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## Pay arrangement of WAQF land obtained for creating public interest

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### Abstract

Various exercises connected with land obtaining for public interest use waqf. The guideline of waqf is gotten from Islamic Regulation in which wakif (the proprietor) gives waqf (as land) to nazhir (the administrator of the dified property) for love purposes. The issues in this paper comprise of whether there is a framework in regards to waqf land obtained for public interest, and how pay and oversight are given in regards to waqf land procured for creating public interest. Utilizing standardizing legitimate exploration with regulation and reasonable methodology, this paper contends that securing of waqf land is directed in Regulation No. 2/2012 Ashore Securing for Creating Public Interest and Regulation No. 41/2004 on Waqf. it is managed that remuneration will be given to nazhir for waqf land procured. It additionally controls that the situation with waqf land can be changed into non-waqf one for public interest through trade instrument. To give legitimate sureness over waqf land obtained for public interest, regulation ashore procurement should be fit with regulation on waqf.

**Keywords:** Waqf Land; Land Securing; Public Interest

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### 1. Introduction

The requirement for land for creating public interest through land procurement can be satisfied from state land as well as from private land. Confidential land alludes to the land which has a right of possession. Land obtaining for public interest to further develop public government assistance relates to the idea of law and order. As a legitimate premise in Indonesia, the prelude of the 1945 Constitution, explicitly the fourth section, rationally expresses that one of the public objectives is to work on open government assistance. The idea of law and order can't be isolated from its component, legitimate power. The essential thought of government assistance country, as expressed by Watts, Dalton, and Smith previously existed in the eighteenth century when Jeremy Bentham (1748-1832) made sense of the idea that administration had liability in guaranteeing the best satisfaction (government assistance) of the best number of their citizens<sup>1</sup>. This implies that it is compulsory for legislatures to give satisfaction to their residents. The public authority should not assume latent parts; as such, they should be effectively engaged with giving the method for working on open government assistance by controlling financial and public activity. Bentham involves the term of utility in making sense of the idea of joy or government assistance. He likewise contends that state run administrations have a commitment to give joy to the best number of their residents. What's more, Bagir Manan states that law and order is a guideline where a state or government doesn't just only capability as the gatekeeper of public security and request, yet they likewise have liability to accomplish civil rights and public government assistance to the best extent<sup>2</sup>. One method for accomplishing local area government assistance is to construct and give public offices. As a matter of fact, because of the inexorably far and wide improvement of public offices did by the public authority, and securing is probably going to include waqf land. Waqf is an honorable demonstration in Islam, and it is enthusiastically prescribed to draw nearer in a deep sense to Allah<sup>3</sup>. There are contrasts of assessment among researchers in regards to the term waqf. Contrasts make various regulations be applied<sup>4</sup>. Waqf is viewed as a systematized legitimate demonstration that has for quite some time been carried out in Indonesia. As a controller, the public authority gives a bunch of guidelines in the field of public land as a composed regulation and afterward the execution of policing the type of carrying out land enlistment successfully to accomplish legitimate conviction. Land privileges are perceived by the public authority, one of which is waqf land rights<sup>5</sup>. Arrangements with respect to legitimate sources, systems, and waqf rehearses are contained in Regulation Number 5 of 1960 concerning General Arrangements on Agrarian Standards, Unofficial law Number 28 of 1977 concerning Improvement of Claimed Land, Book III of Accumulation

Constitution is characterized as a legitimate demonstration to fabricate or give a resources for be utilized for all time or for a specific timeframe for reasons for love (strict interests) or general government assistance in view of sharia law.<sup>6</sup> to accomplish its objectives and capabilities, waqf property, as controlled in Article 22 of Regulation No. 41/2004, just fills the accompanying needs: a) Foundations of love/strict exercises; b) Frameworks of schooling and wellbeing exercises; c) Help to poor people, deserted kids, vagrants, grants; d) Improvement of public economy; or potentially e) Improvement of other public government assistance which relates to the sharia regulation and constitution. Concerning the rundown over, the elements of waqf property not entirely settled by wakif (the proprietor) while making the vow. In the event that the proprietor can't decide the capabilities, nazhir (the 2 Abrar, "Hak Penguasaan Negara Atas Pertambangan Berdasarkan Undang Dasar 1945" (Universitas Padjajaran, 1999). 3 Jaih Mubarak, Wakaf Produktif (Bandung: Rafika Offset, 2008). 4 Oyo Sunaryo Mukhlas, Pranata Sosial Hukum Islam (Bandung: Refika Aditama, 2015). 5 Kurnia Rheza Randy Adinegoro, "Perubahan Status Harta Benda Wakaf Berupa Tanah," Jurnal Pertanahan 11, no. 1 (2021), <https://103.123.13.129/index.php/jp/article/view/38>.

