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Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia

Mukhlis Mukhlis¹✉, Raphael D. Jackson-Ortiz², Muwaffiq Jufri³,
Evis Garunja⁴, Paul Atagamen Aidonojie⁵

^{1,3} Faculty of Law, Universitas Trunojoyo Madura, Bangkalan
Madura, Indonesia

² University of Miami School of Law, The United States

⁴ Faculty of Political Science and Law, University Aleksander Moisiu
of Durres, Albania

⁵ Faculty of Law, Edo State University Uzairue, Nigeria

✉ Corresponding email: empire.nyekwere@bowen.edu.ng

Abstract *Tajul Muluk and 274 former Shia have not been able to return to their hometowns in Sampang District, even though they have pledged repentance to return to Sunni teachings on November 5, 2020. The formulated research problems consisted of: first, what was the position of*

former Shia adherents in Sampang District based on the perspective of rights and freedom of religion in Indonesia? And second, what was the form of violation of the right to freedom of religion in the case of community rejection of former Shia in Sampang District? This research utilizes empirical legal research methods combined with sociological and anthropological approaches. The research results concluded: First, the existence of former Shia adherents as refugees should be treated as a violation of the constitutional mandate of Indonesia which forbids acts of violence and violations of religious rights and freedoms, of all Indonesian citizens. Second that they were accused of embracing a deviant religious sect, is evidence to their religious minority status; and third the expulsion of the former Shia adherents was a violation of the right to freedom of religion. which had been regulated in the constitution, laws, and regulations under the constitution and the spirit of the Indonesian nation.

Keywords *Human rights, Shia, Sampang, Discrimination, Religious Freedom, Religious Minorities*

1. Introduction

Despite their commitment to embrace the teachings of *Ahlusunnah Wal-jama'ah* (Sunni), affirmed on November 5, 2020, Tajul Muluk and 274 fellow Shia adherents are currently facing obstacles in returning to their hometown in Nang-krenang village, Omben district, Sampang regency-Madura. Despite publicly declaring their allegiance, these former Shia adherents find themselves denied the opportunity to return home and are instead compelled to go back to

the refugee camps they inhabited for eight years. These camps are situated in the Rusunawa Puspa Agro Sidoarjo complex.¹

The implementation of this commitment has spurred public discourse marked by controversy and widespread condemnation, particularly directed at the perpetrators of violence. The local community remains unconvinced about the sincerity of the repentance vows publicly expressed by the former Shia adherents. Many harbor suspicions that the spoken pledge may be an instance of "Taqiyyah," a practice in Shia teachings involving the concealment of one's beliefs or the temporary abandonment of religious obligations in the face of threats to life or safety. Additionally, there is a perception that the pledge may have been motivated by a pragmatic desire to return home after enduring eight years of expulsion and banishment to Rusunawa Puspa Agro Sidoarjo. It is crucial to note that this commitment represents the culmination of preceding efforts by community members to facilitate the return of the former Shia adherents to their homes in Sampang.

Some surrounding residents refused the Shia the right to return to their hometowns. In addition, the community denied them Islamic burial rights in the vicinity of their village. In addition to these in addition to these rejections the community also demanded they undergo a religious probationary period or sorts in which they demonstrated evidence of adherence to the teachings of *Ahlussunnah Wal-jama'ah* to the satisfaction of the local community. Community members were concerned that these pledges were a limited form of "Taqiyyah," which is indeed legalized in the Shia tradition to achieve specific goals.

¹ D. P. R. Adawiyah, D. M. A. Zakirah, and Dessy Dwi Lestari, "Sampang Regency Government Strategy in Reconciliation of Sunni-Shia People," *Tribakti: Jurnal Pemikiran Keislaman* 33, no. 2 (2022): 359–70, <https://ejournal.iaitribakti.ac.id/index.php/tribakti/article/view/2029%0A>.

The complexity of the settlement of the Sunni-Shi'a conflict case is allegedly due to the opinion of the majority of religious groups that regard Shia teachings as heretical and misleading. This position is exemplified by several statements submitted by religious figures in Sampang Regency. These religious figures continue to treat other religious sects different groups on a spectrum of deviance ranging from misguided to outside of the folds of the religion. This vocal marginalization frustrates attempts for the Shia adherents to make peace with the surrounding community. Consequently, this persecution has worsened the image of religious freedom, which is still ambiguously enforced in Indonesia.²

Apart from the complicated conditions of the Sunni-Shia conflict that occurred in Sampang, there are urgent matters that should be considered by policymakers and community leaders, who are a source of reference for the ummah in responding to the existence of this Shia sect. Some of the points referred to are: First, the existence of Shia refugees who have existed in the Puspa Agro Flats for nine years.³ The existence of this community indicates that they have been expelled from their hometowns, and denied access to their homes, agricultural properties, and chattels. Denial of return would mean a denial of their rights in accordance to the laws and regulations of Indonesia.⁴

² Muwaffiq Jufri, *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal* (Surabaya: Scopindo, 2021), 2–3.

³ Muwaffiq Jufri, "Kontribusi Konstitusi Madinah Dan Konstitusi Nagarakretagama Terhadap Rancangan Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama" (Brawijaya University, 2016). 154.

⁴ Muwaffiq Jufri and Mukhlis Mukhlis, "Akibat Hukum Pemisahan Hak Beragama Dengan Hak Berkepercayaan Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Konstitusi* 16, no. 2 (2019): 274–87, <https://doi.org/10.31078/jk1624>.

Second, the context of legal settlement has only prioritized the formal legal aspects of the state, which only ensnare those who are quantitatively a minority of a religious sect. Hence, the legal policy that has been applied to resolve the Sunni-Shia conflict is only the matter of ensnaring those who have committed blasphemy,⁵ especially the Shia leaders and figures. Meanwhile, the fate of hundreds of other refugees whom this case has legally harmed has never been maximized so that they can return to enjoying everything that is indeed their right.

It is self-evident that the residents responsible for their slaughter and expulsion still reject their right to return, despite the fact that the refugees have complied with the stipulations of the religious leaders that they return to *Ahlussunnah Wal-Jama'ah*. Despite observable evidence of this return, when a former Shia believer has died, the residents around the incident still refuse all processes related to the care of his corpse: from the bathing process to burial. Therefore, many of their bodies were buried outside the Omben sub-district, or in some cases even outside the Sampang district. Lack of available space is the the typically cited pre tense for such treatment.⁶

Third, if viewed from the perspective of the constitution, it can be understood that the right to religion and the right to implement religious teachings in worship are the guaranteed rights of each citizen. Such a provision is not only certified in one article, but several articles in the constitution guarantee the existence of this right, as stated in the conditions of Article 28E paragraph 1, Article 28E paragraph (2), and Article 29 paragraph (2) of the 1945 constitution of

⁵ Muwaffiq Jufri, *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal*, 77–78.

