

Non-Penal Conflict Resolution and Islamic Legal Culture: Evidence from Sunni–Shia in Indonesia

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Abstract

This study aims to analyze the potential success of a religion-based conflict-resolution approach grounded in non-penal policies of Islamic legal culture. The use of this method is important for resolving the Sunni-Shia conflict in Sampang Regency. This study contributes to the development of guidelines for regional governments on the use of non-legal policies to resolve religious conflicts. This study uses empirical legal research methods with a socio-legal and anthro-legal approach. The findings of this study reveal that penal policies for conflict resolution are ineffective in resolving conflicts quickly and only perpetuate stigma regarding which religious sects are right and which are heretical. This study also reveals that, when attempting to resolve and prevent disputes, non-penal methods grounded in Islamic legal culture are more effective in resolving religious conflicts more quickly and peacefully, with a

familial approach, while avoiding violent means in resolving religious sectarian differences. This study concludes that the non-penal approach should be strengthened by assigning a role to local actors within the Madurese tradition to conduct the resolution process, so that former Shia followers, who are still being rejected, can be appropriately addressed. This study recommends that the government adopt a non-penal approach to facilitate the immediate completion of the post-conflict reconciliation and reconstruction process.

KEYWORDS *Islamic Legal Culture, Religious Conflict, Sunni-Shia, Post-Conflict Reconciliation*

Introduction

Although the process of repatriating former Shia followers to Sampang Regency has been carried out in two stages, namely on 4 May 2023 with 265 people and on 29 April 2022 with 52 people, there are still 25 former Shia followers who have not been able to return to their hometowns. Those who have not yet returned are scheduled to do so in the third phase, scheduled for 2024.¹ The three-stage repatriation program, intended to run from 2022 to 2024, is the result of an agreement between the Sampang Regency government, religious leaders, and former Shia adherents after the declaration of repentance on 6 November 2020.² The pledge of repentance was an absolute condition imposed by the community surrounding the conflict, enabling the refugees to return to their hometowns.³

Many factors have caused the delay in this third phase of repatriation, ranging from housing issues, lack of agreement on repatriation funding between the Sampang Regency Government and the East Java Provincial Government to the continued rejection by several community groups of individuals considered to be key figures in the Shia sect.⁴ Among the three

¹ Nadia Farabi, "Addressing the Challenges of Heresy in Peacebuilding: Evidence from the Ahmadiyya and Shia in Indonesia," *Conflict, Security & Development* 25, no. 1 (2025): 113–131.

² Abdus Sair and Yelly Elanda, "The Cultural Negotiation of Being Shia and Madurese: How It Can Be Reconciled?," *Islamuna: Jurnal Studi Islam* 8, no. 1 (2021): 40–59.

³ Mukhlis Mukhlis et al., "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia," *Lex Scientia Law Review* 7, no. 2 (2023): 959–994.

⁴ Maskuri, Fita Mustafida, and M. Fahrudin Andriyansyah, "The Portrait of Social Capital and Conflict Reconciliation for Peace in Sunni-Shia Relationships: Evidence

causes of the delay in the return, the most serious is the continued rejection of several former Shia adherents by religious and community leaders in the conflict zone. This rejection contradicts the previous agreement, which was a condition for the return of former Shia adherents and required proof of their commitment to practicing Sunni teachings and practices for two years. This requirement has been fulfilled through the seriousness with which worship and religious practices are practiced in accordance with Sunni teachings.⁵

This rejection also hampered the reconciliation and reconstruction process, which had previously been peaceful and smooth, prioritizing a spirit of kinship and familiarity. This indicates that non-punitive efforts grounded in a cultural approach are the most effective means of resolving the Sunni-Shia conflict in Sampang District.⁶ This pattern of resolution has achieved a peace agreement and repentance and has also repatriated former Shia followers to their hometowns in two stages.⁷

This study aims to reconstruct and accelerate a post-conflict reconciliation model to generate policy recommendations and/or policy documents that local governments can use to expedite the return of former Shia followers. This research is urgent because it is directly related to the fate of several former Shia followers who currently still live in refugee camps.⁸ In addition, this research is urgent because the resulting product will accelerate the resolution of cases currently in the reconciliation stage.⁹

Trends in the development of studies on religious conflict, religious freedom, and Islamic law within contemporary academic discourse reveal a consistent pattern of publications over the past 15 years. This is based on a bibliometric mapping of Scopus-indexed publications using *Biblioshiny-R*.

from Sampang Madura, Indonesia,” *Journal of Ecohumanism* 3, no. 8 (2025): 2505–2520.

⁵ Mukhlis Mukhlis et al., “The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura,” *De Jure: Jurnal Hukum Dan Syar’iah* 16, no. 1 (2024): 58–87.

⁶ Suheri Suheri, “A Contested Freedom of Religion or Belief (FoRB) under the Majority Power: The Dynamics of Shia Community in Indonesia,” *Walisongo: Jurnal Penelitian Sosial Keagamaan* 32, no. 2 (2024): 153–170.

⁷ Achmad Zuhdi Dh and Imam Ghazali Said, “The Shia-Sunni Adhān: A Call to Defending Sectarian Craving for Islamic Authority,” *Indonesian Journal of Islam and Muslim Societies* 14, no. 1 (2024): 1–30.

⁸ Imran Imran, Siti Syamsiyatun, and Dicky Sofjan, “Conversion Within Islam: Becoming Shia in Majority Sunni in Indonesia,” *Indonesian Journal of Interdisciplinary Islamic Studies* 6, no. 1 (2023): 1–26.

⁹ Farabi, “Addressing the Challenges of Heresy in Peacebuilding: Evidence from the Ahmadiyya and Shia in Indonesia.”

This mapping is not intended to shift the focus of the article towards bibliometric studies, but rather to highlight the current state of research, the direction of thematic development, and the gaps that remain in the academic debate regarding the three themes mentioned above.

FIGURE 1. Annual Scientific Production in Scopus-indexed Journals

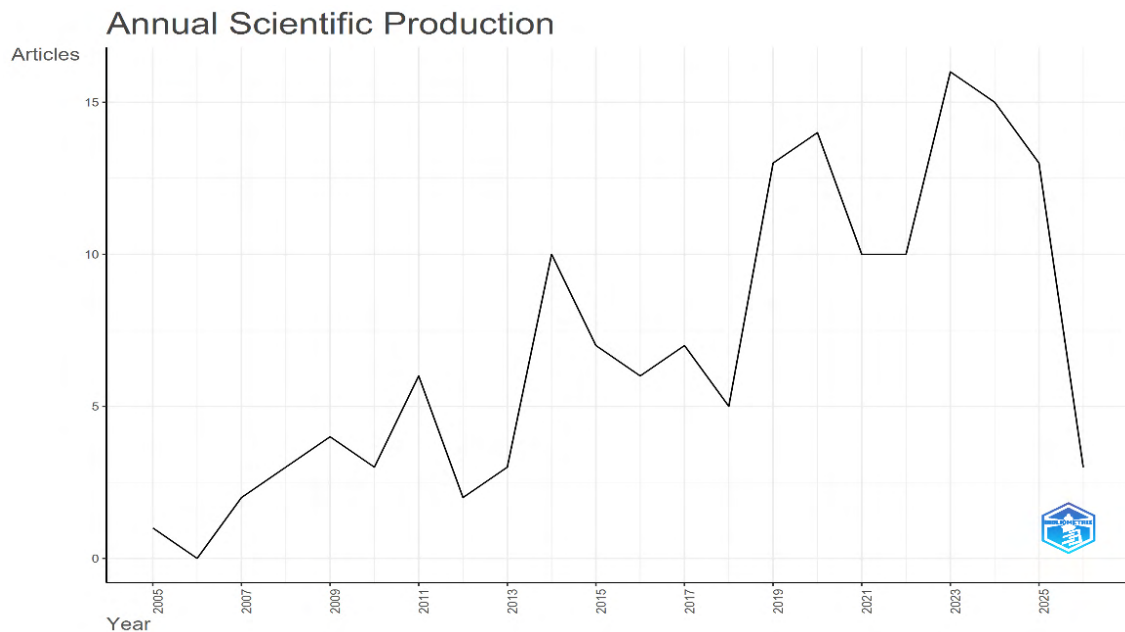
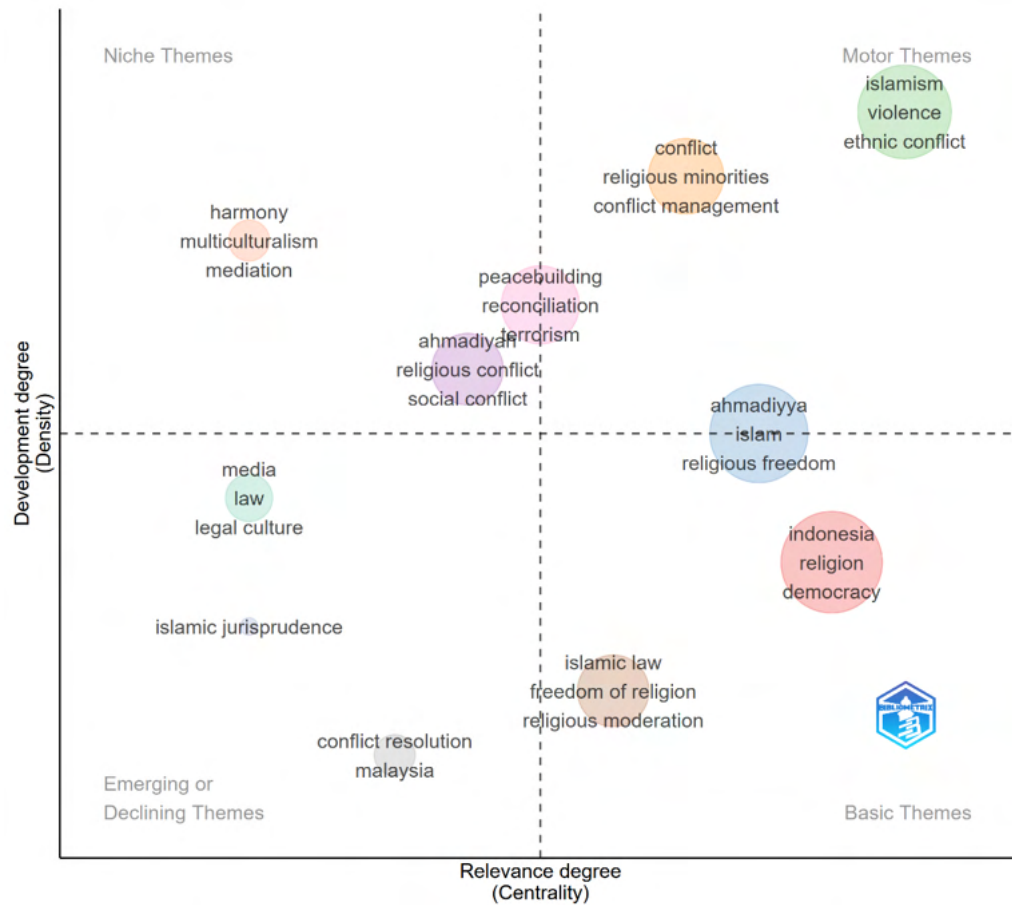


