

The Practice of Marriage of Sampang Shia Refugees in Puspaga Agro, Sidoarjo: Barriers and Challenges to Obtaining Family Administration Rights

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Abstract: This article examines the constraints and challenges of the Sampang Shia refugees in Puspaga Agro, Sidoarjo, in carrying out marriages and obtaining family administration rights. The data source in this article is based on field data obtained through observation and interviews and is supported by library data. Using resilience theory, this article seeks to answer two fundamental issues: first, what are the barriers faced by the Shia refugee group in Sampang in entering into marriages and obtaining family administration rights?; second, what is the strategy used by the Sampang Shiite group in obtaining family administration rights? Using socio legal, this article finds that Shi'a refugees face obstacles and challenges in consummating marriages and obtaining family administration rights as a result of the Sunni-Shia conflict that does not subside. They did not receive marriage guidance and also could not get married in front of KUA officers due to the long distances and high costs. In an effort to obtain administrative rights for their family, they made efforts to adapt to the existing situation. They carry out marriage guidance by asking the lokal *ustaz* for advice, submitting files to make a marriage certificate and taking part in the marriage registration program with an escort.

Keywords: *Sampang Shia refugees, marriage, family administration rights*

Abstrak: Artikel ini mengkaji kendala dan tantangan para pengungsi Syiah Sampang yang ada di Puspaga Agro, Sidoarjo, dalam melakukan perkawinan dan mendapatkan hak administrasi keluarga. Sumber data dalam artikel ini didasarkan pada data-data lapangan yang diperoleh melalui observasi dan wawancara dan didukung dengan data kepustakaan. Menggunakan teori resiliensi, artikel ini hendak menjawab dua hal mendasar: *pertama*, apa saja kendala yang dihadapi kelompok pengungsi Syiah Sampang dalam melakukan perkawinan dan mendapatkan hak administrasi keluarga?; *kedua*, bagaimana strategi yang digunakan oleh kelompok Syiah Sampang dalam mendapatkan hak administrasi keluarga? Menggunakan *socio legal*, artikel ini menemukan bahwa para pengungsi Syi'ah menghadapi kendala dan tantangan dalam melakukan perkawinan dan mendapatkan hak administrasi keluarga sebagai akibat dari adanya konflik Sunni-Syiah

yang tidak kunjung mereda. Mereka tidak mendapatkan bimbingan pernikahan dan juga tidak dapat melakukan pernikahan di depan petugas KUA disebabkan jarak tempuh yang jauh dan biaya yang mahal. Dalam upaya untuk mendapatkan hak administrasi keluarga mereka melakukan upaya adaptasi dengan situasi yang ada. Mereka melakukan bimbingan nikah dengan cara meminta nasihat kepada ustadz setempat, menyetorkan berkas untuk pembuatan akta nikah dan mengikuti program isbat nikah dengan pengawalan.

Kata Kunci: *Pengungsi Syiah Sampang, pernikahan, hak administrasi keluarga*

Introduction

So far, various studies on the Shia refugee community in Puspa Agro, Sidoarjo, have been carried out by many scholars, such as the research by Sholehuddin and Mariana Noor. These studies generally focus on the implementation of civil registration administration and marriage administration. In other words, these studies have not examined the barriers and challenges faced by the Shiite refugee group in Puspa Agro to obtain family administration rights. Sholehuddin, for example, only recorded the civil rights of Shia refugees from 2013-2020. Based on his research, he concluded that Shia refugees understand their civil rights. In fact, these rights have not been fulfilled, such as the right to choose a place to live, the right not to be dealt discriminatively, and the right to bury their dead. He also stressed that basically, Shia refugees are part of Indonesian citizens, so that they are entitled to obtain civil rights regardless of their religion or belief.¹

Meanwhile, Noor, who has conducted a research on the Ahmadiyya community in Lombok and the Sampang Shia group in Puspa Agro, Sidoarjo, stated that the two communities legally married and registered their marriage at the nearest Office of Religious Affairs (KUA) to their domicile. Their marriage should also be carried out legally according to the rules of Indonesia. However, she said that the Shia community never experienced many difficulties when registering their marriage at the KUA. According to her, there is no question about which mass organization or religious sect they follow when registering

¹ Sholehuddin, "Dilema Antara Keberagamaan Dan Keberwarganegaraan: Studi Fenomenologi Tentang Kesadaran Pengungsi Shi'ah Sampang Terhadap Hak-Hak Sipil Tahun 2013-2020" (Dissertation, UIN Sunan Ampel, 2020).

their marriage. Shia refugees undergo marriage registration procedures like other Muslims. However, the Shia community who were expelled and still live in the flats of Sidoarjo were forced to carry out private marriages (unregistered marriages), even though finally, they were able to register their marriages legally.²