6 "Wakaf" (Indonesia, 2004). Pay Arrangement of Waqf Land Obtained for Creating Public Interest<sup>72</sup> Diponegoro Regulation Audit, April 2022, Volume 07, Number 01 chief of enlightened property) can decide the capabilities in light of the goals (as expressed in Article 22 Regulation No. 41/2004)<sup>7</sup>. Land obtaining for creating public interest through waqf land is deciphered as an objective and capability of waqf property which is "utilized for working on open government assistance and relates to the sharia regulation and constitution". Through Unofficial law Number 1 of 2008 concerning Methods for Applications for Trade/Change of Status of Waqf Resources, it is shown that adjustments of the situation with waqf objects are denied besides with composed authorization from the Pastor in view of the thought of the Indonesian Waqf Board.<sup>8</sup> Creating foundation for the public interest by utilizing waqf land frequently prompts issues like questions, conflict, or struggle in regards to the pay for the utilization of waqf land. Subsequently, the issues that will be tended to in this paper comprise of: 1) whether there is a framework with respect to waqf land obtained for public interest, and 2) how remuneration and management are given in regards to waqf land procured for creating public interest.

## 2. Conversation

### 2.1. Arrangement of Waqf Land Utilized for Public Interest

Waqf land alludes to land which has a right of possession and has been enlightened by an individual or legitimate element by giving a portion of their property (land) and for all time systematizing it as friendly waqf<sup>9</sup>. In view of Law of Waqf Article 16, it is expressed that the items (counting lifeless one) which are qualified for being waqf comprises of: a) Right of land proprietorship as per the current constitution, both the enrolled and unregistered ones; b) Designs or a piece of designs standing subsequently; c) Plants and different items connected with the land; d) Possession right of loft as per the current constitution; and, e) Other lifeless things as per the current sharia regulation and constitution.

Also, in section (1) Article 17 of Unofficial law No. 42/2006, kinds of proprietorship right of land which can be illuminated

include: a. proprietorship right of enrolled and unregistered land; b. proprietorship right of land and loft as indicated by the current constitution; c. right of purpose of designs, right to develop, and right of purpose; right of purpose of designs standing

### Remuneration Arrangement of Waqf Land Gained for Creating Public Interest

Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 consequently the land with a right of the executives or confidential proprietorship which requires composed consent from the authority holding the right. Inside the public agrarian regulation, the arrangement of waqf land is specified in Article 49 passage (3) of the Essential Agrarian Regulation expressing that enlightenment of possessed land is secured and controlled by Unofficial law. All the more explicitly, the guideline made to determine the arrangements in Article 49 section (3) of the Essential Agrarian Regulation alludes to Unofficial law No. 28/1977 on Enlightenment of Claimed Land. Claimed land is characterized as land with a right of possession. This compares to the meaning of waqf expressed in Unofficial law No. 28/1997 which alludes to "legitimate activity of an individual or lawful element to give part of their property and for all time standardize it for love or other public purposes in view of Islamic regulations". The term 'for all time' implies that waqf land isn't restricted concerning period. In its turn of events, guidelines on waqf are additionally specified in Regulation No. 41/2004 on Waqf Land. The consideration of waqf guidelines in regulation depends on the thought that legitimate activity of waqf has been carried out for quite a while, yet the guidelines have not been far reaching and generally spread. The Law of Waqf was at first executed through Unofficial law No. 42/2006 on the Execution of Regulation No. 41/2004 on Waqf, which was additionally different into Unofficial law No. 25/2018. In Waqf Regulation and its executing guidelines, land which is qualified for waqf isn't restricted to land having possession privileges. This likewise follows the meaning of waqf in Waqf Regulation that it alludes to legitimate activity of wakif to isolate as well as give part of their property to be utilized for all time or for a specific period for love or potentially open government assistance purposes in view of sharia regulations. The expressions 'for a specific period' empower a right of land without right of proprietorship to be illuminated. This incorporates right of purpose of designs, right to develop, right to utilize state land, or right of purpose on right of the board and right of proprietorship having composed consent from the holder. To pronounce that waqf land is viewed as legitimate, the arrangements in Article 2216 of the Gathering of Islamic Regulation (KHI) should thought about appropriately, include: Waqf is given over everlastingly; Waqf may not be removed, either by the culprit or his main beneficiaries; Waqf resources may not be moved for purposes that are in opposition to the reason for the waqf itself; and each waqf property should be utilized as per the reason for waqf in general.<sup>10</sup> Essentially, all guidelines in regards to waqf have managed the usage of waqf property as per its capability, one of which is the financial advantage of the waqf property for the 10 Fatimah, "Pendaftaran Tanah Wakaf Dalam Konteks Kepastian Hukum Hak Atas Tanah," Jurnal Hukum Samudra Keadilan 13, no. 2 (2018): 286-294, <https://ejournalunsam.id/index.php/jhsk/article/view/908>.

