



State Legal Response to Sectarian Conflict and the Protection of the Shia Community: The Sampang Case

Abdul Chair Ramadan^{1*}

¹Sekolah Tinggi Ilmu Hukum IBLAM (STIH IBLAM), Jakarta, Indonesia

¹Universitas Krisnadwipayana, Jakarta, Indonesia

**Corresponding author: dutalan@gmail.com*

Abstract. The religious conflict involving the Shia community in Sampang, East Java, illustrates the complex interplay between freedom of religion, human rights protection, and the state's obligation to address communal violence. This study aims to analyze Indonesia's legal framework regarding the protection of the Shia community and to evaluate the state's legal response to the Sampang conflict considering principles concerning freedom of religion and human rights. Employing a normative-juridical method, the study utilizes both statutory and case-based approaches. Legal materials are analyzed through a descriptive-analytical lens, linking legal provisions on religious freedom, human rights, and social conflict management to the dynamics of the conflict involving the Sampang Shia community. The analysis reveals that Indonesia possesses a robust normative foundation, anchored by the 1945 Constitution, Law Number 39 of 1999 on Human Rights, and Law Number 7 of 2012 on Social Conflict Management. However, the implementation of this framework faces challenges regarding effective protection, equitable law enforcement, prolonged displacement, and the restoration of victims' rights. Consequently, the state's response must move beyond merely halting violence toward ensuring substantive protection, rights restoration, and equal guarantees of religious freedom. The Sampang case highlights a gap between normative legal guarantees and the substantive realization of rights protection.

Keywords: Freedom of Religion, Human Rights, Religious Conflict, Shia Community, State Legal Response.

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Abstrak. *Konflik keagamaan yang melibatkan komunitas Syiah di Sampang, Jawa Timur, menggambarkan interaksi kompleks antara kebebasan beragama, perlindungan hak asasi manusia, dan kewajiban negara dalam menangani konflik komunal. Studi ini bertujuan untuk menganalisis kerangka hukum Indonesia terkait perlindungan komunitas Syiah serta mengevaluasi respons hukum negara terhadap konflik Sampang dengan mempertimbangkan prinsip-prinsip kebebasan beragama dan hak asasi manusia. Dengan menggunakan metode yuridis-normatif, studi ini menerapkan pendekatan perundang-undangan dan pendekatan kasus. Bahan hukum dianalisis secara deskriptif-analitis dengan mengaitkan ketentuan hukum mengenai kebebasan beragama, hak asasi manusia, dan penanganan konflik sosial dengan dinamika konflik yang melibatkan komunitas Syiah Sampang. Hasil analisis menunjukkan bahwa Indonesia memiliki landasan normatif yang kuat, yang bersumber pada UUD 1945, Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, dan Undang-Undang Nomor 7 Tahun 2012 tentang Penanganan Konflik Sosial. Namun, implementasi kerangka hukum ini menghadapi tantangan terkait efektivitas perlindungan, penegakan hukum yang adil, pengungsian yang berkepanjangan, serta pemulihan hak-hak korban. Oleh karena itu, respons negara harus melampaui sekadar penghentian kekerasan menuju upaya menjamin perlindungan substantif, pemulihan hak, dan jaminan kebebasan beragama yang setara. Kasus Sampang menyoroti adanya kesenjangan antara jaminan hukum secara normatif dan perwujudan substantif dari perlindungan hak tersebut.*

Kata kunci: Kebebasan Beragama, Hak Asasi Manusia, Konflik Keagamaan, Komunitas Syiah, Respons Hukum Negara.

1. Introduction

Freedom of religion is a constitutional right in Indonesia and a crucial element in the protection of human dignity and equality before the law. Article 28E of the 1945 Constitution of the Republic of Indonesia guarantees every individual the freedom to embrace a religion and to worship according to their religion and beliefs, while Article 29, paragraph (2), affirms the state's obligation to guarantee the freedom of every resident to embrace a religion and to worship according to their religion and beliefs. This constitutional protection is reinforced by Law Number 39 of 1999 concerning Human Rights, which mandates that the state respect and protect human rights without discrimination. Thus, Indonesia's legal framework positions the state not merely as an entity responsible for maintaining public order, but also as the primary duty-bearer responsible for protecting citizens from religiously motivated violence and discrimination.¹

The tension between religious freedom and the state's responsibility to prevent religious violence is clear in the conflict involving the Shia community in Sampang, East Java. The Sampang conflict unfolded through a protracted dispute between the Sunni majority and the Shia community in Nangkernang, Karang Gayam Village, Omben District. Various studies indicate that the conflict did not emerge suddenly as a purely theological dispute; rather, its progression involved interpersonal and familial tensions, opposition to the local Shia community, religious contestation, the mobilization of societal actors, and government responses that evolved over time.² For instance, describe the conflict's transformation from an interpersonal dispute into a broader communal conflict, while demonstrate that variations in government policy significantly influenced the dynamics of Sunni-Shia relations in Sampang.³

¹ Katharine McGregor and Ken Setiawan, "Shifting from International to 'Indonesian' Justice Measures: Two Decades of Addressing Past Human Rights Violations," *Journal of Contemporary Asia* 49, no. 5 (2019): 849. See also, Aksel Tømte and Eko Riyadi, *International human rights and local courts: Human rights interpretation in Indonesia* (Milton Park: Taylor & Francis, 2024), 239; Isroni Muhammad Miraj Mirza et al., "Social Transformation of International Human Rights Law Through Indonesian Constitutional Court," *Uti Possidetis: Journal of International Law* 4, no. 3 (2023): 452.

