

Equality Before the Law in the Investigation of Child Sexual Violence Committed by Community Figures: A Study at Tuban Police

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ABSTRACT

Child sexual violence is among the gravest violations of children's rights, inflicting fear and lasting psychological harm on its victims . When the alleged perpetrator is a community figure an individual whose social standing commands unusual public trust the police investigation confronts obstacles that test the constitutional guarantee of equality before the law, since children are entitled to the same legal protection as any other citizen regardless of who is accused. This study examines the investigative problems faced by the Unit for the Protection of Women and Children (Unit PPA) of Tuban Police in handling child sexual violence cases committed by community figures, and evaluates how the principle of equality before the law is applied throughout the investigative process. The research uses an empirical legal method with a qualitative, socio-legal approach; data were collected through field observation, interview, and case-file documentation at Tuban Police. The findings indicate that investigators face external obstacles a scarcity of witnesses and public reluctance to testify against a respected figure as well as internal obstacles, particularly a shortage of investigative personnel and of female investigators. Despite these obstacles, the police applied equality before the law by preserving the procedural rights of both the suspect and the victims irrespective of the suspect's social standing. The study concludes that a perpetrator's social position amplifies existing investigative obstacles rather than altering the standard of legal protection owed to the child victim, and that equality before the law was substantively, if imperfectly, upheld through adherence to ordinary procedural safeguards.

Keywords: Child Sexual Violence, Community Figures, Equality Before The Law, Police Investigation

Persamaan di Hadapan Hukum dalam Penyidikan Kekerasan Seksual terhadap Anak yang Dilakukan oleh Tokoh Masyarakat: Studi pada Kepolisian Resor Tuban

ABSTRAK

Kekerasan seksual terhadap anak merupakan salah satu bentuk pelanggaran paling serius terhadap hak-hak anak yang menimbulkan rasa takut dan dampak psikologis berkepanjangan bagi korban. Ketika terduga pelaku merupakan tokoh masyarakat yaitu individu yang memiliki kedudukan sosial dan memperoleh kepercayaan publik yang tinggi proses penyidikan kepolisian menghadapi berbagai hambatan yang menguji jaminan konstitusional mengenai persamaan di hadapan hukum. Hal ini karena anak berhak memperoleh perlindungan hukum yang sama seperti warga negara lainnya, tanpa memandang siapa pihak yang dituduh sebagai pelaku. Penelitian ini mengkaji permasalahan penyidikan yang dihadapi oleh Unit Perlindungan Perempuan dan Anak (Unit PPA) Kepolisian Resor Tuban dalam menangani kasus kekerasan seksual terhadap anak yang dilakukan oleh tokoh masyarakat serta mengevaluasi penerapan prinsip persamaan di hadapan hukum selama proses penyidikan. Penelitian ini menggunakan metode penelitian hukum empiris dengan pendekatan sosiolegal yang bersifat kualitatif. Data dikumpulkan melalui observasi lapangan, wawancara, dan dokumentasi berkas perkara di Kepolisian Resor Tuban. Hasil penelitian menunjukkan bahwa penyidik menghadapi hambatan eksternal berupa keterbatasan jumlah saksi dan keengganan masyarakat untuk memberikan kesaksian terhadap tokoh yang dihormati. Selain itu, terdapat hambatan internal, terutama keterbatasan jumlah personel penyidik dan penyidik perempuan. Meskipun menghadapi berbagai hambatan tersebut, kepolisian tetap menerapkan prinsip persamaan di hadapan hukum dengan menjamin hak-hak prosedural tersangka dan korban tanpa membedakan kedudukan sosial tersangka. Penelitian ini menyimpulkan bahwa kedudukan sosial pelaku memperbesar hambatan yang telah ada dalam proses penyidikan, tetapi tidak mengubah standar perlindungan hukum yang wajib diberikan kepada anak sebagai korban. Prinsip persamaan di hadapan hukum secara substantif tetap ditegakkan, meskipun belum sepenuhnya sempurna, melalui kepatuhan terhadap prosedur hukum yang berlaku.

