

Credit or Financing Analysis in Banking Institutions in the Perspective of Qiyas

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Abstract: Banks, including Islamic banks, prioritize caution when lending money by using credit analysis methods like the 5C and 7P frameworks. Before approving a loan or financing request, banks assess applicants to minimize the chance of defaults. Questions arise regarding the law of credit analysis in banks from the perspective of the Qur'an, which is the source of Islamic economic law. This research is qualitative research with a normative juridical approach by examining legal verses in the Qur'an and linking them to qiyas. The research results show that verse 5 and 6 of the an-Nisa contain a prohibition on handing over assets to people who are not competent to manage them and contain orders to carry out tests before handing over a funds. The law contained in the condition is that in the case of incompetence in managing funds, testing is required before handing over the funds. Overall, the study concludes that credit analysis practices in banks align well with these principles, making them not only advisable but also encouraged under Islamic law.

Introduction

In the banking world, analyzing credit or financing applications has become a standard practice. Article 8 of the Republic of Indonesia Law number 10 of 1998 concerning Banking states that: "in providing credit or financing based on sharia principles, commercial banks are required to have confidence based on in-depth analysis." This provision is reaffirmed through the attachment to the Regulation of the Financial Services Authority of the Republic of Indonesia number 42/POJK.03/2017 which requires banks to develop and implement clear credit and financing policies (Amelia, 2023).

Banks in collecting funds from the public (*surplus units*) and distributing funds to the community (*deficit units*) through financing or credit need to prioritize the *prudential banking principle* (Abubakar, 2018; Budiman & Supianto, 2020; Risantyo, 2022). According to Ninih Ernawati, the main goal of this principle is to keep banks financially stable and to make sure they follow the legal rules and standards in the banking world (Abubakar, 2018; Ernawati, 2023).

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When banks decide who qualifies for credit or financing, they take a very careful approach, often called credit analysis (Masril, 2020; Setiawati Masril, 2020). As described by Eti Mul Erowati and colleagues, drawing on Dine Agustine Sukma et al., this assessment relies on several well-known criteria: the "5Cs" (Character, Capacity, Capital, Collateral, and Economic Conditions), and 7P, namely *Party, Personality, Purpose, Prospect, Payment, Protection, and Profitability* (Abubakar, 2018; Arista, 2023; Budiman & Supianto, 2020; Damanik, 2020; Ernawati, 2023; Erowati et al., 2023; Risantyo, 2022; Salamah, 2023; Sjojfan, 2015). Meanwhile, according to Ade Salamah, it is added with the 3R principles, namely *Return, Repayment, and Risk Bearing Ability* (Abubakar, 2018; Arista, 2023; Budiman & Supianto, 2020; Damanik, 2020; Ernawati, 2023; Erowati et al., 2023; Risantyo, 2022; Salamah, 2023; Sjojfan, 2015). This credit analysis aims to ensure that funds that are assets or productive assets placed by banks will not become non-performing loans (*Bad Loans*) or non-performing loans (*Non-Performing Loans*). As mentioned by Samuel Sianipar, banks need to conduct adequate studies on the fairness of data and information from consumers in order to avoid wrong conclusions and decisions (Abubakar, 2018; Budiman & Supianto, 2020; Risantyo, 2022; Sjojfan, 2015). In granting credit or sharia financing, banks are required to be confident in the customer's ability to repay, which is determined through a thorough evaluation of potential borrowers or debtor customers. This cautious approach aligns with legal requirements for both conventional and Islamic banks to ensure financial prudence (Damanik, 2020; Damanik & Prananingtyas, 2019).

According to Bank Indonesia Regulation number 7/2/PBI/2005 concerning Asset Quality Assessment of Commercial Banks which has been amended several times up to Bank Indonesia Regulation number 14/15/PBI/2012 concerning Asset Quality Assessment of Commercial Banks, it is stated in article 1 that the provision of bank funds to earn income, including in the form of credit (or funding), is a productive asset of the bank. Article 2 underscores the importance of banks adhering to the principle of prudence in their funding activities. This means banks are required to take necessary measures to maintain the quality of their assets, ensuring they remain in good standing (Bank Indonesia, 2012; BI, 2012; Indrawati, 2021). And in article 10 it is stipulated that credit quality is determined based on three assessment factors consisting of: *First*, business prospects, assessment of business prospects include an assessment of the components of business potential, market conditions and the debtor's position in competition, management quality and labor problems, as well as support from groups or affiliates, and efforts made by the debtor in order to maintain the environment. *Second*, debtor performance, assessing customer performance involves evaluating several key factors, including profitability, capital structure, cash flow, and sensitivity to market risk. *Third*, ability to pay, assessment of solvency includes an assessment of the components of the accuracy of principal and interest payments, the availability and accuracy of debtor financial information, the completeness of credit documentation, compliance with financing agreements, suitability of credit use, and the reasonableness of the source of payment of obligations. This has also been affirmed in Bank Indonesia Circular Letter No.

7/3/DPNP dated January 31, 2005 concerning the Assessment of the Asset Quality of Commercial Banks (Bank Indonesia, 2005).

Similarly, with the transfer of regulatory and supervisory responsibilities from Bank Indonesia to the Financial Services Authority, the authority reinforces that bank funds provided to generate income (or funding) are considered productive assets. Therefore, banks are obliged to manage their assets based on prudence as mentioned in Articles 1 and 2 of the Financial Services Authority Regulation number 40/POJK.3/2019 concerning Asset Quality Assessment of Commercial Banks (Siregar, 2018). And in order to maintain the quality of its assets, banks must take the necessary steps so that the quality of assets remains good (OJK, 2019). The main provisions issued by the central bank and the authority that are applied to conventional banks are also applied to Islamic banks. With POJK number 2/POJK.03/2022 concerning Asset Quality Assessment of Sharia Commercial Banks and Sharia Business Units, it is reaffirmed that the provision or distribution of Islamic bank funds to obtain income is a productive asset of the bank. Therefore, it must be managed based on the principle of prudence and sharia principles, which in its implementation the bank is obliged to assess and take steps to maintain the quality of the bank's assets in good condition. In the form of implementing the prudential principle in distributing funds, Islamic banks must implement risk management and business feasibility analysis which includes the 5Cs (*character, capital, capacity, condition of economy, collateral*) as well as an assessment of aspects of business prospects, performance, and solvency. These requirements are outlined in POJK No. 2/POJK.03.2022, specifically in the explanation of Article 2 (OJK, 2019; Risantyo, 2022; Siregar, 2018).