Remuneration Arrangement of Waqf Land Gained for Creating Public Interest<sup>74</sup> Diponegoro Regulation Audit,

April 2022, Volume 07, Number 01 advantage of love and furthermore to advance public government assistance. The order of waqf regulation on a matter will apply in the event that there is an assertion from the party who is waqf his property, this assessment depends on Islamic regulation. In the mean time, as per positive regulation, the execution of waqf should be done with a vow made within the sight of the Waqf Promise Deed Official (PPAIW) and two observers and should be made as a Waqf Vow Deed (AIW).<sup>11</sup> After the assurance of land to be given over to Nazhir there is a commitment to enroll it with the nearby Land Office, this step is taken to give lawful power to a land in the event that later on it encounters a question. Giving trust to nazhir to be enlisted is a forthcoming component to impact nazhir's way of behaving. The restricted information that nazhir needs to enroll waqf land so it has an endorsement is a preventive move toward diminishing waqf land issues in Indonesia.<sup>12</sup> Article 40 of Waqf Regulation likewise contains 7 forbiddances on waqf property (counting land). The property is totally restricted from being utilized as guarantee, seized, in truth, sold, acquired, traded, or moved in any type of right exchange. In spite of the disallowance, waqf land is permitted to be traded assuming it is utilized for public interest as per spatial arrangement which keeps winning regulation and sharia regulations. As such, the situation with waqf land as a feature of waqf property can be changed from waqf land to non-waqf land because of its capability in creating public interest. The land utilized for public interest should be traded for substitution land. There are two fundamental components in changing status from waqf land to non-waqf land: its capability to foster public interest and its trade technique. The change should get composed authorization from the Priest of Strict Undertakings in light of endorsement from the Indonesian Waqf Organization. Unofficial law No. 25/2018 accentuates that the status change is denied except if there is composed consent from the Pastor of Strict Undertakings in light of endorsement from the Indonesian Waqf Organization. Giving composed consent from the Clergyman depends on the thought that waqf land is utilized for public interest as per spatial arrangement which observes winning regulation and sharia regulations. As a general rule, Indonesian Muslims comprehend that the designation of waqf is simply restricted to the interests of love and things that are usually done in Indonesia, for example, mosques, petitioning heaven rooms, schools, graves, etc. So one might say that in Indonesia as of now the capability of waqf <sup>11</sup> Aurelia Nadya Pricilia Tjung, Debby Eka Kartikasari, and Choiryza Rochmatul Hilma, "Kedudukan Tanah Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 for of making approaches to support the local area has not been overseen and used ideally inside the extent of the public economy.<sup>13</sup> in the public eye, waqf is found in 3 structures, including steady and portable articles, land and structures on it, and the allowing of privileges in view of wills. The predominance of land waqf that happens in Indonesia causes the public authority to have a few options in getting land for the necessities of the public interest. Alongside the advancement during the time spent changing the situation with waqf land into non-waqf land, different snags were found, for example, waqf land that was neither confirmed nor appropriately recorded by an authority body. Consequently, it is important to get comfortable development so the land can be involved by the public authority for different offices. To be sure, in waqf, the essential standards are firmly connected

