

A Juridical Analysis of Creditors' and Debtors' Rights in Non-Performing Loans from the Perspective of *Al-Ghunm bi al-Ghurm*: A Case Study of Air Putih District, Batubara Regency, Indonesia

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Abstract

This study is motivated by the imbalance of rights and obligations between creditors and debtors in handling non-performing loans, particularly vehicle repossession practices in Air Putih District, Batubara Regency. This study aims to analyze the implementation of creditors' and debtors' rights, the settlement of non-performing loans based on Indonesian positive law, and the perspective of the *al-ghunmu bil-ghurmi* principle. This study uses an empirical legal research method, with primary data obtained through interviews with creditors and debtors and secondary data from relevant laws and legal literature. The data were analyzed qualitatively. The findings show that unilateral vehicle repossession without lawful procedures may violate fiduciary security and consumer protection provisions. Debtors may lose previously paid installments, while creditors may obtain disproportionate benefits. From the perspective of *al-ghunmu bil-ghurmi*, such conditions indicate an imbalance between benefits and risks. This study concludes that the settlement of non-performing loans should consider the balance of rights and obligations between creditors and debtors.

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INTRODUCTION

Financing institutions (*financing institution*) is one of the main pillars in the financial system that plays a strategic role in encouraging people's economic growth, especially in the consumptive sector such as motor vehicle ownership. Through the credit mechanism, people who do not have financial ability in cash can access necessities through installment schemes (*installment*) mutually agreed upon between creditors and debtors¹. However, this credit practice does not always run smoothly, the debtor's inability to fulfill his obligations often leads to a condition known as *non-performing loan* (NPL) or non-performing loans, which ultimately raises legal tensions between the two parties². The factors that affect the occurrence of non-performing loans are divided into 2 factors, the first factor from the lending institution, and the factor from the debtor. The factor from the debtor is caused by the deteriorating economic condition of the customer. Credit usually uses *mudharabah* and *musharakah* contracts, where the form of the contract of the fund owner includes his capital in a cooperation (Meha et al., 2023).

The phenomenon of problematic loans in the motor vehicle financing sector is an increasingly complex problem when examined from the perspective of rights protection³. On the one hand, creditors have the right to obtain debt repayment along with the agreed profits; on the other hand, debtors also have fundamental rights that are protected by positive law, especially related to the *fiduciary security* execution process⁴. This inequality of bargaining position between the two parties often results in the practice of unilateral withdrawal of collateral objects by creditors without going through proper legal procedures, thus causing real losses to the debtor⁵.

Based on these two studies, it is concluded that the practices that occur are not in accordance with the reality that they are not in accordance with the way they should be, many cases of problematic credit are caused by various factors, both internal and external factors. Non-performing loans are conditions when the debtor is unable to fulfill his obligations in accordance with the agreed agreement. Problems that occur can be in the

¹ Indhona Lukman Farizki, "The Role of Islamic Financial Institutions in Improving the Economy through Working Capital Financing for MSMEs in Jepara," *Al-Sharf Journal of Islamic Economics* 5, no. 3 (2024): 338–54.

² Syahriyah Semaun, "The Role of Islamic Financial Instruments in Encouraging National Economic Stability," 2025, 1–9.

³ Muharajabdinul and Abdul Latif, "The Role of Financial Institutions in Improving Community Welfare" 4, no. 1 (2025): 25–35, <https://doi.org/10.54259/manabis.v4i1.3625>.

⁴ Gamal Fadilah, Eka Widiya Fradinda, and M Sakhi Awwah, "Analysis of the Concept of Legal Basis Operational System and Types of Special Financial Services Institutions in Indonesia" 11, no. 01 (2026): 41–56, <https://doi.org/10.37366/jespb.v11i01.3063>.

⁵ Agung Wijayanto, "Debt Settlement Strategy: Concurrent Creditor Rights And Debtor Asset Guarantee," 2024, 148–63.

form of delays in payment of installment fees, the ability to pay off debts, to the occurrence of a breach of promise or default as a whole. Default occurs when one of the parties does not fulfill what is his or her obligations that have been stipulated in the agreement, both an agreement arising from an agreement or a law. Default can occur either intentionally or unintentionally (Hidayah & Tarigan, 2023).

This reality is found concretely in the practice of motor vehicle financing that takes place in Air Putih District, Batubara Regency. Based on the results of interviews conducted with related parties at two financing institutions, namely Showroom with the initials K2I, and CH, it was found that there was a significant *disparity* between the rights obtained by creditors and losses borne by the debtor⁶. The debtor revealed that when the vehicle was towed due to late payment, all installments that had been paid earlier were simply forfeited without any compensation. Instead, creditors obtained multiple benefits: they regained the collateral object while maintaining all installments that had been received. Such a condition juridically raises serious questions about the *reciprocity of rights and obligations* in credit law relations⁷.

