



Islamic Law and Positive Law Protection for Victims of False Accusations of Adultery in the Modern Era

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Article History Received: 2026-04-03 Revised: 2026-04-13 Published: 2026-05-30 Keywords: <i>Zina Allegations; Qadhf; Digital Legal Protection</i>	This study employs a normative qualitative method with an analysis of classical and contemporary literature. The paper examines accusations of zina and legal protection for victims in the digital era. The background of the study is rooted in the complexity of the dissemination of zina allegations through social media and digital communication platforms, which have serious implications for individual honor, social reputation, and moral integrity. From the perspective of Islamic jurisprudence, unsubstantiated allegations are categorized as qadhf, requiring stringent evidentiary standards, including the testimony of four morally upright male witnesses or a voluntary confession, with violations attracting multidimensional sanctions such as corporal punishment, social discredit, and spiritual accountability. Indonesian positive law provides protection through the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), allowing victims to pursue criminal liability, compensation, and reputational rehabilitation. The results indicate that effective legal protection requires a multi-layered approach integrating law enforcement, technological interventions, and public education to restore victims' social credibility and enhance deterrence against false accusations.

I. INTRODUCTION

Accusations of zina represent one of the most sensitive forms of allegations within social contexts, given their profound implications for an individual's honor, moral integrity, and social reputation. Within Islamic jurisprudence, zina (zinā') is defined as sexual intercourse outside the bounds of a legitimate marital relationship, whereas unsubstantiated allegations of such conduct against an individual are categorized as qadhf. These false accusations are not merely moral violations but also constitute legal transgressions that systematically compromise personal dignity and engender social injustice when not supported by adequate evidentiary proof. The seriousness of qadhf lies in its dual consequences: first, direct harm to the victim's reputation and psychological well-being; second, broader societal harm through erosion of trust and the normalization of character attacks as a social instrument, ultimately

undermining the moral fabric of the community and weakening the foundational principle of the presumption of innocence (Zama et al., 2020).

In Islamic law, the evidentiary standard for substantiating zina allegations is exceptionally stringent. Scholars have reached consensus that valid proof requires the testimony of four male witnesses who meet the criteria of 'adālah (moral integrity) or a voluntary confession (i'tirāf) by the accused without coercion. If these requirements are not fulfilled, the allegation is classified as qadhf, and the perpetrator may be subject to corporal punishment, including flogging, as well as permanent disqualification from serving as a witness in future legal proceedings (Akbar et al., 2024). This juridical framework underscores the priority of sharia in safeguarding personal honor (ḥifẓ al-'ird) as one of the primary objectives (maqāṣid al-sharī'ah) of Islamic law (Betawi, 2018).

Consistent with principles established in Islamic jurisprudence, contemporary positive law also recognizes the need for protective mechanisms for victims of unsubstantiated zina allegations. In Indonesia, acts of defamation or character slander are regulated under the Criminal Code (KUHP), particularly Articles 310 and 311, which provide a legal framework to protect individuals against allegations that may harm their honor or reputation.

The contemporary landscape introduces unprecedented complexities due to the rapid development of social media and communication technologies, which facilitate the viral dissemination of zina allegations often without sufficient evidentiary support. The harm experienced by victims including psychological trauma, social ostracism, and juridical consequences can be exponentially more severe than in historical contexts prior to the digital era. Consequently, legal protection frameworks for victims must extend beyond traditional courtroom adjudication to incorporate rehabilitative measures for restoring reputation, as well as preventive mechanisms to contain the spread of defamatory content in digital environments (Sirjon, 2023).

Comparative analysis of Islamic law and positive law systems reveals fundamental convergence in their ultimate objectives: protecting individual honor and dignity. Both legal frameworks emphasize that unsubstantiated allegations can inflict significant damage on the victim's reputation and integrity, thereby necessitating robust protective mechanisms.

However, notable divergences exist in procedural mechanisms and sanction typologies. Islamic law emphasizes a dual-dimensional punishment for qadhf, encompassing moral-spiritual accountability and corporal sanctions designed to deter false accusations while restoring the victim's honor through public vindication. In contrast, positive law systems primarily employ general criminal prosecution, monetary compensation for material and immaterial damages, and rehabilitative measures aimed at social reintegration of the victim (Yudhagama & Handayani, 2024).