with Islamic regulation through the Gathering of Islamic Regulation (KHI) which is the guideline of Islamic regulation in Indonesia which incorporates the waqf process.<sup>14</sup> Be that as it may, the execution of changing the situation with waqf to non-waqf is a hole from he impediments and corners of the public authority for the government assistance of individuals through the development of offices to help individuals' lives. The utilization of waqf land in waqf regulation should not leave the first reason so that the waqf (wakif) gives privileges to people or foundations manage it.<sup>15</sup> Islam underlines and is dependent upon specific circumstances. Assuming the property is waqf as unique use (average waqf), then it may not be utilized in different structures or purposes, other than whatever not entirely set in stone by the waqf (waqif).<sup>16</sup> The direction of waqf is just expected for the necessities of Muslims, which by implication requires development in the administration cycle, at times it is unbelievable that supporting is required on the grounds that waqf shouldn't just zero in on the article however different angles are additionally thought of. The idea of waqf can be compared with the public interest, just the focal point of its exercises is focused on all strict exercises. Eventually, the advancement of waqf the executives models ought to have the option to be contacted with developments that are all the more monetarily enabling. Hence, it is essential to talk about different models of waqf land use rehearses that exist in Indonesia, their <sup>13</sup> Mohammad Syamsul Arifin, "Peranan Badan Wakaf Indonesia Dalam Penyelesaian Sengketa Tanah Wakaf," *Jurnal Hukum dan Kenotariatan* 4, no. 1 (2020): 27-40, <http://riset.unisma.ac.id/index.php/hukeno/article/view/6446> <sup>14</sup> Nur Aini, "Perlindungan Hukum Tanah Wakaf Yang Tidak Bersertifikat Di Kabupaten Enrekang," *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum* 6, no. 2 <sup>15</sup> Sayuti Stomach muscle Ghani and Burhanuddin Jalal, "Isu Pendaftaran Tanah Wakaf Dalam Kanun Tanah Negara (KTN) 1965: Satu Kajian Menurut Perspektif Islam," *Diary of Fatwa The executives and Exploration* 16, no. 2 (2019): 101-111, <sup>16</sup> Remuneration Arrangement of Waqf Land Gained for Creating Public Interest <sup>76</sup> Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 benefits and detriments, so later on, different advancement endeavors will actually want to deliver ideal profits.<sup>17</sup>

## 2.2. Types of Remuneration for Waqf Land Utilized for Public Interest

Article 1 point 2 of Regulation No. 2/2012 Ashore Procurement for Creating Public Interest expresses that land securing is an action of gaining land by giving proper and fair remuneration to an entitled party. The entitled party is the person who controls and possesses the objects of land securing. The articles comprise of underground and surface regions, designs and plants, and other significant items connected with land. The meaning of land procurement is additionally explained in Official Declaration No. 71/2012 on the Execution of Land Obtaining for Public Interest and Guideline of the Head of Public Land Organization No. 5/2012 on the Specialized Rules of Land Acquisition. With respect to this definition, as depicted in the presentation, it is probably going to utilize waqf land for creating public interest. As a matter of fact, land procurement for creating public interest can include waqf land oversight by nazhir. In light of the regulation referenced before, remuneration for waqf land procured will be given to the entitled party, that is

nazhir. Based on the regulations and guidelines referenced above, remuneration for the waqf land got will be given to the legitimate party, to be specific Nazhir.<sup>18</sup> Law of Land Obtaining doesn't exhaustively manage waqf land gained for creating public interest. The primary standard connected with waqf land with regards to land obtaining is that pay for waqf land gained will be given to nazhir. Article 40 of Law of Land Procurement expresses that remuneration for the object of land securing is straightforwardly given to the entitled party. For this situation, the party alludes to nazhir. Moreover, Article 20 of Official Pronouncement No. 71/2012 states that pay is given to nazhir as he is the person who gets waqf property from wakif to be overseen and created in view of its capability. Regardless of the reality regulation of land obtaining specifies that remuneration will be given for waqf land procured, it doesn't obviously control the types of pay and the system. Article 20 of Official Announcement No. 71/2012 just expresses that the giving remuneration for waqf land is carried out in light of the regulation of waqf undertakings. This implies that the structures, strategies, 17 Agus Triyanta and Mukmin Zakie, "Problematika Pengelolaan Tanah Wakaf: Konsep Klasik Dan Keterbatasan Inovasi Pemanfaatannya Di 18 Azriati, Jamaluddin, and Hamdani, "Penyelesaian Sengketa Tanah Wakaf Masjid (Studi Kasus Di Gampong Ulee Tanoh Kecamatan Tanah Pasir Kabupaten Aceh Utara," *Jurnal Ilmiah Mahasiswa Fakultas Hukum (JIM FH) Universitas Malikussaleh* 2, no. 3 (2019). Pay Arrangement of Waqf Land Gained for Creating Public Interest Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 or instrument of remuneration for waqf land follows regulation directing waqf. The regulation referenced before incorporates Regulation No. 41/2004 on Waqf, Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf which is changed into Unofficial law No. 25/2018 on Changes in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf, Ecclesiastical Guideline of Agrarian and Spatial Preparation/Public Land Organization (Permen ATR/BPN) No. 2/2017 on Methodology of Enlisting Waqf Land in the Service of Agrarian and Spatial Preparation/Public Land Organization. Waqf land remembered for a spatial arrangement will be utilized for improvement through land procurement, and it needs to go through the accompanying stages:<sup>19</sup> a) Nazhir (the supervisor of illuminated property) presents a remuneration solicitation to the Pastor through the Subdistrict Strict Undertakings Office and makes sense of the justification for the status change/trade; b) The Head of Subdistrict Office advances the solicitation to the Locale/City Strict Division Office; c) Subsequent to getting the solicitation, the Area/City Strict Office makes a group with a construction expressed in Article 49 passage (4), and the Official/Chairman gives a pronouncement; d) The Head of Area/City Strict Division Office advances the solicitation joined with evaluation result from the group to the Head of Territorial Office of Strict Division to be sent to the Priest; and, e) In the wake of getting composed endorsement from the Clergyman, the pay can be allowed, and the outcome should be accounted for by nazhir to the Land Organization as well as related foundations for additional enlistment. As per the strategies above, there are somewhere around five phases in changing the capability of waqf land. Explicit strategies are required in regards to the difference in waqf land capability for public interest which improve on the stages and speed up the course of land procurement for public

