

Legal Analysis on Defamation from the Perspective of Islamic Law and Article 12 of the Universal Declaration of Human Rights

Gifar Fajar Sidiq¹, Tajul Arifin², Ine Fauziah³
^{1,2,3} UIN Sunan Gunung Djati Bandung, Indonesia
Correspondence Email: ghifarfajars12@gmail.com

Abstract

This research is based on the fact that defamation is an important issue that affects the honor of individuals in various legal systems. This issue has far-reaching implications, both personally and socially, requiring a comprehensive approach to protecting individual rights. This research aims to analyze defamation from two legal perspectives, namely Islamic Law and Article 12 of the Universal Declaration of Human Rights (UDHR). This study uses a normative juridical approach with a descriptive analysis method. Data were collected through a literature review of relevant primary and secondary sources. Furthermore, the data was analyzed using qualitative data analysis techniques to explore the essence of legal protection in both perspectives. The results of the study show that both Islamic Law and Article 12 of the UDHR emphasize the importance of protecting the honor of individuals. However, Islamic law highlights more social and spiritual dimensions, such as the concept of maintaining honor as part of religious obligations. Meanwhile, the UDHR focuses on the protection of individual legal rights in the context of human rights. These findings indicate the need to integrate both approaches in the Indonesian legal system to provide more comprehensive and balanced protection against defamation cases. The implication of this research is to encourage legal policies that not only protect the rights of individuals but also pay attention to the typical moral and social aspects of Indonesian society.

Keywords: Islamic law, Legal protection, Universal Declaration of Human Rights (UDHR).

Introduction

Defamation is an issue that is always relevant in people's social lives, especially in the ever-growing digital era (Fahmi, 2024). Advances in information technology make it easier to disseminate information, but it also increases the risk of misusing the media to harm the reputation of others (Faraby, 2024). Defamation cases now not only occur directly but also through online platforms such as social media. This phenomenon has a serious impact, not only on the individual who is a victim but also on the stability of social relations in society (Anisah et al., 2024).

At the international level, the right to protection against defamation is recognized in Article 12 *Universal Declaration of Human Rights* (UDHR), which affirms

the right of every individual to legal protection against interference with privacy, family, or honor (Assembly, 1997). In Indonesia, legal regulations related to defamation are contained in Articles 310 and 311 of the Criminal Code, as well as the Electronic Information and Transaction Law (UU ITE). Based on data from the National Police Criminal Investigation Branch, defamation is increasing.

From the perspective of Islamic law, defamation is known as *Ghibah* or *Stuttgart* and is expressly prohibited in the Qur'an and hadith. Islam views the honor of the individual as one of the five *maqashid sharia* that must be protected, so actions that damage one's honor are considered sins (Rohman, 2016). However, there are several differences in principle between Islamic law and positive law, both in the regulation of norms and the application of sanctions.

The main problem that requires in-depth discussion is the gap between ideal legal norms and their implementation, both from the perspective of Islamic law and positive law. In practice, positive law often faces obstacles in proving the malicious intent (*mens rea*) of defamatory perpetrators, especially in the digital context (Rohmy et al., 2021). On the other hand, Islamic law, although it has a strong moral foundation, does not have an established institutional structure to handle these cases in countries with secular legal systems, including Indonesia. This demonstrates the need for a more comprehensive approach to integrate Islamic values and international law in an effort to protect the honor of individuals.

In addition, there are academic problems related to how these two legal systems can provide a deterrent effect while upholding the principle of justice. In positive law, the sanctions applied tend to be criminally oriented, while Islamic law offers a more flexible approach to *ta'zir*. This issue raises a debate about how the Indonesian legal system can combine the principles of the two systems without leaving aside the cultural, social, and political context.

Therefore, this study aims to analyze in depth defamation from the perspective of Islamic law and Article 12 of the UDHR, with a focus on the protection of individual honor as well as the implementation of the law in Indonesia. This article also aims to explore the potential for integration between the two legal systems in handling defamation cases, in order to create a more adaptive and fair legal system.

