



Islamic Legal Review of The Renewal of Marriage Contracts for a Husband and Wife Post a Triple Divorce Outside a Religious Court

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Abstract. This study examines the practice of *tajdidun nikah* (marriage renewal) following triple *talak* pronounced outside the Religious Court in Pamenang Barat District, Merangin Regency, Jambi Province. Using a qualitative field research approach, data were collected through semi-structured interviews with four couples who performed *tajdidun nikah* and local religious figures who facilitated the ceremonies, supplemented by participant observation and documentation. The findings reveal that the practice is primarily triggered by emotional *talak* uttered during marital conflicts rooted in economic pressure, infidelity, and misunderstanding. The renewal process involves family mediation, a solemn oath of repentance, and the repetition of *ijab-qabul* before a local religious figure, without involvement of the Office of Religious Affairs (KUA) or the Religious Court. The community perceives this practice as a form of *ihtiyath* (precaution) to preserve marital sanctity and protect children from neglect. However, the practice contradicts both classical Islamic jurisprudence regarding *talak ba'in kubra* and Indonesian positive law, which mandates judicial divorce. This study recommends intensified legal socialization by religious authorities to bridge the gap between community practices and formal legal frameworks.

Keywords: Divorce; Islamic Jurisprudence; Marriage Renewal; Religious Court; *Tajdidun Nikah*.

1. INTRODUCTION

Marriage in Islam constitutes a sacred covenant (*mitsāqan ghalīẓan*) that unites a man and a woman in a lawful bond aimed at establishing a harmonious family grounded in tranquility (*sakinah*), affection (*mawaddah*), and mercy (*rahmah*). Beyond its spiritual dimension, marriage serves as a fundamental mechanism for preserving lineage (*hifzh al-nasl*), which is recognized as one of the five essential objectives of Islamic law (*maqāṣid al-syarī'ah*) (Nasution, 2021). In the Indonesian legal framework, marriage is further regulated under Law Number 1 of 1974 concerning Marriage, which defines it as a physical and spiritual bond between a husband and wife with the purpose of forming a happy and eternal family based on belief in the One Almighty God (*Undang-Undang Republik Indonesia Nomor 1 Tahun 1974 Tentang Perkawinan*, 1974). The convergence of religious and state law underscores the dual obligation of marriage to be both spiritually valid and legally registered.

However, the reality of modern marital life frequently reveals a significant gap between the ideal of marriage and its lived experience. Economic pressure, interpersonal conflict, and emotional instability often lead to irreconcilable disputes between spouses, culminating in the pronouncement of *talak* (divorce) outside formal judicial proceedings (AL-Shahrani & Hammad, 2023; Ismail et al., 2024; Rizq, 2025). In Islamic jurisprudence, *talak ba'in kubra* (triple divorce) carries the most severe legal consequence, as it irrevocably dissolves the marital bond and prohibits remarriage between the same parties unless the wife has lawfully married and consummated a marriage with another man (*muhallil*) (Az-Zuhaili, 2010)). This provision

is codified in Article 115 of the Compilation of Islamic Law (KHI), which stipulates that triple *talak* constitutes an absolute and final termination of marriage (Abdurrohman, 2010).

Despite the clarity of these normative provisions, a social phenomenon known as *tajdīd al-nikāh* (marriage renewal) has persisted in various Indonesian communities, including Pamenang Barat District, Merangin Regency. In this practice, couples who have pronounced triple *talak* during heated arguments proceed to renew their marriage contract through a local religious figure (*tokoh agama*) without undergoing the required *halālah* process or obtaining a court decree (Nuryahya et al., 2026). The renewal ceremony typically involves a commitment to reform, an oath of repentance, and a repetition of the *ijab-qabul* (offer and acceptance) formula, closely resembling a standard marriage contract (Maesaroh et al., 2026; Ridwan et al., 2025). This practice reflects a community-driven attempt to reconcile marital crises while circumventing both religious and state procedural requirements.