interest.

Waqf land procured for public interest, in light of Regulation No. 2/2012 Ashore Securing for Creating Public Interest, is incorporated as a land object which gets remuneration. Pay in Article 1 point 10 of Regulation No. 2/2012 alludes to fitting and fair remuneration given to an entitled party during the time spent land obtaining. Remuneration is a method for acknowledging admiration to a singular's rights and interests given for public interest, and it is viewed as fair in the event that the pay doesn't cause the person to become more extravagant or poorer.<sup>20</sup> The strategy in regards to giving pay is, as a matter of fact, not just restricted as far as repaying the upsides of land, structures, 19 Pelaksanaan Undang No. 41 Tahun 2004 Tentang Wakaf, 2006. 20 Maria S. W. Sumardjono, *Kebijakan Pertanahan Antara Regulasi Dan Implementasi* (Jakarta: Kompas, 2007). Pay Arrangement of Waqf Land Obtained for Creating Public Interest 78 Diponegoro Regulation Audit, April 2022, Volume 07, Number 01 or plants, yet it additionally incorporates esteeming irrelevant misfortune and emerging misfortune like business exercises, new area, and decrease in the quantity of clients and profits.<sup>21</sup> Article 40 Regulation No. 2/2012 states that pay for the object of land obtaining is straightforwardly given to the entitled party. Chiefly, the pay should be straightforwardly given to the entitled party.<sup>22</sup> Nonetheless, assuming the entitled party is inaccessible, (s)he may give position to another party or her/his successor. The approved party can have authority from an entitled party. Those qualified for the remuneration include: a. the holder of proprietorship right; b. the holder of right of the board; c. nazhir (for waqf land); d. the proprietor of land previously having a place with standard land; e. standard regulation local area; f. the party controlling state land; g. the essential holder of land possession; and additionally h. the proprietor of designs, plants, or different articles connected with the land. Pay can be given in the types of 23: a. cash; b. substitution land; c. resettlement; d. shareholding; e. different structures concurred by the two players. Resettlement alludes to a course of giving area to the entitled party in one more area in light of the understanding in the land procurement process. In the mean time, pay through shareholding alludes to getting an offer in an improvement movement for the public interest as far as its administration in light of common understanding. One more common understanding might include the blend of at least two kinds of remuneration. As far as waqf land procured, there are three significant focuses directed in Law of Land Obtaining. To start with, remuneration will be given for waqf land procured. Second, pay will be given to nazhir. Third, the execution of pay installment compares to regulation of waqf undertakings. Notwithstanding law of land enrollment undertakings, obtaining of waqf land is likewise controlled in regulation on waqf issues including Regulation No. 41/2004 on Waqf, Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf which is changed into Unofficial law No. 25/2018 on Changes in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf, and Guideline of Indonesian Waqf Organization No. 1/2008 on Techniques of Figuring out Proposal on Consent of Status Trade/Change of Waqf Property. As per regulation on waqf, waqf land can be utilized for public interest as per general spatial arrangement (RUTR) which observes winning regulation and sharia regulations through trade. As such, waqf land utilized for public interest should be supplanted with trade land. 21 BF.