² Said Agil Siradj, "The Sunni-Shi'ah Conflict and the Search for Peace in Indonesia," *Journal of Indonesian Islam* 7, no. 1 (2013): 160. See also, Masdar Hilmy, "The political economy of Sunni-Shi'ah conflict in Sampang Madura," *Al-Jami'ah: Journal of Islamic Studies* 53, no. 1 (2015): 39; 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): 57; Novita Maulida Ikmal, "Sunni-Syiah Conflict in Sampang, Madura: The Politics of Identity," *Jurnal Studi Sosial Dan Politik* 5, no. 1 (2021): 5.

³ Mukhsin Achmad et al., "From Personal to Communal: The Conflict among Sunni-Shi'ite in Sampang, East Java," *Sunan Kalijaga: International Journal of Islamic Civilization* 2, no. 1 (2019): 42. See also, Fajri M. Kasim and Abidin Nurdin, "Study of Sociological Law on Conflict Resolution through

The conflict escalated significantly during the 2011–2012 period. Human Rights Watch documented an attack on the Shia community in Nangkernang on December 29, 2011, which resulted in the burning of homes and a *madrasa* (Islamic religious school), forcing approximately 500 Shia residents to flee. On August 26, 2012, hundreds of attackers again targeted the community, burning around 50 Shia homes; one person died, and another sustained severe injury. Human Rights Watch also reported that police officers were present at the scene during the attacks but failed to intervene effectively. Amnesty International noted that security forces were aware of the timing of the December 29, 2011, attack but did not take adequate measures to prevent it or protect the Shia residents.⁴ These events demonstrate that the Sampang conflict can no longer be understood merely as a difference of opinion regarding religious doctrine; rather, it has evolved into physical violence, the destruction of property, and forced displacement, while also raising serious questions about the state's capacity to protect vulnerable citizens.⁵

The legal dimension of the Sampang case is further complicated by the fact that the state's response was not limited to law enforcement actions against the perpetrators of violence; certain state measures also directly impacted the Shia community itself. Human Rights Watch documented a *fatwa* (religious edict) issued by the Sampang Regency chapter of the Indonesian Ulema Council (MUI) in January 2012 regarding teachings associated with Tajul Muluk, which was followed by pressure on the government to take legal action. Tajul Muluk was subsequently prosecuted for blasphemy and ultimately sentenced to four years in prison by the East Java High Court. This situation raises fundamental questions regarding the

Adat in Aceh Community According to Islamic Law,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 2 (2020): 386.

⁴ Amnesty International, “Indonesia must protect Shi’a villagers from further attacks”, Amnesty International, January 13, 2012. Retrieved in August 25, 2026 from: <https://www.amnesty.org/en/latest/news/2012/01/indonesia-must-protect-shi-villagers-further-attacks>. See also, Human Rights Watch, “In religion’s name: Abuses against religious minorities in Indonesia”, Human Rights Watch, 2013. Retrieved in August 26, 2026 from: <https://www.hrw.org/report/2013/02/28/religions-name/abuses-against-religious-minorities-indonesia>

⁵ 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): 243. See also, Miichi and Kayane, “The Politics of Religious Pluralism,” 58; 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): 974; 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): 181.

limits of state authority in maintaining interfaith harmony versus its constitutional obligation to guarantee freedom of religion.⁶

The ongoing impact of the conflict also highlights the limitations of a purely security-oriented approach. Research on legal protections for the Sampang Shia community indicates that the violence resulted in community members being displaced from their homes and that neither legal nor governmental interventions have succeeded in restoring their right to return.⁷ Studies on identity and reconciliation further show that the Sampang Shia community has faced displacement and life as evacuees, as well as complex social challenges, despite various policies and reconciliation efforts.⁸ More recent legal studies also report that Tajul Muluk and hundreds of former Shia residents remain unable to return to their hometowns, notwithstanding various reconciliation attempts.⁹ The findings indicate that legal issues in religious conflicts extend beyond the immediate cessation of violence to encompass matters such as displacement, the restoration of rights, non-discrimination, reconciliation, and post-conflict recovery.¹⁰

The enactment of Law Number 7 of 2012 concerning Social Conflict Management provides a crucial legal framework for examining this issue. The law outlines three primary stages of conflict management: conflict prevention, conflict cessation, and post-conflict recovery. It also acknowledges the state's responsibility to foster safe and peaceful conditions and establishes mechanisms to protect victims and restore social conditions following a conflict. However, the experience in Sampang raises questions regarding the effectiveness of this legal framework when religious conflict intersects with pressure from majority groups, local political interests, discrimination, and protracted displacement.¹¹

⁶ Abu Rokhmad, "The Sunni-Shia Conflict in Madura Indonesia: Judging Individual Faith as Blasphemy," *Pertanika Journal of Social Sciences & Humanities* 27, no. 2 (2019): 2081. See also, Human Rights Watch, "Indonesia: Shia cleric convicted of blasphemy", Human Rights Watch, July 12, 2012. Retrieved in August 24, 2026 from: <https://www.hrw.org/news/2012/07/12/indonesia-shia-cleric-convicted-blasphemy>; Miichi and Kayane, "The Politics of Religious Pluralism," 59.

