

CRIMINAL EVIDENCE AUCTION SYSTEM AT THE ACEH BESAR DISTRICT PROSECUTOR'S OFFICE BASED ON ISLAMIC LAW'S PERSPECTIVE

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Abstract

This article aims to analyze the suitability of the Aceh Besar District Attorney's Office's practice of auctioning evidence of criminal acts by the principles contained in the *bai' muzayadah* contract. This study employs a qualitative approach with a descriptive analysis method, as well as an empirical juridical approach, to evaluate the implementation of positive law and Sharia norms in the context of auctions. The results of the study indicate that the auction mechanism applied, including the open bidding-based *e-auction* system, generally reflects the principles of justice, openness, and transparency that are the basis for the validity of the *bai' muzayadah* contract. However, there are still challenges, such as unclear ownership documents for confiscated goods and determining limit prices that have the potential to cause elements of *gharar*. Essentially, the implementation of this auction can be considered valid under both Islamic law and positive law, and contributes to the restoration of the economic value of confiscated goods and their utilization for the public good. The auction of evidence by the Aceh Besar District Attorney's Office has great potential to support the integration of sharia values in the sustainable governance of public assets.

Keywords: Auction, *bai' muzayadah*, Criminal, Islamic Law, and Prosecutors

Abstrak

Artikel ini bertujuan untuk menganalisis kesesuaian praktik Kejaksaan Negeri Aceh Besar dalam melelang barang bukti tindak pidana berdasarkan prinsip-prinsip yang terkandung dalam kontrak *bai' muzayadah*. Penelitian ini menggunakan pendekatan kualitatif dengan metode analisis deskriptif, serta pendekatan yuridis empiris, untuk mengevaluasi implementasi hukum positif dan norma syariah dalam konteks lelang. Hasil penelitian menunjukkan bahwa mekanisme lelang yang diterapkan, termasuk sistem lelang elektronik (e-auction) berbasis penawaran terbuka, secara umum mencerminkan prinsip-prinsip keadilan, keterbukaan, dan transparansi yang menjadi dasar validitas kontrak *bai' muzayadah*. Namun, masih terdapat tantangan, seperti ketidakjelasan dokumen kepemilikan barang sitaan dan penentuan harga batas yang berpotensi menimbulkan unsur *gharar*. Secara esensial, pelaksanaan lelang ini dapat dianggap sah baik menurut hukum Islam maupun hukum positif, dan berkontribusi pada pemulihan nilai ekonomi barang sitaan serta pemanfaatannya untuk kepentingan umum. Lelang barang bukti oleh Kejaksaan Negeri Aceh Besar memiliki potensi besar untuk mendukung integrasi nilai-nilai syariah dalam tata kelola aset publik yang berkelanjutan.

Kata Kunci: *Bai' muzayadah*, Hukum Islam, Kejaksaan Lelang, dan Pidana

INTRODUCTION

Islamic scholars have formulated various forms of sale and purchase transactions to facilitate the transfer of ownership. One of the ways of acquiring ownership is through sale and purchase transactions, which serve as a form of *tasharruf* (disposal) of property and a means of fulfilling human needs. The sale and purchase contract is crucial for facilitating the sale and purchase transaction itself. One form of sale and purchase transaction that has been deemed permissible by Islamic jurists is the sale and purchase contract of *al-muzayadah*, also known as an auction sale, which is a form of *tasharruf* characterized by a specific method of property use and utilization. The existence of this contract demonstrates that Islamic law not only regulates conventional transactions directly but also accommodates modern transaction models such as auctions, which require a complex system and involve multiple parties.¹

¹ Adwin Tista, "The Development of Auction Systems in Indonesia," *Jurnal Al- 'adl* 5, no. 10 (2013): 46, <https://media.neliti.com/media/publications/225084-perkembangan-sistem-lelang-di-indonesia-85d3db56.pdf>.

Conceptually, auction sales can be explained as a method of buying and selling goods that is open to the public, where prices are offered in writing or verbally, and then increased or decreased until the highest price is reached. Typically, the highest bidder is entitled to purchase the item from the seller. Consumers in an auction agreement cannot complain or object to the auction process if it is conducted properly and transparently. In this context, auctions are viewed not only as a commercial mechanism but also as a means to achieve distributive justice, especially when the auctioned items are state-seized assets resulting from criminal offenses.²

Maliki scholars argue that auction sales involve mutual benefit beyond mere utility and are not intended for enjoyment. It is an exchange agreement for something that is not for utility or enjoyment. The contractual agreement binding both parties is for something that is not for utility, and the item being exchanged is a tangible object (with form) that serves as the object of sale. The Maliki school emphasizes that the auction mechanism can be carried out, but with certain limitations. The auction must be conducted in a manner that does not harm others, and the price must be fair, reflecting the ethical principles in every transaction, where the values of justice and non-harm (*laa darar wa laa dhirar*) are absolute requirements for the validity of the contract.³

