EXPANDING THE SCOPE OF *AMICUS CURIAE* BRIEFS IN NIGERIA- A PSYCHOLOGICAL PERSPECTIVE[1* 2**]

Abstract

Amicus typically relates to the phrase amicus curiae which means 'friend of the court'. Amicus is an individual or organization that is not a party to an action but who volunteers or is court invited to advise on a matter before the court. The essence of this work is to ascertain the application and scope of Amicus Curiae Brief in Nigeria- the finding of this work is that Amicus curiae brief applies in Nigeria but relates to constitutional issue and mostly presented to the court by lawyers and organizations that are connected to law related concerns. It is also the findings of this work that science-based research especially psychological related research are not presented to the courts in Nigeria because the scope of Amicus curiae is limited and not taken as a subject of legal importance. The work recommends for the incorporation of Amicus Curiae Briefs in our State High Courts and review of all the Federal High Courts, Court of Appeal and Supreme Court Rules on Amicus Curiae Brief, expands its scope, accessibility and cost effectiveness. It is also recommended that legislation should be made in our laws especially the law of evidence on Amicus Curia Brief and for an advanced advocacy in partnership with Professional Associations and Agencies of State in high profile related research and technological knowledge and advancement. If these recommendations are implemented, the amicus curiae brief system would certainly help the cause of justice.

1.0 Introduction

1.1 *In Agoro vs. Aromolaran & Anor*[3] the court defined *amicus curiae* thus:

> "An *amicus curiae* is the Latin phrase for a "friend of court" and he is "a person who is not a party to a law suit but who petitions the court or is required by the court to file a brief in an action because that person has a strong interest in the subject matter"[4]. In practice a learned counsel does not need to have "strong interest" or any interest at all before he can be invited to brief address the court as an "*amicus curiae*" per Adumein, JCA (pp. 16-17, pars G-B)

1.2 Also, in the case of Atake vs. Afejuku[5] Oguntadere J.S.C of the Blessed memory defined *Amicus Curiae* thus:

> *"Amicus Curiae* has been defined in Osborne's Concise Law Dictionary 7th edition at page 25 as: A friend of the court, one who calls the attention of court to some point of law or fact which would appear to have been overlooked; usually a member of the Bar...".

1.3 In Grice vs. The Queen[6], Ferguson J, defined the expression thus: *Amicus Curiae* as a bystander, usually a lawyer who interposes and volunteers information upon some matter of law in regard to

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[3] (2022) LPELR-8906 (CA)

[4] B.A. Garner Black's Law Dictionary. (8th Edition, St Pauls Minn, West Thomson Renters. St Pauls, 2001) P.93

[5] (1994) LPELR-585 (SC)

which the judge is doubtful or mistaken in a matter of law, which he may inform the court of. A similar definition appears in Earl Jowtts Dictionary of English Law where it is stated: *Amicus Curiae*, a friend of the court, that is to say, a person whether a member of the bar not engaged in the case or any other by-stander, who calls attention of the court to some decision, whether reported or unreported or some point of law which would appear to have been over- looked.

1.4 In Ahmad Zabadne vs. Shinco Nigeria Limited & Anor[7], the court defined *amicus curiae* thus:

> "An *amicus curiae* is the Latin phrase for a "friend of the court" and he is "a person who is not a party to a law suit but who petitions the court or is required by the court to file a brief in the action because that person has a strong interest in the subject matter" per Oniyangi, JCA (pp. 24-26, pars F-D)

1.5 In America and some other Western jurisdictions, the *amicus curiae* (friend of the court) brief has proven to be a useful tool for educating judges about relevant psychological research. The "friends" are interested and knowledgeable parties that do not have any direct contact or benefit in the case. The major essence of such brief is to summarize and bring out the major body of research on a particular issue on the subject matter before the court and make it clearer and easier for the courts understanding and comprehension. In the United States of America for example, the American Psychological Association through the Committee on Legal Issues (COLI) has filed *amicus* briefs in a wide range of cases dealing with issues as diverse as jury size, the death penalty, gay rights, abortion, the predication of dangerousness, rights of mentally ill patients, the effects of employment discrimination, sexual behavior and the court room testimony of child witnesses.

