



fecha de presentación: 15/03/2026, fecha de aceptación: 10/04/2026, fecha de publicación: 01/05/2026

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Cita sugerida (APA, séptima edición)

Mammeri, B. (2026). Civil liability of social media platforms for digital content: a critical analysis under algerian private law. *Revista Sociedad & Tecnología*, 9(S2), 722-731, DOI: <https://doi.org/10.51247/st.v9iS2.784>

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Civil liability of social media platforms for digital content: a critical analysis under algerian private law

ABSTRACT

This study critically analyzed the civil liability of social media platforms for harmful digital content under Algerian private law. The objective was to determine whether traditional liability doctrines remained adequate to regulate platforms that actively curate, recommend, and amplify user-generated content. The methodology adopted a qualitative legal approach based on doctrinal analysis, comparative legal research, and documentary review of legislation, academic literature, and foreign regulatory frameworks. Particular attention was given to Algerian civil liability principles, the European Union Digital Services Act, and debates surrounding Section 230 in the United States. The results showed that classical rules based on fault, damage, and causation were insufficient when harms arose through algorithmic systems, platform governance, and transnational dissemination. Platforms were found to occupy a hybrid legal position between intermediary, publisher, and private regulator. Comparative experiences also demonstrated an international trend toward enhanced accountability through transparency duties, due diligence obligations, and systemic risk mitigation. The study concluded that Algerian law would benefit from an adaptive liability regime combining traditional private law principles with platform-specific obligations proportionate to technological influence and operational control. Such reform would strengthen user protection, legal certainty, and accountability in the digital environment.

Keywords: social media platforms; civil liability; Algerian private law; algorithmic amplification; platform governance; digital regulation; comparative law.

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Responsabilidad civil de las plataformas de redes sociales por contenido digital: un análisis crítico bajo el derecho privado argelino

RESUMEN

Este estudio analizó críticamente la responsabilidad civil de las plataformas de redes sociales por contenidos digitales dañinos bajo el derecho privado argelino. El objetivo fue determinar si las doctrinas tradicionales de responsabilidad seguían siendo adecuadas para regular plataformas que curan, recomiendan y amplifican activamente contenidos generados por usuarios. La metodología adoptó un enfoque jurídico cualitativo basado en análisis doctrinal, investigación jurídica comparada y revisión documental de legislación, literatura académica y marcos regulatorios extranjeros. Se prestó especial atención a los principios de

responsabilidad civil argelinos, la Digital Services Act de la Unión Europea y los debates sobre la Sección 230 en Estados Unidos. Los resultados mostraron que las reglas clásicas basadas en culpa, daño y causalidad resultaron insuficientes cuando los perjuicios surgieron mediante sistemas algorítmicos, gobernanza de plataformas y difusión transnacional. Se determinó que las plataformas ocupan una posición jurídica híbrida entre intermediario, editor y regulador privado. Las experiencias comparadas también evidenciaron una tendencia internacional hacia una mayor rendición de cuentas mediante deberes de transparencia, diligencia debida y mitigación de riesgos sistémicos. Se concluyó que el derecho argelino se beneficiaría de un régimen adaptativo que combine principios tradicionales del derecho privado con obligaciones específicas para plataformas según su influencia tecnológica y control operativo.

Palabras clave: plataformas de redes sociales; responsabilidad civil; derecho privado argelino; amplificación algorítmica; gobernanza de plataformas; regulación digital; derecho comparado.

