

DOI: <https://doi.org/10.57125/FEL.2024.12.25.02>

How to cite: Hasanova, I. Z. kizi (2024). The Role of the Advocate's Motions and Complaints in a Criminal Trial: A Scoping Review. *Futurity Economics&Law*, 4(4). 25-41. <https://doi.org/10.57125/FEL.2024.12.25.02>

The Role of the Advocate's Motions and Complaints in a Criminal Trial: A Scoping Review

Hasanova Ilhama Zakir kizi

Member of the Bar Association of the Republic of Azerbaijan, Head of the law office No20 AZ1069, Baku, Republic of Azerbaijan, <https://orcid.org/0000-0002-6966-5495>

***Corresponding author:** ilhama-hasanova@rambler.ru.

Received: June 2, 2024 | **Accepted:** August 26, 2024 | **Available online:** September 10, 2024

Abstract: Given the realities of criminal court development, motions and complaints for the protection of rights play an important role. However, the study of these advocacy tools is an under-researched issue. This requires further consideration, since these mechanisms can be really effective in different situations. The purpose of the study is to determine the importance of attorneys' motions and complaints for the purpose of implementing modern justice. For this Scoping Review, the PRISMA approach was used. Date range for inclusion of scientific literature: 2014-2024 (i.e., the last 10 years). To select the scientific literature, the following search databases were selected: Scopus and Google Scholar. The criteria for including literature were based on 5 items related to content, scientific novelty, methodology, and language. A total of 52 items of scientific literature, legislative acts and reports were included in the study. The results show that different countries use different models of advocacy, however, such tools as motions and complaints are common around the world. The purposes of attorneys' motions and complaints are not based on making a specific decision or performing a specific action, but on the realization of rights and legitimate interests existing in connection with the procedural or real status of a person. The conclusions determine that motions and complaints have an impact on further proceedings in a criminal court; in particular, they may affect the exclusion of inadmissible evidence, disclosure of additional evidence, protection of the rights of the accused, fulfillment of strategic tasks and recording of violations of procedural rights.

Keywords: advocacy, rights protection tools, review, criminal procedural law, influence.

Introduction

In the modern criminal justice system, an attorney plays an important role in protecting the rights and interests of the accused. However, motions and complaints are the key tools that allow an attorney to influence the course of the trial and ensure the realization of justice and legality in the proceedings. Therefore, in modern legal thought, it is important to determine the importance of attorneys' motions in the system of their motions for the successful consideration of cases (Corda, 2020; Hall, 2022). Attorneys' motions may relate to various aspects of criminal proceedings, in particular, they may range from the exclusion of evidence obtained illegally to ensuring the presence of witnesses who can confirm the alibi of the accused. At the same time, the scientific literature states that such a tool as complaints is usually used to appeal against the main procedural decisions of the court or actions of law enforcement agencies that violate the rights of the client (Parker & Evans, 2007; Quattrocolo, 2020). According to Nir & Musial (2022), this issue has become particularly relevant since the Covid pandemic, when one can see a spectrum of different digital crimes. Therefore, this topic is relevant and will require attention to its study.

Research Problem

As can be seen from the brief analysis of individual sources, the main attorneys' tools play an important role: motions and complaints. However, modern authors have focused their attention mainly on the main mechanisms for the implementation of legal aid, and they have also paid special attention to the analysis of the main conditions for the formation of motions and complaints. However, this is not enough to substantiate the basic principles of formation and the importance of these instruments. Thus, this study will try to delve into the gaps in this area and, drawing on the work of various authors, to comprehend the role and significance of attorneys' complaints and petitions. Thus, the analysis of the scope of use of motions and complaints in criminal court allows for a deeper understanding of their effectiveness and significance in the justice system. This study is especially important in the context of the transformation of the modern legal system, which is aimed at improving and developing certain mechanisms for the protection of human rights and increasing the level of transparency of legal proceedings. Thus, the analysis of specific cases and statistical data will allow not only to assess the level of use of these legal instruments by lawyers, but also what types of petitions and complaints are most common. This is a complex research task which the author of this paper will try to solve carefully.

Research Focus

The main focus of the work will be on the analysis of specific cases, which will allow to assess the peculiarities of the use of petitions and complaints by lawyers in the modern justice system. In addition, the study will also briefly address the problem of the consequences of motions and complaints for the general results of judicial processes. Thus, the author of this article do not reject the hypothesis that a detailed study of the role of the lawyer's petitions and complaints in the criminal court may also influence the identification of problems and shortcomings in the legal system that may interfere with the effective protection of the rights of the accused. Therefore, this will open opportunities for further reforms and improvement of legal practice, which will ensure the implementation of a more fair and objective consideration of complex criminal cases.

Research Aim and Research Questions

The research aim of this study is to clarify the role of lawyers' petitions and complaints to ensure the implementation of modern justice. For this scoping review, the following research questions have been identified:

1. What are the models of attorney legal protection?
2. What are the features of filing petitions and complaints and how do they differ?
3. What is the outcome and impact of these advocacy tools?

Literature Review

The researchers offer an overview of a wide range of topics related to the practice of law in the modern world. It covers various aspects of court-related inquiries, requests and complaints that have an impact on the case and the adjudication process. Siti Zulaiha, Nurul Fahmidab and Fauziah Lubis (2023) traced the importance of ethical behavior of lawyers, which is an important factor in counteracting the violation of clients' rights (based on the example of individual cases from the legal profession).

For instance, Levin (2022) points out the importance of professional legal expertise in the administration of criminal justice, emphasizing the need for continuous development of expert knowledge. Matthes (2022) addressed a similar issue, noting the expert role of judges in ensuring the rule of law. On the other hand, Monaghan (2020) demonstrated new vectors of advocacy in dealing with complex criminal law issues that are directly related to serious crimes. Cochran-Smith (2019) traced the evolution of teaching methodology in the training of lawyers, which is generally aimed at ensuring approaches to social justice and human rights protection. Taking these aspects into account is aimed at understanding the importance of ethical issues in the work of modern lawyers, which ensures their professional training and performance of functions at the highest level.

The conceptual issues of work in jurisprudence have been raised in a number of scientific articles. Su (2023) traced the importance of taking into account the possibilities of Big Data for the development of criminal justice. Rodriguez (2021) criticized philosophical approaches to the practice of law, demonstrating how theoretical constructs can help in resolving criminal cases. Roberson (2021) examined the features of modern civil liability through the prism of criminal justice. Some researchers have also considered the challenges of the future associated with the use of modern technologies. Kurniawan (2020) traced the important phenomenon of integrating digital capabilities into the work of an attorney-at-law: the creation of separate documents, complaints and appeals is an important advantage in the conduct of the process, which helps to reduce time costs. A similar issue was addressed by Campbell (2023), who analyzed the likely advantages and disadvantages associated with the active use of artificial intelligence in justice.