⁶ Yuka Kayane, "Understanding Sunni-Shi'a Sectarianism in Contemporary Indonesia," *Indonesia and the Malay World* 48, no. 140 (2020): 78–96, <https://doi.org/10.1080/13639811.2020.1675277>.

the Republic of Indonesia (UUD NKRI 1945).⁷ Therefore, this law indicates that the position of religious rights is a right that has a firm place in the constitution so that restrictions or deductions are not justified by any party, including by the state (underogable rights).⁸

In addition to contradicting the provisions of national law, the rejection of former Shi'a adherents in Sampang also contradicts several International Legal Instruments on human rights, including: First, Article 18 and Article 19 of the Universal Declaration of Human Rights (UDHR) which have guaranteed the freedom of every human being to freely profess religion and freely also carry out his religious rituals without interference from anyone. The provisions in the articles of the UDHR are important to note because their existence is a source of reference for United Nations member states in implementing human rights rules and guarantees, including guarantees of religious rights and freedoms.⁹

Second, the rejection of former Shi'a adherents in Sampang also contradicts Article 3 of the United Nations Declaration of November 25, 1981 concerning the Elimination of All Forms of Intolerance and Discrimination Based on Religion and Belief. This article provides both prohibition and condemnation of all forms of discrimination in the name of religion and belief. Such discriminatory acts should be categorized as violations of the principles of religious freedom as well as denial of the dignity of human glory.

⁷ Neha Tripathi and Anubhav Kumar, "The Constitutional Struggle for Religious Freedom: A Comparative Study of India and Indonesia," *Constitutional Review* 8, no. 1 (2022): 1–36, <https://doi.org/10.31078/consrev811>.

⁸ Muwaffiq Jufri, *Hukum Dan Hak Asasi Manusia; Dasar Teori Dan Praktiknya* (Depok: Rajawali Pers, 2023), 97, <https://www.rajagrafindo.co.id/produk/hukum-dan-hak-asasi-manusia-dasar-teori-dan-praktiknya-muwaffiq-jufri/>.

⁹ Muwaffiq Jufri, 157–58.

Third, in terms of Islamic Law, the rejection of former Shi'a adherents can be categorized as a violation of the values of religious freedom that have been guaranteed by Islam, both in the Qur'an and al-hadith.¹⁰ Moreover, countries belonging to the Organization of the Islamic Cooperation have issued the Cairo Declaration on Human Rights in Islam which was signed in 1990. Article 10 of the Declaration affirms that freedom of religion is a right guaranteed by Islam because it is in accordance with Islam's primary mission to create a peaceful order of human life.

This phenomenon should not be left unchecked without any effort from the state to take steps and policies that can provide a solution to the thorny issue of conflict based on religious sects in the Sampang Regency. To date former Shi'a adherents they have not yet fully experienced the freedom to carry out their religious teachings and beliefs as guaranteed by several provisions in the constitution. Thus, the constitution is not only obliged to guarantee the rights of religion and faith but also to ensure the fulfilment of these rights to the maximum, equally, and fairly for all religious groups and/or religious sects in Indonesia.¹¹

This study is intended to reawaken the awareness of the state and the general public that incidents of violence and rejection of former Shia adherents are acts that violate the law, constitution, and human values. A community of ex-Shia followers still living in refugee camps is a fact of the diversity of the Indonesian nation, which still has quite severe problems. Even this fact seems to emphasize that there are still many religious minority groups who are the target of

¹⁰ Siti Nashrah binti Tamsir and Zaini, "Ijtihad As A Method of Legal Discovery in The Islamic Legal System," *Trunojoyo Law Review* 5, no. 2 (2023): 135, <https://doi.org/https://doi.org/10.21107/tlr.v5i2.21051>.

¹¹ Muchamad Ali Safa'at, *Dinamika Negara Dan Islam Dalam Perkembangan Hukum Dan Politik Di Indonesia* (Jakarta: Konstitusi Press, 2018), 177.

discriminatory policies from the state. Besides, the state is supposed to be the protector and life of religious people; hence, the state is actively involved in efforts to end violence and discriminatory acts based on differences in religion and belief.

These problems are the duty of all elements of the nation to jointly find the best solution to fulfil the civil rights of citizens, including their rights to religious freedom. All elements of the nation must also take part in efforts to prevent and condemn all actions, policies, and actions that have the potential to reduce human dignity and honor in the field of religion.

The trials and tribulations of these former Shi'a adherents, should be brought to the awareness of the general public as a case study in the importance of respecting diversity and rejecting all forms of coercion in the name of religion. All state and nonstate actors should take an effort to enforce policy and help find solutions to all discriminatory policies that victims of the violence have felt. The hope is that this refugee incident can become a priority for the state to implement procedures to resolve all forms of human rights violations practiced against religious minority groups, including against former Shiites in the Sampang district.

2. Method

The research method in this study uses a type of normative legal research, or it can also be referred to as a doctrinal research method,¹² namely a research method that seeks to analyse, discuss, and solve legal issues and cases with the main material and framework in the

¹² Johny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2006). 32-33.

form of laws and regulations of a country.¹³ In addition, this method also underlies the analysis of the concepts, values, and norms developed by the science of law.¹⁴ While the research approach uses a conceptual approach (conceptual approach), statutory approach (statute approach), and case approach (case approach).

The main legal materials used in this study include the 1945 Constitution of the Republic of Indonesia; Law No. 39 of 1999 concerning Human Rights; Law No. 12 of 2006 concerning Ratification of the International Convention on Economic, Social and Cultural Rights, and Law no. 11 of 2006 concerning Ratification of the International Convention on Civil and Political Rights. In addition to the main legal materials, there are also other legal materials for analysis, namely secondary and tertiary legal materials such as books, scientific journals, papers, proceedings, internet sources, legal dictionaries, and popular dictionaries that specifically discuss law and human rights. according to the theme raised in this study.

All of the above legal sources are then analysed using prescriptive-analytical analysis techniques to find answers to forms of violations of law and human rights in the case of the rejection of the people of Sampang to former Shia adherents after taking an oath and/or pledge of repentance back to Sunniism.

3. Result & Discussion

This section will explain two main issues, namely the violation of the right to freedom of religion in the context of Sunni-Shi'a conflict and the violation of the right to freedom of religion as proven by the expulsion of former Shi'a in the Sampang district. In discussing the

¹³ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media, 2019). 77-78.

¹⁴ Amiruddin dan Zainal Asikin, *Pengantar Penelitian Hukum* (Jakarta: Rajawali Pers, 2018). 91.

first point regarding the violation of the right to freedom of religion we intend to focus on the various violations committed by the state and society against religious minority groups in Sampang Regency. While the second point is intended to discuss the various violations of the right to freedom of religion for the community's rejection of the Shi'a matron community in Sampang Regency, which until now has not been able to return to their hometown.

A. The Position of Ex-Shia Adherents Perspective of the Right to Religious Freedom in Indonesia

In our modern governments and legal systems, it is ordinarily understood that freedom of religion is the constitutional right of citizens, and the fulfilment of this right is the absolute responsibility of the state. This idea, however, did not come into existence out of a vacuum, but it is a result of the historical experience of European nations. Over a century of Christian sectarian wars culminated in the death of approximately 80 million people throughout Europe.¹⁵ The post Westphalian treaties which ensued were the predecessor to the modern idea which places the state, absent of any religious authority, as the arbiter of human rights and the guarantor of religious freedom.

