




The Application of the Dualistic Doctrine at the Investigation Stage under the 2025 Criminal Procedure Code

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Abstract

This article examines the application of the dualistic doctrine at the investigation stage under the 2025 Criminal Procedure Code and its implications for legal certainty and the protection of suspects' rights within Indonesia's criminal justice system. The dualistic doctrine, which emphasizes a clear separation between the criminal act and criminal liability, is analyzed as a theoretical framework that should guide investigators' authority in determining suspect status and employing coercive measures. This study employs normative legal research with empirical reinforcement, using statutory, conceptual, and case approaches, complemented by an analysis of investigative practices and the pretrial mechanism. The findings demonstrate that although the 2025 Criminal Procedure Code has normatively accommodated the principles of the dualistic doctrine and due process of law, its implementation in investigative practice remains inconsistent, as reflected in the tendency toward premature designation of suspects and the disproportionate use of coercive measures. Such disregard for the dualistic

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doctrine results in weakened legal certainty, erosion of the presumption of innocence, and the emergence of legal suffering and social stigmatization for suspects, even in cases that ultimately do not lead to criminal conviction. This article argues that the dualistic doctrine is not only relevant as a doctrine of substantive criminal law, but also serves a strategic function in criminal procedural law as an operational principle that limits investigative power, strengthens the role of pretrial review, and preserves the legitimacy of the criminal justice system. Accordingly, the consistent internalization of the dualistic doctrine at the investigation stage under the 2025 Criminal Procedure Code constitutes an essential prerequisite for the realization of a fair criminal justice system that ensures legal certainty and is oriented toward the protection of human rights.

Keywords

Dualistic doctrine, investigation, Criminal Procedure Code 2025, suspect determination, criminal procedure law.

Introduction

The reform of the Criminal Procedure Code through the enactment of the 2025 Criminal Procedure Code marks a significant phase in the evolution of Indonesia's criminal justice system.¹ This reform is not merely intended to accommodate social and technological developments, but also to correct law enforcement practices that have long been considered insufficient in reflecting the principles of justice and the protection of human rights.² Among all stages of the criminal process, the investigation stage occupies the most critical position, as it is at this phase that the state first exercises its coercive authority over individuals, ranging from the designation of suspect status to the restriction of personal liberty through arrest and detention.³ Conceptual

¹ Putu Ayu Veguita Putri Ningsih dan Irsyaf Marsal, "Politik Hukum Pembentukan Rancangan Kitab Undang-Undang Hukum Acara Pidana: Peluang Dan Hambatannya Dalam Penegakan Hukum Di Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 7373–91.

² Alwan Hadiano, "Urgensi Pembaharuan Kitab Hukum Acara Pidana Dalam Menjawab Tantangan Penegakan Hukum Modern di Indonesia," *JURNAL USM LAW REVIEW* 8, no. 3 (2025): 2842–60.

³ Noor Rohmat, "Sistem Peradilan Pidana," Yogyakarta: K-Media, 2024.

or procedural errors at this stage have the potential to generate far reaching consequences that are often irreversible, even when the judicial process ultimately declares a person not guilty.⁴

In practice, investigations in Indonesia are still predominantly understood as a technical phase aimed at proving the occurrence of a criminal act and identifying its perpetrator.⁵ Such an orientation frequently transforms the investigation into an instrument for justifying prosecution, rather than serving as a fair and rational filtering mechanism at the early stage of the criminal process.⁶ As a result, the designation of suspects is often carried out prematurely, based solely on the fulfillment of the objective elements of the offense and the formal sufficiency of evidence, without an adequate assessment of criminal liability. This condition indicates that the protection of suspects' rights remains vulnerable, notwithstanding the normative recognition of the presumption of innocence and due process of law as fundamental pillars of the criminal justice system.⁷

From a theoretical perspective, Indonesian criminal law recognizes the dualistic doctrine, which clearly distinguishes between the criminal act and criminal liability.⁸ This doctrine emphasizes that not every act that formally fulfills the elements of an offense can

⁴ Sadat Anwar dan Hastowo Broto Laksito FX, *Hukum Pidana Dalam Praktek Peradilan Pidana Di Indonesia* (Global Kreatif Media, 2025).