1.6 *Amicus curiae* or friend of the court briefs are briefs written by individuals or groups who are not directly involved in legal case but have expertise or insight to offer to a court to assist in making its decisions. Since 1962, the American Psychological Association (APA) has filed nearly 250 amicus briefs based on the most up-to-date and rigorously tested psychological science and research. As of late 2022, 23 of APA's *amicus* briefs were cited directly by the US Supreme Court and another 23 were cited directly in the decisions of the lower courts. APA's *amicus* brief program is supported by the *amicus curiae* expert panel, a group of eight psychologists with expertise in various psycho legal areas[8]. Members of the panel assist the Office of the General Counsel (OGC) by drafting and reviewing briefs, identifying additional relevant expert psychologist and engaging in regular scanning of the environment for cases where psychological science could be utilized for the benefit of the society and to improve human minds. APA increasingly focused on informing the courts about psychological science relevant to important legal issues, including criminal, civil, education, disability and human rights law. These briefs and the science that supported them consistently challenge stereotypical beliefs of lay people with solid, easily understood empirical research.[9]

1.7 Historically, the terminology *amicus curiae* is regarded as having originated in ancient Rome in an instance a court was provided with legal information that was beyond its notice or

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[6] (1957) 11 DLR (2nd) 699, 702

[7] (2021) LPELR- 55152 CA

[8] American Psychological Association (APA) *Amicus Curiae* Brief program https://www.apa.org>office>ogc.Accessd 10th August, 2024.

[9] Gilfoyle, N. *et al.* Am psycho 2017 No

expertise[10],[11]. Some jurisdictions have drawn up rules of court for the filing of *amicus* briefs[12]. The practice of filing *amicus* briefs have evolved over the years and is now widely accepted in international law, particularly in the area of Human Right and Civil cases including arbitration cases[13].

2.0 Amicus Curiae before the Nigerian Courts.

2.1 There are no express provisions generally dealing with filing of *amicus* brief in the Rules of most State High Courts except at the Federal Courts. It will appear that Nigerian Courts have taken judicial Notice of the filing of *Amicus* brief. In *Atake vs. Afejuku* (supra), the court stated thus:

> "Every court had an inherent power to invite barristers and/or solicitors of considerable experience to appear before it to assist in the proper administration of justice when important issues of law or fact are being considered. A legal practitioner so invited gives his views of the law in dispassionate manner. He does not act for any of the parties but is in court to assist the Bench in unrevealing intricate questions of law it is faced with. The invitation to legal practitioners is understandable for after all, they are equally officers of the court and owe a duty not to mislead the court but to assist it in ensuring that justice is done (p. 410, paras F-G).[14]

2.2 The above attitude of the court sets a limit of the persons whom the courts will find their evidence most credible to act as *amicus curiae* to the court in Nigeria of which such persons will be Barristers and Solicitors called to the Nigerian Bar especially as the court did emphasize above are officers in the temple of justice who will not reasonably mislead the court in the brief.

2.3 The Rules of the Supreme Court of Nigeria provides for the filing of *amicus* brief in matters relating to the validity and constitutionality of laws within the competence of the Federal Government or States of the Federation[15]. In such matters as provided by Order 5 Rule 4 (1)(b), (c) and Sub-Rules (2) of the Supreme Court of Nigeria Rules, the Attorney General of the Federation or Attorney of the State is not entitled to appear as of right under Sub-rules (1) of this Rule which provides that the Attorney-General of the Federation and that of a State can appear as of right in cases involving the validity of the Federal or State Law, the court may of its own motion or otherwise grant leave to either of them to appear personally or by a legal practitioner for the purpose of presenting argument to the court on the case.

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[10] Reagan W.M. , Simpson & Mary Vaslay: The *Amicus* Brief: how to write it and use it effectively 1, 3rd Edn, 2010.

[11] Ernest Angnell. The *Amicus Curiae*: American development of English Institutions, 16th INTL & Comp. L. Q. (1967) Explaining the characteristics of *Amicus* Brief *Curias* in Roman Law.