Research Methods

The research method used in the study entitled "Legal Analysis on Defamation from the Perspective of Islamic Law and Article 12 of the Universal Declaration of Human Rights" is a juridical normative method. This approach is used to analyze the legal rules contained in Article 12 of the UDHR as well as relevant legal concepts in Islam, such as those contained in the Qur'an and Hadith. This research is descriptive-analytical, to describe and analyze legal principles related to defamation from both legal perspectives.

The data used in this study includes primary data and secondary data. Primary data consists of Article 12 of the UDHR, the Qur'an, Hadith, and fiqh books that discuss the concept of honor and the prohibition of *ghibah*, slander, and defamatory accusations. Meanwhile, secondary data includes academic literature, scientific journals, and legal documents that provide further explanations on the implementation of Article 12 of the UDHR and the interpretation of Islamic law. Data collection techniques are carried out through document studies and literature reviews of relevant literature.

The data analysis technique uses a qualitative analysis method with a comparative approach. This research begins with the identification of the legal basis of defamation in Islamic Law and Article 12 of the UDHR, followed by a normative interpretation of these legal principles. After that, a comparison is made to identify similarities and differences between the two legal perspectives in protecting good names. The final step is a critical evaluation to assess the strengths and weaknesses of each legal system (Wijaya et al., 2025).

Result and Discussion

Islamic Law's Perspective On Defamation

In Islamic law, defamation is known as *ghibah* and *buhtan*, each of which has a different meaning and consequences depending on the nature and context of the act. Both of these actions are strictly forbidden in Islamic teachings because they damage one's honor and dignity, which is one of the important aspects of maqashid sharia (the goal of Islamic sharia).

In Islamic law, *ghibah* is defined as the act of saying bad things about a person that are true but are done without the person's knowledge or permission, as mentioned in Surah Al-Hujurat verse 12. This verse likens *ghibah* to eating the flesh of one's dead relative, a powerful picture that shows the illegality and badness of the act. *Ghibah* is considered a great sin because it violates individual honor and has the potential to cause slander and damage social relations in society. Meanwhile, *buhtan* is the act of accusing or spreading false information about a person to defame him. *Buhtan* is even more dangerous than *ghibah* because it combines elements of lies and bad intentions, which can cause serious harm to the victim, both emotionally, socially, and materially.

The legal consequences of *ghibah* and *buhtan* in Islam depend on the degree of damage caused. The perpetrator can be subject to the sanction of *ta'zir*, which is left to the discretion of the judge or Islamic legal authority. These sanctions aim not only to provide a deterrent effect but also to improve the relationship between the perpetrator and the victim through reconciliation mechanisms such as *islah* (peace). In addition, Islamic teachings encourage the perpetrator to immediately repent, apologize to the victim, and correct the mistakes that have been made. This approach shows that Islamic law focuses not only on punishment, but also on the restoration of honor and social relations as part of the principle of holistic justice

1. Ghibah

Imam al-Ghazali in *Ihya' Ulum al-Din* states that ghibah is one of the great sins because it damages the honor of others. He said that someone who commits ghibah will damage social relations and have a bad impact on society (Imam Al-Ghazzali & Translated by Malik Karim Amrullah, 1963).

Ghibah is defined as talking about the ugliness of someone behind their back, which is true, but the person does not like it to be revealed (Sidiqah et al., 2024). Prohibition against *Ghibah* explicitly mentioned in the Qur'an:

أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا وَلَا يَغْتَبَ بَعْضُكُم بَعْضًا أَيُحِبُّ أَحَدُكُمْ أَنْ يَأْكُلَ لَحْمَ أَحِيهِ مَيْتًا فَكَرِهْتُمُوهُ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ تَوَّابٌ رَّحِيمٌ

“O you who believe, stay away from many prejudices! Actually, some prejudices are sins. Do not look for the faults of others, and do not gossip about others. Is there any of you who likes to eat the flesh of his dead brother? Of course, you feel disgusted. Fear Allah! Indeed, Allah is the Receiver of Repentance and the Most Merciful” (QS. Al-Hujurat: 12)

This verse uses a very powerful analogy to show how bad the behavior of *ghibah* is. Eating the flesh of a dead relative symbolizes an insult to one's honor, without that person's ability to defend oneself, just as one cannot defend oneself after death. This prohibition reflects the importance of maintaining the honor of fellow Muslims in the life of society.