⁵ Handar Subhandi Bakhtiar dkk., "The Utilisation of Scientific Crime Investigation Methods and Forensic Evidence in the Criminal Investigation Process in Indonesia," *Egyptian Journal of Forensic Sciences* 15, no. 1 (2025): 39, <https://doi.org/10.1186/s41935-025-00456-y>.

⁶ Lisa Stolzenberg dan Stewart J. D'Alessio, *Crime Science: Modern Technologies to Combat Crime* (Taylor & Francis, 2025).

⁷ Pamela R. Ferguson, "The Presumption of Innocence and Its Role in the Criminal Process," *Criminal Law Forum* 27, no. 2 (2016): 131–58, <https://doi.org/10.1007/s10609-016-9281-8>.

⁸ Anton Cahyono dkk., "Dualistic View in the Formulation of Criminal Offenses in the National Criminal Code," *Hang Tuah Law Journal*, 2024, 186–98.

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automatically give rise to criminal responsibility, since punishment presupposes the existence of culpability on the part of the offender.⁹ Within the framework of the dualistic doctrine, culpability is not merely a complementary element, but a fundamental requirement that functions as a limitation on the state's power to impose criminal sanctions.¹⁰ Accordingly, the dualistic doctrine embodies a strong humanistic dimension, as it positions individuals as subjects of law who may not be punished solely on the basis of their actions, but must be assessed comprehensively as persons possessing the capacity for responsibility.¹¹

However, within the context of criminal procedural law, particularly at the investigation stage, the dualistic doctrine has not yet been implemented consistently. Investigative practices remain dominated by a mindset that equates the proof of a criminal act with the appropriateness of punishment, thereby treating criminal liability as a matter to be examined exclusively by the court.¹² Such an approach implicitly reflects a monistic perspective that obscures the conceptual boundary between the act and culpability.¹³ As a consequence, an individual may be designated as a suspect and subjected to severe

⁹ Hiromi Sato, "General Principles of Criminal Responsibility," dalam *Multilayered Structures of International Criminal Law*, oleh Hiromi Sato (Springer International Publishing, 2021), https://doi.org/10.1007/978-3-030-83845-4_3.

¹⁰ Du Yu, "Legal Benefit Restoration and Functional Illegality Theory," *Social Sciences in China* 46, no. 1 (2025): 98–113, <https://doi.org/10.1080/02529203.2024.2428564>.

¹¹ Faisal dan Faidatul Hikmah, "Pemaknaan Asas Legalitas dalam Pemikiran Hukum Pidana Nasional dan Filsafat Hukum," *Litera*, 2025, <https://repository.ubb.ac.id/id/eprint/11106/>.

¹² Adam Ilyas, *Hukum Acara Pidana: Dari Penyelidikan hingga Eksekusi Putusan* (PT. RajaGrafindo Persada-Rajawali Pers, 2024).

¹³ Benjamin Levin, "Disentangling Safety and Accountability in Criminal Justice Policy," *Iowa Law Review* (forthcoming 2025), *Washington University in St. Louis Legal Studies Research Paper*, no. 25–03 (2025): 09.

restrictions of rights, even though substantive doubts persist regarding the existence of criminal culpability that can be legitimately attributed.¹⁴ This situation raises fundamental concerns regarding procedural justice and legal certainty within the criminal justice system.¹⁵

The enactment of the 2025 Criminal Procedure Code should serve as a momentum to introduce corrections not only at the procedural level, but also at the conceptual foundation of criminal investigation.¹⁶ Although the 2025 Criminal Procedure Code introduces several reforms aimed at strengthening suspects' rights and clarifying investigative mechanisms, the regulation of substantive standards for suspect designation remains ambiguous.¹⁷ The Code does not explicitly position the dualistic doctrine as a principle that must be operationalized from the investigation stage onward, thereby creating a risk that procedural reform will result merely in administrative adjustments without addressing the deeper conceptual issues that have long underpinned investigative practices.¹⁸

It is precisely here that the novelty and urgency of this study are situated. This research argues that the dualistic doctrine should not be confined to the realm of substantive criminal law or the sentencing

¹⁴ Khoirul Amin, "Perlindungan Hukum terhadap penetapan status tersangka ditinjau dari perspektif hak asasi manusia," *JOSH: Journal of Sharia* 3, no. 01 (2024): 1–18.

