

The Influence of Public Opinion on the Application of the Presumption of Innocence to the Criminal Justice System

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ABSTRACT: The principle of presumption of innocence is a core aspect of the Indonesian criminal justice system. It guarantees that anyone accused of a crime is treated as innocent until a binding court verdict proves otherwise. However, the development of information and communication technology, especially through mass media and social media, has created new challenges to the application of this principle. The phenomenon of trial by media and trial by social media often leads to the formation of judgmental public opinion before the legal process is completed. This study seeks to explore how public opinion affects the implementation of the presumption of innocence and to assess the types of legal protections available to suspects or defendants against premature public judgment. This study employs a normative juridical method combined with a case study approach, focusing specifically on the Jessica Wongso and Vina Cirebon cases. The results of the study show that public opinion formed by media coverage and online conversations often affect the objectivity of law enforcement officials, from the investigation stage to the trial. Therefore, it is essential to reinforce media regulations, enhance public legal awareness, and maximize the function of the Criminal Procedure Code (KUHP) and the Press Law as legal tools to ensure a fair and independent judicial process that balances freedom of expression with the protection of individual rights.

KEYWORDS: Presumption of Innocence; Public Opinion; Trial by Media; Legal Protection; Criminal Justice.

I. INTRODUCTION

The rule of law in a nation is demonstrated through a just and humane criminal justice system. A fundamental principle underpinning justice within this system is the presumption of innocence. This principle ensures that anyone suspected of a crime is regarded as innocent until a final court ruling establishes their guilt. This concept is enshrined in Article 8 paragraph (1) of Law No. 48 of 2009 on Judicial Power, which affirms that every individual who is suspected, arrested, detained, prosecuted, or tried must be presumed innocent until a legally binding court decision declares otherwise.

The media shapes public opinion in some cases through the news presented. These opinions then influence public perceptions and influence the ongoing legal process (Nabiilah, 2025). The digital age, characterized by the massive penetration of mass media and social media, allows for the rapid dissemination of information, both verified and unverified. Sensational media coverage and conversations on social media often shape judgmental public opinion, create a negative image of the suspect or defendant, and even demand punishment before the legal evidence process is carried out in court. This can undermine the presumption of innocence and compromise the independence of the judicial system. Therefore, the government needs to establish regulations and educate the public to maintain a balance between information transparency and legal justice (Addila & Nurcahyono, 2025). Several actual incidents in Indonesia have demonstrated that public opinion holds significant potential to weaken the principle of presumption of innocence within the criminal justice system. One example is the case of Vina's death in Cirebon and the cyanide coffee case involving Jessica Kumala Wongso. In the Vina case, the public massively formed strong opinions through social media and various other digital platforms. This opinion not only pressured law enforcement officials to immediately follow up on the case, but also encouraged calls for the investigation to be reopened and justice to be served, even though the legal process was still ongoing and had not yet reached a legally binding decision. This phenomenon shows that public opinion formed before the existence of valid evidence can interfere with an objective and fair judicial process (Rachmawati, 2025). In the Jessica Kumala Wongso case, the media had a significant role in shaping public opinion by creating a narrative that she was guilty, even before the court officially handed down a verdict. The narrative built through various news reports spread widely in the community, creating a negative perception that preceded the legal evidentiary process in court. As a result, public attention to

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the case increased dramatically and created enormous pressure on law enforcement officials and the criminal justice system as a whole. This phenomenon demonstrates how the media can massively influence public opinion and potentially disrupt the principles of justice, particularly the presumption of innocence (Ayu, 2025). Both cases show that the response to public demands raises questions about how such pressure can affect the law enforcement process, including the potential for bias and violations of the presumption of innocence against parties newly named as suspects in the midst of a frenzy of public opinion. The public seems to have "judged" the new suspects before the legal process has legitimately proven their guilt.

The dominance of public opinion in the dynamics of the modern judicial process is a serious issue that deserves critical scrutiny, especially because of its impact on the objectivity and independence of judicial institutions. Public opinion shaped by mass media and social media often affects the viewpoints of law enforcement officials—such as investigators, prosecutors, and judges—and influences the perceptions of the broader public, including victims and witnesses. This influence has the potential to create psychological and institutional pressure that can shift the direction of law enforcement from the principles of justice that should be objective, impartial, and based solely on legal facts. Over time, this situation can erode the presumption of innocence—an essential principle of the criminal justice system—and endanger the constitutional rights of suspects or defendants. Therefore, an in-depth and comprehensive study is necessary to assess the extent to which public opinion—especially in the form of 'trial by media' and 'trial by social media'—impacts the legal process, and to explore how the press can strategically contribute to balancing the public's right to information with the protection of the legal rights of individuals involved in judicial proceedings.