On the other hand, Feldman (2021) emphasizes that this impact is primarily caused by the global COVID-19 pandemic, which has led to an explosion of digitalization. Such hypotheses will require additional substantiation, but they already point to the important impact of technology on the work of lawyers, the creation of appeals and the submission of other documents.

The issue of modern criminal procedure is also a relevant research topic, given the role and place of the bar in ensuring it. Szontagh (2021) examined the peculiarities of the functioning of the restorative justice system. Ningsih (2024) emphasized the importance of protecting human rights during all stages of the criminal process, which contributes to the establishment of justice and legality. Bromby (2018) carried out a conceptual analysis of the international criminal law system, pointing to the institution of the bar as an important element in international cooperation aimed at combating global crimes. Brooks, and Burman (2016) emphasized the importance of lawyers' work with victims of violence, which will contribute to the protection of their rights. Burchard and Duff (2021) traced the theoretical and practical aspects of modern criminal law, including the protection of morality and public order. Erlangga and Marpi (2021) also focused on analyzing the legal and ethical aspects of the legal profession. The importance of the adversarial process, which involves the exchange of complaints and requests, has also been identified in several studies (Gede, Fakrulloh & Suparno, 2023; Godsoe, 2021). Habiebie (2022) pointed out that lawyers may violate laws while performing their functions, which should have legal consequences. Attention to advocacy during criminal proceedings indicates further progress of jurisprudence in the field of human rights protection, but also against the background of modern philosophical trends and technological developments.

The analyzed scientific literature indicates a broad interest of researchers in the proposed topic, covering an important range of contemporary issues in the field of jurisprudence, including certain aspects of international criminal law and the role of attorneys-at-law in the administration of justice in the context of global digitalization. Such studies point to the importance of professional training and ethical behavior, but also emphasize the importance of finding the next opportunities in the conduct of litigation. This opens up prospects for understanding and taking into account the peculiarities of applying certain instrumental rules during court hearings. However, this issue has not been fully studied and needs to be more widely discussed. In particular, as can be seen from this review, there are not many works devoted to the mechanisms for implementing attorneys' motions and complaints. This study will try to fill this gap and characterize current trends in these advocacy interests based on the analysis of scientific and legislative sources.

This will make it possible to comprehensively approach this problem and describe the various mechanisms and conditions for filing petitions and complaints, as well as determine their impact and significance for further proceedings in the modern criminal court system.

Materials and Methods

This study used a qualitative approach to determine the role of motions and complaints in the system of legal practice. The research involved the use of the PRISMA approach to identify and review the most relevant sources and research materials.

Sample and Participants

The sample of sources included various types of materials, including legislative acts, scientific articles, monographs, books, etc. Besides, the date range for the inclusion of scientific literature: 2014-2024 (i.e., the last 10 years)¹. This range was chosen in order to trace the evolution of the practice of law during this time and to select modern, relevant sources for studying this topic. The choice was made in a step-by-step and structured manner, which contributed to the inclusion of relevant information in this Scoping Review.

Instruments and Procedures

The PRISMA approach was used to conduct this Scoping Review. The author was previously aware of 8 scientific sources related to the general principles of the organization of the practice of law. To select the most relevant scientific literature, the following search databases were selected: Scopus and Google Scholar. The following keywords were entered into these databases: complaint, petition, defense, attorneys, practice of law, appeal and defense mechanisms. In the first database, 32 items were found, in the second - 1825.

After that, 76 duplicates were found and rejected for inclusion. Based on a preliminary analysis of titles and keywords, 534 papers were excluded because they did not correspond to the research topic. The criteria for including the literature were as follows:

- 1.The study describes the peculiarities of the implementation of petitions and complaints in the system of legal practice
- 2.The study describes various tools for the implementation of the practice of law
- 3.The study contains a methodology, or at least a brief description of the research methods
- 4.The research contains scientific novelty
- 5.Languages of inclusion: English (in some cases, studies written in other languages were also taken into account if they contained an English-language abstract.

¹ This date range was used only for literature searches. However, it has not been applied to fundamental studies, works previously known to the author, and legislative acts.

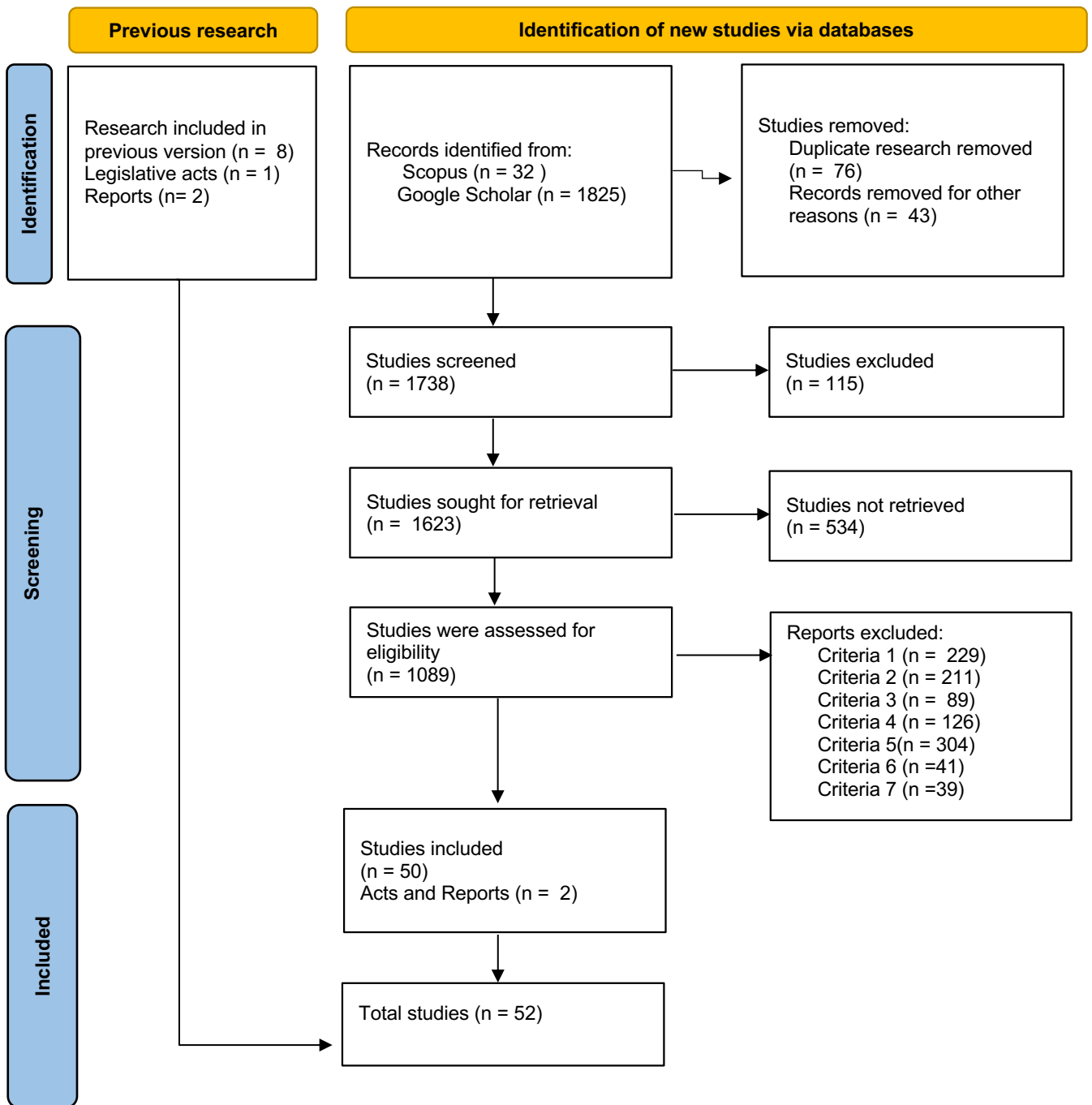
- 6. The work has a practical focus
- 7. The study describes the practical work of lawyers

