ZAC Conference Series: Social Sciences and Humanities
(ZACCS: SSH)
https://conf.zenithacademic.co.uk/index.php/zacsssh
ISSN (Print): 3049-7760 ISSN (Online): 3049-7779
3rd International Humanitarian Conference, Baghdad 2024
Volume 001, Issue 01, 2024, pp. 001-312
https://doi.org/10.70516/zaccsssh.v1i1.49

Civil Liability for Damage to Digital Content (Comparative Study)

Kazem Hammadi Yousef Al-Halfi [1, a)]

[1] Faculty of Law, Mustansiriyah University, Baghdad, Iraq

[a)] Corresponding author: lawyeralhilfy@uomustansiriyah.edu.iq

Abstract. Digital content is one of the results of the modern digital revolution, which affects the most accurate and personal rights of individuals. Personal and public information that is collected and shared over the Internet is increasing, which leads to the imposition of a type of risks and challenges whose impact is widespread, frequent and accelerated across the digital field, which is characterized by complexity and sensitivity of people. The digital field is cross-border, multidimensional, interconnected and rapidly spreading among users. Rights related to the circulation of information, including freedom of opinion and expression, freedom to circulate information, the right to privacy, the right to digital security, and the right to digital privacy. It is not a right to harass people under the pretext of freedom of opinion and expression. Everyone has the right to adopt a certain faith or thought without being harassed by others as a result of their own ideas or beliefs, provided that they are limited by some of the necessary restrictions specified in the text of the law, and in a manner that preserves the public interest. The right to privacy is also an endorsement of personal freedom without seriously violating the right of another person to the extent that his affairs and conditions are under the knowledge of others, which causes the privacy of others to be presented to the public, and here it entails the responsibility of violating the right of others to privacy. Privacy is a fertile field for individuals to exercise their right to enjoy self-development with others, in a way that ensures influence and influence in many areas to increase meaningful human knowledge, but without intruding on the rights of others. Everyone has the right to privacy through the digital field of Internet networks, as everyone has the right to protect their personal data, retain, process and control it, and not to allow others to penetrate it. Everyone should benefit from the digital revolution, and the optimal use of meaningful digital content as producers of contents, blogs and services, not just consumers. Therefore, the issue of competencies for the optimal and meaningful use of digital content is part of the indicators of the special dimension of participation in a way that ensures a critical sense, efficiency, and ethics, and in a way that ensures the public use of the digital field of the Internet, and in a way that promotes digital human rights. All digital human rights must be respected, which find its legal basis in positive legislation and international charters, but they are still subject to violations, especially in light of the increase in personal information circulated to users , which may be misused by some and cause serious harm to others , may affect their reputation , or personal consideration, and sometimes this may be a tool used to blackmail the victim , or bullying him, and then make him vulnerable to many serious material or moral damages. Digital content may have several aspects , in which there may be meaningful content and a tool for human development among individuals , and digital content may include a violation of the rights of other people, exposing them to material and moral damage, and this in turn reflects on societal peace, and exposes social ties to disintegration , dispersion , and lack of confidence in dealing with others , and here it has become necessary to develop deterrent legal rules for people who misuse the digital field of wide Internet networks and their various programs. The pillars of civil legal responsibility are available when a certain person uses the digital field by producing inappropriate digital content on the Internet through which he deliberately offends others in their personal consideration, reputation, or honor, whether the aim is to blackmail the victim or bully him electronically, and here the element of error is achieved. If this error results in damage to the person whose digital rights have been violated as a result, the second pillar of civil legal responsibility is formed, and when the causal relationship is available, the three pillars of responsibility are formed, and when available, the person responsible for this is

held accountable. Civil liability for the damage of digital content constitutes an effective system to reduce the damage of the violation of the digital rights of subscribers through the digital field. The tools of this liability must be at a high-level equivalent to the damage and the consequent risks. All public and private efforts should be combined to reduce this. The damage is not private, but rather results in a serious reflection that results in the modern disintegration of social ties.

Keywords: Civil Liability, freedom, and digital content

INTRODUCTION

First- An introduction to the research topic

The digital environment includes many positive aspects in which the idea of the Internet and meaningful digital content has evolved. However, the negative ideas that some have exploited in creating inappropriate content to present their ideas through the Internet have overlapped with them, without that content being inappropriate to the requirements of society ,its values and ethics and its various categories .

The danger of inappropriate digital content is that it is directed to target the most important groups of society , including young people , children , and individuals who do not have the required experience to deal with modern digital means to influence their ideas and guide them in a way that undermines their confidence ,values ,and ambition, isolates them from their protection,and makes them live in an imaginary digital reality without any benefit to their society .

Those who promote inappropriate digital content also behave the same outputs of appropriate digital content and in the same digital sites in order to confuse and surprise the user in all ways , including pornography in all its methods of images , clips, films, or materials that incite violence in all its forms, or digital games that include violence , fighting , the use of weapons of all kinds , or aiding in sex trafficking, the use of tools that help, or encouraging trade , the sale of human organs, and other means used by the owners of inappropriate content to reach their illegal goals.

From the above, it is necessary to determine the civil legal liability that establishes a legal regulation of liability that redresses the damage of digital content when it leads to the disintegration of family ties in society and affects its values andideas for the worse .

Many individuals are harmed by inappropriate digital content and may be harmed in their body, money, personal regard,or honor , in the sense that it affects a legitimate interest of the victim.

This situation must identify the persons involved in these damages that result from the digital content, whether they are material or moral damages, and indicate the elements of civil liability that result from the mistake of the owner of the digital content, and all those who interfere with it in that error , and determine the type of damage that affects the injured as a result of the violation of the legal limits by the owner of the digital content, and the violation of the rights of others , and then reach a causal relationship between the mistake of the owner of the content , and the damage suffered by the injured as a result of the digital content, and thus integrate the elements of civil liability towards the official , and compensate the injured with fair compensation commensurate with the damage suffered without increase or decrease, and that this compensation at the same time includes the loss suffered by the injured and the loss of profit as a result .

Second- The Importance of The Research Topic

The importance of the research lies in the fact that digital content, whether it is decent or inappropriate, has become circulating , available to all , and accessible to all. Here, the recipient will be a container for experience , a consumer of digital content, and the impact on it depends on the ideas it carries, and it values the effectiveness and tools used by the owner of digital content, and the parties behind it , and provide it with support to reach the desired goal of publishing that content.

Here, we are facing a digital onslaught that we have not seen before. Its methods are modern , its means are sophisticated , and it can be accessed and affected on a daily basis. The challenge is great , as it affects everyone. Here, there is a need to develop legal determinants to reduce the effects of digital content, repair its damage, and use people who have sufficient experience to deal with such an advanced challenge in terms of impact, impact , and results .

Researching the issue of civil liability for the damage of digital content enhances the level of awareness among various groups of society of the danger of digital content available to all in social media. These damages may affect societal security and the cohesion of society in the entity of the state.

Societal values have been affected by what is disseminated through digital content, and family ties have been broken as a result. Is there more time to watch ,and neutrality because of what is caused by inappropriate digital

content? Is there more important than family ties to sacrifice, and indifference to the damage you are exposed to as a result of the currently popular digital `content? Even the words among the members of society have changed and changed for the worse under the influence of inappropriate digital content.

Third: The Reasons for Choosing the Research Topic

From the subject of our research, we can reach the following objectives:

1- Introducing digital content, explaining how it is made, and determining its different types to determine the extent of the effects resulting from this.

2- Stating the provisions of civil liability resulting from the damage of digital content, determining the error resulting from the infringement, the violation of the owner of the harmful digital content, and what are the damages that affect the recipient of the harmful digital content, and then setting the appropriate compensation to compensate the injured as a result.

3- Submitting some proposals and recommendations that limit the negative effects of harmful digital content, in a way that ensures the achievement of community security, the preservation of an entity, and the stability of the state.

Fourth: The research problem: Fourth- the research problem

The problem of our research is determined by many issues, as follows:

1- How to draft a social behavior draft that includes governing legal rules to be adhered to by all persons who interfere in the manufacture of digital content, and not to exceed them, in a way that ensures the safe use of all without harm, or misuse of content in a way that causes a violation of the rights of others .

2- Is it possible to adapt the general legal rules of civil liability, and apply them to the damage of digital content, in a manner that ensures reparation for its damage, and without losing the right of the injured person to fair and full compensation as a result.

3We lack the legal mechanisms to supervise digital content, which are a set of pre-defined rules, which the user of the content should know in advance,and adhere to,to be aware in advance of what is allowed , or not allowed for publication , and this is what all Internet service providers should adhere to.

Fifth: The scope and methodology of the research topic

With regard to the scope of the subject of our research , we have dealt with the rules of Iraqi civil law,some comparative laws such as Egyptian , French , and Anglo-American law, and various jurisprudential trends in this regard ,as well as judicial applications that dealt with the issue of the damage of digital content.

As for the methodology of the subject of our research, we took the analytical approach to show how to adapt the legal rules in Iraqi legislation that have been subjected to civil liability,and adapt them to the damage of infringement , and the violation that occurs as a result of the use of digital content, and compare this with the legislation of different countries to reach a legal vision that helps fill the legislative vacuum represented in absorbing the damage of digital content,and identifying the people involved in the manufacture of harmful digital content.

Sixth: Structure of the research topic

For the sake of familiarity, the research topic of our research is diverse and complex , and in order to ensure access to determine the pillars of civil liability resulting from harmful digital content, so we dealt with the subject of our research in two sections that included the first section (definition of digital content) ,while the second section dealt with (provisions of responsibility for the damage of digital content) .

As for the conclusion, we addressed the most important findings of our research , many recommendations ,and proposals that lead to the desired purpose of determining civil liability for harmful digital content.

The First Chapter

Introducing Digital Content

The definition of digital content and how to make digital content and determine its types is one of the most accurate, and the most important topics that have a direct impact on the lives of all , as it is the most prominent challenges of digital content,and the methods in which digital content is made.

In this section, you will address (definition of digital content) in the first requirement,(digital content industry) in the second requirement, and (types of digital content) in the third requirement, my agencies :

The First Section

Definition of digital content

In this requirement, we will address the definition of digital content, which we find includes multiple definitions because it is one of the requirements of the era of economic knowledge, and one of the most important reasons for the success of any institution seeking to spread digital , and support its services to the consumer, and the effective means to achieve its objectives in various fields, it is necessary to define digital content, as it is " any content created in the form of digital data, within digital media, and in many forms, from text files, audio, video clips, animations, and images, as well as digital content refers to data available for download, or shareable within specific digital media, including e-books [1].

Digital content is also defined as "electronic scientific sources that have been prepared , drafted, produced , and published for the recipient to practice their research skills,and to obtain information electronically in creative and cooperative ways within an electronic digital environment to achieve specific goals [2].

Digital content is also defined as " information available through the Internet , which can be downloaded or distributed using electronic media, and includes all that can be published in the digital environment, such as text , audio , video , graphics , animations , and images of all kinds [3].

Digital content is defined as " any type of digital data in general , including data that people share through electronic platforms, such as videos, blogs, dramas, maps, and any electronic social media means that people exchange data with each other, and they store it in a digital, electronic and non-tripe form, all of which is considered one of the forms of digital content [4].

The common language also uses the term digital content in order to determine the media added value granted by electronic platforms in terms of extensions ,documentaries ,and in order to identify the approaches and methodologies emanating from them , as it integrates every digital document that can be stored within a pillar ,or transmitted through a means of transmitting information on an electronic line, in a way that can be written, audio , or visual organized within an electronic environment. Digital content is represented in every digital document that is multi-media, organized, or unregulated on a specific electronic medium [5].

