonizing statutory rules with local realities and international human rights standards, Indonesia can strengthen both legal certainty and public confidence in the judiciary. This hybrid approach

²⁸ Lubis, A. F. (2023). The right to a fair trial: Comparative analysis of international human rights standards. *The Easta Journal Law and Human Rights*, 1(03), 116-126. <https://doi.org/10.58812/eslhr.v1i03.88>

²⁹ Jitmau, S., Naim, S., & SJ, M. A. (2025). Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law. *JUSTISI*, 11(2), 441-455. <https://doi.org/10.33506/js.v11i2.4088>

³⁰ Stern, K. (2008, March). Procedural fairness-its scope and practical application [Paper originally presented at an AGS Government Law Group Seminar in October 2007.]. In *AIAL Forum* (No. 56, pp. 2-15).

³¹ Heliany, I., Widowati, W., & Sihotang, M. (2023). The Pluralism of Indonesian Criminal Law: Implications and Orientations in the Post-New Criminal Code. *SASI*, 29(3), 514-523. <https://doi.org/10.47268/sasi.v29i3.1494>

would acknowledge that justice must be responsive to social diversity while remaining anchored in universal principles of fairness and equality before the law.³² In practical terms, such harmonization would also contribute to the long-term objectives of the National Human Rights Action Plan (RANHAM) and the Judicial Reform Blueprint (*Cetak Biru Pembaruan Peradilan*), which aim to enhance judicial transparency and ethical governance.

At the same time, efforts to regulate *ad informandum* should recognize the sociological dimension of judicial decision-making. Judges often operate under institutional pressures, heavy caseloads, and cultural expectations that may unconsciously influence their reasoning. Establishing institutional checks, such as peer review of judgments, publication of decisions, and increased public access to case reasoning, can promote transparency and mitigate the risk of arbitrary reliance on undisclosed information.³³ A transparent reasoning process also strengthens accountability and allows higher courts to provide consistent interpretive guidance.

Ultimately, the future of *ad informandum* in Indonesia depends on embedding its use within a coherent ethical, procedural, and human rights framework. The goal is not to restrict judicial creativity but to channel it toward fairness and equality.³⁴ Properly regulated, *ad informandum* can enrich the judicial process by providing contextual insight and supporting the fact-finding mission of the court. It can serve as a bridge between formal legality and substantive justice, ensuring that the law remains responsive to social complexities while upholding the integrity of due process.³⁵ Yet if left unchecked, it risks becoming a discretionary loophole that undermines the rule of law, weakens equality before the law, and erodes public trust in judicial institutions.

A rights-based reform of *ad informandum* practice would reaffirm Indonesia's dual commitment to national legal values and international human rights obligations. It would demonstrate that pluralism and fairness are not opposing ideals but complementary pillars of democratic justice.³⁶ Through legislative clarity, judicial education, and institutional accountability, Indonesia can ensure that *ad informandum* operates not as an exception to the principles of fair trial but as a means of realizing them. In doing so, the judiciary strengthens its legitimacy as both a guardian of justice and a protector of human rights, ensuring that the pursuit of justice in Indonesia remains both substantive and fair.

4. Closing

This study finds that *ad informandum* occupies a crucial yet unregulated position within Indonesia's judicial process. Its use reflects the persistent tension between the ideals of substantive justice and the demands of procedural fairness. While it contributes to a more informed and socially responsive judiciary, the absence of formal legal recognition leaves the practice vulnerable to inconsistency and potential ethical risks.

To address these gaps, *ad informandum* should be formally codified within Indonesia's procedural framework through the establishment of clear normative guidelines. These should define its permissible scope, procedural safeguards, and ethical parameters to prevent judicial

³² Sutrsino, A. (2025). Peran Hakim dalam Mewujudkan Due Process of Law Pada Sistem Peradilan Tata Usaha Negara di Indonesia. *Locus: Jurnal Konsep Ilmu Hukum*, 5(1), 17-28. <https://doi.org/10.56128/jkih.v5i1.434>

³³ Putri, Mengenal Ad Informandum Dalam Praktik Hukum Indonesia.

