

# A Reconstruction of Digital Platforms' Legal Liability for the Dissemination of Illegal Content within the Framework of Protecting Citizens' Rights

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## Article Info

### Article history:

Received Apr, 2026

Revised Apr, 2026

Accepted Apr, 2026

### Keywords:

Digital Platform Liability  
Illegal Content  
Citizens' Rights Protection  
Intermediary Regulation  
Normative Legal Analysis

## ABSTRACT

This study examines the legal liability of digital platforms in the dissemination of illegal content through a normative legal analysis, with a particular focus on reconstructing a framework that effectively protects citizens' rights. The rapid growth of digital platforms such as Google, Meta Platforms, and TikTok has intensified challenges related to intermediary responsibility, as these platforms increasingly function not only as passive conduits but also as active amplifiers of information. Existing liability regimes, primarily based on notice-and-takedown mechanisms, are found to be insufficient in addressing the scale and complexity of illegal content dissemination. Using primary, secondary, and tertiary legal materials, this research analyzes current regulatory frameworks and identifies key gaps, particularly in terms of legal clarity, enforcement effectiveness, and the protection of fundamental rights. The study highlights the tension between safeguarding freedom of expression and ensuring protection against harmful content, noting that both under-regulation and over-regulation pose risks to citizens' rights. Comparative insights, including developments under the Digital Services Act, demonstrate a shift toward more proactive and structured approaches to platform accountability. The study proposes a reconstructed liability framework based on the principles of proportionality, due diligence, transparency, and effective remedy. This model seeks to balance platform accountability with the protection of fundamental rights, offering a more adaptive and rights-oriented approach to digital governance. The findings contribute to the development of legal policies that align technological advancement with the protection of citizens in the digital era.

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## 1. INTRODUCTION

The rapid expansion of digital platforms has fundamentally transformed the way information is produced, distributed,

and consumed in contemporary society. Platforms such as Google, Meta Platforms, and TikTok have evolved into central infrastructures of communication, enabling

users to share content instantly across geographic and social boundaries. While this transformation has enhanced access to information and strengthened democratic participation, it has simultaneously facilitated the widespread dissemination of illegal content, including hate speech, misinformation, defamation, and intellectual property violations. This dual nature positions digital platforms as both enablers of freedom of expression and vectors for unlawful content, thereby generating complex legal challenges, particularly in determining the scope of platform liability [1], [2].

From a legal perspective, digital platforms occupy an intermediary position between content creators and end-users, where traditional intermediary liability regimes attempt to balance innovation and freedom of expression with the need to prevent harm. However, the exponential growth of user-generated content has strained these frameworks and exposed significant gaps in accountability and enforcement. Mechanisms such as “safe harbor” protections including those reflected in regulations like Section 230 provide conditional immunity as long as platforms act upon illegal content notifications, yet these provisions are increasingly criticized as insufficient in addressing the scale and speed of digital dissemination [1], [3], [4]. Consequently, there is a growing demand for greater transparency in content moderation practices to prevent undue censorship while ensuring due process [4].

The inadequacy of existing legal frameworks becomes more evident when examined through the lens of citizens’ rights, particularly as the spread of illegal content threatens fundamental rights such as dignity, privacy, security, and access to accurate information. At the same time, overly restrictive regulations risk encouraging excessive moderation, which may undermine freedom of expression and limit democratic discourse. Therefore, effective governance requires a balanced regulatory approach that protects users from harm while safeguarding free speech, supported by principles of

algorithmic transparency and platform accountability to foster a healthy and rights-respecting digital environment [1].

Recent regulatory developments, such as the European Union’s Digital Services Act (DSA), demonstrate a growing global effort to recalibrate the legal responsibilities of digital platforms by introducing enhanced obligations related to transparency, risk assessment, and content moderation. Nevertheless, despite these advancements, there remains a lack of coherent and universally applicable standards capable of addressing the complex nature of platform liability. In many jurisdictions, including Indonesia, regulatory approaches tend to be fragmented and reactive, as platforms are subject to conditional liability that requires the removal of illegal content upon government notification, yet still face challenges such as unclear definitions of prohibited content and cross-border enforcement issues [5]. The DSA itself adopts an asymmetric regulatory model, particularly targeting very large online platforms (VLOPs) with stricter due diligence obligations and systemic risk mitigation measures [6].