The regulation on *bai'muzayyadah* has been stipulated in Article 1 Paragraph 17 of Law Number 19 of 1997 concerning Tax Collection through a Writ of Execution as amended by Law-Law No. 19 of 2010 on the Procedures for the Performance of Duties and Authorities as well as the Financial Position of the Governor in the Provincial Region, which stipulates that auctions are conducted in every transaction of sale to the general public through the offering and bidding of prices either orally or through the collection of prospective buyers. Normatively, the recognition of the auction system in positive law lends legitimacy to the fact that this practice has become part of the state's fiscal policy, aimed at optimizing asset management and restoring state finances.⁴

² Popon Srisusilawati, "Analysis of DSN-MUI Fatwa No. 25/DSN-MUI/2002 on the Auction of Goods at Sharia Pawnshops," *Journal of Islamic Economics* 9, no. 2 (2021): 130, <https://ejournal.uinsaizu.ac.id/index.php/eljizya/article/view/4852>.

³ Hendi Suhendi, *Fiqh Muamalah* (Jakarta: Raja Grafindo Persada, 2014).

⁴ Rizal Faqih Abdul Jabar, "The Phenomenon of Auctions in Buying and Selling Transactions: A Study of Hadith Commentary," *Journal of Research in Usul al-Din* 2, no. 3 (2022): 635, <https://journal.uinsgd.ac.id/index.php/jpiu/article/view/17056>.

The above auction provisions must be applied, especially for public interests that involve formalization as established by the government. In this case, the government has delegated the implementation of auctions to the KPKNL. The auction transaction mechanism can be carried out in several stages as a standard procedure established in the Ministry of Finance regulations. The auction mechanism is also designed to ensure transparency and fairness in transactions. By following the guidelines set forth, it is hoped that fraud can be minimized and public understanding of the legitimate auction process can be enhanced. Transparency in this process is also consistent with the principles of *maqasid al-syari'ah*, particularly in safeguarding property (*hifz al-mal*) and achieving the greater good for the public.⁵

For the auction of specific items, the government has established rules governing the auction of certain items and for particular agencies with an interest in the release of goods or assets under their authority. In this case, the focus of the study is on the Aceh Besar District Prosecutor's Office. Based on the data obtained by the author, the Aceh Besar District Prosecutor's Office has conducted several auctions for seized assets, including criminal evidence whose owners are unknown or whose ownership is illegal, thereby requiring state control and auction for the benefit of state interests. This underscores the strategic role of the Aceh Besar District Prosecutor's Office in managing seized assets as a form of substantive justice aimed at restoring the value of the items and returning their benefits to the public through the state treasury.⁶

The auction procedures followed by the Aceh Besar District Prosecutor's Office typically involve two stages: the pre-auction and post-auction stages. The pre-auction stage involves several subsequent steps to ensure the legality of the auctioned items, including obtaining permits and auction instructions from the District Attorney, the Attorney General, and the Deputy Attorney General. These administrative steps also demonstrate due diligence (*taharri*) in

⁵ Chairul Fahmi, "KONSEP IJMAK MENURUT FAZLUR RAHMAN DAN PEMBAHARUAN HUKUM ISLAM," *Jurnal Ilmiah Islam Futura* 11, no. 1 (2017), <https://doi.org/10.22373/jiif.v11i1.59>.

⁶ Ministry of Finance Regulation of the Republic of Indonesia No. 122 of 2023



the execution of the agreement, ensuring compliance with Sharia principles and preventing future disputes.⁷

The auction process at the Aceh Besar District Attorney's Office is conducted *online* and through open bidding using an e-auction application that can be accessed on various devices, including smartphones, laptops, and other similar devices. Buyers must register an account and deposit a security deposit to proceed with the purchase.⁸ During the auction, the Aceh Besar District Attorney's Office will oversee the auction process for the confiscated items. The primary objective of conducting the auction of confiscated evidence at the Aceh Besar District Prosecutor's Office is to restore or recover the economic value of items seized or confiscated during the enforcement of the law. This auction also aims to uphold the law and justice, as well as utilize seized items most efficiently and beneficially for the community. Digitalization in the implementation of this auction is vital to enhance efficiency and accessibility, as well as serving as a crucial instrument in achieving clean and accountable governance (good governance).⁹

This study focuses on the auction of confiscated objects at the Aceh Besar District Attorney's Office, which has seized various types of assets from criminal trials or *crimes* that have resulted in final verdicts. Based on data obtained by the author from the Aceh Besar District Prosecutor's Office in 2024, this agency has auctioned various objects that are evidence of crimes, such as money laundering committed by methamphetamine dealers, which have been successfully seized as evidence of crimes, including one vehicle and one heavy machinery (excavator).¹⁰

In this context, the author will focus on the auction practices conducted by the Aceh Besar District Prosecutor's Office, particularly regarding the auction mechanism and the flexible pricing system influenced by market

⁷ Riska Alfiana and Ashar Sinilele, "The Status of Auctioned Goods Used in Criminal Theft from an Islamic Legal Perspective," *Journal of Islamic Economics Law Students* 2, no. 4 (2021): 3, <https://journal.uin-alauddin.ac.id/index.php/iqtishaduna/article/view/10944>.