From Indonesia's positive legal perspective, the protection of debtors' rights in the context of financing agreements has actually been comprehensively regulated. Law Number 42 of 1999 concerning Fiduciary Guarantees expressly stipulates that the execution of fiduciary objects can only be carried out through legitimate mechanisms, namely public auctions or sale under the hands of mutual agreement. Furthermore, the Constitutional Court Decision Number 2/PUU-XIX/2021 strengthens the position of the debtor by emphasizing that the forced withdrawal of vehicles by creditors without a court determination is an unconstitutional act. In addition, the Financial Services Authority Regulation (POJK) Number 35/POJK.05/2018 concerning the Business Implementation of Finance Companies also requires finance companies to follow the principles of *good faith* in every stage of non-performing loan management⁸.

However, juridical analysis alone is not seen as sufficient to dissect this problem comprehensively. An ethical-philosophical approach is needed that is able to assess the substantive justice of the practice⁹. In the treasure of jurisprudence muamalat, there is a

⁶ Inda Rahadiyan and Nikmah Mentari, "Information Disclosure as Risk Mitigation of Peer to Peer Lending (Comparison Between Indonesia and the United States)," 2021, 325-47, <https://doi.org/10.20885/iustum.vol28.iss2.art5>.

⁷ Dayu Rizki Nurhamda and Muhammad Ikhsan Harahap, "Four Pillars of Sharia Microfinance Institution Development" 10, no. 2 (2025): 1-14, <https://doi.org/10.21070/acopen.10.2025.11948>.

⁸ ('Number 7/POJK.05/2022 concerning Amendments to Financial Services Authority Regulation Number 35/POJK.05/2018 concerning Business Implementation of Finance Companies', 2022)

⁹ Nani Hartati, "The Role of Banks and Financial Institutions in Economic Development: A Review of the Literature" 1, no. 2 (2023): 35-44.

very relevant fundamental rule, namely *al-ghunmu bil-ghurmi* which literally means "the profit is worth the risk incurred" (*al-ghunmu*, profit; *al-ghurmi*, loss or risk). This rule is derived from the hadith of the Prophet Muhammad PBUH narrated by Imam Abu Dawud, al-Tirmidhi, and Ibn Majah, and is strengthened by the arguments of classical fiqh scholars such as Imam al-Shafi'i in *al-Umm* and Ibn Qudamah in *al-Mughni*. This principle emphasizes that the right to obtain benefits or benefits must be directly proportional to the willingness to bear risks and burdens (*dhaman*) so that those who do not bear the risks are not entitled to enjoy the benefits in full ¹⁰.

If the principle of *al-ghunmu bil-ghurmi* is projected into the case that occurred in Air Putih District, it would appear to be an ethical-legal problem: the creditor receives a double profit without bearing a proportionate risk, while the debtor bears the total loss even though he has contributed financially through the installments that have been paid. This imbalance is not only contrary to the principle of justice (*al-'adalah*) in Islamic law, but also has the potential to violate the principle of balance of achievement (*evenbalance*) in Indonesian civil treaty law as stipulated in Articles 1320 and 1338 of the Civil Code (KUHPercivil).¹¹

Based on the background of the above problems, this study is present to analyze in depth how the rights of creditors and debtors are implemented and protected in the practice of non-performing loans in three motor vehicle financing institutions in Air Putih District, Batubara Regency, as well as evaluate them through the perspective of *the rules of al-ghunmu bil-ghurmi*. With a normative *juridical approach* enriched with the analysis of jurisprudence, this research is expected to be able to make a meaningful scientific contribution to the development of *equitable financing law* in Indonesia.

METHODS

This research uses the *empirical legal research* method, which is a legal research method that is not only based on written legal norms (*law in books*), but also examines how the law works and is applied in the reality of people's lives (*law in action*). This approach was chosen because the problem of non-performing loans that occurred in Air Putih District, Batubara Regency was not sufficiently analyzed from a normative point of view, but must be directly confronted with empirical facts that occurred in the field,

¹⁰ Deni Maulana Ihsan, Rama Dwi Aryandhes, and H Abid, "The Role of Sharia Economics on Indonesia's Economic Development" 03, no. 03 (2025): 1439–46.

¹¹ Exploring the Roles, Financial Institutions, and Sharia Microfinance, "Towards Improving Economic Welfare: Exploring the Role of Islamic Microfinance Institutions," 2024, 179–87.

especially regarding the practice of withdrawing fiduciary guarantee objects experienced by debtors at three motor vehicle financing institutions¹².

