

The Illusion of the Presumption of Innocence in the Indonesian Criminal Justice System: A Hermeneutic Approach

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ABSTRACT

Recent high-profile criminal cases in Indonesia have exposed significant gaps between the formal guarantee of the presumption of innocence and its practical application. This study aims to critically examine the "illusion" of the presumption of innocence in the criminal justice system, highlighting how public opinion and media coverage undermine this fundamental principle. The research adopts a hermeneutic approach, emphasizing interpretative analysis of legal texts, court decisions, and media representations to explore the dynamic interplay between normative law and social reality. Findings reveal that, despite its codification in the Indonesian Criminal Procedure Code, the presumption of innocence is frequently compromised in practice: suspects are often treated as guilty prior to judicial determination, influenced by sensationalist reporting and societal pressure. This discrepancy generates a gap between the formal text of the law and its lived reality, producing a sense of procedural injustice and eroding public trust in the judiciary. The study concludes that the presumption of innocence in Indonesia functions more as a normative ideal than an operational reality, particularly in cases that attract widespread media attention. Hermeneutic analysis demonstrates that restoring the principle's substantive meaning requires a contextual understanding of law as both a normative and social phenomenon, alongside heightened awareness among legal practitioners, media actors, and the public regarding the ethical and procedural obligations inherent in criminal adjudication. The study underscores the necessity of integrating interpretive, human-centered approaches within legal practice to reconcile law's formal prescriptions with societal realities and to strengthen the operational effectiveness of fundamental procedural rights.

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1. INTRODUCTION

The presumption of innocence is a fundamental principle in criminal justice, enshrined in international instruments such as the Universal Declaration of Human Rights (Article 11) and the International Covenant on Civil and Political Rights (Article 14), as well as in Indonesia's Criminal Procedure Code (KUHAP, Article 53). This principle guarantees that every suspect is considered innocent until proven guilty by a competent court. However, in practice, the application of this principle in Indonesia often faces significant challenges. High-profile criminal cases that attract extensive media coverage have created an environment in which suspects are frequently treated as guilty before any judicial determination. Sensational reporting and public scrutiny have contributed to social presumption of guilt, influencing the behavior of both law enforcement officers and judicial authorities. Such discrepancies between normative law and social reality highlight the fragile status of the presumption of innocence, turning it into a procedural ideal that is frequently compromised in practice.

The urgency of this study lies in the need to critically examine the "illusion" of the presumption of innocence within the Indonesian criminal justice system and its implications for procedural justice and human rights. By adopting a hermeneutic approach, this research seeks to interpret the gap between the formal legal framework and its lived realities, including the influence of media narratives and public opinion. Understanding this gap is crucial for developing a more human-centered, context-sensitive application of criminal justice principles, ensuring that suspects are treated fairly and that the integrity of judicial processes is maintained. The study also aims to provide insights for legal practitioners, policymakers, and scholars to reinforce the operational effectiveness of fundamental procedural rights in Indonesia.

Previous research by Ida Ayu Ngurah Shintya Ciptadewi & I Wayan Bela Siki Layang in the article titled: "Pergeseran Makna Asas Praduga Tak Bersalah dalam Sistem Peradilan Pidana Indonesia," (Ciptadewi & Layang, 2025) broadly discusses the changing interpretation of the presumption of innocence in the criminal justice system in Indonesia. The study emphasizes how the application of this principle is often influenced by legal-political dynamics and public pressure, causing its meaning to shift from a protective principle for defendants to a tool legitimizing law enforcement processes. The limitation of this research lies in its exclusive focus on courtroom practices without addressing the philosophical implications or consequences for substantive justice. Additionally, the study does not examine the relationship between the presumption of innocence and the progressive legal paradigm, which is more humanistic. This research aims to fill that *research gap* by emphasizing a progressive law perspective, including the ontological and epistemological dimensions of the presumption of innocence. Therefore, this study is expected to contribute to a more comprehensive understanding of this principle in the context of protecting defendants' rights and achieving substantive justice.