II. METHODS

This research utilizes a normative juridical method, employing both a statutory approach and a case-based approach (Djulaeka & Rahayu, 2019). Researchers used this approach to examine applicable legal principles and analyze their application in relevant concrete cases.

The researcher obtained data through a literature study that included laws and regulations, court decisions, legal journals, and news from credible media. The researcher conducted a qualitative analysis of the data to gain a deeper understanding of how public opinion influences the implementation of the presumption of innocence within the criminal justice system.

III. RESULTS AND DISCUSSION

A. Public opinion influences the application of the presumption of innocence in Indonesia's criminal justice system

The presumption of innocence serves as a fundamental pillar in upholding human rights within the criminal justice process. This principle is explicitly stated in Article 8, paragraph (1) of Law No. 48 of 2009 on Judicial Power, which affirms that "Every person who is suspected, arrested, detained, prosecuted, or brought to trial shall be presumed innocent until a court verdict declares their guilt with permanent legal force." This principle is further strengthened by Article 28I paragraph (1) of the 1945 Constitution, which guarantees the right not to be prosecuted under retroactive laws, thereby implicitly reinforcing both the principle of legality and the presumption of innocence. On an international level, this principle is acknowledged in Article 11 of the Universal Declaration of Human Rights (UDHR) and Article 14 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR). Criminal law doctrine confirms that this principle is not only formal, but also substantive. This means that law enforcers should not treat suspects/defendants as if they are guilty before there is a final court decision. The responsibility to prove the case lies with the public prosecutor, and doubts must be in favor of the defendant (*in dubio pro reo*). As stated by Eddy O.S. Hiarij, the presumption of innocence serves as a safeguard for every individual against arbitrary actions by law enforcement authorities (Hiarij, 2013).

Public opinion shaped by mass media and social media can affect how the public perceives a suspect or defendant in a criminal case. The phenomenon of "Judgment by the media" or "Judgment by public opinion" often occurs, where the media and the public have rendered a verdict before the legal process is completed (Pardede & Nelson, 2023). Public opinion in the context of criminal justice is often formed through two main channels: conventional mass media (television, newspapers, radio) and social media. The mass media has great power in shaping narratives and public perceptions through the selection of news, viewpoints, and the way information is presented. Often, to increase the attractiveness of news, the media tend to prioritize sensational aspects, dramatization, or even early judgment of suspects. Public opinion formed through mass media and social media can influence public perception of a criminal case.

In the Jessica Wongso case, for example, intense media coverage and certain framing caused the public to form an opinion that Jessica was guilty, even before the judicial process was completed. Although the trial process proceeded formally in accordance with the Criminal Procedure Code, very intensive media pressure led to what is called "media constructed reality" or the media's version of legal reality. KPI criticized the news because it has the potential to ignore the principle of presumption of innocence (Indirasari, 2025).

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Another case is Vina Cirebon, which shows how public opinion formed through social media can influence the legal process. Although there is no final court decision, the public has already formed an opinion about who is guilty in the case. Many social media users do not respect the principle of innocent assumption in news and comments on social networks, so that it can affect the state of the mind and the view of other users (Dipayana & Artha, 2019). The impact of public opinion on the criminal justice process can result in violations of a defendant's human rights, including the right to a fair and impartial trial as guaranteed by Article 14 paragraph (2) of the International Covenant on Civil and Political Rights, which was ratified through Law Number 12 of 2005.

Public opinion plays a substantial role in shaping the application of the presumption of innocence within Indonesia's criminal justice system. Despite being protected by various legal provisions, the influence of mass media and social media can disrupt its fair and impartial enforcement (Pawennei & Qamar, 2024). For example, in the investigation process in several ways. First, investigators may feel compelled to quickly find a "suspect" to defuse public turmoil, even if the initial evidence is not strong enough. This can lead to hasty arrests or detentions, potentially even wrongful arrests. Second, public opinion can influence investigators' perceptions of suspects, thus unconsciously affecting objectivity in evidence gathering or examination. Thirdly, in some cases, the pressure of public opinion can affect the prioritization of cases, with viral cases tending to get faster attention than other cases that may be equally important.

At the prosecution stage, the public prosecutor plays a crucial role in determining whether a case should be brought to court. Public opinion pressure can influence prosecutorial discretion. Prosecutors may feel pressured to pursue serious charges, even if the evidence is inconclusive, in order to meet public expectations of "justice". This can result in disproportionate sentencing or even the coercion of suspects into confessing to acts they did not commit through plea bargaining.

The influence of public opinion can also extend to the courtroom. Although judges are protected by the independence of the judicial power, the pressure of public opinion can affect the subliminality in the consideration of decisions. Judges can be unconsciously swayed by public sentiment, especially in high-profile cases. Public trials with intensive media coverage can also create a pressurized atmosphere for defendants and defense teams. The presence of "crowd pressure" outside the courtroom can affect the course of the trial. Article 5 Paragraph (1) of Law No. 40 of 1999 concerning the Press states that: "The national press is required to report events and opinions while upholding religious values, public morality, and the presumption of innocence".

