



The influence of netizens' opinions on the designation of justice collaborators in murder cases in Indonesia

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Abstract

In the current legal system, mass media plays a crucial role in providing information to the public about legal cases, even influencing public opinion. By delivering news and information, mass media has the power to shape public views on legal matters. Public opinion, in the form of netizens' comments on social media, plays a role in overseeing the judicial process, including in criminal cases. Sometimes, it even serves as one of the considerations for judges in making decisions, as stipulated in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Authority. In this study, in the case of the murder involving Richard Eliezer, he was granted the status of Justice Collaborator due to the pressure from court friends (*Amicus Curiae*), which had a significant impact on the verdict being lighter than the demands of the Public Prosecutor. This illustrates the difficulty in maintaining judicial independence when faced with such issues, which aim to advance democratic rule of law, executed legally and serving as a guideline for law enforcement officers in carrying out their duties and functions, thus ensuring justice for both the perpetrator and the public. The results of this study produced several ideas. Our country should start adopting a legal system similar to that of developed countries, such as allowing the use of *Amicus Curiae* in the judicial system, as in the United States. Specifically in Indonesia, particularly in criminal proceedings based on Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), Article 180 paragraph (1) of KUHAP should be the gateway to incorporating public aspirations into criminal justice as a means of accommodating public aspirations and approaching societal justice.

Keywords: Netizens' opinions, justice collaborator, murder

Introduction

Murder is the act of unlawfully taking someone's life, whether in violation of the law or not. The motives for murder are often varied, such as political reasons, jealousy, revenge, self-defense, and others. This act can be carried out in various ways, commonly using firearms or sharp weapons, and sometimes using explosive materials like bombs ^[1]. Therefore, the crime of murder is one of the serious offences that threaten public safety and legal stability. Effective law enforcement efforts to uncover, prosecute, and adjudicate the perpetrators of murder are essential in maintaining justice and order. On the other hand, the role of social media and netizens (active internet users on online platforms) in influencing legal cases, particularly in the context of designating a Justice Collaborator (JC), has become an increasingly important topic in the modern judicial system ^[2].

The influence of netizens in certain criminal cases, including murder, has become a major focus in the digital era. Comments, public opinion pressure, and the dissemination of information on social media can have a significant impact on the judicial process. One mechanism used in the legal system to obtain crucial information and uncover crime networks is the designation of a Justice Collaborator (JC). A JC is an individual who cooperates as an accomplice witness and is involved in a specific criminal act. They admit to their wrongdoing, are not the main perpetrator of the crime, and provide testimony as a witness in the criminal process ^[3].

Speaking about JC, in Indonesia's positive law, there is no specific and clear regulation governing JC in general criminal offences. However, for specific crimes, it is regulated as stated in Law No. 31 of 2014 concerning

Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims (UU PSK), the United Nations Convention Against Corruption (UNCAC), Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes (TIPIKOR Law), the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Menkumham), the Attorney General of the Republic of Indonesia, the Chief of the Indonesian National Police (Kapolri), the Corruption Eradication Commission of the Republic of Indonesia (KPK), the Chairman of the Witness and Victim Protection Agency of the Republic of Indonesia (LPSK) No. M.HH-11.HM.03.02.Th.2011, No: PER-045/A/JA/12/2011, No: 1 Year 2011, No. KEPB-02/0155/12/2011, No. 4 Year 2011 on Protection for Reporters, Reporting Witnesses, and Collaborating Witnesses, and the Circular Letter of the Supreme Court (SEMA) RI No. 04 of 2011 on the Treatment of Crime Reporters (whistleblowers) and Collaborating Witnesses (JC) in Certain Criminal Cases ^[4].

In the murder case Number: 798/Pid.B/2022/PN.Jkt.Sel involving the defendant Richard Eliezer Pudihang Lumiu, the defendant was designated as an accomplice witness who offered himself as a JC in the murder of Nofriansyah Yosua Hutabarat, violating Article 340 of the Indonesian Criminal Code (KUHP) in conjunction with Article 55 paragraph (1) sub-paragraph 1 of the KUHP concerning participation in committing murder. Article 340 of the KUHP states, "Anyone who deliberately and with premeditation takes another person's life shall be punished for premeditated murder with the death penalty or life imprisonment or a fixed-term imprisonment of up to twenty years ^[5]." The panel of judges ultimately sentenced the defendant to 1 year and 6 months in prison. One of the mitigating factors for

Richard Eliezer Pudihang Lumiu was his status as a collaborating witness or JC.

