

The protection of civil rights for the Shi'ite refugees of Sampang, East Java: a systemic governance approach to restore the refugees' rights

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Abstract

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Hundreds of victims of the 2012 Sunni-Shia conflict in Sampang are still living in refugee camps in Sidoarjo, East Java. They still keep the dream to return back to their home village in Sampang. Even though almost all of them have pledged to return to the Sunni faiths in early November 2020, no one could guarantee that they could definitely return to their home village after the pledge. This article seeks to identify the factors that make it difficult for the Sampang Shia refugees to obtain their civil rights as well as to formulate strategic policies to restore these rights. This article indicates that the Shia refugees, who live in the refugee camp, have already got some of their civil rights back, including the rights to access health facilities, education and administration services. However, there are two fundamental civil rights that have not been fulfilled, namely the freedom of religion and the right to live back in their home village. It argues that two main factors prevent them from returning to their home village: strong resistance from the community and the weak role of the state. The article suggests that the government needs to employ a systemic governance approach to fully restore the civil rights of the Sampang Shia refugees.

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Ratusan korban konflik Sunni-Syiah tahun 2012 di Sampang masih tinggal di pengungsian di Sidoarjo, Jawa Timur. Mereka masih menyimpan mimpi untuk kembali ke kampung halaman mereka. Namun demikian, meski sebagian besar dari mereka telah berikrar menyatakan diri untuk kembali ke Sunni pada awal November 2020, tidak ada yang bisa menjamin bahwa mereka pasti dapat kembali ke kampung halaman setelah ikrar tersebut diucapkan. Artikel ini mengidentifikasi faktor-faktor yang membuat para pengungsi Syiah sulit mendapatkan hak-hak sipilnya, serta merumuskan kebijakan strategis yang tepat untuk memulihkan hak-hak tersebut. Artikel ini menunjukkan bahwa para pengungsi Syiah yang tinggal di kamp pengungsian telah mendapatkan kembali sebagian hak sipilnya, termasuk hak untuk mengakses fasilitas kesehatan, pendidikan dan layanan administrasi. Namun, ada dua hak sipil fundamental yang belum terpenuhi, yaitu kebebasan beragama dan hak untuk hidup kembali di kampung halaman. Ada dua faktor utama yang menghalangi mereka untuk kembali ke kampung halaman: resistensi yang kuat dari masyarakat dan lemahnya peran negara. Artikel ini berpendapat bahwa pemerintah perlu menggunakan pendekatan *systemic governance* untuk memulihkan hak-hak sipil para pengungsi Syiah Sampang.

Keywords: *Civil rights; Refugees; Religious freedom; Shia; Sunni*

Introduction

The protection of the citizens' civil rights is one of the constitutional mandates that must be upheld in Indonesia. The fourth paragraph of the Preamble to the 1945 Constitution states that one of the objectives of the Indonesian state is to protect the entire Indonesian nation and all Indonesian citizens. This statement emphasizes the obligation for the government, as the administrator of the state, to ensure that every Indonesian citizen has protection and guarantees for their civil rights. Included in the civil rights are the right to get a decent living, the right to get equal treatment in law and government, the right to associate and assembly, the right to express opinions, and the right to embrace religion and belief of one's choice. These rights are clearly stated in the Indonesia's constitution (Article 28 H and Article 29).

Although civil rights are guaranteed in the constitution, the facts indicate that the country still has some issues on the protection of these rights. A survey conducted by the Setara Institute during 2018 found at least 160 incidents consisting of 202 acts against religious freedom.¹ The Wahid Foundation report also notes some cases related to violations of religious freedom, which need a serious attention from the government. These cases include the restoration of the rights of the Ahmadiyya refugees in Mataram, the problem of the Ahmadiyya Mosque (JAI) in Depok, the case of the Protestant Christian Church GKI Yasmin in Bogor, the case of HKBP Filadelfia in Bekasi, the rights of Shia refugees in Sampang, and the case of the *Fajar Nusantara* Movement in Mempawah.²

One of the cases that has yet to be resolved is the problem of the Shia refugees of Sampang, Madura. The Sunni-Shia conflict in Sampang

¹Subhi Azhari and Gamal Ferdhi, *Laporan Tahunan Kemerdekaan Beragama Berkeyakinan Wahid Foundation 2018*, Jakarta: Wahid Foundation, 2019.

²Subhi Azhari and Gamal Ferdhi, *Laporan Tahunan Kemerdekaan Beragama Berkeyakinan Wahid Foundation 2018*, Jakarta: Wahid Foundation, 2019.

erupted on 26 August 2012, when people were just celebrating the *Lebaran Ketupat*.³ A group of mobs attacked a Shia community in Dusun Nangkernang, Karanggayam Village, Omben District, Sampang Regency.

