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The Application Of The Presumption Of Innocence By Judges In Indonesia's Criminal Justice Process: A Challenge

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Abstract

The presumption of innocence is a cornerstone of criminal procedure, requiring that every suspect, arrestee, or defendant be treated as not guilty until a court decision has obtained permanent legal force. Its application by judges in Indonesia, however, faces three interrelated challenges. First, a defendant's status as a recidivist often triggers judicial bias, shifting a judge's perspective from "presumed innocent" toward "presumed guilty" before the evidentiary process concludes. Second, the guilty-plea mechanism introduced under the 2025 Criminal Procedure Code creates conceptual tension with the presumption, since it allows a defendant's own admission to substitute, in practice, for adversarially tested proof. Third, intense media coverage and public opinion risk producing a "trial by the press" that undermines judicial independence and objectivity. Using a normative juridical approach, this study argues that strengthening judicial moral integrity, adopting firmer ethical guidelines, and reinforcing safeguards for judicial independence are necessary so that the presumption of innocence is genuinely realized in Indonesian criminal justice practice.

Keywords: Presumption Of Innocence; Judges; Recidivism; Guilty Plea; Public Opinion; Criminal Procedure Code.

INTRODUCTION

The presumption of innocence is among the oldest postulates of criminal procedure: a person who is suspected, arrested, detained, or prosecuted must be regarded as not guilty until a court renders a final and binding decision establishing guilt. It is not a rhetorical courtesy but a mandatory legal presumption that allocates the burden of proof to the state and shields individuals from punishment based on suspicion alone (Signorelli, 2013). The United States Supreme Court in *Davis v. United States* (*Davis v. United States, 160 U.S. 469* , 1895) described a plea of not guilty as controverting every fact essential to the crime charged, so that the accused remains shielded by the presumption until guilt is proven beyond reasonable doubt (Fletcher, 1998). Unlike ordinary evidentiary presumptions, the presumption of innocence is mandatory: it must be adhered to until overcome by evidence proving guilt, and it is closely tied to the privilege against self-incrimination, since silence cannot be treated as an indication of guilt.

This allocation of the burden of proof is what separates a system of adjudicated guilt from one of official suspicion. Where the burden shifts, even informally, from the state proving guilt to the defendant proving innocence, the formal procedural guarantees surrounding trial representation, cross-examination, appeal continue to exist, but the substantive protection they were designed to deliver has already been compromised.

These doctrinal foundations were developed largely within adversarial common-law systems, and their translation into everyday judicial practice is far from automatic. A judge does not adjudicate in a vacuum; they are exposed to information, expectations, and pressures beyond the formal evidentiary record. This gap between the presumption of innocence as a normative command and its operation as lived practice inside the courtroom is the central concern of this article.

The urgency of this inquiry has grown following Indonesia's new Criminal Procedure Code, Law No. 20 of 2025, which replaces the 1981 KUHAP after more than four decades. Among its most significant innovations is the formal recognition of Guilty Plea and the Deferred Prosecution Agreement mechanisms not previously regulated (Law of the Republic of Indonesia

Number 20 of 2025 on the Criminal Procedure Code, 2025). While intended to accelerate case resolution, their introduction raises questions about how a defendant's early admission of guilt can be reconciled with a principle that presumes innocence until proven otherwise through a complete evidentiary process.

This article examines three interrelated challenges judges face in applying the presumption of innocence in contemporary Indonesian criminal proceedings: recidivist defendants, the new statutory guilty-plea mechanism, and the influence of media coverage and public opinion. All three converge on the same difficulty: the risk that a judge's assessment of guilt may be shaped, consciously or not, by factors external to evidence formally tested at trial.

The first challenge arises because the 2025 Code itself formally distinguishes recidivists from first-time offenders: Restorative Justice is unavailable where the offense repeats a prior crime, except for fines or negligence (Law of the Republic of Indonesia Number 20 of 2025 on the Criminal Procedure Code, 2025)By singling out recidivism as disqualifying at the very outset, the law signals that a defendant's criminal history carries independent legal weight creating fertile ground for concealed judicial prejudice that legal-realist scholarship has long identified as difficult to detect or correct (Ratnapala, n.d.).

The second challenge stems from Article 78 of the 2025 Code, under which a first-time offender facing a maximum five-year sentence may acknowledge guilt before trial in exchange for restitution and a reduced, corroborated verdict. Although the mechanism requires two valid pieces of corroborating evidence, the sequencing of the process means the judge's evaluation is no longer conducted from a neutral starting point but against the backdrop of an admission already on record.

