



Legal Analysis of The Policy on Remarriage for Couples Who Have Been Married in A Siri Ceremony: Case Study at The Pusakajaya Subang Office of Religious Affairs

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Abstract

Introduction: This article examines the persistence of “nikah siri” (unregistered marriage) in Indonesian society and its legal consequences, particularly the absence of legal certainty for spouses and children. In response to these issues, several Offices of Religious Affairs have implemented a remarry policy as an administrative mechanism to formalize previously unregistered marriages.

Purposes of the Research: The purpose of this study is to analyze the juridical basis and implementation of the nikah ulang policy at the Office of Religious Affairs of Pusakajaya, Subang Regency. This research aims to assess its conformity with Islamic law and Indonesian positive law, as well as its effectiveness in ensuring legal certainty for couples previously bound by nikah siri.

Methods of the Research: This research employs an empirical juridical method by combining normative legal analysis with field research. Data were collected through observation, in-depth interviews with Office of Religious Affairs officials, and document analysis. The study adopts a qualitative descriptive approach, using statutory, conceptual, and sociological perspectives to analyze the implementation and implications of the remarry policy.

Results Main Findings of the Research: This study finds that the remarry policy implemented by the Office of Religious Affairs of Pusakajaya constitutes an adaptive administrative and juridical response to the practice of nikah siri, grounded in the Marriage Law, the Compilation of Islamic Law, and the exercise of administrative discretion. The novelty of this research lies in conceptualizing remarry as a “maslahah-based” non-litigation solution that ensures legal certainty, justice, and utility while strengthening the responsive role of the KUA.

Keywords: Siri Marriage; Remarriage; Office of Religious Affairs; Legal Certainty; Marriage Law.

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INTRODUCTION

The phenomenon of unregistered marriages remains a strong social reality in various regions of Indonesia, including in Pusakajaya District, Subang Regency, West Java. Unregistered marriages are generally conducted due to economic factors, a lack of legal awareness, a desire to avoid administrative procedures, and social and cultural reasons.¹ Normatively, this practice is often considered valid under Islamic law because it fulfills the pillars and requirements of marriage, but it is problematic from the perspective of state law.

¹ Abdul Rajab Samiun, “Peran Kantor Urusan Agama (KUA) Kecamatan Tamalate Kota Makassar Dalam Mengatasi Nikah Siri,” *AT-TAKLIM: Jurnal Pendidikan Multidisiplin* 2, no. 1 (2025): 768–80; Fitria Wahyu Ningrum, “Nikah Siri Dan Dampaknya Terhadap Hak Perempuan Dan Anak Dalam Itsbat Nikah,” *TADHKIRAH: Jurnal Terapan Hukum Islam Dan Kajian Filsafat Syariah* 2, no. 1 (2025): 60–72; Ines Aulia Dina, “Pengaruh Budaya Dan Tradisi Terhadap Nikah Siri Di Indonesia,” *Jurnal Landraad* 4, no. 1 (2025): 87–96.

Law Number 1 of 1974 concerning Marriage explicitly states in Article 2 paragraph (2) that every marriage must be registered in accordance with applicable laws and regulations.² This provision is reinforced by Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI), specifically Articles 5 and 6, which emphasize that the registration of marriages is intended to ensure legal order and the protection of family rights. Thus, unregistered marriages give rise to dualism between religious validity and state recognition, which has implications for legal uncertainty.

The most significant impact of unregistered marriages is felt by wives and children, especially in relation to their legal status. Wives in unregistered marriages do not have legal status as legal wives in the eyes of the state, making it difficult for them to obtain legal protection in the event of domestic conflict, divorce, or domestic violence.³ Children born from unregistered marriages also have the potential to experience legal uncertainty, particularly in terms of birth registration. Although Constitutional Court Decision No. 46/PUU-VIII/2010 has opened up the possibility of recognizing civil relations between children born out of wedlock and their biological fathers, administrative implementation in the field still faces many obstacles.⁴ This situation shows that unregistered marriages are not only a matter of the validity of the marriage, but are also closely related to the protection of human rights and legal certainty for women and children.