Therefore, 52 scientific sources were selected for this study that met these inclusion criteria and contained up-to-date, relevant information needed to implement this scoping review.

Figure 1 provides a visual representation of the detailed process of selecting these materials and sources using the PRISMA approach.

Figure 1

The process of selecting sources and their inclusion in the review



Source: Author's development

Data Analysis

Excel software was used to analyze these data; in particular, tables were created that contained such information as Author, Year of publication, Country, Results, Conclusions. This made it possible to systematize information and understand the activities of lawyers in different countries. Coding was also used to analyze the data. It was also used on the basis of pre-formed tables. However, only the authors' results were taken into account. This made it possible to trace the characteristic features of the implementation of such tools as petitions and complaints. At the same time, the study used the synthesis method, which allowed us to combine and systematize the data obtained.

Results

In modern jurisdictions there are well-developed models of protection of the rights of complainants for various forms of crimes. The study identified three main approaches. In particular, the majority of those selected had more than one type of different forms of advocacy available (Babusiaux, 2016). Except for Denmark, Finland, and Italy, which offer two types, and Sweden, which offers all three models, the majority of nations only offer one type of ILR. Canada and Norway offer free legal advice phonelines as a form of advocacy in addition to ILR (Daly and Smith, 2020). In order to safeguard the rights of complainants, legal counsel and representation are typically given with relation to certain privacy issues, such as the admission or disclosure of sexual history, treatment, and medical records. This is the sole paradigm present in five of the eight quasi-adversarial nations and in "pure" adversarial systems that include legal advocacy.

Rights-based approaches can be further divided into "Comprehensive Rights-Based" models, which allow the advocate to participate in the trial and cover the entire criminal justice process, and "Limited Rights-Based" models, which limit support to the police investigation and pre-trial case management stage. Model Auxiliary refers to the right of complainants to participate actively in the prosecution through ILR and join proceedings. Usually, this grants the greatest rights. appears in Brazil, Finland, and Sweden, three quasi-adversarial jurisdictions (Daly and Smith, 2020). Attaching a claim (compensation) to the prosecution and receiving participation rights solely with respect to the claim is known as adhesion. Except for Brazil, Japan, and Norway, this is a standard procedure in inquisitorial systems and is present in five of the eight quasi-adversarial jurisdictions examined in this analysis (See Table 1).

Table 1

The structure of advocacy model in different countries

Country	The model of System	The advocacy Model	Aim of the Legal Advocates' Role	Main Stages of Involvement					Funding Source
				P R	I	T P	In T	P ² T	
Australia	Adversarial	Rights-based	Provide information about defense applications to access counseling records. may provide information about communications about sexual assault disclosure.				+		State
Azerbaijan	Adversarial	Rights-based	Ensuring the rights of complainants, providing legal advice, assisting in the preparation of applications, providing evidence, presenting legal arguments and demanding compensation, defense in court, defense through appeals.				+		State

² PR means Pre Report; I – Investigation; TP – Trial Prep; In T – In Trial; PT – Posr Trial

South Australia	Adversarial	Rights-based	The Victims' Commissioner received the ILR application. may contest requests to reveal private information, such as counseling records.		+					Unknown, Supported by the Victims' Commissioner
Brazil	Quasi-Adversarial	Auxiliary	Submit documents, present evidence, cross-examine witnesses, offer changes to the charge, make an opening or closing argument, and request payment.						+	
Canada	Adversarial	Rights-based	Send in entries. may provide documents pertaining to privacy disclosure, such as counseling or medical records. The majority of jurisdictions provide free pre-trial legal assistance for up to five hours (but not representation).		+		+			State
Denmark	Quasi-	Adhesion & OR Rights-based	Based on rights: offer assistance and legal advice (but not counsel regarding court replies). could show up for the police interview. may view and recommend case files unrelated to the defendant. may choose to cross-examine witnesses, including the accused, in court. judicial discretion allows for the introduction of arguments about procedural matters. Adhesion: May present proof of remuneration. Maybe give a final speech talking about pay.		+	+	+	+		State
	Quasi-Adhesion	Auxiliary	Offer legal counsel, could show up for the police report or interview. may present proof. may question witnesses - including the defendant - cross-examine. may speak about compensation in court.			+	+	+	+	State
Iceland	Quasi-Adhesion	Auxiliary	The role is to provide assistance, protect, and make a claim. may be present during a police interview and offer possible questions to ask. may view case files that are pertinent to the complainant in order to safeguard their interests (may view all case files and share with complainant in the event that the matter goes to trial). able to		+	+	+	+		State

			participate in every court hearing. may speak before the court about matters pertaining to the complainant's procedural concerns. may bring compensation issues before the court.				
Ireland	Adversarial	Rights-based	At the police interview, complainants may receive assistance (at police discretion). may provide information on requests to introduce counseling and sexual history records (but not social work, mental health, or medical data).	+	+	State	
Italy	Quasi-Adhesion	Rights-based	Offer legal counsel. May attend court proceedings and get access to case files. might recommend witnesses. may ask the defendant to be cross-examined. May raise objections and offer legal submissions. Speak with the judge about a sentence. Communication with the court		+	+	State
Japan	Quasi-Adhesion	Rights-based	Make submissions. Cross-examine witnesses. Make an application to present complainant's opinion on charge, evidence, and conduct of proceedings.	+		State	
USA	Adversarial	Rights-based	Make submissions in response to applications to adduce private records.		+	Private	