Kontras estimated that their number was up to 500 people. The mob attacked Shia followers and burned their houses. The incident killed one Shia resident, named Hamama, and left dozens of other people injured.⁴

This tragedy forced the local Shia residents to leave their homes and live in refugee camps. Initially, they took refuge in the Sampang City Sports Hall. As many as 165 people live in the hall. However, due to security reasons, the government moved them to Sidoarjo on June 20, 2013.⁵ The government sent these refugees to the Puspa Agro Flats in Jemundo, Kabupaten Sidoarjo, East Java.⁶

After several years of being “expelled” from their village, the Shia refugees still lived in the refugee camp. Until 2020, they kept dreaming to return back to their home village.⁷ The government offered them to move

³Handrini Ardiyanti, “Konflik Sampang: Sebuah Pendekatan Sosiologi-Komunikasi”, *Politica*, Volume 3, Number 2 (November 2012), 225-241; Abd Aziz and Matnin, “Jurnalists dalam Tinjauan Sosial Ekonomi Politik pada Konflik Sunni-Syiah di Kabupaten Sampang”, *Kabilah*, Volume 3, Number 2 (December 2018), 223-240.

¹⁵“Nafsiyul Qodar, “26 Agustus 2012: Lebaran Berdarah Warga Syiah di Sampang Madura”, *Liputan6.Com*, 26 August 2019, <https://www.liputan6.com/news/read/4046654/26-agustus-2012-lebaran-berdarah-warga-syiah-di-sampang-madura>.

¹²“BBC News Indonesia, “Warga Syiah Sampang Dipindah ke Sidoarjo”, 20 June 2013, https://www.bbc.com/indonesia/berita_indonesia/2013/06/130620_syiah_sampang_dipindah_sidoarjo

⁶Imam Bonjol Juhari, “Rekonstruksi Model Pemberdayaan Pengungsi Syiah Sampang di Sidoarjo”, *Islamika Inside: Jurnal Keislaman dan Humaniora*, Volume 5, Number 2 (December 2019), 174-207; Reza Gunadha, “Duka Anak-anak Muslim Syiah asal Sampang, 6 Tahun Menjadi Pengungsi”. 30 November 2019, <https://jatim.suara.com/read/19/11/30/160853/duka-anak-anak-muslim-syiah-asal-sampang-6-tahun-menjadi-pengungsi>; Johan Wahyudi dan Makmun Wahid, “Peminggiran Minoritas dan Absennya Multikulturalisme di Ranah Lokal: Studi Kasus Komunitas Muslim Syiah di Sampang”, *Jurnal Politik Profetik*, Volume 5, Number 1 (2015), 65-81.

⁷Romeo Asykuri, Binaridha Kusuma Ningtyas, and Novita Maulida Ikmal, *Di Balik Rusunawa: Mengungkap Pengalaman Komunitas Syiah Sampang di Pengungsian*, Yogyakarta: Sulur, 2018.

to a new place in Benowo, but they refused it and insisted on returning to Sampang.⁸ They also refused a transmigration offer from the government.⁹ Unfortunately, their return is not welcome by the local people. Once a refugee died, and her family wanted to do the funeral in Sampang, the local people refused it.¹⁰

This article offers an explanation as to what makes it difficult for the Shia refugees to return to Sampang. The article specifically aims to answer these two questions: What factors are preventing the refugees from returning to Sampang? What could the government do to make these refugees regain their civil rights? The answers to these questions pivotal as an academic ground for the government and related parties to fully restore the civil rights of the Sampang Shia refugees.

Persecution of the Shia Sampang community

The Sunni-Shia Conflict in Karanggayam, Omben, Sampang has emerged since 2004.¹¹ The seeds of more open conflicts, however, had started since Tajul Muluk continued his late father's role, Kyai Makmun, in spreading the Shi'a teachings in Omben. He took a different approach. While his father did da'wah secretly, Tajul preferred to spread Shi'a openly.

Tajul viewed that the community was not in a good shape, partly due to the patrimonial leadership of the local *kiais*. His new approaches attracted

⁸Petrus Riski, "Pemerintah Dituntut Tegakkan Hukum dan HAM dengan Pulangkan Pengungsi Syiah Sampang", 28 Februari 2018, <https://www.voaindonesia.com/a/pemerintah-dituntut-tegakkan-hukum-dan-ham-dengan-pulangkan-pengungsi-syiah-sampang/4274072.html>.

⁹Djibril Muhammad, "Warga Syiah Sampang Menolak Ikuti Program Transmigrasi", 29 August 2012, <https://www.republika.co.id/berita/nasional/nusantara-nasional/12/08/29/m9ih3n-warga-syiah-sampang-menolak-ikuti-program-transmigrasi>.

¹⁰Nur Hadi, "Jenazah Pengungsi Syiah dari Sampang Ditolak Penduduk Kampungnya. 14 June 2018, <https://nasional.tempo.co/read/1098059/jenazah-pengungsi-syiah-dari-sampang-ditolak-penduduk-kampungnya/full&view=ok>.