Indonesia's criminal process further sharpens this inquiry because it employs no jury: guilt and sentence are determined by career judges, sitting alone or in panels, who function simultaneously as finders of fact and interpreters of law. Where common-law systems can localize doubts about impartiality within the jury box and shield that finder of fact through evidentiary exclusion rules, Indonesia's civil-law architecture concentrates the entire burden of resisting extraneous influence in the person of the judge no lay panel to insulate, no jury instructions to issue, only the judge's own discipline standing between the presumption of innocence as written and as practiced.

The third challenge lies outside the formal process altogether: the pressure exerted by media coverage and public opinion, particularly in high-profile cases. As Bodenheimer (1974) observed, judges are inevitably shaped by contemporary social forces, whether or not they are conscious of that influence. In an era of instantaneous digital news and social-media commentary, a defendant's guilt may effectively be narrated and settled in public long before a verdict is rendered.

A growing body of Indonesian legal scholarship has already examined the presumption of innocence, though largely from angles distinct from the one pursued here.(Yulianti, 2020) traces how the principle is applied across the investigation, prosecution, and adjudication stages under the 1981 Code, finding that violations cluster disproportionately at the investigative stage. Pawennei and Qamar (Pawennei, 2024)show that social-media reporting of ongoing prosecutions frequently narrates a defendant's guilt well before a verdict anticipating the third challenge examined below. (Siregar, 2025) documents persistent inconsistency in how the presumption is applied across Indonesian proceedings, attributing the gap between constitutional guarantee and courtroom practice to the absence of a settled interpretive standard. Taken together, these studies confirm that the presumption of innocence is well studied as constitutional doctrine and, increasingly, as a media-law problem, but none examines the judge's own decisional environment under the newly enacted 2025 Code the gap this article addresses, by shifting focus from doctrine to the specific institutional moments the reading of an indictment, the review of a negotiated confession, the handling of a media-saturated docket at which the presumption is either honored or quietly displaced.

Underlying all three challenges is a single behavioural premise long defended by legal-realist scholarship: judges, like any decision-maker, form impressions before formal proof is complete, and those impressions are not easily suspended by an instruction to presume innocence (Ratnapala, n.d.). Separating the three challenges is useful precisely because each identifies a distinct channel through which such impressions enter judicial reasoning the case file, the negotiated record, and the public sphere and each therefore calls for a different, though related, institutional response.

The comparative material drawn on throughout this article American, British, and continental European scholarship and jurisprudence is used advisedly, not to suggest Indonesia should import any foreign model wholesale, but because the underlying psychological and institutional mechanisms these literatures document confirmatory reasoning, trial penalties, media-driven pre-judgment are unlikely to be unique to the jurisdictions in which they were first studied.

Taken together, these three challenges illustrate that the presumption of innocence, however firmly established doctrinally, remains vulnerable to erosion at the point of application. This article identifies these pressures as a first step toward safeguarding the principle, examines the adequacy of existing procedural safeguards, and offers recommendations for reinforcing judicial independence, professional ethics, and institutional design.

RESEARCH METHODS

Normative legal research is defined by Marzuki (Marzuki, 2017) as a prescriptive inquiry into the coherence between legal norms and principles, positioning law as an autonomous, internally coherent system rather than a social phenomenon to be measured empirically. Soekanto and Mamudji (Soekanto, 2001) similarly characterize normative legal research as library-based research examining legal materials for their principles, systematics, and synchronization rather than as data gathered in the field. Ibrahim (Ibrahim, 2006) extends this by treating normative legal research as an inquiry into law as a coherent system of norms used to analyze a concretely identified legal issue. Building on these definitions, this study employs a normative juridical (doctrinal) legal research method, using a statutory and a conceptual approach.

The statutory approach examines legislation governing the presumption of innocence and criminal procedure in Indonesia, particularly the 2025 Code. The conceptual approach analyzes legal doctrines, principles, and scholarly opinions relating to the presumption of innocence, judicial independence, impartiality, and judicial decision-making. Primary legal materials (legislation) and secondary materials (books, journal articles, and other authoritative literature) were analyzed qualitatively through legal interpretation and systematic reasoning.

The primary legal materials analyzed include the text of the 2025 Code, its General Elucidation, and relevant provisions of its 1981 predecessor for comparative purposes. Secondary materials include Indonesian and international scholarship on criminal procedure, jurisprudence, and judicial psychology, as well as comparative commentary from common-law and continental jurisdictions used to illuminate mechanisms such as character-evidence exclusion rules and plea-bargaining practice that Indonesian law does not itself provide.