Due largely through European colonialism, many non-European nations have adopted the nation state rubric long after achieving independence from their former European powers. However, having not experienced a century of sectarian violence many non-European nations do not entertain such a contentious interpretation of a “church” and state split. Thus, nations like Indonesia felt free to

¹⁵ Joachim Whaley, *The Thirty Years War 1618–1648; Germany and the Holy Roman Empire* (Oxford: Oxford University Press, 2012), 271, <https://doi.org/https://doi.org/10.1093/acprof:oso/9780198731016.003.0008>.

reinterpret the role religion has in their constitutions and founding documents and look back to the historic roles that its religions (Buddhism, Hinduism and now Islam) have played or now play in ensuring religious rights and freedom among its citizens.

In the context of the Islamic belief system, the guarantee of religious freedom is a right derived from God (see God-given right) and conferred unto his creation (the human being). This inviolable right cannot be reduced or denied by anyone, including the state.¹⁶ Thus, the state can be a partner in its attempt to guarantee these rights among its citizens, but these rights remain in existence even in the absence of a nation state apparatus. The expectant product of harmonizing mankind's inviolable human rights, duties, freedoms, and responsibilities with God-given rights can also be described as Shariah.¹⁷

If the governing principles of sharia can protect this right in the absence of a nation state apparatus, then *a fortiori* a nation state inspired by such principles (like Indonesia) can enshrine these rights in its constitutional charter, thus turning these God-given rights into its principles of national governance.

Thus, by fulfilling the *god-given* rights of mankind it is also upholding the maqasid (principles) of syariah. Among these maqasid is the preservation of spiritual teachings (*hifdzu al-dien*).¹⁸ Conversely;

¹⁶ Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), 237.

¹⁷ Muhammad Roy Purwanto et al., "The Significance of Maqasid Syariah Principles in Improving Islamic," *International Journal of Innovation, Creativity and Change* 13, no. 3 (2020): 1–13, https://doi.org/https://www.ijicc.net/images/Vol_14/Iss_3/13367_Kholish_2020_E1_R.pdf.

¹⁸ Sigit Riyanto and Fajri Matahati Muhammadin, "The Urgency to Incorporate the Islamic Concept of Rights into The International Human Rights Law Course in

any action that robs, reduces and ignores the fulfilment of this right is considered a human rights violation¹⁹ And I violation of a god-given rights, for this right also cannot be reduced or denied by anyone, including the staten).²⁰

However, history records that the guarantee of the right to freedom of religion in the Indonesian constitution has existed since the 1945 (original) constitution was enacted, and the existence of this right was then continued in several subsequent constitutions, including several amendments to the 1945 Constitution of the Republic of Indonesia is broken down in the table below.

TABLE 1. The Contents of the Right to Religious Freedom in the Indonesian Constitution

Constitution	Article	Text
1945 Constitution (original)	29 paragraph (2)	"The State guarantees all persons the freedom of worship, each according to his/her own religion or belief.."
RIS . Constitution	18	"Everyone has the right to freedom of thought, conscience and religion".
1945 Constitution (After being returned to the 1945 Constitution)	18 29 paragraph (2)	"Everyone has the right to freedom of religion, conscience and thought". " The State guarantees all persons the freedom of worship, each according to his/her own religion or belief'
1945 Constitution	28E verse (1)	" Every person shall be free to embrace a religion and

Indonesian Law Schools," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 14, no. 1 (2019): 178–200, <https://doi.org/10.19105/al-lhkam.v14i1.2166>.

¹⁹ Agung Ali Fahmi, "The Implementation of Islamic Value Absorption in Regional Regulations on Districts at Madura," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 1 (2020): 157–58, <https://doi.org/http://doi.org/10.19105/al-ihkam.v15i1.2682>

²⁰ Riyanto and Muhammadiyah, "The Urgency to Incorporate the Islamic Concept of Rights into The International Human Rights Law Course in Indonesian Law Schools," 179.

Constitution	Article	Text
of the Republic of Indonesia (Post amendment)	28E paragraph (2)	to worship according to his/her religion....."
	29 paragraph (2)	" Every person shall have the right to the freedom to believe his/her faith (<i>kepercayaan</i>), and to express his/her views and thoughts, in accordance with his/her conscience."
		" The State guarantees all persons the freedom of worship, each according to his/her own religion or belief."

Source: *Processed from the contents of the 1945 Constitution, the RIS Constitution, and the NRI 1945 Constitution of the Republic of Indonesia.*

Some of the contents mentioned above illustrate that efforts to promote religious rights and freedoms are constitutional efforts that have long been initiated in the history of the Indonesian state administration. Starting from the generation of the nation's founders, the inclusion of material on religious rights and freedoms in each constitution (and its amendments) is proof that protection and guarantee the religious rights and freedoms continue to be enshrined within the constitution.

The Indonesian archipelago has instances of religious rule protecting and promoting religious tolerance even before the arrival of Islam. This tradition of tolerance and inclusion can be traced back as far as the 9th Century Mataram Kingdom with the marriage between Rakai Pikatan, an adherent of Hinduism, and Princess Pramodawardhani, and adherent of Mahayana Buddhism.²¹ The marriage of 2 (two) people of different religions shows that the

²¹ Andry Hikari Damai, "Toleransi Beragama Pada Masa Mataram Kuna," in *Prosiding Seminar Nasional Bahasa Dan Budaya IV* (Denpasar, 2019), 24–28.

differences in their faith are not a barrier to creating a harmonious, peaceful, and tolerant life between their respective adherents.²²

The successor kingdoms continued the harmony of inter-religious life presented by the Ancient Mataram Kingdom above until the Majapahit empire which reigned over the archipelago. In this case, the Majapahit empire has succeeded in providing an example of typical tolerance of the archipelago where each religion does not conflict. These religious differences became a substantial element of Majapahit rule in which the diversity of beliefs in allowed ancient Indonesia to reach the peak of its glory.²³

Additionally, Majapahit rule displays the harmonious relationship between religious communities. It is believed to be due to the regulation of the rights and freedoms for each of its people to choose, believe, and adhere to religion and carry out all religious orders through rituals of worship in its constitution.²⁴ This condition seems to find justification considering that Article 81 paragraph (1) of the Nagarakretagama Constitution provides a rule that the king has sought the establishment of three religions simultaneously. Thus, this provision of the religions adopted by the people of Majapahit gets full recognition and attention from the king.

The article on guarantees for the existence of religion in Majapahit can be found in the provisions of Article 81 paragraph (3) of the Nagarakretagama Constitution, which states that the King enforced the regulation of religious rights and freedoms. It can be

²² Agus Sunyoto, *Atlas Walisongo; Buku Pertama Yang Mengungkap Wali Songo Sebagai Fakta Sejarah*, VII (Tangerang Selatan: Imania, 2017). 163.

²³ Muwaffiq Jufri, "Kontribusi Konstitusi Madinah Dan Konstitusi Nagarakretagama Terhadap Rancangan Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama," 75.