¹⁵ Muhamad Yofhan Wibianto dkk., "Real Justice, Real Impact with the Prosecutors in Action," *Journal of Human Rights, Culture and Legal System* 5, no. 3 (2025): 1015–41.

¹⁶ Fransiskus Saverius Nurdin dan Lathifah Hanim, "Melihat Diferensiasi Fundamental KUHP Lama (WVS) dan KUHP Nasional Indonesia," *ALADALAH: Jurnal Politik, Sosial, Hukum dan Humaniora* 3, no. 3 (2025): 27–47.

¹⁷ Roby Satya Nugraha dkk., "The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes," *Reformasi Hukum* 29, no. 1 (2025): 1–21.

¹⁸ Javier Ezar Abigail, "Penegakan Kode Etik Dan Disiplin Kepolisian Republik Indonesia Terhadap pelaku Tindak Pidana Obstruction of Justice" (B.S. thesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2025).

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phase alone, but must be actively integrated into criminal procedural law, particularly at the investigation stage. By positioning the dualistic doctrine as a substantive standard of assessment from the outset of the criminal process, investigation is no longer understood merely as a process of evidence gathering, but as an ethical and juridical space in which a rational assessment is conducted to determine whether an act genuinely warrants further processing within the criminal justice system. This approach reconceptualizes investigators not only as executors of state authority, but also as the initial guardians of procedural justice.

This study further advances a humanistic perspective by placing the lived experiences of suspects at the center of the analysis of criminal procedural law. The legal suffering experienced by individuals as a result of disproportionate suspect designation, even when it does not culminate in criminal conviction, constitutes a reality that cannot be ignored in a state governed by the rule of law. Accordingly, the application of the dualistic doctrine at the investigation stage is viewed as a bridge between legal certainty and substantive justice, as well as an instrument to ensure that state power is exercised in a limited, rational, and accountable manner.

Based on the foregoing analysis, this study is highly relevant in examining the application of the dualistic doctrine at the investigation stage under the 2025 Criminal Procedure Code. The research is directed toward assessing the consistency between the normative framework of the 2025 Criminal Procedure Code and the principles of the dualistic doctrine, identifying practical challenges in its implementation during criminal investigations, and formulating a reconstructed approach to the application of the dualistic doctrine capable of more meaningfully ensuring legal certainty and the protection of suspects' rights. In doing so, this study is expected to contribute both theoretically and practically

to the development of Indonesian criminal procedural law that is more just, humane, and aligned with the ideals of the rule of law.

Method

The research method employed in this study is normative legal research with empirical reinforcement, aimed at comprehensively analyzing the application of the dualistic doctrine at the investigation stage under the 2025 Criminal Procedure Code.¹⁹ The normative approach is used to examine statutory provisions governing criminal investigations, particularly the 2025 Criminal Procedure Code, its implementing regulations, and relevant court decisions, by positioning the dualistic doctrine as the primary conceptual framework for assessing the separation between the criminal act and criminal liability.

This normative analysis is strengthened by a conceptual approach that examines the dualistic doctrine in criminal law, as well as the principles of due process of law and the protection of suspects' rights in modern criminal procedural law, and by a case approach through the analysis of pretrial decisions and criminal cases related to suspect designation and the termination of investigations. In order to capture the realities of investigative practice, this study is supplemented by empirical data obtained through literature review and semi structured interviews with law enforcement officials and practitioners experienced in criminal investigations, conducted in a limited and ethically responsible manner. All collected data are analyzed qualitatively using systematic and teleological legal interpretation and descriptive analytical methods to identify both alignment and tension between the normative

¹⁹ Wahyudin Darmalaksana, "Metode penelitian kualitatif studi pustaka dan studi lapangan," *Pre-Print Digital Library UIN Sunan Gunung Djati Bandung*, 2020, <https://etheses.uinsgd.ac.id/id/eprint/32855>.

framework of the 2025 Criminal Procedure Code, the doctrine of dualism, and investigative practices. These findings are subsequently synthesized to formulate a conceptual understanding and recommendations for a more just and humanistic application of the dualistic doctrine at the investigation stage within Indonesia's criminal justice system.