From a constitutional and human rights perspective, the regulation of digital platforms must carefully balance civil liability with the protection of fundamental freedoms, especially freedom of expression. This balance is increasingly emphasized in the jurisprudence of the European Court of Human Rights, which highlights the necessity of clear and consistent standards in content moderation to safeguard human rights while acknowledging the limitations of current regulatory frameworks [7], [8]. The integration of constitutional principles into digital platform governance thus becomes essential in ensuring that regulatory interventions do not disproportionately restrict public discourse while still addressing the harms associated with illegal content.

In addition, transparency alone is insufficient to ensure meaningful platform accountability, as it must be complemented by broader mechanisms such as auditability and enforceable accountability standards. Emerging regulatory approaches emphasize

the importance of targeted transparency supported by soft law instruments, enabling more adaptive and context-sensitive governance of digital platforms [9]. Against this backdrop, this study seeks to reconstruct the concept of digital platform liability within a normative legal framework that prioritizes the protection of citizens' rights, aiming to design a legal model that ensures accountability for the dissemination of illegal content without undermining fundamental freedoms through the integration of proportionality, due diligence, and human rights principles.

The significance of this research lies in its contribution to the ongoing discourse on digital governance and platform regulation. By adopting a normative legal analysis, this study not only evaluates current legal provisions but also formulates prescriptive recommendations for improving regulatory frameworks. The reconstruction proposed in this paper emphasizes the need for clear standards of responsibility, enhanced procedural safeguards, and effective mechanisms for redress. Ultimately, this research aims to offer a comprehensive and balanced legal model that aligns technological advancement with the protection of citizens' rights in the digital era.

## 2. METHODS

This study employs a normative legal research approach, which focuses on the analysis of legal norms, principles, and doctrines governing the liability of digital platforms in the dissemination of illegal content. Normative legal research, often referred to as doctrinal research, examines law as a system of rules and principles by analyzing statutory regulations, legal concepts, and judicial interpretations. The primary objective of this method is to construct a coherent legal framework that aligns with the protection of citizens' rights in the digital environment. In this context, the study emphasizes a prescriptive analysis aimed at reconstructing legal liability models that are both effective and balanced.

The sources of legal materials used in this research consist of primary, secondary, and tertiary legal sources. Primary legal materials include statutory regulations and international legal instruments related to intermediary liability and digital governance, such as the Digital Services Act and other relevant regulatory frameworks. Secondary legal materials encompass scholarly articles, legal commentaries, and academic literature that discuss platform liability, human rights, and digital regulation. Tertiary materials, including legal dictionaries and encyclopedias, are used to clarify legal terminology and concepts. Data collection is conducted through a comprehensive literature review, ensuring that the analysis is grounded in both contemporary legal developments and established theoretical perspectives.

The analytical method applied in this study is qualitative and interpretative, utilizing approaches such as statute analysis, conceptual analysis, and comparative analysis. Statute analysis is used to examine the structure and content of existing legal regulations, while conceptual analysis explores key legal doctrines such as liability, due diligence, and freedom of expression. Comparative analysis is employed to identify differences and similarities between various regulatory frameworks, allowing for the identification of best practices. Through these analytical techniques, the study develops a reconstructed model of digital platform liability that integrates principles of proportionality, accountability, and the protection of fundamental rights.

## 3. RESULTS AND DISCUSSION

### 3.1 Existing Models of Digital Platform Liability

The analysis reveals that current legal regimes governing digital platform liability are generally structured around intermediary liability doctrines that grant conditional immunity, whereby platforms are not held directly liable for user-generated content unless they fail to act after obtaining knowledge of its illegality. This "notice-and-

takedown” mechanism has been widely adopted as a regulatory compromise between fostering innovation and mitigating harm; however, it is increasingly seen as inadequate in addressing the scale, speed, and complexity of content dissemination in the digital ecosystem. Across jurisdictions, different models persist, such as the broad immunity framework under Section 230 in the United States and the conditional exemption approach in the European Union, both of which rely heavily on reactive enforcement mechanisms [10], [11].