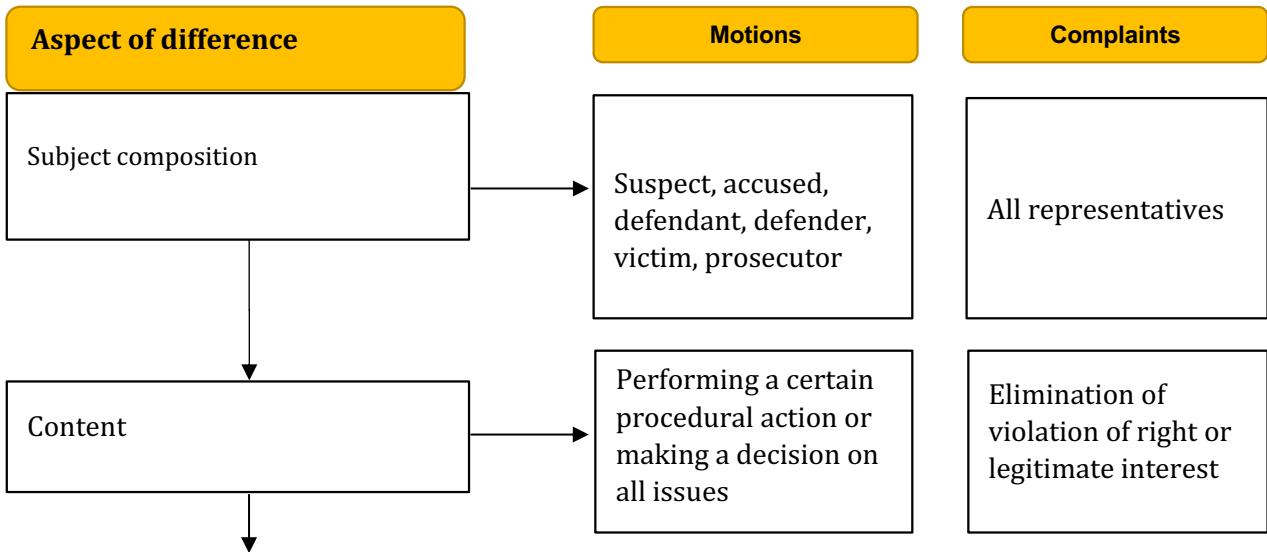
Source: based on Daly and Smith (2020)

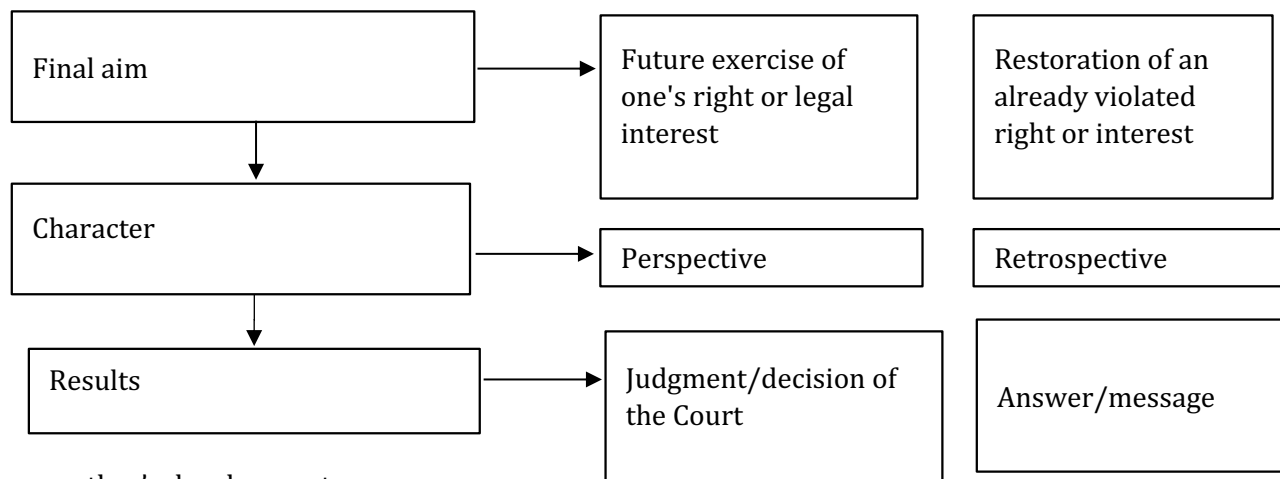
Motions as other acts of a lawyer are usually not distinguished by proceduralists into an independent group of criminal procedural acts. An important fact of this is their lack of research. However, it is the acts of an attorney-at-law participating in the proceedings in accordance with the constitutional principle of providing qualified legal assistance that can highlight the role of lawful and effective application of legal provisions in order to realize the purpose of criminal procedure enshrined in the Criminal Code of Azerbaijan (Criminal Procedure Code of the Republic of Azerbaijan, 2000). In the modern system of criminal justice, the status of a person as a subject of criminal proceedings has significantly increased. In particular, the current system of criminal procedural principles is aimed at ensuring his key legal interests and rights. Modern laws stipulate that an attorney who has obtained the attorney's status in accordance with the procedure prescribed by law must provide qualified legal assistance on a professional basis. The purposes of attorneys' petitions and complaints are not based on making a specific decision or performing a specific action, but on the realization of rights and legitimate interests existing in connection with the procedural or real status of a person, in particular, establishing a circumstance, changing the procedural situation, etc. by performing the necessary actions or making decisions. However, it is important to take into account another aspect. This refers to the impossibility of exercising such rights without the active participation of the applicant, in particular, through any other criminal procedure means (Richey & Taylor, 2020). Only an application for the involvement of certain items and documents can make them evidence in a criminal case. Also, only a legitimate request for victim status will allow a person to raise the issue of compensation for damage. At the same time, the petition is aimed at taking positive actions in the future and thus has a prospective nature, while the

complaint is aimed at taking actions that change the current situation and, therefore, is retrospective. In this way, the implementation of the motion allows for the protection of the rights and freedoms and legitimate interests of persons involved in criminal proceedings in advance (Schmitt, 2021). Whereas a complaint is related to the violation of rights and interests that have already occurred (in the complainant's opinion). There are several important differences between a motion and a complaint. In particular, the subject matter should be taken into account. The point is that only representatives who are granted this right by the applicable criminal procedure law (in particular, suspect, accused, defendant, defense counsel, victim, prosecutor, and in some cases, expert, witness, labor collective, representatives of social services) will have the right to file a petition and thereby establish certain specific legal relations. At the same time, one should also take into account the fact that only a clearly defined range of subjects (the person conducting the inquiry, the investigator, the prosecutor, the court) has the obligation to consider the petition (Schmitz, 2022). Besides all representatives have the right to file an application or complaint. Another important difference is the content. A petition requires a certain procedural action or a certain decision on all issues. However, a complaint always defines a certain requirement to eliminate a violation of a right or legitimate interest. This implies that a complaint involves the elimination of any injustice and, as noted by scholars, is mainly retrospective in nature. However, a petition implies a prospective plan (Schmitz & Alkon, 2024). Another difference lies in the ultimate goal. In particular, by filing a petition, a person seeks to exercise his or her right or legitimate interest in the future. At the same time, when filing a complaint, one can see the desire to restore an already violated right or interest. Another difference is based on the results of the consideration. For example, after considering a petition, the court may issue a ruling. In the case of a complaint, it is only possible to draw up a certain response or notice (with certain exceptions provided for by the Criminal Procedure Code of Azerbaijan or other countries) (Criminal Procedure Code of the Republic of Azerbaijan, 2000). In addition, it is worth recognizing the fact that a petition may be evaluated by the body in charge of the case, however, a complaint is usually filed with a higher body, which implies a more complex procedure for its consideration (D'Alton-Harrison, 2022). Another important distinguishing feature is the timeframe for consideration. It is worth recognizing that the current criminal procedure legislation provides for different terms for consideration or resolution of motions and complaints (See Figure 2).