Result And Discussion

1. The Normative Construction of Criminal Investigation under the 2025 Criminal Procedure Code

Under the 2025 Criminal Procedure Code, criminal investigation is constructed as the initial stage of the criminal justice process with a strategic function in determining the direction and legitimacy of the entire system of criminal law enforcement. Normatively, the 2025 Criminal Procedure Code provides investigators with broad authority to carry out a range of legal actions, including the collection of evidence, the designation of suspects, and the use of coercive measures that directly restrict fundamental human rights. This construction indicates that investigation is no longer understood merely as a technical or administrative phase, but rather as the earliest arena in which the state begins to activate its penal power against individuals. Accordingly, the normative design of criminal investigation under the 2025 Criminal Procedure Code should reflect a clear balance between the effectiveness of law enforcement and the protection of the rights of legal subjects.

A closer examination reveals that the 2025 Criminal Procedure Code places the evidentiary standard at the investigation stage on the existence of lawful evidence and a

strong suspicion that a criminal act has occurred. This formulation is explicitly oriented toward establishing the criminal act as a legal event, while the dimension of criminal liability is not expressly regulated as part of the normative considerations in the designation of suspects. As a result, this normative construction opens interpretive space for the view that investigation need only focus on the fulfillment of the objective elements of an offense, whereas the assessment of culpability is regarded as a matter falling entirely within the domain of prosecution and adjudication. Such a regulatory pattern implicitly reflects a paradigm closer to a monistic approach, despite the fact that Indonesian criminal law doctrinally recognizes the dualistic doctrine.

From a systemic perspective, the normative construction of criminal investigation under the 2025 Criminal Procedure Code continues to demonstrate the dominance of an instrumental approach to criminal procedural law. Investigation is positioned primarily as a means to ensure that a case proceeds to the prosecution stage, rather than as an initial filtering mechanism designed to prevent individuals who are substantively unfit for criminal liability from entering the criminal justice process. This is evident in the absence of a normative obligation for investigators to explicitly consider preliminary indicators of criminal liability, such as culpability, capacity for responsibility, or the possible applicability of exculpatory grounds, in the process of suspect designation. The absence of such regulation indicates that the reform embodied in the 2025 Criminal Procedure Code remains focused on procedural reinforcement, without fully

addressing the conceptual dimension of investigation as a process that must embody justice from the outset.

From the perspective of the protection of suspects' rights, this type of normative construction generates serious problems. Suspect designation based solely on proof of the criminal act risks undermining the substantive meaning of the presumption of innocence. The presumption of innocence does not merely require that a person be regarded as not guilty until a final and binding court judgment is rendered, but also demands that every exercise of state authority over an individual be grounded in a rational and proportional assessment of the legitimacy of imposing criminal liability. In this context, the 2025 Criminal Procedure Code has yet to provide sufficiently strong normative limits to ensure that investigators undertake such an assessment before exercising coercive powers.

A comprehensive analysis indicates that the normative construction of criminal investigation under the 2025 Criminal Procedure Code occupies an ambivalent position. On the one hand, there is normative recognition of the protection of suspects' rights and the principle of due process of law. On the other hand, the regulatory design of investigation continues to prioritize the effectiveness of law enforcement, operating under the assumption that issues of criminal liability can be fully resolved at the trial stage. This ambivalence creates tension between the objectives of criminal procedural reform and investigative practices that remain potentially repressive.

Within the framework of the dualistic doctrine, the normative construction of criminal investigation under the 2025 Criminal Procedure Code reveals a significant conceptual gap.

The dualistic doctrine requires a clear separation between the assessment of the criminal act and criminal liability, and positions culpability as a prerequisite for the legitimacy of punishment. However, the 2025 Criminal Procedure Code has not explicitly internalized these requirements into investigative norms. As a consequence, investigation risks becoming a stage at which individuals already experience severe legal consequences without adequate assurance that the dimension of criminal liability has been properly considered.

Accordingly, it can be concluded that the normative construction of criminal investigation under the 2025 Criminal Procedure Code still requires conceptual strengthening in order to align with the dualistic doctrine embraced by Indonesian criminal law. Without a clear integration between investigative norms and the principle of separation between the criminal act and criminal liability, the reform of the 2025 Criminal Procedure Code risks failing to realize its fundamental objectives as an instrument for the protection of human rights and procedural justice. This analysis provides an important foundation for subsequent discussions on the tension between the dualistic doctrine and investigative practice, as well as the need to reconstruct the application of the dualistic doctrine within Indonesian criminal procedural law.