Noor's conclusion is different from the testimony of a Shia refugee resident in Puspa Agro, Sidoarjo. He stated that the practice of marriage by Shia refugees in Sampang at Puspa Agro was not as simple as stated in Noor's research, that they could practice marriage like Muslim groups in general who can be attended by Marriage Registrar (PPN). Other efforts must be carried out by Shia refugee groups, so that, they can get married and obtain family administration rights. Thus, it means that they experience barriers and challenges in carrying out marriages and obtaining family administration rights. The referred barriers include a fact that they cannot perform the marriage directly in front of the marriage registrar. They can only have an unregistered marriage (private marriage), then after the solemnization of the marriage process is complete, they register their marriage at Sampang, Madura, who is assisted by an intermediary to deliver their marriage documents.³ Whereas legally, a marriage which is carried out outside the supervision of Marriage Registrars (PPN) do not have legal force.⁴

The research mentioned above give contributions to the study of Sampang Shia refugees. Nevertheless, based on the various studies above, the researcher wants to emphasize that the academic position of this research is to focus on the barriers and challenges faced by the Sampang Shia refugee group in Puspa Agro, Sidoarjo in carrying out marriages and fulfilling family administration rights.

Based on the literature review, this article aims to examine two issues. The first issue is the barriers and challenges faced by Shia refugees in entering into marriages and obtaining family administration rights. The second issue is the strategy used by the Shia group in facing the barriers and challenges of fulfilling the administrative rights of the family. In analyzing these two issues, the researcher uses resilience

² Nina Mariani Noor, "Pencatatan Pernikahan Bagi Warga Muslim Minoritas: Hak Atas Administrasi," in *Membela Hak-Hak Masyarakat Rentan : HAM, Keragaman Agama Dan Isu-Isu Keluarga* (Yogyakarta: UIN Sunan Kalijaga Press, 2021), pp. 59–82.

³ Interview with SM (M/25) in Yogyakarta, September 2021.

⁴ Article 6 Paragraph (2) Kompilasi Hukum Islam (KHI).

theory which is considered as the ability to get back up after experiencing difficulties and continue life with the hope that it will get better.⁵ If it is related to the issues that occur in the Shia group, in this case, they are trying to return to a decent life, one of which is by seeking to fulfill family administration rights. However, the fact is they face various barriers and challenges in getting married and obtaining family administration rights.

This research was conducted from September 2021 to January 2022. The research method used is qualitative and empirical (field research). The data sources were obtained through fieldwork, namely aspects of place, actors, and activities that interact synergistically in social situations, in this case, the Shia refugees at Puspa Agro concerned.⁶ The approach used is socio-legal, which is an approach that focuses on the barriers and challenges of Shia refugee groups in registering marriage administration. The data in this study were explored and obtained through observation and interviews with the informants at Puspa Agro, Sidoarjo. The data obtained is then presented and analyzed deductively. It is a general to a specific understanding with the aim that the study is easy to understand without expanding into other issues.

The Sunni – Shia Conflict and Its Impact on the Sampang Shiite Group

The emergence of violent conflicts between Sunnis and Shia in the world tends to increase if it is counted from 1989 to 2017, even though violence between the two sides only contributes a small amount of all violent conflicts in the world (about 6 percent of all violence). The existence of violent conflict between Sunni and Shia reached its peak in 2014. It decreased after 2014.⁷

The spread of anti-Shia material in formal discussions and social media has created sectarian awareness in Indonesian society. Many

⁵ Michael Rutter, "Implications of Resilience Concepts for Scientific Understanding," *Annals of the New York Academy of Sciences* 1094, no. 1 (2006), pp. 1–12.

⁶ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&D* (Bandung: Alfabeta, 2015).

⁷ Daniel Finnbogason, Göran Larsson, and Isak Svensson, "Is Shia-Sunni Violence on the Rise? Exploring New Data on Intra-Muslim Organised Violence 1989-2017," *Civil Wars* 21, no. 1 (2019), pp. 25–53.

ordinary Indonesian Muslims only learn about Shia dogma from an unequal campaign. They ended up having a biased understanding of the Sunni and Shia conflict.⁸ As a result, the Sunni-Shia conflict that occurred in Indonesia continued, starting from the Sunni-Shia conflict in Jember,⁹ Pasuruan,¹⁰ then it continued to happen at an Islamic boarding school in Brayo Village, Central Java, in 2000, from the raid on the house of the administrator of the Jar Hum Mosque in Bangil, East Java, in 2007, to the Shia conflict in Sampang that has occurred since 2004.¹¹