In carrying out its business activities, the sharia bank implements the Islamic system, involving many customers who are Muslims and other customers who submit to Islamic law. Often, people, especially those who are Muslims, want to know the law of credit analysis or business feasibility analysis from the perspective of Islamic law. There has been no scientific study that examines this, nor has there been any scientific research that examines it. For this reason, the author is interested in exploring this topic further. This research aims to answer questions about the legal framework governing credit analysis in banks, including Islamic banks, from the perspective of sharia economic law. In particular, it will examine these practices in light of the Qur'an, which serves as the foundation of muamalah fiqh law. Especially in the perspective of qiyas towards the verses of the Qur'an. This question is important to answer considering that Muslims and economic actors who submit themselves to Islamic law need to have an understanding of the law which is sourced from the Qur'an as the main source of law so as to increase confidence and compliance with the Islamic economic system.

From the description above, the problems to be researched include, for credit or financing analysis in banks, including sharia banks in the perspective of the Qur'an. As well as analyzing credit or financing using qiyas against the verses of al-ahkam in the Qur'an.

Method

This legal research adopts a qualitative approach using normative or doctrinal juridical methods, which focus on analyzing written legal texts. (Benuf & Azhar, 2020a; Jonandi Effendi, 2018; Cornelius Benuf & Muhammad azhar, 2020; Yanova et al., 2023). As the normative juridical characteristics of the study explain in a structured manner the norms that govern certain areas of law and the correlation between legal norms (Benuf & Azhar, 2020a; Jonandi Effendi, 2018; Cornelius Benuf & Muhammad azhar, 2020; Yanova et al., 2023). In the study, relevant norms and doctrines will be collected and then analyzed on them. Therefore, in this study, Islamic norms and laws contained in the legal verses (*ahkam*) in the Qur'an will be examined as a source of norms and laws to be analyzed by examining the correlation between the norms contained in them and norms and doctrines as well as principles in economic law that live and develop in society, especially economic actors in the present through qiyas. It also examines doctrines and principles in economic law that are active and evolving within society, particularly among contemporary economic actors, using the method of qiyas (analogical reasoning).

Thus, the object of this research is the legal norms contained in the verses of *ahkam* in the Qur'an, especially verses 5 and 6 of surah an-Nisa' as well as the provisions of qiyas in ushul fiqh and its application is associated with legal norms related to credit analysis in the banking system. As is typical in normative legal research, this study utilizes library research, where data is gathered through literature studies by reviewing relevant books, articles, and regulations related to the issue being examined (Benuf & Azhar, 2020b, 2020a; Cornelius Benuf & Muhammad Azhar, 2020).

Therefore, in this study, data was collected from the source, namely the book of the Qur'an and its tafsir, the book of ushul fiqh, regulations related to banking in Indonesia such as Bank Indonesia Regulations and Financial Services Authority Regulations, as well as books, legal literature and related scientific works. From the collected literature data, the verses of *ahkam* in the Qur'an and their interpretations were examined. This allowed for identifying the verses most relevant to the law of safeguarding assets and their management. These verses were then linked to *qiyas* (analogical reasoning) in relation to legal norms governing credit analysis in banks. Data analysis was carried out using qualitative analytical descriptive techniques, in which data was compiled, decomposed and described systematically and analyzed qualitatively.

Results and Discussion

Qiyas as a Method of Discovery of Islamic Law

Qiyas in Amir Syarifuddin's view as quoted by Edy Muslimin is a way of using *ra'yu* to explore sharia law in matters or affairs that the *nash* of the Qur'an and/or al-Sunnah does not clearly stipulate the law. Since the use of *ra'yu* in *qiyas* still refers to *nash* (scriptural texts), it can be said that *qiyas* indirectly relies on *nash*, even though it is not applied directly. This means that while *qiyas* involves analogical reasoning, it is still grounded in the

foundational principles of the Qur'an and Hadith. (Amin, 2022; Mahsun & Hakim, 2021; Muslimin, 2019; Sofi Zihan, 2019; Surono, 2012; Ulfa, 2019; Zainuddin, 2022; Zihan, 2019). According to Abu Zahrah as quoted by Moch Mahsun and Imamul Hakim, qiyas is to connect or correlate a case that has no legal nash to another case that has legal nash because the two are united in 'illat law. Similarly, according to Imam Baidhowi, *qiyas* involves establishing a known law for something else that is also known, based on the shared *'illat* (legal cause or reason) between the two, as affirmed by scholars who support this view (Mahsun & Hakim, 2021; Ulfa, 2019; Zainuddin, 2022).

Qiyas is the fourth source of law in worship and muamalah considering that qiyas is needed to expand the law contained in it, so that the Quran and as-Sunnah become the source of law for events that have not happened before (Mahsun & Hakim, 2021; Ulfa, 2019; Zainuddin, 2022). Thus, there are four primary legal sources that guide the lives of Muslims, including in economic activities: the Qur'an, al-Hadith, *ijma'* (consensus), and *qiyas* (analogical reasoning). These sources collectively form the foundation of Islamic law, shaping various aspects of life, including financial and economic practices. (Hasan, 2021; Ulfa, 2019).