⁷ Muhtada et al., "The Protection of Civil Rights," 244. See also, Mukhlis et al., "Rejection of Former Shia Community," 975.

⁸ Abdus Sair and Yelly Elanda, "The Cultural Negotiation Of Being Shia And Madurese," *Islamuna: Jurnal Studi Islam* 8, no. 1 (2021): 48.

⁹ Muwaffiq Jufri et al., "Non-Penal Conflict Resolution and Islamic Legal Culture: Evidence from Sunni-Shia in Indonesia," *Unnes Law Journal* 12 (2026): 57. See also, Soleh et al., "Handling and Recovery of Religious Conflict Victims," 183.

¹⁰ Cahyo Pamungkas, "Mencari Bentuk Rekonsiliasi Intra-Agama: Analisis terhadap Pengungsi Syiah Sampang dan Ahmadiyah Mataram," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 13, no. 1 (2018): 128. See also, Mukhlis et al., "Rejection of Former Shia Community," 977; Jufri et al., "Non-Penal Conflict Resolution and Islamic Legal Culture," 58.

¹¹ Akhmad Siddiq et al., "State Failure and The Sunni-Shia Conflict in Sampang Madura," *Al-Albab* 12 (2023): 216. See also, Greg Acciaoli, "Finding Tools to Limit Sectarian Violence in Indonesia: The Relevance of Restorative Justice," *American Journal of Economics and Sociology* 76, no.

Therefore, the Sampang case should not be understood merely as a conflict between Sunni and Shia communities. It serves as a test of the state's ability to reconcile three potentially conflicting interests: maintaining public order, preventing communal violence, and guaranteeing freedom of religion and belief. The core issue is not whether one religious interpretation should be legally deemed superior to another, but rather whether the state has fulfilled its constitutional and statutory obligations to protect citizens from violence and discrimination while managing religious differences in accordance with the rule of law.¹²

Although previous studies have examined the Sampang conflict from the perspectives of human rights, religious freedom, social relations, and local government policy, there remains a need for a more comprehensive legal analysis regarding the effectiveness of the state's response throughout the entire conflict cycle ranging from prevention and protection, law enforcement, and displacement to reconciliation and post-conflict recovery. Consequently, this article examines the conflict involving the Sampang Shia community as a case study of religious violence and the legal response in Indonesia. The analysis focuses on the adequacy of the legal framework and the capacity of state institutions to protect the Shia community, prevent recurring violence, and restore the rights of conflict victims. Ultimately, this analysis aims to identify a state response model to religious violence that is grounded in human rights and possesses legal coherence within the Indonesian context.¹³ Based on the foregoing, this study focuses on the legal issues surrounding the state's response to the conflict involving the Sampang Shia community. The research questions posed are:

1. How does the Indonesian legal framework provide for the protection of the Shia community within the context of religious conflict?
2. How does the state's legal response to the Sampang Shia community conflict measure up against the principles of freedom of religion and the protection of human rights?

5 (2017): 1234; M. Khusna Amal, "Towards a Deliberative Conflict Resolution? A Reflection on State Inclusive Response to Sunni-Shi'a Tension in Indonesia's Democracy," *Qudus International Journal of Islamic Studies* 8, no. 2 (2020): 241; Soleh et al., "Handling and Recovery of Religious Conflict Victims," 181.

¹² Siradj, "The Sunni-Shi'ah Conflict," 160. See also, Siddiq et al., "State Failure and The Sunni-Shia Conflict," 218; Amal, "Towards a Deliberative Conflict Resolution," 241; Muhtada et al., "The Protection of Civil Rights," 246; Mukhlis et al., "Rejection of Former Shia Community," 977.

¹³ Siddiq et al., "State Failure and The Sunni-Shia Conflict," 219. See also, Pamungkas, "Mencari Bentuk Rekonsiliasi," 128; Muhtada et al., "The Protection of Civil Rights," 247. See also, Mukhlis et al., "Rejection of Former Shia Community," 978; Soleh et al., "Handling and Recovery of Religious Conflict Victims," 185.

2. Research Methods

This study employs a normative-juridical method, utilizing both the statute approach and the case approach, to analyze the legal protection afforded to the Shia community amidst religious conflicts in Indonesia—specifically the case in Sampang, East Java. The statute approach is used to identify and analyze legal norms governing freedom of religion, human rights protection, the management of social conflicts, and the state's obligation to protect its citizens. The regulations analyzed include the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, and Law Number 7 of 2012 concerning the Handling of Social Conflicts, alongside other relevant legal provisions.

The case approach is utilized to analyze the conflict involving the Sampang Shia community as a concrete subject of study, focusing particularly on the series of violent incidents between 2011 and 2012, the legal proceedings against Tajul Muluk, the displacement of the Shia community, and state policies regarding post-conflict management and recovery. Primary legal materials consist of legislation and legal documents related to the Sampang case, while secondary legal materials include books, scholarly journal articles, reports from human rights organizations, and relevant academic publications. Data were gathered through literature review and analyzed using a descriptive-analytical method by correlating legal norms with the legal facts of the Sampang case. The analysis aims to evaluate the extent to which the state's response aligns with principles of freedom of religion, non-discrimination, equality before the law, human rights protection, and the restoration of victims' rights.