In addition, in *Sahih Muslim (Kitab Al-Birr wa al-Silah)*, there is a hadith that states: *“From Abu Hurairah, the Prophet PBUH said: 'Do you know what ghibah is?' The Companions replied: 'Allah and His Messenger know better.' The Prophet PBUH then said: 'Mention something about your brother that he does not like.' One of the companions asked: 'What if what I mentioned was true about my brother?' The Prophet Muhammad (PBUH) replied: 'If that is true, then it is ghibah. But if it is not true, then it is slander.”* (HR. Muslim) (Al-Ghazali, 2000).

This hadith confirms that ghibah is talking about something that the person being talked about does not like, even if it is reality or truth. However, if the information conveyed is not true, then it becomes slander, which is a greater sin.

Furthermore, it means based on the above hadith that the Prophet Muhammad PBUH also explained that *ghibah* is to say something about your brother that he does not like, even though it is true. If what is said is not true, then it is a *bug*. This shows that even though *ghibah* reveals the truth, its impact is still detrimental to one's dignity and can cause hostility.

2. São Paulo

São Paulo, on the other hand, refers to false or defamatory accusations against someone. This is considered heavier than *Ghibah* because it involves lies and can cause greater damage, both psychologically, socially, and legally. *São Paulo* is included in the category of defamation (Al-Ghazali, 2000). which is strongly condemned in Islam as mentioned in the Qur'an:

اقْتُلُوهُمْ حَيْثُ تَقِفْتُمُوهُمْ وَأَخْرِجُوهُمْ مِّنْ حَيْثُ أَخْرَجْتُمُوهُمْ وَالْفِتْنَةُ أَشَدُّ مِنَ الْقَتْلِ وَلَا تُقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّى يُقَاتِلُوكُمْ فِيهِ فَإِنْ قَاتَلُوكُمْ فَاقْتُلُوهُمْ كَذَلِكَ جَزَاءُ الْكٰفِرِيْنَ

“Kill them wherever you find them and drive them out of the place where they drove you away. In fact, slander is more cruel than murder. Then do not fight them in the Masjid al-Haram, unless they fight you there. If they fight you, then fight them. This is the reward for the disbelievers (Qur'an, Al-Baqarah: 191)

This verse emphasizes that fitnah (*buhtan*) can have a far more dangerous impact than loss of life. Slander can destroy a person's reputation, divide society, and lead to protracted conflicts. In the hadith, the Prophet Muhammad PBUH also warned that one of the great sins is giving false testimony, which is another form of *buhtan*.

3. Implications of Law and Ethics in Islam

Islam pays great attention to the protection of individual honor. The prohibition against *ghibah* and *buhtan* is not only moral but also has a legal dimension. In the context of social life, these actions can trigger social sins that involve violations of the human rights of others. For this reason, Islamic law encourages reconciliation efforts, such as apologizing to the aggrieved person or performing *kifarat* (penance) through acts of worship.

Both *ghibah* and *buhtan*, reflect a violation of the basic principles of Islam that prioritize honesty, respect for others, and social harmony. Therefore, the prohibition against defamation is an integral part of Islamic teachings that aim to protect human dignity individually and collectively

4. Sanctions in Islamic Law

In Islam, defamation in the form of *Ghibah* or *Stuttgart* is not included in the category of *hudud* (punishment that has been determined by the Shari'ah) or *Qishash* (Reply is appropriate). Therefore, the punishment for this act falls into the type of *ta'zir* (Sari, 2023). *Ta'zir* is a punishment that is not determined in the Qur'an and hadith, but is left to the wisdom of the judge (*Qadhi*) (Sari, 2023). The goal is to provide a deterrent effect for perpetrators, prevent greater damage, and maintain individual honor and community stability.