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Responsabilidade civil das plataformas de redes sociais por conteúdo digital: uma análise crítica sob o direito privado argelino

RESUMO

Este estudo analisou criticamente a responsabilidade civil das plataformas de redes sociais por conteúdos digitais danosos sob o direito privado argelino. O objetivo foi determinar se as doutrinas tradicionais de responsabilidade permaneciam adequadas para regular plataformas que curam, recomendam e amplificam ativamente conteúdos gerados por usuários. A metodologia adotou uma abordagem jurídica qualitativa baseada em análise doutrinária, pesquisa jurídica comparada e revisão documental de legislação, literatura acadêmica e marcos regulatórios estrangeiros. Foi dada especial atenção aos princípios da responsabilidade civil argelina, ao Digital Services Act da União Europeia e aos debates sobre a Seção 230 nos Estados Unidos. Os resultados mostraram que as regras clássicas baseadas em culpa, dano e causalidade foram insuficientes quando os prejuízos surgiram por sistemas algorítmicos, governança de plataformas e difusão transnacional. Verificou-se que as plataformas ocupam posição jurídica híbrida entre intermediário, editor e regulador privado. As experiências comparadas também demonstraram tendência internacional de maior responsabilização mediante deveres de transparência, diligência devida e mitigação de riscos sistêmicos. Concluiu-se que o direito argelino se beneficiaria de um regime adaptativo que combine princípios tradicionais do direito privado com obrigações específicas para plataformas conforme sua influência tecnológica e controle operacional.

Palavras-chave: plataformas de redes sociais; responsabilidade civil; direito privado argelino; amplificação algorítmica; governança de plataformas; regulação digital; direito comparado.

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INTRODUCCIÓN

Over the last decade, social media platforms have evolved from simple communication channels into complex digital ecosystems that influence public discourse, economic relations, and personal identity. Their role is no longer limited to hosting third-party content, since algorithmic systems actively prioritize, recommend, and amplify information according to commercial and behavioral criterion (Gillespie, 2018). This transformation has generated new debates regarding the legal responsibilities of platforms for damages caused through digital interactions, particularly in cases involving privacy violations, reputational harm, and unlawful data processing (Gallardo Rodríguez, 2023; Loreti, 2021).

From a private law perspective, the expansion of digital platforms challenges the traditional distinction between authors, intermediaries, and publishers. Classical civil liability systems were designed for direct human conduct, where fault, causation, and damage could be more easily identified. In contrast, online harms frequently arise through multilayered technological processes in which users, automated systems, and corporate policies interact simultaneously. Consequently, attributing responsibility to platforms has become one of the most controversial issues in contemporary legal doctrine (Castro, 2024; Tomeo, 2010).

The problem becomes even more complex because many platforms rely on the large-scale collection and monetization of personal data as a central element of their business model. This economic logic creates tensions between contractual consent, consumer autonomy, and civil liability for unlawful data processing. Recent scholarship emphasizes that the apparent gratuity of digital services often conceals sophisticated contractual exchanges in which personal information becomes the real consideration provided by users. Such dynamics require renewed legal scrutiny under civil and digital law frameworks (Acedo Penco, 2025; Gallardo Rodríguez, 2023).

At the same time, technological innovation has accelerated the emergence of artificial intelligence tools integrated into digital platforms. Recommendation engines, automated moderation systems, predictive profiling, and generative AI applications may intensify risks of discrimination, misinformation, or unjustified restrictions on speech. These developments raise the question of whether traditional fault-based liability remains sufficient when damages are produced or aggravated by autonomous or semi-autonomous systems embedded within platform infrastructures (Muñoz, 2025; Loreti, 2021).

In Latin America, courts and scholars have also examined the consequences of harmful publications on social media, especially regarding moral damages, defamation, and the evidentiary difficulties associated with online dissemination. The viral and persistent nature of digital content can magnify reputational injuries far beyond the scale known in traditional media contexts. For that reason, recent studies propose specific standards for proof and compensation adapted to the realities of digital communication and transnational online audiences (Toledo Jiménez & Maldonado Ruíz, 2026; Castro, 2024).

Within the Algerian legal context, these global debates acquire particular relevance due to the absence of a specialized legal framework governing the civil liability of social media platforms. Current disputes must therefore be addressed through general principles of private law that were not originally conceived for algorithmic amplification, data-driven governance, or AI-assisted moderation. This normative gap creates uncertainty for users, judges, and platforms alike, particularly in relation to fault, causation, and the scope of preventive duties.