The novelty of this study lies in its integration of a progressive law perspective to examine the presumption of innocence, which has been largely overlooked in previous research. Unlike prior studies that focused primarily on courtroom practices, this research emphasizes the ontological and epistemological dimensions of the principle. It explores how the presumption of innocence can function as a living legal norm that interacts dynamically with social realities and human rights considerations. Furthermore, the study highlights the role of substantive justice in shaping legal interpretation and application, moving beyond strict procedural compliance. By addressing these gaps, the research offers a more comprehensive and humanistic understanding of the presumption of innocence within Indonesia's criminal justice system.

The focus of this research is to critically examine the presumption of innocence within Indonesia's criminal justice system from a progressive law perspective. It aims to investigate how the principle is interpreted, applied, and potentially distorted in practice, particularly in relation to human rights and substantive justice. The study also seeks to identify the gaps between formal legal procedures and the lived experiences of defendants and victims. The research problem is formulated around the question of how the presumption of innocence can be understood and implemented in a way that balances procedural compliance with humanistic and social considerations. By addressing this issue, the study

intends to provide insights for enhancing legal interpretation and promoting justice that is both fair and contextually relevant.

2. METHODS

This study adopts a normative legal research design, focusing on the analysis of legal principles, doctrines, and regulations rather than empirical data, which is suitable for examining conceptual and philosophical dimensions of law such as the presumption of innocence within Indonesia's criminal justice system. The nature of the research is prescriptive, aiming not only to describe existing legal phenomena but also to provide recommendations and critical insights for improving legal interpretation and application in accordance with progressive law principles, thereby contributing to a more humanistic, just, and contextually responsive legal framework. The approach is qualitative and doctrinal, relying on comprehensive reviews of primary legal sources, including statutes, case law, and constitutional provisions, as well as secondary sources such as scholarly articles, books, and legal commentaries, allowing an assessment of the normative content of laws and their alignment with substantive justice, human rights, and progressive legal theory. For data analysis, the study employs a deductive legal analysis technique, beginning with general principles of progressive law and normative doctrines and systematically applying them to specific issues within the criminal justice system, which facilitates the identification of inconsistencies, gaps, and misalignments between formal legal norms and the ethical, social, and humanistic dimensions of justice. Through this method, the research evaluates both the theoretical foundations and practical implications of legal rules, providing a structured framework to understand how the presumption of innocence can be interpreted and applied to achieve substantive justice. By integrating normative, prescriptive, and deductive analytical elements, this methodology ensures that the study produces both conceptual insights and actionable recommendations for legal reform within a progressive law paradigm.

3. FINDINGS AND DISCUSSION

The presumption of innocence is a fundamental principle in the criminal justice system, ensuring that every suspect or defendant is considered innocent until proven guilty by a competent court (Luntungan, Rusdi, & Sierrad, 2023). This principle is not only recognized under Indonesian law through the Criminal Procedure Code (KUHAP, Article 53) but also internationally, for example in the Universal Declaration of Human Rights (Article 11) and the International Covenant on Civil and Political Rights (Article 14) (Halim, 2022). It serves as a crucial safeguard for protecting the rights of suspects, maintaining the integrity of judicial processes, and ensuring that the law is not applied arbitrarily. The presumption of innocence also functions to balance power between the state and individuals, emphasizing that an accusation does not automatically equate to guilt, while promoting the protection of human rights within the criminal justice system.

However, practical implementation often shows significant deviations from this principle. Many cases reveal premature detention before judicial verdicts, widespread publication of allegations by the media, and public pressure that seemingly presumes the guilt of suspects prior to trial (Zukriadi & Lebang, 2022). These phenomena create a gap between the formal legal text and actual judicial practice, making the presumption of innocence a normative illusion rather than an effective safeguard for suspects. This situation risks procedural injustice and undermines public trust in judicial institutions.