Regarding the Sunni – Shia conflict in Sampang, Coherently, the chronology began in 2003. *First*, in 2003, *Ustaz* MA started to spread Shiite dogma but was only limited to those around him. Then, as time goes by, the dogma spread increases. In this phase, there has been no reaction in the community. *Second*, in 2004-2005, the Shia dogma taught by *Ustaz* MA began to rise to the surface and was known to many people. At that time, the news circulating in the community was that *Ustaz* MA had strange ways of practicing Islam. Reaction began from this case. It was a reaction from the surrounding community regarding the strangeness of the worship practices carried out by *Ustaz* MA. *Third*, from 2006 to 2008, threats, terror, and intimidation began to appear against *Ustaz* MA and his followers. At this stage, there was no physical or direct violence against *Ustaz* MA. However, in this phase, the criticisms from the Sampang clerics became more intense and began to lead to mass mobilization. *Fourth*, in December 2010, several residents returned to report the activities of *Ustaz* MA and his congregation to the MUI. Residents who reported this said that *Ustaz* MA's activities had disturbed the local community. *Fifth*, on April 4, 2011, physical violence immediately began. At that time, *Ustaz* MA and his followers intended to hold a

⁸ Siti Sarah Muwahidah, "Melampaui Batas Identitas Sektarian Sunni-Syiah," *Maarif Institute* 10, no. 2 (2015), pp. 188–200.

⁹ Arini Robbi Izzati, "Konflik Agama Antara 'Sunni-Syiah' Di Kecamatan Puger, Kabupaten Jember," in *Optimalisasi Peran FKUB Menuju Indonesia Damai* (Yogyakarta: PUSHAM UII, 2018), pp. 71–104.

¹⁰ Humaini, "Konflik Sunni- Syiah Di Timur Tengah Perspektif Geopolitik Dan Dampaknya Terhadap Hubungan Sunni-Syiah Di Indonesia," *CMES* XII, no. 2 (2019), pp. 156–69.

¹¹ Wabilah Husna, *Sejarah Perkembangan Syiah Dan Ahmadiyah: Konteks Global Dan Nasional* (Jakarta: Pustaka Obor, 2017).

commemoration of the Prophet Muhammad's birthday (Mawlid al-Nabi). However, from the start, this event received very serious resistance from the local community. Since before D-day, people who identify themselves as followers of Sunni have done various ways to thwart the event. The mob began to blockade the event venue. They were armed with sickles, machetes, clubs, and other sharp weapons. They then began to block the congregation who wanted to attend the Maulid al-Nabi event. If the Shiite congregation continued to carry out the Mawlid al-Nabi event, it was very likely that a mass brawl would break out. Therefore, with consideration of maintaining security, the event was ultimately not held.¹²

In early 2012, on January 1, 2012, the Indonesian Ulema Council (MUI) of Sampang Regency issued a fatwa stating that the dogma brought by *Ustaz* MA was heretical dogma and was part of blasphemy against Islam. On January 2, 2012, Nahdhatul Ulama Branch Representative (PCNU) of Sampang Regency, issued a statement supporting the MUI fatwa of Sampang Regency. As a follow-up to the fatwa, on January 3, 2022, BASSRA asked the East Java MUI and the Central MUI to issue a heretical fatwa against Shia and asked the Sampang Regency Government to ban Shia dogma from being in Madura. Then, on April 10, 2012, the Sampang District Court decided to give a sentence of 3 months and 10 days against the alleged perpetrator who set fire to *Ustaz* MA's house and Islamic boarding school.¹³

Meanwhile, the MUI's intervention in the existence of Shia in Sampang did not stop at that moment. MUI of East Java on January 21, 2012, issued a fatwa that Shia dogma is a heretical teaching that misleads. The fatwa also stated that the development of Shia dogma in Indonesian society, which is predominantly Sunni, could threaten the stability and integrity of the Unitary State of the Republic of Indonesia.

¹² Fathul Latif, "Mengurai Kesesatan Syiah Di Sampang Madura Dalam Perspektif Media Massa," *El-Hikmah* 9, no. 3 (2017), pp. 1–11.

¹³ Sholehuddin, "Dilema Antara Keberagamaan Dan Keberwarganegaraan: Studi Fenomenologi Tentang Kesadaran Pengungsi Shi'ah Sampang Terhadap Hak-Hak Sipil Tahun 2013-2020."