The method in this study aims to see the effectiveness of law in people's lives, for example, the values of justice, as well as legal problems in Air Putih District, Batubara Regency related to the lack of certainty of rights and obligations between debtors and creditors. This study uses *a living case studies approach, statute approach, and conceptual approach* (Siregar & Permata, 2023).

The data sources in this study are divided into two types. First, *primary data* is obtained directly through *in-depth interview* techniques with parties directly involved in credit legal relations, namely creditors from the Showroom with the initials K2I, and CH, as well as debtors who experience direct vehicle withdrawals. The interviews were conducted in a structured and semi-structured manner to obtain a comprehensive picture of the financing agreement mechanism, the process of handling non-performing loans, and the treatment of the rights of each party. Second, *secondary data* sourced from laws and regulations, court decisions, and relevant legal literature¹³.

The regulations that are used as the normative basis in this study include five main legal instruments, namely: (1) the Civil Code (*Burgerlijk Wetboek*), especially Articles 1320 and 1338 concerning the conditions for the validity of agreements and the principle of freedom of contract; (2) Law Number 42 of 1999 concerning Fiduciary Guarantees which regulates the procedure for the lawful execution of collateral objects; (3) Financial Services Authority Regulation Number 35/POJK.05/2018 concerning the Business Implementation of Finance Companies; (4) Constitutional Court Decision Number 2/PUU-XIX/2021 which affirms the prohibition of forcible withdrawal of fiduciary objects without a court determination; and (5) Law Number 8 of 1999 concerning Consumer Protection which provides a basis for the protection of the rights of debtors as consumers of financial services¹⁴.

The data analysis technique used is *qualitative analysis* with a *descriptive-analytical* model, where the interview data is interpreted systematically and then confronted with positive legal norms and fiqh rules of muamalat, especially the principle of *al-ghunmu bil-ghurmi*. This process is carried out to identify whether there is a *gap* between the applicable legal provisions and the actual practices that occur in the field, so that objective

¹² Nurul Sandra Maharani et al., "The Role Of Microfinance Institutions In Improving" 18, no. 1 (2024): 1248-54.

¹³ Ristiyanti Ahmadul Marunta, Nahda Afniatul Ataya, and Anggun Pratiwi, "Economics and Digital Business Review of the Role of Islamic Financial Institutions in Encouraging Economic Growth: A Literature Study Based on Islamic Macroeconomics" 7, no. 1 (2025): 211-22.

¹⁴ Peter Mahmud Marzuki, *Introduction to Law* (Prenada Media, 2021).

and comprehensive conclusions can be drawn regarding the balance of the protection of creditors and debtors in the context of non-performing loans in the research area¹⁵.

RESULTS AND DISCUSSION

1. Implementation of Creditors' and Debtors' Rights in Non-Performing Loans

Based on the results of research in Air Putih District, Batubara Regency, it was found that there were problems in the implementation of rights and obligations between creditors and debtors on motor vehicle loans that experienced late payments. In some cases, the debtor's vehicle was towed after a payment arrears. However, there are problems regarding installments that have previously been paid by the debtor because the payment is not always returned or calculated proportionally after the vehicle is withdrawn.

The finance company in the consumer financing relationship has the right to receive back the funds that have been given to the consumer through installment payments until they are in full. Meanwhile, the consumer or debtor has the right to obtain financing in accordance with the agreement that has been agreed. This relationship gives rise to mutual rights and obligations between creditors and debtors. If the debtor experiences problematic credit because it does not meet its payment obligations, the creditor still has the right to obtain repayment for its receivables. However, the implementation of this right must still pay attention to legal protection for the debtor as a consumer. In the context of fiduciary guarantees, this is related to the issue of the execution of the collateral object when the debtor defaults.¹⁶

Therefore, the rights of creditors and debtors have an interrelated relationship. Creditors are entitled to repayment for the financing provided, while debtors are entitled to protection for the payments that have been made and the economic value to which they are entitled.

On the other hand, the debtor has the right to obtain protection and fair treatment in the implementation of the financing agreement. These rights are related to the right to obtain true, clear, and honest information as well as the right to obtain protection and dispute resolution in the event of a problem. The legal basis is contained in Article 4 of Law Number 8 of 1999 concerning Consumer Protection.

The exercise of these rights in the perspective of *al-ghunmu bil-ghurmi* must reflect a balance between benefits and risks. Creditors do have the right to obtain repayment for

¹⁵ Ismail Marzuki, "Critical Discourse Analysis (Theory and Practice)," *Universitas Pendidikan Muhammadiyah Sorong. UNIMUDAPress*, 2023.