²⁴ Slamet Muljana, *Tafsir Sejarah Nagara Kretagama* (Yogyakarta: LKiS Pelangi Aksara, 2012), 264.

maximized by religious leaders and fully implemented by the entire Majapahit community: the nobility and the ordinary people. This provision also explains that spiritual life in the Majapahit era was harmonious, peaceful, and far from conflict because the state fully guaranteed it.²⁵

Second, the existence of religious adherents who each have a role in efforts to realize the independence of the Indonesian. Besides, apart from the colonial regime, which oppresses one religious group, all adherents of religions in Indonesia had the same experience: they both felt the bitterness and bitterness of colonialism. Additionally, this form of colonization lasted not short but a very long time. All of this gave a profound impression, which raised the spirit of cooperation to gather strength and expel the invaders from Indonesian soil. The occupation fell as Kusuma nation, which was Indonesian religious people, each gave their best son for the cause.²⁶

Furthermore, the religious communities' experience and contribution in realizing this independence became the basis for respecting all religious adherents so that they are free to adhere to and practice their religious teachings in society and the state. For this reason, since the constitution's formulation, the content related to guaranteeing the rights and freedom of religion became the basis for the Indonesian constitution.²⁷

The constitution, provisions and guarantees for the right to freedom of religion are also contained in several laws under the act, as described in the table below:

²⁵ Slamet Muljana, *Menuju Puncak Kemegahan; Sejarah Kerajaan Majapahit* (Yogyakarta: LKiS Pelangi Aksara, 2012), 115–17.

²⁶ Agung Ali Fahmi, "Implementasi Kebebasan Beragama Dalam UUD Republik Indonesia Tahun 1945" (Universitas Indonesia, 2010), 69.

²⁷ Siti Faridah, "Kebebasan Beragama Dan Ranah Toleransinya," *Lex Scientia Law Review* 2, no. 2 (2018): 199–214, <https://doi.org/10.15294/lesrev.v2i2.27585>.

TABLE 2. The Regulation of the Right to Religious Freedom in Several Laws in Indonesia

Law Type	Article	Text
Republic of Indonesia Legislation Number 39 of 1999 Concerning Human Rights	22 paragraph (1)	<i>"Everyone has the right to freedom to choose his religion and to worship according to the teachings of his religion and beliefs."</i>
Republic of Indonesia Legislation Number 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights	22 paragraph (2)	<i>"The state guarantees everyone the freedom to choose and practice his religion and to worship according to his religion and beliefs."</i>
	2 paragraph (2)	<i>"The States parties to this treaty endeavour to ensure that the rights outlined in this agreement will be exercised without discrimination regarding race, colour, sex, language, religion, political or another opinion, national or social origin, property, birth or another status." (unofficial translation).</i>
	13 Paragraph (3)	<i>"The states parties shall to this treaty respect the freedom of parents and, where appropriate, legal guardians, to choose their children's schools, other than those established by the government, which comply with minimum educational standards as established or approved by the State and to ensure that religious and moral education of children according to their beliefs." (unofficial translation).</i>
Republic of Indonesia Legislation Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights	18 paragraph (1)	<i>"Every person shall have the right to the freedom of thought, belief and religion. This right includes freedom to adopt or accept a religion or belief of his choice and freedom, either individually or in community with others, and in public or private places, to manifest his religion or belief in worship, observance, practice, and teaching." (unofficial translation).</i>
	18 paragraph (2)	<i>"No one may be forced to interfere with his freedom to have or accept a religion or belief of his choice." (unofficial translation).</i>
	18 paragraph (3)	<i>"Freedom to manifest one's religion or beliefs may only be limited by legal provisions, which</i>

Law Type	Article	Text
		<i>are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.” (unofficial translation).</i>

Source: *Processed from various sources.*

From the several provisions above, the principle of the right to freedom of religion is a constitutional right which is protected and guaranteed by the state. Included within this principle is a prohibition on infringements of this right. Therefore, it can be interpreted that all forms of infringements and restrictions of this right can be classified as human rights violations.²⁸

Former Shia adherents in Sampang Regency, especially those who were victims of violence should be considered as citizens who suffered discrimination in the name of religion. Since the beginning of the conflict, this group has received a lot of discrimination from the government and society. This community deserves protection by the government which will enable them to carry out religious rituals without coercion, threats, or expulsion from other parties who oppose their presence in the Sampang district.²⁹

However, local community attitudes towards the Shi'a community are at odds with what has been mandated by the Indonesian constitution and its laws which guarantee religious freedom. Local community members consider the Shi'a community in Sampang Regency to be a community of which practice deviant

²⁸ Muwaffiq Jufri, “Urgensi Amandemen Kelima Pada Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama,” *HAM*, no. 1 (2021): 636–37, <https://doi.org/http://dx.doi.org/10.30641/ham.2021.12.627-644>.

²⁹ 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): 102–10.

believes and should be expelled from its hometown. Community members believe that they have tarnished the purity of the teachings of the Islamic religion. As a result, the Shia community had to take refuge in the Rusunawa Puspa Agro Sidoarjo Complex.³⁰

Since 2012, the victims have been living in refugee camps without clarity about when they can return to their hometowns. Their desire to return has even led them to take abandon their Shi'a rituals. On November 5, 2020 they underwent an oath of repentance to return back to the teachings of *Ahlussunah wal Jama'ah*.

Despite the public oath the community remained unconvinced, requiring a moratorium until they were convinced that the repentance was sincere and not simply a form of *taqiyyah*. Until now, the former Shia adherents remain in refugee camps, with no certainty as to when they can return to their hometowns.³¹

This condition certainly places former Shi'a as victims of "discrimination and violence in the name of religion." In addition, the local government is also one of the actors in all acts of violence and discrimination in the name of religion that occurred as former Shi'ai in the Sampang district.³²

B. A Forms of Violation of the Right to Religious Freedom in the Case of Rejection of Ex-Shia Adherents in Sampang District

This section will explain two main issues; namely the violation of the right to freedom of religion in the context of the wider Sunni-Shi'a conflict; and the specific violation of the right to freedom of

³⁰ Jufri, 107.

³¹ Muwaffiq Jufri, *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal*, 63–64.

³² Muwaffiq Jufri, 67.

religion for former Shi'a refugees in the Sampang district. intended to discuss and explain the various violations committed by the state and society against religious minority groups in Sampang Regency. While the second point is intended to discuss the various violations of the right to freedom of religion for the community's rejection of the Shi'ite matron community in Sampang Regency, which until now has not been able to return to their hometown.

1) The Violation of the Right to Religious Freedom in the Sunni-Shi'a Conflict in Sampang Regency

In general, human rights violations are understood as actions, actions, policies, and everything that has the potential to reduce human dignity by blocking and hindering the fulfilment of fundamental rights for each human being. Therefore, the critical point that becomes the benchmark for human rights violations is how these policies and actions can inhibit, reduce, and even take away the rights inherent in each human being.

The Republic of Indonesia Legislation Number 39 of 1999 concerning Human Rights (UU HAM) defines human rights violations as every act, behaviour, and action. that is carried out by a person and group of people, including the state apparatus, which intentionally, unintentionally, or negligently imposes restrictions and revokes the fulfilment of fundamental human rights for each citizen. In the process of settlement, this act is feared or even leads to the non-implementation of correct and fair legal procedures under the legal mechanisms that apply in the Indonesian state.³³

³³ Victorio H Situmorang, "Kebebasan Beragama Sebagai Bagian Dari Hak Asasi Manusia," *Jurnal HAM* 10, no. 1 (2019): 57–67, <https://doi.org/http://dx.doi.org/10.30641/ham.2019.10.57-67>.

