

Comparative Analysis of Qadzaf Punishment in Islamic Law and Defamation under Indonesia's ITE Law: Legal Perspectives on Honor, Reputation, and Public Morality

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Abstract: This research explores the comparative legal frameworks governing defamation related to zina accusations by analyzing the Qadzaf punishment in Islamic law alongside the defamation provisions under Indonesia's Information and Electronic Transactions (ITE) Law. The study aims to examine how these distinct legal systems address the protection of reputation, honor, and public morality, highlighting their principles, evidentiary requirements, and sanctions. Using a qualitative normative approach through literature review and legal analysis, the research identifies the strengths and limitations inherent in both frameworks. The findings reveal that while Qadzaf enforces strict evidentiary standards and severe penalties rooted in religious ethics, the ITE Law provides a broader but sometimes ambiguous statutory protection of reputation in the digital age. This dual legal context presents challenges and opportunities for harmonization to ensure justice, fairness, and respect for human dignity. The research offers policy insights for lawmakers, judges, and practitioners navigating defamation cases in pluralistic legal settings, contributing to the ongoing discourse on legal harmonization and human rights protection in Indonesia.

Research Highlights:

- Provides a comparative analysis between Qadzaf punishment in Islamic law and defamation under Indonesia's ITE Law related to zina accusations.
- Examines the differing evidentiary standards and punishment approaches in religious and statutory legal frameworks.
- Highlights challenges and opportunities in the harmonization of dual legal systems in Indonesia.
- Discusses the balance between protecting honor and reputation and upholding freedom of expression in a pluralistic society.
- Offers practical policy recommendations for lawmakers, judges, and legal practitioners dealing with defamation in a dual legal context.

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INTRODUCTION

In Islamic law, defamation is broadly condemned, particularly when it pertains to an individual's moral and sexual integrity. One of the most severe forms of defamation in Islamic jurisprudence is known as Qadzaf. Qadzaf refers specifically to the false accusation of zina (adultery or fornication) against a chaste person without presenting four credible male witnesses to support the claim. This offense is explicitly

addressed in the Qur'an, in Surah An-Nur (24:4), which states that those who accuse chaste women of adultery and fail to bring four witnesses should be flogged with eighty lashes and their testimony rejected permanently. The rationale behind this strict punishment is to protect the moral integrity of individuals and to prevent social discord that may result from baseless accusations (Walker, 2006). In Islamic law, the protection of personal honor is not just a legal matter but a religious and ethical obligation.

In contrast, the Indonesian legal system, which is based on a combination of civil law and statutory regulations, defines defamation in a broader and more secular sense. According to Article 27 paragraph (3) of Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), defamation refers to the deliberate act of distributing or transmitting electronic information that contains insults or slander that can harm a person's good name or reputation. The law criminalizes defamatory acts committed through digital media, including social media platforms, emails, and other internet-based communications. Unlike Qadzf, the ITE Law does not limit defamation to sexual accusations, and it does not require the high evidentiary threshold of four witnesses. However, it has been criticized for its potential to be misused to suppress freedom of expression, as the definition of "insult" or "defamation" can be interpreted subjectively.

Despite originating from different legal traditions divine law (Sharia) versus state law both systems emphasize the need to protect individuals from reputational harm (Kamali, 2008). However, their approaches differ in terms of scope, evidentiary standards, and punishment. Islamic law emphasizes moral deterrence and strict proof, while Indonesian law focuses more on the procedural aspects of harm and intent, especially in the context of modern communication technologies (Ariyanti, n.d.).

The comparison between these two legal systems is significant for several reasons. First, it reveals the diverse ways in which legal systems conceptualize justice and morality. While Islamic law draws from divine authority and aims to uphold moral purity, statutory law is often more flexible, adapting to technological and social developments (Fadel, 2008). Second, it helps illuminate tensions and complementarities between traditional and modern values in pluralistic societies. For instance, while both systems aim to protect personal dignity, they differ in procedures, evidentiary standards, and the severity of punishment, which can lead to legal and ethical dilemmas when cases involve both frameworks.

Furthermore, such a comparative analysis can contribute to legal harmonization and policy development, especially in countries where religious and state laws operate in parallel. Understanding how both systems address the same moral concerns albeit through different mechanisms can lead to more nuanced and culturally sensitive legal reforms (Shachar, 2001). It also fosters a greater appreciation of the underlying principles that guide each system, thereby promoting dialogue and mutual respect among legal scholars, practitioners, and the public.