¹⁶ Zulham, "Consumer Protection Law," *Jakarta: Prenada Media*, 2017, 71.

the financing provided, but the exercise of these rights must be carried out in accordance with agreements and laws and regulations. On the other hand, the debtor is obliged to meet the payments, but his rights must still be protected in the event of non-performing loans.

Normatively, the mechanism for withdrawing motor vehicles that are the object of fiduciary guarantee has been regulated limitatively in Article 29 paragraph (1) of Law Number 42 of 1999 concerning Fiduciary Guarantees. The provision emphasizes that the execution of the object of fiduciary guarantee can only be carried out through three legal means, namely: (a) the execution of the executory title; (b) sale through public auction; or (c) the sale under hand based on a mutual agreement that is carried out after the grace period of one month since the written notice to the interested parties and announced in at least two newspapers. In the practice that occurred in Air Putih District, none of the three legal mechanisms were taken by creditors. The withdrawal was carried out unilaterally, without a court determination, without proper written notice, and without giving the debtor the opportunity to settle his obligations.

Further, Article 32 of the same law expressly states that any promise to execute the object of fiduciary guarantee in a manner contrary to the provisions of Article 29 and Article 31 is *null and void*. This means that the clause in the financing agreement that gives creditors the right to unilaterally tow the vehicle commonly referred to as *a parate of execution* without actual procedure has no legal force at all ¹⁷.

The debtor in the motor vehicle financing agreement has a position as a consumer of financial services protected by Law Number 8 of 1999 concerning Consumer Protection. Article 4 letter h of the law explicitly gives consumers the right to get compensation, compensation, and/or reimbursement if the goods and/or services received are not in accordance with the agreement or not as they should ¹⁸be. In this context, installments that have been paid by the debtor for months without being returned in the slightest when the vehicle is towed is a form of real loss that is legally entitled to compensation.

In addition, Article 18 paragraph (1) d and c of the Consumer Protection Law expressly prohibits the inclusion of a standard clause *in an agreement that contains a provision that the business actor has the right to refuse the return of money that has been paid by the consumer, or that gives the business actor the power to take unilateral action on the goods purchased by the consumer in installments. The clause in the financing agreement that states the*

¹⁷ Rena Anggi Permatasari, "Juridical Review of Settlement of Non-Performing Loans through Auction of Dependent Rights," *Indonesia Journal* 4, no. 2 (2023): 1-9.

¹⁸ "Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection," 1999.

*forfeiture of all installments when the vehicle is towed is a standard clause that is contrary to this article, so that it is legally null and void.*¹⁹

Financial Services Authority Regulation Number 7/POJK.05/2022 concerning Amendments to POJK Number 35/POJK.05/2018 concerning Business Implementation of Finance Companies requires every finance company to apply the principles of *prudential principle* and *good faith* in every aspect of credit management, including in handling debtors who experience financial difficulties²⁰. This regulation also mandates an effective and efficient risk mitigation mechanism before taking executive action. The fact that the three financing institutions in Air Putih District immediately withdrew the vehicles without first taking *restructuring*, *renegotiation*, or *amicable settlement* efforts shows a violation of the *prudential* principles required by the POJK. This is also contrary to the spirit of Article 7 letter a of the Consumer Protection Law which requires business actors to be in good faith in carrying out their business activities.

Credit settlement through restructuring in the banking and financing legal literature is actually prioritized as the first step before the execution of collateral, because this approach is better able to provide solutions that accommodate the interests of both parties²¹. In line with that, *credit restructuring efforts have* also proven to be empirically more effective in maintaining financial sector stability while protecting the continuity of legal relations between creditors and debtors.

Another thing that is no less important to analyze is the provision of Article 34 paragraph (1) of the Fiduciary Guarantee Law which requires creditors to return excess execution proceeds to the debtor if the selling value of the fiduciary object exceeds the value of the remaining debt still payable. In the case found in the field, the recalled vehicle is resold by the creditor most likely at market price but the debtor does not receive any return even though the installment that has been paid has covered most of the total value of the vehicle. This condition is juridically a form of *unjust enrichment* carried out by creditors at the expense of the debtor, and is contrary to the principle of *balance of achievement (equilibrium)* in the law of agreements as referred to in Articles 1320 and 1338 of the Civil Code²². The mechanism for settling non-performing loans that does not pay

¹⁹ Ida Lamsihar Sitompul, "Credit Agreements Between Creditors and Debtors Who Are Tied to Dependent Rights (Field Study of the People's Credit Bank (Bpr) Tiga Juhar Office of Deli Serdang Regency)" 3, no. 2 (2021): 319–29.