The practice of *tajdīd al-nikāh* following triple *talak* outside the Religious Court raises profound legal tensions between Islamic normative law, Indonesian positive law, and community customary practice. From the perspective of Islamic jurisprudence, the majority of scholars across the four *madhāhib* consider remarriage after triple *talak* without *halālah* to be invalid (*fāsid*) (Zikriandi, 2025). Simultaneously, Indonesian positive law mandates that divorce is only legally recognized when pronounced before the Religious Court, as stipulated in Article 39 of Law Number 1 of 1974 and Article 117 of the KHI (Abdurrohman, 2010). Consequently, marriages renewed outside these frameworks lack legal recognition, creating ambiguity regarding the status of wives, children, inheritance rights, and civil administration (Syarifuddin, 2014).

This study aims to examine the practice of *tajdīd al-nikāh* following triple *talak* outside the Religious Court in Pamenang Barat District through the lens of Islamic law and Indonesian positive law. Specifically, it investigates the implementation process, the implications for children born after such renewals, and the Islamic legal assessment of the practice. By employing a qualitative field research approach with data obtained through interviews with affected couples and local religious figures, this research contributes to bridging the gap between normative religious provisions and grassroots social realities, while offering recommendations for religious affairs offices (KUA) in providing guidance and legal socialization to the community (Nasution, 2021).

2. RESEARCH METHODS

This study employed a qualitative field research design with a descriptive approach to examine the practice of *tajdīd al-nikāḥ* (marriage renewal) following triple *talak* outside the Religious Court in Pamenang Barat District, Merangin Regency, Jambi Province. The location was purposively selected due to the documented occurrence of four cases of *tajdīd al-nikāḥ* within a three-year period (2022–2025), making it a relevant site for in-depth investigation. Primary data were obtained through semi-structured interviews with couples who performed *tajdīd al-nikāḥ* and local religious figures (*tokoh agama*) who facilitated the ceremony, while secondary data were drawn from classical and contemporary *fiqh* literature, Indonesian marriage legislation (Law No. 1 of 1974 and the Compilation of Islamic Law), and annual reports from the local Office of Religious Affairs (KUA). The researcher also served as a participant observer, having been present as a witness during one of the renewal ceremonies, thereby enriching the data with firsthand experiential insight (Creswell & Poth, 2018).

Data collection was conducted through three complementary techniques: semi-structured interviews, participant observation, and documentation. To ensure the trustworthiness and credibility of the findings, source triangulation was applied by comparing interview data across multiple informants, cross-referencing interview findings with documentary evidence, and aligning empirical data with the normative legal theories used for analysis. The data analysis followed the interactive model proposed by Miles et al (2014), which comprises three concurrent stages: data condensation (filtering irrelevant information to focus on events and factors leading to *tajdīd al-nikāḥ*), data display (organizing findings into structured narratives), and conclusion drawing/verification (interpreting the data through the lens of Islamic jurisprudence and Indonesian positive law). This analytical framework enabled a systematic examination of the practice against the normative standards of *fiqh* and national legislation.

3. RESULTS AND DISCUSSION

Results

Geographical and Administrative Profile of Pamenang Barat District

Pamenang Barat District is one of the administrative districts within Merangin Regency, Jambi Province, which was formed through the subdivision of the former Pamenang District. The subdivision was driven by the wide territorial span, the growing population, and the need to shorten the span of administrative control so that public services could be delivered more evenly to the villages. This process gained momentum after the implementation of

regional autonomy policies following the 1998 reform, which granted local governments broader authority to reorganize their administrative territories. The formation of the new district was subsequently formalized through a regional regulation that defined its territorial boundaries, the composition of its villages, and the seat of its government. Topographically, the district is dominated by lowlands in the southwestern part of the regency, bordering Sarolangun and Bungo Regencies, and its economy rests on oil palm, rubber, and cassava plantations.

Table 1. Villages of Pamenang Barat District, Merangin Regency.

No.	Village
1	Tanjung Lamin
2	Limbur Merangin
3	Karang Anyar
4	Pinang Merah
5	Simpang Limbur Merangin
6	Mampun Baru
7	Papit
8	Pulau Tujuh

Table 1 shows that Pamenang Barat District consists of eight villages, each of which functions as a centre of social, cultural, and religious life for the surrounding community. This distribution is important for mapping the locations of the marriage-renewal cases examined in this study, because every village has at least one religious figure mandated by the village head to manage religious affairs. Although the identified cases did not occur evenly across all villages, the administrative structure ensures that matters of marriage, talak, and renewal are always mediated by local religious authorities. The table therefore provides the territorial basis for understanding where and how the phenomenon under investigation took place.