From the definition of (Indonesian Human Rights Act, *UU HAM*), related elements of human rights violations can include:³⁴

- a) The perpetrators of human rights violations are humans (people or citizens) and groups of people, and it can even be carried out by state apparatus, especially by elements of the state apparatus, which are often in direct contact with securing and bringing order to society, such as the Police and the Indonesian National Armed Forces (TNI). In addition, the state apparatus can include government policymakers on a national and local scale.
- b) The nature of the actions can be intentional or unintentional. In addition, to acts are omissions which wise to the level of negligence.
- c) These actions take the form of granting restrictions, revocations, or being the cause of obstruction of the fulfilment of human rights, which have indeed become the rights of each individual (citizen) as a creature of God Almighty and have been guaranteed by the applicable laws and regulations.
- d) If this violation is perpetrated through legal means, a violation can ensure if there is a credible fear that there will not be a fair and just legal settlement process under applicable legal procedures and rules.

The scope of human rights violations in this definition are based on the in positive law in Indonesia. They are specifically regulated in Chapter XA (Article 28A to Article 28J) the 1945 Constitution of the Republic of Indonesia (constitutional rights), or in several laws under its charter, such as The Republic of Indonesia Legislation Number 39 of 1999 concerning Human Rights, and the Republic of Indonesia

³⁴ Suparman Marzuki, *Hak Asasi Manusia Dan Hukum Pidana* (Makassar: Fakultas Hukum Universitas Muslim Indonesia, 2017), 69.

Legislation Number. 12 of 2005 concerning the Ratification of the ICCPR, *inter alia*.

According to Suparman Marzuki,³⁵ standard definitions and criteria for a human rights violation have never been agreed on conceptually. However, there is a general consensus that human rights violations are all forms of state actions that violate their obligations in fulfilling the rights of its citizens. Violations of this state's obligations are based on international legal instruments which measure the state's actions (acts of commission) or the states negligence (acts of omission). Thus, the correct formulation to define human rights violations is a form of state action and omission against international legal norms, whether carried out by state actors³⁶ or actors outside the government apparatus (non-State actors).³⁷

Every human being has the potential to commit human rights violations and human rights violations can be done intentionally or not. Introspection is thus required among all, and we must all operate on the assumption that personal honor and property of every human

³⁵ Suparman Marzuki, "Politik Hukum Hak Asasi Manusia Tentang Kebebasan Beragama Pasca Orde Baru," *Jurnal Hukum Ius Quia Iustum* 26, no. 2 (2019): 215–37, <https://doi.org/10.20885/iustum.vol26.iss2.art1>.

³⁶ *State actors* or *state apparatus* are those, both individuals and institutions who are in a capacity or as representatives of the state (legislative, executive, judicial). Human rights violations that occur because in carrying out their obligations as representatives of the state do not respect, protect and fulfill the human rights of their citizens, for example, the police often use torture when interrogating suspects or the military attacks civilians in emergency situations.

³⁷ *Non-state actors* or *not state apparatus* are people or groups outside of state actors who can become perpetrators of human rights violations in certain actions, they usually have power, both influence and capital. And the actors have an organized structure and network. Acts of violations committed by non-state actors are not much different from actions committed by state actors or their apparatus, such as attacks by members of the Free Aceh Movement (GAM) against members of the military and attacks on civilians by militia groups such as what happened in East Timor.

being is inviolable. Approaching our dealings with others, from this outlook fosters an environment in which human rights violations are less prevalent. This good faith approach is necessarily in dealing with actors who are unaware that the actions rise to the level of human rights violations.

Suppose the explanation above is related to the concept of violation of the right to freedom of religion. In that case, the violation of this right can be conceptualized as an action, act, or policy that has the potential to reduce human dignity, dignity and honour by inhibiting, limiting, and depriving human beings of their rights. Hence, the rights inherent in the human person in believing in the truth of religious teachings and carrying out the rituals of worship of religion.³⁸

A violation of the right to freedom of religion can be understood as a violation of the fulfilment of human rights in religion and belief, both within and outside of the religious context, and internally in the religious context. Within the religious context this violation is categorized as a violation of the human rights to hear and believe in religious truth. In the external religious context a violation of this right is intended as a violation of human rights against their freedom to carry out religious teachings, usually in the form of rituals of worship.

In the case of the Sunni-Shi'a conflict in Sampang Regency, this violation of religious freedom focuses on the violation of the rights of citizens to adhere to and believe in religious truths, especially to the community's belief in the truth of the teachings of the Shi'a sect which has traditionally been rejected by the greater Muslim society. This community rejection culminated in the burning of the pesantren complex and the houses of Shia followers in Nangkrenang Village and

³⁸ Agung Ali Fahmi, *Implementasi Jaminan Hukum HAM Atas Kebebasan Beragama Di Indonesia* (Yogyakarta: Interpena, 2011), 217–18.

Blu'uran Village, Sampang Regency, on December 29, 2011, and August 26, 2012.³⁹

It is important to know that conceptually, there are several forms of human rights violations in people's lives, but these factors occur in two stages, The First, there is a form of discrimination against ex-Shia adherents in the Sampang district; Second, This discrimination is carried out by the government and also by law enforcement officers.

The discrimination carried out by the government, can be seen by the lack of meaningful government response, particularly in local government⁴⁰ The unwillingness to respond emboldens local citizens to commit violations, making the local government part of the problem. This was demonstrated before the riots, where the Regent of Sampang clearly stated his opprobrium at the existence of Shi'ites in the Sampang district. This statement swelled the ranks of the resistance movement by galvanizing groups that had long since expressed displeasure at the presence of this group in the Sampang district.⁴¹

The Sampang Regency Government favours the majority by discrediting minorities. Worse, the Sampang Regent at that time made the situation even more complicated by inciting the community to expel the Shia in his area, and asking the TNI and POLRI to comply

³⁹ Yuka Kayane Miichi Ken, "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 (2019): 51–64, <https://doi.org/https://doi.org/10.1017/trn.2019.12>.

⁴⁰ Muhammad Lukman Hakim, Indah Dwi Qurbani, and Abdul Wahid, "A Paradox between Religious Conviction and Recognizing the Freedom of Others on Measuring Religious (in) Tolerance Index in East Java, Indonesia," *Cogent Social Sciences* 9, no. 1 (2023): 1–16, <https://doi.org/10.1080/23311886.2023.2191443>.