⁸ Sandy Kosasi, "Designing an Online Auction System for the Procurement of Goods and Services," *Journal of the Department of Information Systems* 2, no. 4 (2015): 3, https://www.jurnal.stmikpontianak.ac.id/file/SANDY_KOSASI_-_SNIJA_2015.pdf.

⁹ Chairul Fahmi, "Transformasi Filsafat Dalam Penerapan Syariat Islam (Analisis Kritis Terhadap Penerapan Syariat Islam Di Aceh)," *Al-Manahij: Jurnal Kajian Hukum Islam* 6, no. 2 (1970), <https://doi.org/10.24090/mnh.v6i2.596>.

¹⁰ Interview with Rizal, Prosecutor at the Aceh Besar Prosecutor's Office on August 6, 2024, at the Aceh Besar Prosecutor's Office, Jantho

prices. Based on the above explanation, the author will further investigate the system and mechanisms of auctioning criminal evidence at the Aceh Besar District Prosecutor's Office from the perspective of Islamic commercial law (fiqh muamalah), which has a clear foundational concept as a form of "*bai' al-muzayadah*" (auction with a minimum price).¹¹

RESEARCH METHOD

This study employs a qualitative research approach with a descriptive-analytical method to describe the evidence of crimes under the jurisdiction of the Aceh Besar District Attorney's Office. The approach used in this study is an empirical juridical approach, which is a legal research approach that examines the enforcement or implementation of normative legal provisions in practice or reality in the field.¹² Through this approach, the author will discuss the evidence auction process conducted by the Aceh Besar District Prosecutor's Office and assess its compliance with applicable positive legal provisions, as well as Islamic law provisions, particularly the concept of *bai' al-muzayadah*, an analytical theory. The data sources in this study consist of primary and secondary data. Primary data was obtained through direct interviews with the Aceh Besar District Attorney's Office and documentation of the inventory list of confiscated evidence. The author also conducted observations to get a real picture of the auction process. Secondary data were obtained through literature studies from books, journals, theses, previous research results, and various other relevant written sources, including legal provisions related to the auction of evidence and the concept of *bai' al-muzayadah* from an Islamic law perspective.¹³

RESULTS AND DISCUSSION

A. The Concept of *Ba'i Muzayyadah*

¹¹ Chairul Fahmi et al., "The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024): 1566–96, <https://doi.org/10.22373/SJHK.V8I3.19992>.

¹² Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Lembaga Kajian Konstitusi Indonesia, 2022).

¹³ Amtai Alaslan, *Qualitative Research Methods*, ed. by Shara Nurachma (Depok: PTRajaGrafindoPersada, 2021).

Bai' muzayyadah in Islamic law is a form of sale and purchase conducted through an auction or open bidding system, where the seller offers goods to the public, and the buyer who gives the highest bid becomes the party entitled to the goods. Etymologically, the term *muzayyadah* originates from the word *zad-yazidu*, meaning "to add," which refers to the process of increasing the price through negotiation among participants. In practice, *bai' muzayyadah* is often used as a vital instrument in the distribution of public or private goods whose value is determined through a fair and competitive market mechanism. Terminologically, Imam Nawawi in *al-Majmu'* and Ibn Qudamah in *al-Mughni* explain that *bai' muzayyadah* is a form of sale and purchase that is permissible under Islamic law as long as it is conducted based on mutual consent, transparency, and without any elements of deception (*gharar*) or usury (*riba*).¹⁴

This transaction also has historical legitimacy as it was practiced during the time of the Prophet Muhammad and serves as the legal basis for auctions in Islam.¹⁵ One of the hadiths often cited as a reference is:

"From Anas bin Malik, may Allah be pleased with him, that a man from the Ansar came to the Prophet, peace be upon him, and asked him for something. The Prophet, peace be upon him, asked him, 'Is there nothing in your house?' The man replied, 'Yes, two pieces of cloth, one for wearing and the other for sitting on, and a cup for drinking water.'" The Prophet (peace be upon him) said, "Then bring those two items to me." The man brought them. The Prophet (peace be upon him) asked, "Who will buy these items?" One of his companions said, "I will buy them for one dirham." The Prophet (peace be upon him) asked again, "Is there anyone who will buy them for a higher price?" The Prophet (peace be upon him) offered them two or three times. Suddenly, one of his companions said, "I will buy it for two dirhams." The Prophet (peace be upon him) gave the two items to him and took the two dirhams, then gave them to the Ansari man. (Narrated by Ahmad, Abu Dawud, an-Nasa'i, and at-Tirmidzi)¹⁶

¹⁴ Muhammad Rofiu Arzaq, Abdul Hamid, and Satria Budiman, "Legal Review of Islamic Law on the Practice of Fish Trading Using the Bai' Al Muzayadah Contract," *el hisbah: Journal of Islamic Economic Law* 2, no. 1 (2022): 12, <https://doi.org/10.28918/.v2i1.705>.