Figure 2

Differences between motions and complaints





Source: author's development

In modern studies, it is argued that complaints can be divided into several types depending on their connection with previously filed motions, in particular, there are complaints against decisions of the person who organized the inquiry, investigator, prosecutor or court that denied (partially or fully) the previously filed motion. In these situations, the procedural procedure for filing a complaint serves as an important guarantee that ensures the right to file motions. In such situations, a decision to satisfy the complaint will simultaneously mean that the previously filed motion is recognized as substantiated. However, motions and complaints filed by defense counsel can play a crucial role in shaping the course and outcome of criminal proceedings. Their impact may vary in scope and cover different aspects of the trial. In particular, they may affect the exclusion of inadmissible evidence. One of the most common motions is a motion to exclude evidence that was obtained in violation of the law. In particular, in such a situation, when evidence was collected without a proper search warrant or without observing the rights of the accused to a lawyer, it may be declared inadmissible (Tamborini, 2020). The exclusion of such evidence may weaken the prosecution's case or lead to the termination of the criminal prosecution. Another consequence may be the disclosure of additional evidence. In particular, defense lawyers file motions for disclosure of additional evidence that may be important for the defense. It can be in the form of documents, records, witness statements, etc. Disclosure of such evidence may change the course of the case and identify new arguments for the defense. Another important consequence is the protection of the rights of the accused. In this situation, a motion made by a lawyer is aimed at protecting the rights of the accused in the process. They may include requests to ensure the presence of a lawyer during interrogations, to provide the accused with the opportunity to familiarize himself with the case file, to ensure a fair trial without bias of the judge or prosecutor. Motions can also serve as a strategic tool (Shahbazov & Muradov, 2019). In this case, motions, for example, to postpone the hearing may be filed to obtain additional time to prepare the defense. Lawyers also record violations, and if they occur, they can file a complaint about procedural violations. In this situation, complaints may be directed at violations of the rights of the accused, improper behavior of investigators or prosecutors, violations of the rules of evidence collection, etc. If such complaints are considered, the case may be reviewed, evidence may be excluded, and the investigator may be suspended (See Figure 3).

After the verdict is passed, defense lawyers can also file appeals. As can be seen from the Figure, appeal motions may be aimed at reviewing the verdict, reversing an unlawful decision, reducing the sentence, etc. Therefore, motions and complaints of defense counsel are important tools that allow them to protect the rights of the accused and influence the course of criminal proceedings.

Discussion

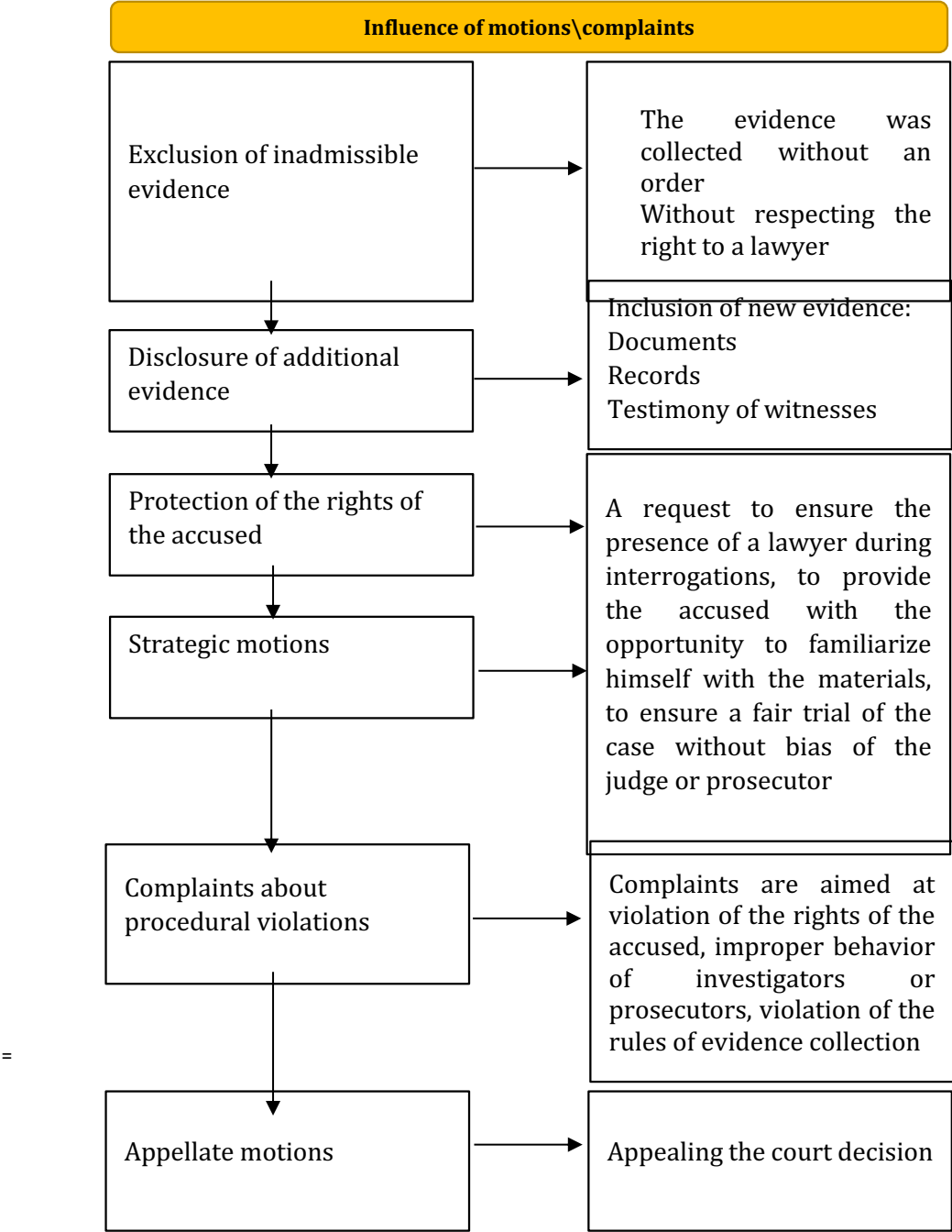
The modern development of the organisation of criminal proceedings offers new requirements for advocacy. The active use of digital technologies and new methods of building a "line of defence" are the current issues of modern jurisprudence. The purpose of the proposed article is to review the scientific concepts regarding the role and significance of attorney's motions and complaints in criminal

proceedings. Due to this, it was proposed to fill a certain gap in the understanding of the role of these attorneys' instruments in modern practice. The proposed results identify the peculiarities of formation of models of attorneys' legal defence, peculiarities of filing motions and complaints, understanding of the differences between these phenomena, and the impact of the use of such attorneys' tools.