¹¹Hazim, "Dampak Sosial dan Psikososial bagi Pengungsi Pasca Konflik antara Sunni-Syiah di Sampang Madura", *Psikologia*, Volume 3, Number 1 (2015), 1-17.

more followers. For example, he held a different maulid tradition from that of the local tradition. People usually conducted the Maulid *slametan* in their homes by inviting kiai and relatives. Such a *slametan* costs a lot of money, especially for consumption and *cabisan* (fees for the kiai). Therefore, Tajul centered the Mawlid *slametan* just in the village mosque, so the people did not have to do the *slametan* in their homes. Tajul's approach raised reaction from non-Shia members of the community. They blocked the road to the mosque. The local government sent police personnel to prevent violence.¹²

Another open conflict emerged on December 29, 2011,¹³ in which the masses burned down the Tajul's pesantren and some houses belonged to his followers. A more tragic incident occurred on August 26, 2012. This time, the mobs not only burned down the houses, but also took the life of a Shia follower. The government has to evacuate Shia followers to the Sampang Sports Hall, and then to the Puspa Agro flats in Jemundo Sidoarjo.¹⁴

The Sunni-Shiite conflict in Sampang, Madura, has certainly had significant social and economic impacts. During the first years of living in the refugee camp, the children of the refugees had also experienced a poor access to proper education.¹⁵ Tajul Muluk said that their children had been rejected from formal schools, partly because people were afraid of

¹²Masdar Hilmy, "The Political Economy of Sunni-Shi'ah Conflict In Sampang Madura", *Al-Jami'ah: Journal of Islamic Studies*, Volume 53, Number 1 (2015), 38.

¹³Rachmah Ida and Laurentius Dyson, "Konflik Sunni-Syiah dan Dampaknya terhadap Komunikasi intra-religius pada Komunitas di Sampang-Madura", *Masyarakat, Kebudayaan dan Politik*, Volume 28, Number 1 (2015), 33-49.

¹⁴Reza Gunadha, "Duka Anak-anak Muslim Syiah asal Sampang, 6 Tahun Menjadi Pengungsi". 30 November 2019, <https://jatim.suara.com/read/2019/11/30/160853/duka-anak-anak-muslim-syiah-asal-sampang-6-tahun-menjadi-pengungsi>

¹⁵Yasin Nurfalah, "Pendidikan Damai Alternatif Pendidikan Korban Konflik Komunitas Syi'ah Sampang Madura", *Jurnal Pemikiran Islam*, Volume 30, Number 1 (January-June 2019), 85-114.

spreading the Shia influence at schools. Only after 2016 that these children were able to go to schools. During their first years in the refugee camp, they also experienced difficulties in getting access to civil administration, including health cards or BPJS.¹⁶

After living in the refuge camp for a while, the refugees started to regain some of their civil rights. They receive monthly allowance to help them survive. The amount of the allowance is IDR 700,000 per person. The government also sent teachers to the refugee camp to fulfill the children's rights to education. The refugees also began to work, mostly as coconut peel laborers or satay sellers.¹⁷

The government has actually made some efforts to fulfill the civil rights of the refugees. These efforts, however, were not quite successful particularly in reconciling between the Sunni-Shia groups and in making the the Shia followers return to their home village.¹⁸

Factors preventing the refugees from returning homes

By now, the Sampang refugees have regained some of their civil rights as citizens. Among these are the rights to get public health services using the BPJS cards, administrative services (KTP, KK), and a guarantee of land ownership for their assets in Sampang.¹⁹ However, there are two very fundamental civil rights that have not been fully fulfilled: freedom

¹⁶Reza Gunadha, "Duka Anak-anak Muslim Syiah asal Sampang, 6 Tahun Menjadi Pengungsi". 30 November 2019, <https://jatim.suara.com/read/2019/11/30/160853/duka-anak-anak-muslim-syiah-asal-sampang-6-tahun-menjadi-pengungsi>.

¹⁷Dita Anova and Nurul Hikmah, "Perlindungan Hukum terhadap Warga Sampang Penganut Aliran Syiah Yang Menjadi Korban Konflik dan Kekerasan", *Jurnal Novum*, Volume 3, Number 4 (2016), 100-111; Hazim, "Dampak Sosial dan Psikososial bagi Pengungsi Pasca Konflik antara Sunni-Syiah di Sampang Madura", *Psikologia*, Volume 3, Number 1 (2015), 14.

¹⁸Dita Anova and Nurul Hikmah, "Perlindungan Hukum terhadap Warga Sampang Penganut Aliran Syiah Yang Menjadi Korban Konflik dan Kekerasan", *Jurnal Novum*, Volume 3, Number 4 (2016), 100-111.

¹⁹Interview with Ustadz Iklil on 26 August 2020.

of religion and the right to live in their own home village.

Since being expelled from their hometown more than eight years ago, the Shia Sampang refugees in Sidoarjo still keep their hopes of being able to return to their village. They have made various efforts, including requesting assistance of the President of the Republic of Indonesia, Susilo Bambang Yudhoyono (SBY). In fact, SBY had given hope that they could celebrate the Eid el-Fitr in their village in 2014.²⁰ Yet, until now, the dream never comes true. Even when they finally gave up their Shia faiths and were ready to embrace the Sunni faith, no one could guarantee that they could return to their hometown, including the *Bupati* of Sampang.²¹

As reported by several media, on November 5, 2020, as many as 287 Shia refugees from Sampang were pledged to return to the embrace the Sunni faith (*Aswaja*). The initiation was carried out at the Trunojoyo Hall, Sampang Regency, and witnessed by government officials, community leaders, and local religious leaders.²² In this initiation, Shia followers are divided into several groups, each of which contains two or four people. Each group has a supervisor who demands that they read the oath, which is written on a stamped paper. One of the religious leaders who led the initiation process was Ahmad Nuruddin, who was the deputy chairman of the local Nahdlatul Ulama office (PCNU).²³

The pledge of the Shia refugees to embrace the Sunni faith reflects the

²⁰Interview with Ustadz Iklil on 26 August 2020.