This approach has an evident limitation: as a doctrinal study, it does not empirically measure judges’ actual decision-making through case-outcome statistics, courtroom observation, or interviews. Its claims about psychological and institutional tendency are therefore drawn from comparative jurisprudence and cognitive-judging scholarship, and should be read as identifying risks the institutional design creates rather than a finding that any individual judge has, in fact, succumbed to them.

RESULTS AND DISCUSSION

This study identifies three interrelated challenges that structure how judges in Indonesia apply the presumption of innocence under the 2025 Criminal Procedure Code. First, the recidivism gate governing Restorative Justice and the guilty-plea track requires a judge to establish a defendant's prior-offense status at the threshold of the case, before any evidence on the present charge is examined. This exposes the judge to prejudicial information before the merits are reached a structural feature that Indonesia's continental-inquisitorial tradition, unlike common-law systems, provides no evidentiary wall against.

Second, the guilty-plea mechanism under Articles 78 and 205 supplies procedural safeguards voluntariness review, mandatory counsel, and a two-item corroboration requirement but these safeguards address only the visible, coercive dimension of a plea. They do not resolve the subtler psychological dimension: a judge reviewing a confession-based file engages in a more confirmatory mode of reasoning than one weighing adversarially tested evidence.

Third, media coverage and public opinion exert pressure on judicial decision-making that operates entirely outside the 2025 Code's textual framework. Unlike the first two challenges, this pressure has no accompanying statutory safeguard no article requires a judge to disclose, discount, or record the influence of press coverage leaving resistance to depend on individual judicial discipline and institutional norms of independence alone.

These three challenges are analytically distinct but, as the discussion below shows, frequently converge on the same case, compounding one another rather than operating as three independent, isolated risks.

Discussion

The discussion below elaborates each of the three findings in turn, followed by an analysis of how they interact when they converge on a single case. Subsection A examines how the statutory treatment of recidivist defendants exposes judges to prejudicial information before the merits of a case are heard. Subsection B turns to the newly codified guilty-plea mechanism and the confirmatory reasoning it invites. Subsection C addresses the extra-legal pressure of media coverage and public opinion, the challenge for which Indonesian law currently provides the least structural response, and Subsection D considers what happens when these pressures converge on a single case.

A. The Challenge of the Recidivist Defendant

A first-time defendant is easy to presume innocent, since the mind supplies no rival story. A recidivist defendant is harder, because the court already possesses a rival story his own and the presumption of innocence exists precisely to forbid the court from consulting it.

Indonesian law does not allow that suspension the luxury of distance. Under the 2025 Code, recidivist status is established at the threshold of the case, not at its conclusion. Article 204 requires the presiding judge, immediately after the indictment is read and before any evidence has been tested, to ask whether the accused qualifies for an amicable settlement; he does not qualify if the offense is not his first. The same threshold gate governs Restorative Justice, foreclosed by any repetition of a criminal act. Recidivism is thus not evidence a careful judge might screen out; it is a jurisdictional fact the statute forces him to establish before the merits are reached the same disqualification that also closes off the guilty-plea track under Article 78.

Consider a stylized illustration. Two defendants are charged with an identical theft, supported by an identical evidentiary file. The first has no prior record, and if the matter proceeds to trial, the judge approaches it with nothing but the evidence before him. The second, a residivis, is flagged as ineligible for settlement under Article 204 before a single witness testifies, so that if the case proceeds to trial the judge does so already aware of a prior conviction the first defendant's file does not contain. Nothing in the law asks the judge to treat this difference as evidence of the present charge the statute concerns itself only with procedural eligibility yet nothing in the structure of the proceeding prevents the fact from doing exactly that work in the judge's own reasoning.

Common-law systems built a structural wall against exactly this danger. The prosecution generally cannot prove its case by pointing to the defendant's bad character or proclivity to commit crime; the so-called MIMIC doctrine (motive, intent, mistake, identity, common plan) polices the narrow line between "this is what the evidence shows about this offense" and "this is the kind of man he is." The jury, moreover, is typically walled off from prior-conviction evidence altogether until a verdict on the present charge has already been reached, so that character information can inform sentencing without contaminating the finding of guilt.