⁴¹ Gilang Ramadhan, "Majority Religious Politics: The Struggle for Religious Rights of Minorities in Sampang, Madura," *Simulacra* 5, no. 1 (2022): 17–28, <https://doi.org/10.21107/sml.v5i1.13427>.

with the people's desire to expel the Shia.⁴² There were strong political incentives to take such a stance as the Regent of Sampang was undergoing a contested regional election. at that time. The involvement of political elements in the occurrence of inter-religious conflicts is a common occurrence, both in Indonesia and internationally.⁴³

Unlike before the attack, after the riots and arson, the Sampang Regency Government prioritized preparing relocation sites for Shia refugees than optimizing reconciliation efforts between the two conflicting parties. Even though there were reconciliation efforts, these efforts did not achieve an adequate solution to the problem. This is proven by the fact that despite the *islah* agreement, implemented in June 2013, the ex-Shia still cannot return the refugee camps in their hometowns. Ideally, if the *islah* effort goes well, the community and the Sunni leaders of Sampang must be willing to accept the Shiites to live and live peacefully among them.⁴⁴

The discrimination carried out against the Sampang Shia community was also carried out by the police and the TNI. This charge stems from the results of an investigation conducted by KONTRAS Surabaya with concluded that the police neglected their

⁴² Ahmad Zainul Hamdi, "Klaim Religious Authority Dalam Konflik Sunni-Syi'i Sampang Madura," *ISLAMICA: Jurnal Studi Keislaman* 6, no. 2 (2014): 215, <https://doi.org/10.15642/islamica.2012.6.2.215-231>.

⁴³ Mohammad Ali Hisyam & Wan Zailan Kamaruddin Wan Ali Wan, "Membaca Tantangan Kerukunan Antaragama Di Indonesia," *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* 5, no. 1 (2015): 197.

⁴⁴ Abu Rokhmad, "The Sunni-Shia Conflict in Madura Indonesia: Judging Individual Faith as Blasphemy," *Pertanika Journal of Social Sciences and Humanities* 27, no. 3 (2019): 2081-97, [http://www.pertanika.upm.edu.my/resources/files/Pertanika PAPERS/JSSH Vol. 27 \(3\) Sep. 2019/44 JSSH-375](http://www.pertanika.upm.edu.my/resources/files/Pertanika_PAPERS/JSSH_Vol.27(3)Sep.2019/44JSSH-375).

duty in protecting the community during the attacks on Shia settlements.

Before the incident occurred, Iklil Al-Milal contacted the Omben Police to report the rumors of an attack; also, the Omben Police had called and explained that there would be an attack. However, despite knowing about the attack plan, the Polsek did not place its units on alert, and conducted no cautionary steps to prevent the attack from being carried out. Tragically, despite being repeatedly contacted by Iklil Al-Milal, only two security personnel deployed to the field. One person was an officer from the Omben Police department, the other soldier from the Omben Koramil. These two officers did nothing but monitor and document the incident, using their cell phone cameras.⁴⁵

Article 1 paragraph (4) of the Human Rights Law stipulates; ; *torture is any act that is done intentionally, causing extreme pain or suffering, both physically (physically) and mentally (spiritual). The act is committed against a person to obtain a confession or information from a person or even from a third person by giving punishment for an act. Moreover, it has been committed or reasonably suspected of having been committed by a person or third person or for any reason based on any form of discrimination; thus, if the pain or suffering is caused by, at the instigation, with the consent of, or with the knowledge of anyone and/or a public official.*

Torture was committed in the Sunni-Shi'a conflict in Sampang Regency, by means of the burning and destruction of the Shia community in Nangkrenang village; Omben sub-district; Blu'uran village; Karang Penang sub-district; and Sampang district.

⁴⁵ Muwaffiq Jufri, *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal*, 81.

2) The Violation of Religious Rights and Freedoms on Public Rejection of Former Shia in Sampang Regency

As stated above, during the early days of the conflict, the Shia community in Sampang Regency was often subject to discriminatory treatment and unfairly targeted policies, both by the the local community and the state. The fact that ex-Shia adherents currently remain in refugee camps proves that this community still feels this discriminatory policy. This discriminatory policy indicates that there are actions that have the potential to violate human rights, especially the rights of citizens to adhere to and practice their religious teachings. In this section, we will discuss the forms of human rights violations against this community, as expressed in their denial of a right of return. immediately after pledging to return to the teachings of *Ahlussunnah wal Jama'ah*.

This violation of human rights entails the imposition of religious beliefs through coercion. It manifests as an obligation placed on Shia adherents to publicly pledge allegiance to Sunni teachings while renouncing their Shia beliefs entirely. Such compulsion represents a violation that encroaches upon both the external and internal religious rights of former Shia adherents.⁴⁶

That the community leaders have taken on the authority to adjudicate as to whether the local Shia community should be required to make a pledge as condition to re-entry into their homes demonstrates that they have infringed upon the religious freedoms of the minority Shia group. The governmental support of this condition for their return rises to the level of religious coercion enforced by state actors.⁴⁷

⁴⁶ Ansori et al, "Politik Hukum Penyelesaian Konflik Berbasis Agama Di Indonesia," *Journal Diversi*, vol. 2, 2016, 117.

⁴⁷ Jufri, "Analisis Putusan Pengadilan Negeri Sampang Nomor 69/Pid.B/2012/PN.Spg. Prespektif Hak Kebebasan Beragama Di Indonesia," 109.

The restriction which is caused by coercion in embracing religion violates several principles and norms that should be upheld by constitutional mandates.

Compulsory restrictions on religious rights and freedoms contradicts several articles regulated in the constitution, including Article 28E paragraph (1), Article 28E paragraph (2), and Article 29 Paragraph (2) of the NRI 1945 Constitution. Therefore, the coercion activities against former Shia adherents above can be considered unconstitutional because they are contrary to the guarantee of religious freedom regulated in the constitution.⁴⁸

Meanwhile, in the context of the rules under the constitution, such coercive activities are contrary to several articles regulated in the legislation, including:⁴⁹

- a) Article 22 paragraph (1) and Article 22 paragraph (2) of the Republic of Indonesia Legislation Number 39 of 1999 concerning Human Rights;
- b) Article 2 paragraph (2) and Article 13 paragraph (3) of the Republic of Indonesia Legislation Number 11 of 2005 on the Ratification of the International Covenant on Economic, Social and Cultural Rights;
- c) Article 18 paragraph (1), Article 18 paragraph (2), and Article 18 paragraph (3) of the Republic of Indonesia Legislation Number 12 of 2005 on Ratification of the International Convention on Civil and Political Rights;

⁴⁸ Achmad Maududi, "Perlindungan Hukum Terhadap Pengikut Aliran Syi'ah Di Sampang," *Ad-Daulah; Jurnal Hukum Dan Perundang-Undangan Islam* 4, no. 2 (2014): 246–49.

⁴⁹ Muwaffiq Jufri, "Regulation Model of Religious Rights and Freedoms for Local Religious Believers in the Majapahit Constitution," *HAM* 1, no. 1 (2022): 57–67, <https://ejournal.balitbangham.go.id/index.php/ham/article/view/3112>.

This violation of human rights in the form of coercion against Shia adherents stands in contrast to inter-religious harmony traditionally taught and practiced by the Madurese. Prior to the Sampang incident Madura never experienced inter-religious violence, nor was a house of worship or church ever burned in Madura. Madurese people, regardless of their religious background, traditionally live harmoniously and help each other. That is why one bureaucrat from Sumenep argues that Madura is a 'mini portrait' of diversity in Indonesia.