There are four pillars or constituent elements of qiyas according to Abdul Wahab Khallaf as quoted by Muhammad Syarif Hidayatullah, namely *al-aşl*, *al-far'u*, *hukm al-aşl*, *al-'illah* (Hidayatullah, 2020; Muhammad Syarif Hidayatullah, 2020). The pillars are explained as follows:

1. *Al-Aşl* (الأصل) or the main case, which is an old case in which there is a legal stipulation in the nash al-Qur'an or al-Hadith. *Al-Aşl* is also called *musyabbah bih* (المشبه به) or similar and *maqīs 'alaih* (المقيس عليه) or qiyas resting place or qiyaskan place. *Al-aşl* (tree) is something that is defined by the law which is a measure or place to resemble or *qiyas-kan* (Hidayatullah, 2020; Muhammad Syarif Hidayatullah, 2020). *Al-aşl* is a case that will be used as a measure or comparison. *Al-aşl* must meet the following conditions:
 - a. It must have a fixed law.
 - b. The legal stipulation is based on *the path of sam'i shar'i*, not *aqli*.
 - c. It is not *al-far'u* for other *al-aşl*, meaning that the legal ruling in *al-aşl* is derived from nash in the Qur'an, al-Hadith, or *ijma'*, and not based on qiyas. In this case, *al-aşl* refers to the primary legal sources, while *al-far'u* would be the secondary rulings derived from analogy or *qiyas*.
2. *Al-Far'u* (الفرع) or branch, which is a new case that will be sought by law or equated with an existing case. *Far'u* is something whose law is not contained in the nash of the Qur'an and al-Hadith so that it will be similar or *qiyas-kan*. According to Abdul Wahab Khallaf as quoted by Ahmad Masfulul Fuad, *al-far'u* is also called *al-maqīs* (المقيس) or *al-musyabbah* (المشبه) (Fuad, 2016a, 2016b; Putri & Okta, 2020). It must have conditions among them (Fuad, 2016a, 2016b; Putri & Okta, 2020):
 - a. It does not have its own laws that are determined based on the nash of the Qur'an and/or al-Hadith.
 - b. It was found *that the level of illate was not less than the level of illate in al-aşl*.
 - c. There is no earlier than *al-aşl* (tree).

3. *Hukm al-aṣl* (حكم الاصل) is the main law established by the nash on *al-aṣl* and is required to establish the law against *al-far'u*. Or the law of sharia which is enshrined in the main point which will then become the law for the branch (Masyhadi, 2020; Maulana, 2018). The requirements for *hukm al-aṣl* are (Masyhadi, 2020; Maulana, 2018):
 - a. It is a sharia law that is related to human deeds.
 - b. can be traced 'illat the law.
 - c. It must be *ma'qūl al-ma'na*, which is rational and can be digested by reason.
4. *Al-'Illah* (العلة) is the nature or circumstance that is the reason or basis for the determination of the law on the subject, and this 'illat is also found in the branch that the law will be sought. *Illat* is also referred to as the purpose or benefit intended by the Shari'ah and plays a crucial role in *qiyas* (Iskandar et al., 2022; Kaizal Bay, 2012; Surono, 2012). It serves as the reason that connects the root (the original case) with its branches (the derived cases), acting as the underlying cause that justifies the application of the same legal ruling to similar situations. It is something that is strongly suspected to be the reason for the determination of the law of Allah and His Messenger. Therefore 'illat must be qualified (Iskandar et al., 2022; Kaizal Bay, 2012; Surono, 2012):
 - a. It is something real (clear) and observable.
 - b. It is a definite and certain trait, no different because of the differences between people in their environmental circumstances.
 - c. There must be a connection (*munāsabah*) with wisdom, in the sense that there is a relationship between the law and 'illat in order to apply *maqāsid al-shari'ah*, because the essential motive of the shari'at and the purpose in question is the wisdom of the law. Similar to the prohibition of *khamar* (alcohol), the *munāsabah* (appropriate reasoning) for its prohibition lies in its intoxicating effect, as the wisdom behind prohibiting *khamar* is to preserve and protect the intellect. Therefore, it is not appropriate to give 'illat with qualities that are not *reasonable* with its laws and wisdom, such as the prohibition of *khamar* with color.
 - d. It is not the opposite of *the nash* that is *qaṭ'iy*.
 - e. It is not a trait that only exists in *al-aṣl*, because if 'illat only exists in *ashal* then it cannot be *qiyas*, considering that *qiyas* can only be done if there is the same nature on two or more events. لأجل كي فلا يكون

To find out *illat* can be taken through several ways, namely *al-nash*, *al-ijmā'*, and research/*ijtihad* (Ahmad Komarudin, 2022; Daud et al., 2023). The three ways are explained as follows:

1. *Nash* (verse of the Qur'an or an al-Hadith) itself which shows a property that is the 'illat of the law of a matter, either in the form of *ṣarīh* (light) with Explanatory words such as "لأجل" (because of), "كي" (so that), "لا يكون" (so that it is not), as found in the Qur'an, particularly in Surah an-Nisā' (4:165) and Surah al-Ḥasyr (59:2), are used to indicate the 'illat (reason) behind certain rulings. Additionally, *isyārah* (indication) and specific words like *lam*, *ba'*, *anna*, and *in*—as seen in Surah az-Zāriyāt (51:56) and Surah al-Isra' (17:78)—also contain implicit references to

'illat, signaling the purpose or reasoning behind certain laws or actions. These linguistic markers help clarify the underlying wisdom and objectives of Shari'ah rulings.