3. Results and Discussion

3.1. Indonesia's Legal Framework for the Protection of the Shia Community in Religious Conflicts

The protection of the Shia community amidst religious conflict is fundamentally grounded in the status of every individual as a legal subject possessing equal rights, regardless of religion, belief, or status as part of a majority or minority group. In a state governed by the rule of law, differences in belief cannot serve as grounds for stripping away or curtailing an individual's fundamental rights. This principle finds its highest legal basis in the 1945 Constitution of the Republic of Indonesia. Article 28E paragraph (1) guarantees the freedom of every person to embrace a religion and worship according to that religion, while Article 28E paragraph (2) guarantees the freedom to hold beliefs and to express thoughts and attitudes in accordance with one's conscience. These guarantees are reinforced by Article 28I paragraph (1), which enshrines the right to

religion as a fundamental human right that cannot be derogated from under any circumstances. Meanwhile, Article 29 paragraph (2) affirms that the state guarantees the freedom of every resident to embrace a religion and to worship according to their religion and beliefs.¹⁴

This constitutional framework demonstrates that religious freedom is not merely a private liberty whose exercise depends entirely on societal acceptance. Rather, religious freedom is a constitutional right that imposes an obligation on the state to ensure that every individual can practice their faith safely and on an equal footing. Consequently, an individual's status as a member of a minority group does not diminish the quality of legal protection to which they are entitled. The state cannot delegate the protection of religious freedom to mechanisms of majority acceptance, as such an approach risk transforming a constitutional right into one contingent upon social approval. In the context of Sunni-Shia conflict, this principle is crucial because differences in religious interpretation cannot, in themselves, negate the Shia community's status as citizens entitled to equal legal protection.¹⁵

These constitutional guarantees are further reinforced by Law Number 39 of 1999 concerning Human Rights. Article 3 affirms the principles of equality and non-discrimination, while Article 22 guarantees every individual's freedom to embrace a religion and to worship in accordance with their religion and beliefs. From this perspective, the protection of the Shia community concerns not only the right to hold beliefs but also the right to practice those beliefs free from threats, violence, or discriminatory treatment. Consequently, the protection of religious freedom encompasses both negative and positive dimensions. The negative dimension requires the state to refrain from unlawful interference with an individual's beliefs, whereas the positive dimension obliges the state to take action when individuals or groups face threats from other parties.¹⁶

This principle becomes increasingly critical when religious conflicts involve majority and minority groups. In such relationships, state neutrality can result in unequal legal protection. If majority pressure on minority groups is treated solely as a social issue, the state risks neglecting its obligation to protect the victims' basic rights. Conversely, if the state uses public order as a pretext to excessively restrict

¹⁴ Kasim and Nurdin, "Study of Sociological Law on Conflict," 387. See also, Herman Lawelai et al., "Politics multiculturalism of minority religions in demanding freedom of worship," *INFERENSI: Jurnal Penelitian Sosial Keagamaan* 16, no. 1 (2022): 52.

¹⁵ Siradj, "The Sunni-Shi'ah Conflict," 161. See also, Tömte and Riyadi, *International human rights*, 239.

¹⁶ Fajri Muhammadin et al., "Applying Customary International Law in the Indonesian Human Rights Court-An Islamic Solution of the Conundrum," *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilisation (ISTAC)* 24, no. 2 (2019): 221. See also, McGregor and Setiawan, "Shifting from International," 849.

minority groups, such actions can become a form of discrimination legitimized by public authority. Therefore, state action in religious conflicts must be balanced between the authority to maintain order and the obligation to guarantee religious freedom.¹⁷

In the context of conflict management, Law Number 7 of 2012 concerning Social Conflict Management provides more operational legal instruments. This law does not limit conflict management to stopping violence, but instead establishes mechanisms that encompass conflict prevention, conflict resolution, and post-conflict recovery. These three stages are crucial for protecting the Shia community because threats to religious freedom can occur before, during, and after violence occurs. The state has a responsibility to recognize potential conflicts, take preventive measures, provide protection when violence occurs, and ensure the recovery of victims after the conflict ends.¹⁸

The prevention phase implies that the state should not wait for violence to occur before fulfilling its obligations. When there are indications of rising intolerance, threats against religious groups, mass mobilization, or opposition to a community's existence, the government and law enforcement agencies have the scope to take preventive measures within their legal authority. Prevention in this context does not mean restricting the existence of groups deemed controversial; rather, it aims to prevent differences in belief from escalating into violence or discrimination. This approach aligns with the principle that freedom of religion must be protected from the moment a threat to its exercise emerges, rather than only after the right has been physically violated.¹⁹

The conflict-cessation phase is directly linked to the obligation of state authorities to ensure the safety of citizens. In the Sampang conflict, this issue was critical, as violence against the Shia community escalated to include the burning of homes, the destruction of educational facilities, physical attacks, fatalities, and displacement. Human Rights Watch documented an attack on December 29, 2011, that resulted in the burning of homes and a *madrassa* (Islamic religious school), as well as the displacement of Shia residents. A subsequent attack occurred on August

¹⁷ Affaf Mujahidah, "Eksistensi Civic Engagement dan Elite Integration dalam Konflik Sunni-Syiah di Sampang," *Religió Jurnal Studi Agama-agama* 5, no. 2 (2015): 151. See also, Amal, "Towards a Deliberative Conflict Resolution," 241; Renata Arianingtyas, "Indonesia: Between Religious Harmony and Religious Freedom," In *State Responses to Minority Religions* (Oxfordshire: Routledge, 2017), 70.