Types of punishment *ta'zir* can be varied, ranging from verbal reprimands, fines (*gharamah*), imprisonment, to light physical punishment, depending on the impact of

the act (Qudamah, 2002, p. 57). If defamation causes serious harm, such as slander that divides the family or society, the judge may impose heavier sanctions. On the other hand, if the impact is limited to minor conflicts, punishment can be in the form of advice or mediation to reconcile the parties to the dispute. This flexibility provides room for judges to consider the context and situation fairly.

In addition to being a form of punishment, *ta'zir* also has educational and preventive purposes (Hasibuan, 2019). This punishment is intended so that the perpetrator realizes his mistake, repents, and does not repeat his actions. In a social context, the imposition of punishment *ta'zir* also serves to maintain harmony in society, prevent further conflicts, and protect the dignity of victims. Thus, the concept of *ta'zir* in Islam is not only repressive but also aims to improve individual behavior and maintain social order.

5. The Purpose of Sharia (*Maqasid al-Shariah*)

In *maqasid al-shariah* (the purpose of sharia), maintaining the honor of the individual (*hifz al-'ird*) is one of the five main objectives besides preserving religion (*hifz al-din*), soul (*hifz al-nafs*), Sense (*Hifz Al-'AQL*), and treasures (*Hifz Al-Mal*) (Sabil, 2022). Honor is a human right that is highly upheld in Islam because it is an integral part of human dignity. Islam places individual honor as something that must be protected from actions that can degrade or defame a person, either through speech, actions, or the dissemination of harmful information (Imron Maulana, 2021).

Defamation, both in the form of *ghibah* (gossip) and *buhtan* (slander), violates the principle of *hifz al-'ird* because it injures human dignity. This action not only harms the individual victims but also has the potential to give birth to conflict, hostility, and division within society. A person's honor should not be violated, both in public and in the private sphere, because it is contrary to the basic values of Islam, which prioritize mutual respect and maintain brotherhood between people.

In addition, defamation also destroys social trust, which is the foundation of social harmony (Mauludi, 2019). When individual honor is no longer valued, relationships between members of society will be weakened, and a sense of security in interacting will be lost. Therefore, the prohibition against defamation is not only aimed at protecting victims but also maintaining balance and harmony in community life. In the context of *maqasid al-shariah*, the protection of individual honor is an important step to create a just, peaceful, and dignified society.

Perspective of Article 12 of the Universal Declaration of Human Rights (UDHR)

Article 12 *Universal Declaration of Human Rights* (UDHR) affirms the importance of protecting the right to privacy, honor, and reputation of individuals as part of human rights that must be upheld by all countries. The essence of this article is to prohibit any form of arbitrary interference or attack on a person's personal life,

whether carried out by individuals, groups, or the state. By providing this assurance, the declaration aims to create a sense of security and respect for human dignity at the global level (Vania et al., 2023).

The right to privacy is the first core of Article 12, which affirms that no one should be arbitrarily harassed in their private affairs, including family, home, and communications. Privacy is an essential element in human life that allows individuals to live their lives without external pressure or threats (Vania et al., 2023). This right includes protection against unauthorized surveillance, eavesdropping, or dissemination of personal information, especially in the digital age, which is vulnerable to data breaches.

The second aspect of Article 12 is the right to the protection of honor and reputation. Every individual has the right to live with dignity, without having to face attacks or defamation. Honor reflects a person's moral and social values, while reputation relates to the public's perception of the individual. When someone's honor or reputation is damaged, it can have a devastating impact on their psychological, social relationships, and professional life (Vania et al., 2023). Therefore, Article 12 demands the existence of a legal mechanism that can protect individuals from such actions.