Additionally, the existence of Shia teachings is stated to be more inclined to blasphemy than religious freedom.¹⁴

The Sunni – Shia conflict in Sampang continued until an attack occurred on August 26, 2012, which left 2 people dead, 6 injured, and 35 houses burned. Even though the attack had already occurred, they were not immediately evacuated. The evacuation was carried out by local security officers in 8 hours after the attack. During this period, they independently fled to a building belonging to the 4 Gayam Elementary School. After the police arrived, they were evacuated and taken to the police station. A few hours later, they were transferred to the Sampang Sports Hall, which was expected to become a temporary shelter. After fleeing to GOR Sampang, on July 20, 2013, the Sampang Shia adherents were forcibly moved by the Sampang Regency Government to Puspa Agro Flats in Jemundo Village, Sidoarjo Regency.¹⁵

Puspa Agro Rent Flats (Rusunawa) is located in the Jemundo area, on the border between Sidoarjo and Surabaya, right in front of the Puspa Agro Central Market, one of the largest markets in Indonesia. The flats belong to the East Java provincial government and are rented out to the public at relatively low prices, ranging from Rp300,000 to Rp400,000 a month. In the Rusunawa, they occupy a room measuring 4 x 4 meters. One family usually consists of three to seven internally displaced persons and gets clean water provided by the Rusunawa. Overall there are 332 internally displaced persons. However, of these, only 64 rooms are available for occupancy.¹⁶

Amidst these conditions, the daily activities of the Shia refugees become like urban communities whose lives are regulated by time and working hours. As a result, free time to relax and keep in touch with neighbors is reduced. These activities were very different when they

¹⁴ Nour Zattullah, “Konflik Sunni-Syiah Di Sampang Ditinjau Dari Teori Segitiga Konflik Johan Galtung,” *Jurnal Ilmu Budaya* 9, no. 1 (2021), pp. 86–101.

¹⁵ Muhammad Afdillah, *Dari Masjid Ke Panggung Politik: Melacak Akar Kekerasan Sunni-Syiah Di Sampang, Jawa Timur* (CRCS /Center for Religious and Cross-cultural Studies, 2016).

¹⁶ Wahyudi Akmaliyah, “Menjadi Pengungsi Di Negara Sendiri: Persekusi, Perjuangan, Dan Daya Tahan Sosial Komunitas Syiah Sampang Sebagai Pengungsi Internal,” in *Mereka Yang Terusir Studi Tentang Ketahanan Sosial Pengungsi Ahmadiyah Dan Syiah Di Indonesia* (Jakarta: Yayasan Pustaka Obor Indonesia, 2017), pp. 81–120.

were still living in Sampang. Being busy like a farmer make them have more free time; for example: in the afternoon and after the Maghrib prayers, they could visit neighbors' houses to stay in touch and exchange ideas.¹⁷

Amid the uncertainty of their fate and to anticipate the worst, the Shia refugee community carried out an activity to extend their social resilience. In this case, they carry out financial management, such as savings and weekly gatherings which are managed jointly. In addition, some do business with their expertise, such as selling satay around the complex, being a barber, and working as freelance workers. The existence of housing facilities, life insurance, opportunities for entrepreneurship, and odd jobs still doesn't make them able to live comfortably living in evacuation.¹⁸

The Barriers and Challenges of Sampang Shia Refugees in Marriage and Obtaining Family Administration Rights

The Shia refugees in Puspa Agro, Sidoarjo had many barriers in carrying out their marriages and obtaining family administration. As a minority, they feel the constraints in implementing marriage practices. The difficulty of obtaining family administrative rights has resulted in their position; becoming even weaker due to the absence of legal protections. Some problems encountered during the marriage process and filing for administrative rights for the family. These obstacles are (1) the absence of formal marriage guidance given to Shia refugees; (2) unable to perform the marriage directly in front of the Marriage Registrar; (3) long distances and multiple costs in the process of obtaining family administrative rights.¹⁹

1. The absence of marriage guidance given to the Shia refugees

Marriage guidance is a guidance program given to prospective brides at the local KUI office as a provision before entering into marriage. Marriage Guidance is carried out to prepare the bride and

¹⁷ Wahyudi Akmaliah, "Menjadi Pengungsi Di Negara Sendiri: Persekusi, Perjuangan, Dan Daya Tahan Sosial Komunitas Syiah Sampang Sebagai Pengungsi Internal," in *Mereka Yang Terusir Studi Tentang Ketahanan Sosial Pengungsi Ahmadiyah Dan Syiah Di Indonesia* (Jakarta: Yayasan Pustaka Obor Indonesia, 2017), pp. 81–120.

¹⁸ Akmaliah.

¹⁹ Interview with SM (M/28) at Puspa Agro Sidoarjo, January 4, 2022.

groom in adjusting to their partners.²⁰ Marriage guidance for prospective brides is prioritized for prospective brides who have registered at the District Office of Religious Affairs. This aims that the bride and groom can understand and know their rights and obligations as husband and wife.²¹ In practice, this marriage guidance is provided in the form of courses with materials covering the purpose and function of marriage, the obligations, and rights of husband and wife, reproductive health, procedures for creating family harmony, preparing for children's education, and child care.²²

Since 2017 this marriage guidance program has been present in Indonesia but is known as sustain (bride and groom course).²³ This marriage guidance is one of the programs that must be held by the Office of Religious Affairs (KUA) for prospective brides who have registered their marriage with the KUA.²⁴ This marriage guidance

²⁰ Budi Sunarso, *Hasil Penelitian Peran Kantor Urusan Agama Dan Penyuluh Dalam Memberikan Bimbingan Pernikahan Pada Masyarakat Di Udapi Hilir Praji, Kabupaten Manokwari* (Jawa Timur: Myria Publisher, n.d.).