[12] See US Supreme Court Rules, 2017 Rule 37, Supreme Court of Canada Rules 2002 Rule 92

[13] On the work of CIArb in relation to third party intervention in Human Right cases. See https://www.ciarb.or/news/rsovling-buisenss-and-human-rights-disputes-by-arbitration by Juliane Hughes-Jennet and Marijun parasio (the head partner of and associate in Hogan levels) accessed on the 21/2/2020. See also Hague Rules on Business and Human Rights Arbitration 2019, Article 28. Note also the Provision of New York convention on grounds of refusing of arbitral award 1958 (Article vii)

[14] Supra, P. 410, Paras F-G

[15] See the Supreme Court of Nigeria Rules (as Amended in 2009, Order 5

2.4 The provision cited above was applied in the case of *Attorney General of Ogun State vs. Alhaji Aberuagba*[16] where Bello J.S.C (as he then was) stated thus:

> "....As the appeal raised very important constitutional issues concerning the Federal and State's taxing powers, we invited all the Attorney-Generals in the Federation *amicus curiae* to file briefs or argument on the issues and to appear for oral argument at the hearing. The Attorney-General of the Federation and the Attorney General of ten States responded to the invitation...in parenthesis, should like to express my appreciation for the assistance given to the court by learned counsel of the parties and learned *amicus curiae*".

2.5 Again, the above case shows the limits in which and by which *amicus curiae* briefs can be made to court in Nigeria and borders mostly by the rules of the court on constitutional issues.

2.6 Apart from issues pertaining to the constitutional matters of the State and Federal Governments, individual cases can also call for *amicus curiae* briefs in Nigeria. See the case of *Dominic Onuorah Ifezue vs. Mbadugba & Anor*[17] where Chief F. R. A Williams (SAN) appeared by the leave of the court as *amicus curiae* in the interpretation of Section 258 (1) of the Constitution. In other words, parties to a case can apply for the leave of the court for *amicus curiae* brief as seen in *Dominic Onuorah Ifezue vs. Mbadugba & Anor* (supra) but such leave can be granted or refused by the court. In *Dasuki Sambo vs. The D.G. Sss & Ors*[18] *And Federal Republic Of Nigeria vs. Bashir Yugudu & 5 Ors*, in relation to the refusal of the state security services to release him from their continued detention, the Hon. Justice Hussein Baba Yusuf of the Federal Capital Territory High Court refused the application of the second defendant to file an *amicus curiae* brief stating he does not fulfill the conditions for such a grant.

2.7 In *Ahmad Zabadne vs. Shinco Nigeria Limited & Anor* (supra), the court held thus on the 2nd Respondent's *amicus* brief in dismissing it thus:

> "Bearing all the foregoing and many other decided cases on issue of *amicus curiae* in mind and the seeming part played by Mrs. L. J Legan of counsel in this inter play vis-à-vis his position as a legal practitioner duly engaged by the 2nd respondent in this appeal, his brief has no place considering the provision of Order 19 of the Court of Appeal Rules 2016. To me, he abdicated the duty assigned to him by his client (the 2nd respondent) and instead decided to play the role of *amicus curiae*. It cannot be said in this circumstance that he was invited by the court to so act, he is not acting as a neutral legal practitioner who is ordinarily advising the court and devoid of any interest in the appeal at hand. He is the counsel engaged and representing the 2nd respondent and on that note, his brief of argument is discountenanced".

2.8 From the forgoing, an *amicus curiae* in Nigeria must be invited by the court or seek the leave of the court to file his brief and shall address issues pertaining to constitutionality of a subject matter and that members of the bar are preferably used or allowed by the court to address the court on issues of law and facts pertaining to the case.

[16] (1985) 2 NWLR (pt3) at p. 409 Para C-D
[17] SC/68/1982
[18] Charge No. FCT/HC/CR/42/2015; (2019) LPELR-49182 (CA)

3.0 Expanding and Re-Defining the Horizon of *Amicus Curiae* Cases in Nigeria-The American Experience.

3.1 It is the position of the authors of this article that *amicus curiae* briefs in Nigeria need to be expanded from its present state of practice. There is need for more robust court rules at both Federal and State levels of the court system. The idea that it is only Barristers/Solicitors that will file briefs will be expanded to include professional bodies and research institutes and such briefs will be guided by known and articulated peer review research. Psychology has contributed immensely in the various areas of research of the individual and his environment. A judge by his training in law is not vast in many scientific areas except on the issues of law, yet the existence of scientific dimension on human life is inexplicable. The mere fact that a lawyer is not trained as a scientist does not deprive him from sound reasoning and conclusions about scientific findings. It can be argued that social science evidence raises the consciousness of judges and forces them to take research evidence seriously. An interesting perspective offered by Grisso and Saks[19] is that the presentation of research evidence to the courts "keeps judges honest" by forcing them to clearly articulate the basis of their decisions even when they rule in a way that contradicts that evidence. They argue that psychology's input may compel judges to act like judges, stating clearly the fundamental values and normative premises on which their decisions are grounded, rather than hiding behind empirical errors or uncertainties.

