



THE OATH-TAKING (BAIAT) PHENOMENON OF SAMPANG SHIA BECOME SUNNI FROM A HUMAN RIGHTS PERSPECTIVE

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DOI: http://dx.doi.org/10.30983/islam_realitas.v9i2.6775

Submission: Agustus 29, 2023

Revised: December 29, 2023

Accepted: December 30, 2023

Published: December 31, 2023

Abstract

This study discusses the integration of Sampang Shia followers into the Sunni sect from the Human Rights perspective. There are two formulations of the problem discussed in this study: what is the reality of the religious life of Sampang Shia adherents in Madura? Does the initiation of Shia Sampang contradict the principles of freedom of religion, especially the legal principles of human rights? This study uses a type of qualitative research. There are primary and secondary sources and data in this study. By using an analysis based on the perspective of legal sociology, this study found that Sampang Shia adherents experienced much unexpected problems such as intimidation, expulsion, and coercion to their religious life. Even though Sampang Shia adherents have taken allegiance to become Sunnis, they are still feeling worried and afraid. The stigma of being a former Shia adherent makes their existence and religious activities often come under scrutiny and suspicion. From the perspective of democracy in Indonesia, the series of events that have occurred in the religious life of the Shia followers of Sampang has violated the law, as contained in Article 28E paragraph (1) and Article 29 paragraph (2). Besides that, it is contrary to the principles of human rights, especially human rights principles at the personal level related to freedom of religion.

Keywords: Sampang Shia Betrayal, Human Rights, Sampang Shia-Sunni

Abstrak

Studi ini fokus membahas fenomena pembaitan pengikut syiah Sampang ke dalam aliran Sunni ditinjau dari perspektif Hak Asasi Manusia (HAM). Terdapat dua rumusan masalah yang dibahas dalam kajian ini, bagaimana realitas kehidupan beragama penganut syiah Sampang di Madura? Adakah pembaitan Syiah Sampang bertentangan dengan prinsip kebebasan beragama, terkhusus prinsip hukum Hak Asasi Manusia? Studi ini menggunakan jenis penelitian kualitatif. Sumber dan jenis data dalam penelitian ini terdiri dari dua, primer dan sekunder. Dengan menggunakan analisa berdasarkan perspektif sosiologi hukum, studi ini mendapati temuan bahwa realitas kehidupan beragama muslim syiah Sampang Madura mengalami banyak perlakuan negatif seperti intimidasi, pengusiran, dan pemaksaan. Bahkan meski sudah melakukan baiat diri menjadi Sunni, mereka (Syiah Sampang) masih dilanda rasa kekhawatiran dan ketakutan. Stigma sebagai eks penganut Syiah membuat keberadaan dan aktivitas beragama mereka sering kali mendapat sorotan dan kecurigaan. Dalam perspektif demokrasi di Indonesia, rangkaian peristiwa yang menimpa kehidupan beragama penganut syiah Sampang bukan saja telah melanggar perundangan, sebagaimana termuat dalam pasal 28E ayat (1) dan Pasal 29 Ayat (2). Lebih dari itu, juga bertentangan dengan prinsip Hak Asasi Manusia (HAM), khususnya prinsip HAM di level personal yang terkait dengan kebebasan beragama.

Kata Kunci: Pembaitan Syiah Sampang, Hak Asasi Manusia, Syiah-Sunni Sampang

Background

After living in obscurity and isolation for a long time because they had to flee due to religious conflict, finally, the fate and existence of Shia Muslims in Sampang-Madura become clearer. This clarity was obtained after they (Shia adherents) showed a willingness to undertake oath-taking changes.

They changed their sect from Shia to Sunni.¹ By becoming Sunni, they can practically return to Madura and live in their hometown with their beloved family and relatives after living in refugee camps for nine years due to the bloody conflict 11 years ago. During this bloody conflict, as many as one Shia resident died, and the mob burned dozens

¹ Detik.Com, 'Pengungsi Syiah Sampang Dibaiaat Jadi Suni di Tengah Keinginan Pulang Kampung', *detiknews*, 2020, [https://news.detik.com/bbc-world/d-5242909/pengungsi-](https://news.detik.com/bbc-world/d-5242909/pengungsi-syiah-sampang-dibaiaat-jadi-suni-di-tengah-keinginan-pulang-kampung)

[syiah-sampang-dibaiaat-jadi-suni-di-tengah-keinginan-pulang-kampung.](https://news.detik.com/bbc-world/d-5242909/pengungsi-syiah-sampang-dibaiaat-jadi-suni-di-tengah-keinginan-pulang-kampung)

of houses where they lived. Their status as Shia followers meant that they were 'expelled' from their place of birth, requiring them to flee to other areas outside Madura Island.²

The permission of Shiite adherents to return to their hometowns is a breath of fresh air for the fate of those who previously had lived in refugee camps for a long time.³ However, at the same time, it must be acknowledged that this situation still has fundamental problems. That the path to Sunni-Shia reconciliation in Madura is through the conversion of Sampang Shia followers to become Sunnis directly indicates a crisis regarding freedom of religion and belief for Sampang Shia adherents. Moreover, as well known, long before the former Shiite residents of Sampang committed their devotion, there was a series of adverse events that occurred to them—starting from intimidation, physical violence, burning of houses and places of worship, and eviction which caused them to have to flee outside the area.⁴