These differences reflect underlying philosophical orientations: Islamic law integrates the-

ological imperatives with worldly justice, viewing qadhf as an offense against both the individual and the divine order, whereas secular positive law operates within a purely humanistic framework, focusing on tangible harms and pragmatic remedies without incorporating transcendental moral dimensions. Despite these methodological variations, both systems ultimately converge in recognizing the fundamental human right to protection from character assassination and the maintenance of social order grounded in truth and justice (Hidayat, 2017).

II. RESEARCH METHODS

This study employs a qualitative research methodology with a normative-juridical approach to examine legal frameworks for protecting victims of zina allegations from two perspectives: Islamic jurisprudence and positive law systems. This methodological choice is based on the study's primary focus, which is the analysis of normative provisions, regulatory frameworks, and foundational legal principles governing zina accusations and victim protection mechanisms (Suyanto, 2023).

Primary data were collected from both classical and contemporary Islamic legal literature, including fiqh treatises, scholarly religious edicts (fatwas), and doctrinal works on maqāṣid al-sharī'ah (objectives of Islamic law). These were complemented by statutory regulations in Indonesia, including the Criminal Code (KUHP) and specific laws addressing defamation and slander. Secondary data were extracted from scholarly journals, authoritative reference texts, legal articles, and prior relevant studies, aimed at enriching conceptual analysis and providing a comprehensive comparative framework (Pertiwi & Herianingrum, 2024).

The anticipated outcome of this study is a comprehensive identification of the strengths and limitations inherent in each legal system, which will inform evidence-based recommendations for harmonizing Islamic and positive law paradigms. The synthesized framework is expected to facilitate a more effective protection regime for victims of zina allegations, balancing fidelity to the foundational principles of each legal tradition

while simultaneously adapting to unprecedented challenges posed by technological developments and evolving social dynamics.

III. RESULTS AND DISCUSSION

A. Islamic Law Protection for Victims of False Accusations of Adultery (Qadhf)

Within the domain of Islamic jurisprudence, allegations of zina that lack valid evidentiary support are categorized as qadhf, referring to the act of imputing sexual relations outside a lawful marital relationship without meeting the strict evidentiary standards prescribed by Islamic law. Such conduct is not viewed solely as a moral lapse; rather, it constitutes a serious breach of sharia normative principles, as it directly infringes upon individual honor and systematically erodes the inherent dignity of the accused (Nur & Sa'i, 2025).

The primary scriptural foundation governing the prohibition of qadhf is articulated in the Qur'an, most explicitly in Surah An-Nūr verse 4. This verse formulates a clear normative mandate that imposes legal consequences on individuals who accuse chaste persons of zina without presenting four qualified witnesses. The provision establishes a multidimensional sanctioning regime, encompassing corporal punishment in the form of eighty lashes, enduring social discredit through the loss of testimonial credibility, and ultimate accountability before God in the hereafter (Fransiska et al., 2025).

This Qur'anic injunction constitutes an unequivocal condemnation of unsubstantiated sexual accusations, particularly those directed at morally upright individuals, and reinforces the exceptionally high evidentiary threshold required under Islamic law. The gravity of the prescribed sanctions integrating physical, social, and spiritual repercussions reflects the seriousness with which Islamic jurisprudence regards false accusations, positioning qadhf as a grave offense that endangers both personal dignity and the moral cohesion of the community (Nur & Sa'i, 2025).

This Qur'anic mandate emphasizes that allegations of zina must be substantiated either by the testimony of four male witnesses who satisfy the requirement of 'adālah (moral integrity) or, alternatively, through a voluntary and uncoerced

confession by the accused. In the absence of such legally valid evidence, the accusation is automatically classified as qadhf, thereby rendering the accuser liable to corporal punishment in the form of eighty lashes. This sanction operates as a firm deterrent, reflecting the decisive punitive approach adopted by Islamic law to prevent unfounded allegations and to safeguard individual honor (Mariana, 2018).

Within contemporary fiqh discourse, many Islamic legal scholars argue that the protection afforded to victims of qadhf is grounded in three interrelated foundational principles. First, the doctrine of the presumption of innocence (aṣl al-barā'ah) operates as a core safeguard, affirming that no individual may be held criminally responsible in the absence of conclusive and legally sufficient evidence. Second, Islamic law imposes exceptionally rigorous standards for the authentication of proof, requiring either the testimony of four morally upright witnesses (al-shuhūd al-'udūl) or a confession delivered freely and without any form of compulsion. Third, Islamic jurisprudence mandates the imposition of sanctions against those who issue false accusations, whether in the form of corporal punishment or financial penalties, as a means of establishing an effective deterrent against unfounded allegations (Supriani & Saputra, 2021).