3.2 Tanford[20] suggests that judges are often reluctant to embrace the findings of social scientific research for both intellectual and personal reasons. Intellectually, judges know little about empirical research and are unable (or perhaps unwilling) to make sense of it. On personal reasons, judges tend to be self-confident, politically conservative and protective of their prestige and power. When confronted with empirical research, they are likely to feel that they do not need help from social scientist as they suspect that social scientist are politically liberal and they may view social science as undermining their
power. Efforts to increase the receptivity of courts may need to target both the intellectual and personal forms of resistance.

3.3 The American Experience Towards Broader Perspective to *Amicus Curiae* Brief in Nigeria.

The mission statement of the American Psychology association (APA) is to advance psychological Science to promote health, education and public health. The APA focus primarily in their research, publication and *amicus curiae* briefs towards informing the courts about psychological science relevant to important legal issues including criminal, civil, juvenile, education, disability and Human Rights Law. These briefs and the science that supported them consistently challenged stereotypical beliefs of lay people with solid, easily understood empirical research. APA impartially advocates for the use of Psychological Science research findings by courts, not on behalf of parties. Volunteer experts, including representative of relevant APA divisions participate in creating APA briefs. Other scientific organizations and groups who are engaged in scientific research join APA in filing briefs. The concern of the APA and other scientific groups and organization that file scientific research briefs to court is not whether their briefs are used by the court but whether the court was able to render a more informed decision[21].

[19] T. Grisso, & M. J. Saks, "Psychology's influence on constitutional interpretation: A comment on how to succeed". *Law and Human Behavior*, 15, 208-398; 1991.
[20] J. A. Tanford "The limits of Scientific jurisprudence: The Supreme Court and Psychology". *Indiana Law Journal*. 66; 137-173, 1990.
[21] Nathalie Gilfoyle *et al*. Am psycho. 2017 Nov.

3.4 How Judges deal with *Amicus Curiae* Briefs.

Amicus Curiae Briefs are not mandatory on judges. The judges (court) have the right and powers to accept the scientific explanations or to reject it or to accept a point of law argued in the brief. *Amicus* Brief was filed in the Nigerian Case of *Onuoha vs. State*[22] by the Attorney General of the Federation; Senior Advocate of Nigeria (SAN) Abuldali Ibrahim; SAN Sir Clement O. Akpamgbo, SAN Dr. Ilochi Okafor; SAN Chief F. O. Akinele and A. B. Mahomoud (Esq.) and it was left to the court to consider the submissions. See also *Serap vs. Federal Republic of Nigeria*[23]. Despite all the concerns and stereotyping conceptualized in *amicus curiae* briefs, the American courts have set a standard for judges in determining issues pertaining to psychological science and research. In respect of *Amicus Curia*, the American Supreme Court in the case of Frye and Daubert set for judges standards to consider any *Amicus* Brief or expert evidence before any court for the court considerations. The summary of Frye and Daubert Rules is thus summarized[24].

3.5 Expert Testimony and the Daubert and Frye Standards.

The Daubert Standard is a rule of evidence to the admissibility of expert witness testimony during legal proceedings in the U.S Federal Court which enables a party to raise objections during trial to exclude certain expert evidence in an *amicus curiae* brief or in the evidence of an expert. The Daubert ruling is based on three US. Supreme Court cases that articulated the Daubert Standard.

i. *Daubert vs. Merrel Dow pharmaceuticals*[25] which held in 1993 that Rule 702 of the Federal Rules of Evidence did not incorporate the Frye General Acceptance test to evaluate admissibility of scientific expert testimony but that the Rule incorporated a flexible reliability standard instead.
ii. *General Electric Co vs. Joiner*[26] which held that a District Court Judge may exclude expert testimony when there are gaps between the evidence relied on and the conclusion or opinion reached by an expert and
iii. *Kumho Tire Co. vs. Carmichael*[27] which held in 1994 that the judges gate keeping function identified in Daubert applies in all expert testimony including that which is non-scientific.