At the same time, the growing role of algorithmic systems in shaping content visibility introduces new legal complexities. Platforms such as Google and Meta Platforms utilize algorithms that prioritize and amplify content, often contributing to the viral spread of illegal material. This algorithm-driven approach blurs the distinction between passive hosting and active publishing, thereby complicating traditional assessments of liability (“Platform liability for online user gener...”, 2025 [11]). Consequently, platforms may indirectly facilitate harmful content dissemination without explicit intent, raising concerns about whether existing legal frameworks adequately capture this hybrid role, particularly in the context of automated moderation systems and unclear definitions of illegal content [5].

These challenges underscore the urgent need for regulatory reform that reflects the realities of modern digital ecosystems. There is a growing consensus that existing legal frameworks must evolve to ensure both user safety and the protection of freedom of expression, particularly through the development of clearer guidelines, independent oversight mechanisms, and enhanced transparency in content moderation practices [10]–[13]. Without such reforms, regulatory gaps and inconsistent enforcement will persist, limiting the effectiveness of legal interventions in addressing the risks posed by algorithmically amplified illegal content.

### 3.2 Legal Gaps and Challenges in Protecting Citizens’ Rights

The study identifies several critical gaps in the current legal framework governing digital platforms. First, there is a lack of clear and uniform standards regarding what constitutes “knowledge” of illegal content, creating ambiguity that leads to inconsistent moderation practices and delayed responses from platforms [14]. This uncertainty affects both platforms and users, as companies are often placed in a quasi-regulatory role, effectively acting as proxies for state authority while exercising significant control over online expression [14]. As a result, the absence of standardized definitions not only complicates legal interpretation but also increases the risk of arbitrary or uneven enforcement across jurisdictions.

Second, enforcement mechanisms remain predominantly reactive rather than preventive, allowing harmful content to spread before any regulatory intervention occurs. This reactive approach means that individuals frequently experience harm such as reputational damage, privacy violations, or exposure to harmful material—prior to the application of legal remedies [15], [16]. The delay in enforcement highlights structural weaknesses in current regulatory systems, which are not adequately equipped to respond to the speed and scale of digital content dissemination. Consequently, the persistence of such reactive frameworks raises serious concerns about the effectiveness of existing legal protections in safeguarding users.

From a human rights perspective, the dissemination of illegal content directly threatens fundamental rights, including dignity, privacy, and security [17]. At the same time, overly aggressive regulatory measures risk undermining freedom of expression, as platforms may engage in excessive content moderation to avoid liability, creating a “chilling effect” that restricts legitimate discourse. The jurisprudence of the European Court of Human Rights emphasizes the importance of procedural safeguards to protect users’ rights during moderation processes [7]. These findings suggest that current legal frameworks struggle to balance the need for

accountability with the protection of fundamental freedoms, particularly in jurisdictions where institutional capacity and legal safeguards remain underdeveloped.

### 3.3 Comparative Insights from Emerging Regulatory Frameworks

Comparative analysis highlights a clear shift toward more proactive and structured regulatory approaches in certain jurisdictions, particularly through frameworks such as the Digital Services Act (DSA). This regulation introduces enhanced obligations for digital platforms, including transparency requirements, systematic risk assessments, and strengthened accountability mechanisms. Unlike traditional intermediary liability models, the DSA adopts a systemic approach that requires platforms—especially Very Large Online Platforms (VLOPs)—to actively identify, assess, and mitigate risks associated with illegal content and disinformation. Furthermore, it promotes a collaborative governance model involving multiple stakeholders, such as fact-checkers and trusted flaggers, to improve the effectiveness of content moderation and platform oversight [18]–[20].

A key feature of this regulatory shift is the emphasis on proactive risk management. Under the DSA, platforms are required to conduct ongoing systemic risk assessments to evaluate the potential spread of harmful or illegal content within their services, followed by the implementation of mitigation measures designed to reduce such risks [6], [20]. In addition, transparency and accountability are strengthened through obligations that compel platforms to disclose their moderation practices, thereby aiming to rebuild public trust in the digital information ecosystem. The use of soft law instruments within the European Union also provides a flexible regulatory mechanism that guides platform behavior without imposing overly rigid censorship measures, allowing adaptability while maintaining accountability [19].