On the basis of the aforementioned definitions, digital content is any part of the information that is published through electronic platforms and means, and thus every tweet we share through electronic means, and every video we upload to electronic means of communication (YouTube, Facebook, etc.). In each case, we update this media, we play the role of creating digital content.

Second Topic

Digital content industry

The digital content industry includes the mechanisms and steps necessary to determine the platform , the target , and the audience to which the content is directed. Content, as expressed by the businessman " Bill Gates" in his famous phrase "Content is King " in 1996, and published in an article on the Microsoft website, in which he expected that the content on the Internet will make a lot of money, such as television broadcasting. Twenty-seven years after the " Gates " saying, the world is moving towards digital content published on the Internet "digital media", and in various forms, including the integration of image, sound, video files, graphics , and animations , and the development of the impact of digital content on the public and if individuals contributed to its industry. Digital content is characterized by being unpaid. Tweets exchanged by users of electronic social media, they upload files , videos , and publish articles on platforms . In order to create digital content, a set of basic steps must be followed to create digital content, according to a specific, unchanging approach (Section I) , and specific mechanisms should be followed to create content (Section II).

First Section

Content creation steps

Here we will address the steps of the digital content industry, as follows:

Define the target audience

The main focus in the content industry is to determine the target audience, in terms of age , gender , interests , and the material status of the target activity, because digital content is provided to everyone , not to one individual, and then determining the target audience of digital content makes the content makers go according to a specific and clear approach, when the audience receiving the content knows and knows all its details .

Second - Setting the Goal

Digital content makers must have a specific goal that they seek to achieve. The goal may be purely commercial, and then they create content that aims to increase awareness of the content owner's commercial activity, or increase their financial imports. The important thing is to determine the very right goal of content creation , and then that goal is embodied in the first step that the content creator does [6].

Here lies the danger in the creation of content when the goal is illegal embodied in the exploitation of consumers in electronic shopping, the most common of users of electronic communication sites is for the purpose of trade , in the sense of selling, buying, advertising, and promotion , through various social networking sites.

Online shopping has become widespread , uncensored , and used by everyone.

Third: Determining the appropriate means:

The medium is determined by the digital content industry, when it becomes clear to the content creator the quality of the target audience, and then the content creator has the appropriate means through which he can achieve the desired goal of the content , as the medium is very important when making content in several aspects.

Fourth: Determining the quality of the appropriate content:

When there are many types of content , the content creator has to choose the appropriate type for him , and in order to achieve the goal he seeks to achieve from behind the content industry, he may choose the medium of articles , animations, or short video clips, all of which is determined by the tendencies of the target audience and the quality of his desires .

Section Two

Content industry mechanisms

When the content creator begins to determine the digital platform, the desired goal, and the target audience to which the content is directed, here the mechanisms of digital content industry, and the necessary steps for that , are embodied, and give their fruits to the fullest , these mechanisms , and the steps when creating digital content, must be:

First - Determining the appropriate topic for digital content:

Choosing the idea of the topic of content makes it acceptable to the target audience. When you know the audience correctly , here comes the choice of the appropriate topic for it. Digital content must have a topic when creating it, and then move at a clear pace towards achieving its goal.

Second: Preparing the necessary site for publication :

There must be a digital platform suitable for publishing when making digital content, and here the platform is determined according to many data, including the number of views for this platform , or the social digital medium, for example, public platforms that Internet users can use , because they display public information that contains multiple links, and the most important of these platforms are those that provide communication and search services, the most famous of which is, of course, the Google search engine portal.

Third: Starting with the method of preparing digital content:

When starting to create content, it is necessary to determine the method of preparing content , as each type of digital content has a specific method of preparing it that differs from the method of preparing other content that is different from it by type , goal, and topic , and here the skill of the content creator is clear when developing a specific plan to prepare its content , it is not easy, as it depends on the acceptability of the content , its spread and the achievement of its objectives [7].

Third Sub-section

Types of digital content

First of all, before starting the digital content industry, it is necessary to clearly identify the various types of digital content, and choose the type that aligns with the goal and the means that the content creator intends to achieve from it, so it is important to define and define the various types of digital content, as follows :

First Section

Blogging content

Before starting the blogging process in the form of digital content, the digital content creator must have a blog, which means "electronic memos,or a site created with the intention of displaying information during a period of time arranged in terms of its publication date, and includes many forms , some of which display blogs during the page descending from the latest to the oldest , and others allow more than one author to participate in the blogging process, and also include allowing the participating browser to write a comment on the blog, and examples of platforms that include blogging content, are Wikipedia , and the emergence of this type of blogs dates back to the 1990s , which allows the expression of opinion in various directions , and widely by people .

Section Two

Infograhics

This type of digital content means converting data and written information into images and drawings that are easy to understand , and this type of content is the cornerstone of the digital content industry (Visual Content). This type is used to remind users of information , and it helps browsers improve reading by more than 50% .

Third Part

Videos

Most website browsers prefer videos to express content , as video offers multiple options for website users. The quality of videos is good and remains stuck in memory for a long period of time , in addition to the possibility of controlling the duration of the video according to the browser's desire and in line with its multiple trends.

Section Four

E-books

This type of digital content includes millions of e-books available in digital form, and contains the same elements as ordinary books such as contents, investigations , chapters , drawings , images , data , references , and others [8].

Such e-books are created in PDF or HTML formats, for which audio clips or videos can be added.

This type of digital content is compatible with the requirements of academic research, or obtaining scientific information for the personal education of people.

Second Section

Liability provisions for digital content damage

As long as there are no special legal provisions regulating the provisions of liability for damage to digital content in Iraqi legislation, so the general rules of civil liability will be based on the provisions of the Iraqi Civil Code in force No. 40 of 1951 and its amendments , the liability subject of our study is based on the basis of illegal publishing on Internet platforms, and therefore the content creator must be charged with all compensation resulting from the damage to its content , and in a way that compels the damage caused to the injured as a result.

The civil liability in question is held in the event that the content creator makes a specific mistake that causes harm to a specific person, and with the availability of the elements of wrongful liability, damage , and the causal relationship between them, then the elements of civil liability are achieved. As long as we are looking at civil liability for the damage of digital content, it is necessary to determine the responsibility of each person whose wrongful act caused damage, starting with the content creator as its publisher, and all persons participating in the damage by commenting , liking the wrongful content, uploading it , or contributing to increasing its views , all of them have intervened to cause damage, whether to a specific person, all the values protected within society , or the family .

On the basis of the above, it is necessary to address the legal nature of civil liability for the damage of digital content in (the first claim) , the holding of civil liability for the damage of digital content in (the second claim) , and the determination of the civil protection due to those affected by digital content in (the third claim) , as follows :

The First Section

The legal nature of civil liability for digital content damage

One of the most important topics addressed by the civil liability system is the legal nature of this responsibility as it is an advanced and renewable nature, as long as the environment that creates a sophisticated digital environment, and includes difficulty in proving .

It is legally established that the liability resulting from digital content if it is based on a breach of a contractual obligation, here we are in connection with the contractual liability of all those involved in the damage , or the damage is caused by the breach of a previous legal obligation,which is not to harm others , and then tort liability arises, and this is what we will address in this requirement ,as follows :

First Section

The contractual nature of civil liability for digital content damage

Contractual responsibility for the damage of digital content is held when we are in a contractual relationship between multiple parties, and this responsibility is based on a breach of a contractual obligation of one of the contracting parties [9], and this contractual responsibility is embodied when the content creator contracts with a hall or club to hold family wedding parties, or nightlife for entertainment by promoting them in the form of photos, blogs, videos , or cartoons , with the aim of attracting customers to go to that hall ,or the night club , and then if the content creator violates the terms of the contract about publishing, or promoting and includes a breach, or harming the reputation of the owner of the hall, or the club , and in any way that caused harm to one of the people, whether the owner of the hall ,or one of the people who used the hall, such as harm to personal privacy by posting family photos of him , or videos of private family details on websites without prior permission , then the contractual responsibility of the content creators is realized as a result of his breach of his contractual obligations. This breach is expected to result in a family breakup, reveal its privacy to everyone, and be a cause of conflict and problems within the family environment.

Or a content creator contracts with one of the humanitarian associations to cover the activities of the humanitarian association. It is at the core of the work and commitment of the content creator to preserve the privacy of the work of the humanitarian association, not to violate the rights of the persons benefiting from it, and to disclose their personality to all, in order to preserve their reputation, and not to defame them. Any act by the content creator that exceeds the permissible limits for him may have exceeded and violated the privacy of others, and breached, and violated his contractual obligations. The damage that resulted from this is achieved by his contractual civil liability. This breach is a cause of the disintegration of social ties among the beneficiaries of the activities of the Humanitarian Association, and it is expected that there will be problems between the beneficiaries of the activities of the Association and those in charge of this activity, and what is meant by the founders of the Humanitarian Association as a result of defamation of the beneficiaries.

Therefore, the existence of the contract is the basis for the establishment of contractual responsibility, and the elements of the contract should be available and correct , whether the means of contracting is traditional ,or electronic [10].

On the basis of the above , it becomes clear to us that the contractual responsibility of the digital content creator is realized when one of the contracting parties breaches the obligations that come from the contract .

Contractual obligations may also be continuous and extended even after the expiry of the contract ,and they are lax in terms of continued implementation for the subsequent period of the contract , even if the contract is an immediate contract, as a result of the nature of these obligations that are lax until the post-implementation period of the terms of the contract .

It is worth mentioning that there are subsequent obligations until after the implementation of the contract that are subordinate to the original contractual obligations, and their survival and continuation do not depend on the survival of the original obligation. Among the most important of these ongoing and remaining obligations until after the end of the contract is the obligation of contractual confidentiality, non-disclosure of secrets that arose from the contract , and non-violation of privacy of the contracting parties. Therefore, any breach of the

implementation of these lax obligations until after the contract is considered a contractual error, which results in damages resulting from the establishment of contractual liability [11].

An example of the obligations that are lax to implement and abide by, and their continuation even after the expiration of the contractual bond as a contracting requirement, is the disclosure by a content creator of secrets obtained as a result of his contract with a social center, a social welfare house that cares about caring for elderly people who need special care, or homeless children who have been abandoned by their parents because of certain circumstances. Here, the content creator contracted with this house is responsible for revealing the secrets of the people in it even after the end of his work with the house , as it is private information that is confidential and private to its owners , and the content creators may not disclose it to everyone , even after the end of his work with the house, because of the damage to the personal privacy of the caregivers in the social house, and this would cause the disintegration of social ties, and abuse to them .

Section Two

The tort nature of civil liability for digital content damage

Every person may practice the activity he desires, but without harming others. Whoever harms others is a guarantor of this harm, and the basis of compensation here is a previous legal obligation, and a general one is not to harm others. It is not permissible for any person to exceed the legally permissible limits. Whoever causes harm (an error that exceeds the permissible limits) to others, and the injured person does not have a contractual relationship with the cause of the harmful act, so here we are dealing with civil liability in tort [12].

The Iraqi legislator referred to responsibility for the wrongful act, or tort liability, in Article (186) of the Iraqi Civil Code in force No. 40 of 1951 and its amendments, to the responsibility of the direct person of the harmful act, or caused by it, if the place is intentional, or infringer when committing the harmful act.

As the Egyptian legislator referred to the elements of tort liability, under the provisions of Article (163) of the Egyptian Civil Code No. 131 of 1948 and its amendments, whoever errs against others and results in harm to others is obligated to compensate the injured.