¹⁸ Acciaioli, "Finding Tools to Limit Sectarian Violence," 1234. See also, Siddiq et al., "State Failure and The Sunni-Shia Conflict," 221; Edi Rosman and Aidil Alfin, "The Contestation of Legal Authority: Local Criminal Law, State Law, and Islamic Law in Nagari Pasia Laweh, West Sumatra," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 2 (2025): 198.

¹⁹ Amal, "Towards a Deliberative Conflict Resolution," 244. See also, Acciaioli, "Finding Tools to Limit Sectarian Violence," 1235; Fayaz Gul Mazloun Yar et al., "Reorganization of Effective Geographical Factors on National Power," *International Journal of Social Health* 3, no. 3 (2024): 274.

26, 2012, involving the burning of dozens of homes and resulting in fatalities and severe injuries. The presence of security forces at the scene—unaccompanied by effective intervention—demonstrates that the formal presence of security institutions does not necessarily equate to the fulfillment of the obligation to provide legal protection.²⁰

From the perspective of the rule of law, such protection must also encompass law enforcement action against the perpetrators of violence. The principle of equality before the law dictates that perpetrators be prosecuted based on their actions, regardless of their social status, religion, or the backing of the groups supporting them. If the law is used merely to control the victimized group while violence against them goes unpunished effectively, the law's function as an instrument of protection is transformed into an instrument of inequality. The state must ensure that criminal law is applied to acts of violence, threats, destruction of property, and other actions constituting criminal offenses, without allowing the victim's religious identity to serve as a factor that diminishes protection.²¹

This legal framework must also be applied during the recovery phase. Displacement resulting from religious conflict cannot be considered resolved simply because victims have been placed in a safer location. Protracted displacement can give rise to broader legal issues, including the loss of access to housing, property, education, employment, family life, and the exercise of religious freedom. In the Sampang case, the long-term presence of Shia residents in displacement sites demonstrates that temporary protection is not synonymous with the restoration of rights. Recovery must create conditions that enable victims to regain their rights with dignity, including the possibility of returning to their places of origin should security and legal conditions permit.²²

The recovery aspect also relates to the right to property and housing. When residents' homes are burned down or abandoned due to threats of violence, the state has an obligation to establish recovery mechanisms that go beyond the mere provision of temporary shelter. Safeguarding ownership, providing redress for losses, ensuring housing security, and guaranteeing access to public services are all inherent obligations in the protection of citizens. Such recovery efforts must be implemented without requiring victims to alter their identities or beliefs. If a person

²⁰ Human Rights Watch, "Indonesia: Ensure safe return home," Retrieved in August 27, 2026 from: <https://www.hrw.org/news/2013/06/30/indonesia-ensure-safe-return-home-evicted-shia-villagers>. See also, Amnesty International, "Indonesia must protect Shi'a villagers".

²¹ McGregor and Setiawan, "Shifting from International," 849. See also, Tømte and Riyadi, *International human rights*, 240.

²² Fiqh Vredian Aulia Ali, "Internally Displace Persons and Informal Citizenship: Sampang Shiites' Struggle after Sectarian Violence," *Peradaban Journal of Religion and Society* 1, no. 1 (2022): 7. See also, Muhtada et al., "The Protection of Civil Rights for the Shi'ite Refugees," 249; Mukhlis et al., "Rejection of Former Shia Community," 979.

can only regain a normal life by changing their faith, then religious freedom loses its substantive meaning.²³

The situation becomes more complex when the state employs administrative approaches or relocation to maintain security. Relocation may be justified in certain circumstances as a temporary measure to prevent further victimization. However, relocation must not become a permanent mechanism for separating minority groups from their original communities. In the Sampang case, the prolonged nature of the displacement highlights the distinction between short-term security protection and the long-term restoration of rights. Frames the restoration of the civil rights of Shiite refugees as a governance issue requiring coordination among various state institutions, whereas link it to the right to freedom of religion from a human rights law perspective.²⁴

Beyond national legal instruments, the protection framework must also be viewed in the context of Indonesia's relationship with international human rights law. Indonesia is a state party to various international human rights instruments that safeguard freedom of religion, equality, and individual security. The application of these principles within the national legal system reinforces the state's obligation to ensure that any restrictions on religious freedom have a legal basis, pursue a legitimate aim, and are applied proportionately. The evolving role of Indonesian courts in interpreting international human rights norms demonstrates that such law can form part of the legal arguments used to protect rights at the national level.²⁵

Thus, Indonesia's legal framework provides a relatively comprehensive basis for protecting the Shia community amidst religious conflict. The 1945 Constitution of the Republic of Indonesia provides constitutional guarantees; Law Number 39 of 1999 establishes the foundation for human rights protection and the prohibition of discrimination; and Law Number 7 of 2012 outlines mechanisms for conflict prevention, cessation, and resolution. Collectively, these instruments designate the state as the duty-bearer responsible for guaranteeing freedom of religion, protecting citizens from violence, enforcing the law equitably, and restoring victims' rights. Consequently, the legal issue in the Sampang case lies not primarily

²³ Arnanda Yusliwidaka et al., "The Development of National Law in The Context of The Implementation of International Humanitarian Law," *Croatian International Relations Review* 28, no. 89 (2022): 294. See also, Ida Rachmah 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): 1960; Pamungkas, "Mencari Bentuk Rekonsiliasi," 129.