Indonesia inherited no such wall, because it inherited the continental model instead a single, undivided proceeding in which character evidence relevant to sentencing is aired in open court before the defendant has been formally adjudicated guilty, and in which even a carefully drafted code inevitably leaves gaps that only judicial interpretation can close(Scarman, 1967). This inheritance is a matter of direct legal history: Indonesia's own criminal code descends from the codified Dutch Wetboek van Strafrecht, extended to the Netherlands Indies in 1918 and substantially retained as the backbone of Indonesian criminal law long after independence (Han Bing Siong, 1961).

That compensating apparatus is itself an institutional design choice, not an accident of legal culture. The continental model typically pairs its judiciary with a career structure of apprenticeship, council-based promotion, and professional esprit de corps that a laterally recruited common-law bench does not replicate a design Indonesia has borrowed only in part (Charles H. Koch, 2004). What continental systems typically also have, and Indonesia largely lacks, is a compensating apparatus of mercy: lay assessors, settled sentencing conventions, and appellate cultures built to counterbalance a trial judge's early exposure to character evidence. Indonesia took the exposure the continental model permits without adopting the counterweights continental practice has historically built around it.

Even law-and-economics scholarship that is otherwise unsentimental about the practice concedes the underlying mechanism: a defendant's prior offenses make the fact-finder "more confident" he is guilty of the present charge a confidence about guilt doing service for proof of it (Richard A. Posner, 1986). Recidivism rates are often cited to justify harsher treatment on grounds of incapacitation, yet those rates measure the penal system's failure to rehabilitate, not the defendant's guilt on this occasion. When an Indonesian judge learns, in the same breath as the indictment, that the accused is a residivis, the temptation is to let a fact about the system's own record substitute for a fact about the evidence.

The tension is sharpened by the fact that recidivism itself is a contested category. The statute's binary first-time/repeat distinction does not require the judge to weigh how similar, recent, or serious a prior offense actually was before it forecloses Restorative Justice and the guilty-plea track alike; a conviction a decade old, under a different code, for materially different conduct is treated no differently than one from last year for a closely related crime. As drafted, the rule invites exactly the kind of undifferentiated character reasoning the presumption of innocence is meant to guard against, simply by moving the moment of that reasoning from the judge's private impression to the statute's own threshold test.

Blackstone's maxim that it is better ten guilty persons escape than one innocent suffer (Signorelli, 2013)is too often invoked as though its force were greatest for the sympathetic first offender. It is not: extending the presumption to someone who looks innocent costs a judge nothing. Extending it, undiminished, to a defendant the file already condemns is the only test of the presumption that actually matters the point at which Indonesian judges discover whether the presumption of innocence is a discipline they practice or a slogan they recite.

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B. The Challenge of the New Guilty-Plea (Guilty Plea) Mechanism

Two clarifications on scope are useful before turning to the mechanism itself. First, the 2025 Code introduces Guilty Plea alongside a separate Deferred Prosecution Agreement, resolved by the prosecutor without adjudication; this article confines its analysis to Guilty Plea because it alone results in a judicial verdict and therefore engages the presumption of innocence as a standard governing adjudication. Second, Guilty Plea should be distinguished from Restorative Justice: Restorative Justice resolves a case through reconciliation without a finding of guilt, whereas Guilty Plea proceeds to a verdict, however abbreviated. The two share an eligibility structure both are available only to first-time offenders but they are not the same safety valve.

The 2025 Code introduces, for the first time in Indonesian criminal procedure, an explicit guilty-plea mechanism under Article 78, elaborated in Article 205. The General Elucidation of the Code itself describes Guilty Plea, together with the Deferred Prosecution Agreement, as new institutions tied to out-of-court resolution that were never explicitly regulated under Law No. 8 of 1981. This is not a cosmetic reform: it imports a plea-based, negotiated model of guilt-determination into a system built, since 1981, around full evidentiary examination before an independent judge a principle inseparable from the constitutional guarantee of the presumption of innocence.

Article 78's mechanics are cautious on their face. A guilty plea is available only to first-time offenders facing a maximum of five years' imprisonment or a Category V fine, and/or willing to pay restitution. The plea is recorded and examined in a special pre-trial session before a single judge, who must be satisfied it was voluntary, uncoerced, and informed, and whose eventual conviction must rest on at least two valid pieces of corroborating evidence. Article 205 grants the judge discretion to reject a plea "if the Judge doubts the truth of the defendant's confession," after which an accepted plea proceeds to the summary examination of Article 257 a track capped at offenses punishable by up to three years, two years short of Article 78's own ceiling, leaving unclear which procedure governs the gap. The resulting sentence may not exceed two-thirds of the maximum applicable penalty.