Sihombing, Pergeseran Kebijakan Pengadaan Tanah Untuk Kepentingan Pemerintah Dan Swasta (Studi Kasus Pengaturan Pemilikan, Penguasaan Tanah Di Provinsi DKI) (Jakarta: Universitas Indonesia, 2004). 22 "Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum" (Indonesia, 2012). 23 In the same place. Remuneration Arrangement of Waqf Land Procured for Creating Public Interest 79 Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 Moreover, fundamental standards in changing status of waqf land utilized for creating public interest through trade are recorded as follows: a) The change should get composed authorization from the Pastor of Strict Undertakings in light of endorsement from the Indonesian Waqf Organization (BWI); b) Trade property has testament or lawful proprietorship verification as per regulation; c) Worth and advantage of trade land is essentially equivalent with that of waqf land gained; d) Trade land has equal Available Worth of Property (NJOP) with that of waqf land and, e) Trade land is situated in an essential region which can be handily evolved. Trade land for waqf land utilized for public interest, according to the point of view of land securing, is viewed as a type of pay concurred by the two players. Trade land is considerably equivalent to substitution land as directed in guidelines ashore obtaining. Notwithstanding, the accessibility of trade not entirely set in stone by nazhir, and the trade cycle includes different gatherings. Going against the norm, the party answerable for giving substitution land is the establishment requiring land. The most common way of giving trade land is brought out through severe stages by including different parties. The stages are directed in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf which is changed into Unofficial law No. 25/2018 on Changes in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf. The gatherings engaged with trade of waqf land for public interest are nazhir, the party who possesses trade land, public reviewers (KJPP), assessors of status trade/change of waqf property (counting Provincial Government at locale/city level, Land Office, Indonesian Ulema Committee (MUI) at regime or city level, Strict Division Office at area/city level, and nazhir of waqf land), official/chairman, Indonesian Waqf Organization, and the Pastor of Strict Undertakings. In light of Unofficial law No. 25/2018 on Changes in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf, there is a significant change that composed consent from the Clergyman of Strict Undertakings, which was at first in light of the thought from the Indonesian Waqf Organization, is changed as per the thought from the Indonesian Waqf Organization. This implies that the Indonesian Waqf Office plays a fundamental part in trading waqf land, as an organization giving thought as well as the one having position to conclude whether the trade is acknowledged or dismissed. In light of article 50 of Unofficial law Number 25 of 2018, obviously waqf land impacted by improvement for the public interest by the public authority should get a supplanting with Pay Arrangement of Waqf Land Obtained for Creating Public Interest 80 Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 a comparable value.<sup>24</sup> The following trouble emerges because of the assurance of a comparable worth and being in an essential area is the principal factor that the settlement of waqf land trades requires a long time. Furthermore, the repressing variables during the time spent trading waqf land include: absence of fulfillment of

managerial documents, absence of nazhir abilities, demands for expansion of time to possess the venture impacted area, and postpones in the development of substitution structures. 25 The use of this arrangement doesn't be guaranteed to apply to all waqf land by and large, there are unique circumstances with the goal that an exemption can be made for trade. As per Article 40 changes in the situation with waqf property are restricted, but in Article 41 there is an exemption that permits the trading of waqf property and is remembered for the overall spatial plan.<sup>26</sup> 2.3. Oversight of Pay Installment for Waqf Land Utilized for Public Interest Regulation No. 41/2004 on Waqf states that as an essential method for working on open government assistance, the job of waqf should be worked on as a strict framework which not just capabilities to give different method for love and social exercises yet additionally become financial potential which in the long run prompts improvement of public government assistance. Hence, an arrangement of waqf land improvement and use should be created in light of sharia standards as the fundamental idea. In a straightforward manner, waqf can be utilized for business and non-benefit purposes. Waqf is by and large comprehended as a foundation supplier for non-benefit strict exercises like structure mosques, Islamic schools, and graveyards. In basic terms, waqf can be utilized for business and non-benefit purposes. Waqf is for the most part perceived as giving framework to non-benefit strict exercises like structure mosques, Islamic schools, and cemeteries. are assigned for the interest and advancement of Moslem-following the underlying goal<sup>29</sup>. In Article 40 it is expressed that waqf property is restricted from being utilized as insurance, seized, without a doubt, sold, acquired, traded, or changed over into different types of transformation. Be that as it may, as indicated by Article 41 of Regulation No. 41/2004, there is exemption that waqf land can be traded (Article 40 point f of Regulation No. 41/2004) on the off chance that the property is utilized for public interest in view of a spatial arrangement (RUTR) following the current constitution and sharia standards.