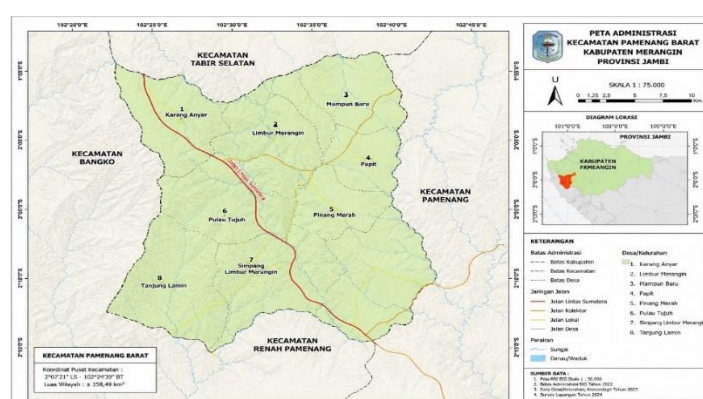


Figure 1. Map of Pamenang Barat District.

The map illustrates the spatial configuration of the eight villages within the district and their position relative to the neighbouring regencies. The relatively long distances between villages, combined with limited road infrastructure, explain why residents tend to resolve family disputes through nearby religious figures rather than through formal state institutions

located farther away. This geographical accessibility underlies the community's reliance on village-based religious mediation in matters of talak and marriage renewal. The map thus provides an essential spatial context for interpreting the empirical findings presented in the following sections.

Socio-Cultural and Religious Context of the Community

The social life of Pamenang Barat remains characterised by rural Malay values that emphasise togetherness, kinship, and mutual cooperation. Residents routinely assist one another in building houses, repairing village roads, cleaning the environment, and conducting agricultural activities, and this tradition functions as the glue of social solidarity. Collective problems, including family disputes, are generally resolved through village deliberation involving community leaders, customary leaders, religious figures, and the village government. Decisions produced through such deliberation are respected as collective decisions that prioritise the common good over individual interests. These inherited values form the social foundation upon which marital crises, including those ending in the utterance of talak, are mediated and resolved communally.

The cultural life of the community is deeply coloured by Islamic teaching, in line with the Malay principle that custom rests upon religious law and religious law rests upon the Book of God. Religious activities such as recitation gatherings, yasinan, commemorations of the Prophet's birthday, and Qur'anic tadarus are inseparable parts of daily life, and the mosque functions not only as a place of worship but also as a centre of social and educational activity. The population consists mainly of ethnic Malay Jambi, with a minority of Minangkabau descent, and both groups live harmoniously while using Malay Jambi as the language of daily communication. Within this religio-cultural atmosphere, marriage is regarded not merely as a private contract but as a sacred event loaded with religious and customary values. It is therefore natural that religious figures hold a central position in matters concerning the formation, rupture, and renewal of marriage.

Structurally, each village in the district has at least one religious figure who serves as the religious coordinator and receives a mandate from the village head to manage religious affairs. These figures, together with the *Pegawai Syara'* and the leaders of Islamic boarding schools, constitute the informal religious authority to whom the community turns for guidance on worship and family matters. Their authority is derived not from the state but from communal trust and customary-religious recognition, which in certain respects exceeds the influence of formal institutions. This configuration explains why couples in crisis prefer to consult these figures rather than the Religious Court. As the district's religious coordinator emphasised,

"Marriage begins with a contract whose essence is a firm and solemn covenant, strong and different from ordinary agreements; therefore marriage is not an ordinary matter, and religion is its most important element."

Case Studies of Couples Performing Tajdidun Nikah

Field investigation identified four cases of marriage renewal following talak pronounced outside the Religious Court within a three-year period, all involving couples with minor children. In the first case, Joko and Ratna of Simpang Limbur renewed their marriage in 2023 after repeated talak triggered by economic quarrels and mutual infidelity. In the second case, Eko, a migrant worker, pronounced talak upon Widi by telephone from abroad in 2021, and the couple renewed their contract in 2023 after his return and apology. In the third and fourth cases, Bahri and Shonia of Karang Anyar and Hendri and Laila of Limbur Merangin renewed their marriages in 2024 after the husbands had uttered talak more than three times during quarrels rooted in economic pressure and perceived emotional immaturity. Bahri recalled the couple's motivation: "We realised that separation would cause our child to be neglected, and fundamentally we still love each other, so we renewed our marriage upon the advice of our parents and the religious figure." Widi likewise recounted, "My husband pronounced talak over the phone while he was abroad; we did not go to the Religious Court but settled the matter within the family."