As for the French legislator in the Civil Code of 2016, he referred to the elements of tort liability in Article (1240). Every act involving a wrongful activity that causes harm to others is obligated to compensate the injured

On the basis of the foregoing, we find that tort liability does not differ in its elements, as it is based on an activity that includes harm to others, the perpetrator of which is obliged to compensate the injured.

When the provisions of traditional normal tort liability are adapted, so that we apply them to harmful digital content, we find that it is electronic tort liability within a range, and a digital environment is achieved when the electronic tort error is available, and it results in damage of any kind, and the existence of a causal relationship between the digital error and the damage that resulted from it. The error here is assumed, but it is not conclusive. The injured party must prove that the damage that occurred to him was caused by the defendant's fault to bear digital tort liability [13]

Tortious liability for digital content can be achieved when the content creator violates the digital rights of others as a violation of the right to privacy of others , when it is issued by the content creator, or the people involved with him in publishing digital content, by infringing on others through the publication of inappropriate content that includes abuse of social values, abuse of religious symbols, religious beliefs, or violation of the general taste of individuals within society. This act is sure to harm the user of this content, or the browser, which reflects negatively on him through low terms, and the use of inappropriate language as an Arab society that carries human values since the earliest ages, and the impact of this affects family ties within the societal fabric and leads to their disintegration. Many cases of family disintegration, including the greatly increased divorce cases within families, are caused by the impact of digital content that is inappropriate. We find that the husband lives a fictional digital state far from the real family atmosphere, as a result of the difference between virtual and real reality, and when the real reality of blood is rejected and not accepted, we live the destruction of digital content.

Digital negligence is also embodied when digital content is a tool to incite hatred, sectarianism, reject the other who belongs to another sect, ignite sedition among members of society, make society unstable and unacceptable to the other, and refuse to participate in peaceful coexistence. This leads to the loss of societal security within the state, and exposes the state entity in general to risks. This, in turn, leads to the disintegration of the societal fabric within the family, and then the loss of security and trust, and the lack of confidence in the other.

On the basis of the aforementioned, we find that tort liability is the closest to the nature of civil liability for the damage of digital content. Many cases of liability resulting from harmful digital content are inflicted with tort liability. Digital content may be a tool of hatred, societal instability, or the disintegration of family ties within the societal fabric, or the violation of the digital rights of others, without a contractual relationship between the person responsible for the damage and the victim. The damage resulting from digital content is material or moral damage,

and the latter is predominant in harmful digital content, so digital tort liability is appropriate to obtain fair , full, and direct compensation expected and unexpected as a result [14].

Second Topic

Civil liability for digital content damage

It is obvious that contractual and tortious civil liability is held when its elements are available, namely (error, damage, and causation between them) , and then the lack of these elements is not related to civil liability, and its absence, and for the sake of familiarity with the subject matter of the claim, the elements of responsibility for harmful digital content must be addressed (Section I) , and the scope of the persons involved in this responsibility should be determined (Section II), as follows :

First Section

Elements of civil liability for damage to digital content

As long as there are no specific legal provisions, and special provisions regulating the liability resulting from the harms of digital content, so it is necessary to adapt the provisions of traditional ordinary civil liability, and then apply them to accommodate civil liability for the harms of digital content, taking into account the privacy of this digital civil liability as it affects the most accurate, and especially the personal rights of all persons.

The elements of civil liability, whether contractual or tortious ,must consist of error , damage , and the causal relationship between them , so we will address first the error in civil liability resulting from digital content, second the damage in liability resulting from digital content, and third - the causal relationship between error and damage in civil liability resulting from digital content, agencies :

First, the error in civil liability resulting from digital content:

The element of error within the framework of civil liability (contractual,tortious) is the cornerstone on which liability is based, and it is the subject of jurisprudential disagreement in terms of its definition. There is some jurisprudence that has an objective tendency in defining the element of error , without paying attention to the person who committed it, whether it is distinctive , or not distinctive. The other side of jurisprudence has paid attention to the personal aspect when defining the element of error , and took into account the person who committed the error (distinctive , or not distinctive) [15].

Human behavior when exceeding the limits set by legal texts, is considered to be in the event of a mistake , so the mistake is " deviation in the usual behavior of the ordinary person" or is a breach of a previous legal obligation " in the framework of tort (tortious error) , as for the error in the framework of contractual liability, it is " a breach of a contractual obligation, whether it is an obligation to achieve a result , or to exert care [16].

The legal criterion for determining the behavior of the perpetrator of the element of error is measured by an objective criterion, which is the behavior of the usual person who is in the same circumstances as the person who committed the error to measure his behavior, and then determine the wrong behavior, and Iraqi law did not take the seriousness of the error to achieve civil liability, it has no effect in that [17].

When defining the element of error in the framework of civil liability for digital content, we find that the images of error for the digital content creator, and the people involved with it , are represented in the use of electronic means of communication in publishing blogs , videos, or animations that include abuse, and undermine the personal privacy of individuals , and in a way that harms their consideration, and the disclosure of their personal information. When the content creator agrees with a specific person to prepare a personal blog for him to introduce him,or to publish his articles on electronic communication sites, the content creator has no right to exceed the limits of his specific obligation under the agreement. Therefore, any breach or abuse of the contracted person,and what is achieved with him is a breach of his contractual obligations, such as using this information to obtain a special benefit for him at the expense of the other contractor (the owner of this information) ,or exploiting this information to blackmail him, or bully him. This behavior is a deviation from the familiar behavior that motivates him to break off family ties within the societal fabric, and causes problems among individuals. Here is the corner of the contractual error of the content creator, and then falls under civil liability for its content .

As for the tort in the framework of civil liability for digital content, which is the most common , we find it in the case of a breach of a previous legal duty, and without a contractual association, and this previous legal obligation is not to harm others, the digital content creator has no right to publish any blog , clip , image ,or fees that include offense to others, regardless of the circumstances. The digital world is the right of everyone , but without harming anyone ,or offending the right to privacy of others.

The negligent error in the digital content industry may be a reason, and a motive for many cases of family problems that have found a place in light of the electronic revolution we are currently experiencing. It may be the publication of digital content for a person that includes showing a personal image of facial features that have certain distortions in order to be ridiculed in front of browsers, and in order to obtain high views of digital content, and at the expense of the owner of the image, his feelings, and feelings, and this may be a motive for suicide as a result [18].

No creator of digital content has the right to violate the private life of others, under the pretext of the right to express opinion. Abuse of others is an infringement, and exceeds the permissible limits. Its owner should be deterred legally, and in a manner commensurate with the seriousness of the harm caused to the injured.

The fault in the scope of tort liability includes two elements, one of which is material infringement, breach, and transgression of the usual behavior of the usual person, and the second is a moral element represented by perception, or discrimination. Is it necessary to have these two elements in the error issued by the digital content creator in order to entail his civil liability?

Article (186) of the Iraqi Civil Code in force, dealt with the elements of error (material and moral) , in the form of infringement and intentionality. The content creator may be intentional for the harmful act, so he is intentional for the harmful behavior, and aware of the result that this entails, in the sense that he is intentional for the act , and the result resulting from it , or he is infringing in committing the harmful behavior, but without intent , or intentionality, and therefore he commits the harmful behavior out of negligence and lack of foresight , and both of them (intentionality and infringement) require discrimination to establish tort liability [19].

While we find that Article (191) of the Iraqi Civil Code in force , has expanded the circle of persons covered by responsibility , and provided more protection for the necessary from unusual behavior, the above article obligated the person to compensate, whether it is distinctive, or not distinctive , and those who were similar to them, they were obligated to guarantee and make their responsibility original , so the moral element of the responsible person was not required, while making the responsibility of the persons responsible for their care , whether they are guardians , trustees , or custodians , all of them are precautionary , not original , and they are referred to in the event that compensation is not obtained from the financial liability of the person responsible for the harmful act.

The important thing here is that in the event that the creation of digital content from a person who is not distinguished , and this results in harm to others , here there is a responsibility to apply the text of Article (191) of the above law, or to apply the text of Articles (203, 204) of the above law to compensate for the damage without the self (the funds of the injured) .

In this regard, we find that the Egyptian legislator, required the availability of the two elements of error (moral , and material) when the liability arises in the perpetrator of the harmful act, so there must be a deviation in behavior , with the availability of awareness , or discrimination among the perpetrator of the harmful act, and in order to provide more protection for the injured, an exception to this general rule, which is to make the responsibility of the non-discriminator a precautionary responsibility according to certain conditions, and this is referred to in Article (164) of the Egyptian Civil Code in force.

While we find that the French legislator,and for the existence of an advanced judiciary based on realistic legal texts, and simulates the needs of society, so the law was adopted in 1968 , includes the responsibility of the mentally disabled for the damage they cause to others , and then decides the responsibility of those who are incapacitated , without regard to being wrong, or not wrong , they are here the damage that occurred as a result of their action, and their obligation to compensate , in order to provide protection to the injured , and to obtain appropriate compensation to compensate their damage .

In the field of civil liability for damages of digital content, we find that the error arising from this , and within the framework of contractual liability, must be proven by the injured party. The injured party must first prove the existence of the contract, its validity, and that he has fulfilled his obligation. As for the error in the scope of tort liability, it is a material incident that can be proven by all means of proof. It must be proven that the official has deviated from the usual behavior legally required. Whoever claims otherwise than the apparent, the burden of proof falls on him [20].

Here, we find that the error arising from the damage of digital content,which determines the responsibility of the content creator includes difficulty in proving , in that it is a digital error, within pages, and social media. The content creator can remove its content, or hide it , and therefore it is an unstable and indirect error,or its source is unknown through social media, and through fake pages, or sending emails from sites that include hiding the identity of the sender , or using plagiarism technology [21].

The French judiciary has decided that the error caused by digital content is a presumed mistake of the content creator that any abuse contained in its content, and therefore it does not assign the victim of digital content the burden of proof. Any abuse of others by publishing on social media sites is a presumed error that cannot be proven otherwise .

As for the Egyptian judiciary, it has made the violation of the personal rights of others a presumed mistake, based on the text of Article(50) of the Egyptian Civil Code, provided that "anyone who has been subjected to an unlawful attack on one of the rights inherent in his personality may request the cessation of this attack with compensation for the damage he has suffered."

Therefore, we find that the Egyptian legislator has clearly indicated that the violation of the personal rights inherent in a person is a mistake that must be compensated, which is a presumed mistake that is not subject to proof. This text can be applied to the error arising from harmful digital content, as the abuse caused by the digital content industry constitutes a presumed error that is not subject to proof [22].

While we find that the Iraqi judiciary, with regard to the abuse caused by digital content, or social media,did not move in a clear judicial direction in this regard, but in general made the basis of civil liability resulting from abuse through social media is the error that must be proven, and therefore it is an unassumed error, as what is harmed by digital content has the burden of proof [23].

From the aforementioned, we find that the French and Egyptian judiciary, as a result of the development in the legislative system, on which the judiciary is based, have made the basis of civil liability arising from harmful digital content, based on a presumed error that is not to be proven by the injured party, and this relieves the injured party , and expands the scope of legal protection that should be obtained. The digital error is an advanced and unstable error that includes difficulty in proof , while we find that the Iraqi judiciary did not keep pace with the development in the field of the technological revolution, and the basis of civil liability resulting from the damage of digital content remained based on the error that must be proven by the injured party , and this is an emphasis on the injured party, and burdens it with a difficult burden to obtain appropriate compensation to redress the damage caused to it as a result of harmful digital content.

Second: Damage to civil liability resulting from digital content:

The element of damage is the basis on which civil liability is based (contractual and tortious). The damage is the legitimate interest that forms the basis for filing a lawsuit to obtain compensation. Without the damage, there would be no right to file a lawsuit. On this basis, civil liability and the right to compensation revolve around the existence of the damage that occurred to the injured person. The existence of the element of error is not sufficient unless that error results in harm to others, and therefore there is no civil liability without the damage.