On social media, many netizens express satisfaction with Elizer's verdict. However, it's important to remember that according to Law No. 48 of 2009 concerning Judicial Authority, Article 5 paragraph (1) stipulates: Judges and constitutional judges must explore, follow, and understand the legal principles and sense of justice that are alive in society. The term "explore" typically means that the law exists in legal rules but is still vague, making it challenging to apply in specific cases. Therefore, to discover the law, one must strive to unearth the living legal principles within society. Once the law is discovered through this exploration, judges are obligated to follow and understand it, using it as the basis for their rulings to ensure they align with the prevailing sense of justice in society^[6].

According to Achmad Ali, the purpose of a judge's decision is to uphold both law and justice. Law enforcement applies to cases where legal certainty is the goal, while justice enforcement applies to cases where fairness is the aim^[7].

Based on the explanation above, the designation of a Justice Collaborator (JC) leading to lenient sentences has sparked considerable controversy, prompting the author's interest in researching the extent of netizens' opinions and pressures on the process of appointing JC in murder cases. The author also aims to explore future regulations on how to incorporate netizens' opinions and pressures into criminal murder case judgments.

To delve into this research topic, one could examine several aspects

1. **Impact of Netizen Opinions:** Analyze how public opinions expressed by netizens on social media influence judicial decisions, particularly in cases involving the appointment of a JC. This would involve studying the volume, content, and tone of online discussions surrounding such cases.
2. **Legal Framework and Judicial Independence:** Evaluate the existing legal framework in Indonesia regarding the appointment of JC in criminal cases, especially murder. Assess whether current laws adequately address the role of public opinion and social media pressures in judicial processes.
3. **Comparative Analysis:** Conduct a comparative analysis with other jurisdictions that have dealt with similar issues. Examine how these jurisdictions regulate or consider public opinions in judicial proceedings, particularly in sensitive criminal cases like murder.
4. **Policy Recommendations**:** Based on the findings, propose policy recommendations or amendments to existing laws that could better integrate public opinions and social media pressures into the judicial decision-making process without compromising judicial independence and the rule of law. By addressing these aspects, the research can contribute to understanding the evolving role of public opinion in legal proceedings and suggest ways to balance transparency and accountability in the justice system.

Research Method

The type of research employed is juridical-normative research, commonly known as doctrinal legal research. In this study, researchers examined secondary legal materials to address the research focus questions^[8]. The approach included legislative, conceptual, and historical approaches. Secondary legal data served as the primary data source. Data collection involved library research utilizing legal resources that supported the study. Information retrieval was conducted through conventional methods and information technology such as the internet to obtain accurate information on the research issues^[9]. The gathered data was qualitatively analyzed in a normative manner by the author. Analysis involved detailing and interpreting data, as well as assessing the legal issues under investigation. The findings of the analysis were structured into a descriptive study report. Therefore, this research aims to provide understanding and explanations of the legal issues under investigation based on the analysis of relevant legal data concerning the verdict in murder case Number: 798/Pid.B/2022/PN.Jkt.Sel involving defendant Richard Eliezer Pudihang Lumiu.

Result and Discussion

The Influence of Netizen Opinions and Pressures on the Process of Appointing JC in Murder Cases

In the Constitution of the Republic of Indonesia of 1945, it is stated that Indonesia is a state based on the rule of law (Rechtsstaat). Law plays a crucial role in determining actions that are required, permitted, and prohibited. The purpose of the law extends beyond individuals who clearly violate it to encompass potential actions and state institutions that must act in accordance with the law.

The dynamic conditions of society lead to changes in social conditions that have negative social impacts, especially concerning the increase in crime that disturbs the community, such as murder. Deliberately planned criminal acts, particularly those involving murder, have recently become headline news within law enforcement institutions, drawing public attention. Cases where planned murder becomes complex due to lack of evidence and discrepancies in witness testimonies have become tangled webs in this issue^[10].