³⁴ Kahar, A. (2025). The Urgency of Implicit Bias Education for Judges to Realise Justice: Urgensi Pendidikan Bias Implisit bagi Hakim untuk Mewujudkan Keadilan. *Judex Laguens*, 3(1), 113-134.

³⁵ Jubaidi, D., & Khoirunnisa, K. (2024). Artificial Intelligence in the Perspective of Indonesian Law: Subject or Object of Law?. *Asian Journal of Education and Social Studies*, 50(11), 10-9734. <https://doi.org/10.9734/ajess/2024/v50i111655>

³⁶ Jubaidi, D., & Khoirunnisa, K. (2023). Political Configuration of Law in Law Enforcement in Indonesia. Available at SSRN 5068418. <https://doi.org/10.52728/ijss.v4i4.880>

overreach and ensure transparency. All third-party information submitted must be made accessible to the parties and open to scrutiny to preserve due process. Additionally, judicial training should emphasize awareness of ethical considerations and the proper handling of extra-evidentiary materials. A comparative adoption of elements from amicus curiae mechanisms may also provide a balanced institutional model for integrating third-party perspectives without undermining adversarial fairness.

In conclusion, the formal regulation of ad informandum represents not merely a procedural refinement but a necessary step in advancing Indonesia's broader judicial reform and human rights agenda. By codifying and ethically calibrating this practice, Indonesia can strengthen judicial accountability, enhance public trust, and align its adjudicative processes with the principles of justice and the rule of law.

References

Books with an author:

- Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode penelitian hukum*. CV. Gita Lentera.
- Pralampita, L. A. (2020). *Kedudukan Amicus Curiae Dalam Sistem Peradilan di Indonesia*. Putri, Mengenal Ad Informandum Dalam Praktik Hukum Indonesia.
- Samsudin, S. (2024). *Kode Etik dan Pedoman Perilaku Hakim (Studi Komparatif Kitab Adabu Al-Qâḍī dengan Kode Etik Hakim di Indonesia)*.

Journal articles:

- Awawda, O. (2024). Assessment of De Jure Judicial Independence of Constitutional Court according to International Guidelines. *Const. Rev.*, 10, 202. https://heinonline.org/HOL/Page?handle=hein.journals/consrev10&div=13&g_sent=1&casa_token=
- Ayudia Aura, Ancesar Putri, and Gerry Putra Rizky, "Meninjau Peran Amicus Curiae Dalam Hukum Acara Mahkamah Konstitusi : Urgensi Pengaturan Dan Pencegahan Bias," *Jurnal Ilmu Hukum* 2, no. 4 (2025): 268–75, <https://doi.org/https://doi.org/10.62017/syariah>.
- Graaf, C. V. D. (2021). Procedural fairness: Between human rights law and social psychology. *Netherlands Quarterly of Human Rights*, 39(1), 11-29. <https://journals.sagepub.com/doi/abs/10.1177/0924051921992749>
- Heliany, I., Widowati, W., & Sihotang, M. (2023). The Pluralism of Indonesian Criminal Law: Implications and Orientations in the Post-New Criminal Code. *SASI*, 29(3), 514-523. <https://fhukum.unpatti.ac.id/jurnal/sasi/article/view/1494>
- Heliany, I., Widowati, W., & Sihotang, M. (2023). The Pluralism of Indonesian Criminal Law: Implications and Orientations in the Post-New Criminal Code. *SASI*, 29(3), 514-523. <https://doi.org/10.47268/sasi.v29i3.1494>
- Jitmau, S., Naim, S., & SJ, M. A. (2025). Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law. *JUSTISI*, 11(2), 441-455. <https://doi.org/10.33506/js.v11i2.4088>
- Jubaidi, D., & Khoirunnisa, K. (2023). Political Configuration of Law in Law Enforcement in Indonesia. Available at SSRN 5068418. <https://doi.org/10.52728/ijss.v4i4.880>
- Kahar, A. (2025). The Urgency of Implicit Bias Education for Judges to Realise Justice: Urgensi Pendidikan Bias Implisit bagi Hakim untuk Mewujudkan Keadilan. *Judex Laguens*, 3(1), 113-134.
- Kartikasari, D., & Risky, S. (2025). The Idea of Independent Judicial Ethics Courts in Indonesia: Gagasan Pengadilan Etik Kehakiman Independen Di Indonesia.