²¹ Technically, guidance is held from 08:00 to 16:00. In one day there will be four discussions and one discussion will spend 1-2 hours of materials. Before it is started, both prospective groom and bride couples are given marriage guidance capital and after participating in the service, they will be given a certificate or charter as proof that they have attended marriage guidance. Chapter II Letter A Number 3 Decree of the Directorate General of Islamic Community Guidance Number 379 of 2018, Regarding Guidelines for Implementing Premarital Marriage Guidance for Prospective Brides. See also N Amelia, "Layanan Bimbingan Pranikah Dalam Meningkatkan Keharmonisan Keluarga: Penelitian Di Kantor Urusan Agama Kecamatan Cileunyi," *Irsyad: Jurnal Bimbingan, Penyuluhan, Konseling, Dan Psikoterapi Islam* 8, no. 1 (2020): 41–58, <https://doi.org/10.15575/irsyad.v8i1.1480>.

²² "Draft Law on Family Resilience, Article 21." (n.d.).

²³ Maulidiah Wati, Ahmad Subekti, and Ibnu Jazari, "Analisis Program Bimbingan Perkawinan Dalam Mewujudkan Keluarga Sakinah Studi Kasus Di KUA Lowokwaru Kota Malang," *Jurnal Hikmatina* 1, no. 2 (2019), pp. 113–19.

²⁴ Rules for marriage guidance can be seen in Law Number 1 of 1974 concerning Marriage, State Gazette of the Republic of Indonesia of 2019 Number 16, Decree of the Minister of Religion Number 03 of 1999 concerning the Development of the Sakinah Family Movement. Presidential Instruction No. 1 of 2017 concerning the Healthy Living Community Movement. Regulation of the Director General of Islamic Guidance Number DJ.11/491/2009 concerning Courses for Prospective Brides and Decree of the Director General of Islamic Guidance Number 379 of 2018 concerning Guidelines for Implementing Premarital Marriage Guidance for Prospective Brides.

program is needed for the bride and groom as a form of effort to reduce crises in the household due to ignorance.²⁵

However, in this practice, the Puspa Agro Shia refugees, Sidoarjo, did not receive marriage guidance. Therefore, the thing they can do is go to an *Ustaz* and ask for advice regarding marriage.

One of the informants which was a part of the Shia refugees at Puspa Argo (SH) explained that he had never received marriage guidance from KUA officers, so they only asked for marriage advice by coming to an *Ustaz* at Puspa Agro. Those who are getting married need to go to one *Ustaz* who lives in Puspa Agro at first and express his intention to get married. They then asked the *Ustaz* to help them hold the marriage. SH revealed that these methods were carried out in a *non-formal* manner. There were no specific rules. The advice is also given only when the couple comes to *ustaz's* place. Therefore, this activity is individual and only attended by the bride and groom and the *Ustaz*.²⁶

Regarding the absence of marriage guidance, SH revealed that so far, he had never seen any KUA officers come to Puspa Agro to provide marriage guidance. When SH took care of the marriage certificate at KUA Sampang, he did not receive marriage guidance from any media; by direct meeting, via telephone, or video call. SH also revealed that the Shia group in Puspa Agro did not ask the KUA to come to Puspa Agro because it could potentially make the worst situation. In addition, the distance traveled was quite far.²⁷

2. Unable to Perform Marriage Directly in Front of a Marriage Registrar

In general, the practice of marriage is carried out in the presence of a marriage registrar. This standard description is explained in PMA, Article 3 that the function of the KUA in marriage is to carry out services, supervision, registration, and reporting of marriages and reconciliation.²⁸ Then, a Headman as PPN must supervise marriage

²⁵ Abdul Jalil, "Implementasi Program Bimbingan Perkawinan Pranikah Bagi Calon Pengantin Di Kua Kecamatan Cilandak Kota Jakarta Selatan," *Andragogi: Jurnal Diklat Teknis Pendidikan Dan Keagamaan* 7, no. 2 (2019), pp. 181–98.

²⁶ Interview with SH (M/29) at Puspa Agro, Sidoarjo, January 5, 2022.

²⁷ Interview with SH (M/29) at Puspa Agro, Sidoarjo.