Against this background, the present study critically examines the civil liability of social media platforms for digital content under Algerian private law. It seeks to determine whether traditional liability doctrines remain adequate for regulating contemporary platforms or whether an adaptive legal framework is necessary. Through doctrinal analysis and comparative insights, the article contributes to the broader discussion on how private law should respond to the structural transformation of communication in the digital age.

Methodology

This study was developed under a qualitative legal research approach, since its main objective was to critically examine the civil liability of social media platforms within the framework of Algerian private law. Qualitative methodology is particularly appropriate when the purpose of research is to interpret norms, identify conceptual tensions, and explain emerging legal phenomena rather than measure variables statistically. In legal studies, this approach facilitates the systematic understanding of doctrines, principles, and regulatory transformations affecting contemporary digital environments (Romero Flor, 2016; Guamán Chacha et al., 2021).

The research design was descriptive, analytical, and propositional. It was descriptive because it identified the principal legal rules governing civil liability in Algeria and the regulatory tendencies concerning platform responsibility in comparative systems. It was analytical because the study examined the adequacy of traditional categories such as fault, damage, and causation when applied to algorithmically mediated harms. It was propositional because, based on the findings obtained, the article formulated normative recommendations aimed at improving the Algerian legal framework (Espinoza Freire, 2015; Espinoza-Freire, 2021).

Regarding method, the investigation primarily employed the doctrinal legal method, which consisted of the interpretation and critical examination of legislation, legal scholarship, and relevant normative instruments. Through this method, provisions of the Algerian Civil Code were reviewed in relation to extra-contractual liability, reparation of damages, and causal attribution. Doctrinal analysis is especially useful in legal research because it allows the reconstruction of legal reasoning and the identification of gaps between classical rules and new technological realities (Romero Flor, 2016; Guamán Chacha et al., 2021).

A comparative legal method was also applied in order to contrast the Algerian framework with selected foreign models. The study examined the European Union Digital Services Act, debates surrounding Section 230 in the United States, and recent scholarly proposals concerning intermediary liability and algorithmic accountability. Comparative analysis made it possible to identify convergences, divergences, and transferable regulatory lessons that could inspire adaptive reforms in Algeria. Comparative reasoning is widely recognized as a valuable instrument for modern legal scholarship (Espinoza-Freire, 2025a; Espinoza-Freire, 2025b).

The documentary technique guided the collection of information. Academic books, peer-reviewed journal articles, legislative texts, and institutional reports indexed in scientific databases were selected according to relevance, recency, and thematic connection with platform liability. Search strategies included keywords related to civil liability, digital platforms, intermediary responsibility, and online harms. Rigorous source selection strengthens the validity and reliability of qualitative legal studies by ensuring conceptual precision and updated evidence (Espinoza-Freire, 2025a; Espinoza-Freire, 2025c).

Finally, the study respected the fundamental principles of **research ethics**, particularly intellectual honesty, accurate citation, and faithful interpretation of sources. Arguments were constructed through reasoned analysis, avoiding distortion of legal authorities or unsupported claims. Ethical rigor is essential in scientific and juridical inquiry because it guarantees transparency, credibility, and responsible knowledge production. Accordingly, the methodological process sought coherence between objectives, methods, sources, and conclusions throughout the investigation (Espinoza-Freire, 2022; Espinoza-Freire, 2024).

THEORETICAL FRAMEWORK

Intermediary Liability, Platform Governance, and Digital Responsibility

The civil liability of social media platforms cannot be adequately understood through traditional legal categories alone. Contemporary platforms are no longer passive technological infrastructures, since they intervene in the circulation, ranking, recommendation, and monetization of digital content. Their operational logic combines communication services, data extraction, algorithmic decision-making, and private rulemaking. For this reason, recent scholarship has emphasized the need to reassess the legal status of platforms within modern systems of private law and regulatory governance (Gorwa, 2019; Gillespie, 2018; Napoli, 2019).