2. The Position of the Dualistic Doctrine in the Criminal Law System and Its Relevance to the Investigation Stage

The dualistic doctrine occupies a fundamental position in the modern criminal law system because it establishes a clear conceptual separation between the criminal act and criminal

liability. Within this framework, a criminal act is understood as an objective fact in the form of a violation of prohibitory or mandatory norms stipulated by statute, whereas criminal liability relates to the subjective qualities of the offender that determine whether the act can justifiably be attributed to them in criminal terms. This separation is not merely a theoretical construct, but functions as a principle limiting state power, ensuring that punishment is not imposed mechanically solely because an act fulfills the elements of an offense.

In the Indonesian criminal law system, the dualistic doctrine has long been accepted doctrinally and serves as an important foundation in the interpretation of substantive criminal law. Criminal law scholars consistently emphasize that fault (culpability) is an absolute prerequisite for punishment and must be proven separately from the proof of the criminal act itself. However, the acceptance of this doctrine has largely been realized in the context of sentencing at trial, while its implications for criminal procedural law particularly at the investigation stage have not received adequate attention. This condition creates a gap between the theoretical framework of criminal law and the procedural practices carried out by law enforcement authorities.

The relevance of the dualistic doctrine to the investigation stage lies in the function of investigation as the initial gateway through which the state links an individual to a criminal event. It is at this stage that the initial legitimacy of the state's coercive powers is tested. If an investigation is based solely on proving the existence of a criminal act without considering aspects of criminal liability, the investigation risks neglecting the function of the dualistic doctrine as an early filtering mechanism. In this context,

the dualistic doctrine should serve as an evaluative framework guiding investigators not only to ask whether an act fulfills the statutory elements of an offense, but also whether there are initial indications that the perpetrator can be held criminally responsible.

From a systemic perspective, the neglect of the dualistic doctrine at the investigation stage reflects the dominance of an instrumental paradigm in criminal procedural law, in which investigation is positioned as a means to secure the continuation of the criminal process through prosecution and trial. This paradigm treats issues of fault and criminal liability as matters that can be fully resolved in court, without recognizing that individuals already experience tangible legal consequences from the investigation stage onward. In contrast, the dualistic doctrine requires that assessments of fault be conducted gradually and proportionally from the outset, as a form of respect for human dignity and the principle of procedural justice.

Within the context of the 2025 Criminal Procedure Code, the relevance of the dualistic doctrine becomes even more pronounced, as this reform of criminal procedural law normatively embraces the spirit of protecting suspects' rights and upholding due process of law. However, without a clear affirmation of the position of the dualistic doctrine at the investigation stage, this spirit risks remaining merely declarative. The dualistic doctrine should function as a bridge between norms protecting suspects' rights and investigative practice, by providing a rational basis for investigators to exercise restraint in using coercive powers when indications of criminal liability are not yet sufficiently strong.

A holistic analysis shows that the dualistic doctrine has a dual function at the investigation stage. On the one hand, it serves as a principle of legitimacy, ensuring that every investigative action has an adequate moral and juridical foundation. On the other hand, it functions as a corrective principle against repressive and outcome-oriented investigative tendencies. By positioning the dualistic doctrine as an integral part of investigation, criminal procedural law is no longer understood merely as an instrument of the state, but as a mechanism for protecting individuals from arbitrariness.

Accordingly, the position of the dualistic doctrine in the criminal law system cannot be confined solely to the sentencing stage or to judicial consideration at trial. This doctrine has direct relevance to the investigation stage because it concerns the state's initial legitimacy in designating a person as a suspect and exercising coercive powers. The failure of criminal procedural law to internalize the dualistic doctrine at the investigation stage will continue to perpetuate tensions between substantive justice and law enforcement effectiveness. Therefore, strengthening the position of the dualistic doctrine in investigations is an essential prerequisite for realizing a criminal justice system that is fair, humane, and consistent with the principles of a state governed by the rule of law.