Kata kunci: Kekerasan Seksual Terhadap Anak, Tokoh Masyarakat, Persamaan Di Hadapan Hukum, Penyidikan Kepolisian

INTRODUCTION

Sexual violence against children is a serious violation of human dignity, bodily integrity, and the right of every child to grow in a safe environment. Its consequences are not limited to the incident itself. Victims may experience fear, shame, anxiety, self-blame, difficulty trusting others, and persistent psychological distress that continues into adolescence and adulthood. Longitudinal evidence also shows that childhood sexual abuse may be associated with difficulties across several areas of life, including mental health, interpersonal relationships, education, employment, and physical well-being. These consequences explain why the state response cannot be confined to punishing the perpetrator. It must also ensure that the child is protected from further harm, treated with dignity, and given a meaningful opportunity to obtain justice.¹

The legal process, however, commonly begins with a difficult act of disclosure. Child sexual violence often occurs in private, without independent eyewitnesses, and the available evidence may depend heavily on the child's account and the response of adults who first receive that account. A recent systematic review found that disclosure is influenced by interacting personal, relational, and social factors rather than by a single decision made at one moment. Children may delay speaking because they fear punishment, family disruption, public stigma, disbelief, or retaliation from the perpetrator. Comparative research involving adolescents and adults has likewise identified self-blame and the expectation that disclosure will make the situation worse as recurring concerns. Survey evidence further indicates that many child victims disclose first to friends or family members, while only a small proportion report directly to authorities. As a result, a criminal investigation may begin after a delay, through an incomplete account, or only after several informal disclosures have taken place.²

The problem becomes more complex when the alleged perpetrator is a community figure. In this study, the term refers to a person whose social, religious, educational, or cultural position gives that person influence and unusual public trust.

¹ Jennie G Noll, "Child Sexual Abuse as a Unique Risk Factor for the Development of Psychopathology: The Compounded Convergence of Mechanisms," *Annual Review of Clinical Psychology* 17, no. 1 (May 7, 2021): 439–64, <https://doi.org/10.1146/annurev-clinpsy-081219-112621>; Hayley Guiney et al., "Childhood Sexual Abuse and Pervasive Problems across Multiple Life Domains: Findings from a Five-Decade Study," *Development and Psychopathology* 36, no. 1 (February 23, 2024): 219–35, <https://doi.org/10.1017/S0954579422001146>.

² Mahirah Abdul Latiff et al., "A Systematic Review of Factors Associated with Disclosure of Child Sexual Abuse," *Child Abuse & Neglect* 147 (January 2024): 106564, <https://doi.org/10.1016/j.chiabu.2023.106564>; Lucy McGill and Rosaleen McElvaney, "Adult and Adolescent Disclosures of Child Sexual Abuse: A Comparative Analysis," *Journal of Interpersonal Violence* 38, no. 1–2 (January 28, 2023): 1163–86, <https://doi.org/10.1177/08862605221088278>; Johanna Hietamäki et al., "Differences Between Girls and Boys in the Disclosure of Sexual Violence," *Journal of Interpersonal Violence* 39, no. 11–12 (June 22, 2024): 2629–54, <https://doi.org/10.1177/08862605231221283>.

Such standing can create a relationship of dependence between the child and the adult, while also shaping how families and other community members interpret the allegation. Recent research on sexual abuse committed by leaders or other adults in religious organisations confirms that authority, trust, and institutional loyalty can make abuse harder to recognise and disclose. More recent findings also show that disclosure in religious settings may be obstructed by moral authority, expectations of obedience, fear of institutional consequences, and organisational concern for reputation. Research on grooming by clergy demonstrates that respected adults may use access, trust, attention, and gradual boundary violations to reduce resistance and preserve secrecy. Although a community figure is not necessarily a religious leader, the same pattern of social deference is relevant whenever the accused occupies a position that encourages others to presume good character and reject allegations against that person.³

These conditions place a particular burden on police investigators. The absence of eyewitnesses does not eliminate the obligation to investigate, but it requires investigators to assess testimonial consistency, surrounding circumstances, medical or documentary evidence, possible patterns involving other victims, and information held by persons who may be reluctant to cooperate. The manner in which a child is heard is also important. Studies of forensic interviews show that children may struggle to describe abuse because they fear the recipient's reaction, remain emotionally connected to the perpetrator, or lack the language needed to explain sexual conduct clearly. Research on informal disclosures similarly shows that adults play an active role in recognising partial statements, asking appropriate questions, and helping children communicate without imposing an account on them. An investigation that is formally correct but insensitive to these difficulties may fail to obtain reliable information or may expose the child to repeated questioning and secondary victimisation.⁴

³ Gabrielle R. Hunt et al., "The Prevalence of Child Sexual Abuse Perpetrated by Leaders or Other Adults in Religious Organizations in Australia," *Child Abuse & Neglect* 155 (September 2024): 106946, <https://doi.org/10.1016/j.chiabu.2024.106946>; Gabrielle R. Hunt, Daryl J. Higgins, and Ben Mathews, "Characteristics and Experiences of Disclosure of Child Sexual Abuse in Religious Organisations: Current Research and Findings from the Australian Child Maltreatment Study," *Journal of Religion and Health*, May 26, 2026, <https://doi.org/10.1007/s10943-026-02681-8>; Georgia M. Winters et al., "Child Sexual Grooming of Catholic Clergy: A Comparison between Victims Allegedly Abused by Clergy with Single versus Multiple Victims," *Journal of Child Sexual Abuse* 32, no. 1 (January 2, 2023): 91–115, <https://doi.org/10.1080/10538712.2022.2163020>.