²⁰ ('Regulation of the Financial Services Authority of the Republic of Indonesia Number 7/POJK.05/2022 concerning Amendments to the Regulation of the Financial Services Authority Number 35/POJK.05/2018 concerning the Business Implementation of Finance Companies', 2022)

²¹ Esther Masri and Sri Wahyuni, "Banking Credit Restructuring as an Effort to Save Non-Performing Loans During the Covid-19 Pandemic" 16, no. 2 (2022): 259–66.

²² "Civil Code (Burgerlijk Wetboek voor Indonesie)," 2015.

attention to the rights of debtors is also contrary to the spirit of legal protection that is required in the Indonesian financing legal system.²³

2. Analysis of *Al-Ghunmu Bil-Ghurmi's* Perspective on Non-Performing Credit Practices

There is one principle in Islamic law, namely, the principle of *Al-Ghunmu Bil-Ghurmi* which means "profit is proportional to the risk" or "the right to profit must be accompanied by a willingness to bear risks. "This principle is one of the important principles in jurisprudence which emphasizes the balance between rights and responsibilities in every economic transaction. Thus, the party who gains profits in a transaction must also be ready to bear the risks that may arise from the transaction (Muda & Efendi, n.d.)

The rule of *fiqh al-ghunmu bil-ghurmi* literally means that the profit must be accompanied by a commensurate risk or dependence. This rule emphasizes that the party who obtains the benefit or benefit from a transaction must in principle also bear the risks related to the benefit. This concept is one of the important principles in *muamalat fiqh* which emphasizes the balance between the right to profit and the obligation to bear risks. This principle can be found in the discussion of classical *fiqh*, including in *Al-Umm* by Imam al-Shafi'i and *Al-Mughni* by Ibn Qudamah, and clarified in the study of contemporary Islamic jurisprudence. (Al-Shafi'i, t.t.; Ibn Qudamah, t.t.; Al-Zuhayli, t.t.)

If the rule of *al-ghunmu bil-ghurmi* is applied to the practice of non-performing loans in motor vehicle financing institutions in Air Putih District, then the balance between profit and risk is an important aspect that must be considered. Creditors do have the right to obtain payment for the financing provided, while debtors are obliged to meet payments in accordance with the agreement. However, when a bad credit occurs and the vehicle is withdrawn, settlement should not cause the entire burden of loss to fall on the debtor, while the creditor still benefits from the object of collateral and payment that has been received. This condition needs to be assessed based on the principle of balance of rights and obligations in the settlement of non-performing loans.²⁴

On the other hand, the debtor who has contributed financially for many months who in the perspective of *al-ghunmu bil-ghurmi* should have been recognized for the contribution loses everything: the vehicle is revoked and all installments are declared

²³ Marthinus Kalvin Miosido, "Credit Restructuring as a Protection Effort for Creditors and Debtors in an Effort to Resolve Non-Performing Loans" 7, no. 2 (2024): 848-58.

²⁴ Komang Indra Apsaridewi, Faculty of Law, and Hindu University of Indonesia, "Legal Measures to Rescue Non-Performing Loans in Banks" 17 (2023): 59-73; Miosido, "Credit Restructuring as an Effort to Protect Creditors and Debtors in an Effort to Resolve Non-Performing Loans."

forfeited without a fair calculation. In the view of the fiqh of muamalat, such a condition falls under the category of *dzulm* (tyranny) in the transaction, because one party bears a burden that far exceeds what should be borne according to the portion of his contribution²⁵.

Based on the perspective of *al-ghunmu bil-ghurmi*, the settlement of non-performing loans should not only take into account the interests of the creditor to recover its receivables, but also guarantee the debtor's right to the value that is still a part of it. Therefore, if the vehicle has been executed and sold, the proceeds of the sale must be accounted for transparently by taking into account the debtor's remaining liabilities. After deducting the remaining debts and costs justified by law, the excess proceeds of the sale must be returned to the debtor. Thus, the settlement reflects the balance between profit and risk and is in line with the principle of justice in muamalat. (Ibn Qudamah, t.t.; Al-Zuhayli, t.t.; Ammelia & Supriyono, 2023)