According to Andi Hamzah, law enforcement officials must be independent and unaffected by external pressures, including public opinion, to maintain the principles of fairness and legal certainty (Andi Hamzah, 2010). Therefore, public intervention in the form of online petitions and campaigns can be considered a form of "obstruction of justice" if it influences the formal decisions of law enforcement agencies. Although public participation in a democratic system needs to be respected, when such pressure interferes with the objective stages of law, the state is obliged to uphold the boundary between the public good and the safeguarding of individual legal rights. According to Manfred Nowak, an international human rights expert, the principle of fair trial includes not only procedural guarantees in court, but also social conditions free from public pressure and prejudice (Boerefijn, 2007). Therefore, excessive media or public intervention in the judicial process can create violations of the principle of non-interference and the principle of judicial impartiality.

With the development of social media, regulations are needed to govern news content so as not to violate individual rights and the principle of presumption of innocence. Social media users must also be educated to be responsible in disseminating information (Dipayana & Artha, 2019). In the long run, uncontrolled public opinion pressure can undermine public trust in the legal system and judicial institutions. Therefore, there needs to be a clear line between freedom of expression and respect for legal principles that ensure justice and legal certainty. The government and educational institutions need to improve the legal literacy of the public, especially regarding the presumption of innocence and the negative impact of judgment through the media. This education can be done through the education curriculum, public campaigns, and cooperation with the mass media. This legal literacy is also in line with the mandate of Law No. 16/2011 on Legal Aid which prioritizes a broad understanding of the rights and legal obligations of the community.

B. Legal efforts to protect the rights of suspects or defendants from the negative impact of trial by media and trial by social media

In the Indonesian legal system, the principle of presumption of innocence is guaranteed in Article 8 paragraph (1) of Law No. 48/2009 on Judicial Power. This principle asserts that "anyone who is suspected, arrested, detained, prosecuted, or brought before the court must be considered innocent until a court ruling legally and convincingly establishes their guilt". The presumption of innocence is a core principle in Indonesia's criminal justice system. Article 5 paragraph (1) of Law No. 40 of 1999 on the Press emphasizes that the national press must report news and opinions while upholding the presumption of innocence. Disregarding

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this principle can result in biased media judgment, which infringes upon the rights of suspects or the accused (UAI, 2021). In addition, Article 1 point 23 of the Criminal Procedure Code (KUHP) clarifies that suspects and defendants are not deemed guilty until a final court ruling is issued. Therefore, labeling them as "perpetrators" in media coverage constitutes a violation of legal standards. Moreover, Article 310 of the Criminal Code and Article 27 of the Electronic Information and Transactions (ITE) Law No. 19 of 2016 impose criminal and civil penalties for spreading defamatory or misleading information, which can be pursued through complaints to the Press Council or legal action in court.

Suspects or defendants have rights that are protected by law, including the right not to be discriminated against and the right to a fair trial. In cases of defamation through social media, for example, investigators can mediate between the parties involved before proceeding to the formal investigation process (Khofifah, et.al., 2021). KUHP, as the main guideline for formal criminal law enforcement in Indonesia, consistently implements the presumption of innocence through various provisions that guarantee the fundamental rights of suspects and defendants. According to Andi Hamzah, KUHP is designed to protect the fundamental rights of individuals from arbitrary actions of law enforcement officials, and the presumption of innocence is the "spirit" that animates the entire process (Andi Hamzah, 2010).

The application of this principle in the Criminal Procedure Code (KUHP) is reflected in several provisions, including Article 66, which addresses the burden of proof placed on the public prosecutor. This represents the clearest expression of the presumption of innocence: the suspect or defendant is not obligated to prove their innocence. Instead, it is the responsibility of the public prosecutor to establish the defendant's guilt with valid and convincing evidence beyond a reasonable doubt. This principle aims to avoid the punishment of innocent individuals and ensure justice. Article 54 on the Right to be Accompanied by Legal Counsel Guarantees the right to legal counsel, even for those who cannot afford it, ensuring that suspects/defendants can receive effective legal assistance. This is crucial so that they can understand their rights, raise objections, and provide a proportional defense before the law, thus avoiding pressure and neglect of rights. Furthermore, Articles 19 to 31 on Restrictions on Detention and Arrest of the Criminal Procedure Code strictly regulate the conditions and procedures for arrest and detention, including time limits and inherent authority. These restrictions aim to prevent arbitrary detention and ensure that every action of law enforcement officials is based on strong and reasonable suspicion, not just public opinion. And finally Article 184 jo. 189 on the right not to self-incriminate, although not explicitly referred to as the right not to self-incriminate, KUHP does not impose an obligation on the suspect/defendant to provide self-incriminating information. Testimony must be given freely and without coercion. This is a fundamental part of the protection against coerced confessions and an affirmation that confessions cannot be the sole basis for criminal conviction.