Figure 1 shows an upward trend in the number of scientific publications year-on-year. In the early period (2005–2013), the number of articles remained relatively low and unstable. Significant growth occurred in 2014 and peaked in 2023, indicating increasing academic interest in this topic. Overall, the graph shows that the research theme has gained momentum and is becoming increasingly relevant in scientific studies.

In addition, the themes emerging in academic discussions within the field of religious rights and freedoms and the resolution of religious conflicts centre on topics such as Islamism, violence, ethnic conflict, religious minorities, and conflict management, as shown on Figure 2. However, non-penal approaches remain a topic that has been under-explored by researchers. Thus, the theme proposed by the authors can fill this gap and offer a cultural approach as a solution to the resolution of religious conflicts.

FIGURE 2. Emerging Themes on Religious Rights and Freedoms



This research is intended to fill a gap in research that has not been discussed by other researchers, as most previous researchers have only discussed the fulfilment of rights to religious freedom, as researched by Ken Miichi and Yuka Kayane (2020), who specifically discussed the difficulties faced by minorities such as Shia in defending their basic rights to religion, including fundamental rights in the midst of raging conflict.¹⁰ A'an Suryana (2019) also researched this area, but his study focused on the involvement of the state, which was considered to have supported and provoked acts of violence against Shia followers in Sampang Regency.¹¹ Meanwhile, Rachmah Ida and Mohammad Saud (2021) researched violence and discrimination

¹⁰ Ken Miichi and Yuka Kayane, "The Politics of Religious Pluralism in Indonesia: The Shi'a Response to the Sampang Incidents of 2011–12," *TRaNS: Trans -Regional and -National Studies of Southeast Asia* 8, no. 1 (2020): 51–64.

¹¹ A'an Suryana, "State Officials' Entanglement with Vigilante Groups in Violence against Ahmadiyah and Shi'a Communities in Indonesia," *Asian Studies Review* 43, no. 3 (2019): 475–492.

against Shia women, who remained loyal to Shia teachings even though they were forced to live in refugee camps.¹²

A slightly different study was conducted by Maskuri et al. (2025), who attempted to reconstruct the role of culture and social communities in supporting the success of reconciliation efforts after the return of former Shia followers in Sampang Regency.¹³ The theme most closely resembling the studies above is Maskuri's research, which also addresses the role of local government in supporting the reconciliation process following the return of former Shia adherents. However, this study focuses solely on efforts to achieve peace and to fulfill the right to freedom of religion, while the author's analysis focuses on reconstructing non-penal methods to accelerate the return of former Shia followers to Sampang Regency. Thus, the novelty of this study lies in the non-penal model and/or method employed to resolve the Sunni-Shia conflict in Sampang Regency. This research aims to demonstrate that a non-penal approach grounded in local wisdom is more effective than the penal approach widely used by the state in resolving religious conflicts.

This study aims to formulate a model for resolving Sunni-Shia conflicts based on local wisdom, particularly regarding efforts to maximize the role of local government and local figures in resolving this issue, in line with religious conflict-resolution practices that have become a tradition in Madura. Consequently, the focus of this study lies in examining the roles of local figures and local government in preventing religious-based conflicts within the Madura legal tradition, as well as how this is contextualized in efforts to expedite the resolution of such conflicts following the return of former Shia adherents to Sampang Regency.

This study uses empirical legal research methods with a socio-legal¹⁴ and anthropological-legal¹⁵ approach. The socio-legal approach aims to determine the community's response to the requirement to apply state regulations in resolving religious conflicts between Sunnis and Shiites in Sampang Regency,

¹² Rachmah Ida and Muhammad Saud, "The Narratives of Shia Madurese Displaced Women on Their Religious Identity and Gender Citizenship: A Study of Women and Shi'as in Indonesia," *Journal of Religion and Health* 60, no. 3 (2021): 1952–1968.

¹³ Maskuri, Mustafida, and Andriyansyah, "The Portrait of Social Capital and Conflict Reconciliation for Peace in Sunni-Shia Relationships: Evidence from Sampang Madura, Indonesia."

¹⁴ Sally Wheeler, "Socio-Legal Studies in 2020," *Journal of Law and Society* 47, no. S2 (2020): S209-S226.

¹⁵ V. S. Blikhar and R. F. Gryniuk, "Transformation of Anthropological Legal Values of Human Existence under Conditions of War," *Anthropological Measurements of Philosophical Research*, no. 25 (2024): 15–25.

particularly regarding the implementation of Article 156a of the Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP). This study also serves as a critique of the stagnation of the provisions on blasphemy in Law No. 1 of 2023 on the Criminal Code (National Criminal Code), as the threat to religious minority sects remains in place, as set out in Article 302(1) and (2) of the National Criminal Code. This article is closely related to Law No. 1/PNPS/1965 on the Prevention of Religious Abuse and/or Blasphemy. Meanwhile, the anthropological-legal approach is used to identify models for resolving religiously based conflicts grounded in the local traditions of the Madurese community, commonly referred to as the *Bhag-rembhag Sabhala'an* method. This method is considered more effective for resolving disputes safely and nonviolently.

The data was obtained through interviews with several agencies within the Sampang Regency Government, such as the Legal Affairs Division, the Agency for National Unity and Politics, and the village governments of Blu'uran and Karang Gayam. Primary data was also obtained through interviews with several former Shia adherents, both those who had returned to their hometowns and those who had not. Interviews were also conducted with Shia adherents who chose to remain Shia as their religious sect and chose to live outside Madura, with their identities kept confidential by the research team. Thus, this study employs a prescriptive analysis method to achieve the research objective of reconstructing a conflict-resolution model grounded in a non-penal approach based on Islamic legal culture. This resolution model is considered ideal because it is grounded in the traditions of the Madurese community, which have been used to resolve religious conflicts.

Islamic Legal Culture and Its Urgency in the Sunni-Shia Conflict Resolution Process in Sampang Regency

According to Lawrence M. Friedman, legal culture is the collective attitudes of a society that shape the application of law within that society.¹⁶ Legal culture is one of the three main components of the legal system, along with legal structure and legal substance.¹⁷ Legal culture encompasses the

¹⁶ Lawrence M. Friedman and Harry N. Scheiber, "Legal Cultures and the Legal Profession: Introduction," in *Legal Culture and the Legal Profession* (New York: Routledge, 2021), 1–6.

¹⁷ Robert A. Kagan, "American Lawyers, Legal Culture, and Adversarial Legalism," in *Legal Culture and the Legal Profession* (New York: Routledge, 2021), 7–51.

attitudes, values, and expectations of a community regarding the law and the legal system.¹⁸ This includes how people think about the law, how they respond to it, and how they use or even avoid it.¹⁹

Islam, as a way of life,²⁰ not only regulates ritual worship but also provides a comprehensive framework for all dimensions of life, including law.²¹ The development of Islamic law cannot be separated from the social and historical context in which the *fuqaha* (jurists) lived. For example, differences among Islamic schools of jurisprudence (mazhabs) often reflect cultural and social variations across regions. Al-Shafi'i, for instance, revised some of his views (from *qaul qadim* to *qaul jadid*) after relocating from Baghdad to Egypt, which demonstrates how changes in the cultural environment influenced his thinking.²²

Therefore, the relationship between legal culture and Islam is dynamic and mutually influential.²³ Islamic law not only provides a normative framework but also interacts with local cultures, adopting elements that are in harmony with them and shaping the values embraced by society.²⁴ Conversely, a society's legal culture shapes how Islamic law is understood, interpreted, and applied in everyday life, thereby creating distinctive and locally relevant forms of law.²⁵

¹⁸ Henny Saida Flora, Mac Thi Hoai Thuong, and Ratna Deliana Erawati, "The Orientation and Implications of New Criminal Code: An Analysis of Lawrence Friedman's Legal System," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 113–125.

¹⁹ Susan S. Silbey, "Legal Culture and Legal Consciousness," in *International Encyclopedia of the Social & Behavioral Sciences* (Leiden, The Netherlands: Elsevier, 2015), 726–733.

²⁰ Mohammad Rahman, "Islam: The Complete, Functional and Practical Guide to Life," *International Journal of Education, Culture and Society* 9, no. 3 (2024): 87–108.

²¹ George Mousourakis, "Continuity, Diversity, and Change in the Islamic Legal Tradition," in *Traversing Legal Traditions: Perspectives on Comparative Law and Legal History* (Cham: Springer Cham, 2025), 247–271.

²² Abd. Manaf et al., "The Tarjih Method of Imām Nawāwi in Resolving Differences of Opinion in the Shāfi'i School of Thought," *Al-'Adalah* 21, no. 2 (2024): 299–322.