Table 2. Distribution of Tajdidun Nikah Cases by Village in Pamenang Barat District.

No.	Village	Number of Cases
1	Tanjung Lamin	1
2	Limbur Merangin	1
3	Karang Anyar	1
4	Simpang Limbur Merangin	1
5	Other villages (Pinang Merah, Mampun Baru, Papit, Pulau Tujuh)	0
	Total	4

Table 2 shows that the four identified cases were distributed across four of the eight villages of the district, indicating that the practice is not a localised custom of a single village but a district-wide pattern of responding to marital crisis. Each case was facilitated by the religious figure of the respective village, confirming the role of local religious authority described in the previous section. The absence of cases in the remaining villages does not necessarily indicate the absence of the practice, but may reflect the reluctance of couples to disclose private family matters. The table therefore provides the empirical basis for the more detailed case profile presented in Table 3.

Table 3. Profile of Couples Performing Tajdidun Nikah in Pamenang Barat District.

Couple (pseudonym)	Village	Marriage year	Children	Main trigger	Renewal year
Joko & Ratna	Simpang Limbur	2020	2 daughters	Infidelity and economic quarrels	2023
Eko & Widi	Tanjung Lamin	2019	1 daughter	Long-distance separation and misunderstanding	2023
Bahri & Shonia	Karang Anyar	2022	1 son	Economic pressure and emotional talak	2024
Hendri & Laila	Limbur Merangin	2022	1 son	Emotional immaturity and repeated quarrels	2024

Table 3 summarises the socio-demographic profile of the four couples and shows that all of them were relatively young at marriage and had minor children at the time of renewal. The triggers recorded in the table consistently point to a combination of economic hardship, prolonged separation, and emotional instability rather than to a single legal or religious ground. In every case the utterance of talak occurred spontaneously during quarrels and was never registered before the Religious Court, so that the couples remained legally married while considering themselves religiously divorced. The interval between the pronouncement of talak and the renewal of the contract ranged from several months to roughly two years, indicating that renewal functioned as the closing stage of a longer process of family mediation. Taken together, the two tables demonstrate that tajdidun nikah in this community is a socially embedded response to marital crisis rather than an isolated deviant behaviour.

The Procedure of the Tajdidun Nikah Ceremony

The findings show that marriage renewal in Pamenang Barat generally follows the procedure of an ordinary marriage contract, including the presence of a guardian, two witnesses, dowry, *ijab qabul*, sermon, and prayer, but it is conducted informally at the couple's or family's home and led by a local religious figure or *Pegawai Syara'*. The ceremony is not officially registered and therefore produces no written marriage certificate. A distinctive feature is the additional oath in which the couple commits to improving their relationship, avoiding past mistakes, fulfilling religious obligations, and becoming better spouses and parents. Thus, marriage renewal functions not only as a repetition of the marriage contract but also as a moral and spiritual mechanism for strengthening marital commitment and preventing the recurrence of emotional *talak*.

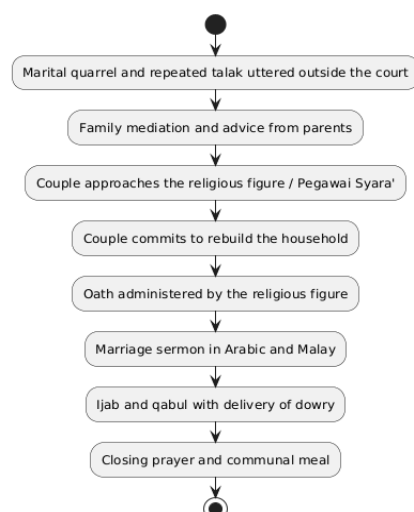


Figure 2. Flow of the Tajdidun Nikah Ceremony in Pamenang Barat.