In addition to legal status issues, unregistered marriages also have a direct impact on the fulfillment of civil rights, such as the right to financial support, inheritance rights, and population administration.⁵ In the context of positive law, alimony and inheritance rights can only be enforced if the marriage is legally recognized by the state. Article 34 of Law Number 1 of 1974 regulates the obligation of husbands to provide alimony to their wives and children, but this provision is difficult to enforce if the marriage is not registered.⁶ Similarly, in terms of inheritance, the KHI requires a legal marriage relationship to determine the status of heirs. From a population administration perspective, unregistered marriages complicate the processing of family cards, children's birth certificates, and access to other public services.⁷ Therefore, unregistered marriages have the potential to perpetuate structural injustice and social vulnerability for the parties involved.

In addressing this issue, the Office of Religious Affairs (KUA) plays a strategic role as the frontline provider of marriage services for Muslims. One solution that has developed in practice is the policy of remarriage for couples who were previously married unofficially. Remarriage is seen as an administrative and legal step to legalize the marriage without

² Muhamad Musta'in, "Analisis Keabsahan Nikah Siri Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Legal Advice Journal Of Law* 2, no. 1 (2025): 30–44; Aldhitama Ramadhan et al., "Kekuatan Hukum Mengikat Perjanjian Perkawinan Menurut Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Journal of Mandalika Literature* 6, no. 1 (2025): 83–94.

³ Muhammad Hari Sudarmawan and Khoirul Anwar, "Dinamika Poligami Siri Di Kalangan Masyarakat Ekonomi Rendah Dan Implikasinya Terhadap Keharmonisan Rumah Tangga," *Al Maqashidi: Jurnal Hukum Islam Nusantara* 8, no. 2 (2025): 69–79; Juni Kristiani Meliala et al., "Pelindungan Hukum Bagi Pasangan Dalam Perkawinan Tidak Tercatat (Siri) Terkait Kepemilikan Harta Benda: Studi Komparatif Dengan Perkawinan Tercatat," *Journal of Indonesian Comparative of Syari'ah Law* 8, no. 2 (2025): 489–512.

⁴ Eunike Loist Hutasoit et al., "Perlindungan Hukum Bagi Anak Luar Nikah Di Indonesia; Studi Komparasi Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 Dan Hukum Islam," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (2024): 420–37.

⁵ Anas Maulana, "Pencatatan Perkawinan Dalam Permendagri Nomor 109 Tahun 2019 Tentang Formulir Dan Buku Yang Digunakan Dalam Administrasi Kependudukan," *Islamic Law: Jurnal Siyasah* 7, no. 02 (2022): 52–73; Samsul Arifin and Aly Maschan Moesa, "Tinjauan Yuridis Terhadap Status Anak Dari Nikah Siri Dalam Perspektif Hukum Islam Dan Hukum Positif," *Jurnal Hukum Lex Generalis* 6, no. 6 (2025).

⁶ Rinrin Warisni, Dini Dewi Heniarti, and Neneng Nurhasanah, "Perlindungan Hak Nafkah Anak Dari Perkawinan Siri: Kajian Itsbat Nikah Dalam Perspektif Hukum Islam Dan Keadilan," *Tasyri': Journal of Islamic Law* 4, no. 2 (2025): 765–94.

⁷ Daffa Alif Utama, Endah Pujiastuti, and Dian Septiandani, "Penerbitan Kartu Keluarga Bagi Pasangan Nikah Siri Dan Akibat Hukumnya Terhadap Para Pihak," *Jurnal Usm Law Review* 5, no. 2 (2022): 819–31.

having to go through the judicial process of marriage validation in the Religious Court.⁸ This policy is based on the authority of the KUA in recording marriages and the principle of public interest (*maslahah mursalah*) in Islamic law.⁹ Through remarriage, couples obtain an official marriage certificate that provides legal protection for wives and children, while also supporting orderly state administration. Empirically, this study found that in 2025 there were nine couples who remarried at the Pusakajaya KUA after previously being married unofficially. Based on observations and interviews with the Senior Cleric, General Administrator, and Religious Counselor, it was found that the majority of couples remarried due to administrative requirements, legal protection for children, and awareness of the importance of legal marriage. KUA officials view remarriage as a practical solution that responds to the needs of the community, although it still requires strengthening of basic policies and technical guidelines so as not to cause differences in interpretation between regions. This empirical data shows the existence of living law at the local level that is interesting to study from a juridical perspective.