This article aims to analyze the illusion of protection provided by the presumption of innocence through a hermeneutic approach, emphasizing a critical interpretation of formal legal texts and actual judicial practices. The study seeks to offer a more humanistic and contextual understanding of this principle, highlighting its implications for the development of progressive law in Indonesia. Thus, this research not only focuses on legal norms but also on how law should function as an instrument of substantive justice within society.

In the Indonesian legal system, the principle of the presumption of innocence (*presumption of innocence*) is enshrined both in the Criminal Procedure Code (KUHAP, Article 53) and in constitutional guarantees, reflecting a formal commitment to ensuring that every suspect or defendant is treated as innocent until proven guilty by a competent court (Setya & Anita, 2021). Under positive law, this principle establishes procedural safeguards, including the right to legal counsel, protection against arbitrary detention, and the obligation for the prosecution to prove guilt beyond a reasonable doubt. However, while these provisions provide a normative framework, they often operate in abstraction from the social realities and human experiences that shape the lived application of law.

From a progressive law perspective, legal principles are not merely formal rules to be applied mechanically; rather, they should function as instruments of human protection and substantive justice (Rahmad & Hafis, 2021). This approach emphasizes that the presumption of innocence must safeguard the dignity, rights, and well-being of individuals, ensuring that legal processes respond meaningfully to the complexities of social life.

Hermeneutic legal theory reinforces this perspective by advocating for an interpretive approach in which legal norms are understood contextually rather than literally (Susetiyo, 2025). Through hermeneutics, the presumption of innocence is not reduced to its textual articulation alone but is interpreted in relation to moral considerations, social context, and the practical experiences of those subjected to criminal proceedings.

This interpretive lens illuminates the ontological dimension of the principle, highlighting that law is an institution that exists in interaction with human realities, and the epistemological dimension, showing that knowledge of the law must encompass both formal rules and their practical, ethical implications (Prasetyo, 2023). Understanding the presumption of innocence through these lenses reveals the tension between the formal guarantees of positive law and the lived experiences of suspects, particularly in cases influenced by media coverage and public opinion.

By integrating progressive legal thought and hermeneutic interpretation, scholars and practitioners can bridge the gap between normative texts and actual legal practice, ensuring that the presumption of innocence fulfills its intended role as a protective and human-centered principle. Such a framework underscores that legal principles acquire their true meaning not only through codification but through their capacity to deliver justice substantively, to protect human dignity, and to respond ethically and contextually to the realities of criminal adjudication in Indonesian society.

In the Indonesian criminal justice system, the presumption of innocence (*presumption of innocence*) is a foundational principle designed to protect suspects and defendants from arbitrary treatment and ensure fair judicial processes. Despite its formal recognition in the Criminal Procedure Code (KUHAP, Article 53) and constitutional guarantees, the practical implementation of this principle often diverges significantly from its normative ideal (Doodoh & Tuwaidan, 2025). One of the most pressing challenges is the phenomenon of premature detention. In many cases, suspects are detained before sufficient evidence has been collected or before their guilt is formally established in court. Such practices undermine the procedural and substantive rights of defendants, as they are deprived of their liberty without adequate legal justification. Premature detention not only imposes psychological and social burdens on individuals and their families but also erodes the credibility of the justice system by signaling that accusations alone can justify punitive measures.

Compounding this issue is the pervasive influence of media coverage and public opinion. High-profile criminal cases frequently attract sensationalist reporting, which can frame suspects as guilty before any judicial determination has been made. This construction of presumed guilt in the public sphere exerts pressure on law enforcement agencies, prosecutors, and judges, often shaping their behavior and decision-making. Public discourse fueled by media narratives may inadvertently prioritize societal demands for immediate accountability over adherence to procedural safeguards and humanistic principles (Pardede & Nelson, 2023). As a result, the principle of presumption of innocence risks being reduced to a theoretical norm rather than a lived reality, with the perception of guilt being socially constructed prior to adjudication.