⁴ Netanel Gemara and Carmit Katz, "'It Was Really Hard for Me to Tell': The Gap between the Child's Difficulty in Disclosing Sexual Abuse, and Their Perception of the Disclosure Recipient's Response," *Journal of Interpersonal Violence* 38, no. 1–2 (January 21, 2023): 2068–91, <https://doi.org/10.1177/08862605221099949>; Samuel Lerner, "Facilitating Children's Informal Disclosures of Sexual Abuse: The Role of Online Counsellors at a National Children's Helpline," *Journal of Child Sexual Abuse* 31, no. 3 (April 3, 2022): 276–96, <https://doi.org/10.1080/10538712.2022.2047854>.

Within the Indonesian legal system, the investigation of child sexual violence is governed by several connected legal guarantees. Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution establish equality before the law and the right to fair legal protection. The Child Protection Law prohibits sexual intercourse and indecent acts against children through violence, threats, deception, false statements, or persuasion. The Sexual Violence Crimes Law, enacted through Law Number 12 of 2022, strengthens the victim-centred framework by recognising the rights of victims to handling, protection, and recovery throughout the legal process. These provisions must be applied together with the Criminal Procedure Code, which regulates the lawful exercise of investigative authority and protects the procedural rights of suspects. The constitutional principle is therefore not satisfied merely because a case is formally registered. It requires the police to conduct the investigation without allowing wealth, reputation, religious authority, kinship, or local influence to determine whether evidence will be pursued.⁵

Equality before the law has two related dimensions in a case of this kind. First, the suspect must receive the same procedural guarantees available to any person accused of a criminal offence, including access to legal assistance, freedom from coercion, and the presumption of innocence. Second, the child victim must receive equal and effective protection, regardless of the suspect's status in the community. These dimensions are not contradictory. Protecting the suspect's procedural rights does not require investigators to disregard the child's vulnerability, and providing child-sensitive treatment does not permit investigators to presume guilt. The practical challenge is to maintain procedural neutrality while responding to an unequal social relationship between a child and an influential adult. A failure to investigate because the accused is respected would amount to unequal treatment, just as the denial of the accused's procedural rights would also violate the same constitutional principle.

Recent scholarship has substantially improved understanding of the psychological effects of child sexual abuse, the dynamics of disclosure, and the risks associated with abuse by trusted leaders. Much less attention has been given to how local police units manage the evidentiary and social consequences of an allegation against a community figure, particularly in an Indonesian district setting. Legal studies often explain equality before the law at the normative level, while studies of child sexual violence tend to focus on victim protection, trauma, or sentencing. This separation leaves an empirical question about what equality before the law requires

⁵ Republik Indonesia, "Constitution of the Republic of Indonesia of 1945, Article 27 Paragraph (1) and Article 28D Paragraph" (1945); Republik Indonesia, "Law Number 35 of 2014 Concerning Amendment to Law Number 23 of 2002 Concerning Child Protection, Articles 76D and 76E; and Law Number 12 of 2022 Concerning Sexual Violence Crimes, Particularly the Provisions Concerning Victims' Rights to Handling, Protect" (n.d.).

during the investigation itself, when investigators face witness scarcity, community reluctance, pressure arising from the suspect's reputation, and limited institutional resources.

Against this background, this study examines the investigation of child sexual violence allegedly committed by a community figure within the jurisdiction of Tuban Police. It addresses two questions. First, what external and internal obstacles are faced by the Unit for the Protection of Women and Children in investigating such cases? Second, how is the principle of equality before the law applied to the suspect and the child victims throughout the investigative process? By using an empirical legal method and a qualitative socio-legal approach, the study connects constitutional principle with police practice. Its contribution lies in showing whether social status changes the legal treatment of the parties, or instead intensifies the practical difficulties that investigators must overcome while applying ordinary procedural safeguards. The findings are expected to contribute to the development of child-sensitive investigation, the strengthening of Unit PPA personnel, and a more concrete understanding of equality before the law in cases marked by strong local power relations.

LITERATURE REVIEW

Equality Before the Law

Equality before the law is a foundational principle of the rule of law, requiring that every person be treated identically by legal institutions regardless of social position, wealth, or influence.⁶ In the Indonesian constitutional order the principle is anchored in Article 27(1) and Article 28D (1) of the 1945 Constitution, and it has been examined empirically across a range of law-enforcement settings, from military prosecution to anti-corruption adjudication, generally finding that formal constitutional guarantees of equality do not automatically translate into equal treatment in practice.⁷ This gap between the guarantee stated in law and its realization in enforcement is the central theoretical concern of the present study: rather than treating equality before the law as an assumption to be recited, the study treats it as a claim to be tested against the investigative record of a specific jurisdiction.