The Public Prosecutor puts the question to the defendant, who must be accompanied by counsel; an accepted plea is recorded in an official report and examined in a special session before the main trial, with a written agreement between prosecutor and defendant, subject to judicial approval, recording that the defendant understood the consequences including waiver of the right to silence and to an ordinary trial that it was voluntary, and evidence confirming the offense was in fact committed.

Consider how this sequencing plays out. A defendant weighing the cost of a full trial against a capped, discounted sentence agrees to plead. By the time the case reaches the judge, the file already contains a recorded admission and a dossier assembled to support that agreement. The judge's task assess voluntariness, assess truthfulness, confirm two valid pieces of evidence is performed on a record designed by both sides to support a single, already-agreed outcome. A judge who checks each statutory box in turn may still end up doing something closer to notarizing an agreement than adjudicating a charge.

On paper, the drafters anticipated the danger that a plea could substitute for proof, building in voluntariness review, mandatory counsel, a two-item corroboration requirement, and judicial authority to refuse a doubtful confession. The difficulty is that these are procedural instructions addressed to the judge's conduct; they do not, and structurally cannot, resolve the deeper conceptual tension a guilty-plea mechanism introduces into a system whose foundational commitment is the presumption of innocence(Fletcher, 1998). Fletcher traces how the presumption emerged precisely to prevent any shifting of the risk of doubt onto the defendant, with a plea of "not guilty" understood to controvert every element of the charge, and shows that criminal law came to require culpability be understood in a genuinely moral sense blameworthiness established through inquiry into capacity and intent rather than a fact simply stipulated away by agreement (Fletcher, 1998). A guilty-plea mechanism, by design, inverts this logic: it invites the defendant's own admission to perform the evidentiary work the presumption of innocence was constructed to prevent any single utterance from performing.

Whitman's (Whitman, 2016) comparative study of "presumption of innocence" and "presumption of mercy" traditions is especially illuminating here. Where a system conceives of trial as existing merely to sort the innocent from the guilty, there is little felt need for a full trial once guilt is effectively conceded, and heavy reliance on negotiated disposition becomes normatively unremarkable. In the continental tradition Indonesia inherited, by contrast, trial has historically also audited investigating and prosecuting authorities, deliberated over sentence, and conferred ritual solemnity on punishment which is why continental systems permitting negotiated resolution have historically confined it to mitigation for minor matters. Indonesia's Article 78 self-consciously follows this continental, mitigation-only model rather than the American charge-bargaining model yet it still imports the same underlying move: allowing a defendant's own confession, ratified by a judge, to stand in the place of a contested evidentiary trial.

The American experience offers a cautionary parallel. Signorelli (Signorelli, 2013) records that approximately ninety percent of all US convictions are the product of negotiated guilty pleas rather than contested trials. (Whitman, 2016) analysis documents the "trial penalty" American judges tacitly imposing harsher sentences on defendants who insist on trial than on those who plead, to discourage caseloads from overwhelming the system. The result is an uncomfortable paradox: a system built on the presumption of innocence ends up penalizing the exercise of due-process rights. This raises a question Article 78 does not fully answer: what prevents Indonesian prosecutors, under caseload and performance pressure, from treating Guilty Plea as the default? Eligibility ceilings alone do not eliminate subtler coercive pressures: prolonged pre-trial detention, the costs of trial, and the two-thirds sentencing discount under Article 205(5) give an accused real incentive to plead regardless of actual guilt a pressure the voluntariness inquiry, addressed to overt coercion, is poorly equipped to detect.

Even setting aside these systemic pressures, the 2025 Code places an extraordinarily demanding cognitive task on the individual judge presiding over a Guilty Plea session. Article 78(8) requires the judge to be satisfied the confession was voluntary; Article 205(4) requires an active assessment of its truthfulness; and Article 78(12) requires an independent conviction , supported by at least two valid pieces of evidence. This asks the judge to perform simultaneously the roles of gatekeeper against coercion, evaluator of truth, and guardian of the presumption of innocence within a single, often abbreviated, pre-trial session, frequently sitting alone (*unus judex*) without the institutional check of a panel.

The voluntariness inquiry is, in practice, a determination about the defendant's state of mind at a single moment, made by observing a defendant who has every incentive to perform confidence regardless of his actual comprehension. Legal representation mitigates but does not eliminate this difficulty: appointed or overburdened counsel, under the same caseload pressures that make Guilty Plea attractive to prosecutors, may have limited capacity to test, rather than simply confirm, a client's decision to plead.