According to Wahbah al-Zuhayli, qadhf is regarded as a form of transgression that simultaneously infringes upon the sanctity of personal honor (ḥurmat al-'ird) and compromises social cohesion (salāmah al-ijtimā'). In his scholarly analysis, al-Zuhayli emphasizes that the Islamic legal framework is not solely concerned with the protection of individual victims; it also serves the broader objective of maintaining communal integrity through the implementation of rigorous moral and social regulations (Al-Zuhaili, 1984).

Furthermore, Jasser Auda highlights that the protective legal mechanisms in Islam for victims of qadhf are intrinsically aligned with the foundational objectives of Sharia (maqāṣid al-sharī'ah), particularly in safeguarding three core values: ḥifẓ al-'ird (the protection of personal honor and dignity), ḥifẓ al-nafs (the preservation

of life and psychological well-being), and *ḥifẓ al-māl* (the safeguarding of property and economic interests that may be threatened by reputational harm). Consequently, the sanctions imposed on perpetrators of *qadhif* serve a dual purpose: they not only act as a preventive deterrent but also function as corrective and restorative measures aimed at rehabilitating the victim's tarnished reputation and reinstating their diminished social standing (Nur & Sa'i, 2025).

In the contemporary context, protective mechanisms for victims of *qadhif* confront unprecedented challenges that differ fundamentally from traditional settings, largely due to the rapid and widespread dissemination of accusations via social media and other digital platforms. While the foundational evidentiary requirements namely, the testimony of four qualified witnesses or a voluntary confession remain intact, the digital environment introduces qualitatively new complexities. Online information can instantaneously damage a victim's reputation, often before any formal legal proceedings commence, thereby generating harm that may be irreversible and precedes judicial intervention (Audah, 1989).

B. Protection under Positive Law for Victims of False Accusations of Adultery in Indonesia

Within the framework of Indonesian positive law, unsubstantiated accusations of *zina* are not governed by specific provisions directly equivalent to the Islamic *qadhif* doctrine. Nevertheless, such allegations fall within the broader legal category of acts that cause harm to an individual's personal honor and social reputation. Protective measures for victims of these claims are provided through statutory regulations addressing defamation and slander, as codified in the Indonesian Penal Code (*Kitab Undang-Undang Hukum Pidana, KUHP*), particularly Articles 310 to 321 (pratama Putra, 2024).

Article 310 of the Indonesian Penal Code (KUHP) stipulates that anyone who intentionally attacks the honor or reputation of another person by making allegations capable of causing harm may be subject to imprisonment for up to nine

months or a fine of up to 4,500 rupiahs. This statutory provision offers a legal framework that enables victims of *zina* accusations to initiate proceedings against individuals who disseminate false information, even when such allegations are not directly linked to other criminal offenses. The protective scope of this regulation is sufficiently broad to cover unsubstantiated sexual accusations, irrespective of whether they involve additional criminal conduct.

In addition to the provisions of the Indonesian Penal Code, the legal regime governing information and communication technology offers an additional layer of protection for individuals targeted by *zina* accusations disseminated through digital platforms. Law Number 11 of 2008 on Electronic Information and Transactions (the ITE Law) expressly classifies the distribution of electronic content containing insults, defamatory statements, or slander as a criminal act, subject to penal sanctions in the form of imprisonment and financial penalties (Taurima & Setyawan, 2025).

In practical implementation, the protective regime under positive law for individuals affected by *zina* allegations places particular emphasis on the restoration of personal reputation and the provision of compensatory relief, alongside the criminal accountability of those responsible for the accusations. Victims are legally entitled to pursue various remedies, including submitting formal complaints to law enforcement authorities, claiming financial compensation for both material and non-material harm, and requesting public retractions or apologies from the accusers as a means of restoring their dignity and social standing (Agustini et al., 2021).

According to Yulianto's scholarly assessment, the principal weaknesses of positive law protection lie in evidentiary constraints and the complexity of enforcement mechanisms. Allegations disseminated through digital media often generate serious attribution problems, as identifying the responsible parties becomes difficult due to the anonymity and technological concealment features inherent in cyberspace. As a result, victims frequently face a situation in which reputational harm has already occurred and cannot be fully reversed before formal legal

proceedings are initiated, thereby creating a critical temporal disconnect between the infliction of harm and the availability of legal remedies, which significantly diminishes the effectiveness of existing protective frameworks (Supriani & Saputra, 2021).