¹⁵ Muhammad Rofi'u Arzaq, "Analysis of the Concept of Bai' Al Muzayadah in the Practice of Fish Sales in Baskets at TPI Klidang Lor Batang," Thesis (State Islamic Institute of Pekalongan, 2022).

¹⁶ Wahbah az-Zuhaili, *Islamic Jurisprudence and Its Evidence, Volume 5* (Damascus: Darul Fikr, 1984). 20-22

This hadith affirms that all forms of transactions based on mutual consent and free from oppression are valid according to Islamic law.¹⁷ Furthermore, the jurists agree that as long as the bidding process is conducted transparently and does not cause harm to either party, the transaction of *muzayyadah* falls under the category of *bai' sahih* (valid sale). This demonstrates the flexibility of Islamic law in addressing the economic needs of society while upholding the principles of justice and honesty. Contemporary scholars, such as Wahbah az-Zuhaili in *al-Fiqh al-Islami wa Adillatuhu*, affirm the validity of *bai' muzayyadah* as a form of *muamalah* (transaction) consistent with Sharia principles, provided it meets the elements of justice and there is no manipulation in the determination of price. This also provides opportunities for broader public participation, thereby supporting economic inclusivity and open access to ownership of goods.¹⁸

The elements of a *bai' muzayyadah* contract are not significantly different from those of a general sale and purchase contract in Islamic jurisprudence. The four main elements are the seller (*ba'i'*), the buyer (*musytari*), the object of the transaction (*mabi'*), and the contract (*sighah*), which consists of an offer (*ijab*) and acceptance (*qabul*). The conditions include that the object of sale must be halal, owned and controlled by the seller lawfully, and its nature and quantity must be known. This clarity not only guarantees the rights of the parties but also serves as a preventive measure against potential post-transaction disputes. Additionally, the transaction must be conducted openly, without any element of coercion, and with good faith.¹⁹

In the context of *muzayyadah*, clarity of information and transparency in the bidding process are essential to prevent price deception or manipulation that could harm one party. Public involvement in witnessing the process also serves as a form of social control over the integrity of the transaction, thereby strengthening trust and accountability. *Bai' muzayyadah* in Islamic law is not

¹⁷ Chairul Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh," *Jurnal Tsaqafih* 8, no. 2 (2012).

¹⁸ Ficha Melina and Hendra Eka Saputra, "A Contemporary Fiqh Review of the Role of Intermediaries (Samsarah) and Auction Sales (Bay Al-Muzayaddah)," *Journal of Islamic Economics* 5, no. 1 (June 2022): 102, <https://journal.uir.ac.id/index.php/syariat/article/view/9662/4378>.

¹⁹ Maulida Kurrotul Aini, "A Review of the Ba'i Muzayadah Contract in the Sale of Usernames on Twitter" (Thesis, State Islamic University (UIN) Salatiga, 2023).

only valid from a legal perspective but also reflects the core principles of Islamic transaction ethics, including justice, transparency, and willingness.²⁰

The auction of evidence that has attained final legal standing (*inkracht*) by the Aceh Besar District Prosecutor's Office is one form of the state's responsibility in managing seized assets in a legal and accountable manner. From the perspective of Islamic commercial law, this practice has a strong correlation with the concept of *bai' muzayyadah*, which involves the sale of goods through an open bidding process in the presence of the public. More than just an administrative legal process, this activity also reflects the state's commitment to fulfilling its mandate in managing public assets by the principles of justice and public interest.²¹ Therefore, the auction practice can be viewed as an effort to achieve integration between the positive legal system and Sharia values.

B. Auction Mechanism and Control of Criminal Evidence at the Aceh Besar District Prosecutor's Office

The auction of criminal evidence is an integral part of the law enforcement mechanism in Indonesia, particularly in the context of controlling assets resulting from legally finalized criminal acts.²² The Aceh Besar District Prosecutor's Office, as one of the law enforcement institutions, has the authority to control and auction state-seized assets based on court decisions that have become final and binding. The auction is not only aimed at restoring the economic value of confiscated property but also ensuring that the process is transparent, accountable, and in accordance with legal provisions. Additionally, the auction serves as a means to prevent the misuse or embezzlement of confiscated state assets, thereby strengthening the deterrent effect on criminals and providing legal certainty for all parties involved.²³

²⁰ Syach Reza Muslim Al'ansharie, "A Fiqh Muamalah Review of the Practice of Auctioning State-Confiscated Property at the Indragiri Hilir Prosecutor's Office" (Thesis, Sultan Syarif Kasim State Islamic University, 2023).

²¹ Ralia Fitria, Elizabeth Siregar, and Erwin, "The Implementation of Auctions for Confiscated Goods," *PAMPAS: Journal of Criminal Justice* 3, no. 1 (2022): 111-13, <https://online-journal.unja.ac.id/Pampas/article/download/17789/13293/50931>.

²² Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia," *Jurnal Ilmiah Peuradeun* 11, no. 2 (2023): 667-86, <https://doi.org/10.26811/PEURADEUN.V11I2.923>.

²³ Guswandi Andi Putra Pratama et al., "The Binding Force of Auction Minutes for Auction Buyers Regarding Security Interests for Auction Buyers at the State Asset and

Transparency and accountability in auctions are key indicators in maintaining the integrity of law enforcement agencies and building public trust in the law enforcement process. Every auction must be conducted by the principles of legality, proportionality, and public accountability to avoid legal deviations or uncertainties. The emphasis on good governance in the evidence auction process is essential as a concrete manifestation of responsive law enforcement committed to justice.²⁴ In this context, the principle of good governance encompasses not only procedural aspects of auctions but also external oversight, public involvement, and transparent reporting, all of which are essential to prevent corrupt practices in the management of evidence.²⁵

The auction mechanism at the Aceh Besar District Attorney's Office follows the system established by the Directorate General of State Assets (DJKN) through the State Assets and Auction Service Office (KPKNL). There are two main stages in the auction process, namely the *pre-auction* and *post-auction* stages. The pre-auction stage involves verifying the legality of the items to be auctioned, including the completeness of documents such as seizure orders, court decisions, and statements of absolute responsibility. Auction approval must also be obtained from the competent prosecutorial authorities, such as the Head of the District Prosecutor's Office, the High Prosecutor's Office, and the Deputy Attorney General.²⁶ This legal verification process is crucial, as it serves as a legal safeguard to prevent the auction of third-party assets unrelated to criminal cases, thereby avoiding potential future legal challenges. During this stage, a thorough assessment of legal and administrative risks associated with the auctioned assets is emphasized to

Auction Service Office (KPKNL) of Batam City," *UNES Law Review* 6, no. 2 (December 5, 2023): 4269–76, <https://doi.org/10.31933/UNESREV.V6I2.1142>.

²⁴ Nisa Ayu Spica, "Analysis of the Auction of Evidence at the Investigation Stage and Its Probative Value in Court (A Case Study of Fisheries Crimes)" (Thesis, University of Indonesia, 2008).

²⁵ Vina Putri Salim, Bambang Sugeng, and Ariadi Subagyo, "The Validity of Voluntary Non-Execution Auctions Online Without an Auctioneer," *Notaire* 5, no. 1 (February 24, 2022): 155–78, <https://doi.org/10.20473/NTR.V5I1.33641>.

²⁶ Abdurrahman Misno BP and Ahmad Fajrin Shadiq, "Islamic Legal Analysis of Auction Implementation at the State Property and Auction Office in Bogor," *Syariat: Journal of Qur'anic Studies and Law* 4, no. 02 (November 1, 2018): 233–46, <https://doi.org/10.32699/SYARIATI.V4I02.1180>.

ensure the validity and legitimacy of the auction in the eyes of the law and the public.²⁷

In practice, the Aceh Besar District Prosecutor's Office implements an e-auction system, facilitated by DJKN/KPKNL. The use of this system provides efficiency and convenience, allowing the public to participate in auctions remotely without the need for physical presence, thereby reducing participation costs and increasing public engagement. There are two bidding mechanisms in *e-auctions*: *closed bidding* and *open bidding*. This online system is considered capable of reducing the potential for intervention or manipulation that often arises in conventional face-to-face processes, thereby minimizing conflicts of interest.

The types of evidence commonly auctioned by the Aceh Besar District Attorney's Office are dominated by high-value movable assets, such as motor vehicles and heavy equipment confiscated from criminal activities, particularly those related to drug trafficking and money laundering. According to 2023 data, five units of confiscated goods were auctioned, consisting of four vehicles and one piece of heavy equipment (an excavator). Four units were successfully sold, while one Honda Jazz vehicle is still awaiting re-auction in 2024.²⁸

Table 1
List of Auction Items at the Jantho Aceh Besar Prosecutor's Office in 2023

No	Item Name/Brand/Type	Minimum Bid Price (IDR)	Deposit (IDR)
1	1 unit Honda Jazz car, red color, license plate BL 1885 JJ	Rp150,198,000	Rp30,039,600
2	1 unit Toyota Kijang Innova car, silver color, license plate BL1366 LN	Rp238,273,000	Rp47,654,600
3	1 piece of Komatsu excavator equipment, yellow	Rp197,471,000	Rp39,494,200

²⁷ Elrica Debora Mosal, Anna Wahongan, and Harly Stanly Muaja, "Procedures for Conducting Auctions of Seized Property by the Prosecutor's Office Following a Final Court Ruling," *Lex Privatum* 11, no. 1 (2023): 4, <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/45759>.

