# Civil Liability for Content Production in Cyberspace from the Perspective of the Jurisprudential Principle of Tasbib

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### Abstract

Engagement in cyberspace, like any other domain, entails responsibilities and duties for individuals, one of which is the civil liability for content production. The present study seeks to examine civil liability for content production in cyberspace based on religious directives, particularly the principle of tasbib (causation). The central question is: What is the civil liability of individuals regarding content production in cyberspace in terms of being a cause (musabbib)? The present analysis demonstrates that civil liability encompasses both the prohibitive aspects, requiring the prevention of wrongdoing (munkarat), and the affirmative aspects, encouraging the promotion of exemplary content production practices. The establishment of civil liability in cyberspace necessitates identifying active and influential individuals, including influencers, and defining their liability in accordance with their roles. Furthermore, the principle of tasbib extends to the actions and decisions of managers and policymakers within the Islamic society concerning content production, holding individuals accountable regardless of their position or status. Consequently, civil liability attributes responsibility to both individuals and managers for any material or moral harm resulting from their role in content production in cyberspace. To actualize civil liability in an Islamic society, the development of specialized jurisprudence for media and the implementation of digital civil liability frameworks are recommended. The methodology of this study is descriptive-analytical, employing a library-based research approach.

**Keywords:** *civil liability, cyberspace, content production, Islamic society, principle of tasbib.*

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## 1.    Introduction

Cyberspace represents a transformation in modern media that, facilitated by the internet, has influenced various aspects of contemporary human life. Individuals are continuously and at any desired moment drawn to its use. Today, cyberspace plays a significant role in education, entertainment, commerce, marketing, and the transmission of values and norms, all of which involve content production directly or indirectly influence it. However, in cyberspace, due to the anonymity of content production processes or the role of intermediaries, as well as the dominance of reposting and continuous interaction with messages and information, identifying the initial actors responsible for content production to establish liability is challenging. Unlike the physical world, it is not possible to swiftly or precisely and transparently determine the responsibility of various individuals, whether as creators or as those affected by the content. Nonetheless, civil liability, in any circumstance, seeks to recognize the role and position of individuals in causing a behavior or event. In civil liability, if damage is inflicted on another

person without legal authorization, the perpetrator is liable, and this principle extends to cyberspace and social networks. Accordingly, the causes, agents, and instigators of harm in cyberspace, whether through the production of harmful and norm-violating content or through the dissemination and expansion of counter-normative behaviors in society, must be held accountable and take action to remedy the damage.

A jurisprudential approach to countering threats and establishing civil liability for individuals in cyberspace defines general principles that can be categorized into two overarching perspectives: *munkarat* (prohibited acts) and *ma'aruf* (commendable acts). *Munkarat* represent the propagation of non-religious and immoral values, which are condemned under Islamic law. Conversely, *ma'aruf* acknowledges the inevitability of cyberspace and social networks and advocates for necessary actions to be taken using effective, prestigious models that align with societal values and individual needs. The goal is to prevent material and moral harm to individuals while making appropriate models accessible to them.

Given the consequences and impacts of content production in cyberspace, identifying its causes and finding solutions in this realm is a crucial and pressing issue. This is particularly significant in the context of an Islamic society, where the management of cyberspace, akin to the physical world, necessitates mitigating threats and adopting suitable and prestigious models. Therefore, the present study endeavors to examine the civil liability of individuals in content production in cyberspace within the framework of the jurisprudential principle of *tasbib* (causation). The necessity of this research lies in identifying the responsibility of individuals and managers in cyberspace, emphasizing the principle of harm and its compensation in digital content production, and distinguishing between *munkarat* and *ma'aruf* in this field. By recognizing these elements, civil liability for individuals can be determined.

## 2. Theoretical Framework: The Principle of *Tasbib*

The principle of *tasbib*, as one of the jurisprudential principles, aims to determine the role of individuals and various factors in causing a behavior or social action. It entails examining individuals' behaviors and the effects these behaviors have on the interests and actions of others. Under the principle of *tasbib*, it is asserted that if an action is committed by a rational and voluntary agent and results in the loss of life or property of Muslims, the agent is liable for the harmful act (Bojnordi). In other words, any act that is performed with the intention of infringing on the rights of others makes the perpetrator liable, and if the violation of others' rights is established, the act is considered unequivocally unlawful (Montazeri, 1994). Some earlier jurists have argued that if a connection is established between an individual's act and the loss of Muslim resources and property, the act is deemed *itlaf* (destruction), rendering the individual liable. In this regard, Imam Sadiq (peace be upon him) is quoted as saying: "Whoever causes harm to Muslims by any means is liable for its consequences" (Hurr al-Amili, 1994).