In spite of their strict adherence to the teachings of Islam, the Madurese still show a tolerant and friendly attitude towards adherents of other religious sects, even towards adherents of religions outside Islam. This is exemplified in several areas in Madura, in which the Madurese co-exist with followers of different religions. Some of these areas are called Tolerance Villages because they can demonstrate inter-religious harmonious relationships in the conducting of their social activities.⁵⁰

One of these aforementioned areas is Pabian Village, Sumenep Regency. In this village, three houses of worship are also located close together. The three houses of worship are the Klenteng (Tridharma worship centre), the Catholic Church of Mary Mount Karmel, and the Batul Arham Mosque.⁵¹

The tolerant life between adherents of different religions is believed to embody the character and traditions of the Madurese

⁵⁰ Agung Ali Fahmi, "The Implementation of Islamic Value Absorption in Regional Regulations on Districts at Madura," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 1 (2020): 157–58, <https://doi.org/http://doi.org/10.19105/al-ihkam.v15i1.2682>.

⁵¹ Mohammad Ali Al-Humaidy and et.al, *Etnis Tionghoa Di Madura; Interaksi Sosial Etnis Tionghoa Dengan Etnis Madura Di Sumenep* (Surabaya: Jakad Media Publishing, 2020).

community. Distinct from the practice of fold Muslim in other Muslim communities when describing something socially undesirable Madurese do not typically use the word haram. As Haram describes a legal category of prohibition in Islam Madurese, aware of this fact, instead replace the word "haram" with the word "*jhuba*" (not good).⁵² Parents will educate their children to avoid all actions and things prohibited by religion by saying "*jha' ngalakoh roa, karna jhuba*" (do not do that because it is not good).⁵³

The Madurese are not quick to criticize practices outside of their belief, and when pressed to label the foreign practice they will simply describe it as a "*ne-bannean school*" (a different sect), instead of condemning its non-orthodoxy. The Madurese are aware of the differences that develop in people's lives and believe that there is room for difference.

Second, it violates the understanding and traditions of the Indonesian people, who are tolerant and respect differences of belief. As stated earlier, Indonesian society is historically religiously tolerant, as has been demonstrated by the diverse tradition in the Majapahit era and during the struggle for independence. However, if we further explore sources of religious history in Indonesia, we find that the practice of religious diversity in the traditions of the people of the Archipelago has been practiced since times of antiquity when local religions such as Kapitayan were still the majority religion in each ethnic group in Indonesia.⁵⁴

⁵² Moh. Nayu and Agung Ali Fahmi, "Efforts to Realize a Halal Lifestyle in Madura Through The Synergy of Islamic Boarding Schools and The Halal Center of University Trunojoyo of Madura," *Trunojoyo Law Review* 4, no. 2 (2022): 98–111, [https://doi.org/https://doi.org/10.21107/tlr.v4i2.18616](https://doi.org/10.21107/tlr.v4i2.18616).

⁵³ Muwaffiq Jufri, *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal*.

⁵⁴ Wening Purbatin Palupi Soenjoto, "Islam Kejawen as an Adoption of Local Wisdom and Islamic Development in Javanese Communities," *Shahih: Journal of*

Tolerance and the principles of religious freedom have been a part of Kapitayan philosophy, and have served as a guideline for associating with people outside of their religion. However, the concept of freedom still needs improvement. These religious concepts appreciate the peaceful coexistence with other religions, especially religions that both carry the vision of monotheism in their divine system.⁵⁵

4. Conclusion

The existence of ex-Shia adherents who have been denied the right of return to their hometowns should be categorized as victims of acts of violence in the name of religion and belief, not as parties who have been adjudicated to have been embracing ideas that are contrary to the majority of Sampang residents. The rejection of former Shia adherents in Sampang District after the repentance pledge was made is a human rights violation. The form of violation is the existence of coercion to believe in the flow of one particular religion. This act of coercion also contradicts the traditions of the Madurese community, which is known to be very tolerant and maintain inter-religious harmony. Local governments need to take a significant role in resolving this issue by finding the best solution without compromising the civil rights of citizens in adhering to and believing in religious teachings.

Islamicate Multidisiplinary 7, no. 1 (2022): 67–76, <https://ejournal.uinsaid.ac.id/index.php/shahih/article/view/4134>.

⁵⁵ Wildhan Ichza Maulana, "Walisongo's Concept of Religious Moderation in the History of Islamization of Java in the 15th Century AD," *Fuaduna: Jurnal Kajian Keagamaan Dan Kemasyarakatan* 6, no. 1 (2022): 30–44, <https://doi.org/http://dx.doi.org/10.30983/fuaduna.v6i1.5521>.

5. Declaration of Conflicting Interests

It is certain that this research will not cause any conflict of interest between individuals, organisations and any agencies, especially in Sampang district, the geographical subject of this research. The guarantee that there is no conflict of interest is that the research is conducted transparently and with parties that are considered relevant in explaining the problem in the form of the community's rejection of the existence of a former Shi'ite group in Sampang Regency. Additionally, this research has also received permission from the Sampang Regency government through the National Unity and Politics Agency.

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8. References

- Achmad Maududi. "Perlindungan Hukum Terhadap Pengikut Aliran Syi'ah Di Sampang." *Ad-Daulah; Jurnal Hukum Dan Perundang-Undangan Islam* 4, no. 2 (2014): 246–49.
- Adawiyah, D P R, D M A Zakirah, and Dessy Dwi Lestari. "Sampang Regency Government Strategy in Reconciliation of Sunni-Shia People." *Tribakti: Jurnal Pemikiran Keislaman* 33, no. 2 (2022): 359–70.
- Al-Humaidy, Mohammad Ali, and et.al. *Etnis Tionghoa Di Madura; Interaksi Sosial Etnis Tionghoa Dengan Etnis Madura Di Sumenep*. Surabaya: Jakad Media Publishing, 2020.
- Amiruddin dan Zainal Asikin. *Pengantar Penelitian Hukum*. Jakarta: Rajawali Pers, 2018.
- Ansori et al. "Politik Hukum Penyelesaian Konflik Berbasis Agama Di Indonesia." *Journal Diversi*. Vol. 2, 2016.
- Damai, Andry Hikari. "Toleransi Beragama Pada Masa Mataram Kuna." In *Prosiding Seminar Nasional Bahasa Dan Budaya IV*, 24–28. Denpasar, 2019.
- Fahmi, Agung Ali. *Implementasi Jaminan Hukum HAM Atas Kebebasan Beragama Di Indonesia*. Yogyakarta: Interpena, 2011.
- Fahmi, Agung Ali. "Implementasi Kebebasan Beragama Dalam UUD Republik Indonesia Tahun 1945." Universitas Indonesia, 2010.
- Fahmi, Agung Ali. "The Implementation of Islamic Value Absorption in Regional Regulations on Districts at Madura." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 1 (2020): 157–58. <https://doi.org/10.19105/al-ihkam.v15i1.2682>.
- Faridah, Siti. "Kebebasan Beragama Dan Ranah Toleransinya." *Lex Scientia Law Review* 2, no. 2 (2018): 199–214. <https://doi.org/10.15294/lesrev.v2i2.27585>.
- H Situmorang, Victorio. "Kebebasan Beragama Sebagai Bagian Dari Hak Asasi Manusia." *Jurnal HAM* 10, no. 1 (2019): 57–67. <https://dx.doi.org/10.30641/ham.2019.10.57-67>.