Some studies on the Sunni and Shia Sampang conflict in Madura have been conducted at the academic level. However, most studies about Sunni-Shia Conflict focus on discussing it from the perspective of political and economic conflict, as revealed in research by Khoiri and Chamankhah (2021), *Survival Mechanism of the Shia Community Post-Shia–Sunni Sampang Conflict in 2012*,⁵ and a study conducted by Masdar Hilmy (2015), *The Political Economy of Sunni-Shi'ah Conflict in Sampang Madura*. According to him, the main factor in the conflict between Sunnis and Shiites is not theological differences but economic and political differences. Religion is just a bridge. The real problem is a matter of materials and power at the local level.⁶

Unfortunately, even though many academic studies tried to explore Sunni-Shia conflict, (including the two studies above), there are not many academic studies that specifically discuss the relationship between Sampang Shia initiation and human rights violations, especially after the conversion of Sampang Shia Muslims to Sunni Muslims. Most of the existing studies, so far, have yet to be fully representative in reading and photographing the current conditions of religious life for Shia adherents, who have indirectly experienced restrictions on their right to freedom of religion and carrying out worship according to their beliefs. Both the conditions before and after conversion to Sunni. Therefore, at least two research questions must be answered: what is the reality of the religious life of Sampang Shia adherents in Madura? Dose the existence of Shampang Shia rituals oppose the principles of religious freedom, especially the legal principles of human rights?

This study argues that the reality of religious life among the Madurese people still needs to be discussed. On the contrary, it is difficult for minorities to practice their beliefs freely and safely, especially minorities at the sect and Islamic understanding, such as the Shia sect and Wahabi beliefs. The situation experienced by the Shia followers of Sampang Madura after their conversion to Sunnis as a way or absolute 'requirement' for reconciliation shows the existence of intervention practices related to freedom of belief. From a legislative perspective, this intervention practice is not only contrary to the principle of freedom in democracy but also a form of denial of human rights (Indonesian: *Hak Asasi*

² Mohamad Taufik, 'Diusir Paksa, Warga Syiah Sampang Diangkut Keluar Madura', *Merdeka.Com*, 20 June 2013, <https://www.merdeka.com/peristiwa/diusir-paksa-warga-syiah-sampang-diangkut-keluar-madura.html>.

³ Yovinus Guntur W, '8 Tahun Di Pengungsian, Warga Syiah Sampang Berharap Pulang', *Benar News*, 19 May 2020, <https://www.benarnews.org/indonesian/berita/syiah-sampang-05192020164211.html>.

⁴ Tempo.co, 'Pengungsi Syiah Sampang Diusir Dari Pengungsian', *Tempo*, 12 January 2012, [https://nasional.tempo.co/read/376943/pengungsi-syiah-](https://nasional.tempo.co/read/376943/pengungsi-syiah-sampang-diusir-dari-pengungsian)

[sampang-diusir-dari-pengungsian](https://nasional.tempo.co/read/376943/pengungsi-syiah-sampang-diusir-dari-pengungsian); Taufik, 'Diusir Paksa, Warga Syiah Sampang Diangkut Keluar Madura'.

⁵ Muhammad Aziz Khoiri and Leila Chamankhah, 'Survival Mechanism of the Shia Community Post-Shia–Sunni Sampang Conflict in 2012', *Al-Mada: Jurnal Agama, Sosial, Dan Budaya* 4, no. 2 (6 September 2021): 240–51, doi:10.31538/almada.v4i2.1248.

⁶ Masdar Hilmy, 'The Political Economy of Sunni-Shi'ah Conflict in Sampang Madura', *Al-Jami'ab: Journal of Islamic Studies* 53, no. 1 (10 June 2015), doi:DO - 10.14421/ajis.2015.531.27-51.

Manusia, HAM) values, namely the personal or individual due to embrace and believe in a particular religion.

Methodologically, this study is a field study that uses a qualitative research paradigm.⁷ The data used in the research consists of primary data obtained from observation activities, which means coming directly, visiting the research location, and conducting in-depth direct interviews with residents. One of them is Mr. Muhlis (56), a member of Team 5 handling (ex) Sampang Shia Muslims. Apart from that, there is also secondary data in the form of library data from previous literature sources whose objects of discussion are strongly related to the main problem of this research, and information or news obtained from print and online media published in the 2013-2021 period. The literature sources in this study are limited by researchers to research results published between 2015 and 2022, both in the form of field study activities and literature studies. The criteria for literature sources used for this article are research reports published by universities or some research institutions, either in the form of theses, theses, dissertations, scientific journals, books, or proceedings.