A comparative analysis with Islamic jurisprudence demonstrates that, notwithstanding differences in procedural approaches, both legal systems are anchored in a shared foundational objective, namely the protection of personal honor against unfounded accusations. Indonesian positive law places emphasis on general criminal responsibility accompanied by rehabilitative measures aimed at restoring social standing, while the Islamic legal tradition underscores rigorous evidentiary standards and the imposition of specific sanctions directed at perpetrators of *qadhif*. These methodological distinctions stem from differing epistemological bases where secular law prioritizes practical and measurable remedies, and religious law incorporates theological accountability yet both ultimately converge in advancing the same protective purpose.

C. Similarities and Differences in the Protection of Victims of False Accusations of Adultery under Islamic Law and Positive Law in the Modern Era

Legal protection for victims of *zina*-related allegations in the contemporary era reveals a clear convergence at the level of fundamental principles between Islamic jurisprudence and modern positive law, notwithstanding notable differences in their operational mechanisms and methodological orientations. At their core, both legal paradigms recognize that unfounded accusations may cause severe harm to an individual's reputation, honor, and inherent human dignity. Within the Islamic legal framework, this protective objective is realized through the doctrine of *qadhif*, which imposes exceptionally rigorous evidentiary standards, requiring either the testimony of four morally upright male witnesses or a voluntary confession before an allegation of *zina* may be judicially entertained. In the absence of such proof,

individuals who advance false accusations are subject to corporal sanctions in the form of flogging, intended not only to deter future misconduct but also to publicly restore the dignity of the aggrieved party (Mulyadi & Muliono, 2019).

By contrast, Indonesian positive law provides protection through a combination of statutory instruments, including Articles 310–311 of the Criminal Code (KUHP) concerning defamation and slander, alongside the Electronic Information and Transactions Law (UU ITE), which specifically governs the dissemination of harmful content through digital platforms. Under this legal regime, victims are entitled to seek criminal accountability, claim financial compensation, and pursue measures aimed at rehabilitating their damaged reputation (Batubara, 2009).

The primary distinctions between the two juridical systems are reflected in their respective evidentiary regimes and the nature of sanctions imposed. The Islamic legal tradition places exceptional emphasis on stringent standards of proof as a fundamental prerequisite for justice and moral responsibility, and accordingly prescribes specific penalties for false accusers, including corporal punishment and permanent disqualification from serving as witnesses in subsequent judicial proceedings. In contrast, modern positive law frameworks prioritize general criminal liability mechanisms combined with rehabilitative social objectives, implementing sanctions in the form of imprisonment, monetary fines, or compensatory remedies awarded to victims to address both material and immaterial harm (Mariana, 2018).

Beyond these procedural divergences, the two systems also differ substantially in their philosophical foundations. Islamic jurisprudence situates the protection of victims within the broader framework of *maqāṣid al-sharīʿah*, the overarching objectives of Islamic law, particularly the preservation of personal honor (*ḥifẓ al-ʿird*) and the maintenance of social cohesion (*ḥifẓ al-ijtimāʿ*) (Abdurahman, 2023). Through this perspective, individual protection is not viewed merely as a legal entitlement, but as an integral element of a comprehensive theological and moral

order that extends beyond purely worldly considerations.

Within the contemporary digital landscape, an additional point of convergence can be identified in the shared recognition of the need for strengthened protective measures against the viral circulation of accusations across social media platforms, where an individual's reputation may suffer irreversible damage even before formal legal proceedings are initiated. Islamic law remains firmly anchored to its foundational evidentiary doctrines, consistently upholding strict standards of proof irrespective of the medium through which allegations are disseminated. By contrast, positive law systems have adapted to these challenges through legislative developments, particularly the incorporation of provisions under the Electronic Information and Transactions Law (UU ITE), as well as the deployment of criminal enforcement mechanisms specifically aimed at curbing the spread of false or misleading information within digital and cyber environments (Irfan, 2013).