²³ Suud Sarim Karimullah, "From Tradition to Mainstream: Understanding the Integration of Islamic Law in Various Global Settings," *Justicia Islamica* 20, no. 2 (2023): 214–240.

²⁴ Akhmad Farid Mawardi Sufyan and Kamil Strzepek, "Gender Equality and Divorce: Legal Guarantees of Women's Rights and Their Misuse in Traditional Muslim Communities," *Journal of Indonesian Constitutional Law* 2, no. 3 (2025): 428–451.

²⁵ Emine Enise Yakar, *Islamic Law and Society: The Practice Of Iftā' And Religious Institutions* (London: Routledge, 2021).

Islamic legal culture refers to the system of values, principles, and regulations rooted in Islamic teachings, as recorded in the Qur'an and the hadith of the Prophet Muhammad. As a holistic legal system, Islamic legal culture not only covers formal legal aspects but also regulates the lives of individuals and communities in various dimensions, such as religion, politics, social, economic, and culture.²⁶ The principles of Islamic law, including justice, equality, compassion, and cooperation, form the moral and ethical foundation for individual behaviour and community governance within Islamic legal culture.²⁷

The Sunni-Shia conflict in Sampang Regency, East Java. This conflict had been simmering for years and culminated on 26 August 2012. At that time, there was an attack by Sunni followers against Shia followers in Karang Gayam Village, Omben Subdistrict, Sampang Regency, resulting in 1 person dead, another critically injured, dozens of people wounded, and 50 houses burned down.²⁸ As a result of this attack, hundreds of Shia followers had to be evacuated to other areas.²⁹ Until the end of 2020, there were still many Shia refugees in camps who were unable to return after years of living in exile due to rejection by Sunni residents in their hometowns. At the end of 2020, 274 Shia refugees took an oath to become Sunni, and 21 other refugees decided to remain Shia.³⁰ By converting to Sunni Islam, they hoped to return to their homes, although there was no guarantee that they would be welcomed back by the local community. This long-running conflict has involved theological, social, and even political aspects.³¹ Islamic legal culture has significant urgency, both as a root cause of the problem and as a potential solution.

In the context of the Sunni-Shia conflict in Sampang, Islamic legal culture is not merely the "background" to the conflict, but rather the battlefield and, at the same time, the tool for resolution. Islamic legal culture

²⁶ Rustamjon Urinboyev, "Islamic Legal Culture in Uzbekistan," *Legal Pluralism and Critical Social Analysis* 55, no. 3 (2023): 402–429.

²⁷ Saber Rashdi, "Islamic Law and Human Trafficking: The Ethical and Legal Frameworks," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 9, no. 1 (2024): 47–60.

²⁸ Gilang Ramadhan, "Majority Religious Politics: The Struggle for Religious Rights of Minorities in Sampang, Madura," *Simulacra* 5, no. 1 (2022): 17–28.

²⁹ Moh. Soleh et al., "Handling and Recovery of Religious Conflict Victims by Local Governments in Indonesia; A Study of Sunni-Shi'a Conflict in Sampang and Pasuruan," *Trunojoyo Law Review* 6, no. 2 (2024): 159–188.

³⁰ Abd Hannan, "Conflict Resolution and the Violation of Religious Freedom: A Narrative from Madura," *Jurnal Penelitian Keislaman* 19, no. 2 (2023): 186–205.

³¹ Miichi and Kayane, "The Politics of Religious Pluralism in Indonesia: The Shi'a Response to the Sampang Incidents of 2011–12."

is crucial to resolving the Sunni-Shia conflict in Sampang because it offers a contextual, peaceful approach rooted in local culture. An inclusive and dialogical Islamic legal culture is not only capable of reducing conflict but also of building sustainable reconciliation.³² Therefore, this approach must be encouraged and mainstreamed by local governments, religious leaders, and Islamic educational institutions.

Islamic legal culture offers a more humanistic, restorative, substantive, and religious approach than a purely positivist one.³³ The Sunni-Shia conflict in Sampang is a complex issue with historical, theological, and sociological roots. In this context, Islamic legal culture is of great urgency in conflict resolution efforts, as religious differences in Sampang often stem from divergent interpretations and practices between Sunni (especially the dominant Nahdlatul Ulama) and Shia groups. Issues such as the status of the Prophet's companions, *imamah*, and religious rituals are sources of friction.³⁴ Therefore, by understanding Islamic legal culture, we must accurately identify each party, use mediators who can precisely identify sensitive theological points, and find ways to engage in constructive dialogue or manage these differences. This allows for a resolution that addresses the root of the problem, not just the symptoms, and also identifies the fundamental differences in legal interpretation and religious beliefs. This enables a more focused approach to finding points of agreement or at least tolerance for differences.

Resolving Sunni-Shia Conflict under State Law

The Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban*: LPSK) identified five leading causes of this conflict, which served as the basis for evaluating criminal law policy. First, fatwas from the East Java *Majelis Ulama Indonesia* (MUI), *Nahdlatul Ulama* (NU), and *Badan Silaturahmi Ulama Pesantren Madura* (BASSRA) declared Shia a heretical sect, triggering stigmatization and violence.³⁵ Second, statements by the

³² Haruna Zagoon-Sayeed, "Tolerance and Peace Building: An Islamic Perspective," *Ghana Journal of Religion and Theology* 12, no. 1–2 (2022): 97–110.

³³ Teddy Asmara and Muhammad Dzikirullah H. Noho, "Religion and Cosmopolitan Society: Religious Conflict Settlement Based on Legal Culture," *Cosmopolitan Civil Societies: An Interdisciplinary Journal* 14, no. 3 (2022): 46–60.

³⁴ Seyyed Abolhasan Navvab, "The Shi'i Minority in Indonesia: A Consideration of Its Historical and Cultural Links and Gaps with the Sunni Majority," *Journal of Shi'a Islamic Studies* 11, no. 3–4 (2018): 201–221.

³⁵ Mukhlis et al., "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia."

former Regent of Sampang rejecting the presence of Shia in his region, legitimizing discriminatory actions. Third, the court's decision against Tajul Muluk was considered biased.³⁶ Fourth, the personal conflict between Tajul Muluk and Roisul Hukama expanded into the communal sphere.³⁷ Fifth, local political dynamics such as the Sampang regional elections exacerbated the situation.³⁸ These findings indicate that a criminal law approach that focuses solely on the perpetrators of violence is insufficient, as this conflict involves complex social, political, and cultural dimensions.

In the context of resolving this case, several verdicts were influenced by fatwas and statements from religious organizations that had long declared and spread the heresy of the Shia sect.³⁹ In criminal justice, the process of resolving cases typically considers only one party's accusations and statements. In contrast, the resolution process should accommodate the statements of both parties in conflict, thereby enabling a proper resolution decision.⁴⁰ The process of resolving Sunni-Shia conflicts in the context of criminal law as shown on Table 1.

TABLE 1. The Process of Resolving the Sunni-Shia Conflict in Sampang in the Context of Criminal Law

Trial Stage	Date / Year	Results or Explanation
Incident & Report	29 December	Tajul Muluk's Islamic boarding school and

³⁶ Leonard Chrysostomos Epafra, Hendrikus Paulus Kaunang, and Syamsul Asri, "Religious Blasphemy and Monitory Society in Indonesian Digital Age," *Jurnal Kawistara* 9, no. 2 (2019): 220-230.

³⁷ Muwaffiq Jufri, "Analisis Putusan Pengadilan Negeri Sampang Nomor 69/Pid.B/2012/PN.Spg. Prespektif Hak Kebebasan Beragama Di Indonesia," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 1, no. 2 (2016): 102-210.

³⁸ Miichi and Kayane, "The Politics of Religious Pluralism in Indonesia: The Shi'a Response to the Sampang Incidents of 2011-12." *See also* Sophie Brown, and Grace Evans. "Religious Minorities and the Indonesian Judiciary: Legal Protection or Institutionalized Discrimination?." *Indonesian Court and Justice Review* 2, no. 3 (2025); Ahmad Fahmi, "Religious Minorities in Indonesia: Theological and Legal Perspectives on Their Rights and Social Justice." *Indonesian Theological Justice Review* 2, no. 4 (2025); Arvan Dalia, and Sebastian Nayla Coren. "Between Morality and Legality: Court Justice and Judicial Interpretation in Blasphemy Cases." *Indonesian Court and Justice Review* 2, no. 4 (2025): 1-29.

³⁹ Al Khanif, *Religious Minorities, Islam and the Law: International Human Rights and Islamic Law in Indonesia* (New York: Routledge, 2020).

⁴⁰ Samsu Rizal Panggabean, "Policing Sectarian Conflict in Indonesia: A Critical Analysis of Its Fatwa on Ahmadiyah and 'Sepilis'," in *Religion, Law and Intolerance in Indonesia* (New York: Routledge, 2016), 271-288.

Trial Stage	Date / Year	Results or Explanation
	2011	residence were burned down by an anti-Shia mob of approximately 500 people.
	3 January 2012	Roisul Hukama (younger brother) reported Tajul Muluk on charges of blasphemy.
Determination of Suspect and Detention	12 April 2012	Tajul Muluk was named a suspect and subsequently detained.
Trial at the Sampang District Court	12 July 2012	Sentenced to two years' imprisonment for blasphemy (Article 156a of the Criminal Code and Article 335 of the Criminal Code).
Appeal Hearing (Surabaya High Court)	10 September 2012	The appeal was rejected, and the sentence was increased to four years' imprisonment.
Cassation to the Supreme Court	3 January 2013	The Supreme Court upheld the decisions of the District Court and the Surabaya High Court (Decision No. 1787 K/Pid/2012).
Judicial Review of the PNPS Law before the Constitutional Court	2013	Judicial review of Article 156a of the Criminal Code / Law No. 1/PNPS/1965; the Constitutional Court declared the law constitutional.