²¹Raja Eben Lumbanrau, "Ratusan pengungsi Syiah Sampang dibaiat menjadi Suni di tengah keinginan pulang kampung: Pemerintah dituding mengalahkan minoritas demi keinginan mayoritas", *BBC News Indonesia*, 5 November 2020, <https://www.bbc.com/indonesia/indonesia-54550918>.

²²Raja Eben Lumbanrau, "Baiat pengungsi Syiah Sampang menjadi Suni: Cari jalan untuk pulang, namun trauma warga membekas dan tak akan pernah pulih serta kekhawatiran soal taqiyah", *BBC News Indonesia*, 3 November 2020, <https://www.bbc.com/indonesia/indonesia-54550917>.

²³Abd. Aziz, "287 pengikut Syiah Sampang berikrar kembali ke Sunni", *Antara News Jateng*, 5 November 2020, <https://jateng.antaranews.com/berita/347392/287-pengikut-syiah-sampang-berikrar-kembali-ke-sunni>.

country's failure to protect the beliefs of its citizens. ¹⁷ Eight years of living in refugee camps led to the Shia Sampang residents giving in and eventually declaring to embrace the Sunni faith. At the beginning of the conflict, some local clerics had asked them to leave the Shia teachings as one of the conditions for the refugees to return to their homes. The request was conveyed through Suryadharma Ali, the Minister of Religion, during his visit to Sampang on July 25, 2013. The refugees, however, rejected the request. Ustaz Iklil, a Shia leader, stated that their beliefs are protected by the constitution. Iklil believed that, by becoming Shiite, they have left Islamic religion. Therefore, they did not have any reason to leave Shia teachings. Another refugee, Humam, also stated that they should not leave the Shia teachings. He believed that a reconciliation should be based on a mutual respect among the Sunnis and Shiites of Sampang.²⁴

However, the determination to hold the Shia belief eventually faded. Eight years of staying in the refugee camp, with uncertainty of the future, forced them to give up. They agreed to declare as the Sunnis in a hope of returning to their home lands in Madura. Unfortunately, it turned out that after the pledge, no one could guarantee that they can return to their homes. The *Bupati* of Sampang, Slamet Junaidi, left the decision on whether the refugees could return to their homes to the *kiais* and the village community.²⁵ The local government seemed unwilling to take the risk of a horizontal conflict by leaving the decision to the local community leaders.

A similar statement was also expressed by the Chairman of the PCNU Sampang, Muhammad Itqon Busiri. He said that the clerics could not

²⁴BBC News Indonesia, "Warga Islam Syiah Sampang menolak 'bertobat'", 26 July 2013, https://www.bbc.com/indonesia/berita_indonesia/2013/07/130726_syiah_sampang_tolak_sda ¹⁰

²⁵Raja Eben Lumbanrau, "Baiat pengungsi Syiah Sampang menjadi Suni: Cari jalan untuk pulang, namun trauma warga membekas dan tak akan pernah pulih serta kekhawatiran soal taqiyyah", *BBC News Indonesia*, 3 November 2020, <https://www.bbc.com/indonesia/indonesia-54550917>.

do much about the return of the refugees, even after their pledge. To him, these refugees must prove to the local community that they have truly returned to the Sunni beliefs. If they can prove it, he believed that society might accept them with open arms. If not, of course the people will reject them. The Chairman of the PCNU statement was approved by the Secretary General of the Madura Ulama Alliance, Fadholi Mohammad Ruham. He said that the ulama and the Sampang government have been working to build peace between the villagers and the refugees. Yet, the society still cannot accept them because they do not trust the sincerity of the pledges (*taqiyya*).²⁶

The community also seems not ready to accept the return of the refugees. Residents of Karanggayam Village are happy that the Shia followers have done the pedge. Yet, the villagers did not want to welcome them and would refuse the refugees returning to their village. Syarifin, a local resident, stated that the return¹⁴ of the refugees could reopen “old wounds.” He still cannot forget how Tajul Muluk and his followers have insulted their religion and mocked the *kiais*. For them, the return of the refugees to their village could revive hostility among the residents. He said, “We don’t want to live together with the Shi’ite. No negotiation.”²⁷

From the above discussion, we identified two main factors that make it difficult for these refugees to return to their hom⁶lands: 1) the very strong resistance from the local community; and 2) the weak role of the state in protecting the rights of the refugees to return homes.

²⁶Raja Eben Lumbanrau, “Baiat pengungsi Syiah Sampang menjadi Suni: Cari jalan untuk pulang, namun⁹ auma warga membekas dan tak akan pernah pulih serta kekhawatiran soal taqiyyah”, 3 November 2020, *BBC News Indonesia*, <https://www.bbc.com/indonesia/indonesia-54550917>.