Arrangements on the utilization of waqf land connected with public interest must made after acquire composed consent from the Priest with the endorsement of the Indonesian Waqf Board. In light of Unofficial law Number 42 of 2006 concerning the Execution of Regulation Number 41 of 2004 concerning Waqf, it is expressed that the trading of waqf resources should acquire consent from Clergyman. Explicitly in passage (1), changes in the situation with waqf resources as trade are restricted except if composed consent is given by the Priest as per the contemplations of the Indonesian Waqf Board.<sup>30</sup> The arrangements of waqf land utilize connected with public interest must be made subsequent to getting composed authorization from the Clergyman with the endorsement from Indonesian Waqf Organization. In view of Unofficial law No. 42/2006 on the Execution of Regulation No. 41/2004 on Waqf, it is expressed that the trading of waqf property should require authorization from the Clergyman. Explicitly in section (1), the status change of waqf property as trade is precluded except if composed authorization is given by the Priest as per the thought from the Indonesian Waqf Agency.<sup>31</sup> The property whose status has been changed as it is utilized for public interest, as per the arrangements in Article 41 passage (3) of Regulation No. 41/2004, should be traded with property which has equivalent advantages or values. The consent of trade must be given if<sup>32</sup>, a) the 28 Choiriyah, "Wakaf Produktif Dan Goodbye

Cara Pengelolaannya," *Islamic Banking : Jurnal Pemikiran Dan Pengembangan Perbankan Syariah* 2, no. 2 (2017): 25-34,

<https://ejournal.stebisigm.ac.id/index.php/isbank/article/view/29.29> Direktorat Pemberdayaan Wakaf Departemen Agama RI, *Bunga Rampai Perwakafan* (Jakarta: Departemen Agama RI, 2006).

Pelaksanaan Undang No. 41 Tahun 2004 Tentang Wakaf; Fahrurroji, "Istibdāl Wakaf: Ketentuan Hukum Dan Modelnya," *Misykat: Jurnal ilmu Al-Quran, Hadist, Syari'ah dan Tarbiyah* 2, no. 1 (2017): 111-150, 31 Pelaksanaan Undang No. 41 Tahun 2004 Tentang Wakaf.

Remuneration Arrangement of Waqf Land Procured for Creating Public Interest Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 substitute for the trade has a declaration or lawful possession evidence in view of the constitution, b) the worth of the substitute is higher or equivalent with the waqf property. The term of "equivalent" not entirely settled by Official/Chairman in view of the suggestion given from assessors which comprise of the Territorial Legislature of Area/City, Land Undertakings Office of Locale/City, Indonesian Ulema Chamber (MUI) of Region/City, Strict Division Office of Area/City, and Nazhir. Hence, Indonesian Waqf Organization is answerable for administering legitimate activities through surrendering the right of land possession from waqf land to the state for land securing reason. This obligation incorporates oversight with respect to the type of remuneration for waqf land utilized for public interest. The arrangements expressing illumination in Indonesia are controlled in Regulation No. 41/2004 on Waqf. In Article 63 passage (1), it is expressed that the Pastor gives direction and management to the execution of waqf to understand the objectives and elements of waqf. In sections (3), it is additionally expressed that the direction and oversight as expressed in section (1) and (2) are completed by considering ideas and contemplations from the Indonesian Ulema Gathering. Up to this point as expressed in Regulation No. 41/2004 Article 49 on Waqf, the obligations and authority of the Indonesian Waqf Organization are restricted to: a) overseeing and creating waqf property on public and global scale, b) overseeing and creating waqf property on public and worldwide scale, c) giving endorsement as well as consent for the capability and status change of waqf property, d) excusing and supplanting Nazhir, e) giving endorsement for the trading of waqf property, f) giving idea and thought to the public authority in forming strategies with respect to illumination. The obligations and authority of the waqf organization should be stretched out in giving endorsement and additionally authorization for the capability and status change of waqf property as well as giving management and assessment in regards to the way and the type of the change. Regarding the obligations and specialists referenced above, specifically focuses (c) and (e), the waqf body is additionally answerable for overseeing whether the pay is suitable or equivalent in worth to the waqf property utilized for the public interest.<sup>33</sup> The oversight needs to cover the type of pay given for the trading of waqf property utilized for public interest. The Pastor of Strict Undertakings and the Indonesian Waqf Organization, as the state representation in doing their obligations and authority, including the position to give management in regards to the type of remuneration for the waqf property utilized for public interest, target guaranteeing the practicality of the trade (waqf land) utilized for public interest. This relates to three essential <sup>33</sup> Muhammad Sandia,