The proposed results show, in particular, that there are generally three main approaches to the formation of models of attorneys'-at-law defence. It is noted that in order to protect the rights of complainants, legal advice and representation on certain confidentiality issues are organised. The model of "comprehensive rights" is relevant, which allows the lawyer to cover the entire criminal justice process. The importance of such a model is confirmed by the findings of Ben-Menahem and Ben-Menahem (2020) regarding the provision of the necessary human rights in the administration of justice.

Figure 3

The influence of advocate's complaints and motions



Source: author's development

Similarly, della Porta and Felicetti (2019) emphasised the "universality of rights", noting the general democratic nature of such a procedure, which clearly builds public trust in the criminal justice system. At the same time, Brayne and Christin (2020) believe that such a model can have an extremely negative effect in the current environment, when it is easier to "cover up the traces" of a crime. Despite this observation, we would like to emphasise that the role of a lawyer and his or her work does not depend on the level of corruption or dishonesty of investigators or judges. The point is that criminals may not necessarily get access to the investigation materials through lawyers - the corruption of the justice system may not depend on this. Thus, the model of "comprehensive rights" looks much more attractive than the analysed model of "limited rights", and therefore more promising.

The study identifies differences and similarities in the filing of complaints and motions. In particular, only representatives who are entitled to do so by the applicable criminal procedure law may file a motion. Moreover, it is intended for a clearly defined range of subjects. A complaint, on the other hand, can be filed by all participants in a criminal trial. The difference is a certain retrospectivity of the complaint, as it defines a certain requirement to eliminate the violation of a right or legal interest, while the petition has a prospective plan. This conclusion is confirmed in several studies (Barry, 2020; Qaracayev, 2022). Kedar and Hon (2020) also support the concept that motions are traditionally an important element in the development of a defence strategy in criminal proceedings, as is known from many historical cases. At the same time, Schweitzer and Johnson (2023) believe that a complaint does not necessarily indicate retrospectivity: individual lawyers may anticipate violations in the conduct of a particular trial by including complaints along with motions in a prospective defence plan in advance. This view does not necessarily negate the retrospective role of the complaint, as it is difficult to foresee all possible violations. It is worth agreeing with Husak (2020) that criminal trials, despite following a certain pattern, can differ from each other, and therefore it is extremely difficult to determine in advance which aspect will require appeal. The proposed results also emphasise a view that has been shown to prevail in the research community.

The proposed results show that complaints and motions can play a decisive role in shaping the course and outcome of criminal proceedings. First of all, it is about the exclusion of inadmissible or disclosure of new evidence, which is also emphasised by many scholars (Aliyev, 2023; Patterson & Tringali, 2014; Rosanò, 2016). The conclusions of Balov (2023) that motions and complaints are not only an important element of advocacy, but also elements of the defence of the accused are confirmed. In addition, complaints and motions are a strategic element that allows even trivial things like buying time to better prepare a defence strategy. Such conclusions were also reached by De La Rue, Ortega and Castro Rodriguez (2023), who consider the formation of the defence strategy to be the main thing in the use of complaints and motions. This conclusion seems to be exaggerated (Krajewski, 2022), and a more balanced view is taken by Bodnár (2021), who emphasised the importance of observing the legality of the process, of which complaints and motions are an element. It is worth supporting this view, since without compliance with the rule of law, any advocacy actions may be in vain, and the tools (complaints and motions) are precisely the opportunity to draw attention to violations and remove them from the legal field. Therefore, the novelty of the proposed study is to make adjustments to the understanding of complaints and motions in legal science, and to emphasise their important instrumental role in criminal proceedings.

The methodology chosen for the study has certain limitations. First of all, the emphasis on the use of English-language scientific literature has its positive and negative aspects. Firstly, English-language publications are widely available in the scientific community, so they are actively discussed by other researchers, which makes it possible to understand the advantages and disadvantages of certain scientific studies. This made it possible to select truly relevant studies for analysis. At the same time, there is a possibility that certain scientific publications written in languages other than English have important elements that will contribute to further study of the proposed issue. Given the duality of this methodological limitation, it should rather be seen as an incentive for further research on this issue.

Another methodological limitation is the chronological selection of studies - primarily, relevant scientific studies published since 2014 were taken into account. Obviously, legal and attorney-at-law practices have evolved significantly in recent years, so, at first glance, this choice is justified. However, there are theoretical classical works that reveal the essence of advocacy and the general principles of filing motions and complaints.

Consideration of this limitation requires attention, and although modern works take into account the existing theoretical experience of their predecessors, the search for new sources for understanding the basics of the practice of law also requires additional consideration of such features. Some researchers have drawn attention to the use of digital tools in the practice of law, which significantly speed up the process of filing complaints, inquiries and petitions (Cui, 2019). It is worth noting that this issue is among the little-studied elements of the legal profession, since the active digitalisation of this area has begun quite recently, and it is extremely difficult to determine its consequences. In addition, it is not known what the digital tools of the future may look like. This nuance can also be considered a certain methodological limitation, since the ultimate understanding of the consequences of the digitalisation of court proceedings has not yet been fully explored.

Conclusions and Implications

In summary, modern jurisdictions have well-developed models of rights protection. This study has identified several key aspects that should be taken into account when considering motions and complaints of defense counsel in criminal proceedings. In particular, it has been established that only certain subjects defined by the criminal procedure law have the right to file motions and complaints. These are the suspect, accused, defendant, defense counsel, victim, prosecutor, and in some cases, an expert, witness, labor collective, and representatives of social services. In addition, motions and complaints differ in content, nature of results, and terms of consideration. In particular, petitions are aimed at performing a certain procedural action or making a decision on all issues. Complaints, on the contrary, set out a demand to eliminate a violation of a right or legitimate interest. That is, complaints are retrospective, while petitions are prospective. Moreover, petitions are filed to exercise the future rights or interests of a person, while complaints are filed to restore already violated rights or interests.