The activity diagram visualises the sequential stages of the ceremony as practised in the field, from the initial marital conflict to the closing prayer and communal meal. The diagram highlights that the procedure reproduces the structure of an ordinary marriage contract while adding an oath stage that transforms the event into a ritual of repentance and reconciliation. The absence of any node representing a state institution confirms that the entire process takes place outside the formal legal system. The diagram thus makes explicit the hybrid character of the practice, which combines the formal pillars of marriage with a local mechanism of moral reinforcement.

Driving Factors of Tajdidun Nikah: Initiation and Facilitation

The interviews identified three main factors influencing marriage renewal in Pamenang Barat. First, the community holds a strong belief that marriage is a sacred covenant and an act of worship, creating concern that a divorce statement made in anger may have affected marital validity and therefore encouraging couples to renew the contract. Second, parents and religious figures play an important mediating role by encouraging reconciliation for the sake of the family and children. Third, local religious figures provide accessible and trusted facilitation for the renewal process without the administrative complexity and costs associated with formal legal procedures. Together, these religious, familial, and community factors strongly encourage couples to restore their marital relationship through renewal.

Synthesis: Emotional Talak, Legal Dualism, and the Function of Family Preservation

Across the four cases, talak was generally pronounced during emotional conflicts without the intention of pursuing a formal divorce. Couples often perceived the pronouncement as religiously significant while remaining legally married because no court procedure had been undertaken, creating uncertainty that encouraged marriage renewal as a private religious

solution. Limited understanding of different types and consequences of talak further reinforced this practice, which was driven mainly by caution and the desire for inner peace. Beyond legal considerations, marriage renewal primarily functioned as a mechanism for family preservation, helping couples restore harmony and reaffirm their commitment, particularly for the well-being of their children. These findings highlight the need for greater legal and religious education regarding divorce procedures and the consequences of talak.

Discussion

The core finding of this study reveals that the practice of *tajdidun nikah* in Pamenang Barat is predominantly triggered by emotional triple *talak* uttered outside the Religious Court, which the community attempts to rectify through local religious mediation. This phenomenon strongly aligns with the observations of Chakrabarti et al (2022) and Mangi et al (2025), who documented cases of husbands pronouncing triple *talak* in a fit of anger and subsequently seeking reconciliation. While Pramesti highlights the legal complications and procedural hurdles such emotional divorces create within the formal Religious Court system, the current study uncovers a contrasting grassroots reality: the community in Pamenang Barat entirely bypasses the state judiciary. Instead, they rely on village clerics to perform *tajdidun nikah* as a perceived religious safeguard (*ihthyath*). This divergence underscores a profound dualism between the lived religious practices of the rural community, which prioritize immediate spiritual rectification, and the positive law's strict requirement for judicial divorce to ensure legal certainty.

Furthermore, the community's motivation to preserve the family unit and protect the children's lineage resonates deeply with the principles of *Maqasid Syariah*, specifically the preservation of religion and lineage (*hifzh al-din* and *hifzh al-nasl*). Busriyanti et al (2025) and Yazid et al (2025) explored the application of *tajdid al-nikah* through the lens of *Maqasid Syariah*, arguing that such practices often emerge to secure comprehensive benefits (*maslahah*) for the family when marital bonds are threatened by legal or social anomalies. The findings of this study support Nasution's (2021) assertion, as the couples in Pamenang Barat utilize the renewal of vows to restore psychological peace, familial harmony, and a sense of religious compliance. However, a critical contrast arises regarding the institutional framework; unlike the contexts analyzed by Nasution where state religious affairs offices (KUA) and specific legal fatwas are involved, the Pamenang Barat cases operate entirely outside state administration. This raises critical questions about whether this unrecorded practice truly achieves comprehensive *maslahah*, or merely provides temporary emotional relief while inadvertently neglecting the civil and administrative rights of the wives and children.