A first relevant perspective is intermediary liability theory, which examines the responsibility of actors that facilitate the dissemination of third-party content. Historically, intermediaries benefited from reduced liability when they merely transmitted or stored information without editorial control. However, social media platforms frequently exercise influence through

moderation policies, recommender systems, and monetization incentives, making the distinction between neutral host and publisher increasingly unstable. This doctrinal evolution has led scholars to argue that platforms occupy a hybrid legal position requiring differentiated liability standards (Klonick, 2017; Sánchez Lería, 2020; López Richart, 2018).

The debate over intermediary liability is particularly visible in the United States, where Section 230 of the Communications Decency Act has traditionally provided broad immunity to online services. Nevertheless, recent authors contend that immunity should not extend to platforms that knowingly facilitate harmful conduct or structurally amplify abusive content. Under this view, responsibility should depend not only on authorship of speech, but also on the platform's contribution to foreseeable harm through design choices and commercial incentives (Citron & Wittes, 2017; Citron & Wittes, 2020; Keller, 2021).

A second theoretical perspective is platform governance theory, which focuses on how platforms regulate online behavior through private norms, technical architecture, and automated enforcement systems. Platforms establish terms of service, moderation procedures, advertising standards, and visibility rules that shape public discourse in ways traditionally associated with public institutions. As a result, governance over speech and digital participation is increasingly exercised by private corporations rather than states alone. This redistribution of normative power creates new demands for accountability and transparency (Gorwa, 2019; Douek, 2021; Gillespie, 2018).

Within the European Union, platform governance has moved toward a model based on due diligence and systemic risk management. The Digital Services Act reflects the idea that large platforms must assume obligations proportionate to their scale, influence, and technological capacity. These obligations include transparency reporting, complaint mechanisms, cooperation with authorities, and measures against illegal content or systemic harms. This approach demonstrates that contemporary regulation increasingly links responsibility to governance capacity rather than formal authorship alone (European Union, 2022; Wilman, 2022).

Another essential dimension of the theoretical framework concerns algorithmic amplification. Digital harms are often not produced solely by the original speaker, but by the enhanced reach generated through recommendation systems designed to maximize engagement. Harmful content may become more visible because it is provocative, emotional, or commercially profitable. Scholars therefore argue that regulating "reach" is more complex than regulating content itself, since amplification mechanisms are opaque, dynamic, and embedded in platform architecture (Keller, 2021; Douek, 2020; Napoli, 2019).

The expansion of data-driven business models also supports a theory of digital responsibility grounded in economic exploitation of attention and personal data. Many platforms offer nominally free services while monetizing user profiling, targeted advertising, and behavioral prediction. This creates asymmetries of information and power that may justify stronger protective duties toward users, especially minors or vulnerable consumers. Civil liability thus extends beyond content moderation and reaches unlawful data practices, manipulative design, and commercial exploitation (Acedo Penco, 2025; Burgueño & Del Río, 2025).

Recent studies additionally highlight the growing role of content creators, influencers, and digital marketing ecosystems within platform economies. Platforms incentivize continuous engagement through visibility metrics, monetization tools, and audience capture strategies that can intensify misinformation, reputational harm, or unfair commercial persuasion. In this sense, responsibility may involve multiple actors: the platform, the creator, advertisers, and data processors. Such complexity requires a plural and functional approach to liability rather than a single-cause model (Villegas Simón, 2022; Merino Cava & Valdiviezo Sir, 2022).

From a comparative perspective, specific harms such as privacy breaches, gender violence, defamatory publications, and illicit hosted content illustrate how platform responsibility materializes in practice. Courts and scholars increasingly examine whether platforms acted

diligently after notice, whether they facilitated recurrence of abuse, and whether preventive mechanisms were reasonably available. These practical scenarios reinforce the need for doctrinal models capable of combining fault-based principles with preventive obligations and proportional remedies (Platero Alcón, 2017; Awad & Gómez Torre, 2025; Sánchez Lería, 2020).

Accordingly, this study adopts an integrated theoretical framework combining intermediary liability, platform governance, algorithmic accountability, and digital consumer protection. Such a framework is particularly useful for evaluating Algerian private law, where classical civil liability rules remain centered on fault, causation, and damage, but were not designed for technologically mediated harms. The key theoretical question is whether existing doctrines can adapt to the hybrid functions of platforms or whether a new model of civil responsibility is required.