²⁷Raja Eben Lumbanrau, “Baiat pengungsi Syiah Sampang menjadi Suni: Cari jalan untuk pulang, namun trauma warga membekas dan tak akan pernah pulih serta kekhawatiran soal taqiyyah”, 3 November 2020, *BBC News Indonesia*, <https://www.bbc.com/indonesia/indonesia-54550917>.

First, the very strong resistance from the local community was caused by the trauma of the conflict. The trauma is understandable considering that the conflict has broken society's harmony as well as the status quo of the local elites, which has been established in the Karanggayam Village for a long period of time. As is commonly known, the Madurese community is a society that is steeped in Sunni religious traditions, more specifically the Islamic tradition of *Nahdliyyin* (NU). The adherence to the NU traditions and *kyais* is an inherent character of many Madurese. Such an adherence is reflected in various religious events that are widely held throughout the year. For example, a *slametan* every Friday night to pray for the ancestors, and a *slametan* to honor Shaykh Abdul Qodir al-Jilani and Sayyidina Hussein. There is a *slametan* every month of Safar to honor Abu Bakr al-Siddiq. There is also a *slametan* in the month of Rabi'ul Awwal to commemorate the birth of the Prophet Muhammad. The *sedekah arosol* is carried out every month of Rabi'ul Akhir, as well as *slametan* Isra 'Mi'raj every month of Rajab. During the month of Sha'ban, people also hold long evening prayers, asking for their safety and well-being.²⁸

According to Masdar Hilmy, these various religious traditions not only mean religious values for the people, but also bring economic consequences. On the one hand, many poor people are forced to go into debt or even mortgage their assets to finance various *slametans*. On the other hand, this *slametan* becomes an economic source for the local *kyais*. The *kyai* received *cabisan* (money), as an "honor" from the people who have invited them to lead the *slametan*. The amount of *cabisan* money varied, but it is at least IDR 50 thousand. Such an amount of money is a good source of income for the *kyais*, especially in the month of Maulid. Each resident is expected to hold a *slametan* in their own houses, where a

²⁸Masdar Hilmy, "The Political Economy of Sunni-Shi'ah Conflict In Sampang Madura", *Al-Jami'ah: Journal of Islamic Studies*, Volume 53, Number 1 (2015), 31

kyai will be invited to lead the prayers. In Omben sub-district alone, the number of household heads was around 16,936 households. If 16 thousand families of these households hold *slametan* in the month of Maulid, and they spend IDR 50 thousand for the *cabisan*, then the total funds that must be prepared for *kyais* might reach IDR 800 million just in one sub-district in a month of Maulid. If the *cabisan* money per family is IDR 100 thousand, then the total funds spent on *cabisan* are even higher – that is, IDR 1.6 billion a month, just in one sub-district.²⁹

Tajul Muluk, as the leader of the Shia group, tried to change this tradition. Tajul refused the Maulid *slametans* in every house, as it could burdento the poor. He called the people to organize the Maulid *slametan* together in the village mosque, not in every house of the people. He also refused to accept *cabisan* given to him. This has attracted more people to be his followers.³⁰ On the other hand, some people considered that Tajul and his followers has offended their religion and *kyais*.³¹ It is in this context that the Shiite movement led by Tajul Muluk not only bothered the established religious traditions, but also challenged the economic sources of the local religious elites.

This Shia-Sunni conflict has become more complicated as it involved an internal family conflict. Roisul Hukama, one of the Sunni figures who reported Tajul Muluk to the police on charges of blasphemy, is actually the younger brother of Tajul Muluk.³² Rois was reportedly one of the key

²⁹Masdar Hilmy, “The Political Economy of Sunni-Shi’ah...”, 42

³⁰Masdar Hilmy, “The Political Economy of Sunni-Shi’ah...”, 38.

³¹Raja Eben Lumbanrau, “Baiat pengungsi Syiah Sampang menjadi Suni: Cari jalan untuk pulang, namun trauma warga membekas dan tak akan pernah pulih serta kekhawatiran soal taqiyyah”, 3 November 2020, *BBC News Indonesia*, <https://www.bbc.com/indonesia/indonesia-54550917>.

³²Musthofa Bisri, “Rois Akui Laporkan Kakaknya Pemimpin Syiah Sampang”, *Tempo.co*, 17 April 2012, <https://nasional.tempo.co/read/397667/rois-akui-laporkan-kakaknya-pemimpin-syiah-sampang/full&view=ok>.

figures behind the Shia-Sunni riot in Karanggayam, in August 2012.³³

Rois was originally a local Shia leader. Together with Tajul, he was sent by his father, Kyai Makmun, to study at a Shia-affiliated *pesantren* in Bangil, Pasuruan. After graduating from the *pesantren*, Tajul continued his studies to the Middle East, while Rois returned to Sampang and taught in his village. After returning home, both Tajul and Rois became the leaders of the local Shia group.³⁴

The two brothers then got into conflict. Rois was reportedly offended because he thought that Tajul hindered his intention to marry a girl, who was Tajul's student. The tension between the brothers was getting worse so Rois decided to leave the Shia and return to the Sunni beliefs.³⁵ Rois later became one of the strong critics of the Shia in Sampang. Kyai Maknun's children were then split into two groups. Some of them became the Shia followers: Iklil, Tajul, and Hani. Some others became the Sunni followers: Rois, Fatimah, Kulsum, Ahmad, and Budur.³⁶ The trauma of the past conflict, which was exacerbated by the family conflict, has made the community's resistance to Shia refugees even stronger. The local people think that they are not ready to accept the presence of Shia refugees, despite

³³Musthofa Bisri, "Rusuh Sampang, Siapakah Roisul Hukama?", *Tempo*, 2 September 2012, <https://nasional.tempo.co/read/426988/rusuh-sampang-siapakah-roisul-hukama/full&view=ok>.