- Hakim, Muhammad Lukman, Indah Dwi Qurbani, and Abdul Wahid. "A Paradox between Religious Conviction and Recognizing the Freedom of Others on Measuring Religious (in) Tolerance Index in East Java, Indonesia." *Cogent Social Sciences* 9, no. 1 (2023): 1–16. <https://doi.org/10.1080/23311886.2023.2191443>.
- Hallaq, Wael B. *An Introduction to Islamic Law*. Cambridge: Cambridge University Press, 2009.
- Hamdi, Ahmad Zainul. "Klaim Religious Authority Dalam Konflik Sunni-Syi'i Sampang Madura." *ISLAMICA: Jurnal Studi Keislaman* 6, no. 2 (2014): 215. <https://doi.org/10.15642/islamica.2012.6.2.215-231>.
- Ibrahim, Johny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2006.
- Jufri, Muwaffiq. "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): 102–10.
- Jufri, Muwaffiq. "Regulation Model of Religious Rights and Freedoms for Local Religious Believers in the Majapahit Constitution." *HAM* 1, no. 1 (2022): 57–67.
- Jufri, Muwaffiq. "Urgensi Amandemen Kelima Pada Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama." *HAM*, no. 1 (2021): 636–37. <https://dx.doi.org/10.30641/ham.2021.12.627-644>.
- Jufri, Muwaffiq, and Mukhlis Mukhlis. "Akibat Hukum Pemisahan Hak Beragama Dengan Hak Berkepercayaan Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." *Jurnal Konstitusi* 16, no. 2 (2019): 274–87. <https://doi.org/10.31078/jk1624>.
- Jufri, Muwaffiq. *Hukum Dan Hak Asasi Manusia; Dasar Teori Dan Praktiknya*. Depok: Rajawali Pers, 2023.
- Jufri, Muwaffiq. "Kontribusi Konstitusi Madinah Dan Konstitusi Nagarakretagama Terhadap Rancangan Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terkait Hak Dan Kebebasan Beragama." Brawijaya University, 2016.

- Jufri, Muwaffiq. *Metode Penyelesaian Konflik Agama; Optik Hukum, HAM, Dan Nilai Kearifan Lokal*. Surabaya: Scopindo, 2021.
- Kayane, Yuka. "Understanding Sunni-Shi'a Sectarianism in Contemporary Indonesia." *Indonesia and the Malay World* 48, no. 140 (2020): 78–96. <https://doi.org/10.1080/13639811.2020.1675277>.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana Prenada Media, 2019.
- Marzuki, Suparman. *Hak Asasi Manusia Dan Hukum Pidana*. Makassar: Fakultas Hukum Universitas Muslim Indonesia, 2017.
- Marzuki, Suparman. "Politik Hukum Hak Asasi Manusia Tentang Kebebasan Beragama Pasca Orde Baru." *Jurnal Hukum Ius Quia Iustum* 26, no. 2 (2019): 215–37. <https://doi.org/10.20885/iustum.vol26.iss2.art1>.
- Miichi Ken, 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 (2019): 51–64. <https://doi.org/10.1017/trn.2019.12>.
- Muljana, Slamet. *Menuju Puncak Kemegahan; Sejarah Kerajaan Majapahit*. Yogyakarta: LKiS Pelangi Aksara, 2012.
- Muljana, Slamet. *Tafsir Sejarah Nagara Kretagama*. Yogyakarta: LKiS Pelangi Aksara, 2012.
- Nayu, Moh., and Agung Ali Fahmi. "Efforts to Realize a Halal Lifestyle in Madura Through The Synergy of Islamic Boarding Schools and The Halal Center of University Trunojoyo of Madura." *Trunojoyo Law Review* 4, no. 2 (2022): 98–111. <https://doi.org/10.21107/tlr.v4i2.18616>.
- Purwanto, Muhammad Roy, Nur Kholish, Supriadi Tamyiz Mukahrrom, and Hamidullah Marazi. "The Significance of Maqasid Syariah Principles in Improving Islamic." *International Journal of Innovation, Creativity and Change* 13, no. 3 (2020): 1–13.
- Ramadhan, Gilang. "Majority Religious Politics: The Struggle for Religious Rights of Minorities in Sampang, Madura." *Simulacra* 5, no. 1 (2022): 17–28. <https://doi.org/10.21107/sml.v5i1.13427>.
- Riyanto, Sigit, and Fajri Matahati Muhammadin. "The Urgency to Incorporate the Islamic Concept of Rights into The International

- Human Rights Law Course in Indonesian Law Schools." *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 14, no. 1 (2019): 178–200. <https://doi.org/10.19105/al-lhkam.v14i1.2166>.
- Rokhmad, Abu. "The Sunni-Shia Conflict in Madura Indonesia: Judging Individual Faith as Blasphemy." *Pertanika Journal of Social Sciences and Humanities* 27, no. 3 (2019): 2081–97.
- Safa'at, Muchamad Ali. *Dinamika Negara Dan Islam Dalam Perkembangan Hukum Dan Politik Di Indonesia*. Jakarta: Konstitusi Press, 2018.
- Sunyoto, Agus. *Atlas Walisongo; Buku Pertama Yang Mengungkap Wali Songo Sebagai Fakta Sejarah*. VII. Tangerang Selatan: Imania, 2017.
- Tamsir, Siti Nashrah binti, and Zaini. "Ijtihad As A Method of Legal Discovery in The Islamic Legal System." *Trunojoyo Law Review* 5, no. 2 (2023): 129–43. <https://doi.org/10.21107/tlr.v5i2.21051>.
- Tripathi, Neha, and Anubhav Kumar. "The Constitutional Struggle for Religious Freedom: A Comparative Study of India and Indonesia." *Constitutional Review* 8, no. 1 (2022): 1–36. <https://doi.org/10.31078/consrev811>.
- Wan, Mohammad Ali Hisyam & Wan Zailan Kamaruddin Wan Ali. "Membaca Tantangan Kerukunan Antaragama Di Indonesia." *Teosofi: Jurnal Tasawuf Dan Pemikiran Islam* 5, no. 1 (2015): 197.
- Wening Purbatin Palupi Soenjoto. "Islam Kejawen as an Adoption of Local Wisdom and Islamic Development in Javanese Communities." *Shahih: Journal of Islamicate Multidisciplinary* 7, no. 1 (2022): 67–76.
- Whaley, Joachim. *The Thirty Years War 1618–1648; Germany and the Holy Roman Empire*. Oxford: Oxford University Press, 2012. <https://doi.org/10.1093/acprof:oso/9780198731016.003.0008>.
- Wildhan Ichza Maulana. "Walisongo's Concept of Religious Moderation in the History of Islamization of Java in the 15th Century AD." *Fuaduna: Jurnal Kajian Keagamaan Dan Kemasyarakatan* 6, no. 1 (2022): 30–44. <https://dx.doi.org/10.30983/fuaduna.v6i1.5521>.

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