3.6 In the Daubert case seven members of the US Supreme Court laid the guide line for admitting scientific expert testimony.

a. **Judge is a gate keeper:** Under rule 702, the task of "gate keeping" or maintaining that scientific expert testimony truly is as a result of scientific knowledge and research solely rest on the trial judge.

b. **Relevance and Reliability:** This requires the trial judge to ensure that the expert testimony is relevant to the task at hand and that it proceeds from a reliable foundation. Issues canvassed about expert evidence cannot be easily referred to a court or jury as a question of weight. Above all, the admissibility of expert testimony is governed by rule

[22] (1998) LLJR-SC; (1998) LPELR- 1655 (SC)
[23] ECW/CCJ/APP/24/21 & CCW/CCJ/APP/26/21
[24] Anthony Brown. Expert Testimony and the Daubert and Frye Standards. www.aquilogic.com. access August 15, 2024.
[25] 509 U.S. 579 (1993)
[26] 522 U.S, 136 (1996)
[27] 526 U.S 137 (1997)

104(a) not Rule 104(b), hence the judge must find it more likely than not that the expert methods are reliable and reliably scientific knowledge with matching SCIENTIFIC METHOD/METHODOLOGY. A conclusion will qualify as scientific knowledge if the proponent can demonstrate that it is a product of sound scientific methodology derived from the scientific method.

3.7 The court defined Scientific Methodology in **Daubert** as a method of formulating hypothesis and then conducting experiments to prove or falsify the hypothesis and provided a non-dispositive, non-exclusive "flexible" set of "general observations" that is considered relevant for establishing the "validity" of scientific testimony:

i. Empirical testing: whether the theory or technique is fallible, refutable, and/or testable.
ii. Whether it has been subjected to peer review and publication
iii. The known or potential error rate
iv. The existence of standards and controls concerning its operation.
v. The degree to which the theory and technique is generally accepted by the scientific community[28]

3.8 In 2000, rule 702 was amended in an attempt to codify the Daubert Standard: "If scientific, technical or other specialized knowledge will assist the Trier of facts to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience training or education may testify thereto in the form of an opinion or otherwise if (i) the testimony is based upon sufficient facts or data (ii) The testimony is the product of reliable principles and methods and (iii) the witness has applied the principles and methods reliably to the facts of the case"

3.9 In 2011, Rule 702 was again amended to make language clearer and the rule now reads "A witness who is qualified as an expert by knowledge, skill, experience, training or education may testify in the form of an opinion or otherwise if:

a) The experts scientific, technical or other specialized knowledge will help the Trier of fact to understand the evidence or determine a fact in issue;
b) The testimony is based on sufficient facts or data
c) The testimony is the product of reliable principles and methods; and
d) The expert has reliably applied the principles and methods to the facts of the case"[29]

Although the Daubert standard is now the Federal Court Law and over half of the states, the Frye standard remains the law in some jurisdictions including California, Illinois, Maryland, NewYork, New Jersy, Pennsylvania, and Washington[30].

3.10 Trial judges have always had the authority to exclude inappropriate testimony; however, prior to Daubert, trial courts often preferred to let Juries/Court hear evidence proffered by both sides and let them "weigh all the evidence" even though a Daubert motion is not binding to other courts.

[28] Legal Information Institute. The "Daubert Standard" https: www.law.cornel.edu.wex.access 12/8/2024
[29] Kang; E. Battle of Experts (Standards) 'Frye' 'Daubert and Federal Rule of Evidence. Law. Com. https://www.>2024. 17/8/2024
[30] National Civil Justice Institute. State by state Compendium Standards of Evidence. https//ncji.org> 2024 /01 pdf. accessed 16/08/2024

3.11 The **Frye** Standard[31] or general acceptance test is a test to determine the admissibility of scientific evidence. It provides that expert opinion is only admissible where the scientific technique or methodology is generally accepted as reliable in the relevant scientific community. The court in Frye Standard established the admissibility of polygraph tests. The court in Frye held that expert testimony must be based on scientific methods that are sufficiently established and accepted to have gained general acceptance in that particular field in which it belongs. To meet the Frye Standard, scientific evidence presented to the court must be "generally accepted" by a meaningful segment of the associated scientific community as interpreted by the court. In practical application of this standard, those who were proponents of a widely disputed scientific issue had to provide a number of experts to speak to the validity of the science behind the issue in question. Novel techniques placed under the scrutiny of this standard forced courts to examine papers, books and judicial precedents on the subject at hand to make determinations as to the reliability and "general acceptance". One of the sort comings of Frye Standard is the General acceptability test which excludes many new discoveries that have not had time to become generally accepted. General acceptability is hard to establish for narrow areas of inquires where there may only be few experts. It is also problematic if the plaintiff is arguing that what is general accepted is not true. In contrast to Frye, the tort law recognizes that there are situations where what is generally accepted is not proper behaviour[32].