By filing motions and complaints, attorneys-at-law can significantly influence the course and outcome of criminal cases. Motions can affect the exclusion of inadmissible evidence, disclosure of additional evidence, protection of the rights of the accused, fulfillment of strategic tasks and recording of violations of procedural rights. Complaints, in turn, play an important role in ensuring the right to file motions and eliminating violations that occurred during the criminal process.

Suggestions for Future Research

Therefore, the problem of using complaints and petitions is relevant for scientists. The analyzed number of works indicates that the modern criminal process and the role of the lawyer in it is a rather important phenomenon from a scientific point of view, which has not yet exhausted its cognitive potential. First of all, we are talking about the fact that, taking into account modern conditions, the lawyer's environment and working conditions are developing. An important aspect of this is the use of digital technologies, which are firmly rooted in social life. The COVID-19 pandemic actualized the problem of using modern technologies, creating strong prerequisites for a gradual departure from the traditional court process, the use of remote meetings, digital signatures, etc. The proposed aspects require an updated understanding of lawyer ethics, training of specialists taking into account the acquisition of the necessary digital competencies. This poses an extremely important problem that will require further research. Further analysis of the proposed topic contains great potential for the development of various aspects of criminal justice. The study of these issues can contribute to increasing the efficiency of court processes, as well as to the improvement of the legal system in general. For this, an important condition is taking into account the role of lawyers' complaints and petitions in different jurisdictions, which will form an idea of the most effective experiences of their application. The use of

comparative analysis in the future will make it possible to determine which instruments are most effective in different legal systems. Such elaboration will make it possible, in turn, to more globally form universal recommendations for further application in advocacy.

Acknowledgements

None.

Conflict of Interest

None.

Funding

The author received no funding for this research.

References

- Aliyev, A. J. oghlu. (2023). Legal Principles of the Advocacy Activities in Azerbaijan and in the post-Soviet States: The Role of Digitalization and Technological Aspects. *Futurity Economics&Law*, 3(4), 223–238. <https://doi.org/10.57125/FEL.2023.12.25.14>
- Astall, K. (2020). Criminal law directions. *The Law Teacher*, 1–2. <https://doi.org/10.1080/03069400.2020.1805931>
- Babusiaux, U. (2016). Legal writing and legal reasoning. In *The Oxford Handbook of Roman Law and Society* (pp. 176–187). Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780198728689.013.14>
- Balov, P. (2023). Contractual Procedures in Pre-Trial Criminal Proceedings: Asian Experience. *University Scientific Notes*, 30–42. <https://doi.org/10.37491/unz.93-94.3>
- Barry, B. M. (2020). The psychology of judicial decision-making. In *How judges judge* (pp. 12–90). Informa Law from Routledge. <https://doi.org/10.4324/9780429023422-2>
- Ben-Menahem, H., & Ben-Menahem, Y. (2020). The rule of law: Natural, human, and divine. *Studies in History and Philosophy of Science Part A*, 81, 46–54. <https://doi.org/10.1016/j.shpsa.2019.05.001>
- Bodnár, E. (2021). The use of comparative law in the practice of the Hungarian Constitutional Court: An empirical analysis (1990–2019). *Hungarian Journal of Legal Studies*, 61(1), 1–22. <https://doi.org/10.1556/2052.2020.00306>
- Brayne, S., & Christin, A. (2020). Technologies of Crime Prediction: The Reception of Algorithms in Policing and Criminal Courts. *Social Problems*. <https://doi.org/10.1093/socpro/spaa004>
- Bromby, M. (2018). International criminal law. *The Law Teacher*, 52(2), 238–239. <https://doi.org/10.1080/03069400.2018.1455438>
- Brooks, O., & Burman, M. (2016). Reporting rape: Victim perspectives on advocacy support in the criminal justice process. *Criminology & Criminal Justice*, 17(2), 209–225. <https://doi.org/10.1177/1748895816667996>
- Burchard, C., & Duff, A. (2021). Criminal Law Exceptionalism: Introduction. *Criminal Law and Philosophy*. <https://doi.org/10.1007/s11572-021-09612-6>
- Campbell, R. W. (2023). Artificial Intelligence in the Courtroom: The Delivery of Justice in the Age of Machine Learning. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4425791>
- Cochran-Smith, M. (2019). Teacher Education for Justice and Equity: 40 Years of Advocacy. *Action in Teacher Education*, 42(1), 49–59. <https://doi.org/10.1080/01626620.2019.1702120>
- Cordeiro, A. (2020). The Transformational Function of the Criminal Law. *New Criminal Law Review*, 23(4), 584–635. <https://doi.org/10.1525/nclr.2020.23.4.584>

- Criminal Procedure Code of the Republic of Azerbaijan. (2000). Approved by the Law of the Republic of Azerbaijan dated July 14, 2000, No. 907-IQ. https://continent-online.com/Document/?doc_id=30420280#pos=27;-57
- Cui, Y. (2019). Building AI-Assisted Rule of Law for the Future, Seeking Advantages and Avoiding Disadvantages to Make AI Better Benefit Mankind. In *Artificial Intelligence and Judicial Modernization* (pp. 187–191). Springer Singapore. https://doi.org/10.1007/978-981-32-9880-4_14
- D'Alton-Harrison, R. (2022). Developing Skills of Case Planning and Analysis. In *Advocacy for SQE2* (pp. 33–76). Routledge. <https://doi.org/10.4324/9781003134770-4>
- Daly, E., & Smith, O. (2020). *Scoping review: Legal & non-legal advocacy for rape complainants in adversarial jurisdictions*. https://www.researchgate.net/publication/346571204_SCOPING_REVIEW_Legal_Non-Legal_Advocacy_for_Rape_Complainants_in_Adversarial_Jurisdictions?channel=doi&linkId=611f957d169a1a010312d6ea&showFulltext=true
- De La Rue, L., Ortega, L., & Castro Rodriguez, G. (2023). System-based victim advocates identify resources and barriers to supporting crime victims. *International Review of Victimology*, 29(1), 16–26. <https://doi.org/10.1177/02697580221088340>
- della Porta, D., & Felicetti, A. (2019). Innovating Democracy Against Democratic Stress in Europe: Social Movements and Democratic Experiments. *Representation*, 1–18. <https://doi.org/10.1080/00344893.2019.1624600>
- Erlangga, E., & Marpi, Y. (2021). Deskredit Duties and Authorities of Advocates as Law Enforcers. In *Proceedings of the 1st International Conference on Education, Humanities, Health and Agriculture, ICEHHA 2021, 3-4 June 2021, Ruteng, Flores, Indonesia*. EAI. <https://doi.org/10.4108/eai.3-6-2021.2310813>
- Feldman, E. (2021). Virtual Internships During the COVID-19 Pandemic and Beyond. *New Horizons in Adult Education and Human Resource Development*, 33(2), 46–51. <https://doi.org/10.1002/nha3.20314>
- Gede, A., Fakrulloh, Z., & Suparno, S. (2023). Legal Protection Assistance By Advocates Against Criminal Acts of Domestic Violence. In *Proceedings of the 3rd International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2023, 6 May 2023, Salatiga, Central Java, Indonesia*. EAI. <https://doi.org/10.4108/eai.6-5-2023.2333451>
- Godsoe, C. (2021). The Place of the Prosecutor in Abolitionist Praxis. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3859084>
- Habiebie, Y. (2022). Legal Analysis Of Crime Advocates Who Commit Crimes In Carrying Out Their Duties And Professions. *International Asia Of Law and Money Laundering (IAML)*, 1(3), 207–211. <https://doi.org/10.59712/iaml.v1i3.36>
- Hall, N. (2022). The Global Growth of Digital Advocacy Organizations. In *Transnational Advocacy in the Digital Era* (pp. 53–83). Oxford University Press. <https://doi.org/10.1093/oso/9780198858744.003.0003>
- Husak, D. (2020). The Price of Criminal Law Skepticism. *New Criminal Law Review*, 23(1), 27–59. <https://doi.org/10.1525/nclr.2020.23.1.27>
- Kedar, Y., & Hon, G. (2020). Law and Order natural regularities before the scientific revolution. *Studies in History and Philosophy of Science Part A*, 81, 1–5. <https://doi.org/10.1016/j.shpsa.2020.02.002>