Source: Compiled by the authors based on field research findings

The trial process of Tajul Muluk, from the Sampang District Court, through the appeal at the East Java High Court, to the cassation at the Supreme Court, clearly shows how criminal law policy is implemented in conflicts with religious overtones.⁴¹ The initial sentence of two years' imprisonment, which was then increased to four years at the appeal stage and finally upheld at the cassation stage, shows that the legal approach chosen by the state is a repressive one that places Tajul Muluk as the guilty party on charges of blasphemy. However, when viewed in a social context, this case is rooted in a theological dispute intertwined with local political dynamics and personal rivalries, rather than in a conventional criminal act.⁴²

Criminal law policy has two main functions: enforcement of legal norms (penal policy) and protection of society (social defence). In Tajul Muluk's case, the first function was indeed carried out—the law was enforced through the blasphemy article. However, the second function was neglected. Instead of

⁴¹ Noorhaidi Hasan, "Religious Diversity and Blasphemy Law: Understanding Growing Religious Conflict and Intolerance in Post-Suharto Indonesia," *Al-Jami'ah: Journal of Islamic Studies* 55, no. 1 (J2017): 105–126.

⁴² Melissa A. Crouch, "Law and Religion in Indonesia: The Constitutional Court and the Blasphemy Law," *Asian Journal of Comparative Law* 7 (2011): 1–46.

protecting all citizens, including the Shia community as a minority group, the trial process actually reinforced the stigma that had already been attached through the heretical fatwas issued by the MUI, NU, and the Bassra in Madura. The court's decision seemed to affirm the majority view that Shias had no place in Sampang, thereby further legitimising violence against this group.⁴³

From the perspective of modern criminal law policy, law enforcement in horizontal conflicts should prioritise conflict resolution and the restoration of social relationships (restorative justice) over unilateral punishment.⁴⁴ However, the outcome of Tajul Muluk's trial proves that the state prefers a punitive criminal justice model. In this model, the criminal justice process becomes an arena for “determining who loses”, rather than “finding a mutual solution”. As a result, the conflict remains unresolved; Shia residents remain isolated in refugee camps, social trauma remains unhealed, and relations between residents have become even more strained.⁴⁵

In its findings, the LPSK also emphasised that the criminal law approach used in this case was unable to resolve the root causes of the problem. The leading causes of the conflict—misguided fatwas, discriminatory statements by public officials, biased court rulings, personal conflicts, and local political dynamics—were all beyond the scope of the criminal sanctions imposed on Tajul. In fact, with the imprisonment of a leading figure in the Shia community, their bargaining position has weakened, while the attacking group remains largely untouched by the law. This is contrary to the principles of equality before the law and non-discrimination, which should be the spirit of criminal law policy in a country governed by the rule of law.⁴⁶

Thus, the outcome of Tajul Muluk's trial can be concluded as a reflection of a partial criminal law policy—focusing on punishing individuals who are considered to have violated the blasphemy law but failing to accommodate the protection needs of vulnerable groups, failing to reduce

⁴³ Febrianti Dwi Puspaningrum and Christoper Theovino Adhi, “A Comparative Study of Blasphemy Law in Indonesia and America: Religious and Legal Aspects,” *Contemporary Issues on Interfaith Law and Society* 2, no. 1 (2023): 1–34.

⁴⁴ Elena Maculan and Alicia Gil Gil, “The Rationale and Purposes of Criminal Law and Punishment in Transitional Contexts,” *Oxford Journal of Legal Studies* 40, no. 1 (2020): 132–157.

⁴⁵ Safi' Safi' et al., “Bhag-Rembhag Sabhala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition,” *El-Mashlahah* 14, no. 1 (2024): 95–126.

⁴⁶ Dani Muhtada et al., “The Protection of Civil Rights for the Shi'ite Refugees of Sampang, East Java: A Systemic Governance Approach to Restore the Refugees' Rights,” *Indonesian Journal of Islam and Muslim Societies* 12, no. 2 (2022): 231–256.

social tensions, and failing to prevent the recurrence of similar violence.⁴⁷ Without a policy reformulation that integrates a human rights perspective, respect for pluralism, and dialogue-based conflict-resolution mechanisms, cases such as Sampang will continue to set a harmful precedent in which criminal law exacerbates divisions rather than promoting peace.

Efforts to Resolve the Sunni-Shia Conflict before Acts of Violence Occur

Before the outbreak of religious-based conflict between Sunni and Shia sects in Sampang Regency in 2011 and 2012, several attempts had been made to resolve the conflict by religious leaders and the local government.⁴⁸ This resolution process took place between 2006 and 2011. Some of the initiatives and/or approaches based on Maduran local wisdom are outlined in the Table 2.

TABLE 2. History of the use of local wisdom approaches in resolving Sunni-Shia conflicts in Sampang Regency

Activity	Year	Parties Involved	Results
Meeting initiated by religious leaders in Sampang and Pamekasan Regencies to discuss the existence of the Shia sect in Sampang Regency	2006	Islamic boarding school clerics in Sampang and Pamekasan, Regent of Sampang	Discussion on the stance of religious leaders and local government regarding the presence of the Shia sect in Sampang Regency.
Meeting to seek clarification from Tajul Muluk regarding Shia teachings, held at Landekok Jami' Mosque	2006	Islamic boarding school clerics, Chairman of the Indonesian Ulema Council (MUI); Shia leaders in Sampang	Tajul Muluk stated that Shia teachings are not heretical and declared that he would not leave Shiism.
Meeting initiated by PCNU Sampang to discuss Shia proselytising activities	2009	Chairman of PCNU; Chairman of MUI; Chairman of Bakor Pakem Sampang; Head of the Ministry of Religious Affairs Office	Tajul Muluk agreed to sign a declaration to cease Shia proselytising activities.

⁴⁷ Tim Mann, *Defending Legal Freedoms in Indonesia: The Indonesian Legal Aid Foundation and Cause Lawyering in an Age of Democratic Decline* (London: Routledge, 2024).

⁴⁸ Rafiq Qurrata A'yun, "Religion at the Ballot Box: The Politics of Indonesia's Blasphemy Laws," *Indonesia* 112, no. 1 (2021): 1–29.

Activity	Year	Parties Involved	Results
		of Sampang	
Meeting initiated by the Sampang Regency Government in response to a demonstration at Tajul Muluk's Islamic boarding school	2011	Sampang Regency Government; Regional Intelligence Agency; Regional House of Representatives (DPRD); District Attorney's Office; Sampang Police; Religious leaders	The local government decided to relocate Tajul Muluk to prevent religious conflict.
Meeting initiated by the East Java Regional Police with religious leaders regarding relocation	2011	Chief of East Java Regional Police; PCNU; MUI Sampang	Agreement to relocate Tajul Muluk to prevent religious conflict.
Follow-up meeting by the Sampang Regency Government regarding relocation	2011	Sampang Regency Government; PCNU; MUI; Ministry of Religious Affairs; Military District Command (Dandim 0828); Sampang Police; East Java Regional Police	Tajul Muluk was to be relocated from Karang Gayam Village.
Meeting initiated by Rois Syuriyah PCNU Sampang with the police and local government	2011	PCNU Sampang; MUI Sampang; Sampang Police; Sampang Regency Government	1) The public was prohibited from engaging in anarchic actions and encouraged to adopt a persuasive approach; 2) Agreement on the relocation of Tajul Muluk.

Source: Compiled by the authors based on field research findings

In Table 2 above, it is evident that the conflict resolution process during the 2006-2009 period, conducted through a local wisdom approach, was performed safely and peacefully, and both parties agreed to resolve the issue through family-based deliberation, as stipulated in the Islamic legal tradition in Madura. The conflict escalated until an agreement was reached to relocate Tajul Muluk from Karanggayam Village following a meeting on 4 April 2011. Following the meeting, pressure to relocate Tajul Muluk intensified within the surrounding community.

The emergence of pressure to relocate Tajul Muluk was certainly surprising because before that date, the dialogue process between religious leaders, local government officials and Tajul Muluk had been peaceful and

smooth. It is not surprising that some parties attribute the increased tension between Shia and Sunni followers in Sampang Regency to a personal dispute between Tajul Muluk and his younger brother, Rois Al-Hukama.⁴⁹ This dispute arose in early 2010 and stemmed from Rois Al-Hukama's disagreement with Tajul Muluk's decision to marry Halima to one of Tajul Muluk's followers without Rois Al-Hukama's knowledge. As Halima's direct teacher, Rois believed that he had the right to marry Halima off.⁵⁰

This dispute between brothers then became the starting point for increased tension between Sunni and Shia groups in Sampang Regency. However, when examined objectively, it is unlikely that a dispute triggered solely by disagreement over the decision of the Shia sect leader to marry off his student would have resulted in a more serious disagreement between Tajul Muluk and Rois Al-Hukama. At that time, Rois Al-Hukama held a position in the management of the Indonesian Ahlul Bait Association (IJABI) in Sampang Regency. Indeed, a figure who was an administrator of Ijabi had sufficient capacity in the field of Shiite doctrine and creed so that he would not easily abandon his beliefs just because of a minor dispute. But in fact, as a result of this dispute, Rois Al-Hukama decided to stop being a Shiite follower and chose to join the Sunni group.⁵¹

Non-Penal Policies in Resolving Sunni-Shia Conflicts in Sampang Regency during the Post-Conflict Reconciliation Period

Non-penal (non-punitive/preventive) policies, grounded in Islamic legal culture, for addressing Sunni-Shia conflicts in Sampang Regency, Madura, generally prioritize peacebuilding, mediation, reconciliation, and social accommodation rather than criminal (penal) action alone. using the *Bhag-rembhag Sabhalaan* approach.⁵² This approach seeks to utilise the values and

⁴⁹ Lina A. Alexandra and Alif Satria, "Identifying Hate Speech Trends and Prevention in Indonesia: A Cross-Case Comparison," *Global Responsibility to Protect* 15, no. 2–3 (2023): 135–176.

⁵⁰ Jufri, "Analisis Putusan Pengadilan Negeri Sampang Nomor 69/Pid.B/2012/PN.Spg. Prespektif Hak Kebebasan Beragama Di Indonesia."