Investigation under Indonesian Criminal Procedure

⁶ Ismail Marzuki, "The Rule of Law and the Principle of Equality Before the Law: Theory and Its Manifestation in Indonesia," *Jurnal Idea Hukum* 10, no. 1 (March 30, 2024), <https://doi.org/10.20884/1.jih.2024.10.1.495>.

⁷ Moh. Iqra Syabani Korompot, Sholahuddin Al-Fatih, and David Pradhan, "The Principle of Equality Before the Law in Indonesian Corruption Case: Is It Relevant?," *Journal of Human Rights, Culture and Legal System* 1, no. 3 (November 20, 2021), <https://doi.org/10.53955/jhcls.v1i3.13>.

Indonesian criminal procedure distinguishes *penyelidikan* (preliminary inquiry) from *penyidikan* (investigation). The former is the set of actions taken to determine whether an alleged event may constitute a criminal offense; the latter is the subsequent stage in which investigators search for and collect evidence to clarify the offense and identify its perpetrator.⁸ The distinction matters analytically because the obstacles a case encounters may arise at either stage: a case may fail to progress from inquiry to investigation for want of an initial report, or it may stall during investigation itself for want of corroborating evidence. Andi Hamzah situates investigation as the set of lawful actions taken specifically to search for and collect the evidence needed to clarify an offense and identify a suspect, a definition this study adopts as its working account of what "investigative success" or "investigative obstacle" means in the discussion that follows.⁹

Legal Protection of Children from Sexual Violence

The operative statutory basis for child sexual violence in Indonesian law is not the general rape and indecency provisions of the Criminal Code, which were drafted with an adult victim in view, but the child-specific prohibitions introduced into the Child Protection Law. Article 76D of Law Number 35 of 2014 prohibits the use of violence or the threat of violence to compel a child into sexual intercourse, while Article 76E prohibits the use of violence, threats, deception, a series of falsehoods, or persuasion to compel or permit an indecent act against a child.¹⁰ These provisions, rather than the Criminal Code's general indecency articles, are treated in this study as the primary legal basis for characterizing the conduct under investigation as child sexual violence.

A further point of legal precision concerns the severity of sanction available in such cases. Capital punishment for an offense against Article 76D is not a general rule automatically applicable to every case of child sexual violence; it is an aggravated sanction available under Article 81(5) of Law Number 17 of 2016 only where specific aggravating circumstances are present, such as the involvement of multiple perpetrators, the causing of serious injury, or the death of the victim. Framing the death penalty as the ordinary consequence of child sexual violence therefore overstates the law; it is more accurately described as an aggravated-circumstance exception layered onto a base sentencing framework, and Indonesian legal scholarship has correspondingly urged that legal protection for child victims be strengthened across the

⁸ Republik Indonesia, "Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Undang-Undang Nomor 8 Tahun 1981, Pasal 1 Angka 2 and Angka 5, and Pasal 4." (1981).

⁹ Andi Hamzah, *Hukum Acara Pidana Indonesia, Edisi Kedua*, 2014.

¹⁰ Republik Indonesia, "Undang - Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak, Pasal 76D and Pasal 76E" (2014).

full range of ordinary cases rather than concentrated on the exceptional cases in which capital punishment might apply.¹¹ This distinction is significant for the Tuban case examined here, where no aggravating circumstance of that kind was alleged, and it is the ordinary evidentiary and procedural framework not the exceptional sentencing provision that governs the investigation.

A criminal act, in Moeljatno's classical formulation, comprises conduct together with its consequence, the surrounding circumstances that accompany it, any aggravating condition, and both the objective and subjective elements of unlawfulness.¹² Applied to child sexual violence, this framework directs attention not only to the physical act itself but to the surrounding relationship of trust or authority between perpetrator and victim, a circumstance that this study argues is analytically central to cases involving a community figure. At a deeper theoretical level, the demand that a perpetrator's social status not alter the substance of legal protection owed to the victim echoes Aristotle's classical distinction between distributive justice, which allocates according to merit, and commutative justice, which treats every party as equal regardless of standing; it is this second, commutative sense of justice that equality before the law is generally understood to require in criminal investigation.¹³

Community Figures and Investigative Dynamics

A community figure is understood here as an individual whose opinions, conduct, and authority are accorded unusual deference within a defined social group, such that the group's members are inclined to credit the figure's account of events over that of an ordinary community member. This social deference is not merely a matter of individual reputation; it can shape how willingly witnesses come forward, how readily a community accepts that the figure could have committed the alleged act, and how much informal pressure is exerted on a victim's family to resolve the matter privately rather than through formal legal channels. Because personality and behavior are themselves shaped by antecedent social and psychological factors rather than occurring without cause, an investigator's task in such cases is not only to gather physical and testimonial evidence but to work against the social inertia that a respected figure's standing can generate around an allegation.