As for field data management, this research uses Miles and Huberman data analysis techniques. According to Miles and Huberman, there are three crucial stages in the field data analysis process: data reduction, data presentation, and finally, conclusion.⁸ In the context of this research, the three stages above were carried out by researchers in a structured, systematic, and measurable manner, considering the ethical aspects that enable each research step to be scientifically, methodologically, and empirically accountable.

Intervention against Sampang Shia Residents: from Politics to Mass Mobilization

Long before the outbreak of the Sampang I Shiite tragedy, on February 26 2006 to be precise, several *Ulama* (Clerics/Muslim Scholars) in Sampang under the Sampang-Pamekasan *Ulama* Deliberation Forum (Indonesian; *Forum Musyawarah Ulama/FMU*) gathered together with the Regent of Sampang, H. Fadlillah Budiono and the Regent of the Sampang of Religion. The main agenda of the meeting was to clarify the heretical accusations of Shia teachings brought by Tajul Muluk. This gathering was held at the initiation of Abuya Ali Karrar Shinhaji. The chairman of Sampang Religion Indonesian Council of *Ulama* (Indonesian: *Majelis Ulama Indonesia Sampang/MUI Sampang*) and the Omben Sampang District Police Chief were present in this event. This event was also attended directly by Tajul Muluk, who at that time was asked by the forum participants to clarify the alleged heresy of his teachings.⁹ After going through an arduous process of discussion and dialogue, the deliberation results did not reach an agreement. The association initially intended to build dialogue, nevertheless it became an intervention in the heresy of Tajul Muluk and his followers and the areas of belief of the Shiite community in general.¹⁰

Even though Tajul Muluk was under pressure from the forum then, he stated that the Islamic teachings he taught did not contain heretical elements. Therefore, he was unwilling to leave his ideology, as demanded by forum participants who wanted him to abandon his religion and beliefs. Because the dialogue failed, the FMU asked Tajul Muluk and his congregation to return to the Sunni path like their elders to avoid religious and physical clashes among ordinary people.¹¹ However, because Tajul Muluk remained steadfast in his

⁷ Yuona S Lincoln, *Qualitative Research* (London New Delhi: Sage Publication, 1994).

⁸ Norman K. Denzin, *Handbook of Qualitative Research* (London: Sage Publication, 1994).

⁹ KONTRAS Surabaya, 'Laporan Investigasi Dan Pemantauan Kasus Syi'ah Sampang' (KONTRAS Surabaya, 2012), 3–9.

¹⁰ BBC News Indonesia, 'Pemimpin Syiah Sampang divonis dua tahun', *BBC News Indonesia*, 12 July 2012, https://www.bbc.com/indonesia/berita_indonesia/2012/07/120712_vonis_syiah_sampang.

¹¹ [bbc.com](https://www.bbc.com), 'Warga Syiah Sampang "Dipaksa Bertobat"', *BBC News Indonesia*, 12 August 2013, https://www.bbc.com/indonesia/berita_indonesia/2013/08/130812_pengungsi_syiah_syahadat_ulang.



stance, the MUI handed it over entirely to the authorities and appealed to the MUI in four districts in Madura to immediately issue a fatwa on the dangers of heretical sects, including Shia sects. Meanwhile, at the same time as this meeting, thousands of people gathered and surrounded the village where Tajul Muluk and the Shia residents were. Even though there were no physical clashes at that time, there was a lot of terror and intimidation addressed to Tajul Muluk, the residents, and his Islamic boarding school.¹²

The next meeting occurred in Ramadhan, on October 26, 2009, to be precise. This gathering was attended by regional leadership of *Nalhdlatul Ulama Sampang* (Indonesian: *Pimpinan Cabang NU Sampang/PCNU Sampang*), *Ulama* or *Kyai*, the sub-district leadership meeting of Omben District (Indonesian: *Musyawarah Pimpinan Kecamatan/MUSPIKA*), and Tajul Muluk himself was also present. Like before, this meeting was a follow-up to Tajul Muluk's accusation of heresy from Shia teachings. At this forum, Tajul Muluk was urged to sign a statement stating that he was willing to stop all da'wah activities and the spread of Shia teachings in Sampang, that he is ready to be prosecuted legally and continues to carry out religious activities with Shia teachings.¹³ Tajul Muluk and other forum participants, such as Ulama, Kyai, and the local sub-district *Muspika*, signed the statement.

A year later, on February 21, 2011, to be precise, the Madura *Ulama* Silaturahmi Agency (Indonesian: *Badan Silaturahmi Ulama Pesantren Madura//BASSRA*) in writing to demand that Tajul Muluk stopped Shia teaching activities at his Islamic boarding school and asked him to leave Shia and become Sunni. If he does not heed these demands, then he must go to Madura.¹⁴

Simultaneously with these demands, BASSRA collected a petition rejecting the Sampang Shiites in Madura. The petition contains a call for Tajul Muluk to leave his village and stop his teachings. If they refuse, the consequences will be forcibly evicted by the local community. Simultaneously with the demands, there was a massive mass mobilization, which at that time surrounded the houses of Shia residents and the Islamic boarding school at Tajul Muluk's residence.¹⁵