⁵¹ A'an Suryana, *The State and Religious Violence in Indonesia: Minority Faiths and Vigilantism* (London: Routledge, 2019).

⁵² Safi' et al., "Bhag-Rembhag Sabhala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition."

institutions of Madurese society, steeped in Islamic culture, to find peaceful solutions.⁵³

Following the Supreme Court's cassation ruling on 3 January 2013, the local government has taken no serious steps to resolve the conflict. The government has focused more on fulfilling the rights of conflict victims who were living in refugee camps in Sidoarjo District. However, several studies by academics and conflict-resolution practitioners have recommended that the government pursue a resolution to enable residents of refugee camps to return to their homes in Sampang District.⁵⁴ Several of these studies also emphasized that the resolution process must be conducted humanely, without coercion. The resolution process must be peaceful, familial, and prioritize local wisdom values.⁵⁵

Following criticism and recommendations from various parties, the Governor of East Java, Khofifah Indar Parawansa, convened a meeting on 11 September 2019 at the East Java Governor's Office with representatives from the central government, the Sampang Regency government, and a team from the East Java Provincial Government.⁵⁶ The meeting then proceeded to the next stage, which involved additional parties, with the primary focus on resolving the conflict and facilitating the return of conflict victims to Sampang Regency.⁵⁷ The process and stages of conflict resolution as shown on Table 3.

TABLE 3. Stages of Conflict Resolution and the Return of Victims

Activity	Date / Year	Parties Involved	Results
Initial coordination	11	Governor of East Java;	Coordination and

⁵³ Uswatun Hasanah, Mohammad Amir Hamzah, and Indien Winarwati, "Development of Non-Litigation Civil Dispute Settlement Model Based on Madurese Local Wisdom to Reduce Cases Accumulation in Court," *Brawijaya Law Journal* 6, no. 1 (April 2019): 115–128.

⁵⁴ Sumanto Al Qurtuby, "Grassroots Peacebuilding in Contemporary Indonesia," in *The Wiley Blackwell Companion to Religion and Peace* (Wiley, 2022), 112–123.

⁵⁵ Mukhlis et al., "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia."

⁵⁶ Maskuri, Mustafida, and Andriyansyah, "The Portrait of Social Capital and Conflict Reconciliation for Peace in Sunni-Shia Relationships: Evidence from Sampang Madura, Indonesia."

⁵⁷ Maskuri Maskuri et al., "The Model of Sunni-Shi'a Conflict Resolution Based on Social Modal Theory at Sampang Madura," in *Proceedings of the 7th International Colloquium on Interdisciplinary Islamic Studies (ICIIS) in Conjunction with the 6th Annual Postgraduate Conference on Muslim Society (APCoMS), ICIIS and APCoMS 2024, 17–18 June 2024, Banjarmasin, Indonesia* (EAI, 2024).

Activity	Date / Year	Parties Involved	Results
meeting at the East Java Governor's Office	September 2019	Head of the Presidential Staff Office (KSP); Sampang Police; Regent of Sampang; Ministry of Religious Affairs of the Republic of Indonesia	agreement to resolve the conflict and repatriate conflict victims.
Meeting with Ahlul Bait Indonesia (ABI) East Java	14 September 2019	Conflict Resolution Team; Chairman and Secretary of ABI East Java	ABI East Java agreed to support the government's conflict-resolution strategy.
Consolidation meeting between the central and regional conflict resolution teams	26 September 2019	Governor and Deputy Governor of East Java; Chief of Staff of the Presidential Office; Regent of Sampang; Reconciliation Team	Ensuring political commitment to end the refugee situation through humane, dignified, and sustainable solutions.
Coordination with PBNU and LAKPESDAM PBNU, Jakarta	6 March 2020	PBNU and LAKPESDAM PBNU	NU became the main driving force in the reconciliation process.
Meeting between the Regent of Sampang and refugees in Sidoarjo	4 May 2020	Regent of Sampang; Chief of Sampang Police; Reconciliation Team; Chairman of the Sampang DPRD; Refugees	Tajul Muluk declared his withdrawal from Shiism and requested assistance for reconciliation.
A follow-up meeting between Kiai, the Regent, and the Chief of Police	11 August 2020	Kiai Pesantren, Regent of Sampang; Chief of Sampang Police	Recommendation for GP Ansor Sampang to meet Tajul Muluk in Sidoarjo.
Meeting between PC GP Ansor Sampang and Tajul Muluk	17 August 2020	PC GP Ansor Sampang; Tajul Muluk; Refugees	Tajul Muluk declared his return to <i>ablussunnah wal jama'ah</i> and recited the <i>shahada</i> .

Source: Compiled by the authors based on field research findings

Tajul Muluk's declaration of leaving the Shia sect, along with the refugees, the reconciliation team continued to hold reconciliation and consolidation meetings involving religious leaders and the Sampang Regency government.⁵⁸ These efforts ultimately bore fruit in the form of Tajul Muluk

⁵⁸ Ramadhan, "Majority Religious Politics: The Struggle for Religious Rights of Minorities in Sampang, Madura."

and his followers reciting a pledge to return to the teachings of Ahlussunnah Waljamaah, which was held at the Sampang Regent's Hall on 5 November 2020. After the recitation of the promise of repentance and the declaration of return to the Sunni sect, the Sampang Regency government and the clerics continued to pursue a family-based approach, aiming to socialise the Shia followers' pledge of repentance so that their return to Sampang Regency could be carried out immediately.⁵⁹ Additionally, this coordination and socialisation are intended to ensure that their return plans are well received by all communities in Sampang Regency, thereby helping to prevent and minimise the potential recurrence of conflicts.

The Sampang Regency Government has also sought to accelerate the resolution of this case by issuing several regional regulations to facilitate conflict reconciliation.⁶⁰ The Regent of Sampang issued several decrees from 2020 to 2024 that addressed reconciliation strategies and the establishment of implementation teams comprising local government officials, religious leaders, security forces, and civil society.⁶¹ This policy is considered quite effective in facilitating the return of former Shia followers to Sampang Regency. It is recorded that 317 former Shia followers have returned, with 52 in the first phase on 29 April 2022 and 265 in the second phase on 4 May 2023.⁶²

The government's efforts to resolve this conflict should be appreciated; at the very least, its seriousness has begun to bear fruit, as evidenced by the return of several former Shia followers to Sampang Regency. However, the process of returning, which requires Shia followers to make a statement of repentance should be criticized because in the context of resolving religious-based conflicts, equality between religious adherents or religious sects should also be an important consideration so that the entire process is in accordance with the guarantee of human rights on freedom of religion as stipulated in several international human rights legal instruments that guarantee the

⁵⁹ Dwi Putri Robiatul Adawiyah, Fifi Listia Sari, and Agoes Moh. Moefad, "Media Framing Analysis and Islamic Minority Sect," *KOMUNIKA: Jurnal Dakwah dan Komunikasi* 15, no. 2 (2021): 253–265.

⁶⁰ Abdul Djamil, "Challenges of Religious Harmony in Indonesia: A Historical Perspective," in *Proceedings of the 2nd International Conference on Democracy and Social Transformation (ICON-DEMOST) 2023* (Springer, 2023), 31–36.

⁶¹ Maskuri, Mustafida, and Andriyansyah, "The Portrait of Social Capital and Conflict Reconciliation for Peace in Sunni-Shia Relationships: Evidence from Sampang Madura, Indonesia."

⁶² Soleh et al., "Handling and Recovery of Religious Conflict Victims by Local Governments in Indonesia; A Study of Sunni-Shi'a Conflict in Sampang and Pasuruan."

fulfilment of the right to freedom of religion and prohibit coercion to adhere to a religion, as explained on Table 4.

TABLE 4. International Human Rights Instruments on Freedom of Religion

Instrument	Article	Norm
Universal Declaration of Human Rights (UDHR)	Article 18	Everyone has the right to freedom of thought, conscience, and religion.
International Covenant on Civil and Political Rights (ICCPR)	Article 18(1)	Freedom to profess a religion and to perform religious rites.
	Article 18(2)	Prohibition of coercion in adopting a religion or belief.
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (DEIDRB)	Article 1(1)	Freedom to practise religion individually or collectively, in public or private.
	Article 1(2)	Prohibition of any form of coercion that undermines freedom of religion or belief.
	Article 2(1)	Prohibition of discrimination based on religion or belief by the state or society.

Source: Compiled by the authors based on international human rights law instruments

Table 5 shows that guarantees of freedom of religion must be upheld under all circumstances, including those that lead to religious tensions. These instruments also prohibit coercion in the practice of religion, as stipulated in Article 18 of the UDHR; Article 18(1) and Article 18(2) of the ICCPR; and Article 1(1) and Article 1(2) of the DEIDRB. Article 2(1) of the ECRI also reaffirms that discrimination based on religion or belief must not be carried out by the state, whether through policy, the enforcement of laws by law enforcement agencies, or by community or religious groups. The obligation to consider the right to freedom of religion in resolving religious conflicts is also regulated in several Indonesian laws, both in the constitution and in subordinate regulations. The regulations in question are as shown on Table 6.

TABLE 6. Regulatory Guarantees in Indonesia Related to the Right to Freedom of Religion

Regulation	Article	Provision
1945 Constitution of the Republic of Indonesia	Article 28E (1)	The state guarantees every citizen's freedom to profess a religion and to practice religious worship.
	Article 28E (2)	State guarantee of freedom of belief.