²⁴ Muhtada et al., "The Protection of Civil Rights," 252. See also, Mukhlis et al., "Rejection of Former Shia Community," 979.

²⁵ Tömte and Riyadi, *International human rights*, 243. See also, Muhammadin et al., "Applying Customary International Law," 221; Mirza et al., "Social Transformation of International Human Rights Law," 454.

in a lack of legal norms, but rather in the gap between normative guarantees and substantive implementation. This gap serves as a crucial benchmark for assessing whether the state is genuinely fulfilling its constitutional obligations toward religious minority groups.

3.2. The State's Legal Response to the Sampang Shia Community Conflict: An Analysis of Freedom of Religion and Human Rights Protection⁶

The state's response to the conflict involving the Sampang Shia community must be evaluated by balancing the state's authority to maintain order against its obligation to guarantee freedom of religion and protect human rights. In a state governed by the rule of law, public order is a legitimate interest, yet it cannot serve as a justification for discriminatorily curtailing the rights of specific groups. While the state possesses the authority to regulate communal life, the exercise of such power must remain within constitutional limits and adhere to human rights principles. Consequently, the success of the state's response cannot be measured solely by its ability to halt open clashes; it must also be gauged by its capacity to ensure that victims receive protection, perpetrators of violence are prosecuted, and citizens' rights are restored.²⁶

In the context of Sampang, the attacks on December 29, 2011, and August 26, 2012, serve as critical indicators for assessing the state's protective response. The first attack resulted in the burning of homes and a *madrasa* (Islamic religious school), as well as the displacement of Shia residents. Subsequent attacks led to the burning of dozens of homes and resulted in fatalities and severe injuries. Human Rights Watch noted that police officers were present at the scene during the violence but failed to intervene effectively, while Amnesty International highlighted the need to protect Shia residents facing ongoing threats.²⁷ From the perspective of state obligations, this situation demonstrates that the physical presence of security forces does not automatically fulfill the duty of protection if the actions taken fail to prevent or halt the violence.²⁸

The obligation to provide protection in this case must be understood as a positive obligation of the state. The state is not merely required to refrain from committing violence against citizens; it must also exercise its available authority to shield citizens from violence perpetrated by third parties. In the context of

²⁶ Siradj, "The Sunni-Shi'ah Conflict," 162. See also, McGregor and Setiawan, "Shifting from International," 851.

²⁷ A'an Suryana, *The state and religious violence in Indonesia: Minority faiths and vigilantism* (Oxfordshire: Routledge, 2019), 215.

²⁸ Human Rights Watch, "Indonesia: Ensure safe return home of evicted Shia villagers", Human Rights Watch, June 30, 2013. Retrieved in August 27, 2026 from: <https://www.hrw.org/news/2013/06/30/indonesia-ensure-safe-return-home-evicted-shia-villagers>. See also, Amnesty International, "Indonesia must protect Shi'a villagers".

religious-based conflicts, this positive obligation becomes even more crucial, as minority groups may find themselves in a socially more vulnerable position. When threats against minority groups are identified and escalate into violence, a failure to implement effective prevention or intervention measures can raise issues regarding the fulfillment of the state's obligation to guarantee security and equal legal protection.²⁹

The issue of protection does not end with the actions of authorities while violence is unfolding. Following an attack, the state must ensure that victims have access to justice. Law enforcement efforts must target perpetrators of violence without discrimination and without treating the victim's religious identity as a factor that mitigates the perpetrator's liability. Such an approach is crucial because sectarian conflicts carry the risk of violence being perceived as a natural consequence of religious differences. In a state governed by the rule of law, religious differences cannot justify violence. When acts of violence meet the elements of a criminal offense, the legal response must be grounded in the specific actions and individual accountability of the perpetrators, rather than in claims of communal legitimacy.³⁰

At the same time, legal proceedings against members of the Shia community themselves raise distinct issues. The case of Tajul Muluk illustrates the interplay between sectarian conflict, allegations of blasphemy, and the application of criminal law. Human Rights Watch has documented the legal proceedings and conviction of Tajul Muluk in the blasphemy case, while the case within the broader issue of how individual beliefs are judged as acts of blasphemy.³¹ Legally, the state possesses the authority to enforce applicable criminal statutes. However, when legal proceedings take place amidst conflict between majority and minority groups, the application of the law must be scrutinized regarding equality, independence, proportionality, and the potential for discrimination.³²

²⁹ Rami A. Kinsara et al., "Strategic insights into the Bahrain conflict," In *2011 IEEE International Conference on Systems, Man, and Cybernetics* (Piscataway: IEEE, 2011), 3497. See also, McGregor and Setiawan, "Shifting from International," 852; Tømte and Riyadi, *International human rights*, 244.

³⁰ 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): 162. See also, Siddiq et al., "State Failure and The Sunni-Shia Conflict," 220; Mukhlis et al., "Rejection of Former Shia Community," 981.