Posner's (Posner, 2008) account of judicial fact-finding as an inescapably Bayesian process is directly relevant here. Judges' assessments of credibility are shaped by "priors" preconceptions formed by experience and repeated exposure to similar cases that operate even in judges acting in good faith; Posner notes judges tend to convict more readily than juries because experience teaches them prosecutors rarely file charges unless the evidence is already strong. Transplanted into the guilty-plea context, a judge who has processed many confession-based cases is likely to develop a prior expectation that a confessing defendant is, in fact, guilty converting the statutory duty to assess doubt from a searching inquiry into a largely confirmatory

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formality. Because the statutory standard for rejecting a plea is framed negatively the judge acts only if he entertains doubt rather than affirmatively, requiring independent persuasion of guilt, the drafting itself invites exactly the confirmatory posture Posner's account warns against.

This is compounded by a broader historical trajectory. As adversarial procedure matured in the common-law tradition, judges progressively retreated from active fact-finding, ceding that function to contested examination by counsel, since single-handed judicial assessment of credibility was recognized as institutionally fragile (*Judges and Judging in the History of the Common Law and Civil Law, n.d*, n.d.) Indonesia's Guilty Plea mechanism moves in the opposite direction: it re-concentrates the assessment of truth and voluntariness in a single judge, operating largely on the parties' own negotiated narrative rather than through contested examination. The safeguards built into ordinary proceedings oral testimony, cross-examination, corroboration among multiple witnesses are substantially compressed or bypassed in the abbreviated guilty-plea session.

The distinction matters because the two modes of scrutiny are not interchangeable. Testing a witness through cross-examination exposes inconsistencies the witness may not be aware of; reviewing a dossier prepared to support a conclusion the parties have already reached exposes only the inconsistencies the parties failed to anticipate. A judge who never observes demeanour under pressure is left assessing plausibility on the page a task at which experienced readers are notoriously less reliable than they believe.

The corroboration requirement in Article 78(12) at least two valid pieces of evidence mirrors the general evidentiary minimum applied throughout the 2025 Code and echoes Article 240(4), which provides that a defendant's own statement is insufficient by itself to prove guilt. This numerical safeguard is a meaningful improvement over conviction on confession alone. Yet it addresses only the quantity of evidence, not the manner of its examination. In an ordinary trial, evidence is tested through direct examination, cross-questioning, and judicial assessment of authenticity and legality; in the abbreviated Guilty Plea procedure, evidence is typically assembled by the investigating and prosecuting authorities in advance and presented as a completed dossier to be reviewed rather than actively tested a task considerably more susceptible to the confirmatory reasoning Posner identifies, since there is no opposing narrative to disrupt the judge's inclination to accept an internally consistent, already-aligned package.

Fletcher's broader point about the moral theory of guilt reinforces why this matters. If guilt is properly understood not as a mere descriptive fact but as a morally laden conclusion the law reserves for careful, adversarial determination (Fletcher, 1998), then a procedural design that channels the judge toward administrative verification of an already-agreed narrative risks quietly transforming the constitutional promise of praduga tak bersalah into a residual formality: robust for defendants who decline to plead, but substantially thinner for defendants who do.

None of the foregoing should be read as a wholesale objection to Guilty Plea. The mechanism responds to genuine needs reducing court backlogs, offering proportionate sentence mitigation, and channelling judicial resources toward genuinely contested cases needs both the American and continental literatures acknowledge as real, even as they diverge on how those needs should be balanced against due-process guarantees (Whitman, 2016). The narrower challenge is that the 2025 Code has transplanted a confession-centered mechanism into a system organized around the presumption of innocence without fully confronting the psychological consequences comparative experience shows such mechanisms generate.

For Indonesian judges implementing Articles 78 and 205, the statutory text offers real tools discretion to reject a doubtful confession, the corroboration requirement, mandatory counsel but these will function as genuine safeguards, rather than formalities, only if judges treat the duty to inquire into voluntariness and truth as an affirmative, searching act rather than a checklist. Whether Indonesian judicial practice rises to that demand, or instead drifts toward routine ratification, will determine whether Guilty Plea becomes a genuine instrument of efficient justice or a quiet erosion of the presumption of innocence the 2025 Code claims to protect.