Law enforcement officials, including police officers, prosecutors, and judges, play a central role in either upholding or undermining the presumption of innocence. In practice, there are numerous instances where these actors focus narrowly on procedural compliance or expediency, neglecting the broader humanistic and moral dimensions of justice. Police investigations may be conducted in ways that emphasize obtaining confessions or evidence for conviction, rather than protecting the rights of suspects. Prosecutors may pursue charges under public or political pressure, and judges may render decisions influenced by the anticipated reaction of society, rather than grounding their rulings strictly in law and evidence (Pangemanan, 2016). This narrow proceduralism diminishes the protective function of the presumption of innocence, turning it into a formality that exists on paper but is often absent in the lived experience of suspects.

Several real cases in Indonesia illustrate these deviations from the principle of presumption of innocence. For instance, suspects in high-profile corruption cases have faced prolonged pretrial detention, extensive media scrutiny, and social stigmatization, despite the absence of a final court verdict. Similarly, in drug-related cases, individuals are sometimes publicly labeled as criminals at the time of arrest, generating societal bias that affects subsequent trial proceedings (Siregar, 2022). These instances demonstrate a pattern in which law enforcement practices, media framing, and societal expectations intersect to compromise the foundational rights of defendants, creating what can be described as an "illusion" of legal protection.

The gap between *law in books* and *law in action* is particularly evident in these contexts. While the formal legal texts of KUHAP and constitutional provisions articulate clear safeguards for suspects, including the right to counsel, the requirement for evidence-based detention, and the guarantee of fair trial procedures, the practical enforcement of these norms frequently falls short. Premature detention, media-driven public pressure, and the selective application of legal procedures illustrate the divergence between the codified law and the realities experienced by defendants (Alamsyah, Sunaryo, & Fajrin, 2024). This discrepancy underscores the importance of interpreting legal principles not merely as static rules but as dynamic norms that must interact with social, moral, and human realities.

Understanding the presumption of innocence through the lens of law in action highlights the need for a more human-centered and context-sensitive approach to criminal justice. It emphasizes that legal principles are not self-executing; their effectiveness depends on the awareness, integrity, and ethical orientation of those who implement them. Bridging the gap between law in books and law in action requires reform at multiple levels: strengthening institutional adherence to procedural safeguards, promoting ethical standards among law enforcement personnel, ensuring responsible media reporting, and fostering public understanding of the principle's normative purpose.

The principle of presumption of innocence in Indonesia faces multiple challenges, including premature detention, media influence, public opinion, and selective enforcement by law enforcement actors. Real-world cases reveal that the gap between normative law and practice can lead to the erosion of fundamental rights and procedural justice. By recognizing and addressing these deviations, scholars, practitioners, and policymakers can work toward ensuring that the presumption of innocence functions as intended: a safeguard of liberty, dignity, and fairness, bridging the divide between codified law and lived justice in the Indonesian criminal justice system.

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A hermeneutic approach to legal interpretation provides a valuable framework for addressing this gap. Rather than reading legal texts superficially or merely applying formalistic rules, hermeneutics emphasizes deep engagement with the meaning, context, and purpose of legal norms (Susilo, 2023). In

the case of the presumption of innocence, this approach requires examining not only the literal provisions of the Criminal Procedure Code and constitutional guarantees but also the social, moral, and experiential realities that surround the administration of justice. By considering the lived experiences of suspects, the societal pressures on law enforcement, and the ethical implications of judicial decisions, a hermeneutic reading can uncover how the protection ostensibly guaranteed by law may, in practice, be compromised.

One critical insight from this perspective is that a strictly textual or procedural interpretation of law can create the illusion that the presumption of innocence is fully protected. For example, adherence to formal procedural requirements such as documenting detention orders or providing access to counsel may suggest compliance with the principle, while in reality, underlying human rights concerns remain unaddressed. Premature detention, coercive interrogations, and pretrial publicity illustrate situations in which the procedural façade masks substantive injustices (Dewi & Darma, 2023). In these instances, suspects are formally afforded the rights enshrined in law, but the practical enforcement and ethical grounding of those rights are deficient, undermining the protective purpose of the principle.