The application of the principle of *al-ghunmu bil-ghurmi* in this context operationally requires a fair *recalculation* mechanism for the installments that have been paid by the debtor. Concretely, if a debtor has paid eight out of twelve installments, which means that he has contributed about 66.7% of the total liability, then it is unfair and disproportionate if all the contributions are forfeited. This rule requires that the creditor, after executing and selling the collateral object, is obliged to calculate the remaining value, reduce the remaining debt from the proceeds of the sale, and then return the excess to the debtor. This is what is stipulated in Article 34 paragraph (1) of the Fiduciary Guarantee Law, and this is also what the spirit of *al-ghunmu bil-ghurmi* wants: profits may only be enjoyed commensurate with the risks actually incurred.²⁶

Thus, the perspective of *al-ghunmu bil-ghurmi* is not only a knife of ethical-religious analysis, but also a *reinforcement* for existing positive legal norms. The practice that occurred in Air Putih District not only violates the provisions of the law, but also violates the principle of universal justice that is recognized across legal traditions both in Indonesian positive law and in Islamic jurisprudence. An equitable resolution of non-performing loans should reflect the balance between the creditor's right to recover its receivables and the debtor's right to the return of excess value to which he is entitled as

²⁵ Apsaridewi, Hukum, and Indonesia, "Legal Actions to Rescue Non-Performing Loans in Banks."

²⁶ Juliati BR. Ginting, *Juridical Analysis of the Execution Parate on the Object of Guarantee of Dependents' Rights*, vol. 5, 2023.

required by Article 4 letter h of the Consumer Protection Law, Article 34 of the Fiduciary Guarantee Law, and the rule of *al-ghunmu bil-ghurmi* at the same time²⁷.

3. Research Limitations

This research has a number of limitations that need to be honestly acknowledged as part of *scientific integrity*. First, in terms of geographical scope and research sample, this study was only conducted on three motor vehicle financing institutions operating in the Air Putih District, Batubara Regency, so the findings produced cannot be *generalizable* directly to represent the condition of the entire financing industry in North Sumatra and Indonesia as a whole. The number of informants involved in the interviews was relatively limited, considering that some debtors were reluctant to provide information publicly due to concerns about legal consequences and social relations with creditors. This limited data *accessibility* has the potential to affect the depth and representativeness of empirical findings, so that the results of this study are more appropriately understood as *preliminary findings* that open up space for further studies with a wider scale and more diverse methodologies²⁸.

Second, from the dimension of the normative-philosophical approach, perspective analysis *al-ghunmu bil-ghurmi* in this study it is limited to the references to the classical jurisprudence books and contemporary Islamic legal literature available, without involving direct consultation with jurists (*Fuqaha*) or official fatwa institutions such as the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), so that the resulting interpretation is academic and cannot be claimed as a fatwa or a final view of Islamic law (*authoritative ruling*). In addition, this study has not integrated a comparative perspective (*comparative perspective*) with financing legal systems in other countries that also apply the principles of Islamic muamalat, such as Malaysia or Brunei Darussalam, which can actually enrich the analytical framework and provide more comprehensive policy recommendations. These limitations are expected to be on the research agenda (*research agenda*) which is followed up by subsequent researchers with a more inclusive and multidisciplinary approach.

CONCLUSION

Based on the juridical analysis and perspective of *al-ghunmu bil-ghurmi* that has been described, this study produces two main conclusions. First, the practice of handling non-

²⁷ Fischa Debbye Ammelia and Supriyono, "Settlement of Bad Loans According to Law Number 10 of 1998 concerning Banking," *Journal of Student Research (JSR)* 1, no. 5 (2023): 432–37.

²⁸ Tania Puji Andriani et al., "Juridical Analysis of Legal Protection for Debtors and Creditors for Bad Loans in a Credit Agreement (Research Study at BPSK Batam City)" 1, no. 2 (2023): 339–46.

performing loans that took place in the Showroom with the initials K2I, and CH in Air Putih District, Batubara Regency, was proven to deviate significantly from the applicable positive legal provisions. The unilateral withdrawal of the object of fiduciary guarantee without a valid procedure violates Article 29 and Article 32 of Law Number 42 of 1999 concerning Fiduciary Guarantees, Articles 4 and 18 of Law Number 8 of 1999 concerning Consumer Protection, as well as *the prudential* principles mandated by POJK Number 7/POJK.05/2022.²⁹ The rights of debtors are systematically violated, while creditors enjoy disproportionate profits.³⁰

Second, the perspective of *al-ghunmu bil-ghurmi* emphasizes that this condition is a form of *substantive injustice* in muamalat, because creditors obtain multi-layered profits without bearing the corresponding risk. This principle consistently strengthens positive legal norms that require the return of excess execution value to the debtor, so that the balance of *rights and obligations* between the two parties can be realized in a fair manner.