C. The Challenge of Media Influence and Public Opinion ("Trial by the Press")

The third challenge lies outside statute and procedure altogether. Where the recidivist's file and the negotiated confession pressure a judge's reasoning from within the case record, media coverage and public opinion pressure it from outside. The due-process guarantee that a trier of fact deliberate impartially was formulated principally with juries in mind, but there is no principled reason to think a professional judge is immune: a judge is, as Bodenheimer observed, a product of the contemporary social forces around him. (Bodenheimer, 1974)

In Indonesia, as elsewhere, the speed and reach of digital news and social media have compressed the distance between accusation and public verdict, so that a defendant's guilt can be narrated and effectively settled online long before a court has heard the evidence. Two mechanisms deserve attention.

First, anticipatory framing: pre-trial coverage that adopts the language of guilt ("the perpetrator," "the culprit") normalizes a conclusion the court has not yet reached, so an eventual acquittal reads to the public as a miscarriage of justice rather than the system working as intended. This is a predictable product of the news values structuring crime journalism: the drive toward simplification pushes coverage toward binary oppositions guilty or innocent leaving little room for a suspect's actual provisional status, while a pull toward individualism concentrates blame on a single culpable figure rather than facts still to be tested in court. (Jewkes, 2004)

Second, outcome pressure: where a case attracts sustained public attention, a judge who acquits, or imposes a sentence perceived as lenient, risks being portrayed as incompetent or complicit a dynamic especially acute where career progression or public standing is sensitive to prevailing sentiment. The British reporting on the 1993 killing of James Bulger illustrates how far this can travel: intense press condemnation of the two child defendants preceded and arguably shaped the proceedings themselves, to the point that the presiding judge's own characterization of the killing echoed the press's language of "unparalleled evil". (Jewkes, 2004)

The dynamic is not confined to the most sensational cases. Even moderately newsworthy prosecutions can generate enough commentary that a judge is aware, well before the verdict, of what outcome the public and local press consider appropriate a background pressure that is itself a subtle inversion of where the burden of justification is supposed to lie.

Unlike the recidivism and guilty-plea challenges, this pressure operates without any statutory safeguard: no article of the 2025 Code requires a judge to disclose, discount, or record how media coverage may have shaped a finding, and no mechanism analogous to a change of venue or sequestration order is routinely available in high-profile cases. This does not mean judges are powerless against the pressure; it means resistance depends almost entirely on the individual judge's professional discipline and on institutional norms of independence, rather than on any rule structuring the decision itself.

Comparative practice suggests tools to narrow this gap without displacing press freedom: guidance restricting official commentary on pending cases, restraint in charging-document language, and judicial communications functions able to correct misinformation without commenting on the merits. None of these currently exists in codified form in Indonesia, leaving their adoption a matter of institutional policy rather than statutory obligation.

The problem is compounded by the relative novelty of the 2025 Code itself: high-profile prosecutions under unfamiliar procedures the first contested Guilty Plea applications, the first tests of the recidivism gate are likely to attract sustained press attention at the exact moment judges are least experienced in applying the new provisions.

What is at stake extends beyond the individual defendant: research on legal legitimacy indicates that public confidence in legal authorities is sustained less by substantive outcomes than by the perception that decisions are reached through fair procedures grounded in facts rather than bias, so that a judiciary seen to bend to media pressure risks eroding the broader legitimacy on which voluntary compliance with the law depends. (Tyler, 2017) This absence of a textual counterweight makes the third challenge, in some respects, the most difficult to address through legislative reform alone, and the one most dependent on judicial ethics and institutional culture.

D. The Compounding Effect of Overlapping Pressures

The three challenges examined above are analytically distinct but rarely operate in isolation. A defendant may simultaneously be a recidivist ineligible for Guilty Plea precisely because of that status, and the subject of intense media coverage precisely because the offense perceived as more serious once repetition is considered has attracted public attention. In such a case, the very features that disqualify the defendant from expedited, mitigated procedures are the same features most likely to have already shaped the judge's assessment of guilt before the evidentiary process begins.

This compounding effect deserves explicit attention because Indonesia's procedural design treats each challenge as though it arose independently: eligibility gates for recidivism, voluntariness and corroboration requirements for the guilty plea, and informal judicial discipline for media pressure three separate regulatory postures for sources of influence that, in practice, frequently converge on the same case file. A judge confronting a high-profile recidivist statutorily excluded from both Restorative Justice and Guilty Plea, proceeding to full adjudication under intense public scrutiny, faces the cumulative weight of all three at once, with no single safeguard designed to address that combination.

This suggests that institutional responses calibrated to each challenge individually training on recidivist bias, guidelines for Guilty Plea sessions, norms of resistance to media pressure are necessary but not sufficient. Judges need to be equipped to recognize when multiple sources of extraneous influence operate on the same case simultaneously, since the pull toward a premature conclusion is unlikely to be the simple sum of three moderate pressures; each more plausibly reinforces and legitimizes the others, making the eventual verdict feel like a foregone conclusion reached before the evidence was ever weighed.