Regulation	Article	Provision
	Article 28I (1)	Freedom of religion is a non-derogable right.
	Article 28I (2)	Every citizen has the right to be free from discriminatory treatment.
	Article 29 (2)	State guarantee of freedom to adhere to a religion and practise religious rituals.
	Article 22 (1)	Every person has the right to freedom of religion and worship.
Law No. 39 of 1999 on Human Rights	Article 22 (2)	State guarantee of freedom of religion and belief.
	Article 7B	Obligation to respect freedom of religion in social conflict prevention.
Law No. 7 of 2012 on the Handling of Social Conflicts	Article 7D	Obligation to recognise equality without discrimination.
	Article 38 (2)	Obligation of the government to protect vulnerable groups, including religious freedom.
	Article 39 (2) (f)	Obligation of the state to restore places of worship during conflict resolution.
Government Regulation No. 2 of 2015	Article 3A	Obligation of the government to maintain religious harmony during conflict resolution.
	Article 62 (2) (f)	Obligation of the state to provide places of worship during reconciliation and post-conflict reconstruction.

Source: Authors' compilation based on the content of several regulations in Indonesia.

Table 6 above shows that guarantees of religious rights and freedoms must be accessible to citizens in all circumstances, whether at peace or in conflict. In general, such regulations can be found in several regulations, such as in the 1945 Constitution of the Republic of Indonesia in Article 28E (1), Article 28E (2), Article 28I (1), Article 28 (2), Article 29 (1), and Article 29 (2). Meanwhile, several provisions of the Constitution include Articles 22(1) and 22(2) of Law No. 39 of 1999 on Human Rights.⁶³ Meanwhile, specific regulations related to the fulfillment of religious rights and freedoms during conflict resolution, both in the context of internal and external religious freedom, can be found in several regulations, such as Article 7B, Article 7D, Article 38 (2), and Article 39 (2) of Law No. 7 of 2012 concerning Social

⁶³ Muannif Ridwan et al., "Reconciliation of Human Rights, Positive Law, and Siyasa Syar'iyah: An Innovative Approach to Addressing Human Rights Issues in the Contemporary Era," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 463–87.

Conflict Resolution.⁶⁴ Meanwhile, in its derivative regulations, the affirmation of the state's obligation to fulfil the right to freedom of religion in conflict conditions can also be found in Article 3A and Article 62 (2) of Government Regulation No. 2 of 2015 concerning the Implementation Regulations of Law No. 7 of 2012 concerning Social Conflict Management.

Based on the above regulations, both in the international and national contexts, which guarantee the fulfilment of the right to freedom of religion in conflict situations, the conditions set by the communities around the conflict locations, which require Shia adherents to make a repentance pledge (*ikrar taubat*) as a form of sincerity to resolve the case, must be considered a process that is not in accordance with the guarantee of religious rights and freedoms as stipulated in various international human rights instruments and several human rights and conflict resolution regulations in Indonesia. The obligation to declare repentance shows that the conflict resolution process is still based on the paradigm of the religious majority, which considers the presence of religious minorities, such as the Shia, to be a sect that is not in accordance with Islamic traditions and teachings, as believed by the Islamic majority.⁶⁵ This condition clearly considers the Shia community to be the cause of the conflict and also a group that believes in heresy.

Designing a Policy for Resolving Sunni-Shia Conflicts Based on Islamic Legal Culture

In the Islamic legal tradition of Madura, religious conflicts are usually resolved using the *Bhag-rembhag Sabhala'an* method, which focuses on

⁶⁴ Siti Nursyafiqah Binti Hamdan and Rohaida Binti Nordin, "Critique Against the Government: Freedom of Speech and Expression in Malaysia," *Journal of Indonesian Constitutional Law* 2, no. 3 (2025): 299–331. See also Hassan, Ahmed Mohamed, and Nabila Salsabila Rahma. "Religious Minorities and Justice: Legal and Theological Perspectives on Religious Freedom in Indonesia." *Indonesian Theological Justice Review* 1, no. 2 (2024); Luqman, Amira, and Muhammad Shodiqin. "Ethnic and Religious Tensions: Legal Mechanisms for Conflict Resolution in Indonesia's Multi-Ethnic Society." *Indonesian Minority Justice Review* 1, no. 3 (2024); Putra, Elang Dwi, Alex Budi Kurniawan, and Miftahul Jannatil Firdaus. "Islam, Identity, and Democracy: The Discursive Construction of Political Islam in Indonesia." *Indonesian Discourse on Communication, Democracy, and Political Movements* 1, no. 4 (2024); Putra, Mahendra, et al. "Judicial Responses to Minority Rights Violations in Indonesia: Case Studies of Religious and Ethnic Conflicts." *Indonesian Minority Justice Review* 2, no. 4 (2025).

⁶⁵ Akhmad Siddiq et al., "State Failure and The Sunni-Shia Conflict in Sampang Madura," *Al-Albab* 12, no. 2 (2023): 207–224.

bringing the parties together through balanced dialogue.⁶⁶ The parties involved in this resolution process typically consist of the conflicting parties, religious leaders, and government officials.⁶⁷ The contradictory parties and community leaders in rural Madura choose this method for fundamental reasons,⁶⁸ namely to prevent violence due to religious sectarian differences and to position those in conflict on an equal footing without accusations of heresy or other forms of accusation that lead to attempts to demean certain religious groups or sects.⁶⁹

This method relies on the reputations of local figures, such as religious leaders (*kiai*) and community leaders, who are usually represented by the village or sub-district head. The role of *kiai* and community leaders is based on the adage “*Bhuppa’*, *Babu’*, *Ghuru* and *Rato*”,⁷⁰ whereby Madurese tradition commands respect and obedience to these four figures. *Bhuppa’* and *babu’* (father and mother) are parental figures in the Islamic tradition who, by virtue of their significant contributions to child care, deserve respect.⁷¹

Meanwhile, the figure of the *Ghuru* (teacher/*kiai*) has played a significant role in introducing the Madurese to religious teachings and rituals.⁷² The sincerity of the clerics in educating and enlightening the Madurese people in religious knowledge requires them to respect and love their teachers as a form of gratitude for their services, which not only guides them to success in this world but also in the hereafter.⁷³ This respect for teachers is exemplified by Ali

⁶⁶ Safi’ et al., “Bhag-Rembhag Sabhala’an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition.”

⁶⁷ Mohammad Takdir, M. Mushthafa, and Wahyudi Akmaliah, “Forgiveness Therapy as A Religious Conflict Resolution of Violence Conflict (Carok) in Pamekasan Madura,” *KARSA: Journal of Social and Islamic Culture* 29, no. 1 (2021): 199–229.

⁶⁸ Hannan. “Conflict Resolution and the Violation of Religious Freedom: A Narrative from Madura.”

⁶⁹ Mukhlis et al., “The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura.”

⁷⁰ Eugenia Brandao Da Silva and Lin Asyiqoh, “The Idea of Legal Pluralism in Dispute Resolution of Village Head Election in Madura,” *Journal of Indonesian Constitutional Law* 1, no. 1 (2024): 61–83.

⁷¹ Ahmad Ahmad Yusuf Sobri, “Leadership Values in Madurasee Culture,” in *Proceedings of the 2nd International Conference on Educational Management and Administration (CoEMA 2017)* (Paris, France: Atlantis Press, 2017).

⁷² Moh Hefni Moh Hefni, “BHUPPA’-BHÂBHU’-GHURU-RATO (Studi Konstruktivisme-Strukturalis tentang Hierarkhi Kepatuhan dalam Budaya Masyarakat Madura).” *KARSA Journal of Social and Islamic Culture* 11, no. 1 (2007): 12–20.

⁷³ Ach. Khoiri et al., “The Role of *Kiai* and *Blater* in the Regional Election in Madura: Discourse on Legal Culture,” *Trunojoyo Law Review* 6, no. 2 (2024): 211–233.

ibn Abi Talib, who stated emphatically that he was a slave before his teacher, even though the teacher had taught him only a little. Ali's statement attests to the scholar's nobility, whose existence should be valued and respected. Therefore, for the Madurese community, respect for a kiai (*ghuru*) is essential, as Islam requires respect for scholars.⁷⁴

Furthermore, obedience to *Rato* (government officials) is grounded in the Madurese people's view of life, which values the government's role in ensuring that daily activities proceed safely and smoothly, supported by regulations and policies that prevent actions that disrupt or endanger the community.⁷⁵ The functions of ruling and leading in government institutions are considered roles not readily accessible to everyone, as only selected individuals are capable of performing them.⁷⁶ Therefore, their existence must be respected and appreciated, and their commands obeyed, because their goal is believed to be the realization of the community's security and welfare. This tradition is reinforced by Islamic teachings, which require followers to respect and obey their leaders as commanded in QS Annisa (59).⁷⁷ For these reasons, the Madurese people respect and honor their government leaders and even regard them as figures whose orders must be obeyed in efforts to establish policies oriented towards the welfare of the community.⁷⁸ This tradition of respect has also developed into the *Bhag-rembhag Sabhala'an* method, a means of resolving religious conflicts in Madura that takes into account the views of government officials as illustrated on Figure 3.

⁷⁴ Ach. Sayyi, Imaniyatul Fithriyah, and Shahibul Muttaqien Al-Manduriy, "Child-Friendly Islamic Education Based on Local Wisdom," *Proceedings of Annual Conference for Muslim Scholars* 9, no. 1 (2025): 276–295.

