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## **BEFORE THE VERDICT: THE HIDDEN COST OF STIGMATISING THE ACCUSED**

Written by: Muhammad Azril Bin Roslan

In every modern legal system, one principle stands as the bedrock of justice: the presumption of innocence. This principle affirms that an individual who has been accused of a crime is not guilty until a court of law, through due process, proves otherwise. Yet in Malaysia, as in many other societies, public perception often runs contrary to this legal safeguard. The moment someone is arrested or charged, the public rushes to judgement, branding the accused as guilty. This stigma undermines not only the rights of the accused but also the integrity of the justice system as a whole.

### **Accused, Not Convicted: The Role of Police and Courts**

The term *Orang Kena Tuduh* (OKT), literally meaning “the accused person”, is a legal designation. It does not signify guilt but rather identifies an individual who is facing charges based on an investigation. The role of the police in this context is investigatory. They gather evidence, record statements, and piece together facts. However, the final decision on guilt rests not with the police but with the judiciary. The phrase “police investigate, courts decide” captures the essential separation of powers that ensures fairness. Ignoring this separation fosters an environment

where public opinion unfairly prejudices individuals before their court appearance.

The presumption of innocence is enshrined in Malaysia’s legal framework. Article 5 of the Federal Constitution safeguards personal liberty, while the Criminal Procedure Code (CPC) outlines the rights of the accused during investigation and trial. These provisions are in line with international human rights standards, including Article 11 of the Universal Declaration of Human Rights. Despite these robust protections, societal attitudes often run counter to the law.

### **Trial by Media: How Perceptions Turn Toxic**

What is the reason for the persistence of this disparity? One reason lies in the role of the media. News reports, especially those written with sensationalist language, often portray arrests as equivalent to convictions. Social media amplifies this effect, where a single headline or viral post can cement an impression of guilt in the public mind. In addition, limited public awareness about legal procedures means many Malaysians do not fully grasp the distinction between being charged and being convicted. Cultural tendencies towards stigma also play a role when society is quick to judge, especially when the alleged offence touches on sensitive issues such as morality, politics, or religion.

The consequences of premature judgement are severe. Individuals branded

as guilty by society may face social isolation, employment loss, and irreparable damage to their reputation. Families of the accused suffer alongside them, enduring humiliation and community ostracism. Even if the court later acquits the accused, the stain of suspicion often lingers. This reality demonstrates that the presumption of innocence is not only a legal doctrine but also a social necessity. Without public respect for it, the law's protection becomes hollow.

### **Changing Mindsets: From Stigma to Fairness**

It is also important to recognise the limits of police investigations. While law enforcement agencies play a vital role in upholding security, investigations are not infallible. Errors may occur due to insufficient evidence, misidentification, or even procedural flaws. In some cases, accusations are made in poor faith, leading to wrongful arrests. The judicial process exists to subject evidence to rigorous scrutiny, to test credibility, and to safeguard individuals from miscarriages of justice. Treating an accused as guilty during the investigation stage undermines the very function of the courts.

Breaking the stigma surrounding OKT requires a multi-faceted approach. First, there must be greater legal literacy among the public. Schools, universities, and civic organisations should provide education based on basic legal principles, particularly

the presumption of innocence. Second, media organisations must exercise ethical responsibility in their reporting. Headlines should avoid language that prejudices outcomes, and coverage should consistently remind readers that charges are not proof of guilt.

Third, lawyers, judges, academicians in the field of law, and civil society groups should take a more proactive role in public education, using accessible platforms to communicate the importance of due process. For my part, I write and share through forums like this bulletin to bring the law out of the courtroom and classroom and into the public sphere where it truly matters.

Ultimately, safeguarding the presumption of innocence strengthens democracy and justice. A society that respects this principle acknowledges that justice is not served by mob opinion but by the careful deliberation of evidence before an impartial court. The phrase "police investigate, courts decide" should not remain an abstract ideal but should guide how citizens, media, and institutions respond to accusations. Until this mindset is widely embraced, the rights of the accused will remain at risk of being overshadowed by prejudice.

### **Conclusion**

The presumption of innocence transcends a mere legal protection. It constitutes a fundamental principle of equity, dignity, and human rights. When society hastily

condemns without awaiting judicial proceedings, it subverts justice itself. The police may conduct an investigation, but only the judiciary has the authority to render a decision. To guarantee that justice is administered and perceived as such, this separation must be upheld. Respecting this principle is crucial not only to shield the accused from premature stigma but also to preserve public trust in the legitimacy of the justice system. Ultimately, safeguarding the presumption of innocence ensures that justice remains fair, balanced, and anchored in the rule of law, rather than swayed by prejudice or public opinion.



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