A number of previous studies have discussed unregistered marriages and their implications, both from the perspective of Islamic law and positive law. Previous studies have generally highlighted the legality of unregistered marriages,¹⁰ its impact on women and children,¹¹ as well as the mechanism of marriage validation as a legal solution.¹² However, studies that specifically analyze remarriage policies as administrative practices in KUA, especially those based on empirical case studies in certain regions, are still relatively limited. These studies tend to focus more on court decisions or normative analysis, and therefore have not explored in depth the role and policies of KUA in responding to the phenomenon of unregistered marriages at the grassroots level. Based on these conditions, this study is urgent and novel because it examines the policy of remarriage from an empirical legal perspective with a case study at the Pusakajaya KUA. The novelty of this study lies in its analysis of the practice of remarriage as a non-litigation legal alternative implemented by the KUA, as well as its implications for the protection of the civil rights of couples and children. By combining regulatory analysis, field data, and the views of KUA officials, this study is expected to make a new contribution to the development of Islamic marriage law in Indonesia, particularly in strengthening the role of the KUA as an agent of legal protection and public welfare.

METHODS OF THE RESEARCH

This research employs an empirical juridical research method, which examines law not only as written norms (*law in the books*) but also as a living practice that is implemented

⁸ Umar Haris Sanjaya and Dita Fadillah Putri, "Konstruksi Legitimasi Dan Akibat Perkawinan Dibawah Tangan: Mengulang Kawin Atau Itsbat Nikah?," *Jurnal Hukum Ius Quia Iustum* 31, no. 3 (2024): 490-511.

⁹ M Faizurrizqi Al-Farisi AD, "Peningkatan Pelayanan Pernikahan Berbasis Mall Pelayanan Publik Di Kantor Urusan Agama (KUA) Perspektif Mashlahah Mursalah," *Sakina: Journal of Family Studies* 4, no. 1 (2020): 40-47.

¹⁰ Yanny Yustica and Sri Redjeki Slamet, "Legal Protection For Wives And Children From Unregistered Marriages According To Positive Law In Indonesia," *International Journal of New Approaches to Law and Rationality in Nationhood, Governance, and Rights Advocacy* 1, no. 1 (2025): 513-22; Muhammad Fadhil Fahrezi, Zainuddin Zainuddin, and Dian Eka Pusvita Azis, "Legal Position Of Children Born From Unregistered Marriages According To The Perspectives Of Islamic Law And Positive Law," *Islamic Law And Local Wisdom* 1, no. 1 (2025).

¹¹ Herlina Basri, Zudan Arief Fakrulloh, and Evita Isretno Israhadi, "Legal Status of Children Born as a Result of Unregistered Marriage (Siri) on the Position of Children According to Marriage Law," in *Proceedings of the 2nd Multidisciplinary International Conference, MIC, 2022*; Wiranda Soraya, Bukhari Ali, and Muhammad Husnul, "Legal Protection of Women and Children in the Practice of Nikah Siri (Unregistered Marriage)," *Al-Rasikh: Jurnal Hukum Islam* 14, no. 2 (2025): 271-86; Rifki Ismail and Agil Mustapa, "Juridical Analysis of Unregistered Marriages' Effects on Children's Legal Status and Civil Rights," *Estudiante Law Journal* 7, no. 3 (2025): 758-71.