Indonesia already has a legal and ethical framework for the press that seeks to protect the rights of suspects/defendants, although its effectiveness is debatable. For example, regulations governing mass media—such as the Press Law and the Journalistic Code of Ethics—stipulate that Law No. 40 of 1999 on the Press clearly outlines the role of the national press in ensuring the public's right to access information and foster communication, while also maintaining accountability in its reporting. Article 10 of the Press Law emphasizes that the press must respect the human rights of every person. More specifically, the Code of Journalistic Ethics (KEJ) compiled by the Press Council is a code of conduct for journalists. Article 1 of the KEJ requires journalists to produce news that is accurate and balanced, and not in bad faith (Atmaja, 2017). A key provision related to the presumption of innocence is found in Article 4, which states that "Indonesian journalists must not produce false, defamatory, sensationalist, or obscene news." This provision implicitly requires journalists not to disseminate unverified or judgmental information. Article 5 further states that "Indonesian journalists do not abuse the profession and do not accept bribes." Although indirect, this can be interpreted as a prohibition on manipulating information for profit or to unethically influence public opinion. If there is news that is deemed harmful or in violation of the journalistic code of ethics, the aggrieved party can file a complaint through the press dispute mechanism facilitated by the Press Council. This step aims to resolve disputes professionally without criminalizing journalistic work (Atmaja, 2017).

In the context of online media, the Press Council has issued guidelines that specifically require journalists to comply with the ethical standards for journalists and ensure that the news does not violate the presumption of innocence. Budiman (2020) identified a gap in the enforcement of the Journalistic Code of Ethics that led to the rise of trial by media, where sanctions given by the Press Council are often considered ineffective and only in the form of reprimands or apologies, which are not proportional to the reputational damage caused (Preayogi, et.al., 2021). Satjipto Rahardjo argues that the law is not only the text, but also the practice; therefore, the enforcement of press ethics must be stronger to maintain the integrity of justice (Satjipto Rahardjo, 2017). In relation to trial by social media, Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law), as amended by Law Number 1 of 2024 concerning its second amendment, serves as a legal foundation for addressing the spread of false information or defamation. Article 27 paragraph (3) of the ITE Law prohibits the act of "distributing, transmitting, and/or making accessible Electronic Information and/or Electronic Documents containing content that is insulting and/or defamatory." This

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provision allows individuals who feel harmed by social media trials to pursue legal action or file criminal complaints. Additionally, Article 28 paragraph (2) prohibits "disseminating information intended to incite hatred or hostility toward individuals or specific community groups based on ethnicity, religion, race, or intergroup (SARA)." Although broader in scope, this article may also apply if the content of social media trials includes SARA-related elements. However, enforcement of the ITE Law often presents a challenge in balancing the protection of individual rights with freedom of expression, requiring careful interpretation to avoid suppressing legitimate criticism or public discourse.

In the future, the Press Council needs to consistently enforce the Code of Conduct and the ethical standards for journalists, especially regarding the reporting of legal cases which must adhere to the principles of presumption of innocence and neutrality. Strict sanctions for violations need to be imposed, and it is necessary to consider new regulations that are more specific to regulate criminal news in the digital era. Law enforcement officials are also obliged to comply with Article 19 of National Police Chief Regulation No. 14/2012 on public communication so as not to influence the legal process. A national communication standard that is impartial and respects the rights of the accused is needed, along with strict supervision to prevent information leaks. All law enforcement officials must actively take action against the dissemination of information that defames or disrupts the judicial process. The implementation of these measures is important to safeguard the rights of suspects and defendants from the adverse effects of media trials and to guarantee a fair and unbiased legal process.

IV. CONCLUSION

Public opinion formed through mass media and social media can put significant pressure on the law enforcement process, potentially disrupting the application of the presumption of innocence, which is a fundamental principle in national and international law. Uncontrolled public pressure can affect the objectivity of investigators, prosecutors and judges, and threaten the principle of fair trial that should be upheld in every judicial process. Although the protection of suspects or defendants has been regulated in various regulations such as the KUHP, the Judicial Authority Law, the Press Law, the ethical standards for journalists, and the ITE Law, the practice of trial by media and trial by social media is still rampant due to weak ethical enforcement and lack of assertiveness in imposing sanctions. Therefore, it is necessary to strengthen more comprehensive regulations, implement effective sanctions, and increase legal literacy in the community. In addition, law enforcement officials must maintain neutrality in communicating in the public sphere so that the principle of justice is maintained and the rights of suspects or defendants are protected fairly and proportionally amid the challenges of the digital era.

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