As defined by jurisprudence, harm is " harm caused to a right or legitimate interest of a person , whether that interest is material or moral [24]. As defined as "the second condition necessary for liability to be achieved, as without it the liability lawsuit does not succeed, the harm is the harm to the human being , and the harm may occur to financial or non-financial interests [25].

From the foregoing, it is clear that the damage can be material or moral , as the material damage can cause the injured person a financial loss in his financial liability, or prejudice his health and physical integrity.

As for moral damage, it is damage that affects the injured in a non-financial interest, such as an abuse of his personal consideration, emotion, feelings, social status, and other damages that affect the values considered by people [26].

The damage caused by the digital content industry is achieved by the content creator, or the people involved with him in causing digital damage, by publishing blogs, pictures of a specific person, or displaying his personal information inherent to him, which he does not want to circulate through social media, in the sense of violating the right to privacy of the person. The basis on which the person builds his means to obtain compensation is that the damage affects a legitimate interest he has, and is protected by the law with a specific claim. The damage should be realized, that is, it is certain to occur. The abuse through social media includes real damage, and it is certain to occur, whether it is the case or the future , and the loss of opportunity also includes real damage, even if the opportunity is a probable matter, they are obliged to miss it, but it is probable damage that it is unrealized, and therefore not eligible for compensation ,unless it actually occurs, the damage that must be compensated is not the loss of the damage that has already occurred (the case) , but compensation includes the damage that will inevitably occur in the future , which is the damage that has caused , and they choose to affect it in the future .

Compensation for future damage (which did not actually occur) is in the present , because it is the investigator of future occurrence, and this future damage fully applies to the damage of the digital content industry, in terms of the abuse caused to others through social media as a result of harmful digital content, its effects extend to the future , as long as the abuse is present through social media sites, and it is circulated , commented on, and uploaded from page to page, and so the damage continues to occur and with time is constantly exacerbated [27].

It is worth mentioning that proving the damage does not raise difficulty in the framework of civil liability for digital content, but proving the error includes many difficulties because it is an error that must be proven, and then the difficulty of limiting the injured to compensation in the event of his inability to prove the error in accordance with the traditional rules of civil liability, which are based on the basis of the error that must be proven, and without the existence of an error , or the difficulty of proving it by the injured , here the injured is deprived of

compensation because of the absence of the element of error , and the non-realization of the causal link , and then the non-realization of civil liability, there must be damage that is the result of direct error on the part of the official to establish the elements of liability , and its impact is achieved by compensation [28].

The electronic damage as a result of digital content revolves in a wide electronic space, and it includes many characteristics and features, so it is a special type of damage, and therefore there must be a special type of liability that contains this newly created damage, and here we mention a proposal that includes the introduction of objective liability based on damage , without error , so the obligation of the person to compensate for the damage caused by his activity to others , and if that activity does not include any error , the goal of establishing objective liability is to compensate the harmful act to others , without regard to the behavior caused by the person, whether it is legitimate or illegal, it is important here to obtain compensation , and to exclude error , whoever causes harm to others is committed to guarantee , and if his activity does not include any error , and this applies and the jurisprudential rule "fine by fine [29].

Objective or material liability, the theory of new risks, or bearing the new consequences. These labels include a wide jurisprudential difference, and there is no room for expansion. What concerns us here is that material liability is broader than the rest of the theories that were based on damage. The necessity and legislative deficiency in the field of civil liability for digital content calls for the adoption of this type of liability that is based on damage, without paying attention to error, which is compatible with the novelty of digital damage, and its special nature.

Third: The causal relationship between error and damage in civil liability resulting from digital content:

The cornerstone of the causal relationship to achieve civil liability (contractual, tortious), is that the damage is a direct result of the error, and then the harmful activity must be the direct cause of the damage that occurred to the injured, as the French legislator in the Civil Code of 2016, stipulated that the damage is the result of the person's act of his obligation to compensate.

As for the Egyptian legislator, it stipulated the cornerstone of the causal relationship in Article (163) of the Egyptian Civil Code in force No. 131 of 1948, as amended. However, " every mistake that causes harm to others requires compensation." The text indicates that there must be an error that is a direct cause of the damage. There is no responsibility without a causal relationship between the error and the damage.

As we find that the Iraqi legislator referred to the cornerstone of the causal relationship with the text of Article (202) and Article (211) of the Iraqi Civil Code in force. Whoever caused damage as a result of his personal act, the act of others, or doing things, must prove the existence of an error that directly caused that damage.

On the basis of the above, there should be a causal relationship between error and damage. The damage must be a natural result of the activity, breach, or infringement. The breach of contractual obligation should be the direct cause of the damage within the scope of contractual liability, or the damage must be a natural result of the infringement within the scope of tort liability.

Within the scope of civil liability for damage to digital content, we find that the causal relationship is centered on the content creator committing a harmful activity (including a breach of a contractual obligation, or infringement and exceeding a previous legal obligation) , and this activity is a direct cause of the damage that occurred to the victim , otherwise there is no civil liability for the absence of a causal relationship between the error and the damage .

The damage that occurred to the victim as a result of digital content should be caused by the direct fault of the content creator, or the people involved with him in that damage. Hence, it becomes clear that the causal relationship is independent of the element of error and damage. There may be error and damage, but without the causal relationship between them.

Those affected by digital content must prove the mistake of the content creator, and this error is the direct cause of the damage that occurred to them as a result , and here the corner of the causal relationship has been achieved , as the abuse committed by the digital content creator by publishing a blog , drawings , or videos includes a violation of the personal rights of a specific person, so here the pillars of the responsibility of the content creator are realized, and he must guarantee , and repair the damage of his activity .

Section Two

The persons involved are responsible for the digital content

Civil liability for digital content includes several people in terms of interfering with the damage caused by digital content. The victim is looking for compensation within the framework of civil liability, as the digital content is circulating in a wide-ranging cyberspace, and the people dealing with it, and those involved in causing

damage caused by their digital activity, these are not ordinary people, and I sleep knowledgeable people, and technical experience in managing their activity, meaning professional people for digital activity. The content creator is linked to a group of people when he humanizes his digital content. The intervening people are divided into two categories, namely: the people who use digital content, and the second category is the owners of websites (the accommodation contractor, and the service provider), and we will address the statement of this, as follows:

First, the responsibility of users of digital content

Users of digital content mean people who visit websites and social media, as they are in the place of a browser for these sites, or a user of them. They may be bloggers, audio clips, various videos, animations, etc., and then they must use these means legitimately, within the limits and controls legally permissible, and not to exceed the permissible limit. These may be viewers of digital content, or participants in it, and without its industry, and then they are subject to civil liability as a result of their harmful behavior to others. Abuse as a result of digital content constitutes civil liability (contractual or contractual). Here, the owner of the website may place conditions on users of the digital content published on the website, and then the website should comply with these conditions. The website may include digital content that contains social, personal, political, or economic information. The person used here is subject to contractual liability as a result of the harmful use of the information contained in the digital content on the website, which constitutes a contractual breach that is legally taken according to the rules of contractual responsibility [30].

Users of digital content must exercise the care of the usual person, and in accordance with the general rules related to not misusing the right to use, watch, share, and download digital content, and the rights of others should be respected, and not violated under the pretext of freedom of opinion, and intellectual property rights rules should be adhered to. Users of digital content may not violate the privacy of others, use their private information, or impersonate them.

It is worth mentioning that the user of digital content should take into account ethical values, take into account social values, and have a religious and moral devotion above all, as well as taking into account the legal controls that should be adhered to when using digital content. It is not ethical for the user to browse and share digital content that includes information, rumors, ridicule, or bullying. Here, the care of the user of digital content must be measured by the standard of a careful person, not the usual person, because the damage as a result of harmful use by others is continuous, aggravated, unstable, and its scope is wide. It is necessary to be careful at a high level when using digital content, or circulating it through websites. The digital damage as a result of harmful content has many repercussions on the life of the injured person. The most serious of these repercussions are the damage to the family ties of the injured person, and making him in social isolation that may lead him to commit suicide as a result. Digital content that includes abuse by others is a good opportunity for some people by using it to pressure the injured, and this in turn leads to serious consequences on social stability (destabilization) [31].

The civil liability for the damage of digital content is not limited to those who made the digital content, but extends to all persons who used this content by sharing it with others, commenting on it, or interacting with it in any way, whether in writing, pictures, clip, etc., and then their responsibility in accordance with the rules of civil liability, and each according to his participation in the damage that occurred to the injured. This includes an expansion of the protection department for the injured, and obtaining appropriate compensation, in a way that ensures limiting the phenomenon of using digital content harmful to others.

Second: The responsibility of the persons involved in the provision of electronic services (the accommodation contractor and the service provider)

The spread of digital content in cyberspace must have websites that contain blogs, and all digital content, in terms of storing, archiving, and helping browsers to view them, and according to the conditions prepared by the publisher of this content, and then there are legal controls for use to which the shelter contractor is subject when providing electronic services to the owners of digital content. These websites, which are an electronic portal for the digital publication of various content, operate according to legal controls, and do not have the right to use the information of the owners of digital content without prior permission, otherwise publishing without consent is considered a violation of the user's right to digital forgetting of his personal information.

On this basis, the owners of websites have a certain role, and according to the nature of that role, the responsibility of each of them is determined. If their role is determined by the undertaking of accommodation, which is " every natural or legal person puts, even if free of charge, at the disposal of the public via the Internet, the storage of texts, images, sound, and messages of any nature that are provided by the beneficiary of these services [32].

Therefore, the accommodation contractor plays a role at a high level of importance, as it plays a technical and technical role to enable users of websites to browse them, and benefit from all their services and applications , in

terms of storing information for users , and this role has a great impact in taking responsibility for any breach , violation of this information , or spreading it without consent.

It is worth mentioning that the accommodation contractor is not the owner of the website that publishes the digital content, but the accommodation contractor is the one who shelters the website on the Internet , as he is the one who helps the owner of the website from using it over the Internet .

The French judiciary does not require the shelter contractor to verify the information contained in the digital content that he publishes on the website , and makes his role only technical , and technical, and there is no responsibility for the information published in the digital content, being unable to delete this information , or modify it in the event that it offends others , and this is what the French judiciary has followed in many of its decisions [33].

As for the French legislator, he has determined the responsibility of the shelter contractor in only one case, which is his failure to remove the content that includes abuse to others , when a judicial order is issued, and therefore the shelter contractor is not obligated to remove the inappropriate content when an order is issued by other than the judicial authority of any kind [34].

Therefore, we take it that the shelter contractor may be linked to a contract with a person who provides shelter services to him according to certain conditions in the contract , and then his contractual liability for any breach of the terms of the shelter contract is raised, or his tort liability for any abuse is raised by others when a judicial order is issued to remove this abuse , and despite this, the judicial order issued to him was not implemented.

However, after a major development in the field of cases considered by the French judiciary regarding the responsibility of the shelter provider, it has made great strides in this regard. It has decided that the shelter provider is responsible for respecting the personal rights of others , and its responsibility is determined for illegal information in the sites it undertakes to shelter in the event that it knows of this and the damage caused to others as a result [35].

The French judiciary has settled on an important principle regarding the responsibility of the shelter contractor, which is that it is " committed to respecting the rights of others , and that it has the possibility of examining the sites it shelters, and taking all necessary measures to stop illegal data, and is not exempted from responsibility unless it proves that it has fulfilled all its obligations ,especially its obligation to respect the rights of others."