In the following months, Madurese Sunni *Ulama* or *Kyai* held a meeting at the *Pesantren Darul Ulum* in Gersempal village, Omben District, on April 11, 2011. Many officials and the Sampang Police Chief attended this meeting. This meeting resulted some decisions. Namely, Sampang Police expressed their agreement and supported Tajul Muluk relocation from Madura; there must be no acts of anarchy and violence against the Shia residents of Sampang; the need to work together to create a stable and conducive situation. On April 16, 2011, Tajul Muluk moved out of Madura and temporarily lived in Malang until the problem and conditions returned to normal. On December 29, 2011, the Sampang I Shiite tragedy erupted; at that time, Tajul Muluk was not there. Hundreds of anti-Syiah mobs went on a rampage and burned down residents' houses as well as their residences and the Tajul Islamic boarding school.¹⁶

The day after the first attack on Shia residents, on December 30, 2011, several parties held a meeting that was attended directly by the local Government, Regional Legislative Council (Indonesian: *Dewan Perwakilan Rakyat Daerah, DPRD*), police, MUI, and PCNU Sampang. They coordinated the Sunni-Shia conflict in Sampang. At this meeting, it was concluded that the cause of the conflict had been growing for a long time; in

¹² BeritaSatu.com, 'Rumah Pengikut Syiah di Madura Dibakar', *beritasatu.com*, Desember 2011, <https://www.beritasatu.com/nasional/21900/rumah-pengikut-syiah-di-madura-dibakar>.

¹³ KONTRAS Surabaya, 'Laporan Investigasi Dan Pemantauan Kasus Syi'ah Sampang', 6–15.

¹⁴ Detik.Com, 'LPSK Temukan 5 Penyebab Konflik Sunni-Syiah di Sampang Madura', *detiknews*, Mei 2013,

<https://news.detik.com/berita/d-2240068/lpsk-temukan-5-penyebab-konflik-sunni-syiah-di-sampang-madura>.

¹⁵ Nour Zattullah, 'Konflik Sunni-Syiah di Sampang Ditinjau dari Teori Segitiga Konflik Johan Galtung', *Jurnal Ilmu Budaya* 9, no. 1 (2021): 16.

¹⁶ Tempo.co, 'Rentetan Kekerasan Pada Warga Syiah Di Sampang', *Tempo*, 27 August 2012, <https://nasional.tempo.co/read/425696/rentetan-kekerasan-pada-warga-syiah-di-sampang>.



fact, it had existed since 2005. According to the Kontras (*Komisi untuk Orang Hilang dan Korban Tindak Kekerasan*/Commission for Missing Persons and Victims of Violence) report, the meeting was actually about seeking a legal basis for the alleged religious blasphemy committed by Tajul Muluk.¹⁷ On January 1 to 2, 2012, the MUI and PCNU Sampang held a meeting, both of whom stated firmly that, in their opinion, Tajul Muluk had blasphemed religion, so he had to be brought to court. On January 9, 2012, the Sampang regency government allowed Shia people to return to their hometowns from refugee camps. Still, it prohibited Tajul and three other people from returning home for the safety and conduciveness of the residents of Karangayam village. On April 12, 2012, Ustadz Tajul was named a suspect, causing him to remain in the detention room at the Sampang District Prosecutor's Office.¹⁸

On 26 August 2012, the Sampang II Shia tragedy broke out again after hundreds of mobs attacked the residences of Shia residents and their places of worship; at that time, the Shia residents had to be relocated to the Sampang Sports Centre (Indonesian *Gedung Olahraga*/GOR) again. Responding to this situation, on September 5, 2012, the *Ahlul Bait Indonesia* (ABI) organization met Soekarwo, Governor of East Java. The meeting was also attended by the Regional Office of the East Java Ministry of Religion and Assistant III to discuss the fate of the Sampang Shia residents who were victims of the mob's rampage during the bloody tragedy II.¹⁹ On May 7, 2013, there was a massive mass mobilization from the Sunni community of Sampang so that the regional government and the DPRD of Sampang Regency expelled Shia residents from Madura if they did not want to repent, leave Shia sect, and become Sunni. A few days later, on May 14, 2013, ABI appeared

before the chairman of the House of Representatives of the Republic of Indonesia (Indonesian: *Dewan Perwakilan Rakyat Republik Indonesia*, DPR RI) at that time, Marzuki Ali, and several DPR RI commissions. On that occasion, ABI firmly rejected the expulsion of the Sampang Shia residents from their hometowns and asked the government to return them to their villages. The chairman of the DPR RI also agreed with this request because the expulsion of Shia residents was not in line with national life and Pancasila.²⁰

On June 20, 2013, hundreds of people and Sunni Sampang *Kyai* held a joint *istigasah* with the agenda of requesting that the Regent of Sampang relocate the Shia Sampang refugees from GOR Sampang to Rusunawa Puspo Agro, Sidoarjo, East Java. June 20, 2013, the Shi'ite residents of Sampang had to forget their hometown after the Sampang government and the East Java Provincial Government agreed to relocate to the Puspo Agro flats in Jemundo, Sidoarjo Regency.