Despite these advancements, the findings indicate that significant challenges

remain in the implementation of such frameworks. Issues such as cross-border enforcement and the lack of harmonized legal standards continue to limit regulatory effectiveness across jurisdictions. Moreover, while the DSA and similar frameworks provide clearer obligations for platforms, they also raise concerns regarding potential regulatory overreach and its implications for innovation and market competition. These tensions underscore the importance of developing a carefully calibrated regulatory approach that balances effective governance with the preservation of technological development and economic sustainability.

### 3.4 Reconstruction of Digital Platform Liability Framework

Based on the normative analysis, this study proposes a reconstructed model of digital platform liability grounded in four key principles: proportionality, due diligence, transparency, and effective remedy. First, the principle of proportionality requires that liability be calibrated according to the platform's role, size, and level of control over content dissemination. Larger platforms with significant algorithmic influence should bear greater responsibility compared to smaller or purely passive intermediaries.

Second, the principle of due diligence emphasizes the obligation of platforms to implement preventive measures, such as content monitoring systems, user reporting mechanisms, and risk management strategies. Unlike reactive models, this approach promotes a more proactive stance in addressing illegal content. Third, transparency is essential to ensure accountability, requiring platforms to disclose their content moderation policies, algorithms, and decision-making processes. This not only enhances public trust but also enables regulatory oversight.

Finally, the principle of effective remedy ensures that individuals affected by illegal content have access to timely and accessible mechanisms for redress. This includes the right to challenge content moderation decisions, seek compensation for harm, and obtain the removal of unlawful

content. By integrating these principles, the reconstructed framework seeks to create a more balanced and rights-oriented approach to platform liability.

### 3.5 Implications for Legal Development and Policy

The proposed reconstruction has significant implications for both legal development and public policy. It calls for a shift from rigid, one-size-fits-all liability models toward more flexible and context-sensitive approaches. Legislators are encouraged to adopt hybrid regulatory frameworks that combine elements of self-regulation, co-regulation, and state intervention. This multi-layered approach can enhance the effectiveness of regulation while preserving the dynamism of the digital economy.

Furthermore, the study highlights the importance of international cooperation in addressing the transnational nature of digital platforms. Harmonization of legal standards, mutual recognition of enforcement mechanisms, and cross-border collaboration are essential to ensure the effectiveness of regulatory efforts. Ultimately, the findings underscore the need for a legal paradigm that not only responds to current challenges but is also adaptable to future technological developments, ensuring the sustained protection of citizens' rights in the evolving digital landscape.

## 4. CONCLUSION

This study concludes that existing legal frameworks governing digital platform liability are no longer adequate to address the evolving dynamics of content dissemination

in the digital age. The traditional intermediary liability model, which relies heavily on reactive mechanisms such as notice-and-takedown, fails to account for the increasingly active role of platforms in shaping information flows through algorithmic amplification, resulting in significant gaps in accountability and in the protection of citizens from harmful digital content. The research further demonstrates that the central challenge lies in balancing two fundamental objectives: safeguarding citizens' rights—such as dignity, privacy, and security—while preserving freedom of expression in digital spaces, as current regulatory approaches tend to oscillate between under-regulation that exposes users to harm and over-regulation that risks suppressing legitimate discourse.

To address these challenges, the study proposes a reconstructed model of platform liability grounded in the principles of proportionality, due diligence, transparency, and effective remedy, emphasizing a shift from purely reactive liability toward a more preventive and accountable system in which platforms actively manage risks without undermining fundamental freedoms. This approach also highlights the importance of ensuring accessible remedies for individuals affected by illegal content, while recognizing that effective governance requires not only national legal reforms but also strong international cooperation due to the transnational nature of digital ecosystems, thereby necessitating a harmonized and forward-looking legal framework that supports both responsible platform conduct and continued innovation and democratic participation.

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