²⁸ Article 3, Regulation of the Minister of Religion Number 39 of 2012 concerning the Organization and Work Procedure of the Office of Religious Affairs.

according to Islam.²⁹ Then the Marriage Registrar Assistant (PPP) is assigned to assist the Headman in attending marriage events.³⁰

Meanwhile, Shia refugees carried out ways that were different from Muslim society in general. Marriages were carried out in the presence of an *Ustaz*. This was because there were concerns that if their marriage was held in Sampang, it would retrigger conflict with Sunni followers. In this regard, SH revealed that the marriages carried out by Shia refugees at Puspa Agro were private (unregistered marriages) in front of an *Ustaz* at Puspa Agro or summoned *Ustaz* from outside to help accompany the wedding procession. Therefore, the marriage certificate cannot be obtained on D-day when the marriage ceremony has been carried out. They will only get it after processing it at the Sampan KUA, where they come from.³¹ Therefore after they have finished carrying out the private marriage in front of an *Ustaz*, they will then process the paperwork to obtain a marriage certificate which is part of the family's administrative rights.

3. The Long Distance and Multiple Costs

Puspa Agro, Sidoarjo, the home of the Shia refugees in Sampang, is quite a distance from their place in Sampang to where the refugees are in Puspa Argo, Sidoarjo. In this regard, one of the informants (SH/28) is part of the refugee group and is often assigned to assist the Shia refugee group in processing administrative files, revealing that the distance from Sidoarjo to Madura takes approximately 2 hours. It has become an obstacle in obtaining administrative rights for the families of the Shia refugees at Puspa Agro, Sidoarjo.³²

In addition, the considerable distance also increases the costs that must be paid to take care of family administrative rights. It is a consequence of the long distance between the domiciles of the Shia refugees and Sampang City, where they have to take care of family administration. This fee will increase if some files have not been

²⁹ Article 1, Paragraph (1) Regulation of the Minister of Administrative Reform Number: Per 62/M.PAN/6/2005 concerning the Functional Position of the Headman.

³⁰ Article 1, Paragraph (8) Regulation of the Minister of Religion of the Republic of Indonesia Number 20 of 2019 concerning Marriage Registration.

³¹ SH, Interview (Jan 5, 2022) at Puspa Agro, Sidoarjo.

³² SH, Interview (Jan 5, 2022) at Puspa Agro, Sidoarjo.

fulfilled. They have to repair the file at Puspa Argo, Sidoarjo, and then deliver it back to Sampang, Madura.³³

The Strategy of Sampang Shia Refugees to Get Family Administration Rights

The Shia refugee group in Indonesia is a minority group. It is often considered a certain group or cult.³⁴ Even so, they are still part of legal Indonesian citizens, the fulfillment of their rights must still be realized as a form of fulfilling human rights, including for the Shia Sampang refugee group in Puspa Agro Sidoarjo. They are entitled to their rights without discrimination, including the right to be treated equally in marriage and to obtain family administration rights.

Family administration is important for every Indonesian citizen because it is the only thing that can give validity to the marriage recognized by the state. Therefore, every married citizen should have family administration rights in the form of a marriage certificate. It also applies to Shia refugees in Puspa Agro Sidoarjo. They are entitled to the right of family administration. It is in line with Article 2 Paragraph (2) of Law Number 1 of 1974 concerning Marriage which states that "every marriage must be recorded according to the applicable laws and regulations". The registration of the referred marriage events in the marriage certificate is the one signed by the husband, wife, marriage guardian, witnesses, and PPN.³⁵

In an effort to obtain family administrative rights, the Sampang Shia refugees in Puspa Agro Sidoarjo took two methods, namely (1) delivering the required documents to Sampang, Madura and (2) participating in the marriage registration.

1. The Requirement of Delivering Files to Sampang, Madura

Registration of Marriage is an administrative requirement that aims to avoid deviations from the conditions of marriage both

³³ Interview with SH (M/29) at Puspa Agro, Sidoarjo.

³⁴ Ahmad Najib Burhani, "Menemani Minoritas Paradigma Islam Tentang Keberpihakan Dan Pembelaan Kepada Yang Lemah" (PT Gramedia Pustaka Utama, 2019).