³⁴Mukhsin Achmad, Khoiruddin, and Moch. Nur Ichwan, "From Personal to Communal: The Conflict among Sunni-Shiite in Sampang East Java", *Sunan Kalijaga: International Journal of Islamic Civilization*, Volume 2, Number 1 (2019), 31-58. See also Achmad Maududi, "Perlindungan Hukum terhadap Pengikut Aliran Syiah di Sampang Madura", *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, Volume 4, Number 2 (2014), 243-260; Nour Zattullah, "Konflik Sunni-Syiah di Sampang ditinjau dari Teori Segitiga Konflik Johan Galtung", *Jurnal Ilmu Budaya*, Volume 9, Number 1 (2021), 86-101.

³⁵Heyder Affan, "Konflik keluarga, mazhab atau politik?", *BBC News Indonesia*, 31 July 2013, https://www.bbc.com/indonesia/laporan_khusus/2013/08/130731_lapsus_syiah_sidoarjo_kilasbalik.

³⁶Mukhsin Achmad, Khoiruddin, and Moch. Nur Ichwan, "From Personal to Communal: The Conflict among Sunni-Shiite in Sampang East Java", *Sunan Kalijaga: International Journal of Islamic Civilization*, Volume 2, Number 1 (2019), 34.

the latter group's pledge to embrace the Sunni beliefs.

Second, another factor that prevents these Shia refugees from returning home is the weak role of the state in restoring their rights. The weak role of the state is reflected in the statement of the *Bupati* of Sampang, who left the decision regarding the return of refugees to the local community and *kyais*.³⁷ As a regional head, the Bupati has authority to restore the refugees' civil rights. Refugees have sacrificed their religious beliefs by pledging to embrace the Sunni faiths, which they should not have done if the state was able to protect the basic rights of its citizens – freedom of religion. Accordingly, they do not have to sacrifice their other rights – that is, living back in their own lands.

It is because such a weak role of the state that the promise made by President Susilo Bambang Yudhoyono that the refugees would be able to celebrate the 2014 Eid in their home village had not been fulfilled. In a reconciliation meeting chaired directly by the President in Surabaya, on August 1, 2013, the president promised that the refugees could return to their hometowns by December 2013. Unfortunately, his administration failed to execute the plan. The government was afraid that they could not guarantee the safety of the refugees, if they return to their homes. Gamawan Fauzi, Minister of Home Affairs, made a rhetorical statement, “Who could guarantee their safety, if they return to their home village?”³⁸

This case of Shia refugees shows the weakness of the State vis-a-vis the majority. The state is unable to carry out the constitutional mandate to protect the entire Indonesian nation and guarantee the civil rights

³⁷Raja Eben Lumbanrau, “Ratusan pengungsi Syiah Sampang dibaiat menjadi Suni di tengah keinginan pula 6 kampung: Pemerintah dituding mengalahkan minoritas demi keinginan mayoritas”, *BBC News Indonesia*, 5 November 2020, <https://www.bbc.com/indonesia/indonesia-54550918>.

³⁸BBC News Indonesia, “Warga Syiah Sampang dipaksa pindah”, 20 June 2013, https://www.bbc.com/indonesia/berita_indonesia/2013/06/130620_warga_syiah_dipaksa_pindah

of the citizens, especially the right to embrace religion, without any discrimination. Even until these refugees gave up their Shi'a beliefs and pledged to return to Sunni, the government still left the matters of returning home of the refugees to the local community and clerics. Such a weak role of state contributed to the fate of their refugees and made them stay in the Sidoarjo refugee camp for more than eight years.

Systemic governance approach

The discussion presented above shows that the Shia-Sunni conflict in Sampang is not simple as it affects the lives as well as the interests of multiple actors. Considering the complexity of the conflict, the government may not be able to resolve this problem without using a "systemic governance" approach, in which the interests and voices of each party are heard and accommodated properly. Systemic governance refers to a model of governance that recognizes the diversity of the citizens and encourages their full participation in the decision-making process. Using this approach, the government is required to balance various aspects of citizens' lives when making policies, both social, cultural, political, economic, and environmental aspects, both for the benefits of the current generation, as well as the interests of future generations.³⁹

According to McIntyre, there are six criteria for a systemic governance approach, namely: a) accepting human differences and their ideas, b) ensuring that all stakeholders are represented in the decision-making process, c) listening to the aspirations of all stakeholders, d) building