2. *Ijma'* (consensus) of scholars reveals the *'illat* (reason) behind a particular ruling. This means that the *'illat* is established based on the collective agreement of the *ulama'* (scholars), who determine the underlying cause or rationale for a legal ruling through their unified opinion.
3. Through research, which according to Abdul Wahab Khallaf as quoted by Zakiul Fuady Muhammad Daud and his colleagues that the research was carried out includes (Ahmad Komarudin, 2022; Daud et al., 2023):
 - a. *Munāsabah*, which is the conformity between a thing, state or nature with a command or prohibition. There must be a reasonable relationship, by taking advantage (*jalb al-maṣālih*) and rejecting harm (*dar' al-mafāsīd*) or rejecting harm (*daf' al-ḍarar*).
 - b. *Al-Sabr wa al-Taqsīm*. What is meant by *al-Sabr* is to examine the possibilities, while *al-Taqsīm* is to select or separate. So *Al-Sabr wa al-Taqsīm* is to examine the possible properties of an event or occurrence, then separate or choose between those qualities, which is most appropriate as a 'legal *illat* .
 - c. *Tanqīq al-Manāṭ*, which is to explore and collect the qualities that exist in *al-aṣl*, dig up the correlation to be sought that has similarities, then the elimination or elimination of dissimilar qualities is carried out, so that there is one trait that is most appropriate to be used as a 'law. For example, the law of *khamr* is haram as affirmed in the verse of the Qur'an. Regarding the *'illat* of the haram of *khamr* is not mentioned in the Qur'an nor *al-Hadith* nor *ijma'*, research was carried out in which *khamr* has intoxicating properties (*iskār*). In addition, *khamr* also has the property of bringing *ḍarar* (danger) to humans. After research, it turns out that "intoxicating" is a fixed trait in *khamr*. If in a certain situation there is *khamr* not intoxicating, then only casuistic cannot shift its true nature. Meanwhile, the nature of causing *ḍarar* (harm) to humans is considered unsuitable as the *'illat* (reason) because the impact of *ḍarar* can vary from one individual to another. Therefore, properties such as intoxication are chosen as the *'illat* since they have a consistent effect on individuals, impairing their intellect and judgment, which justifies their prohibition (Fuad, 2016a, 2016b; Putri & Okta, 2020).

According to al-Amidi and ash-Shaukani in the book Abdul Wahab Khallaf as quoted by Muhd Farabi Dinata, based on the strength of the *'illat* found in *al-fur ū'* (branches) compared to the *'illat* found in *al-aṣl*, *qiyas* can be divided into three parts (Fuad, 2016a, 2016b; Putri & Okta, 2020):

1. *Qiyās Aulawī* (قياس اولوی); i.e. *qiyas* in which the application of the law to *al-fur ū' is* stronger (*aular*) than the application of the law to *ashal* because of the power of *'illat* in *al-fur ū'*. For example, the legal provisions in the Qur'an surah *al-Isrā'* verse 23 are the command to do good to both parents and the

prohibition of saying the word uff (or other similar words such as hus) and yelling at parents, as mentioned in the verse:

وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا ۖ إِنَّمَا يُبَلِّغُنَّ عِنْدَكَ الْكِبَرَ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا أُفٍّ
وَلَا تَنْهَرُهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا

"And your Lord has commanded that you should not worship other than Him, and that you should do good to your parents and fathers as best you can. If one of them or both of them reaches the age of your care, then do not say to them the word "ah" and do not yell at them and speak to them a noble word" (Ministry of Religion of the Republic of Indonesia, 2019).

*The law is to hurt the feelings of both parents. Then how is the law for children to say the words "You are the devil" or "You are a dog" to their parents? From these two events, it is clear that the feelings of parents are more painful when they are scolded and cursed by their children with the words "You are the devil" or "You are a dog" than when you say "ah. The law regarding children hitting their parents is more severe than that for verbal harm, as physical harm causes greater emotional distress to parents. This shows that the ruling for *al-furu'* (derived cases) is stricter than for *al-aṣl* (original cases), due to the more direct and significant impact of physical harm. Considering that the main law of pronouncing the word "ah" by a child to his parents is forbidden, if qiyasan is carried out against him, it is concluded that the law of promoting the word "You devil" or "You are a dog" or even the act of hitting a child to his parents is more forbidden (Naya, 2015; Prawira et al., 2023; Tohari, 2016; Zainuddin, 2022). Another example is the main law in Surah al-Isrā' verse 32, which is the prohibition of approaching adultery because it is a heinous act (*fākhisyah*) and a bad way, as affirmed in the verse:*

وَلَا تَقْرُبُوا الزِّنَىٰ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

"And do not approach adultery; indeed, adultery is a heinous act and a bad way".

The main law of the act of approaching adultery or an act that leads to or triggers adultery by humans against other human beings is prohibited. Through the existing nash and the study of verse 23 of *Surah al-Isrā'*, it is understood that *'the legal illat* is to commit sexual deviation that is contrary to the Shari'a. Although Surah al-Isra' (23) does not contain an explanatory word indicating the *'illat* (reason) for the law, other verses provide clear indications of the harmful effects and severe consequences of adultery. For instance, Surah an-Nur (24:2-3), Surah al-Furqan (25:68), and several hadiths of the Prophet PBUH highlight the dangers and punishments associated with adultery, establishing the *'illat* for its prohibition. If qiyasan is carried out against the law in that paragraph, it can be explained as follows:

- a. Emphasis on deeds (al-fi'l)
If the act of approaching or the act leading to adultery such as saying pervert or committing khalwat (being alone in a quiet place) or intending to commit adultery, the law is prohibited based on verse 32 of Surah al-Isrā', then the act of committing adultery, namely sexual intercourse without a marriage bond, is more prohibitive.
- b. Emphasis related to the object of the act or the affected victim
If a man approaches adultery with another adult woman, the law is prohibited based on the meaning of verse 32, then the law is more prohibited for men to commit adultery or sexual relations with children who have not yet reached puberty or with their own children. Therefore, it is natural in Indonesia that incest or rape of one's own child is threatened with a heavier penalty than rape of another adult woman (Afifah & Luciana Sari, 2021). Likewise, for rape where the victim is a person with a disability, the sanctions will *be aggravated (Afifah & Luciana Sari, 2021)*.
- c. Emphasis on the perpetrator of the act (al-fā'il or subject)
If an ignorant (uneducated) man or an ordinary citizen approaches or commits adultery with another woman is forbidden, then a man who is alim (ulama'), religious, educated, and knows the sharia commits adultery, then the law is more forbidden. *Those who are pious, such as religious scholars (ulama'), devout individuals, and those who are educated and knowledgeable about Shari'ah, are the ones who have received the call to follow the teachings of Islam, as mentioned in the Qur'an, Surah Al-Isra' (17:15). Because they have been given this knowledge, they bear a greater responsibility. If they knowingly commit violations of the Shari'ah, they carry the burden of sin. The deeper your understanding of the Shari'ah, the more serious it becomes when you deliberately ignore or go against it. The greater the knowledge, the greater the accountability, and the consequences of disobedience become more significant.*
- d. Emphasis related to the matter or condition when the act is done
If an adult man approaches adultery or commits adultery with another woman in a voluntary state (consensual), the law is prohibited, then a man who commits adultery with another woman by force or rape even accompanied by threats or deception is more prohibited. Likewise, *when rape has fulfilled the elements of committing chaos and damaging honor, it is subject to a heavier punishment than adultery (Abdullah Lawang et al., 2022; Marzuki & Siroj, 2023; Muchlis & Nurjannah, 2022; Suryandi et al., 2020)*.
- e. Emphasis on the place and atmosphere when the act is done
If a man approaches adultery secretly in a closed place for his own personal purposes only, then a man who approaches adultery openly in an open place in a public space and even publishes it is more forbidden. So it is natural in Indonesia *that the spread of pornography through social media will be carried out preventive action involving many elements in society, as well as repressive action by involving all*