The Self Oath-Taking (*Baiat*) as a Way of Reconciliation

Since officially becoming refugees, various reconciliation efforts have been carried out by the government to return Shia Muslims to their districts. However, in reality, reconciliation efforts always fail due to the complexity of the problems such as resistance from local Sunni Muslims, especially religious leaders (*kyai*/ulama). In this regard, based on a study conducted by Romel Masykuri (2016), Shia people, indeed, received permanent assistance, lived a relatively decent life, and could work and worship according to their beliefs. Nevertheless, from the bottom of their hearts, they still profoundly wished to go to their home. Even if there is a mediation effort, they are willing to do it with the regional government and other related parties. Their biggest hope is to return

¹⁷ BeritaSatu.com, 'Babak Akhir Peradilan Sesat Tajul Muluk', *beritasatu.com*, accessed 3 February 2022, <https://www.beritasatu.com/nasional/58947/babak-akhir-peradilan-sesat-tajul-muluk>.

¹⁸ BBC News Indonesia, 'Pemimpin Syiah Sampang divonis dua tahun'.

¹⁹ Pruwanto, 'Tajul Muluk-Roisul Bertemu Bahas Syiah Sampang?', *Tempo*, 15 September 2012,

<https://nasional.tempo.co/read/429644/tajul-muluk-roisul-bertemu-bahas-syiah-sampang>.

²⁰ ABI, 'Kronologis Kasus Muslim Syiah Sampang?', <https://www.Ahlulbaitindonesia.or.Id/>, 20 March 2014, <https://www.ahlulbaitindonesia.or.id/berita/index.php/s13-berita/kronologis-kasus-muslim-syiah-sampang/>.

home and live their daily lives. They have forgotten the sad events that happened in the past and hope that similar incidents will not happen again and again in the future.²¹

Based on field data mining, one of them is gained from the 2012 Kontras agency report, reconciliation efforts between Shia Sampang residents and Sunni communities have been underway for a long time, even long before the outbreak of the Shia Sampang I tragedy and the Shia Sampang II tragedy, mediation efforts had been carried out. However, the complexity of the problem and the factors behind it make mediation complicated to realize. A study conducted by Masdar Hilmy (2015) shows that the problem of friction between Sunnis and Shia in Sampang is not just a theological issue but also a matter of sources of distribution of power and natural (economic) resources, even conflict in the family level which is then drawn into the religion and belief.²²

On September 9, 2013, eight points of agreement were obtained; one was that there would be no relocation but instead prioritizing reconciliation between residents. On August 1, 2013, instructions were issued from President Susilo Bambang Yudhoyono (SBY) regarding the formation of a Reconciliation Team by appointing Prof. Abdul A'la as chairman.²³ After the construction of the Reconciliation Team, there was a signing and declaration of the *Islah* and *Ikrar* peace charter between the two camps, namely Shia refugees and 73 Sunni representatives from the village, on September 23, 2013.²⁴ On February 6, 2014, the figures and all Madurese *Ulama* and *Kyai* required guidance. Towards Shia residents at the *Pesantren Assiddiqiyah* under the care of K.H. Noer Iskandar S.Q. On March 3, 2014, the Shiite residents of Sampang, through their representative,

the Central Board of ABI (Indonesian: *Dewan Pimpinan Pusat*, DPP ABI), sent an official letter to President SBY stating their approval of the conditions submitted by the Madurese *Kyai* or *Ulama*, namely the accommodation of the Shiite residents of Sampang in the Islamic boarding school in question.²⁵

Based on a study conducted by Masykuri (2016), two years after the publication of the *Islah* charter (Indonesian: *Piagam Islah*) led by Abdul A'la, Sampang's Sunni-Shia reconciliation still needs to²⁶ All this time, there has been a big desire within them to be able to obtain their rights, namely to live freely and return to their place of origin. Unfortunately, until this research was carried out, the desire of the Shiite residents of Sampang to be able to return to their hometown had still not been fully realized, even though so far, there had been efforts at reconciliation with various parties who were previously involved in the conflict. In this case, it is the Sunni community group and the Sunni *Ulama* and *Kyai* figures in Sampang, Madura.

On November 5, 2020, the hope of realizing Sunni-Shia reconciliation seemed to find a final solution in line with the willingness of the Shia group to abandon their Shia beliefs and become Sunni. Based on field data, more than 270 Sampang Shia residents, led directly by Tajul Muluk, pledged allegiance as adherents of Sunni teachings. After almost ten years in refugee camps, there is no way for them to be able to obtain their rights and freedoms in life. Becoming a Sunni is the only way for their existence to be accepted by residents so that they can live an everyday life like society in general. Unfortunately, even though this decision invited a positive response from the district government and *Rois Syuriah PCNU Sampang*, their

²¹ Masykuri, 'Sampai Kapan Syiah Sampang Mengungsi di Negara Sendiri?', *GEOTIMES*, 23 February 2017, <https://geotimes.id/kolom/sosial/sampai-kapan-syiah-mengungsi-di-negara-sendiri/>.