D. Challenges in Legal Protection for Victims of False Accusations of Adultery in the Digital Era

The contemporary digital environment has generated unprecedented layers of complexity in the legal protection of individuals accused of zina. The rapid circulation of information through social media networks, instant messaging services, online forums, and various digital platforms enables false allegations to spread exponentially, often with remarkable speed and reach, well before affected individuals are able to initiate effective legal responses. This phenomenon significantly intensifies the adverse consequences experienced by victims, encompassing social exclusion, psychological distress, and severe reputational damage. As a result, traditional models of legal protection both within Islamic jurisprudence and positive law systems require contextual adaptation and normative refinement in order to respond effectively to the distinctive challenges posed by digital communication dynamics (Irfan, 2013).

One of the most significant obstacles lies in the identification of perpetrators and the establishment of reliable evidentiary foundations. Defamatory allegations are often disseminated through anonymous profiles or fabricated digital identities, which creates serious challenges for law enforcement authorities in tracing responsibility and securing successful prosecutions. Within the Indonesian positive law framework, the Electronic Information and Transactions Law (UU ITE) provides a statutory basis for addressing the distribution of false or misleading content via electronic media. Nevertheless, its practical enforcement continues to face considerable limitations, including constraints in digital forensic technology, insufficient expertise among law enforcement personnel in cyber-investigative techniques, and the inherently time-consuming nature of legal procedures. These factors collectively contribute to a harmful delay between the occurrence of the offense and the attainment of legal resolution, during which victims may suffer prolonged and irreparable harm (Abdurahman, 2023).

Moreover, the extraordinary speed and viral dynamics characteristic of digital information environments allow reputational harm to materialize within a matter of hours, creating a pronounced temporal imbalance when compared to legal processes that typically require months or even years to reach resolution. Although Islamic jurisprudence continues to uphold stringent evidentiary requirements in the adjudication of qadhf, it faces comparable challenges when allegations circulate through online channels. In digital contexts, the classical reliance on direct eyewitness testimony becomes increasingly impracticable, as defamatory content is transmitted through technologically mediated platforms rather than through direct, interpersonal encounters (Supriani & Saputra, 2021).

An additional layer of complexity arises from the need for preventive safeguards and mechanisms aimed at restoring damaged reputations. Individuals affected by false allegations require not only retrospective legal action against those responsible, but also

proactive measures to halt the continued circulation of fabricated information, alongside restorative efforts to reconstruct their social credibility. Consequently, an effective protection regime must adopt a multi-tiered approach, integrating judicial remedies through formal litigation, technological measures such as digital content removal and platform accountability mechanisms, as well as public education initiatives designed to enhance media literacy and discourage the uncritical spread of unverified accusations (Yatim, 2010)

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

In conclusion, accusations of zina represent highly sensitive allegations due to their profound impact on an individual's honor, dignity, and social standing. Islamic jurisprudence categorizes unsubstantiated claims of zina as *qadhf*, imposing exceptionally stringent evidentiary standards and multidimensional sanctions including corporal punishment, loss of testimonial credibility, and spiritual accountability to safeguard personal honor and uphold communal moral integrity. Similarly, contemporary positive law in Indonesia provides legal protection through the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), enabling victims to pursue criminal liability, claim compensatory remedies, and seek reputational rehabilitation. Both legal frameworks converge in their ultimate objective: preventing harm from unfounded allegations and protecting the inherent dignity of individuals, despite differences in procedural mechanisms, sanction types, and underlying philosophical orientations.

The emergence of digital communication platforms and social media has introduced unprecedented challenges to both Islamic and positive law protections, as false accusations can now spread rapidly and irreversibly, often before formal legal remedies are enacted. Key obstacles include identifying perpetrators, establishing admissible evidence, and mitigating reputational harm in real time. These developments necessitate a recalibration of traditional

protection mechanisms, emphasizing proactive and preventive measures alongside reactive judicial remedies. An effective contemporary framework requires a multi-layered approach combining rigorous legal enforcement, technological interventions such as content removal protocols, and public education to cultivate media literacy, thereby enhancing both the deterrence of false accusations and the restoration of victims' social credibility.

B. Suggestion

A brief suggestion for advancing the scientific field of legal protection against zina accusations is to encourage interdisciplinary research that integrates Islamic jurisprudence, positive law, and digital forensics, aiming to develop adaptive, evidence-based frameworks capable of addressing both traditional and cyber-mediated defamation. Future studies should focus on evaluating the effectiveness of combined legal, technological, and educational interventions, fostering harmonization between normative principles and practical enforcement, while also promoting public awareness and media literacy to mitigate the social and psychological impact of unfounded accusations.

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