The tension between the sacredness of marriage and the necessity of legal certainty is another critical dimension illuminated by this research. Darwis et al (2026), Ghazali et al (2025), Islam et al (2026), Muttaqin et al (2023), and Rinaldo & Fehr (2026) emphasizes that marriage in Indonesia is continually negotiated between religious sanctity (*mitsaqan ghalidzan*), state law, and customary demands, often leading communities to prioritize religious and customary validation over state registration. The empirical evidence from Pamenang Barat strongly corroborates Muttaqin's theory; the couples and local religious figures view the renewal of the contract as an indispensable spiritual rectification after the sacred bond was allegedly fractured by emotional *talak*. Nevertheless, this heavy reliance on customary-religious mediation directly contradicts the state's emphasis on administrative legality. By treating *tajdidun nikah* as a purely private, customary-religious event, the community leaves the wives and children in a highly vulnerable position regarding civil documentation, birth certificates, and inheritance rights—a systemic gap that Muttaqin also warns against in his analysis of unregistered customary marriages.

From a theological perspective, the justification employed by local religious figures in Pamenang Barat reveals a significant misconception regarding sharia needs and baseless doubts. Rosyidah (2020) argues that *tajdidun nikah* should only be performed when there is a genuine sharia-based need or a fundamental legal defect in the original marriage contract, explicitly warning against renewing vows based on mere baseless doubts, emotional instability, or trivial marital conflicts. The current study's findings reveal a direct contradiction to Rosyidah's (2020) ideal standard; in Pamenang Barat, *tajdidun nikah* is frequently prescribed by local clerics as a blanket remedy for emotional *talak*, even when the couples lack a precise jurisprudential understanding of the difference between revocable (*raj'i*) and irrevocable (*ba'in*) divorce. This indicates a localized theological misconception where the community conflates emotional regret with the absolute necessity of a new contract. Consequently, rather than protecting the sanctity of the original marriage, this practice risks trivializing the *mitsaqan ghalidzan* and normalizing the repeated utterance of *talak* as a consequence-free emotional outlet.

Ultimately, these findings must be situated within the specific socio-cultural and geographical landscape of Pamenang Barat to fully understand the persistence of this practice. Recent regional demographic data (BPS Kabupaten Merangin, 2025) and local social reports (Portal Buana, 2026) depict the district as a close-knit, agrarian society where customary and religious leaders hold more immediate social sway than distant state institutions. This socio-geographical reality perfectly explains why the community relies on accessible village clerics

(*Pegawai Syara'*) rather than the KUA or Religious Courts to resolve intimate marital crises. While this local wisdom fosters strong social solidarity and rapid conflict mediation, it inadvertently perpetuates the illegal practice of unrecorded *tajdidun nikah*. Therefore, bridging the gap between the community's religious anxieties and the state's legal frameworks requires targeted, culturally sensitive legal socialization by the KUA and Religious Courts, ensuring that the preservation of marriage does not come at the cost of legal and civil rights.

4. CONCLUSIONS AND RECOMMENDATIONS

In conclusion, the practice of *tajdidun nikah* following triple *talak* outside the Religious Court in Pamenang Barat District functions primarily as a communal mechanism of *ihthiyath* (precaution) and marital reconciliation rather than a formal legal procedure. The process typically involves couples approaching local religious figures to mediate their conflicts, culminating in a solemn commitment, an oath of repentance, and the repetition of the *ijab-qabul* to restore psychological peace and familial harmony. This practice is deeply driven by the community's profound belief in the sanctity of marriage, the strong mediating influence of parents, and the accessibility of village-based religious facilitation. Ultimately, the community perceives this renewal as a religiously justified safeguard to protect the family unit and the welfare of their children from the impacts of emotional divorce, despite its inherent contradictions with both classical Islamic jurisprudence regarding *talak ba'in kubra* and Indonesian positive law.

Based on these findings, it is highly recommended that the Religious Courts and the local Offices of Religious Affairs (KUA) intensify their legal socialization and pre-marital counseling programs to educate the public on the strict procedural requirements of divorce and the severe legal consequences of uttering *talak* outside the judicial system. Furthermore, local religious leaders should be empowered with standardized legal literacy so that their mediation efforts align with national marriage laws, thereby preventing the unauthorized facilitation of invalid marriage renewals. Future academic research is also encouraged to explore this phenomenon through broader sociological and psychological lenses to develop more comprehensive family resilience models. Finally, the community must be continuously encouraged to exercise emotional restraint and seek formal legal guidance during marital crises, ensuring that the sacred institution of marriage is protected both spiritually and administratively.

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