In any crime, especially those involving loss of life like murder, accountability is vigorously pursued. Several steps are crucial, including investigation, prosecution, and continuation through the judicial process^[11]. During these proceedings, the term "Justice Collaborator" emerges, referring to a perpetrator who cooperates with law enforcement by providing information or assistance. The role of a Justice Collaborator involves someone who is a suspect but not the main perpetrator and can disclose others involved above them. Despite being involved in the crime, they receive leniency for assisting in uncovering facts and promoting justice.

The Law Number 13 Year 2006 concerning Witness and Victim Protection indeed does not provide a definition of a whistleblower or Justice Collaborator, but this absence of definition does not diminish the rights that should be afforded to them and fulfilled by the Witness and Victim Protection Agency (LPSK). Both whistleblowers and Justice Collaborators are considered witnesses when reporting a corruption case. The concept of Justice Collaborator essentially aligns with the concept of accessory liability

under Articles 55 and 56 of the Indonesian Criminal Code (KUHP), where someone's involvement in a corruption case and their reporting of it to law enforcement can occur in several scenarios, such as being involved with others in committing a crime.

The regulation governing the appointment of a Justice Collaborator (JC) in Indonesia is based on Law No. 31 of 2014, which amends Law No. 13 of 2006 concerning Witness and Victim Protection. A JC is someone who assists in the investigation and prosecution of a criminal offense by providing crucial testimony or information to law enforcement authorities. In the case of defendant Richard Eliezer Pudihang Lumiu, who was involved in premeditated murder, his designation as a JC has drawn the attention of researchers.

In the verdict Number 798/Pid.B/2022/PN. Jkt.Sel, the defendant Richard Eliezer Pudihang Lumiu applied to be a Justice Collaborator (JC) in a case of premeditated murder involving Nofriansyah Yosua Hutabarat. However, the defendant was also the main perpetrator in this criminal act, thus not meeting the criteria to be a JC under the regulations governing protection for whistleblowers, reporting witnesses, and cooperating witnesses. Additionally, Richard Eliezer Pudihang Lumiu provided testimony that differed from other defendants. According to legal provisions regarding the evidential value of witness testimony, the testimony of a single witness alone is not considered strong and may be deemed invalid (*Unus Testis Nullus Testis*). This discrepancy renders the defendant's testimony insufficient as evidence to qualify for JC status.

Based on its history, the role of netizen opinions in this case bears similarity to another term known as *Amicus Curiae*, also referred to as "friends of the court," which pertains to inputs provided by individuals or organizations not directly involved in a case but with a vested interest or concern in it. When more than one individual or group serves as *Amicus Curiae*, they are collectively referred to as *Amici(s)*. The use of *Amicus Curiae* can serve as a reference for judges to review, consider, and make decisions in a case^[12].

Amicus curiae is not clearly regulated in Indonesia; however, in principle, its acceptance is based on Article 5 paragraph 1 of the Judiciary Law, which states that "Judges and constitutional judges must explore, follow, and understand the legal values and sense of justice that exist within society." Furthermore, acceptance of *amicus curiae* can be seen in Article 180 paragraph 1 of the Criminal Procedure Code (KUHAP), which essentially states that "When necessary to clarify the issue in court, the presiding judge may request expert testimony and may also request the submission of new evidence by interested parties." The premeditated murder committed by defendant Richard Eliezer in Jakarta is an example of a case involving *amicus curiae* participation in the judicial process, particularly within the Indonesian legal system, and an analysis of the judge's considerations when accepting *amicus curiae* in the case of premeditated murder committed by defendant Richard Eliezer.