3.12 The Daubert Ruling and the Frye Standard are two legal standards used to determine the admissibility of scientific evidence. The Frye Standard requires general acceptance by the scientific community; while the Daubert ruling focused on the reliability and relevance of evidence[33]. In theory, Daubert admits evidence which courts may find reliable, yet not generally accepted mythologies. Comparing Daubert and Frye Standards will show that in **Daubert**, the Supreme Court rules that **FRYE** test was superceded by the 1975 Federal Rule of Evidence (FRE), notably Rule 702 governing expert testimony which stated in its entirety that "if scientific, technical, or other specialized knowledge will assist the Trier of fact to understand the evidence or determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education, may testify thereto in the form of an opinion or otherwise".
In **Daubert**, the court rules that nothing in the Federal Rule of Evidence (FRE) governing evidence "gives any indication that 'general acceptance' is a necessary pre-condition to the admissibility of scientific evidence"[34].

3.13 Moreover, such a rigid standard would be at odds with the Rules' liberal thrust and their general approach of relaxing the traditional barriers to 'opinion' testimony. By requiring experts to provide relevant opinions grounded in reliable methodology, proponents of Daubert believed that these standards would result in a rational resolution of scientific and technological issues which lie at the heart of many cases. In fact, the Daubert decision is considered by many at the defense bar and some political commentators as one of the most important Supreme Court decisions in imposing higher barriers for toxic tort and product liability cases, by allegedly reducing the volume of so-called science in the court room.

3.14 Interestingly Daubert's case caused judges to become gate keepers, using the phrase used in former Chief Justice William Rehnquist's dissent in Daubert's case as amateur scientists. It is doubtful how judges can be "gatekeepers" or "armature scientists" when they lack the scientific

[31] **Frye vs. United States** 293 F. 1013 (D.C cir. 1923
[32] The T. J Hooper. 60 F. 2d 737 (C.C.A. 21932)
[33] Compare and Contrast the Daubert ruling and Frye Standard-Brainily. https://brainly.com.law.college.>17/8/2024
[34] What is Daubert and Frye Principle. https://www.aquilogic.com.>17/8/2024

literacy to effectively fulfill their role as gatekeepers of scientific evidence and the responsibility to assess scientific findings. Relevance has shifted from highly trained expert witnesses to judges deficient in science education. Moreso, the Daubert ruling allows for the possible introduction of non-peer reviewed data and conclusions. This increasingly shifts the burden scientific judgment onto judges who have not had an education which would enable them to properly evaluate such data[35].

3.15 Pursuant to rule (104) (a) the US Supreme Court suggested that the following factors to be considered in applying Daubert:

i. Has the technique been tested in actual conditions? (and not just in a laboratory)
ii. Has the technique been subject to peer review and publication?
iii. What is the known or potential rate of error?
iv. Do standards exist for the control of the technique operations?
v. Has the technique been generally accepted within the relevant scientific community? (This test was earlier the only relevant criteria under Frye)

The Supreme Court cautioned that the above list should be regarded by judges as "a definitive checklist or test..."

However, in practice, judges have evaluated the admissibility of scientific evidence using the Daubert facts as a
checklist.

4.0 Some Specific Psychological Research and *Amicus Curiae* Brief Submitted to the American Supreme Court by American Psychological Association (APA).

4.1 The *amicus* brief was submitted by American Education Research Association (AERA). The brief calls for the court to
consider a wealth of scientific evidence related to Fisher vs. University of Texas[36] at Austin which reached the Supreme Court for the second time.

> "In determining the constitutionality of the UT-Austin admission policy, the court's decision should be informed by reliable and robust research findings as it has in previous landmark decision said American Education Research Association (AERA) Executive Director Felice Levine in a statement."

> "In filing this brief, we have again taken our responsibility as scientific societies quite seriously. A wide team of scholars scrutinized all of the studies that have been undertaken since 2012 and we have concluded that the court needs to have accessible the cumulative knowledge now at hand" Levine said.