Over the past decade, scholarly attention has increasingly focused on the comparative analysis of defamation laws within Islamic jurisprudence and Indonesia's statutory framework, particularly the Qadzf provisions in Islamic law and the Electronic Information and Transactions (ITE) Law. In Islamic legal studies, Qadzf is recognized as a severe offense involving false accusations of adultery or fornication without the requisite four witnesses, as stipulated in Surah An-Nur (24:4) (Naro et al., 2020). The prescribed punishment underscores the importance Islam places on personal dignity and the prevention of slanderous behavior. However, contemporary research on Qadzf has been relatively limited, often focusing on its theological underpinnings rather than its application in modern legal systems.

Conversely, the ITE Law in Indonesia has been the subject of extensive analysis due to its implications for digital communication and freedom of speech (Hakim et al., 2018). Studies have highlighted the law's ambiguous language, particularly in Article 27(3), which criminalizes online defamation. Critics argue that this vagueness has led to inconsistent enforcement and potential misuse against individuals expressing dissenting opinions online. For instance, cases like that of Florence Sihombing, who faced legal repercussions for a social media post criticizing Yogyakarta, illustrate the law's contentious application.

Recent research has also explored restorative justice approaches within the ITE Law framework. Fajrin and Triwijaya (2021) discuss the potential for penal mediation as an alternative to criminal prosecution in defamation cases, aligning with Indonesia's broader legal reforms aimed at promoting reconciliation and reducing the burden on the judicial system.

Furthermore, the Constitutional Court's 2025 ruling restricting government and corporate entities from filing defamation complaints marks a significant development in safeguarding civil liberties and preventing the misuse of defamation laws to suppress criticism.

Despite these advancements, there remains a notable gap in comparative studies that juxtapose the principles and enforcement mechanisms of Qadzaf in Islamic law with those of the ITE Law. Such comparative analyses are crucial for understanding how different legal systems conceptualize and address defamation, particularly in societies like Indonesia, where religious and secular laws coexist.

This research aims to compare the principles, processes, and punishments associated with Qadzaf in Islamic law and defamation under the ITE Law. It will also explore the broader implications of each approach on individual rights, societal harmony, and legal certainty (Neuman, 2002). By examining these two perspectives, the study seeks to contribute to a deeper understanding of how different legal systems interpret the protection of personal reputation in both traditional and modern contexts.

METHOD

This research adopts a qualitative legal research methodology with a normative-judicial approach to examine and compare the concept and application of defamation laws under Islamic law (Qadzaf) and Indonesian statutory law (ITE Law). The normative-judicial method focuses on the analysis of legal norms, principles, and doctrines contained in statutory texts, religious sources, and authoritative legal interpretations (Doe, 2015). The research is doctrinal in nature, aiming to understand the legal construction of defamation in two distinct systems and how each reflects cultural, moral, and societal values.

The primary data source consists of secondary legal materials, which include official legislation, scholarly commentaries, court decisions, journal articles, legal textbooks, and authoritative interpretations of Islamic legal texts. For the Islamic perspective, the study refers to primary sources such as the Qur'an, Hadith, and classical fiqh literature from prominent schools of Islamic jurisprudence. These are analyzed to understand the principles, evidentiary requirements, and punishments associated with Qadzaf, particularly as described in Surah An-Nur (24:4) and other supporting texts (Ramadhan, 2019).

In examining the Indonesian legal framework, particular attention is given to Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), especially Article 27 paragraph (3) which regulates defamation through electronic means. In addition, this research considers relevant amendments, judicial decisions such as rulings by the Indonesian Constitutional Court and legal debates surrounding the application and criticism of the ITE Law, especially in cases involving public figures, activists, and social media users.

The comparative method is used as the core analytical technique. This involves identifying points of convergence and divergence between Qadzaf in Islamic law and defamation as regulated by the ITE Law (Iqbal, n.d.). The comparison focuses on key elements such as the definition of defamation, evidentiary standards, procedures, punishment, and objectives of each legal framework. The comparison also considers the broader sociocultural and moral context within which each legal system operates, recognizing the religious foundation of Islamic law and the secular, democratic basis of Indonesian statutory law.

To support the analysis, the research also incorporates findings from relevant legal literature published in the last ten years, including case studies and scholarly critiques (Fink, 2019). This enables a contextualized understanding of how defamation laws are applied in practice and how they influence public discourse, legal certainty, and individual rights.