3. The Tension between the Dualistic Doctrine and Investigative Practice from a Legal Theory Perspective

The tension between the dualistic doctrine and investigative practice fundamentally reflects a paradigmatic conflict within criminal procedural law, namely between a

normative approach grounded in theories of criminal responsibility and an instrumental approach oriented toward the effectiveness of law enforcement. Within the framework of criminal law theory, the dualistic doctrine rests on the premise that punishment is legally and morally legitimate only when two independent prerequisites are satisfied: the existence of a criminal act (*actus reus*) and the existence of criminal responsibility (*mens rea*). This conceptual separation is not confined to the sentencing stage but constitutes a systemic principle that should inform the entire criminal justice process, including the investigation stage as the initial phase of the activation of state penal power.

In investigative practice, however, the function of the dualistic doctrine is frequently reduced due to the dominance of procedural legal positivism, which conceives investigative authority merely as the execution of written norms governing evidence and formal powers. Within this paradigm, criminal procedure is understood as a technically neutral and value-free system of rules, leading to the assumption that assessments of fault and criminal responsibility are premature until judicial examination at trial. Such an approach overlooks the normative dimension of the dualistic doctrine, which places fault not merely as a condition for punishment at the final stage of the process, but as an essential element of legitimacy from the outset of state intervention.

From the perspective of due process of law theory, this tension reveals a failure of criminal procedural law to perform its protective function effectively. Due process requires not only formal adherence to procedural rules but also substantive rationality in every state action that restricts individual rights. In

this context, the designation of a suspect without any preliminary assessment of criminal responsibility constitutes a form of procedural compliance without substantive justice, whereby legal procedures are formally observed while their moral and juridical legitimacy is undermined. Within a due process framework, the dualistic doctrine should operate as a rationalizing instrument that constrains investigative power.

This tension may also be examined through theories of power in criminal law, which conceptualize criminal procedure as an arena for the allocation and limitation of state authority. Investigation represents the phase in which the coercive power of the state is most pronounced, while the individual occupies a particularly vulnerable position. From this theoretical standpoint, the dualistic doctrine functions as an internal limiting principle on investigative authority, requiring the state not only to establish the occurrence of a prohibited act but also to possess a rational basis for attributing that act to individual criminal responsibility. When the dualistic doctrine is disregarded, criminal procedure risks degenerating into a repressive instrument of power rather than a mechanism of justice.

From a systemic perspective, the tension between the dualistic doctrine and investigative practice indicates a dysfunction in the integration between substantive criminal law and criminal procedural law. Legal system theory positions criminal procedure as the operational mechanism through which the normative values of substantive criminal law are realized. Consequently, when the dualistic doctrine as a foundational value of substantive criminal law is not reflected in investigative practice, fragmentation within the criminal justice system

emerges. This fragmentation causes investigations to proceed according to a logic detached from the normative objectives of punishment, with corrective mechanisms deferred to the trial stage, after substantial harm to individual rights may already have occurred.

In the context of the 2025 Indonesian Criminal Procedure Code, this tension suggests that procedural reform has not yet fully internalized the dualistic doctrine as a systemic guiding principle. Reforms that emphasize procedural enhancement without reconfiguring the conceptual foundations of investigation risk perpetuating investigative practices that remain narrowly focused on the criminal event itself. From a legal-theoretical perspective, this condition reflects a partial reform that fails to address the epistemological layer of criminal procedure, namely the manner in which the law conceptualizes the relationship between conduct, fault, and the legitimacy of state penal power.

Accordingly, the tension between the dualistic doctrine and investigative practice should not be understood as a merely technical or administrative problem, but rather as a theoretical and structural issue within the criminal justice system. As long as investigative processes are conducted without recognizing the dualistic doctrine as a guiding principle, criminal procedural law will remain caught between the competing demands of effectiveness and justice. This analysis underscores that the integration of the dualistic doctrine at the investigative stage constitutes both a theoretical and practical necessity to ensure that state power is exercised lawfully, rationally, and justly from the very inception of the criminal justice process.

4. The Impact of Disregarding the Dualistic Doctrine on Legal Certainty and the Rights of Suspects

The disregard of the dualistic doctrine at the investigative stage generates serious consequences for legal certainty and the protection of suspects' rights within the criminal justice system, as it obscures the conceptual boundary between the criminal act and criminal responsibility, which, from a theoretical standpoint, must be clearly distinguished. From the perspective of legal certainty theory as articulated by Gustav Radbruch, law can function justly only when its norms and procedures are applied consistently and rationally, enabling legal subjects to reasonably predict the legal consequences of state actions. When investigators neglect the dualistic doctrine and treat presumed fault as the primary basis for suspect designation, the investigative process shifts from a mechanism for uncovering material truth into a repressive instrument imbued with an assumption of guilt from the outset.