³⁹Janet J. McIntyre, "Part 1: Working and Re-working the conceptual and geographical boundaries of governance and international relations", *Systemic Approach and Action Research*, Volume 18, Number 2 (2005), 184. See also Ray Ison, Andrea Grant, and Richard Bawden, "Scenario Praxis for Systemic Governance: A Critical Framework", *Environment and Planning C: Politics and Space*, Volume 32 (2014), 623-640; Dani Muhtada, "Ethics, Economics and Environmental Complexity: The Mud Flow Disaster in East Java", *Systems Research and Behavioral Science*, Volume 25, Issue 2 (2008), 181-191.

good communication, e) using a system approach for each problem, and f) considering a variety of issues, not just certain issues.⁴⁰ To achieve these six criteria, government officials and employees must have the ability to think critically and systemically when making a policy. Such a thinking skill requires them to always think about various sectors (state, private, and society), in a multi-dimensional context (social, political, economic dimensions, etc.), and at every level (local, national, and international). This system also requires policy makers to pay attention to all aspects of human being in making policies, both personal, emotional, and values held by humans. In addition, they must also consider the various impacts that may arise because of their policies and prioritize dialogue if there are problems arising from the policy.⁴¹

The systemic government approach offers a promising solution to the Sunni-Shia problem in Sampang. As has been indicated in the previous section, the problems of this Sunni-Shia conflict are not merely a result of a faith-based differences within the society. It began with some faith-based tensions between the existing Sunni community and the Shia community that came later in a village of Sampang in the early 2000s. However, the conflict has become more complicated since it involved a family-related issues that exacerbated social and economic tensions among the local elites and society members. In addition, political factors may have contributed to hindering the resolution of this conflict. This is especially very possible when local political elites tend to side with the majority for the sake of electoral politics. In this case, instead of seeking solutions that benefit all

⁴⁰Janet J. McIntyre, "Part 2: Critical Systemic Praxis to Address Fixed and Fluid Identity and Politics at the Local, National and International Level", *Systemic Approach and Action Research*, Volume 18, Number 3, (2005), 253-4.

⁴¹Janet J. McIntyre, "Critical Systemic Praxis for Social and Environmental Justice: A Case Study of Management, Governance, and Policy", *Systemic Approach and Action Research*, Volume 15, Number 1, (February 2002), 21.

parties, the local elites would tend to accommodate the interests of the majority while neglecting the interests of the minority.

To resolve such a complex problem, the government must not take a partial nor sporadic action. A partial action would only consider some parts of the problem and leaving the other parts of the problem unresolved. Meanwhile, a sporadic action would ignore the fact that the Shia-Sunni conflict is a systemic problem, involving not only religious matters, but also social, economic, and cultural aspects of the conflicting society. It affects the lives of the current generations as well as the future generations. Without a systemic governance approach, which recognizes a social problem as a part of large system whose components are interrelated with one another, the conflict of the Sunni-Shia in Sampang will remain unresolved.

Looking at the problem complexity and multiple actors involved in this case, we can classify the actors into two main categories: conflicting actors and non-conflicting actors. The conflicting actors are those who are actively involved in the conflict with the other actors. They include Tajul and his supporting family members, Roisul Hukama and his supporting family members, the local Sunni community, and the local Shia community. The non-conflicting actors are those who are involved, directly or not directly, in this conflict, but are not actually in conflict with the conflicting actors. They may contribute to conflict resolution or, conversely, conflict escalation. Actors within this category include government officials at all levels (local, regional, and national), local Islamic organizations including PCNU and MUI, local Islamic leaders, and local community leaders.

Table 1: Actors Involved under Systemic Governance Approach

Conflicting Actors	Non-Conflicting Actors
1. Tajul, Roisul, and Their Extended Families	1. Government Officials
2. Local Sunni Community	2. Local Islamic Leaders
3. Local Shia Community	3. Local Islamic Organizations
	4. Local community leaders

Each of these actors, particularly the conflicting ones, may have different interests and insights on the conflict. Therefore, all parties should promote a dialogue as the first step towards reaching the best solution. Using a systemic governance approach, the government acts as a mediator to ensure that the dialogue is based upon a mutual respect and understanding of each other's needs and interests. In addition, the dialogue should also be based on the recognition of the rights and obligations of each conflicting party as fellow citizens. In other words, they need to understand that as the citizens they have exactly the same rights and obligations according to the constitution. Furthermore, when it comes to solution that benefit all parties, the government needs to encourage all participants of the dialogue to think critically the impacts of their consensus on many aspects of their lives, but also on the lives of the future generations.

In dealing with the problem, the government has actually considered multiple social, educational, and health aspects of the victims' lives, and use them as a basis of consideration in decision-making. For example, as has been previously mentioned, the government has made some efforts to provide basic needs of the Shia refugees in the Sidoarjo camp. The refugees receive a monthly-allowance to support their livings, health insurance that they can use for medication, formal education for their children, legal documents such as ID cards (KTP) as well as family cards (KK), etc. Nevertheless, the refugees' needs for returning home to Sampang

and keeping their religious beliefs have not been fulfilled. Even after the majority of refugees have pledged to embrace the Sunni faiths again, until the end of 2020, they were still living in the Sidoarjo refugee camp. The government has not been able to help them regain their civil rights.⁴²

On this basis, the rule of the government as the guardian of the constitution is very crucial. Using the systemic governance approach, the government bears the following responsibilities. First, the government needs to absorb and listen to the voices and aspirations of all elements of society who are involved, either directly or indirectly, with this religion-based conflict. These parties include, but are not limited to, Shia refugees, local communities including the extended family of Tajul Muluk and Roisul Hukama, Sampang community leaders, Madurese clerics, local Islamic organizations, and government officials at the village, sub-district and district levels.