²⁸ <https://lelang.go.id/> accessed on May 27, 2025

4	1 unit Range Rover Evoque vehicle, white color, B 2540 STH	Rp296,964,000	Rp59,392,800
5	1 unit Honda CR-V Prestige CVT CKD white orchid pearl BL 1149 JE	Rp314,256,000	Rp62,851,600

Source: Documentation Data from the District Prosecutor's Office of Jantho, Aceh Besar, 2023.

In 2024, this institution conducted the sale of confiscated assets from criminal offenses that had become state property through an online auction process, with an auction price range of Rp35,000,000 and above. The auction was conducted openly (*open bidding*). The auction requirements include the following documents: court judgment, seizure order, and a statement of absolute liability.²⁹

Table 2
List of Auctioned Items at the Jantho Prosecutor's Office, Aceh Besar, 2024

No	Item Name/Brand/Type	Name of Convicted Person	Case No. & Date of Judgment
1	1 unit Honda Jazz car, red in color, license plate BL 1885 JJ	Muntasir bin Muchtar	No.236/Criminal Case/2021/Jantho District Court, April 22, 2022

Source: Documentation Data from the District Prosecutor's Office of Jantho, Aceh Besar, 2024.

Common issues arising in the auction process include the absence of valid ownership documents for seized items, necessitating further verification before the auction. Additionally, challenges arise regarding the determination of the auction price limit and auction guarantees. The price limit is set based on an appraisal by the Public Appraisal Service Office (KJPP) or the appraisal mechanism of the KPKNL to ensure a fair price in line with market value. The absence of authentic ownership documents has the potential to delay the

²⁹ <https://lelang.go.id/> accessed on May 27, 2025

auction process and open the door to legal challenges from parties who feel they have been wronged, thereby requiring high administrative precision.³⁰

After the auction process is complete, the auction officer will compile the Auction Report, an official document that contains a comprehensive record of the entire auction process. This report has the status of an authentic deed under the provisions of Minister of Finance Regulation Number 213/PMK.06/2020. This report serves as the legal basis for transferring the rights to the auctioned object to the winner. The post-auction phase involves returning the deposit to participants who did not win the auction, subject to the deduction of banking administrative fees, if applicable. Meanwhile, the auction proceeds in the form of state revenue are deposited into the state treasury and may be used for public purposes, as permitted by applicable laws and regulations.³¹

This auction mechanism has been implemented by prioritizing the principles of transparency and accountability as part of legal enforcement and bureaucratic reform. Transparency in the auction process is realized through several key strategies. The auction announcement process is conducted openly through the official portal of the Directorate General of State Assets (DJKN), the official website of the Attorney General's Office, and electronic media channels accessible to the public, ensuring that every citizen has equal opportunity to know and participate in the auction process without discrimination. Public involvement in this process also serves as a social control mechanism that strengthens the legal legitimacy of the Attorney General's Office in auctioning evidence.³²

The state's control over criminal evidence following a court ruling is a concrete manifestation of the principle of *res publica*, which holds that all state-seized assets must be utilized for the benefit of the people. As the executor, the Attorney General's Office bears a significant responsibility to ensure that seized assets are not only physically secured but also optimally

³⁰ Interview with Rizal, Prosecutor at the Aceh Besar Prosecutor's Office on August 6, 2024, at the Aceh Besar Prosecutor's Office, Jantho

³¹ Irianto Irianto et al., "Execution of Seized Evidence for the State," *Locus Journal of Academic Literature Review* 1, no. 2 (2022):78, <https://doi.org/10.56128/ljoalr.v1i2.53>

³² Indra Agung Putra Perdana and Anang Shophan Tornado, "The Existence of Auctions for Evidence in Criminal Cases Involving the Use of Forest Areas Whose Proceeds Are Utilized for Social Purposes," *Badamai Law Journal* 5, no. 1 (March 2020): 21, <https://ppjp.ulm.ac.id/journal/index.php/blj/article/view/9973>.

utilized through legitimate and efficient auction mechanisms.³³ The auction of criminal evidence at the Aceh Besar District Prosecutor's Office demonstrates the integrity of the legal system and efforts to optimize state assets through the use of information technology, aiming to build a legal enforcement system that is adaptable to the changing times. This system strengthens the principle of distributive justice and encourages public participation in supporting sustainable law enforcement.

C. Review of the *Bai' Muzayadah* Contract Regarding the Auction of Criminal Evidence at the Aceh Besar District Prosecutor's Office

The auction of evidence obtained from criminal acts (*jarimah*) conducted by the Aceh Besar District Attorney's Office can essentially be viewed from the perspective of the *bai' muzāyadah* contract in Islamic Law. *Bai' muzāyadah* is a form of sale and purchase transaction conducted through an open auction system, in which multiple participants compete to offer the highest price for an item. The seller accepts the offer as the final price. This contract is well-established in classical and contemporary Islamic jurisprudence literature; scholars from the Hanbali school, such as Ibn Qudamah in *Al-Mughni*, state that the *bai' muzāyadah* contract is valid provided it meets the general conditions and requirements of a valid sale and purchase transaction, such as mutual consent (*taradi*), clarity of the object and price, and the absence of elements of uncertainty (*gharar*) or fraud.³⁴

Similar views are also found in the Syafi'i and Hanafi schools of thought, which, in principle, permit auction mechanisms as long as they do not involve elements of monopoly, fraud, or injustice toward one of the parties. In practice, the auctions conducted by the Aceh Besar District Prosecutor's Office through the *e-auction open bidding* mechanism have reflected the fundamental principles of this contract, particularly in terms of information transparency,

³³ Nur Hidayat and Sri Sulastris, "Auction and Direct Sale of Seized Property in Criminal Cases," *Jurnal YUSTITIA* 22, no. 1 (May 2021): 61, <http://dx.doi.org/10.53712/yustitia.v22i1.1113>.