³¹ Rokhmad, "The Sunni-Shia Conflict," 2081.

³² Sri Suatmiati and Edy Kastro, "Legal and Institutional Framework on Counter-Terrorism in Indonesia," *Jurnal Media Hukum* (2020): 72. See also, U.S. Department of State, "2023 report on international religious freedom: Indonesia", U.S. Department of State, 2023. Retrieved in August 21, 2026 from: <https://2021-2025.state.gov/reports/2023-report-on-international-religious-freedom/indonesia/?safe=1>.

This does not imply that every criminal proceeding against an individual from a minority group automatically constitutes a violation of religious freedom. Indeed, the principles of the rule of law require that every case be examined based on the law and valid evidence. Nevertheless, the context of sectarian conflict must be taken into account to ensure the law is not used as an instrument to reinforce social pressure against specific groups. While religious freedom does not grant an individual legal immunity, the law must not use differences in belief as a basis for unequal treatment. Therefore, the boundary between legitimate law enforcement and restrictions on freedom of religion must be assessed based on the legal basis, the objective of the restriction, necessity, and the proportionality of state action.³³

The relocation of Shia residents is another crucial aspect when evaluating the state's response. From a security perspective, moving residents away from areas facing threats can be a rational emergency measure to save lives. However, if relocation persists over the long term without effective mechanisms to guarantee return or the restoration of rights, the action can shift from temporary protection to a substantive restriction on the victims' rights. In the Sampang case, the prolonged displacement demonstrates that the cessation of violence does not automatically lead to the restoration of the Shia residents' lives.³⁴

This issue becomes even more apparent when relocation is viewed in the context of the right to housing and freedom of religion. The state should not resolve conflicts by removing the victimized group from the conflict zone. If the group targeted by violence is relocated while the perpetrators or the social structures generating the pressure remain in the area of origin, the burden of resolving the conflict is indirectly shifted onto the victims. Such an approach risks creating "victim displacement," a situation where victims lose their homes and social spaces as a consequence of the state's inability to guarantee security.³⁵

Within the framework of post-conflict recovery, the right to return must be considered alongside guarantees of security and equal acceptance. Return cannot be understood merely as a physical relocation from a displacement site to the place of origin. Substantive return requires security, legal certainty, the protection of property, access to education and employment, and the freedom to practice one's religion without threat. Without these conditions, returning could give rise to new

³³ Miichi and Kayane, "The Politics of Religious Pluralism," 59. See also, Rokhmad, "The Sunni-Shia Conflict," 2084; Tømte and Riyadi, *International human rights*, 245.

³⁴ Muhtada et al., "The Protection of Civil Rights," 253. See also, Ali, "Internally Displaced Persons," 8.

³⁵ Mukhlis et al., "Rejection of Former Shia Community," 983. See also, Muhtada et al., "The Protection of Civil Rights," 243; Pamungkas, "Mencari Bentuk Rekonsiliasi," 132.

vulnerabilities. Therefore, recovery must encompass the reconstruction of social relations and institutional safeguards that prevent the recurrence of violence.³⁶

The role of local government is also critical during this stage. Local governments are strategically positioned to bridge national policies with local social conditions. However, this role must remain within the framework of protecting constitutional rights. Local policies aimed at maintaining harmony must not result in restrictions on minority groups simply because their presence is perceived as a source of tension. Harmony achieved by curtailing the rights of minority groups is not, fundamentally, harmony grounded in the constitution. Harmony consistent with the rule of law must be built upon equality, protection, dialogue, and respect for diversity.³⁷

Dialogue and reconciliation remain crucial to conflict resolution. Sectarian conflicts cannot be resolved solely through repressive measures, as social ties between conflicting groups must be restored. A restorative approach can help mend social relations, rebuild trust, and reduce the likelihood of recurring violence. Restorative justice as a relevant approach to curbing sectarian violence in Indonesia, while the importance of an inclusive and deliberative state response.³⁸ However, reconciliation cannot replace the state's obligation to uphold the law. Dialogue conducted without equal legal protection risks forcing victims to compromise their own rights.

In the context of Sampang, reconciliation must therefore be distinguished from forced homogenization. Reconciliation does not mean erasing the differences between Sunni and Shia groups; rather, it entails creating conditions where these differences can coexist without violence. Religious identity should not be a subject of negotiation that determines whether an individual enjoys citizenship rights. The importance of understanding both Shia and Madurese identities within the context of social relations, while the experience of displacement is linked to religious identity and citizenship.³⁹ Thus, reconciliation must aim for the acceptance of equal citizenship rather than the erasure of the victim group's identity.⁴⁰

The gender dimension also reveals that the impact of conflict extends beyond the loss of housing. The experiences of displaced Shia women illustrate the interplay between religion, identity, security, and citizenship. The experiences of Madurese Shia women within the contexts of religious identity and "gender

³⁶ Soleh et al., "Handling and Recovery of Religious Conflict Victims," 187. See also, Muhtada et al., "The Protection of Civil Rights," 254.

³⁷ Resta Tri Widyadara, "Konflik Sunni-Syiah di Indonesia," *Religi: Jurnal Studi Agama-Agama* 11, no. 2 (2015): 117. See also, Amal, "Towards a Deliberative Conflict Resolution," 245.