²² Hilmy, 'The Political Economy of Sunni-Shi'ah Conflict in Sampang Madura'.

²³ Fathiyah Wardah, 'Pemerintah Akan Bentuk Tim untuk Tuntaskan Kasus Syiah', *VOA Indonesia*, accessed 3 February 2022,

<https://www.voaindonesia.com/a/pemerintah-akan-bentuk-tim-untuk-tuntaskan-kasus-syiah/1694118.html>.

²⁴ Tempo.co, 'Piagam Damai Untuk Syiah Sampang', *Tempo*, 25 September 2013, <https://kolom.tempo.co/read/1004428/piagam-damai-untuk-syiah-sampang>.

²⁵ KONTRAS Surabaya, 'Laporan Investigasi Dan Pemantauan Kasus Syi'ah Sampang', 3–14.

²⁶ Masykuri, 'Sampai Kapan Syiah Sampang Mengungsi di Negara Sendiri?'



right to return home could still be fulfilled.²⁷ Several residents in their places of origin still need to be convinced about their plans to return. Even the local government does not guarantee their desire to return to the village even though they have pledged allegiance because they have to wait for the attitude or decision of the *Ulama* and *Kyai* in Madura.²⁸

Two years after converting to Sunni, the hopes of Sampang Shia residents to gain the right to return to their hometown have found an appropriate condition. The reason is that their decision to embrace Sunni teachings received a positive response from Madurese *Ulama* and *Kyai*, as well as the local MUI.²⁹ Local religious leaders warmly welcomed their pledge of allegiance and allowed them to return to their hometowns after nearly ten years in refugee camps. For the former Shiite residents of Sampang, returning to their home village is a big hope and desire that they have long dreamed of. In this regard, becoming Sunni and leaving Shia teachings are the only keys to realizing their dreams. Of course, this attitude and decision (*baiat*) is not an easy and light way because they have to abandon the beliefs they have long fought for to regain their rights and essential freedom as citizens and complete human beings.

Analysis of the Oath-Taking (*Baiat*) of the Sampang Shia Minority from a Human Rights Perspective

In Indonesia, the discourse around religious freedom is a topic of conversation that often generates discussion and debate.³⁰ Long before Indonesia found its current state of independence,

religious freedom had been discussed seriously and intensely by the nation's founders, such as Soekarno, Bung Hatta, and others. In the early days of independence, discussions about religious freedom could be traced to BPUPKI's implementation of the 1945 Constitution, which stated, "*Negara berdasar atas ketuhanan dengan kewajiban menjalankan syariat Islam bagi pemeluk-pemeluknya (The state is based on divinity with the obligation to implement Islamic law for its adherents).*" At the Preparatory Committee for Indonesian Independence (Indonesian: Panitia Persiapan Kemerdekaan Indonesia, PPKI) session, this material was then changed to the material, A State Based on Belief in One Almighty God.³¹

In the constitutional context, religious freedom in Indonesia has a powerful position. Religious freedom is a non-derogable right, which means it is absolute; its fulfillment cannot be reduced by the state under any conditions and situations, even in a state of war.³² Therefore, in the context of nation and state, no matter how immense the state's power is, it cannot prohibit any sect or religion that enters and develops among its citizens as long as the faith conforms with the principles of the 1945 Constitution, namely the principle of Belief in One Almighty God, and does not offend, disturb, and tarnish elements of the beliefs or beliefs of other religious communities. That is why, in the construction of legislation in Indonesia, the right or principle of religious freedom has a relatively central and significant portion, as is clearly stated in many articles.³³

There are many articles regarding religious freedom in formulating legislation in Indonesia.

²⁷ TEMPO.CO, 'NU Sebut Syiah Di Sampang Sesat', *Tempo*, 3 January 2012, <https://nasional.tempo.co/read/375151/nu-sebut-syiah-di-sampang-sesat>.

²⁸ Raja Eben Lumbanrau, 'Tudingan "Mengalahkan Minoritas Demi Keinginan Mayoritas"', di Balik Pembaiatan dan Keinginan Pengungsi Syiah Sampang Pulang Kampung', *BBC News Indonesia*, 5 November 2020, <https://www.bbc.com/indonesia/indonesia-54550918>.

²⁹ BBC News Indonesia, 'Tajul Muluk dan Ratusan Pengungsi Syiah Sampang Minta Dibaiat Jadi Muslim Sunni: MUI Sambut Baik, Setara Sebut "Negara Alpa"', *BBC News Indonesia*, 22 September 2020, <https://www.bbc.com/indonesia/indonesia-54230881>.

³⁰ A. A. A. Nanda Saraswati et al., 'Restrictions of the Rights of Freedom of Religions: Comparison of Law Between Indonesia and Germany', *Indonesia Law Review* 8, no. 3 (31 December 2018): 256, doi:10.15742/ilrev.v8n3.510.

³¹ Suparman Marzuki, 'Politik Hukum Hak Asasi Manusia Tentang Kebebasan Beragama Pasca Orde Baru', *Jurnal Hukum Ius Quia Iustum* 26, no. 2 (22 August 2019), doi:10.20885/iustum.vol26.iss2.art1.