Based on this principle, every act inherently entails responsibility, and evading accountability for one's actions signifies an attempt to escape liability. This principle holds particular significance in the realm of criminalization and individuals' responsibility for their actions. Examining the civil liability of individuals and institutions in content production in cyberspace, through the application of the *tasbib* principle, can contribute to fostering accountability and responsibility, which will be the focus of the subsequent discussions.

## 3. Cyberspace and Its Significance

Cyberspace consists of the terms "space" and "virtual." The term "space" refers to a vast, open, empty, and accessible environment, while "virtual" or "cyber" relates to "computers or computer networks." Therefore, cyberspace conveys the notion of an open, empty, and accessible space created by computer networks (interconnected computers) (Esmaeili & Nasrollahi, 2016). Today, social networks, as a tangible manifestation of cyberspace, facilitate interactive communication. The internet and its expansion across different societies have played a pivotal role in enabling fast and unrestricted interactions. New media, with their unique capabilities, not only facilitate communication among individuals but also enable content production and sharing (Kavousi & Kazemi, 2013). Additionally, the affordability and the significant role of cyberspace in fostering social convergence and dissemination have intensified the inclination toward its use.

From an economic perspective, cyberspace has transformed advertising, online sales, and service delivery into novel formats, leading to an unprecedented volume of interactions. In this context, the boundaries between work, lifestyle, and

entertainment have blurred, giving rise to innovative forms of activities (Roshandel Arbatani & others, 2014). Social networks, as manifestations of cyberspace utilization, have established diverse mechanisms based on their intended purpose and subject matter, facilitating the connection of friends and relatives, content sharing, and instant messaging systems, contributing to their widespread adoption (Kafashi & Fallahi, 2014). These features have provided unique opportunities for social and political groups to pursue their interests, goals, and demands. Both state and non-state actors engage in these networks. The defining characteristic of cyberspace and social networks is the mass-scale and extensive production of content, which, like any other action, entails consequences.

Consequently, social networks serve both awareness-raising and threat-expanding purposes, including the facilitation of terrorism. Terrorist groups can establish networks globally to mobilize financial resources or recruit personnel (Koning et al., 2010). Hence, social networks influence politics in another dimension. Content production within these networks significantly shapes political and social developments, with the major challenge being the difficulty of identifying threats and dangers. In this sense, cyberspace fosters both convergence in interactions and the acceleration of threats. This technological and media revolution has led to the convergence of human behaviors and media-driven technological ecosystems, marked by a specific coherence (Castells et al., 2001). However, this convergence in the political sphere has introduced new tools that have transformed politics and fostered macro-level discourse. Even the concept of communicative and deliberative democracy has been proposed based on these media and their unique capabilities. The aim of this approach is to achieve shared objectives through communicative dialogue in the media (Young & Seyla, 1996). This goal has been realized through internet-based media, which is unprecedented in its scope.

Content encompasses a wide range of materials that manifest in various forms. It includes facts, concepts, work methods, approaches, principles, and perspectives related to an educational subject presented to the learner. Written content refers to pre-determined and interactive content exchanged between a teacher and a student (Fathi Vajargah, 2009). However, content is not limited to physical materials and textbooks; electronic content constitutes a significant portion of content production, appearing in digital environments as text, still images, sound, and animated behaviors (Koning et al., 2010). As applied in media discourse, content pertains to user-generated materials on the internet, which have become pervasive and integral to modern life. Content production in cyberspace and social networks has introduced new responsibilities and challenges, particularly due to the difficulty in determining the "location" of origin, leading to various legal approaches to establishing liability. Each approach focuses on a specific aspect, with the following discussions addressing civil liability in cyberspace content production.

## 4. Civil Liability in Content Production

Content production in cyberspace, like any other behavior or action, is subject to regulations that are established both by law and through customary practices observed by individuals. First and foremost, national security and citizens' rights are fundamental considerations in the dissemination of information in cyberspace. Additionally, content production should not violate individuals' privacy, as members of society possess information they wish to keep confidential and do not wish for others to access (Hosseini & Barzoui, 2017). If individuals seek to attract followers, increase visibility, or gain more "likes" by exploiting the information, identity, reputation, or name of others, they are considered responsible causes under the principle of *tasbib* and must be held accountable under the law.