RESEARCH METHODOLOGY

¹¹ Charlintang Zahra Difa Setyawan and Diana Setiawati, "Strengthening Legal Protections for Child Victims of Sexual Violence in Indonesia," *Borobudur Law Review* 5, no. 2 (August 30, 2023): 98–111, <https://doi.org/10.31603/burrev.10696>.

¹² Moeljatno, *Asas-Asas Hukum Pidana, Rineka Cipta*, 2008.

¹³ Marzuki, "The Rule of Law and the Principle of Equality Before the Law: Theory and Its Manifestation in Indonesia."

This study uses an empirical legal research method, examining how law is applied in practice rather than only how it is formulated in statute. The research is a field study conducted within the jurisdiction of Tuban Police, using a qualitative type of empirical legal research that explains the reality obtained from cases in the field while attempting to reveal what has actually occurred. A socio-legal approach was adopted because it is capable of providing a more holistic view of legal phenomena as they occur in society, drawing on both legal and social-science methods to examine the operation of positive law.

Primary data were obtained through a direct interview with an investigator of the Unit for the Protection of Women and Children (Unit PPA) at Tuban Police, supplemented by direct field observation at the police station and documentation of relevant case records, including incoming reports and adjudicated cases connected to the investigation of child sexual violence committed by a community figure. Secondary data consisted of the applicable statutes and regulations. Data were analyzed qualitatively, developing a comprehensive descriptive account of the findings suitable for answering the two research questions set out above.

A limitation of this design is that the primary informant base consists of a single investigator, which constrains the study's ability to triangulate perspectives across multiple investigating officers. Qualitative legal research of this kind is inherently exposed to this trade-off between depth of access and breadth of informants; the study sought to offset the limitation, though not fully overcome it, by cross-checking the informant's account against direct observation at the police station and against the documented case record, rather than relying on interview testimony alone.¹⁴ Findings concerning the investigator's stated experience should accordingly be read as a close account of one unit's practice rather than as a claim generalizable to all police jurisdictions handling comparable cases.

RESULT AND DISCUSSION

Investigative Obstacles in Cases Involving a Community Figure

The investigation of child sexual violence differs in practice from the investigation of comparable offenses against adult victims, and it differs further still when the accused is a community figure rather than an ordinary member of the public. According to Puguh Prasetyo, an investigator with the Unit PPA at Tuban Police, cases of this kind present at least three recurring obstacles. Witnesses are exceptionally scarce, since incidents of this nature typically occur without third parties present. The

¹⁴ Alysia Blackham, "When Law and Data Collide: The Methodological Challenge of Conducting Mixed Methods Research in Law," *Journal of Law and Society* 49, no. S1 (September 18, 2022), <https://doi.org/10.1111/jols.12373>.

surrounding community is often reluctant to credit that the accused, precisely because of the respect in which he or she is held, could have committed the act, which in turn discourages residents from coming forward with information; the accused, for the same reason, tends to resist admitting the conduct out of a sense of shame at having it exposed. Finally, even where the accused is questioned without being formally detained, family members frequently shield the accused from acknowledging the allegation, a pattern of denial that in this case persisted through to trial.

These obstacles differ in degree, though not entirely in kind, from those Tuban investigators report encountering when the accused is an ordinary community member. In such cases, witnesses are likewise scarce, but the more distinctive obstacle is the reluctance of the victim's own family to support prosecution: sexual violence against a child is frequently regarded within the family as a source of shame to be concealed rather than reported, and some families choose to resolve the matter privately on the understanding that the perpetrator has "taken responsibility" informally. Such private settlements offer no enforceable guarantee that the perpetrator will not reoffend, and in practice they serve the perpetrator's interest in avoiding formal accountability considerably more than they serve the victim's interest in protection or redress.

Consolidating these accounts, the obstacles Tuban investigators face can be grouped into external and internal categories. Externally, investigators contend with a scarcity of witnesses and a general reluctance within the surrounding community to provide information, a reluctance that is measurably sharper when the accused is a locally respected figure. Internally, the Unit PPA operates with a limited complement of personnel: at the time of the study, only six investigators were assigned to the unit, comprising two female and four male officers, a staffing level the informant regarded as insufficient given the volume of cases involving women and child victims, with an additional two female investigators identified as a reasonable minimum to bring the unit closer to an adequate operating capacity. This staffing constraint is consistent with a broader finding in Indonesian research on the criminal-justice handling of child sexual violence, which points to under-resourced investigative capacity as a recurring structural obstacle to timely case resolution across jurisdictions, not a problem unique to Tuban.