¹² Sri Dwi Khoironi and Nurul Huda Prasetya, "Isbat Nikah Atas Perkawinan Dengan Wali Muhakkam: Analisis Yuridis Normatif-Empiris," *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 14, no. 2 (2025).

within society (*law in action*). This approach integrates normative analysis of statutory regulations governing marriage particularly Law Number 1 of 1974 on Marriage and the Compilation of Islamic Law with a field-based approach to observe the factual implementation of remarriage policies. Through the empirical juridical approach, this study seeks to understand the conformity between legal norms and the policy practices carried out by the Office of Religious Affairs (Kantor Urusan Agama/KUA) in responding to the phenomenon of unregistered marriages (*nikah siri*) in the community. The research location was determined at the Office of Religious Affairs of Pusakajaya, Subang Regency, West Java, based on the consideration that this area demonstrates a relatively significant practice of remarriage as a solution to unregistered marriages. This study utilizes two types of data sources, namely primary data and secondary data. Primary data were obtained through direct interviews with KUA officials who possess authority and knowledge related to remarriage policies, including the Senior Marriage Registrar (*Penghulu Ahli Madya*), General Administrative Officer, and Religious Counselor. Meanwhile, secondary data were derived from statutory regulations, scholarly literature in the form of legal books and journals, as well as official KUA documents relevant to marriage registration and remarriage policies. Data collection techniques in this study were carried out through observation, interviews, and document analysis. Observations were conducted on nine couples who underwent remarriage at the KUA Pusakajaya to obtain empirical insights into the background, procedures, and objectives of the remarriage process. In-depth interviews were conducted in a semi-structured manner with key informants to explore perspectives, juridical considerations, and administrative policies implemented by the KUA in handling couples involved in unregistered marriages. In addition, documentation studies were conducted by reviewing archives, marriage registration records, and other supporting documents held by the KUA to strengthen the analytical findings. The collected data was then analyzed using Miles and Huberman's interactive analysis model as described in Sugiyono's book, which consists of four main stages, namely data collection, data reduction, data presentation, and conclusion drawing.¹³ In the data reduction stage, researchers select and simplify data relevant to the research focus. Next, the data is presented systematically and descriptively to facilitate understanding of the patterns and findings of the research. The final stage involves drawing conclusions inductively, namely by formulating general conclusions based on empirical findings in the field, which are then linked to applicable normative provisions. This analysis technique allows researchers to obtain a comprehensive and in-depth picture of remarriage policies from a juridical and empirical perspective.

RESULTS AND DISCUSSION

The Pusakajaya Religious Affairs Office (KUA) is a technical implementation unit of the Ministry of Religious Affairs that plays a strategic role in administering and providing marriage services for Muslims at the sub-district level. Legally, the existence and authority of the KUA are based on Minister of Religious Affairs Regulation No. 34 of 2016 concerning the Organization and Work Procedures of Subdistrict Religious Affairs Offices, which stipulates that the KUA functions to provide services, supervision, registration, and reporting of marriages and divorces for the Muslim community. In this context, the KUA not only acts as an administrative institution but also as a state agent in ensuring legal order and protecting family rights through the recording of marriages that are legally valid under

¹³ Sugiyono, *Metode Penelitian Kuantitatif Kualitatif Dan R & D* (Bandung: Alfabeta, 2021).

positive law.¹⁴ The functions and authority of the Pusakajaya KUA include marriage registration, guidance for harmonious families, and religious consultation services, including counseling related to Islamic marriage law. According to Soerjono Soekanto, the effectiveness of the law is largely determined by law enforcement officials and public awareness of the law.¹⁵ In this case, the KUA is in a strategic position as a link between marriage laws and the social reality of the community, especially in dealing with the practice of unregistered marriages, which is still quite prevalent in the Pusakajaya area.

The role of the Office of Religious Affairs (Kantor Urusan Agama/KUA) confirms its importance in the legalization of marriage, particularly in light of Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage, which explicitly requires marriage registration as an element of formal legal validity. Such registration is not merely an administrative formality, but rather a legal protection instrument for wives, children, and marital property. Therefore, the KUA of Pusakajaya seeks to carry out its role not only normatively, but also responsively to the social conditions of the community, where unregistered marriages (*nikah siri*) remain prevalent.