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elements of law enforcement consisting of the police, prosecutor's office, courts, and corrections. In fact, the police can be more active in carrying out investigations and investigations into matters suspected of pornography crimes (Ratu Agung Dewangga Arinatha Gunawan et al., 2021).

2. *Qiyas Musawi (قياس مساوي); That is, qiyas whose legal force in furū' is the same as in ashal because the power of 'illat is the same. Example: The main law of the act of eating the property of orphans is prohibited, as affirmed in the Qur'an in Surah an-Nisa' verses 2 and 10, namely:*

وَأْتُوا الْيَتَامَىٰ أَمْوَالَهُمْ وَلَا تَتَّبِعُوا الْحَبِيبَ بِالطَّيِّبِ وَلَا تَأْكُلُوا أَمْوَالَهُمْ إِلَىٰ أَمْوَالِكُمْ إِنَّهُ كَانَ حُوبًا كَبِيرًا

“And give to the orphans their treasures, do not exchange the good for the bad and do not eat their treasures with your treasures. Actually, these actions (exchanging and eating) are a great sin” (Ministry of Religion of the Republic of Indonesia).

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا وَسَيَصْلَوْنَ سَعِيرًا

“Indeed, those who eat the treasure of orphans in a deceitful manner will swallow the fire in their stomachs and they will enter into the blazing fire (hell)”.

In verse 2 of Surah An-Nisa' (4:2), two prohibitions are mentioned: one against swapping an orphan's good property for bad, and another against mixing their property with your own to take advantage of it. Both actions are unjust and exploit the orphan's rights, emphasizing the need to treat them fairly and protect their possessions. Meanwhile, in verse 10 there is an affirmation that eating the property of an orphan in a tyrannical manner is the same as eating the fire of hell that burns into the stomach. Thus, the main law of the act of eating orphans' property is forbidden. From that, it is known that *the legal 'illat* is to spend the property of orphans illegally. So that an act that has the same nature as selling orphans' property carelessly can be qiyaskan to eat orphans' property because it contains *the same 'illat* yanga yanga (*sawā'*). *If the orphan's property is prohibited by law, then damaging the orphan's property or burning it or diverting it is also prohibited to the same degree.*

3. *Qiyas al-adnā* refers to a type of analogy where the reason (*illah*) for a ruling in a branch case is considered to be less significant than the reason for the original ruling. For example, the intoxicating effect of low-alcohol drinks like beer is less strong than that of *khamr* (wine), which is explicitly forbidden in the Qur'an. In this case, the analogy suggests that since *khamr* is prohibited due to its intoxicating nature, drinks like beer should also be avoided, even if their intoxicating effects are weaker.

Credit Analysis or Feasibility Analysis of Credit or Financing Applications in the Verses of the Qur'an.

The Quran contains general principles of a just and universal economy. These principles allow a practice or provision of economic law as long as it does not contradict the nash and there is no element of tyranny and/or tyranny. In Surah al-Baqarah verse 279, it is emphasized that in carrying out economic activities, there will be no conditions of persecution of other parties or persecution by other parties, as long as they comply with the rules set by Allah, including the rules regarding the prohibition of ribawi transactions.

Borrowing money and not returning it without the lender's consent, or mismanaging capital to the point of squandering it (*tabzīr*), is an unjust act that harms the owner of the funds. Such behavior is a form of tyranny and must be prevented, as it involves disrespecting the rights of others and causing them harm. It is important to manage financial matters responsibly and honor agreements to avoid such wrongdoings. Among the prevention efforts is the prohibition of handing over a number of assets to people who are not capable of managing them. It was also ordered to conduct inspections and tests on prospective property managers.

The handover of a certain amount of property to a *person who is safih* or lacks reason or is not capable of managing property is prohibited in the Qur'an surah an-Nisa' verse 5. Then it is continued that the examination or testing by the person who controls the property against another person to ensure his ability in the management of the property (*al-rushd*) before deciding to hand over a certain amount of property has been ordered in the Qur'an surah an-Nisa' verse 6. The two verses are interrelated and have the same purpose, namely so that property, especially property that is entrusted to another party, does not fall into the power of people who are not capable of managing it. The Qur'an in Surah an-Nisa' verse 5 confirms that:

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا وَارْزُقُوهُمْ فِيهَا وَاكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

"And do not give to those who are not perfect in their intellect, the treasures (those who are in your power) that Allah has made the staple of life. Give them groceries and clothes (from the proceeds of the goods) and speak good words to them."

In Surah an-Nisa' verse 5 of the Qur'an, it is clearly stated that a person who is not yet capable of managing property should not be entrusted with it. However, in the very next verse, verse 6, there is an instruction to assess or test an individual's ability before deciding whether they are ready to take on the responsibility of managing property. This emphasizes the importance of ensuring a person is truly capable and mature enough for such a task. Verse 6 is a process and means that is recommended so that the property that is entrusted can be handed over to people, namely by testing it until it has the ability (*al-rusyd*) to manage the property as affirmed in the verse:

وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ

"And test the orphans until they reach the age to mate. Then if you think they are intelligent (good at preserving treasures), then hand over their treasures to them."