DISCUSSION

The findings of this study confirmed that the traditional foundations of civil liability were increasingly insufficient to regulate the conduct of contemporary social media platforms. Classical doctrines were historically structured around direct human action, identifiable fault, and linear causation. However, digital platforms operate through automated systems that rank, recommend, and amplify content according to predictive and commercial logics. This structural transformation weakened the suitability of conventional liability models when harms emerged through technologically mediated interactions rather than direct publication alone (Gillespie, 2018; Napoli, 2019).

A central issue identified in the analysis concerned the legal characterization of platforms. Treating platforms as neutral intermediaries no longer reflected their operational reality, since they actively shape the visibility and circulation of user-generated content through moderation rules and recommender systems. In this sense, platforms exercised functions closer to editors or private regulators, although without assuming equivalent responsibilities. Similar conclusions have been advanced in comparative scholarship, which recognizes the hybrid nature of platforms in contemporary legal systems (Klonick, 2017; Gorwa, 2019; Douek, 2021).

The discussion also demonstrated that the requirement of fault became difficult to apply under Algerian private law when harmful outcomes were linked to algorithms rather than explicit human intent. Content amplification may result from automated optimization systems designed to maximize engagement, even where no individual employee directly intended the resulting harm. Consequently, negligence and foreseeability must be reconsidered in light of platform design choices, data practices, and governance structures. This supports the argument that fault should include systemic and organizational omissions in digital environments (Keller, 2021; Douek, 2020).

Another relevant finding involved the concept of damage. In online contexts, harm frequently takes reputational, psychological, or patrimonial forms that are intangible yet substantial. Viral dissemination, persistent indexing, and transnational reach may intensify injuries beyond those commonly associated with traditional media. Recent Latin American studies on moral damages caused by social media publications similarly emphasize the need for evidentiary standards adapted to digital realities, where permanence and scale aggravate personal harm (Castro, 2024; Toledo Jiménez & Maldonado Ruíz, 2026).

Causation represented perhaps the most complex doctrinal challenge. Platform-related harm often arises from a chain involving user conduct, automated recommendation, audience reaction, and repeated dissemination. Under such conditions, proving a direct causal nexus becomes considerably more difficult than in conventional tort disputes. This problem suggests that rigid linear causation tests may be inadequate, and that presumptive or contributory causation models could offer more realistic solutions when algorithmic amplification

substantially increased the probability or magnitude of harm (Citron & Wittes, 2020; Keller, 2021).

Comparative analysis further revealed a clear international tendency toward enhanced platform accountability. The European Union adopted the Digital Services Act to impose transparency, due diligence, and systemic risk obligations according to platform size and influence. By contrast, the United States has maintained stronger immunity through Section 230, although doctrinal and political debates increasingly question its scope in cases involving amplification or platform-enabled abuse. These divergent models nonetheless share a common recognition that platforms are not purely passive actors (European Union, 2022; Wilman, 2022; Citron & Wittes, 2017).

The study also highlighted that data extraction and attention-based business models influenced the liability debate. Where platforms profit from profiling, targeted advertising, and engagement maximization, harmful content may become economically incentivized rather than accidental. This commercial dimension strengthens arguments for broader duties of care, especially toward minors, vulnerable users, and consumers exposed to manipulative digital environments. Civil responsibility must therefore address not only speech harms, but also exploitative platform architectures and unlawful processing of personal data (Acedo Penco, 2025; Burgueño & Del Río, 2025).

From the Algerian perspective, reliance solely on general civil code provisions appeared insufficient to address these multidimensional risks. While traditional principles of fault, damage, and causation remain relevant, their practical application requires reinterpretation or legislative supplementation in order to respond to platform governance, algorithmic opacity, and transnational digital harms. The discussion therefore supports the adoption of a hybrid liability regime combining classical private law with preventive obligations, transparency duties, and proportionate accountability mechanisms aligned with global regulatory developments (Napoli, 2019; Douek, 2021; European Union, 2022).