The Application of Equality Before the Law

Notwithstanding these obstacles, the investigation of the community-figure case at Tuban Police proceeded on the same procedural footing as any other child sexual violence investigation. The suspect retained the full complement of rights guaranteed to any accused person under Indonesian criminal procedure: the right to be informed, in language the suspect understands, of the offense alleged; the right to give testimony freely to the investigator or judge; the right to an interpreter where needed; the right to

legal assistance from one or more legal counsel of the suspect's own choosing; and, further along the process, the right to claim compensation and rehabilitation in the event of wrongful arrest or detention, together with the right to a presumption that the burden of proof rests elsewhere. None of these procedural guarantees was withheld or diminished on account of the suspect's standing in the community, and the investigator interviewed for this study was explicit that the investigative process did not distinguish between suspects on the basis of social status, even as the practical texture of the investigation the difficulty of securing witness cooperation, in particular clearly did differ.

This is consistent with the broader constitutional and statutory framework governing equal treatment before the law, which requires courts to adjudicate according to law without discriminating among persons, and which affirms that every person is entitled to recognition, guarantee, protection, and certainty of fair legal treatment, including equal treatment before the law.¹⁵ The Tuban case illustrates that equality before the law, properly understood, does not require an investigation to be identical in every operational detail regardless of who is accused; it requires instead that the procedural protections owed to a suspect, and the substantive protections owed to a victim, remain constant even as the investigator adapts to the particular social obstacles a given case presents. The community surrounding the accused in this case initially treated the allegation with skepticism precisely because the accused was respected and because children had long entrusted their religious education to him; investigators nonetheless proceeded on the basis of the victims' accounts, of whom there was more than one, gradually building sufficient corroboration to move the case forward despite the accused's persistent denial.

Corroborating this pattern, comparative Indonesian scholarship on offenses committed by religious or community leaders finds that the accused's social position tends to manifest as an obstacle to the gathering of testimony and public cooperation rather than as a formal barrier that shields the accused from prosecution once sufficient evidence has been assembled.¹⁶ The same literature also cautions that emerging categories of sexual offense including those facilitated through digital means place growing demands on investigators' technical capacity, a consideration relevant to the personnel constraints already discussed.¹⁷ Read together, these findings suggest that

¹⁵ Republik Indonesia, “Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, Pasal 17” (1999).

¹⁶ Angeliq Yuan Pratiwi and Sinarianda Kurnia, “Criminal Law Enforcement on Domestic Violence Offenses Involving Religious Leader: A Juridical Analysis,” *DE RECHT (Journal of Police and Law Enforcement)* 4, no. 1 (January 2, 2026): 17–37, <https://doi.org/10.55499/DERECHT.V4I1.402>.

¹⁷ Novannisa Kharisma Kiki Herlinda and Dossy Iskandar Prasetyo, “Penegakan Hukum Terhadap Affiliator Tindak Pidana Perjudian Online Berdasarkan Undang-Undang Informasi Dan Transaksi

the deference accorded to a community figure operates primarily at the evidentiary stage of investigation, and that safeguarding equality before the law in such cases depends less on treating the investigation identically at every step than on ensuring that social deference is not permitted to substitute for evidentiary sufficiency at the point of charging.

Restorative Justice and the Limits of Non-Judicial Resolution

The prevalence of informal, family-brokered settlements in cases involving ordinary community members raises the question of whether restorative justice offers a legitimate alternative pathway in cases of child sexual violence more broadly, including those involving a community figure. Comparative research examining the application of restorative justice to domestic and child violence cases in Indonesia and Finland finds that, even where strong institutional safeguards exist, restorative approaches remain poorly suited to offenses involving deep psychological trauma and a pronounced asymmetry of authority between the parties.¹⁸ Both conditions are squarely present in the case examined here: the trauma reported by the child victims was substantial, and the power asymmetry between a respected community figure and a child under his religious instruction is, if anything, more pronounced than the family-based asymmetries such research typically examines.

On this basis, the present study treats restorative justice not as an appropriate resolution mechanism for the Tuban case but as an analytical counterpoint that sharpens the meaning of equality before the law in cases of this kind: permitting a community figure's social standing to steer a child sexual violence case toward informal, non-judicial resolution would itself constitute a departure from equal treatment, since it would afford the accused an avenue of escape from formal accountability that is not, in practice, equally available to an accused without comparable social capital. The formal investigative and prosecutorial route pursued by Tuban Police in this case, despite its evidentiary difficulty, is accordingly the outcome that equality before the law properly demands.