The word al-Sufaha in verse 5 is about the rights of heirs and orphans, which is meant as the protection of orphans' property in the use of their property because they are still children or lack of reason or religion (Aini, 2023). Muhammad Husain ath-Thabathaba'i in al-Mizan fi tafsir al-Qur'an explains that what is meant by *sufahā'* in the verse is not only *sufaha'* from the orphans, but also includes those who are not orphans. In this verse there are instructions (*dalalah*) regarding general rules for the community that people need to *manage* their property properly and keep their property from becoming wasted and damaged. Therefore, the guardian or custodian of the **sufahā'** (those incapable of managing property) should not entrust the assets under their care to individuals, including the **sufahā'** themselves, who are not deemed fit to manage the property. This is because such individuals may have the potential to squander the assets (Anshori, 2022; Kurniawan & Khairunnisa, 2021). It is necessary for guardians or guardians to conduct testing and training (*ibtilā' and imtihān*) on people who are not yet capable, including orphans who in their custody are in time fit or able to manage a household (*awān al-nikāh*) and achieve skills as independent citizens (*mablagh al-rijāl*) (Anshori, 2022; Kurniawan & Khairunnisa, 2021).

Meanwhile, according to Ibn al-'Arabi in the book Ahkam al-Qur'an, it is explained that Allah SWT prohibits guardians from handing over property to *sufaha'*, and guardians or guardians are instructed to give explanations through good words such as "you will own and manage this property if you have the ability (*rusyd*) and are able to manage it" (Aini, 2023; Muhammad Ismail & Makmur, 2020). There are three opinions regarding the category of al-rushd; *first*, the opinion of al-Hasan and as-Shafi'i that it is proficiency in religious and worldly affairs, in the form of obedience to Allah and the management of property; *second*, Malik's opinion that it is proficiency in worldly affairs and understanding the entry and exit of wealth and keeping from *tabdzir*; *third*, Abu Hanifah's opinion that it is the achievement of puberty (Aini, 2023; Muhammad Ismail & Makmur, 2020).

Meanwhile, the tafsir of Al-Muyassar, as quoted by tafsirweb.com, explains that verse 5 teaches that guardians should not hand over wealth to those under their supervision—whether men, women, or children—who are likely to squander it. This is because such individuals may end up using the wealth for improper purposes, which would not align with the intended care and responsibility entrusted to the guardian. Meanwhile, Muhammad Sulaiman Al Asyqar in his tafsir Zubdatut Tafsir Min Fathil Qadir explained that children and people with weak intellect who do not know things that can improve their wealth and cannot stay away from things that can destroy and eliminate their property.

Meanwhile, Umar bin Abdullah al-Muqbil in the book Li Yaddabbaru Ayatih explained that verse 5 is an order to keep property from being handed over and regulated by people who are not yet perfect in mind, because

knowledge is more important than property. And giving property to those who do not have the ability to manage it is as tyrannical as withholding those who are entitled to their property. Allah bequeathed the treasure to the guardian who held it and managed it through the word *أَمْوَالِكُمْ* even though the treasure actually belonged to the person whose mind was not perfect. Until those who are not perfect in their intellect become mature and mature and attain *al-rushid* Allah bestows the treasure on them through the word *أَمْوَالَهُمْ* in the next verse.

In relation to the preservation of the property of orphans in the tafsir *Rawā'iu al-Bayān*, Ali Ash-Shabuni in interpreting Surah an-Nisa' verse 5 explains that children who have not yet reached puberty before their property is handed over to them must be trained to know their level of maturity. Meanwhile, in interpreting paragraph 6 of the letter, orphans or people who lack their intellect must be detained for the property, so that it appears that they are mature and able to manage and take care of their property (Arifin & Misaeropa, 2019; Badriyah, 2017).

In the linguistic analysis of the verses of the Quran, *al-amr* is an order to carry out what Allah SWT commands by indicating the mandatory or permissible or recommended law. While *an-nahy* is an order to stay away from or abandon acts that are forbidden by Allah SWT by indicating haram law or the recommendation to abandon the prohibition (Arifin & Misaeropa, 2019; Ikhsan & Nurdin, 2023; Julianto, 2020; Zulkarnaini, 2023). In other words, *an-nahy* is the prohibition of doing acts that are forbidden by Allah SWT by indicating haram or makruh law. In verse 5 of Surah an-Nisa' there is *la nahi* followed by *fi'il mudhāri'* in the form of the word *لَا تُؤْتُوا* which indicates the prohibition of doing something in *the fi'il*. Although there is still some debate regarding whether it is considered *haram* (forbidden) or merely a serious matter (*solemnity*), the existence of this prohibition clearly emphasizes the importance of refraining from such actions. For individuals who are still incapable (*safih*) and whose property is under the control of a guardian, the guardian is prohibited from handing over the property to them. This prohibition underscores the responsibility of the guardian to protect the assets from being mismanaged or squandered. This means that the guardian is ordered to refrain from giving property to the owner until he becomes legally competent and has maturity and managerial ability.

Furthermore, in verse 6 of Surah an-Nisa' there is *fi'il amar* in the form of the word *اِتَّبِعُوا* which indicates an order, in the sense of an obligation or at least an encouragement. The verse instructs property holders to test those who are not capable before handing over their property. Tafsir Al-Muyassar explained that it is commanded to test the people in their care, including from the group of orphans, to know their ability to manage their property well, so that when they reach the age of puberty and show piety in religion and the ability to maintain property, then immediately hand over the property to them. Meanwhile, the book *Zubdatut Tafsir Min Fathil Qadir* explains that the test is carried out by paying attention to their morals in order to find out their intelligence and ability to treat property, by giving it a small part of their property and telling them to manage the property so that their true ability in

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dealing with property can be known (Arifin & Misaeropa, 2019; Zulkarnaini, 2023).