³⁵ Habibi and Musorif, "Peran Kantor Urusan Agama (Kua) Dalam Mengurangi Perkawinan Siri," *An Nawawi* 2, no. 1 (2022), pp. 43–52.

according to religious law and according to legislation.³⁶ It certainly applies to the Sampang Shia refugees in Puspa Agro, Sidoarjo, as mentioned above. However, in practice, they carry out the private marriage (unregistered marriage) in front of an *ustaz* first. They cannot perform the marriage directly in front of the Marriage Registrar. As a result, they cannot get a marriage certificate after the marriage ceremony is completed.³⁷ A further consequence of the unregistered marriage in front of the *ustaz* is that the bride and groom who have married must deposit the documents needed to obtain a marriage certificate to Sampang, Madura. The management of marriage certificates in this way is known as file deposit marriage.³⁸ The practice of marriage like this is indeed not like marriages in general, where people can get married directly in front of the Marriage Registrar and get a marriage certificate after the contract is completed. It is because marriage practices basically have to be attended by a headman or Marriage Registrar (PPN), and at that time the headman will hand over a marriage certificate to the wedding couple.³⁹

³⁶ Achmad Asfi Burhanudin, "Perkawinan Dan Keharusan Pencatatanya," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 4, no. 1 (2018), pp. 1–14.

³⁷ According to SH, the unregistered marriage was carried out in front of the *ustaz* for several reasons. *First*, the distance is quite far from Puspa Agro, Sidoarjo to Sampang, Madura, so it is more effective to perform an unregistered marriage in front of an *ustaz* at Puspa Agro rather than bringing in a headman from KUA Sampang. *Second*, in order to prevent further riots because the Sunni-Shia conflict has not disappeared yet from the memory of the people of Sampang, furthermore the KUA is considered to be in favor of the Shia group. Interview with SH on January 5, 2022, at Puspa Agro, Sidoarjo.

³⁸ Interview with SH on January 5, 2022, at Puspa Agro, Sidoarjo.

³⁹ Article 3 of the Regulation of the Minister of Religion (PMA) Number 39 of 2012 confirms that the function of the KUA in matters of marriage is to carry out services, supervision, registration, and reporting of marriages and reconciliation. Meanwhile, the Marriage Registrar Assistant (PPP) is given the task of assisting the Headman in attending marriage events. See Article 3, Regulation of the Minister of Religion Number 39 of 2012 concerning the Organization and Work Procedure of the Office of Religious Affairs; Article 1, Paragraph (1) Regulation of the Minister of Administrative Reform Number: Per 62/M.PAN/6/2005 concerning the Functional Position of Headman, and Article 1, Paragraph (8) Regulation of the Minister of Religion of the Republic of Indonesia Number 20 of 2019 concerning Marriage Registration.

A marriage certificate for married couples will generally be obtained after they have completed the marriage contract. However, this did not happen to the Shia refugees in Puspa Argo Sidoarjo. They have to do a different method in obtaining a marriage certificate. SH (29), one of the perpetrators as well as the intermediary in managing family administration for Shia refugees at Puspa Agro, described the process and method for registering and obtaining family administration rights (marriage certificate). The mentioned process and steps are first, the prospective bride and groom prepare documents to obtain a marriage certificate, such as a Marriage Certificate from the local sub-district, photocopy of birth certificate, photocopy of ID Card, photocopy of KK (Family Identity Card), Letter of Recommendation Marriage from the local District Office of Religious Affairs, and the approval of both bride and groom.

The second is delivering the complete documents needed to obtain family administration rights from Puspa Agro, Sidoarjo to KUA Sampang, Madura. The administrative management for Shia refugees in Puspa Agro is only carried out by SH as the person in charge. Thus, the other refugees never know how to apply for family administrative rights. They only submit the required files and provide transportation costs.

Third, the Sampang KUA officer will check the submitted files. If the required files are complete (appropriate), then the KUA Sampang will process the issuance of the marriage certificate. Conversely, if the file submitted turns out to be lacking, the person in charge must return to complete the missing file. The process of making this marriage certificate takes one to three months, depending on the files that have been provided. If the documents submitted to the KUA Sampang are appropriate, then the issuance of the marriage certificate can be completed within a month. On the other hand, if there are errors in the files, the process will take longer and can take up to three months.⁴⁰

SH's explanation above shows that the process of obtaining family administration rights for the Sampang Shia refugee community at Puspa Agro Sidoarjo is not easy. A long and lengthy process that should be taken to obtain family administrative rights. Referring to the explanation of PMA RI Number 19 of 2018, the steps for examining

⁴⁰ Interview with SH (M/29) at Puspa Agro, Sidoarjo.

documents for submitting marriage certificates by the KUA are carried out in the presence of the prospective bride and groom.⁴¹ However, this does not apply to Shia refugees in Puspa Agro, Sidoarjo. Examination of their marriage certificate application documents was carried out in front of SH as the person in charge of arranging marriage certificates for the Sampang Shia refugees at Puspa Agro, Sidoarjo. It is because the bridal couple cannot come to Sampang, because the process has only been carried out through an intermediary from the beginning, who is trusted as the overall person in charge of the marriage certificate registration process.⁴²