Second, the task of the government is to bridge these various interests through a dialogue. The objective of the dialogue is to reach a consensus based on a win-win solution, which benefits all parties. If possible, no party will be disadvantaged in the consensus or the agreement. If it is not possible to avoid potential losses from one of the parties, then there must be compensation provided to that party to cover or minimize the loss.

Third, in the process of dialogue and decision-making, all parties must place the constitutional mandate as a priority. The government and society must realize that the goal of the Indonesian state is to protect the entire Indonesian nation and all Indonesian bloodshed. They must have the same perception that all citizens have the same rights, and these rights are protected by the state constitution. Each party must place common

⁴²Nur Hadi, Pengungsi Syiah Sampang Berharap Pemerintah Pulangkan Mereka. 20 December 2020, <https://nasional.tempo.co/read/1418120/pengungsi-syiah-sampang-berharap-pemerintah-pulangkan-mereka>

interests above their personal and group interests. Likewise, political elites who happen to be heads of regions or any position in government, must put aside their political interests and agendas in order to reach consensus between the conflicting parties. In this context, government officials and policy makers should not be afraid of losing popularity or electoral political support when they are about to make a policy that uphold the mandate of the constitution and protect the interests of all citizens.

Once a decision has been made, all parties must carry it out the agreement with full responsibility. The government must ensure that decisions are implemented accordingly. Potential violations of the decisions are best guarded and monitored so social harmony could be maintained. It is the responsibility of the state to ensure that all parties receive the proper protection of their civil rights. In order to protect these rights, the government must not be afraid of the pressures of the majority⁴³, or minority, if such pressure has the potential to violate the mandate of the constitution and the law.

Conclusion

This article indicates that ² the government needs to employ a systemic governance approach to resolve the Sunni-Shia conflict in Sampang. Since the conflict erupted in 2012, the Sampang Shia refugees have lived in the refugee camp for about eight years. The government have been trying to restore some of the refugees' civil rights, including the rights to access administration services, education, and health services. Unfortunately, two fundamental civil rights of the refugees had not been fulfilled until

⁴³On the government's tendency to follow the majority in the case of Shia and Ahmadiyya, see Cahyo Pamungkas, "Mencari Bentuk Rekonsiliasi Intra-Agama: Analisis terhadap Pengungsi Syiah Sampang dan Ahmadiyah Mataram", *Episteme*, Volume 13, Number 1 (June 2018), 113-147; Dani Muhtada, "State and the Protection of the Minority Groups in Indonesia: the Case of the Ahmadi Group", *Advance in Social Science, Education and Humanities Research*, Volume 192, 8-11.

the end of 2020: the freedom of religion and the rights to live in their homelands. Even after most refugees eventually “gave up” and decided to return to the Sunni faiths, they still were not able to return homes. Unfortunately, the Sampang government did not seem to help and left a decision on whether the refugees could return to their villages to the local community in the village.

Systemic governance approach is the answer to the complex problem of the Suni-Shia conflict in Sampang. This approach assures that human differences and ideas are welcome. All stakeholders are represented in the decision-making process and their aspirations are considered. It promotes a dialogue and uses a system approach so it focuses on various issues of the problem, instead of just a single issue. It also takes into account the interests of current generation as well as the future generations. Using this approach, the government could resolve the problem provided these three strategic steps are taken. First, the government must absorb and listen to the voices of all elements of the society involved in the conflict. Second, the task of the government is to bridge these various interests through a dialogue, oriented towards reaching win-win solution. Third, in the process of dialogue and decision-making, all parties must place the constitutional mandate as a priority. All parties must have the same perception that all citizens have the same human rights protected by the constitution. Each party must place common interests above their personal and group interests. Government officials must not be afraid of losing popularity or electoral political support to protect the interests of all citizens and fulfill the mandate of the constitution.

As far as theoretical contribution is concerned, this article enriches the existing literature on the Shia-Sunni conflict by providing an explanation on factors preventing the refugees from returning to their homes in Sampang. The article contributes further to the literature by suggesting a

systemic governance as a strategic approach to resolve this conflict. Based on the principle of subsidiarity, it is the Sampang government that has a direct responsibility to implement this approach for the conflict resolution. However, the central government may not let the local government work alone. An effective collaboration between the central and local government in implementing this approach is necessary for a successful implementation of this approach. This takes us to further research questions about the extent to which this approach is effective in resolving the problem. How does collaborative government between the local and central government affects the successful implementation of this approach? How do the actors involved in this conflict respond to the implementation of this approach? The answers to these questions will help the government and the general society to apply as well as modify this approach for similar cases in the future.

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