Considering the existence of two *fi'il amar* in the form of *فَادْفَعُوا* then *فَادْفَعُوا* which is located after the word *إِنْ أَنْسَنْتُمْ*, it is not an exaggeration to understand that the condition of incompetence or lack of reason (*safah or safāhah*) is a temporary condition (*muaqqat*), not a permanent condition (*muabbad*). When testing has been carried out and succeeded in eliminating the condition of incompetence, so that *the condition of rusyd appears*, then the right or authority as a property manager also appears.

Credit Analysis on Credit Applications or Financing at Banking Institutions in the Perspective of al-Qiyas.

In the study of qiyas, the content of verse 5 of Surah an-Nisa' is:

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا وَارْزُقُوهُمْ فِيهَا وَاكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

There are traits or conditions that can prevent the handover of property so that the property is saved from damage, including improper performance, useless or *tabzir*. When research was carried out, it turned out that these traits could be observed, firm, specific, and related (*munāsabah*) to the purpose of law in the context of safeguarding property (*hifdzul māl*). Humans, both individually and institutionally, have an obligation to manage their assets wisely by planning for stability in their use. This includes setting priorities, fulfilling life needs, and ensuring that their actions do not harm others (Irwan, 2021; Wati & Ulrizan, 2024). Therefore, "not yet capable of managing property" is a fixed trait in cases related to the prohibition of handing over property as referred to in the verse associated with *safih or sufaha'* to children who are in the care of guardians. So it can be said that in paragraph 5 there is a legal *illat*, namely a condition that is not yet capable in managing assets.

The legal *illat* is *al-aṣl* as well as *maqis 'alaih*, while in the case of a person or legal entity that is not capable of managing the loan held by the bank, it is *al-far'* as well as *al-maqis*, which is a new event that is *qiyas*. Through the *qiyasan*, it can be known how the law is to hand over a number of assets in the form of loans or financing funds by banks to people or legal entities that apply for credit or financing facilities. That is, the law of handing over assets to people who are incapable or show poor *performance* in the management of assets (funds) is prohibited or at least *makruh*.

In the *qiyasan* of the law of the handover of property, 4 conditions have been met, namely: (1) the existence of *al-aṣl*, which is the main case as referred to in paragraph 5 of Surah an-Nisa' regarding the prohibition of handing over property to incapable persons, (2) *ḥukm al-aṣl*, which is the main law, which is forbidden (*haram* or at least *makruh*) as referred to in the pronunciation of *fi'il nahi* in the verse, (3) *al-far'* namely a new case that has not been mentioned in the law in NASH in the form of an event of giving or not giving a loan or debt or credit or financing by a bank to a credit or financing applicant, (4) *al-'illat* is a condition of incompetence or the existence of things that show *poor performance* in fund management or asset management. The result of the *qiyasan* is the conclusion that lending money or owing money or providing credit facilities or financing by banks to people who are not capable of

managing the money or have indications of poor financial management is prohibited by law (haram or at least makruh).

Furthermore, if it is associated with the type of qiyas, then in the legal qiyas, the transfer of assets or the distribution of funds by banks to people who are not capable of financial managerial against the main law in paragraph 5 of Surah an-Nisa' has met the criteria *of qiyas aulāwi*. By paying attention to the following connections:

1. Regarding the object in the form of property that will be handed over or will be detained. Objects in the form of property and ownership rights are closely related and are an important consideration before it is decided to be handed over or detained to credit applicants or financing facilities. Assets in banks (as *al-far*) are funds that are money belonging to the community or entrusted to the depositing customers, it is *aulā* (more important to be protected) than the assets in *al-aṣl*, namely the personal property of the children of the orphans or *safih* that are kept and managed by guardians or *guardians*. *Amwāl* (property) in verse 5 of Surah an-Nisa' as a verse of qiyas is personal property obtained from the transfer of rights through inheritance or the like. The property in question was not acquired from the deposits of the general public, and there was no mixing with public property. In contrast, **amwāl** (property) held by the bank can be considered as something to be **qiyased** (analogized) because it consists, either partially or entirely, of funds owned by the community or the public. This is a direct consequence of the bank's role as a financial intermediary, which involves the collection and distribution of funds. In the qiyasan, if the property whose status is indeed the property of people who are still not capable (*safih*), the property holder, namely the guardian who has power over the property, is prohibited from handing over the property to him (the person who is not yet capable), especially for the property belonging to the community or money belonging to the depositing customers or depository customers entrusted to the bank, of course, it is increasingly forbidden to hand over or lend by bank to other parties who do not speak. The result of the conclusion through the qiyas of *the qiyās aulāwi* type is that if you hand over to a child or a person who is not capable of managing property in the form of a number of assets whose ownership status is the property of the child or the person who is not yet capable of it, it is forbidden (haram or at least makruh), of course the prohibition will increase (muakkad) if you lend money or owe money or provide credit/financing facilities that are sourced from money belonging to the wider community that is entrusted to banks to people who are not capable of managing the money or have poor financial managerial indications.
2. Regarding the subject in the form of a person or group of people or legal entities who will be handed over or withheld from their assets. The subject in the form of a person or group of people is also closely related and is an important consideration before the property is handed over or withheld from it as a credit applicant or financing facility. The person to be handed over or to be withheld from the property in *al-far*' or *al-*

maqis is the prospective debtor who applies for a credit facility or financing at the bank aulā (greater or more needs to be considered) than the legal subject of the prospective recipient of the property in *al-ʿaṣl* (or maqis 'alaih), i.e. the son of the beneficiary or family or a person known by the guardian and in his care. In the first paragraph of Surah an-Nisa', the Qur'an emphasizes the importance of maintaining uterine relationships, which is then followed by instructions regarding the social system for orphans and the protection of their property in verses 5 and 6. From this series of verses, it is clear that there is an established relationship of kinship and mutual understanding between orphans and their guardians. This situation is distinct from the relationship between debtors and creditors in banking, which is generally limited to a financial transaction and lacks the personal or familial connection that exists between guardians and orphans. If a person who is known in the form of an unborn child or a relative or a family, even those who are cared for or owned by themselves in the trusteeship, a guardian as the holder of the property (who has power over the property) is prohibited from handing over the property to him unless it has been proven to be capable, especially for other people who are not yet known and whose family is not yet known and whose condition is not yet known, and even at any time they can run away, stay away or even disappear, of course it is even more forbidden to be handed over or loaned assets (funds). Unless it meets the terms and conditions set by the bank, such as the existence of an individual guarantor or the submission of guarantees in the form of objects whose value is several times higher than the credit ceiling or financing. In the application of this qiyas, it will be concluded that lending money or lending money or providing credit/financing facilities to unknown people and not in their power and unknown conditions and families even at any time can go or run away and disappear must be more careful, so that the law is increasingly prohibited or the more forgetful it is.