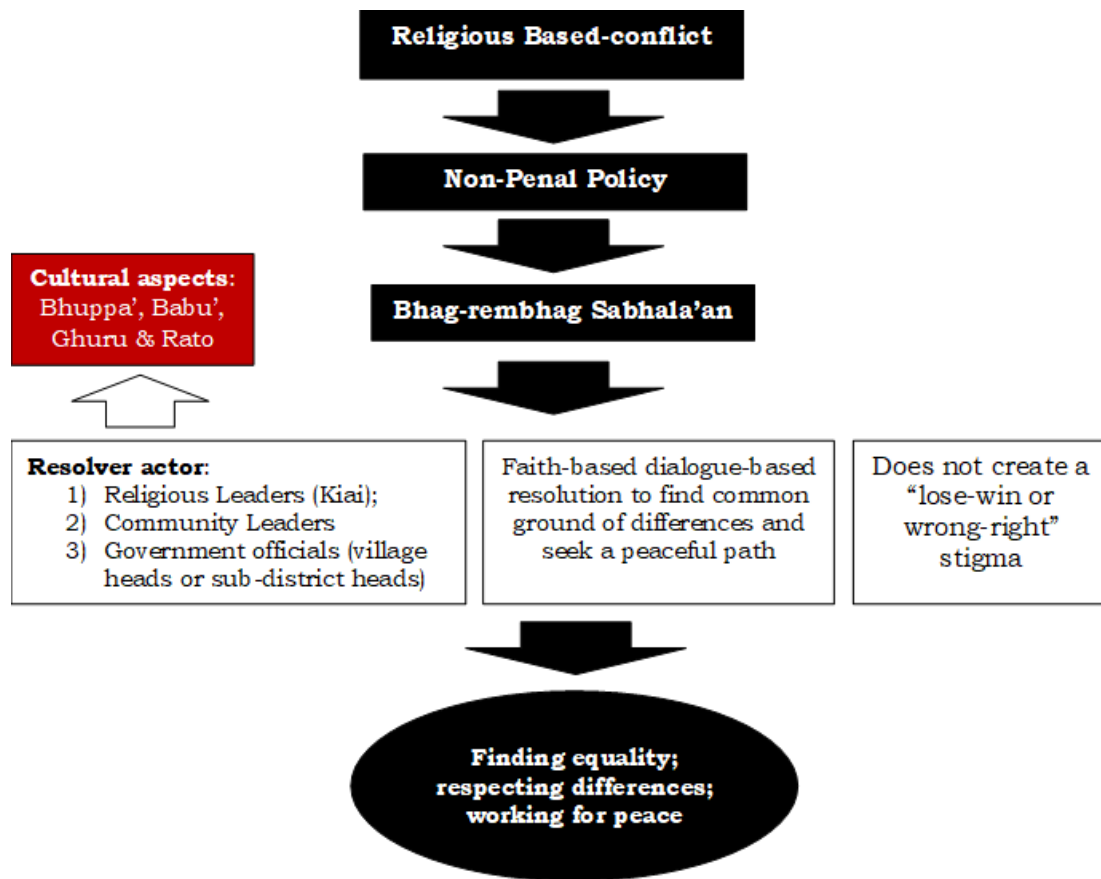
⁷⁵ Iswahyudi Iswahyudi, "Cosmology and Social Stratification of the Madurese Population in the XIX Century," *Cogent Arts & Humanities* 9, no. 1 (2022): 2104798.

⁷⁶ Susantin et al., "Rokat Pandhaba Tradition as a Local Legal System from Clifford Geertz's Perspective in Madura."

⁷⁷ Prianto Budi Saptano, Ismail Khozen, and Ferry Jie, "Obedience to Uli'l-Amr and Tax Compliance: Islamic Scholarly Perceptions," *Journal of Islamic Thought and Civilization* 13, no. 1 (2023): 103–118.

⁷⁸ Safi' et al., "Bhag-Rembhag Sabhala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition."

FIGURE 3. Model for Resolving Religious Conflicts Through *Bhag-rembhag Sabhala'an* method



This *Bhag-rembhag Sabhala'an* approach has, in fact, been applied in several religious conflicts in Madura. However, these cases did not go viral because they were resolved through amicable settlements, as highlighted on Table 7.

TABLE 7. Some religious conflicts are resolved through the *Bhag-rembhag Sabhala'an* method

Case	Essence of the Conflict	Parties Involved
A conflict between Sunni and followers of the "Kajian Falsafah Hidup dalam Satu Bahasa Agama" movement in Dasok Village, Pademawu Sub-district, Pamekasan Regency, in 2013.	1) The concept of "Ibnullah", which is considered to be contrary to Islamic doctrine; 2) Deviant practices and rituals, such as not observing the obligatory prayers and fasting.	<i>Kiai Kampung</i> (Village clerics), the village head, the Pademawu police station, and the head of the Pesantren
The conflict between Sunni Muslims and the "Seroja" sect that occurred in Pagagan Village, Pademawu Subdistrict, Pamekasan Regency, in 2016	The existence of prohibition and incitement to hatred against Sunni Muslims who perform rituals such as tahlil, qunut, maulud, etc.	<i>Kiai Kampung</i> and the village head

Case	Essence of the Conflict	Parties Involved
The conflict between Sunni and followers of the “ <i>Nganyareh Syahadat</i> ” doctrine, which took place in the village of Larangan Tokol, Tlanakan Sub-district, Pamekasan Regency, in 2008	The prohibition of religious rituals such as <i>qunut</i> , <i>tahlilan</i> , etc., and the call to renew tauhid (purify the faith)	<i>Kiai Kampung</i> , village heads, the Tlanakan Police Station, and pesantren heads.

Source: Compiled by the authors based on field research findings

In the case of the Sunni-Shia conflict in Sampang Regency, the *Bhag-rembhag Sabhala'an* method had actually been practiced since the early days, when Shia teachings were first preached to the general public by Tajul Muluk in 2004. This was a follow-up to his father's earlier call (since 1980) to embrace Shi'ism.⁷⁹ Kiai Makmun's preaching to his extended family, relatives, and the general public was conducted cautiously, anticipating resistance and rejection from the community, given the intense fanaticism among the people and religious leaders in Madura toward the Sunni sect of Islam. After Kiai Makmun's death, the preaching to encourage the community to embrace Shi'ism was continued by his son (Tajul Muluk) with a different approach. While Kiai Makmun preached cautiously, only to his family and relatives, Tajul Muluk preached Shia teachings openly and publicly, targeting all segments of society in the villages of Blu'uran, Karang Penang District, and Nangkrenang, Omben District, Sampang Regency.⁸⁰

Tajul Muluk's model of preaching, which openly invites people to embrace Shi'ism, has been rejected and condemned by the people of Sampang, especially by religious leaders who have always considered Shi'ism to be a heretical sect within Islam, and therefore its existence must be rejected and prohibited. However, the rejection and prohibition by religious leaders in Sampang Regency are limited to calls to ignore Tajul Muluk's preaching and do not extend to physical actions that lead to violence. This phenomenon was due to the presence of a kiai who was able to calm the situation and maximize the use of the *Bhag-rembhag Sabhala'an* method to resolve all forms of rejection and prohibitions directed against the Shia sect. This effort to quell public anger over the existence of the Shia community was undertaken by KH. Ahmad Zaini Soleh (Kiai Zaini), who is also the leader of the Miftahul Ulum Karang Durin Sampang Islamic boarding school. Kiai Zaini convinced

⁷⁹ Mukhlis et al., “Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia.”

⁸⁰ Safi' et al., “Bhag-Rembhag Sabhala'an as a Method of Resolving Religious Conflicts in the Madura Legal Tradition.”

the clerics and the surrounding community that, despite differences in opinion, the Shia community remains part of the larger Muslim community and the Indonesian nation. The integrity and sense of unity among the nation's children and religious communities are the most valuable things to defend, because if these are eroded, endless divisions and conflicts will easily plague the nation. Therefore, as a manifestation of commitment to the Pancasila values, the integrity and unity of the country must continue to be defended within the community.⁸¹

After Kiai Zaini's death, efforts to resolve the Sunni-Shia conflict had actually been made by religious and community leaders in Sampang Regency, in coordination with the local government and security forces, to prevent violence. This process was actually close to reaching an agreement, but suddenly the community was shocked by attacks by specific individuals who deliberately committed acts of violence, which were then followed by the surrounding community. In fact, the process of resolving the conflict through the *Bhag-rembhag Sabhala'an* mechanism had nearly reached an agreement prioritizing peace. Ultimately, several studies indicate that the violence against Shia followers was caused by factors unrelated to religious beliefs but rather stemmed from family conflicts, political factors, and romantic issues involving women.

Following the violence against Shia followers on 29 December 2011 and 26 August 2012, the government prioritised a criminal approach to resolving the conflict, namely by prosecuting Shia leaders as the individuals deemed responsible for causing religious-based conflict and violence in Sampang Regency. This legal process resulted in Tajul Muluk being sentenced to two years in prison on 12 July 2012 by the Sampang District Court for committing the criminal act of blasphemy as stipulated in Article 156a and Article 335 of the Criminal Code. The East Java High Court increased the sentence to four years on 10 September 2012, and the Supreme Court upheld the decision by rejecting the appeal on 3 January 2013. The rejection of this appeal shows that the state prefers to resolve conflicts by punishing leaders of religious minorities as the ones responsible for religion-based disputes and violence and to set aside dialogue and actions aimed at peace as methods of conflict resolution.⁸²

⁸¹ Zaituni Zaituni, Riza Nizarli, and M Yakub Aiyub Kadir, "Non-Penal Policy of Syariah Institutions in Preventing Juveniles from Narcotics Abuse in Aceh Province, Indonesia," *Jambe Law Journal* 4, no. 1 (2021): 21–41.

⁸² Imran Imran, Siti Syamsiyatun, and Dicky Sofjan, "Sunni to Shia Conversion in Indonesia," *Daengku: Journal of Humanities and Social Sciences Innovation* 3, no. 4

As a result of this choice of method, between 2012 and 2020, Shia followers were forced to leave their homes and become refugees in the Jemundo Flats, Krian District, Sidoarjo Regency. During this period, the conditions of the survivors of this religious conflict in the refugee camp were very concerning, as they had to live in squalid flats that were not fit for habitation. One aspect of this inadequacy is that rooms measuring 6 x 6 meters are required to accommodate 10 families.⁸³ Not to mention the stigma attached to the survivors, who were considered followers of a heretical religious sect. During that period, their future remained unclear because the government did not seriously consider resolving the conflict.

The government began to reconsider measures to improve the plight of the survivors when the East Java Provincial Government, together with a delegation from the Central Government and the Regent of Sampang, held a closed meeting to discuss the resolution of the conflict, which at that time was still protracted and without any serious effort to resolve it. This meeting agreed on the need to resolve the conflict as soon as possible so that those who had been living in refugee camps for eight years could be returned to their hometowns to live everyday lives. The meeting also agreed on the need to establish dialogue to resolve religious conflicts. This means that non-penal resolutions must be implemented through dialogue among the government, religious leaders, and survivor leaders.