While we find that the Egyptian and Iraqi legislators did not regulate the responsibility of the shelter contractor, and this is considered a failure to keep pace with developments in digital space issues, and therefore the responsibility of the website owner arises in the event of his direct participation in publishing illegal digital content when his role as the main publisher of the content is in accordance with the electronic publishing contract, so the illegal publishing, which leads to harm to others, the owner of the website that undertook to publish is responsible for those damages .

Websites are naturally created according to agreements that include certain conditions, including that the owners of the sites are not responsible for illegal publishing, or the bad activity of users of these sites , on the basis that the owners of the sites are not responsible for monitoring the publication of digital content through these websites , but their responsibility is determined by the legal obligation to withdraw illegal publications, which include content that causes offense to others .

In fact, websites include the feature of banning users who illegally post through websites , after they have been informed of the abuse he has committed through illegal posting, and then the owners of the websites, including the shelter contractor and the electronic service providers, should commit to informing the users of the websites not to restock the illegal digital content, which includes offending others .

Third Sub-section

Civil protection due to those affected by digital content

When the elements of civil liability (contractual or tortious) are fulfilled, this action must have the effect thereof , which is to compensate the damages resulting therefrom with the appropriate compensation claimed by the injured party .

On the basis of the above , and in the absence of a special law that determines the civil liability for the damages of digital content, and the appropriate compensation resulting therefrom , so we will address in this claim , the provisions of the lawsuit for compensation for the damages of digital content (Section I), and determine the nature of compensation and its forms resulting from the damages of digital content (Section II) , as follows :

First Section

Provisions of a lawsuit for compensation for digital content damage

When creating digital content that includes abuse of others , and resulting in harm, the injured party has the right to file a lawsuit against the official to claim compensation for the damage caused to him as a result.

The claim for compensation for the damage of digital content must meet certain conditions for its acceptance , and determine the court competent to hear its disputes , as follows :

First: Conditions for accepting a claim for compensation for the damage of digital content.

The lawsuit , as defined by the Iraqi Civil Procedure Law in force No. 83 of 1969, as amended by Article (2) thereof , is "a person's claim against another person before the judiciary."

The claim for compensation for damage to digital content is no different from any other lawsuit to claim compensation for damage, in terms of the parties to the lawsuit , and the availability of the conditions for filing it. A plaintiff must have a personal right as a result of being harmed by digital content , and the defendant is the creator of the content, and the persons involved with the digital damage from the shelter contractor, the service provider, and the persons who use the websites who contributed in one way or another to the damage arising from the digital content by sharing the content, reloading it , or interacting with it by commenting, or by adding an image, clip , or animation , and other digital content that is offensive to others .

To accept the lawsuit for compensation, there must be a legitimate interest claimed by the defendant in his lawsuit , and he must have the capacity to initiate the lawsuit himself , as well as the existence of a capacity , in the sense that he may file his lawsuit correctly from a legal point of view [36].

On the basis of the foregoing , the victim of the digital content submits his claim on the basis of prejudice and violation of his digital rights inherent in his person , which are natural rights, but they exist in an electronic space, and therefore they must be protected for every person. The plaintiff of the personal right is the one whose rights have been violated , whether his right to privacy , reputation , personal consideration, and other rights, and in return there is a defendant , who is the creator of the digital content, and all persons involved in causing digital damage, and their responsibility is realized in accordance with the provisions of civil liability.

Second: Determining the competent court to hear the lawsuit for compensation for harmful digital content .

In terms of the specific jurisdiction of the courts that hear civil compensation cases, they are without the form of a court of first instance , but this does not prevent them from being considered before the competent criminal court, when considering the criminal case, and the case included criminal acts in accordance with the Penal Code, and constitute at the same time acts that fall under civil liability, here the criminal court considers civil compensation, when claiming it , by considering the procedures of the criminal case, and this has many advantages, including speed of resolution , shortening time , effort , and alleviating a lot of procedures for the plaintiff [37].

In France, we find that the French Court of First Instance has general jurisdiction to consider civil compensation claims, so all claims arising from the damage of digital content through social media are adjudicated by the seventeenth chamber of the Supreme Court in Paris, and it has a feast of decisions in this regard [38] .

We also find that the Egyptian judiciary has made claims for damages resulting from digital content within the jurisdiction of the Court of First Instance in accordance with the Egyptian Civil and Commercial Procedures Law No. 13 of 1968, as amended, and then made it a general jurisdiction for all cases that constitute a claim for civil compensation for damages of digital content.

While we find that the Iraqi judiciary, which is competent to hear claims for compensation for damage to digital content, is the jurisdiction of the Court of First Instance, on the basis of the general jurisdiction of the civil courts over all, in accordance with the provisions of Articles (29, 30, 31, 32) of the Iraqi Civil Procedure Law in force No. 83 of 1969, as amended.

It is worth mentioning that a court competent to hear publishing and media cases in Iraq was established by virtue of the statement of the Supreme Judicial Council No. (81 / s / a) on (11-7/ 2010) , as it was established for the requirements of the public interest, and a proposal from the Presidency of the Baghdad /Federal Rusafa Court of Appeal, based on the provisions of Articles (22, 35 / II) of the Judicial Organization Law No. 160 of 1979 as amended , and based on the provisions of Section VII of the Coalition Provisional Authority Order for State Administration No. 12 of 2004 , as the statement clarified that the court competent to hear publishing and media cases on the penal and civil sides, and is linked to the Presidency of the Baghdad /Federal Rusafa Court of Appeal, but this court is temporary in terms of establishment by the Supreme Judicial Council, and was not established by the Iraqi legislator, it was canceled by the Supreme Judicial Council on 20/3/2017, according to its statement No. 65 of 2017 , and jurisdiction was restored to hear publishing and media cases, as well as considering cases of harmful digital content to the Court of First Instance , Mis emissions within the Baghdad Court, the governorates , and according to the spatial jurisdiction.

Third: The lapse of the lawsuit to claim compensation for the damage of digital content.

Under the general rules, the right to file a lawsuit to claim compensation lapses , either as a result of the statute of limitations , which is the passage of time preventing the hearing of the lawsuit , so the lawsuit to claim compensation for the damage of digital content is subject to the same rules as the rest of the civil lawsuits to claim exposure in terms of the periods specified for its expiry as a result of the passage of time preventing it from being heard .

The lawsuit also lapses to claim compensation for the damage of digital content, by waiving the right of the injured party to compensation , or by reconciling it with the person responsible for the damage .

The French legislator stipulated the statute of limitations for claiming the civil right, under the text of Article (2219) of the French Law of 1804, as amended . As " Prescription is a means of earning , or acquittal, by the passage of a certain period, and under the conditions specified by law."

As stipulated in Article (2262) of the above law, " All lawsuits, whether in kind or in person, are subject to a statute of limitations of thirty years."

However, French legislator Orr made a special provision in Article 65 of the French Freedom of the Press Law of 1881 , that "public lawsuits, civil lawsuits resulting from felons, misdemeanors , and the violations noted in this law shall lapse over time after three full months from the day on which they were committed, or from the date of the last investigation , or prosecution, if any."

On the basis of the foregoing , the private law restricts the public law, and therefore the statute of limitations for claims for compensation for damages for digital content, in French law, expires (expires) with the passage of a full period of three months from the day on which the harmful act is committed, or the date of the last act of investigation , or prosecution related to harmful digital content. " This is in accordance with the provisions of the French Freedom of the Press Law.

As for the Iraqi legislator, and the Egyptian, each of them did not know the statute of limitations, but left this to the jurisprudence in this regard . As for the statute of limitations in both Iraqi and Egyptian legislation, they vary according to the type of civil liability. As for contractual liability, the right arising from us is limited by the passage of fifteen years [39]. As for the right arising from tort liability, it is limited by the passage of three years from the date of publication of harmful digital content, or the knowledge of the victim of harmful digital content, and his knowledge of who caused the damage to it , and in all cases the claim for compensation in the framework of tort for harmful digital content is dropped by the passage of fifteen years from the date of publication of harmful digital content [40].

It is worth mentioning that the Court of Publishing and Media Cases in Iraq , before its cancellation and in many cases, applied the text of Article (30/ A) of the Publications Law No. (206) of 1968 , provided that "it is not permissible to file a lawsuit regarding the crimes stipulated in this law , nor to claim compensation after the lapse of three months from the date of publication."

On the basis of the foregoing , it is not possible to apply the limitation period stipulated in the general rules of the Civil Code with regard to claiming the right in accordance with the rules of civil liability, in order to limit it to the above text of the Publications Law, as the period of three months to file a lawsuit regarding the crimes stipulated in the Publications Law is a period of lapse , not limitation , and therefore does not include suspension , or interruption in its procedures .

Here, the period of forfeiture of the lawsuit to claim the right to compensation for the damage of digital content, under the provisions of the Iraqi Publications Law in force No. 206 of 1968 , is three months from the date of publication of harmful digital content, and not from the date of knowledge of it.

With regard to the waiver of the right to compensation as a way to terminate the civil liability lawsuit for compensation for the damage of digital content, and here the injured party has the right after the availability of the elements of civil liability, and its effects are achieved by the right to compensation , and even after filing the lawsuit for compensation [41], the injured party may waive his right to compensation , by invalidating his lawsuit petition [42].

It is also permissible for the plaintiff of the civil right to waive his right after proving it by a judicial ruling issued in his favor by a competent court, and this waiver results in the waiver of the waiver of the right established in it , and then the dismissal of the judicial claim against him in the future [43].

In addition to reconciliation, this is a way for the lawsuit to lapse to claim the right to compensation for the damage of digital content. " Reconciliation is a contract that raises the dispute and interrupts the dispute by mutual consent [44]. As reconciliation is achieved through an agreement between the injured party and the one responsible for the damage , on the amount of compensation requested by the injured party before filing the lawsuit , or after filing it. This agreement with reconciliation is valid if the conditions of validity stipulated by law (mutual agreement, the place , and the reason) are met. The validity of the reconciliation must be issued by a competent party , and the place of reconciliation , meaning that the conciliator is the owner of the right subject of the reconciliation agreement, and that the reconciliation is proven by an official record, or in ordinary writing that

includes personal evidence (witnesses to the reconciliation). The entry into force of the reconciliation agreement means that the conciliation agreement is not subject to the conciliation agreement, and the reconciliation allowance is included in the plaintiff's custody, and the lapse of the claim for compensation in accordance with the provisions of civil liability (contractual or tortious) [45].

Section Two

The nature and form of compensation resulting from damages to digital content

Compensation within the scope of civil liability includes reparation for the damage caused by the liability by his fault to the injured , and therefore compensation is of the same type as the damage, and does not exceed its limits, and this is fair compensation, and compensation for the realized loss and loss of profit , and this is full compensation.

Jurisprudence has dealt with several definitions of damage , including that " the debtor , who is responsible for the damage , performs to the injured creditor, to compensate for the damage caused by the harmful act [46].

In terms of forms of compensation , compensation may be in kind , or compensation in return. Compensation is based on damage , in terms of existence , or non-existence , without regard to the gravity of the error. Compensation includes material damage and moral damage, and the injured party must prove the damage that occurred to him in accordance with the general rules of proof .

Compensation in civil liability also results from the expected direct damage, which is not expected in the scope of tort liability, and from the expected direct damage in the scope of contractual liability, except in the case of fraud and gross error. Here, the unexpected damage in the field of compensation is included in the scope of contractual liability. Compensation for material damage is in both types of contractual and tort civil liability. Either moral damage is not compensated for except in the scope of tort liability [47].