³² Osgar S. Matompo, 'Pembatasan Terhadap Hak Asasi Manusia Dalam Prespektif Keadaan Darurat', *Jurnal Media Hukum* 21, no. 1 (2014).

³³ Heiner Bielefeldt, *Politik Kesetaraan; Dimensi-Dimensi Kebebasan Beragama Atau Berkeyakinan*, 1st ed. (Bandung: Mizan, 2019).



One of them is Article 28E paragraph (1). which reads, “*Setiap orang bebas memeluk agama dan beribadat menurut agamanya, memilih pendidikan dan pengajaran, memilih pekerjaan, memilih kewarganegaraan, memilih tempat tinggal di wilayah negara dan meninggalkannya, serta berhak kembali (Every person is free to embrace religion and worship according to his religion, choose education and teaching, choose work, choose citizenship, choose a place to live in the territory of the country and leave it, and has the right to return).*” Apart from that, there is also article 28E paragraph (2), which reads, “*Negara menjamin kemerdekaan tiap-tiap penduduknya untuk memeluk agama (Everyone has the right to freedom to believe in beliefs, express thoughts and attitudes, by his conscience).*” The two articles above clearly explain that carrying out religious rituals is a fundamental human right. These fundamental rights should no intervention by any party. This right includes the right to choose and embrace a particular type of religious belief.³⁴

In realizing the implementation of the two articles above, the constitution states to take an active role. This mandate is regulated by law, specifically Article 29 Paragraph (2): “The State guarantees the freedom of each of its residents to embrace religion.” If we look more closely, the article above shows clearly that human rights occupy a central portion of the position regarding religious freedom in Indonesia. From a human rights perspective, every individual or citizen is a rights holder, while the state, in this case, the government, is a duty bearer. In this context, the state is bound by three obligations, which include respect (responsibility to respect), protection (obligation to protect), and fulfillment (obligation to fulfill) of the right to religious freedom of every citizen, both in terms of practicing worship and the right to embrace a specific type (belief) of religion. Meanwhile, individuals, on the other hand, are bound by the obligation not to interfere with the

human rights of other individuals, in this case, a particular type of religious belief or beliefs.³⁵

Suppose we relate the explanation above to the main problem of this research. In that case, what happened to the Shiite community in Madura can be read as a violation of the right to religious freedom. All forms of intervention that have been carried out by many parties demanding that former Shia adherents stop their religious activities, forcing them to abandon their beliefs and convert to Sunni, all these forms of behaviors are clearly and nakedly contrary to the constitution and laws. In 28E paragraph (1), it is clearly stated that every citizen has full authority to believe in the teachings of a particular religion and carry out worship activities according to their beliefs.³⁶ This authority is entirely inherent in him, and he has carried it since birth. As a coded authority, no one can intervene, pressure, or coerce, let alone by utilizing power and mass mobilization.³⁷

Apart from being contrary to the constitution or legislation, what happened to former Shia Sampang residents is also a form of violation of human rights. It is a form of abuse of human rights principles in the most fundamental and elementary meaning and context. The authority to choose and embrace one's beliefs is a non-derogable right for Shia. Their right to become Shia followers is an absolute choice; its fulfillment must not be reduced by the state under any conditions and circumstances, even in situations of chaos or war. Therefore, in the case of the Sampang Shiareidents, when the state, in this case, the Sampang Regency government and the East Java Provincial Government, 'expels' Shiapeople from their hometowns on the pretext of security and conduciveness, this cannot be justified at all, and is even legally flawed. From a human rights perspective, it is clearly stated that in terms of freedom of religion, the state is obliged by law to protect (obligation to watch), respect

³⁴ Sodikin, ‘Hukum Dan Hak Kebebasan Beragama’, *Jurnal Cita Hukum* 1, no. 2 (2013).

³⁵ Febri Handayani, ‘Konsep Kebebasan Beragama Menurut Uud Tahun 1945 Serta Kaitannya dengan HAM’, n.d., 20.

³⁶ Victorio H Situmorang, ‘Kebebasan Beragama Sebagai Bagian dari Hak Asasi Manusia’, *Jurnal HAM* 10, no. 1 (19 July 2019): 57, doi:10.30641/ham.2019.10.57-67.

³⁷ Pieter Radjawane, ‘Kebebasan Beragama sebagai Hak Konstitusi di Indonesia’, *Jurnal Sasi* 20, no. 1 (2014): 7.

(obligation to respect), and fulfill (obligation to guarantee) the right to freedom of religion for all its citizens, including former Shia followers of Sampang. In Indonesia, the human rights mandate is also confirmed by the existence of Article 29 Paragraph (2), which states that the state is obliged by law to take a role in it, in the sense of facilitating the realization of religious freedom for ex-Shia adherents, both in regulatory, legal and institutional terms.