A further implication follows: institutional reforms that appear adequate when a challenge is considered in isolation may prove insufficient once its interaction with the other two is taken into account. A well-designed voluntariness inquiry for Guilty Plea, for instance, may still fail where the defendant is also a recidivist facing intense press coverage, because the judge's assessment of "voluntariness" is itself made under the same compounded pressure the mechanism was designed to screen out.

CONCLUSION

This study set out to examine, through a normative juridical approach, how the presumption of innocence is applied by judges in Indonesian criminal justice, identifying three interrelated challenges that strain the principle at the point of application rather than at formal legal recognition.

First, the 2025 Code's treatment of recidivist defendants formally singles out prior criminal history before the merits of the present charge are examined, foreclosing both Restorative Justice and the guilty-plea track for repeat offenders and channelling them toward full adjudication the setting where the presumption is meant to operate at full strength but is hardest to sustain, given that Indonesia's continental heritage lacks the evidentiary partitions common-law systems use to insulate fact-finders from character information.

Second, the guilty-plea mechanism (Guilty Plea) under Articles 78 and 205 shows that carefully drafted safeguards address the visible, coercive dimension of a plea without resolving its subtler psychological dimension: a judge reviewing evidence already framed by an accepted confession engages in a more confirmatory exercise than one weighing adversarially tested evidence. The American "trial penalty" phenomenon illustrates the institutional risk of drift toward routine ratification absent deliberate resistance.

Third, media coverage and public opinion show that threats to the presumption also arise from the informal environment in which judges operate an environment the 2025 Code currently leaves without textual counterweight, making judicial independence and professional ethics the principal lines of defense.

Across all three challenges, the underlying pattern is the same: the presumption of innocence is at its most vulnerable not where the law is silent, but at the precise moments where a judge must translate a well-settled textual guarantee into a real-time judgment call reading an indictment that already flags a prior record, ratifying a confession already on the file, or presiding over a case the public has already decided. Formal doctrine cannot, by itself, discipline that moment; only the judge's trained habits of scrutiny, and the institutional structures that reward or penalize their exercise, can.

Together, these findings support the conclusion that the presumption of innocence in Indonesia is well established as constitutional and statutory text, but its realization in practice depends on factors legislation alone cannot guarantee. Accordingly, this study offers three recommendations, each addressed to one of the challenges identified above, while recognizing that their combined and compounding effect, discussed in Subsection D, means none can be pursued to the exclusion of the others.

First, judicial training curricula should explicitly address the cognitive and psychological dynamics identified here confirmation bias toward recidivist and confessing defendants alike, and susceptibility to public-opinion pressure as professional hazards to be actively managed. Such training cannot rest on classroom instruction alone: dispositions of this kind habits of scrutiny, resistance to a comfortable narrative are acquired mainly through supervised practice and reflective exposure to real cases, arguing for mentored, simulation-based components within judicial curricula. (Tamanaha, 2012)

Second, the Supreme Court and the Judicial Commission should develop firmer ethical and technical guidelines (Surat Edaran Mahkamah Agung or similar instruments) for the conduct of Guilty Plea sessions, clarifying that the corroboration requirement in Article 78(12) demands independent evaluative engagement rather than administrative confirmation, and setting out concrete indicators inconsistency between confession and dossier, signs of pressure, or unusual speed in reaching agreement that should prompt closer scrutiny.

Third, mechanisms protecting judicial independence including safeguards against career or reputational consequences tied to high-profile outcomes should be reinforced, so resistance to media pressure is supported by institutional design rather than left to individual fortitude alone.
More broadly, legislative reform of criminal procedure, however well-intentioned, cannot by itself guarantee the substantive protections it proclaims. The 2025 Code's drafters clearly anticipated some of these risks the corroboration requirement and voluntariness inquiry in Article 78 are evidence of that awareness but textual safeguards operate only to the extent that the institutions applying them are equipped, trained, and structurally supported to do so.

This study is subject to the limitation acknowledged in the Research Methods section: its conclusions rest on doctrinal and comparative analysis rather than empirical observation of Indonesian courtrooms. Future research combining case-outcome data, sentencing statistics, and structured interviews with sitting judges would allow these three challenges to be tested against everyday practice, and indicate more precisely where training, guidelines, and institutional safeguards would have the greatest effect.

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