Regulation of Amicus Curiae in the Form of Netizen Opinions and Pressure in Criminal Murder Cases

Social media platforms like TikTok, Instagram, or Twitter are integral parts of technological advancement that are unavoidable. This has made it easier for social media users, often referred to as netizens, to access information,

including in legal fields. A phenomenon that has emerged is the extraordinary power of netizens, particularly in Indonesia, to contribute to "upholding justice" through comments and content they create. Dwi Ratna Indri Hapsari^[13] mentioned that people nowadays find it easier to express their opinions on a hotly debated case. This feedback can provide input or, conversely, "disrupt" ongoing legal processes. "For example, when a judge is reviewing a case involving a public figure or someone in a certain position, there will certainly be many netizens commenting on it. These comments can be constructive feedback, but they can also disrupt the process of a case," explained Indri.

Although many cases have been uncovered with the help of netizens for further action, netizen intervention can also impact the outcomes of judicial decisions. These comments can influence judges in their considerations during case reviews. However, in principle, a judge must maintain independence. This is why there is the judiciary power under the Supreme Court (MA).

This can also be influenced by the views of lawyers and netizens through social media. Subjectivity can also arise from the region where the judge is reviewing the case, as each region has its own customs and traditions^[14]. "It should be remembered that in examining and deciding a case, judges must still prioritize the legal objectives of justice, utility, and legal certainty. Comments from netizens or the public through social media can actually exert control over the cases at hand."

It can be stated that the concept of *Amicus Curiae* has been partially adopted by the Constitutional Court in its regulations. In Indonesia, although there are no formal rules on *Amicus Curiae*, Article 5(1) of Law No. 48 of 2009 concerning the Judicial Authority mandates that "Judges and constitutional judges must explore, follow, and understand the legal values and sense of justice prevailing in society." This is also supported by Article 14 of the Constitutional Court Regulation No. 06/PMK/2005, which states that interested parties not directly involved may be heard as "parties who, due to their position, main duties, and functions, need to provide their statements" or "parties whose statements are necessary as *ad informandum*, namely parties whose rights and/or authorities are not directly affected by the subject matter of the application but are concerned about the said application." Therefore, it can be said that the concept of *Amicus Curiae* has been incorporated to some extent by the Constitutional Court through its regulations.

In the future, regarding the opinions and pressures from netizens in criminal murder case rulings, it is necessary to strike a balance between freedom of expression and safeguarding a fair and impartial judicial process. Here are several legal provisions that can be utilized to accommodate public or netizen opinions

1. Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to freedom of association, assembly, and expression of opinions.
2. Law No. 40 of 1999 on the Press, Article 5 paragraph (1), stipulates that the national press is obligated to report events and opinions while respecting religious norms, societal morals, and the presumption of innocence.
3. Law No. 1 of 2024, Second Amendment to Law No. 11 of 2008 concerning Electronic Information and

Transactions, Article 27 paragraph (3), prohibits any person from intentionally and without authority distributing, transmitting, or making accessible electronic information or documents containing defamation or slander.

4. Article 217 of the Indonesian Criminal Code (KUHP) stipulates that "anyone who causes disturbance in a court hearing or in a place where an official is carrying out their lawful duties in public, and does not leave after being ordered to do so by or on behalf of the authorized authority, is subject to a maximum imprisonment of three weeks or a fine of up to one thousand eight hundred rupiahs."

As for public opinion, it has both positive and negative aspects. However, when discussing ongoing court proceedings in a negative manner, it can be categorized as Contempt of Court, which involves actions that insult the judiciary. This underscores the need for future regulations regarding netizen opinions or related interventions like amicus curiae to be clearly defined in the new National Penal Code (KUHP), ensuring that expressing opinions via social media, formed prior to judicial processes, does not distort public perception of justice and the objectivity of the judicial system.

The Importance of Regulation, Trial By The Press, Amicus Curiae, as Platforms for Netizen Opinions in Criminal Trials.

The mass media or press wields significant influence in law enforcement concerning cases they cover. As stated in Law Number 40 of 1999 concerning the Press ^[15], the mass media or press plays a role in public oversight of criminal proceedings and law enforcement through the dissemination of information and social engineering. Regarding netizen opinions in Indonesia, this can informally be considered as a form of Amicus Curiae, although not officially recognized in court and limited to mere opinion. For formally recognized Amicus Curiae in Indonesia, specific legal procedures apply.