CONCLUSIONS

This study concluded that the traditional rules of civil liability under Algerian private law were not fully adequate to regulate the complex role performed by contemporary social media platforms. Classical doctrines were designed for direct and individualized conduct, whereas digital harms frequently emerged through algorithmic recommendation systems, automated amplification, and platform governance mechanisms. As a result, the conventional interpretation of fault, damage, and causation proved insufficient when applied to technologically mediated environments (Gillespie, 2018; Napoli, 2019).

The analysis further demonstrated that social media platforms could no longer be accurately classified as neutral intermediaries. Their active participation in ranking, moderating, recommending, and monetizing user content placed them in a hybrid legal position situated between host providers, publishers, and private regulators. This functional transformation justified a reconsideration of the scope of their civil responsibility, especially where platform design significantly influenced the dissemination of harmful content (Klonick, 2017; Gorwa, 2019; Douek, 2021).

Regarding fault, the study found that liability based exclusively on intentional or negligent human action was increasingly difficult to establish in cases involving automated systems. Harm may result not from a single decision, but from systemic failures in content moderation, risk management, or algorithmic architecture. Therefore, modern legal analysis should recognize organizational negligence, deficient oversight, and foreseeable technological risks as relevant forms of fault in platform-related disputes (Keller, 2021; Citron & Wittes, 2020).

In relation to damage, the research confirmed that digital injuries often affect reputation, privacy, psychological integrity, and economic interests in ways that are amplified by permanence, virality, and global reach. These characteristics required more flexible

evidentiary approaches and context-sensitive standards for quantification. Traditional models of proof remain useful, but they must adapt to the realities of persistent online dissemination and intangible personal harms (Castro, 2024; Toledo Jiménez & Maldonado Ruíz, 2026).

Comparative examination showed that recent international developments increasingly favor enhanced accountability for platforms. The European Union's Digital Services Act illustrated a preventive model centered on due diligence, transparency, and systemic risk mitigation, while debates in the United States revealed growing concern regarding broad immunity frameworks. These experiences offered valuable guidance for Algeria in designing reforms that preserve innovation while strengthening user protection (European Union, 2022; Wilman, 2022).

Based on these findings, the study concluded that Algeria would benefit from an adaptive or hybrid liability regime. Such a model should preserve the principles of private law while incorporating differentiated duties according to platform size, control, and technological influence. Measures such as transparency obligations, notice-and-action procedures, presumptive causation in specific cases, and proportionate sanctions would improve legal certainty and access to justice.

Finally, the broader conclusion of this research was that the transformation of digital communication requires a parallel transformation of private law. Social media platforms have become central actors in contemporary social, economic, and informational life, and legal systems must respond accordingly. Updating civil liability doctrines is therefore not merely a technical reform, but an essential step toward safeguarding dignity, rights, and accountability in the digital age.

STUDY LIMITATIONS

This study was limited by its predominantly doctrinal and comparative nature, as it relied on legal analysis of normative frameworks, academic literature, and selected foreign regulatory experiences rather than empirical case data from Algerian courts or platform enforcement records. In addition, the scarcity of specialized Algerian jurisprudence on social media liability restricted the possibility of evaluating judicial trends in practice.

FUTURE STUDIES

Future research should incorporate empirical methodologies, including judicial case analysis, interviews with legal practitioners, and comparative assessment of regulatory implementation in Arab and African jurisdictions. Additional studies may also examine artificial intelligence liability, automated moderation systems, and the impact of platform governance on freedom of expression and consumer rights.

ACKNOWLEDGMENTS

The author expresses sincere gratitude to the academic specialists and legal scholars whose observations, recommendations, and critical reflections contributed to the development of this study. Special recognition is extended to colleagues of the University of Djelfa for their intellectual support, professional encouragement, and valuable academic exchange throughout the research process.

CONFLICT OF INTEREST STATEMENT

The author declares that there were no financial, institutional, professional, or personal conflicts of interest related to the preparation, authorship, or publication of this article.

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