³⁴ Fatin and Mohd Din, "Seizure and Storage of Seized Property in Gambling Cases (A Study in the Legal Jurisdiction of the Banda Aceh Class I Prison and the Banda Aceh City Baitul Mal)," *JIM Criminal Law* 5, no. 3 (August 2021): 406–13, <https://jim.usk.ac.id/pidana/article/view/19627>.

healthy price competition, and administrative transparency, which are the essence of *bai' muzayadah*.³⁵

Jarimah, from an Islamic legal perspective, is defined as an act that violates Islamic law and is subject to a specific punishment or '*uqūbah*, whether in the form of *hudud*, *qisas*, *diyat*, or *ta'zir*. Based on this classification, *Jarimah* is not only viewed as an individual violation but also as a form of injustice that disrupts social order and the values of justice in society. In the context of Indonesia's positive legal system, *jarimah* is equivalent to a criminal offense, and evidence obtained from such crimes can be categorized as *mal maslub* (property obtained unlawfully).³⁶ Therefore, when the property has been adjudicated by the court and declared confiscated for the state, the state's control over the property becomes a form of *al-tasarruf bi al-wilayah*, which is a lawful act of state authority in managing public assets. The auction process of such confiscated property, if conducted through official mechanisms, is a manifestation of the principles of justice and *maslahah 'ammah* (public interest), and is part of the objectives of Sharia (*maqasid al-syarī'ah*) in safeguarding property (*hifz al-mal*) and achieving fair distribution in society.³⁷

From the perspective of the validity of the *bai' muzāyadah* contract, the auction of evidence obtained from criminal acts by the state is also relevant to be analyzed through the perspective of *wilāyah* in Islamic jurisprudence, particularly *the al-hisbah* and *al-tanfiz* domains. *The al-hisbah* domain grants the state authority the legitimacy to regulate and manage public affairs for the common good (*maslahah 'ammah*), including the management of confiscated property obtained from criminal acts. Meanwhile, *the al-tanfiz* domain affirms the executive authority of the state to enforce court decisions legally, ensuring that the auction of legally confiscated property is not only administratively

³⁵ Dhiwatsani Yudhistira and Gunawan Djajaputra, "Legal Protection for the Auction of Collateral Objects from a Legal Perspective," *UNES Law Review* 6, no. 4 (June 2024): 10355, <https://doi.org/10.31933/unesrev.v6i4>.

³⁶ Fathudin et al., "The Operational System of Auctions at the Purworejo District BPPKD from the Perspective of Islamic Law and Positive Law," *HAKAM* 4, no. 2 (December 2020): 41–43, <https://ejournal.unuja.ac.id/index.php/hakam/article/view/1926>.

³⁷ Islamul Haq, "Crimes Against the Dignity of National Symbols (Perspectives of Indonesian Criminal Law and Islamic Criminal Law)," *Journal of Sharia and Law, Diktum* 15, no. 1 (June 2017): 11–17, <https://ejurnal.iainpare.ac.id/index.php/diktum/article/view/422>.

valid but also consistent with the principles of Islamic jurisprudence (fiqh).³⁸ Thus, the state's actions in this auction reflect the fair, valid, and beneficial exercise of its authority.

The compatibility between the *bai' muzayadah* contract and the auction system for seized assets can be seen from several indicators of the contract's validity, such as the presence of *an offer* and *acceptance* in the form of bids and agreement on the highest price, the clarity of the specifications of the auctioned items, and transparency regarding the price limit and guarantees provided by the participants. The entire process is generally conducted by official institutions such as the DJKN/KPKNL and the Ministry of Finance and documented through an auction record as authentic evidence of the transfer of rights.