RESULTS AND DISCUSSION

Results

This research reveals significant differences and key similarities between Qadzaf punishment in Islamic law and defamation provisions under Indonesia's ITE Law, especially in terms of their definitions, legal foundations, procedural mechanisms, evidentiary requirements, and philosophical underpinnings. Firstly, in terms of definition, Islamic law conceptualizes defamation in the context of Qadzaf, which specifically refers to the false accusation of adultery or fornication. This type of defamation is considered a Hudud (fixed) crime, meaning that it has a predetermined punishment mandated by the Qur'an. The seriousness of this offense is grounded in the protection of individual dignity and societal morality, as such accusations can cause irreversible harm to a person's reputation, family, and social standing. In contrast,

the ITE Law defines defamation in broader and more general terms, covering any action that harms the reputation of others through electronic media. It does not restrict the content to sexual accusations and focuses more on the means and impact of the statement rather than the specific nature of the accusation.

Secondly, the two systems differ sharply in evidentiary requirements. In Qadzaf, Islamic law demands the testimony of four credible male witnesses who directly observed the alleged act of adultery. Without this evidence, the accuser is subject to the Qadzaf punishment: eighty lashes and disqualification from providing future legal testimony. This strict standard acts as a deterrent against slander and false accusations. On the other hand, the ITE Law allows for varied types of evidence, including digital screenshots, social media posts, and witness testimony. The evidentiary threshold is lower and more flexible, reflecting the challenges and realities of regulating speech in the digital age.

Third, in terms of punishment, Qadzaf reflects the severity of the moral transgression in Islamic society by imposing corporal punishment, which serves both a punitive and symbolic function. Meanwhile, the ITE Law enforces fines and imprisonment, with sentences that can extend up to four years depending on the nature of the offense. While these punishments are less physically severe, critics argue that they are often used disproportionately and sometimes misused to silence critics and dissenters, particularly due to ambiguous wording in the law.

A notable finding of this research is that although the intent behind both laws is to protect dignity and uphold public morality, their legal philosophy diverges greatly. Islamic law emphasizes spiritual accountability, community ethics, and deterrence rooted in religious obligations. In contrast, the ITE Law seeks to balance individual rights with public order in a secular and pluralistic legal environment, often prioritizing procedural fairness and state authority.

The research also highlights that Indonesian society, which is constitutionally secular yet religiously diverse, faces challenges in harmonizing these two legal approaches. The application of ITE Law, particularly in high-profile cases, has raised concerns regarding freedom of expression and legal certainty. Meanwhile, Qadzaf, although rarely enforced through formal court systems in Indonesia, remains relevant in religious discourse and community-based conflict resolution mechanisms.

This comparative study finds that while both legal systems aim to safeguard a person's reputation, their foundations, methods, and outcomes differ substantially. These differences reflect the broader legal and cultural tensions between traditional Islamic values and modern statutory frameworks. The research underscores the need for legal reform and clarification especially in the ITE Law to ensure that laws meant to protect individuals do not become tools for oppression, and to explore the potential integration of moral principles from religious traditions to strengthen the legitimacy of statutory law.

Academic Contribution to Legal Harmonization in Mixed Legal Systems

This research contributes meaningfully to the academic discourse on legal harmonization within mixed legal systems, such as that of Indonesia, where religious law and secular statutory law coexist and interact. By conducting a comparative analysis between the Qadzaf punishment under Islamic law and the defamation provisions in the ITE Law, the study offers valuable insights into how different legal traditions address similar social and moral issues through distinct mechanisms.

One of the central academic contributions of this research lies in its exploration of legal pluralism the coexistence of multiple legal frameworks within a single jurisdiction and the challenges this presents for achieving coherence, fairness, and accessibility in the law (Swenson, 2018). The study highlights how religious norms embodied in Islamic jurisprudence influence social values and expectations regarding honor and morality, while statutory laws like the ITE Law attempt to regulate these concerns within a modern legal framework that must also uphold constitutional principles such as freedom of expression.

By identifying the points of convergence and divergence between these two systems, the research enriches the understanding of how legal harmonization can be pursued without compromising the integrity of either tradition. It underscores the need for thoughtful dialogue and integration, ensuring that laws derived from religious teachings do not conflict irreconcilably with the demands of contemporary governance and human rights standards (Ahmad, 2020).

Moreover, this study serves as a foundation for future academic work focused on developing models of legal harmonization that respect cultural and religious diversity while promoting legal certainty and justice. It encourages interdisciplinary approaches combining legal theory, sociology, and religious studies to address complex issues arising from the intersection of different legal norms.

In practical terms, the research provides a framework that policymakers and legal reformers can use to design and implement harmonized legal provisions that balance respect for religious values with the imperatives of a pluralistic and democratic legal order (Delmas-Marty, 2009). This is particularly significant in countries like Indonesia, where the legitimacy of law often depends on its acceptance across diverse communities.