The practice of remarriage (*nikah ulang*) for couples who were previously married through *nikah siri* at the KUA of Pusakajaya represents an administrative policy that has empirically developed in response to the community's need for legal recognition of marriage. *Nikah ulang* is understood as the re-performance of the marriage contract before a Marriage Registration Officer (*Pegawai Pencatat Nikah/PPN*), fulfilling all pillars and requirements of marriage and being immediately recorded in an official manner. This practice differs from *isbat nikah*, which must be pursued through judicial proceedings before the Religious Court, as regulated in Article 7 paragraphs (2) and (3) of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI).

In principle, the procedure for *nikah ulang* at the KUA of Pusakajaya is the same as the general marriage procedure, namely the submission of marriage intent, administrative verification, fulfillment of marital requirements, and the performance of the marriage contract before a marriage registrar. However, particular emphasis is placed on clarifying the couple's relational status, including a declaration that the couple had previously entered into an unregistered marriage (*nikah siri*). This procedure demonstrates the administrative flexibility exercised by the KUA in order to realize legal benefit (*maslahah*), in line with the concept of *maslahah mursalah* in Islamic legal theory.

Based on field observations, there were nine couples who remarried at the Pusakajaya Religious Affairs Office. The main reasons for remarriage included obtaining a marriage certificate as the basis for processing birth certificates for children, family cards, inheritance rights, and certainty of the legal status of wives. This finding is in line with Satjipto Rahardjo's view that the law must be oriented towards substantive justice and the real needs of the community, not merely normative texts.¹⁶ The empirical data shows that remarriage is understood by the community as a practical solution that is more accessible than legalizing a marriage through the courts, in terms of time, cost, and procedure. This situation highlights the need for a non-litigation mechanism for legalizing marriages, especially for rural communities with relatively limited legal literacy.

¹⁴ Elisa Rani and Anggra Prima, "Tinjauan Maqashid Al-Syariah Terhadap Kepastian Hukum Pencatatan Perkawinan Di KUA Kecamatan Bengalon," *AL-AMIYAH: Jurnal Ilmiah Multidisiplin* 2, no. 02 (2025): 217–26.

¹⁵ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: RajaGrafindo Persada, 2008).

¹⁶ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Jakarta: Kompas, 2009).

The Head of the Pusakajaya Religious Affairs Office believes that remarriage is a solution to end unregistered marriages and provide legal certainty to couples. According to him, as long as the remarriage ceremony fulfills the pillars and requirements of marriage as stipulated in *fiqh munakahat* and does not violate any laws, then remarriage is permissible under Islamic law. This view is in line with the opinion of Wahbah az-Zuhaili and other studies which state that the main purpose of marriage is to achieve the welfare and protection of the rights of the parties involved.¹⁷ From an administrative perspective, the General Administration of the KUA emphasizes that remarriage greatly assists in the orderly administration of population data. With the registration of marriages, family data becomes clear and integrated with the state administration system. This is in accordance with Law Number 24 of 2013 concerning Population Administration, which requires proof of legal marriage for the issuance of population documents. Therefore, the policy of remarriage is seen as a form of responsive and preventive public service against future legal issues.

Meanwhile, religious counselors believe that the practice of remarriage also has educational value for the community. Through counseling, the community is given an understanding that marriage registration is a legal obligation and part of protecting family rights. This persuasive approach is in line with the theory of responsive law put forward by Philippe Nonet and Philip Selznick, which places law as a means of solving social problems.¹⁸

From the perspective of Islamic law, the policy of remarriage (*nikah ulang*) for couples who were previously married through *nikah siri* may be considered valid and possess *shar'i* legitimacy, provided that its implementation fulfills the pillars and conditions of marriage as stipulated in *fiqh munakahāt*, namely the presence of a prospective husband and wife, a lawful marriage guardian (*wali*), two witnesses, and the offer and acceptance (*ijab* and *qabul*) conducted in a single session. In this context, *nikah ulang* is not intended to negate or invalidate the previous marriage contract, but rather serves as a form of affirmation (*ta'kid al-'aqd*) of a marriage that is religiously valid yet lacks formal recognition under state law. Scholarly literature affirms that the validity of a marriage in Islam is determined by the fulfillment of its pillars and conditions, while registration constitutes an administrative aspect aimed at safeguarding the rights of the spouses and their offspring, rather than serving as a determinant of the *shar'i* validity of the marriage contract itself.¹⁹ Therefore, remarriage can be understood as a means of perfecting formal legal aspects without negating religious validity.