- Krajewski, M. (2022). The EU Right to an Independent Judge: How Much Consensus Across the EU? In *Article 47 of the EU Charter and Effective Judicial Protection, Volume 1*. Hart Publishing. <https://doi.org/10.5040/9781509947973.ch-004>
- Kurniawan, M. B. (2020). Implementation of electronic trial (e-litigation) on the civil cases in indonesia court as a legal renewal of civil procedural law. *Jurnal Hukum dan Peradilan*, 9(1), 43. <https://doi.org/10.25216/jhp.9.1.2020.43-70>
- Levin, B. (2022). Criminal Justice Expertise. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3940062>
- Matthes, C.-Y. (2022). Judges as activists: how Polish judges mobilise to defend the rule of law. *East European Politics*, 1–20. <https://doi.org/10.1080/21599165.2022.2092843>
- Monaghan, N. (2020). 5. Murder and voluntary manslaughter. In *Criminal Law Directions* (pp. 99–132). Oxford University Press. <https://doi.org/10.1093/he/9780198848783.003.0005>
- Ningsih, E. P. (2024). Protection of Human Rights in the Investigation Process Criminal Offenses in Indonesia. *Journal of Strafvingering Indonesian*, 1(2), 6–12. <https://doi.org/10.62872/g9297g96>
- Nir, E., & Musial, J. (2022). Zooming In: Courtrooms and Defendants' Rights during the COVID-19 Pandemic. *Social & Legal Studies*, 096466392210760. <https://doi.org/10.1177/09646639221076099>
- Parker, C., & Evans, A. (2007). The Responsibility Climate: Regulation of Lawyers' Ethics. In *Inside Lawyers' Ethics* (pp. 41–65). Cambridge University Press. <https://doi.org/10.1017/cbo9781139168380.004>
- Patterson, D., & Tringali, B. (2014). Understanding How Advocates Can Affect Sexual Assault Victim Engagement in the Criminal Justice Process. *Journal of Interpersonal Violence*, 30(12), 1987–1997. <https://doi.org/10.1177/0886260514552273>
- Qaracayev, C. Y. (2022). Axiological function of the Constitutional Court of the Republic of Azerbaijan. *Juris Europensis Scientia*, (3), 135–138. <https://doi.org/10.32782/chern.v3.2022.25>
- Quattrocchio, S. (2020). Predictability and Criminal Justice. In *Artificial Intelligence, Computational Modelling and Criminal Proceedings* (pp. 101–130). Springer International Publishing. https://doi.org/10.1007/978-3-030-52470-8_5
- Richey, S., & Taylor, J. B. (2020). Why and how People Advocate. In *Political Advocacy and American Politics* (pp. 37–55). Routledge. <https://doi.org/10.4324/9780429296598-3>
- Roberson, C. (2021). Civil Liability. In *Constitutional Law and Criminal Justice* (3rd ed., pp. 214–231). Routledge. <https://doi.org/10.4324/9781003179375-10>
- Rodriguez, Q. (2021). Idealizations and analogies: Explaining critical phenomena. *Studies in History and Philosophy of Science Part A*, 89, 235–247. <https://doi.org/10.1016/j.shpsa.2021.08.007>
- Rosanò, A. (2016). The Concept of Criminal Law in the Opinions of the Advocates General: Justification of Punitive Powers and Human Rights. *New Journal of European Criminal Law*, 7(1), 59–75. <https://doi.org/10.1177/203228441600700105>
- Schmitt, B. (2021). Legal Diversity at the International Criminal Court. *Journal of International Criminal Justice*. <https://doi.org/10.1093/jicj/mqab038>
- Schmitz, A. J., & Alkon, C. (2024). Opening the Virtual Window: How On-line Processes Could Increase Access to Justice in the Criminal Legal System. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4854159>

- Schmitz, H. P. (2022). What Is the Future of Transnational Advocacy in the Digital Era? A Review of *Transnational Advocacy in the Digital Era: Think Global, Act Local*, by Nina Hall (Oxford: Oxford University Press, 2021). *Global Perspectives*, 3(1). <https://doi.org/10.1525/gp.2022.38305>
- Schweitzer, M., & Johnson, M. L. (2023). Trial Procedures. In *On Trial* (pp. 18–20). Routledge. <https://doi.org/10.4324/9781003423522-9>
- Shahbazov, I., & Muradov, E. (2019). Excessive use of pre-trial detention in Azerbaijan: Examination of the causes. *International Journal of Law, Crime and Justice*, 57, 1–12. <https://doi.org/10.1016/j.ijlcj.2019.01.001>
- Siti Zulaiha, Nurul Fahmidab, & Fauziah Lubis. (2023). Enforcement of the advocate professional code of ethics in client assistance in criminal cases of corruption. *Widya Pranata Hukum : Jurnal Kajian dan Penelitian Hukum*, 5(1), 32–49. <https://doi.org/10.37631/widyapranata.v5i1.815>
- Su, J. (2023). The Use of Big Data in Criminal Justice and its Challenges. *Peking University Law Journal*, 1–21. <https://doi.org/10.1080/20517483.2023.2223851>
- Szontagh, V. (2021). The chances of restorative justice in hate crime cases. *Hungarian Journal of Legal Studies*. <https://doi.org/10.1556/2052.2020.00345>
- Tamborini, M. (2020). Technoscientific approaches to deep time. *Studies in History and Philosophy of Science Part A*, 79, 57–67. <https://doi.org/10.1016/j.shpsa.2019.03.002>