Several technical issues need to be anticipated to avoid undermining the validity of the contract, such as unclear legal ownership status or the absence of supporting documents for the auctioned items. This ambiguity has the potential to introduce elements of *gharar*, which is prohibited in Sharia law. It must therefore be resolved administratively and legally beforehand to prevent disputes (*khisam*) in the future. This is important because the validity of a contract in Islam is not determined solely by formalities but also by the alignment of the substance and purpose of the contract with the values of justice.³⁹

An examination of *the maqasid al-syari'ah* (objectives of Islamic law) in the context of auctioning evidence should be expanded to reflect a more comprehensive normative approach. One of the primary objectives that is highly relevant is *hifz al-mal* (preserving wealth), where auctioning is conducted to transfer wealth from unlawful use to something lawful and beneficial for society or the state. Additionally, the aspect of *hifz al-din* (preserving religion) is fulfilled when auction practices are based on principles of transparency and justice, thereby avoiding practices contrary to Sharia

³⁸ Sulkhan Zaenuri and Syaiful Arifin, "A Legal Review of Islamic Law on Online Auction-Based Sales Practices: A Case Study of the Sale of Ornamental Fish on Instagram," *IBSE Sharia Economic Journal* 2, no. 1 (May 13, 2023): 11, <https://doi.org/10.62708/IBSESEJ.V2I1.27>.

³⁹ Rusli, "A Legal Review of the Similarities and Differences in Criminal Sanctions Between Islamic Criminal Law and Indonesian Criminal Law," *Journal of Legal Science and Legal Opinion* 2, no. 6 (2014): 2-5, <https://media.neliti.com/media/publications/152011-ID-tinjauan-yuridis-persamaan-dan-perbedaan.pdf>.

values such as *gharar* (uncertainty), *risywah* (bribery), or *ihtikār* (monopoly). Furthermore, *hifz al-nafs* (preserving life) and *hifz al-'aql* (preserving intellect) are indirectly supported through the legal certainty arising from a clean and accountable system of state asset management.

Auction practices can also be reviewed through the Islamic law principle of *tasarruf al-imam manut bi al-maslahah*, which states that the policies of the ruler must always be linked to the public interest. As long as auctions are conducted openly, fairly, and without harming others, such actions are not only permissible but also recommended, as they promote more equitable economic distribution and responsible management of state assets. Auctions are not merely legal-formal mechanisms but part of social and financial engineering, aligned with the Sharia vision of building a just and prosperous society.⁴⁰

The auction of *criminal* evidence by the Aceh Besar District Attorney's Office can be classified as the implementation of a valid *bai' muzayadah* contract under Islamic law, provided that all elements of clarity, fairness, and transparency are fulfilled in its implementation. Moreover, this process reflects the integration between the national legal system and the principles of Islamic jurisprudence (*fiqh muamalah*), while also serving as a concrete mechanism for managing public assets that is trustworthy, accountable, and beneficial.

This practice demonstrates that Islamic law is not a rigid, normative system, but instead possesses the flexibility to be applied within modern institutional frameworks while upholding the values of justice, transparency, and the public interest. The auction of state-seized assets is viewed not only as a legal solution for assets resulting from criminal acts, but also as part of the realization of the objectives of Islamic law (*maqasid al-shari'ah*) in the dimension of public governance, which is responsive to the demands of the times and the needs of society. The auction of evidence is not only justified from a legal and formal perspective, but also an Islamic ethical perspective, as a means of restoring social and economic justice in society.

⁴⁰ Rachmat Rizky Kurniawan and Wulida Fithrotuzzuhroh, "Auction Practices in Indonesia According to Islamic Sharia," *Ulumul Qur'an: Journal of Qur'anic Studies and Exegesis* 10, no. 10 (September 2000): 20-23, <https://ideas.repec.org/p/osf/osfxxx/7aekx.html>.

CONCLUSION

Bai' muzayyadah is one of the forms of sale and purchase in Islamic jurisprudence that is valid and permissible under Sharia law, as it embodies the principles of voluntariness, justice, openness, and transparency in its process. In the context of implementing positive law, the Aceh Besar District Prosecutor's Office's practice of auctioning criminal evidence through the e-auction system demonstrates synergy between Islamic values and the state's formal legal mechanisms. The auction process is conducted openly and competitively, reflecting the *bai' muzayyadah* contract as prescribed by Islamic law. Technically, the auction mechanism is carried out in two stages: the pre-auction stage and the post-auction stage. The pre-auction stage includes legal verification of the items, approval from authorized officials, and determination of the minimum price through the Public Appraisal Service Office (KJPP) or the KPKNL. The post-auction stage involves preparing an auction report as an authentic document and transferring the auction proceeds to the state treasury. This mechanism is conducted *online* through the official DJKN platform, which provides ease of access, efficiency, and enhances public participation. The study's findings indicate that most elements of the auction process meet the legal requirements for a valid sale, particularly the clarity of the auctioned item, the validity of the contract, and transparency in the bidding process. However, there are still substantive challenges, such as the unclear ownership status of seized assets and the potential for *gharar* in setting the price limit, which require attention to ensure that this practice aligns more closely with both Islamic law and state law. Overall, the auction of evidence by the Aceh Besar District Prosecutor's Office can be categorized as a contract that is valid under Islamic law and legally binding under positive law, and plays a strategic role in safeguarding assets (*hifz al-mal*) and achieving the public interest (*maslahah 'ammah*) as intended by the objectives of Islamic law (*maqasid al-syari'ah*) in the sustainable and accountable management of public assets.

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