This study's academic contribution lies in advancing the scholarship on how mixed legal systems can achieve harmonization and coherence by thoughtfully engaging with the principles and practices of different legal traditions, ultimately supporting the creation of a more just and integrated legal system.

Contribution to Human Rights Discussions on Protecting Reputation, Honor, and Dignity

This research makes a significant contribution to ongoing human rights discussions, particularly in the area of balancing the protection of reputation, honor, and dignity with the fundamental right to freedom of expression. The protection of personal reputation and honor is recognized as a fundamental human right under international instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (Joseph & Castan, 2013). However, the application of this protection varies significantly across cultures and legal systems. This research highlights the complexities involved when religious legal norms, such as those governing Qadzf in Islamic law, intersect with secular statutory laws addressing defamation in the digital era.

By examining the stringent evidentiary requirements and specific punishments prescribed in Qadzf cases, the study illustrates a legal approach deeply rooted in moral and ethical considerations aimed at preventing false accusations that could irreparably harm an individual's honor. In contrast, the ITE Law's defamation provisions reflect the challenges of regulating speech in a rapidly evolving digital landscape, where the potential for harm to reputation is amplified but also where freedom of speech is highly valued (Medeiros, 2016).

The research thus contributes to human rights debates by emphasizing the need for a balanced legal approach that respects cultural and religious values while ensuring that mechanisms for protecting reputation do not become tools for suppressing legitimate expression or dissent. It raises awareness of the potential for misuse or over-penalization under both legal regimes and advocates for safeguards that uphold fairness, proportionality, and respect for human dignity.

Furthermore, the study supports the broader human rights principle that laws protecting honor and reputation must not infringe upon other fundamental freedoms, including access to information and freedom of opinion. It encourages policymakers, human rights practitioners, and legal scholars to consider how pluralistic legal systems can craft defamation laws that protect individuals without undermining democratic rights.

Policy Insights for Lawmakers, Judges, and Legal Practitioners Dealing with Defamation Cases in a Dual Legal Context

This research offers important policy insights for lawmakers, judges, and legal practitioners who operate within Indonesia's unique dual legal system, where Islamic law principles and secular statutory laws coexist and sometimes overlap. For lawmakers, the study underscores the necessity of crafting clear, coherent, and harmonized legal frameworks that respect the cultural and religious values embedded in Islamic law while simultaneously upholding the constitutional guarantees found in secular law (Rauf & Rauf, 2015). This calls for legislative reforms that address ambiguities and potential conflicts between the two systems, especially in the digital era where defamation cases have become increasingly complex. Lawmakers are encouraged to develop statutory provisions that incorporate stringent evidentiary standards similar to those in Qadzf to prevent misuse of defamation laws for personal vendettas or suppression of free speech, while ensuring punishments are fair and proportional.

For judges, the research provides valuable guidance on navigating cases that may involve overlapping legal principles. Judges must be equipped with a deep understanding of both Islamic jurisprudence and secular law to adjudicate fairly and consistently (Rosen, 2000). The study advocates for judicial training and awareness programs that promote sensitivity towards the religious dimensions of defamation cases without compromising the rights protected under the ITE Law. Judges are encouraged to carefully assess the evidentiary requirements and the context of each case to avoid miscarriages of justice, especially in the highly sensitive matters involving accusations of zina or online defamation (Alshammari, 2016).

For legal practitioners, including lawyers and prosecutors, this research emphasizes the importance of understanding the dual legal landscape to provide effective legal representation and

advocacy. Practitioners must be adept at interpreting both Islamic legal standards and statutory provisions to advise clients accurately and develop robust case strategies. They should also be vigilant in protecting clients' rights against potential abuses of defamation laws while respecting societal and religious values.

Overall, the study calls for dialogue and cooperation among lawmakers, judiciary, and legal professionals to foster legal harmonization and improve the clarity, fairness, and effectiveness of defamation laws (Law & Chang, 2011). Such collaborative efforts can help balance the protection of reputation and honor with freedom of expression, ultimately strengthening public trust in the legal system and promoting social harmony in Indonesia's pluralistic society.

Comparison of Research Results with Previous Research

The findings of this research, which compares the Qadzaf punishment in Islamic law with the defamation provisions under Indonesia's ITE Law, both align with and expand upon the existing body of literature in this field. Previous studies have extensively examined defamation laws either within the framework of Islamic jurisprudence or through the lens of modern statutory regulations, but few have conducted a direct comparative analysis that highlights the interaction between these two legal domains in Indonesia's unique dual legal system.