Following the meeting, several follow-up meetings were held to plan further action to resolve the conflict, and it was agreed that the Sampang district government would be authorized to form a reconciliation team in an effort to resolve the conflict and reconcile the Shia and Sunni followers who had previously been involved in conflict and violence in Sampang District.⁸⁴ The Sampang district government has, since 2020, immediately formed a

(2023): 529–541. *See also* Luca Soren Vasilev, and Amira Soraya Al-Mansoori. “Religious Minorities and Legal Protection: A Critical Review of Indonesia’s Religious Freedom Laws.” *Indonesian Minority Justice Review* 1, no. 1 (2024); Moch Rizki Amrullah, and Ibrahim Nuruddin. “Between Faith and Freedom: Religious Intolerance and Minority Rights in Indonesia.” *Contemporary Issues on Indonesian Human Rights Law and Policy* 2, no. 4 (2025).

⁸³ Rr Setyowati, FX Sadewo, and Martinus Legowo, “The Role of Political Communication in Anticipating Social Conflicts Based on the Government Policy in East Java,” in *Proceedings of Social Sciences, Humanities and Economics Conference (SoSHEC 2017)* (Paris, France: Atlantis Press, 2018).

⁸⁴ Ahmad Munjin Nasih et al., “Islam Raḥmatan Li-l-‘Ālamīn and Civil Tolerance in Indonesia: The Legacy of Ahmad Hasyim Muzadi,” *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* 14, no. 2 (2024): 143–166.

reconciliation team through several Regent Decrees (SK), which are renewed annually. The reconciliation team established by the Sampang district government comprises representatives from the district government, the police, the Indonesian Ulema Council, Nahdlatul Ulama, village heads, sub-district heads, the Regional Representative Council, the Attorney General's Office, and community leaders in Sampang district.⁸⁵ The composition of the reconciliation team established by the Sampang Regency Government adheres to the *Bhag-rembhag Sabhalaan* concept for resolving religious conflicts.⁸⁶ The actors involved in conflict resolution are illustrated in Table 8.

TABLE 8. Composition of the Sunni-Shia Conflict Resolution Reconciliation Team

Affiliate Base	Delegation
Government official	Sampang Regency Government
	Regional Representative Council
	District Police
	Military District Command
	The Village Heads of Blu'uran and Nangkrenang
Community leader	Community leader
	Community youth leader
Religious leader	Branch Executive of Nahdlatul Ulama Sampang
	Branch Executive of Majelis Ulama Indonesia Sampang
	Kiai Kampung in Omben and Karang Penang sub-district
	Branch Executive, Lembaga Kajian dan Pengembangan Sumber Daya Manusia Sampang

Source: Compiled by the authors based on the contents of the Sampang Regent's Decree on the Conflict Resolution Reconciliation Team 2020-2024

Table 7 above indicates that the reconciliation team established by the Sampang Regency Government comprises religious and community leaders who are key actors in resolving religious conflicts, consistent with the tradition of Islamic law in Madurese society. This effort indicates that adopting a non-penal approach to accelerate conflict resolution, grounded in Islamic legal culture in Madura, has enabled the resolution process. This is based on the

⁸⁵ Abd Hannan and Ach. Fatayillah Mursyidi, "Mapping Cases and Actors in Violations of Religious Freedom in Contemporary Madura," *Tribakti: Jurnal Pemikiran Keislaman* 35, no. 1 (2024): 1–22.

⁸⁶ Muwaffiq Jufri et al., "Religion and State in Islamic Constitutional Law: The Role of Pesantren in Strengthening Symbiotic Islam and the State in Madura," *Justicia Islamica* 21, no. 2 (2024): 221–246.

reconciliation process that began on 14 September 2019 and culminated in the reconciliation of the conflicting religious groups on 5 November 2020, marked by the recitation of a pledge of repentance by Shia followers at the Sampang Regent's Official Residence. This process continued with the return of the first group of former Shia followers on 29 April 2022 (52 people) and the second on 4 May 2023 (265 people).⁸⁷

The involvement of local actors in efforts to foster dialogue must be reinforced, given ongoing obstacles to the third phase of repatriation. Currently, there are still 25 former Shia followers whose return is being rejected by the community because they are leaders of the Shia sect.⁸⁸ This means that the obstacle to their return stems from the local community, who are still concerned that their presence in Sampang Regency will spread Shia beliefs to former followers who have already returned to their hometowns. This concern, which led to the rejection, is excessive, given that the former Shia leaders have made a pledge of repentance and fulfilled all the conditions set by the local community as prerequisites for their return to Sampang Regency. With all these conditions fulfilled, there should be no reason to reject the return of these former Shia leaders.

Therefore, the Sampang Regency government should work to persuade the communities surrounding the conflict, particularly their religious leaders, to dispel all assumptions and suspicions regarding the potential recurrence of Shi'a sect propagation activities in Nangkrenang Village and Blu'uran Village, Sampang Regency. One thing that can be done is to assign their formal religious leaders to make the community aware that this rejection should not happen, because rejecting the return of former Shia followers will only prevent the conflict resolution process from being completed properly. The involvement of formal religious leaders, such as leaders of Islamic boarding schools and religious organizations from *Nahdlatul Ulama* and the *Majelis Ulama Indonesia*, is essential, as in the Islamic tradition of Madura, the ulama hold legitimate authority.⁸⁹ The Madurese community tends to regard the kiai's scientific authority and considers what they say to be true and in

⁸⁷ Abid Rohman, Achmad Rosidi, and Wiwik Setiyani, "Normalization of Community Life After Conflict: Reconciliation Measures Return To The Village," *Tasamuh* 20, no. 1 (2022): 79–94.

⁸⁸ Sheila Aprianti, Muh. Amri, and Abdullah Thalib, "Sunni Dan Syiah: Titik Perbedaan, Persentuhan, Dan Kemungkinan Harmonisasinya," *Jurnal Alwatzikhoebillah: Kajian Islam, Pendidikan, Ekonomi, Humaniora* 11, no. 1 (2025): 330–338.

⁸⁹ Akhmad Siddiq and Lely Shofa Imama, "The Role of Ulama and Muslim Networks in Countering Radicalism," *Nadwa: Jurnal Pendidikan Islam* 18, no. 1 (2024): 65–80.

accordance with religious commands.⁹⁰ The government's efforts to provide greater opportunities for religious leaders are necessary and should be expedited to ensure the conflict-resolution process is completed properly, with the measure of success being the reintegration of former Shiite sect leaders into their homes in Sampang Regency.

The reconciliation model based on the *Bhag-rembhag Sabhala'an* also reflects the protection of the right to freedom of religion as part of constitutional principles and international human rights. The involvement of religious leaders, community leaders, and government officials in dialogue-based conflict resolution demonstrates that differences in religious belief must not be the basis for violence, discrimination, or forced expulsion. In the context of the Sunni-Shia conflict in Sampang District, the criminalization of Tajul Muluk and the expulsion of Shia followers for nearly eight years illustrate how a punitive approach can marginalize religious minorities and restrict their freedom to practice their faith safely within society.

The subsequent shift towards reconciliation through dialogue and non-punitive mechanisms represents a more rights-based approach to resolving religious conflicts. This approach is consistent with Article 28E of the 1945 Indonesian Constitution, which guarantees freedom of religion and belief, as well as international human rights instruments such as Article 18 of the Universal Declaration of Human Rights (UDHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR), both of which guarantee every individual the right to freedom of thought, conscience and religion. These instruments emphasize that the state has an obligation not only to respect freedom of religion but also to protect religious minorities from coercion, discrimination, and violence arising from religious differences.

Within this framework, the *Bhag-rembhag Sabhala'an* model demonstrates that local legal traditions can serve as an effective mechanism for applying human rights values in conflict resolution. The use of dialogue, mediation, and the involvement of respected local actors reflects the principles of participation, inclusivity, and restorative justice emphasized in the international human rights discourse. Furthermore, the recognition of community-based mechanisms for resolving social conflicts is consistent with a broader human rights approach that promotes culturally sensitive and non-violent dispute resolution. Therefore, the Madurese Islamic legal tradition not only serves to maintain social harmony and community cohesion, but also

⁹⁰ Agung Ali Fahmi, Ansori Ansori, and Muwaffiq Jufri, "The Implementation of Islamic Value Absorption in Regional Regulations in Madura Regency," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 15, no. 1 (2020): 155–172.

provides an alternative model for resolving religious conflicts that integrates local wisdom with international human rights standards regarding freedom of religion and the protection of religious minorities.

Conclusion

This study concludes that the use of a punitive approach in resolving religious conflicts, such as in the case of the Sunni-Shia conflict in Sampang Regency, will only give rise to the stigma of which sect is considered right and which is considered heretical. The emergence of this stigma will certainly not be able to resolve the conflict quickly, because the public's perception is already focused on the heretical verdict of a religious group, predominantly minority groups such as the Shia. The use of a local wisdom approach to resolving religious conflicts should be implemented as soon as possible in every situation with the potential for religiously motivated violence, because this approach enables each party to feel involved in peaceful, amicable conflict resolution and helps prevent all forms of violence. The experience of resolving conflicts and sectarian differences between Sunnis and Shiites from 2004 to 2010 should serve as a reference for conflict resolution aimed at reducing public anger and avoiding violence by adopting the tradition of *bhag-rembhag sabhala'an*. From the perspective of Islamic Legal Culture, the use of methods based on Islamic values that are already ingrained in Madurese society is the best option in preventing violence in every religious dispute. This method should be reinforced by involving local actors to resolve the rejection of the return of 25 former Shia followers immediately and to settle the conflict.

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“Islam guarantees the
rights of minorities as
part of human dignity
and justice.

Yusuf al-Qaradawi — *Islamic scholar known for
discussions on social justice and minority rights*

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Generative AI Statement

None