CONCLUSION

This study set out to examine the investigative problems Tuban Police encounters in cases of child sexual violence committed by community figures, and to assess how the principle of equality before the law is applied to the investigation of such cases. On the first question, the evidence points to a layered set of obstacles rather than a single cause: externally, investigators face a scarcity of witnesses and a community inclined to disbelieve the allegation precisely because of the accused's standing, compounded by the accused's own denial and the shielding conduct of the accused's family; internally, the Unit for the Protection of Women and Children operates with a personnel complement, particularly of female investigators, that the informant regarded as inadequate to the volume and sensitivity of the cases it handles. The accused's status as

¹⁸ Fatin Hamamah, Didi Sukardi, and Shirin Kulkarni, "The Application of Restorative Justice in Domestic and Child Violence Cases in Indonesia and Finland," *SASI*, March 29, 2025, 44–59, <https://doi.org/10.47268/sasi.v3i11.2448>.

a religious teacher within an Islamic boarding school added a further obstacle specific to this case: the difficulty of gaining access to, and cooperation within, an environment where the accused's authority extended beyond the immediate family into the institution itself.

On the second question, the study finds that Tuban Police applied equality before the law in substance rather than merely in form. The suspect's full complement of procedural rights under Indonesian criminal procedure was preserved throughout, and investigators did not permit the accused's social standing to excuse the conduct or to divert the case toward informal settlement, notwithstanding the community pressure such standing generated. Read against comparative evidence that restorative justice is poorly suited to cases marked by deep psychological trauma and a pronounced power asymmetry between the parties, the formal investigative path pursued in this case represents the outcome equality before the law properly requires, since any accommodation of the accused's social position within the investigative process would itself have constituted a form of unequal treatment.

Taken together, these findings suggest that a community figure's social position operates chiefly as an amplifier of ordinary investigative obstacles witness scarcity, family reticence, evidentiary difficulty rather than as a distinct category of legal exception, and that safeguarding equality before the law in such cases depends on ensuring that this social amplification is absorbed by the investigating unit's diligence rather than passed on to the victim in the form of a weakened or diverted investigation. Strengthening the personnel capacity of units such as Unit PPA Tuban, particularly with additional female investigators, would directly address one of the two structural obstacles identified here and merits attention in future policy and research on the investigation of child sexual violence in Indonesia.

REFERENCES

- Abdul Latiff, Mahirah, Lue Fang, Deborah A. Goh, and Li Jen Tan. "A Systematic Review of Factors Associated with Disclosure of Child Sexual Abuse." *Child Abuse & Neglect* 147 (January 2024): 106564. <https://doi.org/10.1016/j.chiabu.2023.106564>.
- Blackham, Alysia. "When Law and Data Collide: The Methodological Challenge of Conducting Mixed Methods Research in Law." *Journal of Law and Society* 49, no. S1 (September 18, 2022). <https://doi.org/10.1111/jols.12373>.
- Gemara, Netanel, and Carmit Katz. "'It Was Really Hard for Me to Tell': The Gap between the Child's Difficulty in Disclosing Sexual Abuse, and Their Perception of the Disclosure Recipient's Response." *Journal of Interpersonal Violence* 38, no. 1–2 (January 21, 2023): 2068–91. <https://doi.org/10.1177/08862605221099949>.
- Guiney, Hayley, Avshalom Caspi, Antony Ambler, Jay Belsky, Jesse Kokaua,