The Iraqi legislator stipulated compensation for moral damage within the scope of liability for unlawful acts,or tort liability, without contractual liability,as referred to in Article (205) of the Iraqi Civil Code in force.

As for the Egyptian legislator, he has made compensation for moral damage not limited to tort liability, but also includes contractual liability, and this is referred to in Article (222/1) of the Egyptian Civil Code in force .

While we find the French legislator after the amendment to the French Civil Code of 2016 , compensation for moral damage has been limited to the scope of tort liability, as for contractual liability, there is no compensation except for material damage, and this is referred to in Article (1231/1) of the French Civil Code of 2016.

The original compensation is to be estimated by the judiciary , but this does not prevent it from being estimated under a prior agreement, or under a legal text. We find that compensation for the damage of digital content, and for its special nature being in cyberspace , judicial compensation is compatible with it, as it cannot be agreed upon in advance , as the law did not provide for it under special rules, so judicial compensation is the most appropriate to compensate for the damage caused by digital content.

The damage caused by digital content is more widespread , continuous, aggravated , and future. The illegal dissemination of information that constitutes a violation of digital human rights, the violation has no limits , as long as the browsers of the network are not estimated a certain number, so the violation is audible and visible to all , and this widespread damage must be compensated commensurate with it in terms of strength and spread [48].

Here we will address the statement of compensation in kind , and compensation in return for the sperm of civil liability for the damage of digital content, as follows :

First - Compensation in kind for the damage of digital content:

In principle, compensation in kind is the ruling to restore the situation to what it was before the official committed the mistake that caused the damage to the injured , and this compensation is what the injured seeks to obtain, as long as it removes the effects of the damage [49].

In-kind compensation is within the scope of tort liability for damages of digital content. Does it lead to the desired goal of compensation? Damages resulting from digital content include material damage and moral damage. Material damage can be compensated in kind by deleting or withdrawing illegal publishing and preventing its continuous and future circulation? Compensation here is of the type of damage. Here, we are in the process of preventing future damage to harmful digital content. As for the damage that has already occurred as a result of illegal publishing and the violation of the digital rights of the injured, it is material damage that has already occurred, and therefore there is no way to remove it. Defamation of a particular person as a result of a violation of his privacy by the illegal publication of information affecting his private life or the secrets of his profession that are not suitable for public publication, here the in-kind compensation does not work with it , but we find that compensation in return is what compels its effects in terms of lost profit and realized loss.

As for compensation for moral damage, and this compensation is predominant in damage claims for digital content, here the damage affects the personal consideration of the injured , which cannot be removed by material compensation, as the moral damage cannot be removed , it is characterized by persistence , aggravation , and affects the most precious , and the holiest feeling , consideration, honor , and status that a person has in society , but the damage that leads to the disintegration of social ties as a result of illegal digital content, can not be removed by in-kind compensation, as it is damage that has occurred , and it is not possible to remove the damage that has already occurred, and therefore compensation in return is appropriate to repair the moral damage, although these damages can not be completely removed, but can be mitigated by compensation in return .

The French legislator referred to compensation in kind in Article (1221) of the French Civil Code, and also referred to this compensation to " restore the situation to what it was" in the text of Article (809) of the French Civil Procedure Law No. (1806) of 1994 amended .

As for the Egyptian legislator, he referred to compensation in kind , in the text of Article (171/1) of the Egyptian Civil Code in force, which is offset by the text of Article (209/2) of the Iraqi Civil Code in force , as the Iraqi judiciary provides for compensation in kind based on the aforementioned text.

Compensation in kind is ruled whenever the case that resulted from the damage can be removed , and compensation achieves justice. Compensation in kind is the original , without being imposed on the trial judge , but the type of compensation is estimated according to the discretionary authority of the judiciary.

Here, we find that the removal of digital content that includes a violation of a person's digital rights is considered compensation in kind , and here the compensation is subsequent to the occurrence of the damage , and prevents the continuation of its effects , in the sense of removing the damage and preventing the continuation of its effects , and limiting their spread.

When the injured party requests the publication of the conviction of the official , a copy of the compensation in kind , as long as the publication of the judgment of the civil liability of the injured person has achieved the desired goal of compensation, which is to remove the effects of the damage , we are in the process of compensation in kind to redress the effects of the damage [50].

The damage caused by digital content is mostly moral damage, and moral damage cannot be removed , its effects erased, or the condition of the injured person returned to the state he was in before the damage occurred. When the content creator violates the privacy of a particular person, through illegal publishing, here and with the content creator withdrawing its harmful content, correcting the information contained in it , or making an undertaking to correct his harmful activity, despite all this, the damage has already occurred, and the condition of the injured person cannot be returned to what it was before the damage occurred, but the harmful content creator, no matter what actions he has taken after the violation, seems useless to redress the damage that occurred as a result of that harmful activity.

The French legislator referred to the right of reply and correction in the scope of the use of the Internet , in the text of Article (6) of the Law of Confidence in the French Digital Economy No. (575) of 2004 , that " every person designated or specified in the scope of Internet services has the right to respond, without prejudice to requests for correction or deletion of the publication by a message sent to the service provider."

Here, those harmed by digital content have the right to request the right of reply , and to correct illegal content.

The Egyptian legislator also referred to the right of reply and correction in the Egyptian Press Regulation Law No. (96) of 1996.The law obliges the editor-in-chief, the editor, or any person responsible for publishing, and at the request of the person concerned, to publish the correction of all information that is harmful , or that causes a violation of the rights of the person , and that has been published in the newspapers , and within a period of three days from the date of the request of the person concerned , and without payment, and the response is published, and the correction is published in the next issue of the newspaper in which it was published, and with the same area of the first publication.

The Iraqi legislator also referred to the right of reply and correction in the text of Article (15) of the aforementioned Iraqi Publications Law No. 206 of 1968, which obligated the owner of the periodic publication to abide by the free publication of the response received from those whose privacy was violated in the publication , and the response shall be in the following issue of the publication .

On the basis of the foregoing , from the texts that include the right of reply , and correction for illegal publication, which includes a violation of a person's digital rights, through harmful digital content, the victim can request the judiciary to have the right of reply , and correction when the violation of his right to privacy is proven, and here the compensation is of the type of damage .

It is worth mentioning that the judiciary's decision to respond and correct at the request of the injured party from the illegal publication may include a reminder of the damage that occurred to the injured person , which leads to the interaction of people with the damage that occurred to him , and this role is a reason for the continuation of the damage , so the judiciary appreciates the ruling to respond and correct according to each case and the circumstances surrounding it .

In-kind compensation alternative to the ruling on restitution , and correction of harmful digital content, which the victim may not want the latter , and as we mentioned earlier , alternative in-kind compensation for requesting the right of reply , and correction is by ruling to prevent the circulation of harmful digital content, limit its spread , or ban the website that included harmful digital content.

Second: Exposure in return (cash) for the damage of digital content:

As long as the compensation in kind is not commensurate with the damage of the digital content, and does not lead to the removal of its effects , because the moral damage cannot be removed, the harm to personal consideration, reputation, honor, family ties, and the sacred values of man cannot be removed, as well as the impossibility of returning it to the state it was in before the damage occurred. In-kind compensation is possible within the framework of contractual liability, in terms of origin , but within the framework of tort, in-kind compensation is an exception , and its impact is rare, and in very limited cases.

The civil liability of the harmful digital content creator is often in tort , and the damage resulting from it is moral damage in general , as well as the material damage accompanying it, and with the difficulty of compensation in kind in the field of moral damage, the judiciary has only compensation in return for reparation for moral damage caused by digital content.

The damage resulting from tort liability, as long as it can be carried out, or estimated by money , so the monetary compensation is the asset , and it is paid to the injured in general, or the monetary compensation is in the form of salary income, or installments, depending on the circumstances , and this is indicated by the text of Article(209/1) of the Iraqi Civil Code in force , as monetary compensation is often the asset , as long as it contains a solution to the problems posed by moral damages, which cannot be repaired through compensation in kind .

The monetary compensation estimated by the judiciary should be commensurate with the size of the damage , not less than, and not more than, the damage caused to the injured person. The compensation includes the loss and loss of profit suffered by the injured person, and this is referred to in Article (1231/1) of the French Civil Code, and corresponds to the text of Article (207/1) of the Iraqi Civil Code, within the framework of tort liability.

Compensation in return for (cash) for the damage of digital content, we find in it an appropriate remedy for the nature of the damage in cyberspace , the moral damage (moral), which includes the problem of compensation in kind , and as long as the moral damage is predominant within the framework of tortious civil liability for the damage of digital content, here we find that compensation in return for (cash) is a solution to all the difficulties of compensation in kind , the victim of the digital content can, in addition to monetary compensation, request the right of reply, and correction, according to the circumstances , and with the approval of the judiciary as long as this provides adequate protection for the victim , and prevents the continuation of the violation as a result of illegal publication.

From the above , we find that the rules for obtaining compensation within the framework of civil liability (contractual and tortious) find it difficult to cover all the damages resulting from digital content. The responsible person may be known in terms of his personal information on websites , in the sense that the content creator is known in terms of identifying his name , location , and all other information indicating it. Here, there is no difficulty in prosecuting him by the injured person, but the difficulty lies when the content creator is unspecified and unknown in terms of personal information, or his account is fictitious, or uses plagiarism technology, or the injured person is in a country, and the official is in another country. Here, with the knowledge of the responsible person, but his prosecution raises the issue of conflict of laws , and the determination of jurisdiction .

Websites on the Internet are widespread , and they do not know the limits restricting them. The network is available to everyone. The damage caused by it is widespread , continuous , and variable damage towards aggravation. As we mentioned earlier, the person responsible for the damage may be at a high level in terms of the use of social media towards violating the rights of others. This may be a reason why it is difficult for the victim to obtain compensation as a result of his inability to identify the person responsible for the damage because of the reasons mentioned. Here, we find that insurance against the risks of electronic activity includes reducing the effects of harmful digital content. This insurance shall be compulsory, as in the case of the Motor Vehicle Accident Insurance Law No. 52 of 1980. The damage caused by digital content is modern in all its aspects and effects. Therefore, there must be a means that is at the level of this damage , repairs its effects, and provides all protection for the injured. Therefore, the compulsory insurance against the damage of digital content is a solution to all the difficulties of obtaining compensation in the event of difficulty in proving the damage. The responsible person shall be in accordance with the rules of civil liability (contractual and tortious). Here, the competent authority shall regulate the provisions of the insurance law against the damage of digital content, and determine how Obtaining appropriate compensation, how to determine the participation of Internet users as a source of insurance catering, and other matters , including the contribution of all persons involved in liability for damage to digital content.

It is also possible to carry out a legal organization to protect persons harmed as a result of digital content, through a compensation fund managed by competent authorities that carries out the task of redressing the damages of persons who suffer electronic violation as a result of harmful digital content, and they cannot prove the damage caused to them , and identify the person responsible , and then the difficulty of obtaining appropriate compensation in accordance with the rules of compensation entitlement within the scope of civil liability (contractual , tort) , and in order not to lose their right to compensation , and to expand the scope of legal protection, these forms can be eliminated , through the Compensation Fund for incidents of damage to digital content, and specific conditions are set in this regard .