The analysis of Islamic law concerning the policy of remarriage (*nikah ulang*) can also be further developed through the theory of *maqāṣid al-sharī'ah*, particularly in relation to the protection of lineage (*ḥifẓ al-nasl*), the protection of honor (*ḥifẓ al-'ird*), and the protection of property (*ḥifẓ al-māl*). Jasser Auda emphasizes that Islamic law must be understood in a systemic and contextual manner and oriented toward the realization of tangible public benefit (*maṣlaḥah*) in social life.²⁰ *Nikah siri*, although religiously valid, often gives rise to

¹⁷ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu* (Damaskus: Dar al-Fikr, 2011); Elitta Yoandini and Nuril Khasyi'in, "Masalah Mursalat Dan Istidlal Sebagai Dasar Kewajiban Pencatatan Nikah: Analisis Normatif Terhadap Perlindungan Hak Perempuan Dan Anak," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 4, no. 1 (2026): 295–309.

¹⁸ Philip Selznick Philippe Nonet, *Law and Society in Transition: Toward Responsive Law* (New York: Harper & Row, 1978).

¹⁹ Rahmad Setyawan, "Menakar Pencatatan Perkawinan Di Indonesia Perspektif Kaidah Fiqhiyyah: Antara Legalitas Negara Dan Keabsahan Syariah," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi*, 2024, 199–218.

²⁰ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (Herndon: IIIT, 2008).

negative consequences, including the non-recognition of the legal status of wives and children, the neglect of maintenance (*nafkah*) and inheritance rights, and difficulties in population administration. In this context, the policy of remarriage (*nikah ulang*) may be viewed as an application of the principle of *sadd al-dhari'ah*, namely the prevention of means that could lead to greater legal and social harm resulting from uncertainty over marital status.

From a positive law perspective, the obligation to register marriages is a fundamental norm in the Indonesian marriage law system. Article 2 paragraph (2) of Law Number 1 of 1974 concerning Marriage explicitly states that every marriage must be registered in accordance with applicable laws and regulations. This provision is reinforced by Articles 5 and 6 of the Compilation of Islamic Law (KHI), which emphasize that the registration of marriages aims to ensure legal order and provide certainty regarding the marital status of Muslims. Thus, remarriage can be understood as a factual mechanism to fulfill the obligation of registration, especially for couples who were previously married unofficially and have not yet obtained legal recognition from the state.

Although the term “*nikah ulang*” (remarriage) is not explicitly found in the Marriage Law or the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), this practice cannot automatically be deemed contrary to the law. As long as remarriage is conducted in compliance with all administrative requirements, does not violate prohibitions on marriage, and is carried out by authorized officials, the practice may be accepted as part of the administrative authority of the Office of Religious Affairs (Kantor Urusan Agama/KUA). From the perspective of state administrative law, this practice is related to the concept of administrative discretion, namely the authority of government officials to make certain decisions or take specific actions to address legal vacuums or urgent circumstances in the public interest. Such discretion is normatively recognized in Law Number 30 of 2014 on Government Administration, particularly Articles 22 and 24.