In her remarks, the American Association for the advancement Science (AAAS) noted:

> "It is critical that the court have access to the best research available" said Shirley Malcom, the head of Education and Human Resources at AAAS.

[35] Nir, E & Liu, S. "What do the Gatekeepers See? Perceptions and Evaluations of scientific Evidence Among State Court Judges" Criminology, Criminal Justice, Law & society volume 22 Issue 1 pgs 20-35 (2024)"
[36] 570 U.S. 297 (2013)

4.2 To aid the courts deliberations on whether student diversity remains a "compelling government interest" AERA's brief outlines scientific research that finds that diversity encourages significant educational benefits, including growth in cognitive abilities, critical thinking skills and self-confidence.

4.3 APA applauded the Supreme Court for its ruling in *Haaland vs. Brackeen*[37] decision. The court upheld the Indian child welfare Act (ICWA), the Federal Law that affirms that rights of tribal nations to keeps native American children connected to their community. APA cited a large body of research showing that placing a Native American Child with a Native American Family promotes healthy psychological development. In contrast, placing a Native American Child with a non-native American family increases the risks of adverse outcomes for the child. The Supreme Court's decision affirms the research cited by APA.

4.4 In *Exparte Melissa Elizabeth Lucio*[38]. The case involves a legal challenge to death penalty in Texas based on confession obtained in a manner that increased the risks that the confession was false. The APA's *amicus curiae* brief provide the court with the most recent science on the interrogation conditions likely to give rise to false confessions. On April 25, 2022 after APA filed its brief, the Texas court of criminal appeal stayed the order of execution against Ms- Lucio and remanded the case to the trial court for the court to evaluate Ms-Lucio claims for false confession.

4.5 Apart from APA, other research bodies, research institutes, professional organizations and individuals submits *Amicus* brief to the court at both the Federal and State levels in the United States of America and other jurisdictions which have great impacts in the outcome of judgments from the courts.

4.6 The purpose /aim of this article is that these *Amicus curiae* briefs can be replicated in Nigeria as is done in the United States by changing legislations and court rules to put the necessary machineries in place to facilitate that.

5.0 Conclusion and Recommendations.

5.1 *Amicus Curiae* Briefs is a written argument that seeks to help provide input, add historical context and outside information to the court. Often, the brief is used to provide expertise information and knowledge that the judge or jury may not have at their disposal.

5.2 *Amicus Curiae* Briefs play an important role in the process of court case by providing documentation and expertise from specific fields and industries, individuals and groups and by that adequately ensure that the court has the means to make a fair, informed decision upon its receptive case. In reviewing briefs of each case, it helps the judge understand the impact that the decision may have outside of the defendant and plaintiff. This system helps keep the legal process balanced and informed about the repercussions of a wide variety of cases.

5.3 To this end, the researcher recommend that:

a) The Nigerian Legal System will re-set to imbibe the expanded use of *Amicus Curiae* Brief in the Nigerian Courts as obtainable in the United States of America.

[37] 599 U.S. 255 (2023)
[38] Ex-parte lucio WR-72702-05 (Tex.crim.App.2011)

b) State High Courts Rules that do not have provisions for *Amicus* Brief should incorporate same and those that have should be reviewed to include a more robust rules and guidelines for the courts assistance reception of *Amicus Curia* Briefs.

c) The Federal High Courts Rules and the Court of Appeal and Supreme Court Rules should be reviewed to expand the scope, application and use of *Amicus Curiae* Brief in Nigeria.

d) Government should pass a legislation to establish professional research bodies of the mainstream professions in Nigeria to have a research institute /committees that will be dedicated to prime research in the various fields of study so that when issues in such areas comes up to the court that will affect the natural life and security of the people, they will file an *Amicus Curiae* Brief to aid the court. Legislation is also needed in our law of evidence to expand the scope of *Amicus Curia* Briefs.

e) Government agencies in Nigeria at the State and Federal level like the National Drug Law Enforcement Agency (NDLEA), the National Agency for Food and Drug Administration and Control (NAFDAC) etc. shall as a matter of fact and law mop up their seriousness in terms of fund allocation in their budget and research personal recruitment to steam up the research that can benefit the court when issues of national concern appears before the court.

g) That more research work be done in this *Amicus Curiae* Brief in Nigeria especially in the area of changing the rules of State and Federal Courts in terms of the scope, guidelines and accessibility of the courts to these briefs.