³⁸ Acciaioli, "Finding Tools to Limit Sectarian Violence," 1236. See also, Amal, "Towards a Deliberative Conflict Resolution," 246.

³⁹ Rachmah and Saud, "The Narratives of Shia Madurese," 1962.

⁴⁰ Sair and Elanda, "The Cultural Negotiation," 49.

citizenship.”⁴¹ This perspective broadens our understanding of protection obligations, as the impact of conflict varies according to the social position of community members. Legal protection must take into account the concrete circumstances of victims and go beyond mere physical protection.

The limitations of the state’s response are also evident in the ongoing issue of displacement. Even after physical violence has ceased, if some victims remain unable to return to their original communities, the legal matter cannot be considered fully resolved. This issue to the restoration of the civil rights of displaced Shi’a individuals, while the rejection of the former Shi’a community within the context of religious rights and freedoms.⁴² The role of local government in addressing the situation and facilitating the recovery of victims of religious conflict.⁴³ These circumstances demonstrate that the effectiveness of the legal response must be evaluated based on its long-term impact on the victims’ lives.

Consequently, the state’s response to the Sampang conflict can be assessed through four interconnected dimensions: violence prevention, victim protection, law enforcement, and the restoration of rights. Regarding the first dimension, the state must be capable of anticipating conflict escalation and averting threats against vulnerable groups. In the second dimension, authorities must provide effective protection when violence occurs. In the third dimension, legal processes must reach the perpetrators of violence while ensuring that the law is not applied in a discriminatory manner against minority groups. In the fourth dimension, the state must ensure that victims can regain their rights to security, housing, property, social life, and religious freedom.⁴⁴

Based on these criteria, the core issue in the Sampang case lies in the gap between the cessation of conflict and its substantive resolution. While halting violence is a prerequisite, it does not mark the end of the state’s obligations. The state must also ensure that victimized groups do not permanently lose their rights because of the violence they endured. Remedial measures that fail to restore victims’ rights risk perpetuating the effects of the conflict, even after overt violence has ended. Ultimately, the principles of religious freedom and human rights protection require the state not merely to maintain formal neutrality but also to provide effective protection for vulnerable groups. In the Sampang case, the measure of a successful legal response cannot rest solely on the cessation of violence or the completion of specific legal proceedings. A more substantive measure is whether the Shia community can exercise its rights as citizens safely, equally, and with dignity. If religious freedom is formally guaranteed yet group

⁴¹ Rachmah and Saud, “The Narratives of Shia Madurese,” 1964.

⁴² Muhtada et al., “The Protection of Civil Rights,” 256. See also, Mukhlis et al., “Rejection of Former Shia Community,” 985.

⁴³ Soleh et al., “Handling and Recovery of Religious Conflict Victims,” 189.

⁴⁴ Acciaioli, “Finding Tools to Limit Sectarian Violence,” 1238.

members continue to face prolonged displacement, barriers to return, pressure to alter their beliefs, or unequal legal protection, then a gap exists between normative guarantees and the actual realization of rights. The Sampang case thus demonstrates that the legal response to religious violence must shift from a paradigm of public order to one of protection, from the cessation of violence to the restoration of rights, and from majority-dependent tolerance to equality guaranteed by law.⁴⁵

4. Conclusion

The conflict involving the Sampang Shia community demonstrates that the protection of religious minority groups within the Indonesian legal system rests on a fundamentally strong normative foundation. The 1945 Constitution guarantees freedom of religion, the freedom to practice one's faith, and equality before the law, while also mandating that the state ensure every resident's freedom to embrace a religion and worship. These guarantees are reinforced by Law Number 39 of 1999 on Human Rights, which affirms the principles of equality and non-discrimination. Meanwhile, Law Number 7 of 2012 on Social Conflict Management provides an operational framework through mechanisms for prevention, conflict cessation, and post-conflict recovery. Thus, from a normative standpoint, the Shia community holds an equal status as a subject of legal protection and does not forfeit its constitutional rights due to differences in belief.

The state's response to the Sampang conflict reveals more complex issues at the implementation level. Acts of violence, the burning of homes and educational facilities, loss of life, and displacement indicate that the protection of the Shia community has not been fully effective. While relocation may serve as a temporary security measure, it cannot constitute a permanent solution unless accompanied by the restoration of rights, security guarantees, and the opportunity to return and practice their faith freely. Legal proceedings involving individuals from the Shia community must also adhere to the principle of equality before the law to ensure that law enforcement does not become an instrument of discrimination within the sectarian conflict.

Therefore, the core issue in the Sampang case lies not in the absence of legal norms, but in the gap between normative legal guarantees and substantive protection. A state response consistent with the rule of law must encompass the prevention of violence, effective protection, equitable law enforcement, and the restoration of victims' rights. Ultimately, the protection of religious freedom

⁴⁵ Siddiq et al., "State Failure and The Sunni-Shia Conflict," 223. See also, Pamungkas, "Mencari Bentuk Rekonsiliasi," 134; Muhtada et al., "The Protection of Civil Rights," 257; Soleh et al., "Handling and Recovery of Religious Conflict Victims," 192.

cannot be measured merely by the cessation of violence, but by the state's ability to ensure that the Shia community can live safely, equally, and with dignity as citizens.

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