The fundamental principle of protecting individuals' privacy and prohibiting its disclosure by others has been clearly articulated by Imam Khomeini: "No individual has the right to insult another person, commit inhumane and un-Islamic acts, listen in on another's telephone conversations or audio recordings under the pretext of crime detection or discovering centers of sin, conduct surveillance to uncover sins and crimes, or seek out people's secrets. Furthermore, no one has the right to disclose confidential information received from others, even to a single person. All these acts are considered crimes and sins, and some, such as the dissemination of vice and major sins, are among the most severe offenses. Perpetrators of such actions are criminals and subject to Islamic disciplinary punishment (*ta'zir*), and in some cases, they are subject to *hudud* punishments under Islamic law" (Mousavi Khomeini, 1999).

Accordingly, individuals who, for any motive or reason, engage in content production by misusing the property, name, reputation, or assets of others without obtaining their consent or authorization are deemed liable and must answer for their actions. In the realm of civil liability, accountability for one's actions involves compensating for damages incurred, given that harm has been inflicted on another individual without legal justification. However, in the context of civil liability arising from content production from a jurisprudential perspective, several key points must be addressed.

## 5. The Expansive Scope of Liability in Cyberspace Productions

Due to their extensive reach and influence, cyberspace productions bear greater responsibility than actions performed in the physical world. The reason is that digital content, transactions, and activities in cyberspace are not bound by geographical location or time constraints, allowing various forms of corruption to be readily accessible to one or more users. More importantly, the consequences of such corruption are not confined to a specific environment but are available to a global audience (Tabatabai & Liali, 2018). If the content produced by individuals, particularly influencers, public figures, or high-profile users, leads to social and cultural harm, their level of responsibility is significantly heightened. Their accountability must be assessed based on the degree of their influence.

The widespread nature of liability in cyberspace, from the perspective of *amr bil ma'ruf wa nahi anil munkar* (enjoining good and forbidding evil), necessitates distinguishing between *munkar* (prohibited acts) and *ma'ruf* (commendable acts). The principle of *tasbib* highlights the central role of content producers in cyberspace. Consequently, in terms of civil liability, preventing the connection between content producers and *munkar* constitutes a form of coercive prohibition of wrongdoing. This means that in cyberspace, the regulation and filtration of content effectively create barriers for those seeking access to prohibited content or separate the requester of illicit content from the content itself, thereby preventing its dissemination (Esmaeili & Nasrollahi, 2016). This process of separation or filtration is fundamentally based on identifying the cause or origin, which refers to individuals or groups actively operating in cyberspace.

Another jurisprudential approach to applying the principle of *tasbib* in content production is the imposition of liability on individuals who create content that may lead to misguidance, doubt, instability in religious beliefs and convictions, or even the weakening of social foundations such as the family. Even if an individual is responsible for content production, the Islamic state and cyberspace administrators also bear responsibility. Therefore, measures must be taken to ensure that cyberspace is used in a safe and permissible manner while preventing harmful uses, thereby establishing legitimate means for fulfilling lawful needs (Esfandiari, 2021).

From this perspective, the principle of *tasbib* dictates that, similar to restrictions on the dissemination of misleading books, identifying those responsible for producing undesirable content in cyberspace is crucial. The identification of perpetrators is not limited to direct contributors but may also extend to platform administrators, potentially establishing civil liability for them. This is because content that contributes to misguidance—including its creation, distribution, sale, or rental—falls under this legal and religious prohibition (Qan'i, 2012).

Clearly, influencers and public figures operating in cyberspace, whose content is viewed by millions of followers, visitors, and viewers, are accountable for their actions. Consequently, both active users in cyberspace and cyberspace administrators must be held accountable for any damage inflicted upon society, whether in the form of material losses or the erosion of values and norms. They must take responsibility and implement measures to provide restitution where necessary.

## 6. The Principle of *Tasbib* and Identifying the Causes of Prohibited Acts in Cyberspace

Cyberspace, which facilitates interaction and synergy among individuals and fosters various behaviors, must operate within ethical standards. In this borderless space, immoral and prohibited acts (*munkarat*) have expanded, exacerbating social contradictions and leading to moral chaos. As a result, the vast and ever-expanding potential of cyberspace necessitates the establishment of ethical principles (Ameli, 2011). Identifying pathways in cyberspace that contribute to the promotion of anti-religious values is crucial. The principle of *tasbib*, which considers multiple factors, can be extended to identify those who propagate prohibited acts (*munkarat*) in cyberspace.