The implementation of criminal justice systems involves various factors, including the influence of mass media coverage and public opinion as part of trial proceedings by the press. The presence of trial by the press also affects judges in their decision-making during trials, as seen in cases like Minah's, where trial by the press may occur during her criminal proceedings. Meanwhile, criminal procedural law itself is a central aspect of criminal procedure, particularly concerning the application of punishment by judges to criminal offenders. The mass media or press wields significant influence in the efforts to enforce the law in cases they cover. As stated in Law Number 40 of 1999 concerning the Press, the mass media or press plays a function, role, and influence on society in overseeing criminal proceedings and law enforcement through information dissemination and social engineering conducted by the mass media.

Regarding public opinion in Indonesia, it can be considered as informal Amicus Curiae, merely expressing opinions since there is no formal and written Amicus Curiae in Indonesia. Although the Supreme Court does not have rules regarding platforms for public opinion or Amicus Curiae, Article 5 (1) of Law Number 48 of 2009 concerning the Judiciary states ^[16] that "Judges and constitutional judges

must explore, follow, and understand the principles of law and sense of justice prevailing in society." This is further supported by Article 14 of Constitutional Court Regulation Number 06/PMK/2005, which states that indirectly affected parties are those "whose position, duties, and primary functions require their statements to be heard" or "parties whose statements need to be heard as ad informandum, namely parties whose rights and/or authorities are not directly affected by the subject of the application but due to their concern regarding the relevant application." Thus, it can be said that the concept of Amicus Curiae has been partially adopted by the Constitutional Court in its regulations.

One of the laws that some parties consider as an opportunity to allow the use of Amicus Curiae in the Indonesian judicial system, particularly in criminal justice, is Law Number 8 of 1981 concerning Criminal Procedure Code (KUHP), specifically Article 180 paragraph (1) of KUHP. Article 180 paragraph (1) of KUHP states: "if necessary to clarify issues arising in court hearings, the presiding judge may request expert testimony and also may request submission of new material by interested parties." Another basis frequently cited for the use of Amicus Curiae in Indonesia's criminal justice system is Law Number 39 of 1999 concerning Human Rights ^[17]. Article 89 paragraph (3) of Law Number 39 of 1999 stipulates that one of the authorities of the National Commission on Human Rights of the Republic of Indonesia is: "to provide opinions with the consent of the presiding judge regarding specific cases under trial, if those cases involve human rights violations in public issues and are subject to court examination, where the opinion of the National Commission on Human Rights must be presented by the judge to the relevant parties."

The level of societal compliance with court decisions can be influenced, especially if they believe the judicial process is unfair. Judicial independence is a key factor in ensuring justice in the legal system. Judges must be free from external pressure and able to make decisions based on law and evidence presented in court. However, in cases like Ferdy Sambo's, mass media can create pressures and public opinions that may affect judicial independence. Judges may feel compelled to consider existing public opinions or try to avoid negative perceptions from the public. This can jeopardize the integrity and independence of judges in delivering fair and legitimate judgments.

As seen in the chronology of the Ferdy Sambo case, media interference through trial by the press illustrates the complexity and controversy of media coverage on cases in Indonesia. The influence of media in shaping public opinion can significantly impact fair trial processes, the reputation of individuals and involved parties, as well as public trust in the integrity of the judicial system and the independence of judges in delivering judgments.

Conclusion

Based on the description of the research findings and discussions outlined above, the following conclusions can be drawn: The influence of opinions and pressure from netizens on the process of determining Judicial Commission (JC) in murder cases can significantly affect the JC determination process. Netizens, or internet users, often wield the power to influence public opinion through social media platforms and other online forums. The role of netizen opinions in this case also bears similarities to

another concept known as *Amicus Curiae*, or "friend of the court," which involves input provided by individuals or organizations not directly involved as parties in a case but having an interest in the matter. *Amicus Curiae* can serve as a reference for judges to examine, consider, and decide a case.

Specifically, current regulations, particularly in criminal procedural law, do not yet accommodate the influence of public opinion through online media/netizens in criminal trial processes such as in JC cases. Therefore, specific regulations are needed in this regard, akin to allowing the use of *Amicus Curiae* in the Indonesian judicial system, especially in criminal justice based on Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) through Article 180 paragraph (1) of KUHAP.