Based on the findings of this study, several recommendations were formulated aimed at various stakeholders. Motor vehicle financing institutions, especially those operating in the Batubara Regency area, are advised to immediately adjust the practice of handling non-performing loans to the applicable laws, including prioritizing a *restructuring* mechanism before taking executive action. In addition, standard clauses in financing agreements that are contrary to the Consumer Protection Law must be revised so as not to harm the debtor. To the Financial Services Authority (OJK), it is recommended to increase *supervision* of non-bank financing institutions in the regions, especially those operating in informal schemes, to ensure compliance with POJK Number 7/POJK.05/2022.

To *policy makers*, it is recommended to integrate the ethical values of muamalat, including the principle of *al-ghunmu bil-ghurmi*, as a moral reference in the preparation of more equitable financing regulations. This approach is important considering that the majority of economic actors in Indonesia are Muslim communities who uphold the values of balance and fairness in transactions. To the next researcher, it is recommended to expand the scope of the study to other districts in North Sumatra to get a more comprehensive picture of the implementation of creditors' and debtors' rights in the practice of motor vehicle financing in Indonesia.

²⁹ "Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees," 1999.

³⁰ "DECISION Number 2/PUU-XIX/2021," no. November 2020 (2021).

REFERENCES

Journals

- Ammelia, Fischea Debbye, and Supriyono. "Penyelesaian Kredit Macet Menurut Undang-Undang Nomor 10 Tahun 1998 Tentang Perbankan." *Journal of Student Research (JSR)* 1, no. 5 (2023): 432–37.
- Andriani, Tania Puji, Siti Nurkhotijah, Christiani Prasetyasari, Program Studi, Ilmu Hukum, Fakultas Hukum, Universitas Batam, Kota Batam, Kepulauan Riau, and Tania Puji Andriani. "Analisis Yuridis Perlindungan Hukum Terhadap Debitur Dan Kreditur Atas Kredit Macet Dalam Suatu Perjanjian Kredit (Studi Penelitian Di BPSK Kota Batam)" 1, no. 2 (2023): 339–46.
- Apsaridewi, Komang Indra, Fakultas Hukum, and Universitas Hindu Indonesia. "Tindakan Hukum Penyelamatan Kredit Bermasalah Pada Bank" 17 (2023): 59–73.
- Fadilah, Gamal, Eka Widiya Fradinda, and M Sakhi Awwah. "Analisis Konsep Sistem Operasional Landasan Hukum Dan Jenis Lembaga Jasa Keuangan Khusus Di Indonesia" 11, no. 01 (2026): 41–56. doi:10.37366/jespb.v11i01.3063.
- Farizki, Indhona Lukman. "Peran Lembaga Keuangan Syariah Dalam Meningkatkan Perekonomian Melalui Pembiayaan Modal Kerja Pada UMKM Di Jepara." *Al-Sharf Jurnal Ekonomi Islam* 5, no. 3 (2024): 338–54.
- Hartati, Nani. "Peran Bank Dan Lembaga Keuangan Dalam Pengembangan Ekonomi : Tinjauan Literatur" 1, no. 2 (2023): 35–44.
- Hidayah, N., & Tarigan, T. M. (2023). Wanprestasi Perjanjian Kerja PT Perkebunan Nusantara II Medan dengan Pensiunan Karyawan. 6(2).
- Ihsan, Deni Maulana, Rama Dwi Aryandhes, and H Abid. "Peran Ekonomi Syariah Terhadap Perkembangan Ekonomi Indonesia" 03, no. 03 (2025): 1439–46.
- Justice, Jurnal. *Analisa Yuridis Terhadap Parate Eksekusi Atas Obyek Jaminan Hak Tanggungan*. Vol. 5, 2023.
- Maharani, Nurul Sandra, Sri Widya Harahap, Afrian Andika Yumna, Universitas Islam, and Negeri Sumatera. "Peran lembaga keuangan mikro dalam meningkatkan" 18, no. 1 (2024): 1248–54.
- Marunta, Ristiyanti Ahmadul, Nahda Afniatul Ataya, and Anggun Pratiwi. "Economics and Digital Business Review Peran Lembaga Keuangan Syariah Dalam Mendorong Pertumbuhan Ekonomi: Studi Pustaka Berbasis Ekonomi Makro Islam" 7, no. 1 (2025): 211–22.
- Marzuki, Ismail. "Analisis Wacana Kritis (Teori Dan Praktik)." *Universitas Pendidikan Muhammadiyah Sorong. UNIMUDAPress*, 2023.
- Marzuki, Peter Mahmud. *Pengantar Ilmu Hukum*. Prenada Media, 2021.
- Masri, Esther, and Sri Wahyuni. "Restrukturalisasi Kredit Perbankan Sebagai Upaya Penyelamatan Kredit Bermasalah Pada Masa Pandemi Covid-19" 16, no. 2 (2022): 259–66.
- Meha, M., Ramadhan, M., & Nasution, J. (2023). Hubungan Persepsi dan Preferensi Atasbagi Hasil Pembiayaan Mudharabah Musytarakah terhadap Minat Menjadi Peserta Asuransi Syariah. *ManBiz: Journal of Management & Business*, 2(1), 62–80.