Furthermore, in the study of qiyas, the content of verse 6 of Surah an-Nisa' is:

وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ

There is a nature, namely testing in order to check the managerial skills (*al-rusyid*) of property management. At the time of the research, it turned out that testing (*ibtīlā'*) was a means that was recommended to find out *al-rusyid* or the ability and proficiency to manage the property handed over to property. Testing is a means of assessing that a person who was originally an *al-safih* (lacking in reason or incapable of managing affairs) has become *al-rasyid* or a person who has been able to manage affairs. The results of the test are considered when deciding whether to hand over assets or to continue holding them. In this context, a legal *illat* (cause) arises, which is the testing process aimed at assessing the individual's managerial proficiency (*al-rusyid*) in handling a business, particularly in managing property. This ensures that only those capable of responsible management are entrusted with assets.

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There are 4 elements that make up the qiyas, namely: (1) the existence of *al-aşl* in the form of verse 6 of Surah an-Nisa' regarding the testing of orphans until they reach the ability or *al-rushd* or the ability to marry and manage their household *awān an-nikāh*, before the handover of their property (2) *hukm al-aşl*, which is commanded (sunnah or mandub or even under certain conditions in occupying the mandatory law) as stated in the pronouncement *Fī'il Amar* in the verse, (3) *al-far'* is a test to find out the existence of *al-rusyd* or proficiency in asset management through credit analysis instruments by banks before deciding to grant or withhold the transfer of assets or funds to credit or financing applicants, (4) *'illat* is a test as an instrument to check proficiency (*al-rusyd*) managerial ability as a condition for handing over asset management. The conclusion derived from *qiyasan* (analogy) is that the credit analysis activities conducted by banks, from the perspective of Islamic teachings, are recommended or encouraged, and can be considered *sunnah muakkadah* (a highly recommended practice). Under certain conditions, these activities may even approach the level of being obligatory (*wajib*), as they align with principles of responsible financial management and justice in Islam. Furthermore, if it is associated with the type of qiyas in the qiyasan verse 6 of Surah an-Nisa' with credit analysis at the bank, it has met the *qiyās aulāwi* criteria. It was concluded that if the handover of the orphan's property itself must be tested beforehand, especially for the application for credit or financing at the bank which is a community fund and will be distributed to other communities, of course the more it is ordered for testing.

The attitude of not giving opportunities or postponing opportunities to people who are not yet capable of managing wealth basically does not make the person happy, because it is closely related to testing (*ibtīlā'*) which is expected to be a medium or means for the person to improve himself or prepare himself to become a person capable of managing wealth in the future. Although there is no special paragraph that straightforwardly regulates credit analysis as applied by banks, paragraphs 5 and 6 of Surah an-Nisa' are quite meaningful in that direction because they contain an element of prudence in the distribution of funds. Through the qiyas approach, it is known that there are similarities in elements and intentions, namely so that property, especially property that is entrusted to other parties, does not fall into the power of people who are not capable of managing it. So that it will be avoided from harming (tyranny) the true owner of the property, namely the depositor (depositor) and from tying oneself in the form of loss of time and attention, and even material loss and good name.

The application of credit analysis procedures to loan applicants or financing facilities does not contradict Islamic law. If a bank does not grant someone's application for credit or financing, it should be realized by the applicant that it is a form of testing (learning) so that he or she improves his business management and financial management so that in the future he is more prepared and able to improve the quality of business management and business management so that he becomes worthy of receiving loans or financing.

Conclusion

From the results of this study, it was concluded that the legal provisions regarding credit analysis or business feasibility analysis related to financing in banking are not contained in the nash, including in the Qur'an. However, for this reason, it can be explored through the verse of *ahkam* that has a connection (*munāsabah*) with it and contains the same wisdom in the context of safeguarding property (*hifdzul māl*). Among them is paragraph 5 of Surah an-Nisa which contains a prohibition on handing over a number of assets to people who are not yet capable of managing property. Also, verse 6 of Surah an-Nisa' contains an order for inspection or testing to people before deciding to hand over a certain amount of property, namely until they have possessed the ability (*al-rusyd*) in the management of property. These two verses can be studied by the qiyas method to find out the legal provisions regarding credit analysis or financing in banking, including in sharia banking.

The legal qiyasu of credit analysis or financing in banking with the law mentioned in paragraphs 5 and 6 of Surat an-Nisa' has fulfilled the elements and provisions of qiyas. '*Legal illat*' in paragraph 5 is a condition of incompetence or the existence of things that show *poor performance* in fund management or asset management. The result of the qiyasis is that lending money or owing money or providing credit/financing facilities by banks to people who are not capable of managing the funds or have indications of poor financial managerial is prohibited by law, namely makruh or at least not recommended, or it may be in certain conditions that are very dangerous can be punished as haram. While in paragraph 6 of Surah an-Nisa' there is a '*legal illat*', which is a test as an instrument to check the proficiency (*al-rusyd*) of managerial ability as a condition for the handover of property management. The conclusion drawn from *qiyasan* (analogy) is that the credit analysis activities carried out by banks are encouraged or recommended, and can be classified as *sunnah* (a practice that is commendable). Under certain circumstances, these activities may even be considered close to mandatory law (*wajib*). This *qiyasan* can be categorized as *qiyas aulawi* (an analogy based on a higher or preferred level of legal reasoning), where the practices align with Islamic principles of justice and financial responsibility.

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