For the majority group, the self-loathing taken by ex-Shia adherents to convert to Sunni teachings is a step forward, or perhaps they interpret it as a success in the reconciliation process. This condition is clear evidence of the state's failure to carry out governance at the human rights level. In this case, the state has complete equipment to act as a mediator, mediate, or take swift and firm steps against any group violating laws and human rights. Unfortunately, in the case of the Sampang Madura Shiites, who are in the position of victims, the state seems to be alpha, weak and prefers the safe route.³⁸ As a consequence, the fate of former Shia adherents was left hanging in limbo for a long time. For almost ten years, they lived alone in refugee camps, expelled from their birthplace and uprooted from their socio-cultural environment. In this situation, former Shia Sampang residents in Madura not only experience the emasculation of human rights at the personal level (religious freedom), but more than that, they also experience the emasculation of human rights at the level of welfare. Because while they were refugees, they lost their possessions and valuables in the village that they had worked hard and sweat to obtain.³⁹

³⁸ Tempo.co, 'Tragedi Sampang, 2 Menteri Ke Madura', *Tempo*, 27 August 2012, <https://nasional.tempo.co/read/425781/tragedi-sampang-2-menteri-ke-madura>.

³⁹ Kantor Berita Radio, 'Setahun Pelanggaran HAM Syiah Sampang', *kbr.id*, accessed 3 February 2022, https://kbr.id/berita/01-2013/setahun_pelanggaran_ham_syiah_sampang/33535.html.

⁴⁰ Abd Hannan, 'The Resistance of Conservative Islamic Organizations on the Development of Regional Tourism in Madura', *Jurnal Fuaduna: Jurnal Kajian Keagamaan Dan Kemasyarakatan* 5 (24 July 2021): 1, doi:10.30983/fuaduna.v5i1.4198.

Cases of violations of human rights and the weak role of the state in protecting the rights and freedoms of Madura's former Shiapeople indicate that the existence and reality of religious freedom in Madura are currently in a displeasing condition. Reflecting on various religious events in Madura that have occurred in the last five years, there are signs that the problem is becoming increasingly complicated and chronic as religious intolerance strengthens. A study conducted by Abd Hannan (2021) found that two forms of religious discrimination are currently plaguing the religious traditions of the society in Madura, namely intolerance in the cultural-religious field, such as exclusivism, justifying one's religious group or sect and at the same time blaming or even misleading other groups outside them.⁴⁰ Another thing is intolerance in the political sector; this phenomenon is characterized by the massive use of religious issues and all their symbols of sacredness in the practical political stage (read: identity politics), both in political constellations at the local and national levels. A study conducted by Abd A'la (2020) found that identity politics in Madura has become a current political trend. Ironically, those involved in the identity politics game are not only from (elite) politicians but also involve local religious actors known to have extraordinary influence, such as *Kyai, Lora* (Javanese: *Gus*), and some other figures of pesantren (Islamic boarding school) community.⁴¹ Generally, those who fall into this circle are Islamic boarding school communities that are culturally surrounded by several values of conservatism and authoritarianism.⁴²

⁴¹ A F Mursyidi and Abd Hannan, 'Nahdlatul Ulama, Pesantren, and Their Contribution to Strengthening National and State Buildings in Indonesia', *NAHNU: Journal of Nahdlatul Ulama and Contemporary Islamic Studies* 1, no. 1 (2023); Ali Topan and Abdul Hakim, 'The Role of Local Religious Figures (Kiai) in Strengthening Political Participation in Post-New Order Madura 1998-2019', *NAHNU: Journal of Nahdlatul Ulama and Contemporary Islamic Studies* 1, no. 1 (2023).

⁴² Abd A'la and Ahwan Mukarrom, 'Power-Knowledge Relations of the Elder and the Younger Madurese Muslim Scholars in Propagating Islamism in Madura: A Counter-Narrative', *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* 10, no. 1 (2020).

Conclusion

The reality of the religious life of the Sampang Shia is still far from expectations; their status as a minority group means that their existence often experiences adverse treatment. Starting from terror, threats of violence, and destruction of worship facilities to religious interventions. The peak was their expulsion from their home village, requiring them to flee outside the area for quite a long time. And now, even though they have pledged allegiance by declaring that they have left the Shia sect and converted to Sunni, the former Sampang Shia adherents still feel worried and afraid. The stigma of being ex-Shia means that their existence and religious activities often receive scrutiny from society and certain Islamic groups. From a human rights perspective, the series of cases among former Sampang Shia residents violated the 1945 Constitution and the spirit of human rights. In this case, it is related to the right to freedom of religion as clearly stated in Article 28E paragraph (1) and Article 29 Paragraph (2). The various acts of violence and terror that former Shiite followers of Sampang Madura have experienced show clearly and concretely that the future of religious freedom in Madura is in a bad, even chronic, situation. The symptoms there are getting more potent along with the massive acts of religious intolerance, which in recent years have increased—both religious intolerance in the form of cultural religion and social discrimination at the political and cultural levels. In the cultural and religious sector, intolerance is characterized by the emergence of religious sentiments that tend to be exclusive. Meanwhile, in the social-religious sector, intolerance is characterized by the massive use of primordial issues (identity politics) in the political constellation stage, both at the electoral and national levels.

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