CONCLUSION

At the end of our research , we can only mention many of the findings, recommendations and proposals , as follows :

First - the results

1. Digital content is the information available through the Internet , which can be downloaded or distributed using electronic media, and includes all that can be published in the digital environment, such as text , audio , video , graphics , animations , and images of all kinds.
2. Digital content is any part of the information that is published through electronic platforms and means, and thus every tweet we share through electronic means, and every video we upload to electronic means of communication (YouTube , Facebook , etc.). In each case we update this media , we play the role of creating digital content.
3. The digital content industry includes the mechanisms and steps necessary to determine the platform , the target , and the audience to which the content is directed. The steps of content industry are : A- Determining the target audience, B- Determining the target , C- Determining the appropriate means, and D- Determining the quality of the appropriate content.
4. As for the mechanisms of content creation, they are : A- Determining the appropriate topic for digital content, B- Preparing the site necessary for publication, and C- Starting with the method of preparing digital content.
5. The digital content creator must have a blog, which means "electronic memos,or a website that is created with the intention of displaying information during a period of time arranged in terms of its publication date, and includes many forms , some of which display blogs during the page in a descending manner from the latest to the oldest , and others allow more than one author to participate in the blogging process, and also include allowing the participating browser to write a comment on the blog, and examples of platforms that include blogging content are Wikipedia .
6. Infographic means a type of digital content, which converts data and written information into images and drawings that are easy to understand. This type of content is the pillar of the visual digital content industry. This type is used to remind users of information , and it helps browsers improve reading by more than 50%. "
7. Civil liability for the damage of digital content is based on the basis of illegal publishing on Internet platforms, and therefore the content creator must charge all persons interfering with it to bear the compensation resulting from the harmful digital content, in a way that compels the harm to the injured as a result.
8. As long as there are no specific legal provisions, and special provisions regulating the liability resulting from the harms of digital content, so it is necessary to adapt the provisions of traditional ordinary civil liability, and then apply them to accommodate civil liability for the harms of digital content, taking into account the privacy of this digital civil liability as it affects the most accurate, and especially the personal rights of all persons.
9. The mistake in the framework of civil liability for digital content is that its images are embodied by the perpetration of the digital content creator, and the people interfering with it are represented by the use of electronic means of communication in publishing blogs , videos ,or animations that include abuse, undermining the personal privacy of individuals , and in a way that misrepresents them , and disclosing their personal information.
10. Civil liability for the damage of digital content, we find that the error arising from this , and within the framework of contractual liability, must be proven by the injured party, the injured party must first prove the existence of the contract , its validity , and that he has fulfilled his obligation. As for the error in the scope of tort liability, it is a material incident that can be proven by all means of proof , it

must be proven that the official has deviated from the usual behavior legally required, and whoever claims otherwise than the apparent has the burden of proof .

11. The default in the framework of civil liability for digital content, which is the most common , and we find it in the event of a breach of a previous legal duty, and without the existence of a contractual association, and this previous legal obligation is not to harm others, the digital content creator has no right to publish any blog , clip , image ,or fees that include offense to others, whatever the circumstances, the digital world is the right of everyone , but without harming anyone ,or harming the right to privacy of others .
12. We find that the French and Egyptian judiciary, as a result of the development in the legislative system, on which the judiciary is based, have made the basis of civil liability arising from harmful digital content, based on a presumed error that is not to be proven by the injured party , and this relieves the injured party , and expands the scope of legal protection that should be obtained. The digital error is an advanced, unstable error, and includes difficulty in proof , while we find that the Iraqi judiciary did not keep pace with the development in the field of the technological revolution, and the basis of civil liability resulting from the damage of digital content remained based on the error that must be proven by the injured party , and this is an emphasis on the injured party, and burdens it with a difficult burden to obtain appropriate compensation to redress the damage caused to it as a result of harmful digital content.
13. Abuse through social media includes real damage, and it is certain to occur, whether in the present or in the future , and the loss of opportunity is considered real damage, even if the opportunity is a probable thing, they are concerned that missing it is a real thing, but the probable damage is unrealized damage, and therefore not eligible for compensation ,unless it actually occurs. The damage that must be compensated is not the loss of the damage that has already occurred (the case) , but rather compensation includes the damage that will inevitably occur in the future , which is the damage whose causes have occurred, and its effects have laxed in the future .
14. Within the scope of civil liability for damage to digital content, we find that the causal relationship revolves around the commission by the content creator of a harmful activity (including a breach of a contractual obligation, or infringement, and exceeding a previous legal obligation not to harm others) , and this activity is a direct cause of the damage that occurred to the victim , otherwise there is no civil liability for the absence of a causal relationship between the error and the damage.
15. Civil liability for the damage of digital content is not limited to those who made the digital content, but extends to all persons who used this content by sharing it with others , commenting on it, or interacting with it in any way, whether in writing , pictures, clip, etc., and then their responsibility in accordance with the rules of civil liability, and each according to his participation in the damage that occurred to the injured . This includes an expansion of the protection department for the injured , and obtaining appropriate compensation, in a way that ensures limiting the phenomenon of using digital content harmful to others .

    Websites are naturally created according to agreements that include certain conditions, including that the owners of the sites are not responsible for illegal publishing, or the bad activity of users of these sites , on the basis that the owners of the sites are not responsible for monitoring the publication of digital content through these websites , but their responsibility is determined by the legal obligation to withdraw illegal publications, which include content that causes offense to others .
16. Compensation in kind alternative to the ruling on restitution , and correction of harmful digital content, which the victim may not wish to do, as it includes a reminder of the type of damage. Compensation in kind alternative to requesting the right of reply , and correction is by ruling to prevent the circulation of harmful digital content, limit its spread , or ban the website that included harmful digital content.
17. As long as the compensation in kind is not commensurate with the damage of the digital content, and does not lead to the removal of its effects , because the moral damage cannot be removed, the harm to personal consideration, reputation , honor , family ties, and the sacred values of man , the damage to it cannot be removed, as well as the impossibility of returning it to the state it was in before the damage occurred. In-kind compensation is possible within the framework of contractual liability, in terms of origin , but within the framework of tort, in-kind compensation is an exception , and it is rare to occur, and in very limited cases.
18. Compensation in return for (cash) for damage to digital content, we find in it an appropriate remedy for the nature of the damage in cyberspace , the moral damage (moral), which includes the problem of compensation in kind , and as long as the moral damage is predominant in the framework of tort civil liability for damage to digital content, here we find that compensation in return for (cash) is a solution to all the difficulties of compensation in kind , the victim of the digital content in addition to monetary compensation, he can request the right of reply, and correction, according to the circumstances , and

with the approval of the judiciary as long as this provides adequate protection for the injured , and prevents the continuation of the violation as a result of illegal publication.

Second: Recommendations and Proposals

1. It is necessary to develop specific legal rules, especially regulating responsibility for the damage of digital content. Digital content must be determined in terms of how it is made , according to specific legal controls, and cannot be bypassed , as well as determining the type of malicious electronic activity, when it is infringement, and violation of digital human rights.
2. We recommend the Iraqi legislator to develop a draft social behavior, including how to use the Internet legitimately, not to allow the manufacture of illegal content, to ensure the protection of values , social ties, not to allow customs and illegal practices to undermine the family fabric within society, and to maintain civil peace as a result.
3. We recommend the competent authorities to seriously follow up the publication and media within the websites within the Iraqi social fabric. Recently, many illegal contents have appeared, which have had a wide negative impact on the values , links , and sanctities of individuals .
4. We recommend the Iraqi judiciary not to tolerate the punishment of the owners of illegal digital content, and to make compensation commensurate with the size of the damage caused by digital content, and to use all legal means in this regard.
5. We recommend the Iraqi legislator to develop legal rules commensurate with the special nature of the damage caused by the digital content, and here it is necessary to take into account the rules of substantive (material) responsibility that are based on the element of damage , without the element of error , as the latter includes difficulty in proving it by the injured , which relieves the injured , and expands the scope of legal protection to obtain compensation.
6. We also propose to the Iraqi legislator to regulate the issue of compulsory insurance against incidents of harmful digital content, and we find in this legal protection for the injured in terms of obtaining appropriate compensation, and that the provisions of this insurance are regulated according to specific legal controls.
7. As we propose to the Iraqi legislator, the establishment of a fund for compensation for damage to digital content, and the provisions of this fund are regulated by competent government agencies, including coverage of compensation for damage to harmful digital content, especially with the difficulty of identifying the person responsible for compensation.
8. As we propose to the Iraqi legislator, to create a court specialized in publishing and media cases, including judges who have knowledge and specialize in issues of damage to digital content. The judiciary is specialized in issues and incidents of illegal publishing on the Internet and social media facilitates the process of resolving disputes in this regard

REFERENCES *(Use Heading 1)*

1. Dr. Jassim Mohammed Masoud, The Host , and Dr.Tariq Abdel Raouf Saleh , Civil Liability for Abusing the Right to Express Opinion in Kuwaiti Legislation, Dar Al-Nahda Al-Arabiya , Cairo, Egypt, 2012, p. 12.
2. Dr.Khaled Hassan Ahmed , Cybercrime between Electronic Piracy and Electronic Extortion Crimes - Comparative Study , 1st Edition, Dar Al-Fikr Al-Jami , Alexandria , Egypt , 2018, p. 19.
3. Judge Salem Roudan Al-Mousawi , The Legal System for Creating a Social Media Page in the Light of Civil Law and Criminal Responsibility, A Comparative Study Enhanced by Judicial Applications, Baghdad , Iraq , 2021, p. 17.
4. Dr.Khaled Mustafa Fahmy , The civil responsibility of the journalist for his civil work, New University House, Alexandria , Egypt, 2003, p. 22.
5. Dr. Abdulaziz Al-Siddiqi , Electronic content and its industry , a quantitative analytical study, available through the website Files/arabicportals.ppt / www.philips-publishing.com
6. Dr.Khaled Hassan Ahmed , Cybercrime between Electronic Piracy and Cyber Extortion Crimes - Comparative Study, op. Cit., P. 22.
7. Judge Salem Roudan Al-Mousawi , The Legal System for Creating a Page through Social Media in the Light of Civil Law and Criminal Responsibility, A Comparative Study Enhanced by Judicial Applications, op. Cit., P. 31.
8. Dr.Nabil Mohamed Morsi, Modern Technologies of Information , Modern University Publishing House, Alexandria, Egypt, 2005,p. 44