When compared with the mechanism of *isbat nikah*, remarriage demonstrates fundamental differences in both procedural aspects and juridical consequences. *Isbat nikah* falls under the absolute jurisdiction of the Religious Court, as stipulated in Article 7 paragraphs (2) and (3) of the Compilation of Islamic Law, and requires a court decision as state recognition of an existing marriage. The *isbat nikah* process is litigation-based, requiring legal proof, court fees, and a relatively lengthy period of time. In contrast, remarriage is non-litigious and conducted directly at the KUA, making it more efficient and accessible to the public, particularly in rural areas with limited access to judicial institutions. This condition indicates that remarriage functions as an administrative solution that is more responsive to societal needs. Nevertheless, remarriage cannot be applied universally without limitations. The implementation of remarriage policies must be carried out selectively and with due caution, particularly to prevent legal abuse. Remarriage cannot be applied in cases involving disputes over marital status, unauthorized polygamy as regulated in Articles 3 and 4 of the Marriage Law, underage marriages that violate Article 7 of the Marriage Law, or marriages that contravene prohibitions based on consanguinity or affinity. Under such circumstances, resolution through judicial mechanisms, including *isbat nikah* or annulment of marriage, remains the appropriate and constitutional legal avenue.

From a legal theory perspective, the policy of remarriage can be analyzed through the theory of legal certainty proposed by Gustav Radbruch in Mutia Evi Kristhy et al, which

states that law must contain three basic values, namely certainty, justice, and utility.²¹ Unregistered marriages create legal uncertainty because the state does not recognize the marriage relationship, while remarriage provides certainty regarding the legal status of the wife and children and provides tangible social benefits in the form of protection of civil rights. In addition, this policy is also in line with Satjipto Rahardjo's progressive legal theory, which emphasizes that the law must serve humanity and not be trapped in mere formalities.²² In this context, remarriage reflects the courage of state officials to interpret the law contextually in the interests of substantive justice.

Based on the overall analysis, the remarriage policy implemented by the Pusakajaya KUA can be considered an adaptive, responsive legal solution oriented towards legal and social welfare. Although normatively there is still a need to strengthen regulations so that the practice of remarriage has a more explicit and nationally uniform legal basis, this policy demonstrates the active role of the KUA in bridging legal norms with the social reality of society. Thus, remarriage can be positioned as a relevant and potential non-litigation legal policy alternative in the development of Islamic marriage law in Indonesia, particularly in the context of protecting the rights of women and children.

CONCLUSION

The remarriage (*nikah ulang*) policy implemented by the Office of Religious Affairs (Kantor Urusan Agama/KUA) of Pusakajaya constitutes an adaptive administrative and juridical response to the continued practice of unregistered marriages (*nikah siri*) within the community. This policy is grounded in Article 2 paragraph (2) of Law Number 1 of 1974 on Marriage, which mandates marriage registration as a requirement of formal legal validity, and is further reinforced by Articles 5 and 6 of the Compilation of Islamic Law (KHI), which emphasize the function of registration in ensuring legal order and certainty. The KUA not only performs its normative function as a marriage registration authority as stipulated in the Regulation of the Minister of Religious Affairs Number 34 of 2016 on the Organization and Work Procedures of Sub-District KUA, but also acts as a responsive legal agent through administrative flexibility based on the principle of public benefit (*maṣlahah*). From the perspective of Islamic law, remarriage is regarded as valid as a form of reaffirmation of the marriage contract (*ta'kid al-'aqd*), provided that it fulfills the pillars and conditions of marriage, and is consistent with the objectives of *maqāṣid al-sharī'ah*, particularly the protection of lineage, honor, and property. From the standpoint of positive law, remarriage may be understood as a non-litigation mechanism to fulfill the obligation of marriage registration for couples engaged in *nikah siri*, as well as a form of administrative discretion permitted under Law Number 30 of 2014 on Government Administration, insofar as it does not contravene the prohibitions on marriage under the Marriage Law. Furthermore, the registration of remarriage outcomes contributes to orderly population administration as required under Law Number 24 of 2013 on Population Administration. Accordingly, the remarriage policy may be concluded to be a legal solution that promotes legal certainty, justice, and utility, while also reflecting the active role of the KUA in bridging legal norms with the social realities of the community.

²¹ Mutia Evi Kristhy et al., "The Role of Judges in Realizing the Three Basic Legal Values Reviewed from Gustav Radbruch's View," *Journal of Political and Legal Sovereignty* 1, no. 3 (2023): 88–92.

²² Satjipto Rahardjo, *Membedah Hukum Progresif* (Jakarta: Kompas, 2008).

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