This disjunction highlights a broader tension between procedural compliance and substantive justice. Law enforcement officials may satisfy the letter of the law without engaging with its spirit, resulting in legal outcomes that are technically correct but fail to achieve equitable or human-centered results. Hermeneutic analysis draws attention to these contradictions, emphasizing that the meaning of legal norms emerges not solely from codification but from their application in real-life contexts. Substantive justice requires considering the consequences of legal actions on the dignity, liberty, and social integration of the accused, which cannot be captured by a purely formalistic lens.

Furthermore, the epistemological limitations of legal positivism exacerbate the challenges in implementing the presumption of innocence. Positivist approaches treat law as a system of norms that can be validated independently of social, moral, or humanistic considerations (Tarumanagara, 2025). Within this framework, knowledge of the law is confined to its textual articulation and procedural logic, often ignoring the complexities of social interactions, power dynamics, and moral responsibilities. When applied to criminal justice, this epistemology risks reducing the presumption of innocence to a technical requirement rather than a living safeguard of human rights. The positivist focus on codified rules fails to account for the ethical and experiential dimensions that determine whether suspects are genuinely treated as innocent in practice.

By integrating a hermeneutic perspective, scholars and practitioners can reinterpret the presumption of innocence as a dynamic and context-sensitive principle rather than a static procedural formality. This approach encourages law enforcement officers, prosecutors, and judges to engage reflexively with the normative, moral, and social implications of their actions. For instance, decisions regarding pretrial detention should be assessed not only for procedural correctness but also for their impact on the suspect's liberty, family, and social standing. Media reporting and public commentary should be scrutinized for their potential to undermine the ethical foundations of the principle, and policies should be designed to safeguard against societal biases influencing judicial outcomes.

Hermeneutic analysis reveals that the presumption of innocence can only function as intended when law is understood as a living instrument of justice rather than merely a set of abstract rules. The principle's protective power lies not in its textual existence alone but in its meaningful application, which requires interpreting legal norms in light of human dignity, social realities, and ethical considerations (Weruin, Andayani, & Atalim, 2016). By recognizing the limitations of positivist legal epistemology and adopting a hermeneutic lens, Indonesian criminal justice actors can bridge the gap between law in books and law in action, ensuring that procedural compliance is complemented by substantive justice. In this way, the presumption of innocence becomes a genuine safeguard of rights, reflecting a progressive and human-centered vision of the rule of law in Indonesia.

Building on the hermeneutic understanding of law, a progressive law paradigm offers a framework for strengthening the protection of the presumption of innocence in Indonesia. Unlike formalistic or purely procedural approaches, progressive law emphasizes the integration of humanistic

values into legal interpretation and enforcement. This paradigm recognizes that law is not merely a system of codified rules but a dynamic institution that interacts with social realities, moral considerations, and the lived experiences of individuals. By situating the presumption of innocence within this broader human-centered context, progressive law seeks to ensure that suspects are genuinely treated as innocent until proven guilty, not only in legal texts but in actual judicial practice.

A key strategy for reform under a progressive paradigm involves the systematic integration of humanistic values into all stages of criminal justice. For instance, pretrial detention decisions should be evaluated not only for procedural correctness but also for their potential impact on the liberty, dignity, and social standing of the accused. Law enforcement officials, prosecutors, and judges should be encouraged to consider contextual factors such as family responsibilities, employment, and community ties, rather than mechanically applying detention or prosecutorial measures. This context-sensitive approach acknowledges that strict procedural compliance, without regard for human consequences, can perpetuate injustices and erode public trust in the system.