9. Dr. Yaqoub Mohammed Al-Harthy , Civil Liability for Electronic Publishing, 1st Edition, Wael Publishing and Distribution House, Amman , Jordan, 2015, p. 35
10. This is referred to in paragraph (11) of Article (1) of the Iraqi Electronic Signature Law No. (78) of 2012, as it defined the contract as defined in Article (73) of the Iraqi Civil Code, with the addition of the phrase (the contract that is made by electronic means).
11. Dr.Mohamed Hassan Qassem , Civil Code, Contract , Volume /2 , Al-Halabi Human Rights Publications, Beirut , Lebanon , 2018,p. 208
12. (12) See: Dr.Abdul Razzaq Al-Sanhouri , Mediator in Explaining the Civil Law, Part 1 , Theory of Commitment - Sources of Commitment , Dar Ihyaa Al-Turath Al-Arabi , Beirut , Lebanon , 1978, p. 755.
13. Dr. Mohamed Hussein Mansour , Electronic Responsibility, New University Publishing House, Cairo , Egypt , 2007, p. 344
14. Dr. Ali Hassan Al-Thanoun, Al-Mabsoot in Civil Liability; Part 2, Damage , Thames Printing and Publishing Company, 1988,p. 242 et seq.
15. (15) See: Dr.Mohammed Hussein Al-Shami , Theory of Civil Liability in Yemeni and Egyptian Law and Islamic Jurisprudence,1st Edition, New Generation Library, Sana 'a , Yemen , 1994, p. 39.
16. Dr. Abdul Razzaq Al-Sanhouri , Mediator in Explaining the Civil Law, Part 1, Theory of Obligation - Sources of Obligation , op. Cit., P. 779.
17. Dr.Mohamed Ibrahim El-Desouky , Estimating Compensation between Error and Damage, University Culture Foundation, Alexandria, Egypt, 1995, p. 163 et seq.
18. The Iraqi Publishing and Media Court ruled in a ruling that "the defendant committed an error towards the plaintiff by distorting his reputation , and published a number of advice and comments on his page on social media sites in a way that harms the plaintiff's reputation.... " , See : Judgment of the Court of Publishing and Media Cases, Civil , Civil Division in the Presidency of Baghdad Appeal - Federal Rusafa, No. 204, on 20/12/2015, unpublished judgment.
19. For more detail, see: D. Ghani Hassoun Taha , The Brief Theory of General Obligations , Part 1, Sources of Obligation , Baghdad , 1971, p. 453 et seq .
20. Dr.Shirin Hussein Amin Al-Asili, Civil Liability of the Publisher, Legal Books House, Cairo , Egypt, 2015, p. 415 and beyond.
21. Dr. Rabhi Tabob Fatima Al-Zahra, Electronic Tortious Error, Research published in the Journal of Comparative Legal Studies, University of Mohamed Bouguerra Boumerdes, Faculty of Law and Political Science - Boudouaou, Issue(2), Volume (6), 2020, p. 189 et seq.
22. The decision of the Egyptian Court of Cassation, dated 9/11/1975, s. 16, s. 271, p. 1356 , quoting : Dr.Ahmed Mohamed Fathi Al-Khouli , Civil Liability for the Misuse of Electronic Journalism,research submitted to the Fourth Scientific Conference entitled (Law and Media) from 23 to 24 April 2017, p. 20 .
23. Decision of the Court of Publishing and Media Cases - Civil Section - Presidency of the Baghdad Court of Appeal - Federal Rusafa, Issue (19), dated 28/4/2016, unpublished judgment.
24. Dr.Hassan Ali Al-Dhanoun, Principles of Obligation , Al-Maaref Press, Baghdad , Iraq, 1970, p. 221 et seq.
25. (25)See : Dr.Fathi Abdel Rahim , Sources of Involuntary Commitment, Part 1, Dar Al-Kutub , Cairo, Egypt, 1999, p. 88 et seq.
26. Dr. Jamil Al-Sharqawi , The General Theory of Commitment - Sources of Commitment , 1st Edition, Dar Al-Nahda Al-Arabiya for Publishing and Distribution ,1975, p. 79 et seq.
27. Dr.Mohamed Hassan Mansour, The General Theory of Commitment , Sources of Commitment ,Part 1, New University House, Alexandria, 2005, p. 603 et seq .
28. Dr.Mustafa Al-Awji, Civil Law - Civil Liability, Part 2, 1st Edition, Bahsoun Foundation for Launch and Distribution , Beirut , Lebanon , 2016, p. 284 et seq.
29. Dr.Hassan Ali Al-Dhanoun, Al-Mabsoot in the Explanation of the Civil Law - Error , Part 1, op. Cit., P. 9 et seq .
30. Dr.Mohamed Abdel Zaher Hussein , Legal Responsibility in the Field of the Internet , Dar Al-Nahda Al-Arabiya , Cairo , Egypt , 2002, p. 22 et seq .
31. Dr. Ghada Abdel Karim Mohamed Gad , Civil Liability for the Circulation of Rumors through Social Media Sites, Research Paper submitted to the Scientific Conference at the Faculty of Law - Tanta University, Law and Rumors , 2019 , p. 22.
32. This is stipulated in Article (6-1/ 2) of the Law of Confidence in the French Digital Economy No. (575) of 2004.
33. Dr.Mohamed Hussein Mansour , Electronic Responsibility, op. Cit., P. 184 et seq.
34. This is stipulated in Article (43-8) of the French Freedom of Communication Law No. (86-1067) of 1986, as amended , that "natural and legal persons who undertake, free of charge or in return for direct and continuous storage of information, and everything of its nature that can be received, shall not be criminally or civilly responsible for the content of this information or service unless they become competent to control

it by order of the judicial authority, and they refrain from quickly stopping the transmission or publication of this information through Internet sites."

35. Dr.Marwa Saleh Mahdi , Civil Liability for Electronic Publishing, op. Cit., P. 70 et seq.
36. (36)These conditions are referred to in Articles (3, 4, 6) of the Iraqi Code of Procedure in force No. 83 of 1969, as amended .
37. Dr.Suleiman Mark , Al-Wafi in Explanation of Civil Law, Harmful Act and Civil Liability, op. Cit., P. 583 et seq.
38. Dr.Kazem Hamdan Al-Bazouni , op. Cit., P. 162 et seq .
39. This is stipulated in Article (429) of the Iraqi Civil Code in force , and is matched by Article (374) of the Egyptian Civil Code in force.
40. This is stipulated in Article (232) of the Iraqi Civil Code in force , and is matched by Article (127/1) of the Egyptian Civil Code in force.
41. Dr.Adnan Ibrahim Al-Sarhan , and Dr.Nouri Hamad Khater , op. Cit., P. 476 et seq.
42. This is stipulated in Article (89) of the Iraqi Civil Procedure Law in force.
43. This is stipulated in Article (90) of the same law.
44. This is stipulated in Article (698) of the Iraqi Civil Code in force .
45. This is stipulated in Article (699) of the same law.
46. Dr.Nabil Ibrahim Saad , The General Theory of Commitment , Sources of Commitment , Part 1, New University House, Alexandria , Egypt, 2004, p. 479 et seq.
47. Consider, Dr.Hassan Ali Al-Dhanoun, Al-Mabsoot in Civil Liability, Part 1, Damage, op. Cit., P. 233 et seq.
48. The Paris Court of Appeal ruled in the case of the spread of digital damage, that "the practice of the activity of supplying information is not authorized to be published." It ruled a very high compensation as a result of the widespread damage caused by the harmful activity of the official. The compensation was estimated at a total of (300,000) French francs. The court justified the high compensation, because the damage caused by the spread of unauthorized information caused to the injured person extensive and widespread damage continuously on the Internet . For more details see: Dr. Mohamed Abdel Zaher Hussein , op. Cit., P. 173 et seq.
49. Dr. Saadoun Al-Ameri , Compensation for Damage in Tort , op. Cit., P. 148 et seq.
50. Dr.Ali Hassan Al-Thanoun , Damage , op. Cit., P. 35 et seq.
51. Dr.Ahmed Mohammed Fathi Al-Khouli , Civil Liability for the Misuse of Electronic Journalism,research submitted to the Fourth Scientific Conference entitled (Law and Media) from 23 to 24 April 2017.
52. Dr.Jassim Mohammed Masoud, the host , and Dr.Tariq Abdel Raouf Saleh , Civil Liability for Abusing the Right to Express Opinion in Kuwaiti Legislation, Dar Al-Nahda Al-Arabiya , Cairo , Egypt ,2012.
53. Dr. Jamil Al-Sharqawi , The General Theory of Commitment - Sources of Commitment , 1st Edition, Dar Al-Nahda Al-Arabiya for Publishing and Distribution ,1975.
54. Dr.Khaled Hassan Ahmed , Cybercrime between Electronic Piracy and Electronic Extortion Crimes - Comparative Study , 1st Edition, Dar Al-Fikr Al-Jami , Alexandria , Egypt , 2018.
55. Dr.Khaled Mustafa Fahmy , The Civil Responsibility of the Journalist for his Civil Works, New University House, Alexandria , Egypt, 2003.
56. Dr. Ribhi Taboub Fatima Al-Zahra, Electronic Tort, Research published in the Journal of Comparative Legal Studies, University of Mohamed Bouguerra Boumerdes, Faculty of Law and Political Science - Boudouaou, Issue(2), Volume (6), 2020.
57. Judge Salem Roudan Al-Mousawi , The Legal System for Creating a Social Media Page in the Light of Civil Law and Criminal Liability, A Comparative Study Enhanced with Judicial Applications, Baghdad , Iraq , 2021.
58. Dr.Shirin Hussein Amin Al-Assili, Civil Liability of the Publisher, Legal Books House, Cairo , Egypt, 2015.
59. Dr.Abdul Razzaq Al-Sanhouri , Mediator in Explaining the Civil Law, Part 1 , Theory of Commitment - Sources of Commitment , Dar Ihyaa Al-Turath Al-Arabi , Beirut , Lebanon , 1978..
60. Dr. Ali Hassan Al-Dhanoun, Principles of Obligation , Al-Maaref Press, Baghdad , Iraq , 1970.
61. Dr.Alli Hassan Al-Thanoun, Al-Mabsoot in Civil Liability; Part 2, Damage , Thames Printing and Publishing Company, 1988.
62. Dr. Ghada Abdel Karim Mohamed Gad , Civil Liability for Circulating Rumors through Social Media Sites, Research Paper presented to the Scientific Conference at the Faculty of Law - Tanta University, Law and Rumors , 2019 , p. 22.
63. Dr. Ghani Hassoun Taha , Brief in the Theory of Commitments , Part 1, Sources of Commitment , Baghdad , 1971.
64. Dr. Fathi Abdel Rahim , Sources of Involuntary Commitment, Part 1, Dar Al-Kutub , Cairo , Egypt , 1999.
65. Dr.Mohamed Ibrahim El-Desouky , Estimating Compensation between Error and Damage, University Culture Foundation, Alexandria, Egypt, 1995.

66. Dr.Mohamed Hassan Qassem , Civil Code , Contract , Volume /2 , Al-Halabi Human Rights Publications, Beirut , Lebanon , 2018.
67. Dr.Mohamed Hassan Mansour, General Theory of Commitment , Sources of Commitment ,Part 1, New University House, Alexandria, 2005 .
68. Dr.Mohammed Hussein Al-Shami , Theory of Civil Liability in Yemeni and Egyptian Law and Islamic Jurisprudence,1st Edition, New Generation Library, Sana 'a , Yemen , 1994.
69. Mohamed Hussein Mansour, Medical Responsibility, New University Publishing House, Cairo, 1999, p. 196.
70. Dr.Mohamed Abdel Zaher Hussein , Legal Responsibility in the Field of the Internet , Dar Al-Nahda Al-Arabiya , Cairo , Egypt , 2002.
71. Dr.Mustafa Al-Awji, Civil Law - Civil Liability, Part 2, 1st Edition, Bahsoun Foundation for Launch and Distribution , Beirut , Lebanon , 2016.
72. Dr.Nabil Ibrahim Saad , General Theory of Commitment , Sources of Commitment , Part 1, New University House, Alexandria , Egypt, 2004.
73. Dr. Nabil Mohamed Morsi, Modern Technologies of Information , Modern University Publishing House, Alexandria , Egypt , 2005.
74. Iraqi Civil Code No. 40 of 1951 and its amendments .
75. The Iraqi Code of Procedure in force No. 83 of 1969, as amended .
76. Ethnic Publications Law No. 206 of 1968 .
77. Iraqi Civil Procedure Law No. 83 of 1969, as amended.
78. Iraqi Electronic Signature Law No. (78) of 2012.
79. Third - Foreign Laws: Third- Foreign Laws
80. Egyptian Civil Code No. 131 of 1948, as amended
81. The French Civil Code of 1804 as amended .
82. The French Civil Code of 2016.
83. Law of Confidence in the French Digital Economy No. (575) of 2004.
84. The French Freedom of Communication Law No. (86-1067) of 1986, as amended .
85. Fourth - Websites : Fourth- Websites
86. I. Dr. Abdulaziz Al-Siddiqi , Electronic content and its industry , a quantitative analytical study, available through the website
87. Files/arabicportals.ppt / www.philips-publishing.comAuthor, *Title*. Degree, Academic Department, University.