In an Islamic society, cyberspace can promote Western lifestyles, immorality, and the dissemination of unethical content, ultimately weakening religious insight and diverting individuals from the righteous path of Islamic life. Ultimately, individuals engaged in cyberspace may be drawn toward moral corruption, social deviance, and disregard for religious teachings, leading to negligence in religious obligations (Mashayekh & Hajizadeh, 2023). The principle of *tasbib* plays a critical role in formulating appropriate policies for cyberspace by enabling the identification of direct and indirect causes of harmful content production. This principle upholds the notion that every individual is responsible for their actions. Accordingly, creating new and diverse opportunities while mitigating risks requires awareness, planning, and a comprehensive approach. This necessity has led to the implementation of restrictive measures such as content filtering, which, despite its consequences, has been employed as a preventive strategy (Nasrollahi, 2020). However, filtering appears to be a temporary solution, as it ultimately requires effective management and policy-making in cyberspace to ensure that content production is not left to individuals acting according to personal preferences without regulation.

Just as the absence of ethical standards results in moral disorder (Mousavi Haqshenas, 2018: 204), discussions about ethics, regulations, and laws in cyberspace serve two primary purposes: holding content producers accountable and establishing mechanisms to prevent the spread of immoral and prohibited acts (*munkarat*). Achieving this objective and imposing liability necessitates identifying responsible parties in both cyberspace and the real world. This principle is derived from the *tasbib* rule, which asserts that individuals must critically assess the source of the knowledge and information they acquire and adopt a self-monitoring approach to the messages they receive (Esmaeili, 2012). The principle of *tasbib* is particularly significant in cyberspace, where it has greater applicability than in the physical world. The reason for this is the low cost of content production in social media compared to mass media such as television. In social media and internet-related platforms, extensive content can be generated with minimal resources (Aftadeh, 2015). Managing this digital space is therefore crucial, as individuals can produce content on a massive scale with minimal costs, such as owning a mobile phone or accessing the internet via a computer. Ignoring this space equates to relinquishing control over content production and failing to address the direct and indirect influences of cyberspace.

To counter the proliferation of *munkarat* in cyberspace, a suitable and localized model must be developed. Current policy-making efforts in the country, particularly at the strategic level, are passive and lack comprehensive, coherent, and inclusive planning. Furthermore, existing laws, regulations, standards, and indigenous content production models are unstructured, fragmented, reliant on Western paradigms, and fail to address the risks and opportunities associated with harmful content. Additionally, the absence of a strategic and distinguished indigenous model exacerbates these issues (Firouzi et al., 2022; Firouzi & Mohammadi Safat, 2018). If these shortcomings persist, they will further fragment the responsibilities of individuals, cultural institutions, and legislative bodies involved in cyberspace governance. The result will be an increase in the spread of harmful content that contradicts public cultural values and promotes behaviors incompatible with Islamic society.

The monitoring, oversight, and regulation of content in cyberspace aim to establish civil liability for individuals, as well as virtual groups and channels, with the primary goal of ensuring public security and mental well-being. The dissemination of fake news, rumors, and misinformation inflicts serious harm on public mental health (Kashani Gohar, 2015). Therefore, publishing news, events, and developments in cyberspace without credible documentation or assigning responsibility to those who share such content will hold them accountable for the public consequences of their actions. If such content is not based on truth and misleads public perception, the individuals responsible for its dissemination will be legally liable.

## 7. The Principle of *Tasbib* and Identifying "Good" and "Virtuous Acts" in Cyberspace

"Good" (*khayr*) and "virtuous acts" (*ma'ruf*) in cyberspace do not emerge spontaneously; rather, they require active engagement from "influential users" who contribute to the production of high-quality content. Through this process, the civil liability of content producers can be defined, and the foundation for the creation of effective and valuable content can be established. Active users are those who participate in content production, social interactions, and digital campaigns, whereas passive users do not engage in content creation (Firouzi & Mohammadi Safat, 2018). It is evident that the governance system regulating content production in cyberspace must identify and hold digital content producers accountable under the law. Unlike

traditional text-based content such as books, digital content production is far less restricted, making it essential to ensure accountability through legal frameworks and structured mechanisms for various age groups, individuals, and social groups.