Additionally, SH also said that before being sworn in as Sunni, they faced more urgent difficulties in taking care of their family administration rights. This difficulty is not dealing with KUA officers, but getting a marriage certificate from the village or urban village where the bride and groom live. In this case, SH explained that before it was reported that the Sampang Shia refugees at Puspa Agro Sidoarjo had moved to Sunni, they had difficulty getting a letter of introduction from the village. However, after it was reported that the Shia refugees of Sampang at Puspa Agro had pledged allegiance to Sunni, it was easier to deal with the application for a letter of introduction.⁴³

2. Participating in the marriage *isbat* program

Regarding the marriage contract, the phenomenon of the marriage contract for the Madurese people is seen as less blessed if the one who does it is not from the *Ustaz* or *Kiai*. It is because the Madurese is known as a religious community and is obedient to teachers or *Kiai*. Thus, they invite *Kiai* to important events, including matters of marriage. On the other hand, it turns out that the obedience that has arisen do not match with obedience to positive law. Consequently, it triggers a lot of unregistered marriage practices in Madura.⁴⁴

⁴¹ Article 5 Paragraph (4), PMA RI Number 19 of 2018.

⁴² Interview with OY at Puspa Agro, Sidoarjo, January 5, 2022.

⁴³ Interview with SH on January 5, 2022, at Puspa Agro, Sidoarjo.

⁴⁴ Muh Hasyim, "Implementasi Isbat Nikah Massal Di Madura: Kajian Sosiologis-Filosofis," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 9, no. 2 (2019), pp. 347–72.

The practice of *isbat* marriage was also carried out by Shia refugees of Sampang at Puspa Agro Sidoarjo as a form of strategy for obtaining family administration rights. However, this program cannot be relied upon because it is incidental. This *isbat* marriage program was carried out by the Sampang Regency government in 2017 and was initiated by the Branch Representative Council (MWC) of Nahdatul Ulama, Gapura District. This program was attended by a group of Shia refugees of Sampang at Puspa Agro Sidoarjo, there were 13 couples in total.⁴⁵

In this regard, SH revealed that the marriage *isbat* process was carried out directly, in the sense that every couple who wanted to perform the marriage *isbat* had to come directly to Sampang, Madura.⁴⁶ The implementation of the marriage *isbat* program was attended by a group of Sampang Shia refugees ranging in age from 18 to 55 years. However, the process is still not easy. The departure of the Shia refugees must be escorted by the police (Sampang Resort Police (Polres)) and the East Java Regional Police Mobile Brigade (Brimob Polda East Java). This escort was carried out with the intention of avoiding the possibility of protests by residents who oppose the presence of the Shia group in carrying out the marriage *isbat* process.⁴⁷ During the implementation of the marriage *isbat*, the Shia refugees were not mixed with other residents. They were placed in different rooms. It was done to avoid the possibility of chaos because the Sunni-Shia conflict that occurred was considered to have not subsided completely.⁴⁸

As explained above, what the Sampang Shia refugees in Puspa Agro Sidoarjo did was a step and a strategy they could take to obtain family administration rights. The marriage *isbat* they follow is also one of the ways to obtain the administrative rights of the family.

Conclusion

⁴⁵ Sholehuddin, "Dilema Antara Keberagamaan Dan Keberwarganegaraan: Studi Fenomenologi Tentang Kesadaran Pengungsi Shi'ah Sampang Terhadap Hak-Hak Sipil Tahun 2013-2020."

⁴⁶ Interview with SH (M/29) at Puspa Agro, Sidoarjo.

⁴⁷ Abdul Aziz, "Pekab Sampang Nikahkan 21 Pasangan Syiah," accessed July 27, 2022, <https://www.antaraneews.com/berita/688197/pekab-sampang-nikahkan-21-pasanga-syiah#mobile-src>.

⁴⁸ Interview with SH (28/M) on January 5, 2022, at Puspa Agro, Sidoarjo.

Several things can be concluded from the explanation above. First, the Sampang Shia refugees at Puspa Agro, Sidoarjo, face many barriers and challenges on the marriage process and the submission of family administration rights (marriage certificate). Several barriers and challenges they face are (1) they don't get pre-marital counseling; (2) They are unable to perform marriages in front of KUA officers. So, they are forced to perform private marriages (unregistered marriage); (3) the considerable distance between Puspa Agro in Sidoarjo (where they fled) and the KUA in Sampang, Madura, which is their residence and where they take care of family administration. Because the distance between the two is quite far, of course, they have to incur more expensive costs in the process of obtaining family administrative rights. Second, to obtain family administration rights, they took two methods. They are (1) depositing the documents needed to obtain family administration rights to the KUA Sampang, Madura, and (2) participating in the marriage *isbat* program. However, this second method is unreliable because the program is not routine, but instead incidental.

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