This article also emphasizes that every individual has the right to legal protection against any form of interference or attack on privacy, honor, and reputation. This protection aims to ensure that there is a justice mechanism that can prevent, take action, and provide redress for these human rights violations. The law must function not only to punish the perpetrator but also to provide a sense of security to the victim.

In the context of modern life, Article 12 is increasingly relevant to the rapid development of technology and communication. Attacks on privacy and defamation are now happening not only in person but also through cyberspace, such as social media (Putra et al., 2023). Countries that adopt the principles of the UDHR are expected to have a robust legal framework to deal with cases such as defamation, personal data breaches, or digital defamation. Thus, Article 12 not only reflects respect for individual rights but also supports social stability through respect for human values.

The application of Article 12 *Universal Declaration of Human Rights* (UDHR) requires countries that adopt it to provide a legal tool that protects the privacy, honor, and reputation of individuals. This legal apparatus must be able to prevent and take action against defamation cases through fair and proportionate sanctions (Johar et al., 2022). Punishment can be fines, public apologies, or other punishments prescribed in accordance with national law. The main goal is to provide justice for victims and ensure a sense of security for the community in living their private lives (Waluyo, 2022).

The following are the similarities and differences between the perspective of Islamic law and Article 12 of the UDHR.

Table 1. Similarities and Differences

Aspects	Islamic Law	Article 12 of the UDHR
Foundation	Qur'an and Sunnah	Principles of universal human rights
Purpose	Maintaining honour (maqasid shariah)	Protection of dignity and privacy
Penalty	Hukuman ta'zir (flexible)	Relying on national laws
Pendekatan	Spirituality and social	Individual legal rights

The similarities and differences between Islamic law and Article 12 of the Universal Declaration of Human Rights (UDHR) reflect two complementary approaches in protecting the honor of the individual. Islamic law based on the Qur'an and Sunnah emphasizes spiritual and social values, to maintain honor as part of the sharia maqasid, as well as providing flexible and adjusted *ta'zir* sanctions by judges. Meanwhile, Article 12 of the UDHR, rooted in the principles of universal human rights, focuses on the protection of the dignity and privacy of individuals with a formal legal approach, whose implementation depends on the national laws of each country.

Although the goals of both are similar, which is to protect the honor of the individual, differences in approach and implementation demonstrate the need for integration that takes into account social and legal contexts. As revealed by An-Na'im (2008), the merging of Islamic legal values with international standards can result in a more adaptive and relevant legal system to deal with contemporary issues, including defamation. Islamic law presents a distinctive approach to law enforcement, but the challenges of the modern era demand harmony between maintaining sharia values and adapting to the dynamics of social change at the global level (Efendi, 2023).

Conclusion

Both legal systems, both Islam and Article 12 of the UDHR, share the view that defamation is a serious violation of human honor. Islamic law considers honor to be one of the maqasid sharia that must be protected, with strict prohibitions against *ghibah* and *buhtan* listed in the Qur'an and hadith. Meanwhile, Article 12 of the UDHR emphasizes the universal protection of privacy, honor, and reputation through formal legal mechanisms adopted by its member states. Although they come from different contexts, both emphasize the importance of maintaining individual honor as a fundamental element in social life.

The difference lies in the main approach. Islamic law emphasizes more on the spiritual and moral dimensions, offering reconciliation solutions such as apology and repentance to improve social relations. In contrast, Article 12 of the UDHR focuses on

formal mechanisms for enforcing legal justice through the judiciary. In the Indonesian context, the integration of these two approaches is very relevant. The Islamic moral approach can strengthen positive legal regulations, such as the Criminal Code and the ITE Law, thereby creating a legal mechanism that not only upholds justice but also maintains social harmony. This combination allows for a more holistic and comprehensive resolution of defamation cases.

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