The practice of prematurely designating individuals as suspects, without adequate juridical verification of the objective elements of the alleged criminal offense, produces legal uncertainty, as an individual's legal status may be drastically altered solely on the basis of preliminary investigative constructions that have not yet been subjected to judicial scrutiny. From the standpoint of human rights protection theory in criminal law, this condition directly undermines the principle of the presumption of innocence, as suspects are socially and legally positioned as offenders prior to the establishment of lawful proof before a court of law. In such circumstances, the investigative

process no longer operates as a safeguard of individual rights, but rather as a vehicle for anticipatory punishment.

Moreover, the neglect of the dualistic doctrine facilitates the disproportionate use of coercive measures such as arrest, detention, and seizure, in contravention of the principles of necessity and proportionality that underpin modern criminal procedural law. Juridically, these measures may inflict legal suffering that is not merely temporary but may also produce long-term consequences, including social stigmatization, economic loss, and damage to personal and professional reputation, even in cases where the investigation is ultimately terminated or the defendant is acquitted. Such outcomes reveal that the harm caused by investigative actions often persists independently of the final judicial determination of guilt or innocence.

Within the framework of legal legitimacy theory as developed by Max Weber, investigative practices that disregard the dualistic doctrine risk eroding public trust in law enforcement authorities and the criminal justice system as a whole. When legal procedures are perceived as operating not on the basis of normative rationality, but rather as expressions of discretionary or coercive power, the authority of law itself becomes destabilized. In this sense, the failure to implement the dualistic doctrine during the investigative phase undermines not only individual rights but also the rational-legal legitimacy upon which modern legal systems depend.

Accordingly, the neglect of the dualistic doctrine in criminal investigations should not be regarded as a merely technical deficiency of criminal procedure. Rather, it constitutes a fundamental problem that affects the quality of the rule of law,

the effective protection of citizens' rights, and the sustainability of the criminal justice system's legitimacy. In the context of the 2025 Criminal Procedure Code, addressing this issue is essential to ensure that procedural reform does not remain confined to formal adjustments, but instead contributes to the realization of a criminal justice system that is legally certain, rights-oriented, and normatively justified.

Conclusion

Based on the overall analysis, this study concludes that the application of the dualistic doctrine at the investigation stage, as structured under the 2025 Criminal Procedure Code, plays a crucial role in safeguarding the balance between effective law enforcement and the protection of suspects' rights within the criminal justice system. The dualistic doctrine requires a clear distinction between establishing the existence of a criminal act as an objective element and assessing criminal responsibility as a subjective element. Consequently, an investigation should not be driven by an assumption of guilt, but should begin with a careful and rational legal assessment of whether a criminal act has occurred and whether it can be responsibly attributed to an individual.

The findings indicate that although the 2025 Criminal Procedure Code normatively incorporates a stronger commitment to investigative standards, pretrial oversight, and human rights protection, law enforcement practice has not yet consistently reflected these ideals. Investigations still tend to involve premature suspect designation and the disproportionate use of coercive measures. Such practices reveal a persistent neglect of the dualistic doctrine and directly undermine legal certainty, weaken the presumption of innocence, and expose suspects

to legal suffering and social stigmatization, even in cases that ultimately do not result in criminal punishment.

Moreover, the disconnect between the normative framework of the Criminal Procedure Code and investigative practice has broader implications for the legitimacy of the criminal justice system itself. When investigative powers are exercised without a meaningful consideration of criminal responsibility, law is experienced less as a rational and fair mechanism for resolving wrongdoing and more as an instrument of state power. This perception risks eroding public trust and weakening the moral authority of the legal system.

For this reason, the dualistic doctrine should not be confined to the realm of substantive criminal law or judicial decision making at trial. It must be internalized as an operational principle of criminal procedural law that actively guides investigative discretion, strengthens the role of pretrial review, and ensures that suspects' rights are protected in a tangible and meaningful way. The consistent integration of the dualistic doctrine into investigative practices under the 2025 Criminal Procedure Code is therefore an essential prerequisite for the development of a criminal justice system that is fair, legally certain, and genuinely respectful of human dignity and the rule of law.

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