Earlier research on Qadzaf, such as works by Islamic legal scholars, has emphasized the strict evidentiary requirements and severe punishments designed to protect individual honor and deter false accusations, particularly related to zina. These studies underscore the moral and religious imperatives underlying Qadzaf, portraying it as a tool not only for individual protection but also for upholding public morality. The current research confirms these conclusions, reaffirming the seriousness with which Islamic law treats defamation linked to sexual accusations and the high burden of proof required to enforce such punishments.

In contrast, previous analyses of the ITE Law, especially those focusing on its application in defamation cases, have highlighted concerns regarding vague provisions and the potential for misuse in the context of digital communication (Mangan, 2017). Critics have pointed out that the ITE Law's defamation clauses sometimes conflict with principles of freedom of expression and can lead to disproportionate penalties. This research corroborates these concerns but also adds nuance by juxtaposing these statutory provisions against the clearly defined parameters of Qadzaf in Islamic law. It reveals that while the ITE Law offers broader protection against defamation, it may lack the precise safeguards against false accusations that are integral to Qadzaf.

Unlike some earlier studies that treated these legal systems in isolation, this research contributes an integrated perspective showing how both legal traditions address the protection of reputation and honor from different angles religious and secular and the implications of this duality for legal practice. The study's findings suggest that the rigor found in Islamic evidentiary standards could inform reforms in statutory defamation law to prevent abuses while respecting freedom of speech (Alkharashi, 2015).

In sum, this research confirms many insights from previous works but goes further by explicitly comparing and contrasting the two systems within the Indonesian context. It provides a foundation for future interdisciplinary studies and legal reforms that seek to harmonize these divergent approaches, thereby enriching the discourse on defamation law and human rights protections in pluralistic societies (Kohl, 2017).

Scope and Limitation

This research focuses specifically on the comparative analysis of Qadzaf punishment in Islamic law and the defamation provisions under Indonesia's Information and Electronic Transactions (ITE) Law as they pertain to accusations of zina (unlawful sexual relations). The scope is deliberately narrowed to examining Qadzaf as a particular form of defamation that involves false accusations of adultery or fornication, rather than addressing all possible types of slander or defamation offenses. This focused approach allows for an in-depth understanding of the legal principles, evidentiary requirements, and punishments related to this sensitive category of defamation within both Islamic and statutory frameworks (Alzaharani, 2017).

In terms of limitations, this study does not extend to the broader spectrum of cybercrime or other categories of offenses regulated under the ITE Law beyond defamation. It also excludes a comprehensive analysis of all Islamic criminal punishments, concentrating instead on Qadzaf due to its direct relevance to reputation and honor within Islamic jurisprudence (Uddin, 2009). Additionally, the research is limited to

the legal texts, doctrinal interpretations, and statutory provisions currently in force and does not delve into case law or the practical enforcement challenges that may arise in courts.

Furthermore, while the study aims to highlight legal harmonization challenges, it does not explore the socio-cultural or political factors that influence the implementation of these laws in society (Shah, 2007). The dynamic and evolving nature of digital communication and its impact on defamation cases under the ITE Law also present an area that extends beyond the current research scope.

CONCLUSION

This research has provided a comparative analysis of the Qadzaf punishment in Islamic law and the defamation provisions under Indonesia's ITE Law, particularly focusing on accusations related to zina. The study reveals that both legal frameworks aim to protect an individual's reputation, honor, and dignity, yet they do so through distinct principles, procedures, and sanctions reflective of their differing foundations: religious jurisprudence and modern statutory law. Qadzaf, rooted deeply in Islamic moral and ethical teachings, imposes strict evidentiary standards and severe penalties to prevent false accusations that can gravely damage personal and communal honor. Meanwhile, the ITE Law addresses defamation in the digital era, emphasizing protection against harm to reputation while grappling with challenges related to freedom of expression and the evolving nature of online communication. The comparative approach underscores the complexities faced in Indonesia's dual legal system, where religious norms and secular laws coexist. It highlights the potential for legal harmonization through the integration of Islamic law's stringent safeguards with the flexibility of statutory provisions, thereby enhancing fairness and justice in defamation cases. Ultimately, this research contributes valuable insights for lawmakers, judges, and legal practitioners, emphasizing the importance of balancing cultural-religious values with modern legal principles to protect individuals' dignity without compromising fundamental freedoms. The findings encourage ongoing dialogue and reform efforts aimed at fostering legal coherence and human rights protection within pluralistic legal frameworks.

AUTHORS' DECLARATION

Authors' Contributions and Responsibilities

The authors collaboratively contributed to the development and completion of this research.

Competing Interests

The authors declare that they have no competing interests related to this research. There are no financial, personal, or professional conflicts that could have influenced the outcomes or interpretations of this study.

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