"Analisis Kepastian Hukum Hak Milik Atas Tanah Wakaf Dalam Konsepsi Hukum Agraria Dan Hukum Islam," *Al Mashlahah Jurnal Hukum Dan Pranata Sosial Islam* 2, no. 3 (2014): 219-226,

Remuneration Arrangement of Waqf Land Procured for Creating Public Interest Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 standards proposed by Gustav Radburch that regulation should meet three essential qualities: equity (philosophical perspective), affirmation (juridical viewpoint), and practicality (humanistic angle). Gustav Radburch interfaces reality and assumption. The association depends on the possibility that life comprises of the real world (das sein) and assumption (das sollen).<sup>34</sup> The presence of a regulation with a lawful capability as friendly control gives a definition that the settlement of cases can be taken care of assuming there are decides that direct, social control should be applied to change the situation with waqf land into non-waqf land in light of the fact that the progressions made are very converge with 2 distinct legitimate ideas. The distinction in the execution of the law between Islamic regulation and positive Indonesian regulation in regards to the issue of waqf which is changed over into different structures with the point of public interest is totally different. Albeit the public interest should outweigh individual interests, as per the legitimate rules that apply to the execution of a common life in the public arena. Be that as it may, all things considered the interest People likewise can't be overlooked on the grounds that they are regarded and safeguarded by regulation, hence in the event that the public interest urges individual interests, they should be given legitimate and fair remuneration. Both Islamic Regulation and Public Land Regulation focus on open interest over private interests.<sup>35</sup>

### 3. Conclusion

The particular guidelines with respect to waqf are Regulation No. 41/2004 on Waqf, Unofficial law No. 42/2006 on the Execution of Regulation No. 41/2004 on Waqf, and Unofficial law No. 28/1997 on Enlightenment of Land Property. The particular guidelines with respect to Land Securing for Creating Public Interest are Regulation No. 2/2012 Ashore Obtaining for Creating Public Interest, Official Declaration No. 71/2012 on the Execution of Land Securing for Public Interest and Guideline of the Head of Public Land Organization No. 5/2012 on the Specialized Rules of Land Obtaining. Regulation controlling waqf land procured for public interest comprises of regulation ashore securing and waqf undertakings. The regulation managing land securing are Regulation No. 2/2012 Ashore Procurement for Creating Public Interest, Official Pronouncement No. 71/2012 on the Acknowledgment of Land Obtaining for Public Interest which was changed into Official Pronouncement No. 71/2012 on the Acknowledgment of Land Obtaining for Public Interest and its changes, and Guideline of Head of Public Land Organization 34 FX Adji Samekto, *Pergeseran Pemikiran Hukum Dari Time Yunani Menuju Postmodernisme* (Jakarta: Konpress, 2015). <sup>35</sup> Tegar Heroism, Yusuf Hidayat, and Fokky Fuad Wasitaatmadja, "Penerapan Prinsip Keadilan Dalam Pengadaan Tanah Untuk Kepentingan Umum Menurut Hukum Tanah Nasional Dan Hukum Islam Compensation Arrangement of Waqf Land Procured for Creating Public Interest 84 Diponegoro Regulation Survey, April 2022, Volume 07, Number 01 No. 5/2012 on the Specialized Rules of the Execution of Land

Obtaining. In the mean time, the regulation managing waqf incorporates Regulation No. 41/2004 on Waqf, Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf which is changed into Unofficial law No. 25/2018 on Changes in Unofficial law No. 42/2006 on the Execution of Regulation No. 1/2004 on Waqf. Types of remuneration for waqf land gained for creating public interest include substitution land. The most common way of giving substitution land includes the organization requiring land as well as nazhir through strategies and terms specified in regulation managing waqf, particularly the one controlling trade of waqf property for public interest. Trade and has been gotten or accessible before pay is given by the expert for the establishment requiring land. The Indonesian Waqf Office is liable for giving oversight in regards to whether the pay is fitting or has the equivalent worth with the waqf property utilized for public interest. The management additionally needs to cover the type of remuneration given for the trading of waqf property utilized for public interest. The waqf property utilized for creating public interest acquired through the trade cycle should be distributed and accessible to be gotten to by general society. The extra obligations and authority are additionally directed in unofficial law.

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