It is important to consider netizen opinions as a representation of public sentiment, reflecting the participatory role of society in overseeing criminal law enforcement in Indonesia's criminal justice system. This effort is crucial to promoting the realization of a democratic rule of law, ensuring its legal implementation, and serving as a guide for law enforcement agencies in carrying out their tasks and functions, thereby promoting justice for both perpetrators and the community.

Our country should start adopting legal systems similar to those of developed countries, such as allowing the use of *Amicus Curiae* in the judicial system in America. Specifically in Indonesia, especially in criminal proceedings based on Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP), Article 180 paragraph (1) of KUHAP should serve as a gateway to incorporate public aspirations into criminal proceedings.

To ensure this, the government and legislative bodies should revise Law Number 48 of 2009 concerning the Judiciary of the Republic of Indonesia. Concrete regulations are needed, both materially and formally, in legislation to regulate *Amicus Curiae*. As a vehicle for public aspirations in criminal justice, it is hoped that the government will play an active role in anticipating these developments, as *Amicus Curiae* can be a strategic tool to clarify principles in a democratic state.

References

1. Lamintang PAF, Lamintang Theo. *Kejahatan Terhadap Nyawa, Tubuh, dan Kesehatan*, Jakarta: Sinar Grafika, 2012.
2. Soekanto Soerjono. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: PT Raja Grafindo Persada, 2007.
3. Mulyadi Lilik. *Perlindungan Hukum Whistleblower Dan Justice Collaborator Dalam Upaya Penanggulangan Organized Crime di Indonesia Masa Mendatang*. PADJADJARAN: Jurnal Ilmu Hukum (Journal of Law), 2014, 1(3).
4. Mulyadi Lilik. *Perlindungan Hukum Whistleblower Dan Justice Collaborator Dalam Upaya Penanggulangan Organized Crime di Indonesia Masa Mendatang*. Padjadjaran: Jurnal Ilmu Hukum (Journal of Law), 2014, 1(3).
5. <https://tirto.id/Hakim-nilai-eliezer-turut-serta-lakukan-pembunuhan-berencana-gCtj> accessed on 20 November 2023.
6. Manan Abdul. Legal Discovery by Judges in Procedural Law Practice in Religious Courts. Paper presented at

the National Working Meeting of the Supreme Court of the Republic of Indonesia, 10-14 October 2010, in Balikpapan, East Kalimantan, Indonesia, 2010.

7. Ali Achmad. *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*. Jakarta: Chandra Pratama, 1993.
8. Marzuki Peter Mahmud. *Pengantar Ilmu Hukum*. Jakarta: Kencana Prenada Media Group, 2008.
9. Sunggono Bambang. *Metodologi Penelitian Hukum*. Jakarta: Sinar Grafika, 2009.
10. Hafid A. *Kajian Hukum Tentang Pembunuhan Berencana Menurut Pasal 340 KUHP*. Lex Crim, 2015, 4(4).
11. Tarmudi LR Eno, Malinim OS. *Kedudukan Hukum Justice Collaborator Pada Peradilan Pidana di Indonesia (Studi Kasus Putusan Nomor : 1273 / Pid. Sus / 2019 / Pn. Plg)*. Jurnal Hukum Bisnis, 2015, 12(4).
12. Pralampita LA. *Kedudukan Amicus Curiae dalam Sistem Perdilan di Indonesia*. Jurnal Lex Renaissance. Universitas Islam Indonesia, 2020, 5(3).
13. <https://www.umm.ac.id/id/berita/warganet-bisa-pengaruh-putusan-hakim-begini-kata-dosen-umm.html> accessed on 20 March 2024.
14. <https://www.umm.ac.id/id/berita/warganet-bisa-pengaruh-putusan-hakim-begini-kata-dosen-umm.html> accessed on 20 March 2024.
15. The Law of the Republic of Indonesia Number 40 Year 1999 concerning the Press.
16. The Law of the Republic of Indonesia Number 48 Year 2009 concerning Judicial Power.
17. The Law of the Republic of Indonesia Number 39 Year 1999 concerning Human Rights.