- Mentari, Inda Rahadiyan dan Nikmah. "Keterbukaan Informasi Sebagai Mitigasi Risiko Peer To Peer Lending (Perbandingan Antara Indonesia Dan Amerika Serikat)," 2021, 325-47. doi:10.20885/iustum.vol28.iss2.art5.
- Miosido, Marthinus Calvin. "Restrukturisasi Kredit Sebagai Upaya Perlindungan Bagi Kreditur Dan Debitur Dalam Upaya Penyelesaian Kredit Bermasalah" 7, no. 2 (2024): 848-58.
- Muda, I., & Efendi, R. (n.d.). Wokshop owner's responsibility for motorcycle damages after repair: Wahbah az-zuhaili's prespective case study of north Padang lawas regency, Padang bolak district.
- Muharajabdinul, and Abdul Latif. "Peran Lembaga Keuangan Dalam Meningkatkan Kesejahteraan Masyarakat" 4,no.1 (2025): 25-35. doi:10.54259/manabis.v4i1.3625.
- Nurhamda, Dayu Rizki, and Muhammad Ikhsan Harahap. "Four Pillars of Sharia Microfinance Institution Development: Empat Pilar Pengembangan Lembaga Keuangan Mikro Syariah" 10,no.2(2025): 1-14. doi:10.21070/acopen.10.2025.11948.
- Peran, Menggali, Lembaga Keuangan, and Mikro Syariah. "Menuju Peningkatan Kesejahteraan Ekonomi: Menggali Peran Lembaga Keuangan Mikro Syariah," 2024, 179-87.
- Permatasari, Rena Anggi. "Tinjauan Yuridis Penyelesaian Kredit Bermasalah Melalui Lelang Hak Tanggungan." *Indonesia Journal* 4, no. 2 (2023): 1-9.
- Semaun, Syahriyah. "Peran Instrumen Keuangan Syariah Dalam Mendorong Stabilitas Ekonomi Nasional," 2025, 1-9.
- Siregar, W. P. H., & Permata, C. (2023). Analisis Hukum Terhadap Klausula Eksonerasi pada Nota Laundry di Kecamatan Padang Hilir, Kota Tebing Tinggi Perspektif Wahbah Az-Zuhaili. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 5(1), 215-228.
- Sitompul, Ida Lamsihar. "Perjanjian Kredit Anatara Kreditur Dengan Debitur Yang Diiikat Dengan Hak Tanggungan (Studi Lapangan Kantor Bank Pekreditan Rakyat (Bpr) Tiga Juhar Kabupaten Deli Serdang)" 3, no. 2 (2021): 319-29.
- Wijayanto, Agung. "Strategi penyelesaian hutang: Hak kreditur konkuren dan jaminan aset debitur," 2024, 148-63.

Books

Zulham, Hukum Perlindungan Konsumen, Jakarta: Prenada Media, 2017, hlm. 71.

Legislation

"Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek Voor Indonesie)," 2015.

"Nomor 7/Pojk.05/2022 Tentang Perubahan Atas Peraturan Otoritas Jasa Keuangan Nomor 35/Pojk.05/2018 Tentang Penyelenggaraan Usaha Perusahaan Pembiayaan," no. 6795 (2022).

"Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 7 /Pojk.05/2022 Tentang Perubahan Atas Peraturan Otoritas Jasa Keuangan Nomor 35/Pojk.05/2018 Tentang Penyelenggaraan Usaha Perusahaan Pembiayaan," no. 125 (2022).

"PUTUSAN Nomor 2/PUU-XIX/2021," no. November 2020 (2021).

"Undang-Undang Republik Indonesia Nomor 42 Tahun 1999 Tentang Jaminan Fidusia," 1999.

“Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen,” 1999.

Kitab Fikih Klasik

Al-Syafi'i, M. I. (t.t.). *Al-Umm*. Dar al-Ma'rifah.

Al-Zuhayli, W. (t.t.). *Al-Fiqh al-Islami wa Adillatuhu* (Jilid V). Dar al-Fikr.

Ibnu Qudamah, A. (t.t.). *Al-Mughni* (Jilid IV). Maktabah al-Qahirah.