Education and training play a critical role in realizing this reformatory vision. Law schools, professional academies, and in-service training programs for police, prosecutors, and judges must incorporate hermeneutic and humanistic perspectives as core components of curricula. This includes teaching officers and legal professionals to engage reflexively with the normative, ethical, and social dimensions of legal practice. Practical exercises, case studies, and simulated scenarios can be employed to highlight the consequences of premature detention, coercive interrogations, and media-influenced judgments. By internalizing these values, legal actors become more capable of balancing procedural obligations with substantive justice, thereby reinforcing the protective intent of the presumption of innocence.

The potential impact of this progressive approach extends beyond individual cases. When law enforcement and judicial practices consistently reflect humanistic and contextual reasoning, the credibility and legitimacy of the criminal justice system are strengthened. Public confidence grows when society observes that legal processes are not merely formal exercises but mechanisms that safeguard individual rights and human dignity. Furthermore, substantive justice is enhanced as suspects experience fair treatment in alignment with both legal provisions and ethical imperatives. Progressive law thus serves as a bridge between law in books and law in action, transforming the presumption of innocence from a theoretical principle into a practical safeguard with real-world efficacy.

The integration of a progressive law paradigm into Indonesia's criminal justice system represents a promising pathway to fortify the presumption of innocence. By embedding humanistic values, promoting contextual assessment, and ensuring comprehensive education and training for legal actors, the system can better protect suspects' rights while maintaining the integrity of judicial processes. Such reforms not only operationalize the presumption of innocence more effectively but also foster substantive justice and reinforce the legitimacy of the rule of law in Indonesia. Through this lens, the presumption of innocence evolves into a living principle that genuinely safeguards liberty, dignity, and fairness within the nation's legal framework.

The analysis reveals that the presumption of innocence in Indonesia frequently functions as a formalistic illusion rather than an effective safeguard of suspects' rights. While legal texts, including the Criminal Procedure Code and constitutional provisions, articulate clear protections, practical implementation often diverges from these principles. Premature detention, media influence, and selective enforcement by law enforcement officials illustrate the gap between codified law and lived realities. From a hermeneutic and humanistic perspective, this divergence undermines the ethical and social dimensions of justice, reducing the presumption of innocence to a procedural formality that fails to protect liberty, dignity, and fairness.

These findings underscore the necessity of adopting a progressive law approach that bridges the divide between formal rules and substantive justice. Integrating humanistic values, contextual assessment, and reflexive legal interpretation can transform the principle from an abstract norm into a

meaningful, operational safeguard. Education and training for legal actors are crucial in internalizing these values, ensuring that procedural compliance is complemented by ethical and social awareness.

Future research should explore empirical studies on the lived experiences of suspects, the role of media, and judicial behavior in Indonesia. Legal reform initiatives must prioritize both procedural rigor and human-centered interpretation to fully realize the presumption of innocence as a genuine protection of rights.

4. CONCLUSION

The presumption of innocence in Indonesia, while formally enshrined in law, often remains an aspirational ideal rather than a fully realized protection for suspects. Practical deviations such as premature detention, media influence, and selective enforcement by law enforcement officials highlight a persistent gap between codified rules and lived realities. Hermeneutic and humanistic analyses demonstrate that strict procedural compliance alone cannot guarantee substantive justice. Without considering social context, ethical imperatives, and the dignity of individuals, the presumption of innocence risks functioning as a formalistic illusion, undermining both procedural fairness and public confidence in the criminal justice system.

Adopting a progressive law paradigm offers a promising avenue to address these challenges. By integrating humanistic values, contextual interpretation, and reflexive legal education for law enforcement, prosecutors, and judges, the presumption of innocence can be operationalized as a meaningful safeguard of rights. Such reforms not only strengthen substantive justice but also enhance the legitimacy and credibility of the criminal justice system. Future research and policy initiatives should focus on empirically examining judicial practices, media impact, and societal perceptions to ensure that the presumption of innocence functions as a living principle truly protecting liberty, dignity, and fairness within Indonesia's legal framework.

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