- Jonathan Broadbent, Kirsten Cheyne, et al. "Childhood Sexual Abuse and Pervasive Problems across Multiple Life Domains: Findings from a Five-Decade Study." *Development and Psychopathology* 36, no. 1 (February 23, 2024): 219–35. <https://doi.org/10.1017/S0954579422001146>.
- Hamamah, Fatin, Didi Sukardi, and Shirin Kulkarni. "The Application of Restorative Justice in Domestic and Child Violence Cases in Indonesia and Finland." *SASI*, March 29, 2025, 44–59. <https://doi.org/10.47268/sasi.v31i1.2448>.
- Hamzah, Andi. *Hukum Acara Pidana Indonesia, Edisi Kedua*, 2014.
- Herlinda, Novannisa Kharisma Kiki, and Dossy Iskandar Prasetyo. "Penegakan Hukum Terhadap Affiliator Tindak Pidana Perjudian Online Berdasarkan Undang-Undang Informasi Dan Transaksi Elektronik." *DE RECHT (Journal of Police and Law Enforcement)*, September 12, 2025, 17–35. <https://doi.org/10.55499/derecht.v3i3.351>.
- Hietamäki, Johanna, Marita Husso, Tiia Arponen, and Hanna-Mari Lahtinen. "Differences Between Girls and Boys in the Disclosure of Sexual Violence." *Journal of Interpersonal Violence* 39, no. 11–12 (June 22, 2024): 2629–54. <https://doi.org/10.1177/08862605231221283>.
- Hunt, Gabrielle R., Daryl J. Higgins, and Ben Mathews. "Characteristics and Experiences of Disclosure of Child Sexual Abuse in Religious Organisations: Current Research and Findings from the Australian Child Maltreatment Study." *Journal of Religion and Health*, May 26, 2026. <https://doi.org/10.1007/s10943-026-02681-8>.
- Hunt, Gabrielle R., Ben Mathews, Daryl J. Higgins, David Finkelhor, Megan L. Willis, Divna M. Haslam, David Lawrence, et al. "The Prevalence of Child Sexual Abuse Perpetrated by Leaders or Other Adults in Religious Organizations in Australia." *Child Abuse & Neglect* 155 (September 2024): 106946. <https://doi.org/10.1016/j.chiabu.2024.106946>.
- Korompot, Moh. Iqra Syabani, Sholahuddin Al-Fatih, and David Pradhan. "The Principle of Equality Before the Law in Indonesian Corruption Case: Is It Relevant?" *Journal of Human Rights, Culture and Legal System* 1, no. 3 (November 20, 2021). <https://doi.org/10.53955/jhcls.v1i3.13>.
- Larner, Samuel. "Facilitating Children's Informal Disclosures of Sexual Abuse: The Role of Online Counsellors at a National Children's Helpline." *Journal of Child Sexual Abuse* 31, no. 3 (April 3, 2022): 276–96. <https://doi.org/10.1080/10538712.2022.2047854>.
- Marzuki, Ismail. "The Rule of Law and the Principle of Equality Before the Law: Theory and Its Manifestation in Indonesia." *Jurnal Idea Hukum* 10, no. 1 (March 30, 2024). <https://doi.org/10.20884/1.jih.2024.10.1.495>.
- McGill, Lucy, and Rosaleen McElvaney. "Adult and Adolescent Disclosures of Child Sexual Abuse: A Comparative Analysis." *Journal of Interpersonal Violence* 38, no. 1–2 (January 28, 2023): 1163–86. <https://doi.org/10.1177/08862605221088278>.
- Moeljatno. *Asas-Asas Hukum Pidana, Rineka Cipta*, 2008.
- Noll, Jennie G. "Child Sexual Abuse as a Unique Risk Factor for the Development of Psychopathology: The Compounded Convergence of Mechanisms." *Annual*

- Review of Clinical Psychology* 17, no. 1 (May 7, 2021): 439–64. <https://doi.org/10.1146/annurev-clinpsy-081219-112621>.
- Pratiwi, Angeliq Yuan, and Sinarianda Kurnia. “Criminal Law Enforcement on Domestic Violence Offenses Involving Religious Leader: A Juridical Analysis.” *DE RECHT (Journal of Police and Law Enforcement)* 4, no. 1 (January 2, 2026): 17–37. <https://doi.org/10.55499/DERECHT.V4I1.402>.
- Republik Indonesia. Constitution of the Republic of Indonesia of 1945, Article 27 paragraph (1) and Article 28D paragraph (1945).
- . Kitab Undang-Undang Hukum Acara Pidana (KUHAP), Undang-Undang Nomor 8 Tahun 1981, Pasal 1 angka 2 and angka 5, and Pasal 4. (1981).
- . Law Number 35 of 2014 concerning Amendment to Law Number 23 of 2002 concerning Child Protection, Articles 76D and 76E; and Law Number 12 of 2022 concerning Sexual Violence Crimes, particularly the provisions concerning victims’ rights to handling, protect (n.d.).
- . Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, Pasal 17 (1999).
- . Undang - Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak, Pasal 76D and Pasal 76E (2014).
- Setyawan, Charlintang Zahra Difa, and Diana Setiawati. “Strengthening Legal Protections for Child Victims of Sexual Violence in Indonesia.” *Borobudur Law Review* 5, no. 2 (August 30, 2023): 98–111. <https://doi.org/10.31603/burrev.10696>.
- Winters, Georgia M., Elizabeth L. Jeglic, Karen J. Terry, and Kait Gilleran. “Child Sexual Grooming of Catholic Clergy: A Comparison between Victims Allegedly Abused by Clergy with Single versus Multiple Victims.” *Journal of Child Sexual Abuse* 32, no. 1 (January 2, 2023): 91–115. <https://doi.org/10.1080/10538712.2022.2163020>.