Promoting *khayr* and *ma'ruf* in digital content production means supporting models and processes that ensure the creation and dissemination of culturally and socially appropriate content for Islamic societies. Encouraging the adoption of suitable models, in accordance with the *tasbib* principle, primarily involves restricting access to inappropriate content. This approach is preferable to outright removal or filtering, as it provides social media platforms with guidelines that align with societal values without imposing unnecessary restrictions on digital networks (Gillespie, 2021). From a proactive perspective, this entails managing cyberspace in a way that allows Islamic societies, including Muslim nations, to engage with global information while maintaining their cultural and religious integrity (Esfandiari, 2021). This underscores the impossibility of avoiding digital engagement altogether; rather, it necessitates the strategic production of beneficial and appropriate content for society.

This discussion extends to the concept of "digital civil liability," which aligns with the evolving responsibilities that have emerged in cyberspace. The widespread integration of digital technologies into modern life has introduced a new dimension of social responsibility, wherein individuals' activities in cyberspace are regarded as legally and ethically accountable actions (Guping et al., 2021). Accordingly, it is imperative to conceptualize "digital social responsibility" within jurisprudential frameworks, particularly through the *tasbib* principle, which emphasizes the role of content creators in cyberspace. Digital social responsibility can serve as a modern strategy for leveraging the benefits of the digital age while mitigating its risks (Puriwat & Tripopsakul, 2021).

However, implementing digital social responsibility in media and social networks within an Islamic society requires clear policies from the government or the Islamic state to define individuals' obligations, establish the responsibilities of regulatory bodies, and outline the role of media in social networks. In this regard, ensuring the effective enforcement of civil liability necessitates state intervention in media and cyberspace governance, which underscores the need for the establishment of "media jurisprudence" (*fiqh al-i'lam*) (Darabi, 2022). Media jurisprudence is essential due to its specialized nature, as it provides the legal framework for assessing the actions of individuals and digital platform managers, particularly in terms of their liability for harm caused to society. Ultimately, civil liability must be structured in a way that ensures restitution for those who suffer damages due to online misconduct.

## 8. Conclusion

Cyberspace and digital content production have created unprecedented opportunities by accelerating communication and contributing to economic development for the public. However, alongside these benefits, the digital sphere has also facilitated the spread of harmful and even media-based terrorism. Some of these threats manifest as direct attacks, while others gradually take root in society, leading to severe consequences. The primary legal and civil challenge remains the difficulty of assigning liability for content creation, dissemination, and the damages incurred by affected individuals. Nonetheless, establishing civil liability in cyberspace cannot be left unregulated. Just as Islamic jurisprudence provides general frameworks and criteria for distinguishing between high-quality and harmful content, it also governs digital interactions.

Both the concept of *munkarat* (prohibited acts) and *ma'ruf* (commendable acts) apply to digital content production, providing effective guidelines for the responsible use of digital platforms. *Munkarat* refers to prohibited and anti-normative content that opposes religious, moral, and human values. In contrast, *ma'ruf* encompasses exemplary and distinguished models that guide content production toward ethical and religious ideals in Islamic societies. In this context, civil liability plays a regulatory role, defining individuals' responsibilities based on their level of activity, influence, and audience reach. If content production leads to harm, the responsible party is legally obligated to provide restitution. This framework, grounded in the *tasbib* principle, also holds cyberspace administrators and decision-makers accountable for their involvement or influence in content production, requiring them to answer for their actions and assume responsibility for any resulting harm.

The scope of the *tasbib* principle extends beyond content creators to include those who facilitate the widespread dissemination of digital content. If individuals engage in digital activities without adhering to legal regulations, or if their content causes material or moral harm to society, they must be held accountable. However, achieving these objectives cannot rely solely on informal interactions or voluntary accountability among individuals and digital platform managers. Instead, state intervention and the enactment of updated, comprehensive regulations are crucial. In this regard, the establishment of "media

jurisprudence" as a government-led decision-making body is necessary to define societal responsibilities, regulate digital interactions, and establish a clear framework for civil liability in cyberspace.

Another fundamental aspect of the *tasbib* principle is the expansion and conceptualization of "digital civil liability," which, like in the physical world, raises awareness about individuals' responsibilities in cyberspace. Digital users must recognize that they cannot indiscriminately share texts, content, or information without regard for time, context, or ethical considerations. Furthermore, the positive dimension of civil liability involves the promotion of high-quality content and the establishment of ethical standards that align with Islamic values, guiding digital content production toward constructive and meaningful engagement.

## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Ethical Considerations

All procedures performed in this study were under the ethical standards.

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## Conflict of Interest

The authors report no conflict of interest.

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