- JAPHTN-HAN, 4(1), 65-84.
<https://www.japhtnhan.id/index.php/japhtnhan/article/view/156>
- Latipulhayat, A., & Harijanti, S. D. (2022). Indonesia's Approach to International Treaties. *Padjadjaran Journal of International Law*, 6(2), 201-216.
<https://doi.org/10.23920/pjil.v6i2.915>
- Lubis, A. F. (2023). The right to a fair trial: Comparative analysis of international human rights standards. *The Easta Journal Law and Human Rights*, 1(03), 116-126.
<https://doi.org/10.58812/eslhr.v1i03.88>
- Manaf, A. (2024). Telaah Terhadap Kedudukan Amicus Curiae Dalam Perkara Perkara Perselisihan Pemilihan Umum Di Mahkamah Konstitusi. *Borneo Law Review*, 8(2), 174-189. <https://jurnal.borneo.ac.id/index.php/bolrev/article/view/6201>
- Nagin, D. S., & Telep, C. W. (2020). Procedural justice and legal compliance: A revisionist perspective. *Criminology & Public Policy*, 19(3), 761-786.
<https://doi.org/10.1111/1745-9133.12499>
- Noormansyah, A., & Sanjaya, U. H. (2022). The Legal Vacuum of Interreligious Marriage In Indonesia: The Study of Judges' Consideration In Interreligious Marriage Court Decisions 2010-2021. *Prophetic Law Review*, 177-194.
<https://doi.org/10.20885/PLR.vol4.iss2.art3>
- Rondo, P. A. M., & Firmansyah, H. (2023). Pengaruh Peran Amicus Curiae Terhadap Proses Peradilan dan Kepastian Hukum. *UNES Law Review*, 6(2), 4463-4468.
<https://doi.org/10.31933/unesrev.v6i2.1283>
- Safitri, N. (2024). The position of amicus curiae in judges' decisions according to Indonesia's criminal justice system (Case No. 798/Pid.B/2022/PN Jkt.Sel) [Master's thesis, Universitas Muhammadiyah Malang]. Universitas Muhammadiyah Malang Institutional Repository. <https://eprints.umm.ac.id/id/eprint/10028/>
- Stern, K. (2008, March). Procedural fairness-its scope and practical application [Paper originally presented at an AGS Government Law Group Seminar in October 2007.]. In *AIAL Forum* (No. 56, pp. 2-15).
- Sucipta, D. H., & Darma, I. M. W. (2022). Amicus Curiae As the Development of Evidence in Criminal Procedure Code. *Jurnal Bina Mulia Hukum*, 7(1), 17-30.
<https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/576>
- Sukinta, S. (2021). Konsep dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia. *Administrative Law and Governance Journal*, 4(1), 89-98. <https://doi.org/10.14710/alj.v4i1.89%20-%2098>
- Sutrsino, A. (2025). Peran Hakim dalam Mewujudkan Due Process of Law Pada Sistem Peradilan Tata Usaha Negara di Indonesia. *Locus: Jurnal Konsep Ilmu Hukum*, 5(1), 17-28. <https://doi.org/10.56128/jkih.v5i1.434>
- Thomas, J. (2024). Amicus Curiae Mechanism in Indonesian Legal System. *Jurnal Hukum dan Peradilan*.
- 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.
<https://doi.org/10.25216/jhp.13.1.2024.1-32>
- World Wide Web:*
- Tiara Amanda Putri. (2015) "Mengenal Ad Informandum dalam Praktik Hukum Indonesia," *Hukumonline.com*.
<https://www.hukumonline.com/klinik/a/mengenal-ad-informandum-dalam-praktik-hukum-indonesia-lt6826d8786a584/>

Conflict of Interest Statement:

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Copyright © 2025 ALJ. All rights reserved.