

Research Article

The Digital Historian: Between Civic Responsibility and Ethical Obligation: A Comparative Study

Osaid Hasan Ahmad Althnaibat^{1*}, Hamza Ali Suleiman Alayaydeh², Mohammad Shaher Abu Hazeem³,
Mustafa Mousa Al Atiyat⁴, Raed Yaseen Al Tarawneh⁵, Ala Qasim Mousa Abueid⁶

¹Department of Private law, Faculty of law, al-ahliyya Amman university, Amman, Jordan. Email: o.thunibat@ammanu.edu.jo

²Department of Private law, Faculty of law, al-ahliyya Amman university, Amman, Jordan. Email: h.alayaydeh@ammanu.edu.jo

³Department of Private law, Faculty of law, al-ahliyya Amman university, Amman, Jordan. Email: m.abuhazeem@ammanu.edu.jo

⁴Department of Private law, Faculty of law, al-ahliyya Amman university, Amman, Jordan. Email: m.atiyat@ammanu.edu.jo

⁵Law Firm, Amman, Jordan. Email: raltarwnh60@gmail.com

⁶Law Firm, Amman, Jordan. Email: aeid@philadelphia.edu.jo

*Correspondence: o.thunibat@ammanu.edu.jo

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Abstract: In this context, the study examines the civil liability attributed to the role of the digital historian within the digital environment. This focus arises from the understanding that the function of the digital historian has moved beyond purely intellectual and academic activity, developing into a practice closely embedded within a legal framework. Consequently, the discussion is structured around central questions concerning the scope of legal freedom and the corresponding obligations imposed on the digital historian. The findings reveal that the digital historian's discretion in narration and analytical interpretation is not unrestricted; instead, it operates within limits defined by constitutional principles, statutory provisions, and professional ethical standards. Any breach of these constraints gives rise to civil liability. Such liability assumes a contractual form where a formal legal relationship exists between the digital historian and the documented subject, whereas it is classified as tortious when harmful or misleading material is disseminated in the absence of any contractual linkage. Moreover, the study establishes that the standard for assessing fault is based on the conduct expected of a "careful and perceptive digital historian." The resulting harm may be either material or non-material, with the right to claim compensation extending to the relatives of deceased individuals where documentation affects ancestral memory or undermines reputational integrity. It is further determined that the absence of a causal connection—arising from third-party intervention or force majeure—precludes liability. However, the presence of good faith does not negate liability where negligence or breach is established. The study therefore emphasises the urgent necessity for a specialised legislative framework to regulate the activities of digital historians, ensuring a balanced alignment between the freedom of historical inquiry and the protection of individual and collective rights in the digital era.

Keywords: Digital Historian, Civic Responsibility, Ethical Obligation, Historical Documentation, Personal Rights.

1. Introduction

1.1 Study Topic

The historical documentation has long been regarded as a foundational element in the formation and continuity of nations, as it sustains collective memory and preserves narratives of political, social, and cultural transformations experienced over time [1]. Traditionally, the historian was understood as an individual tasked with the systematic collection and rigorous analysis of historical evidence. In contrast, the emergence of the digital historian has introduced expanded responsibilities, largely due to reliance on digitally mediated sources and evidence. This shift has generated a range of legal concerns, particularly in relation to the accountability of digital historians for the accuracy of utilised information and the protection of the public interest.

A central issue, therefore, is whether the historian falls within the scope of civil liability when failing to fulfil professional obligations, particularly in cases involving factual misrepresentation, infringement of individual rights, or harm to societal interests [2]. By virtue of their role, historians contribute significantly to the construction of public consciousness, thereby necessitating a high degree of integrity and objectivity in their work. In this context, there is an obligation to ensure the accuracy of historical data and to avoid its use in a manner that distorts reality or damages personal reputations [3]. Consequently, compliance with legal frameworks governing freedom of expression and publication constitutes a critical dimension of their civil responsibility, as violations may expose them to legal proceedings under both civil and criminal law. At the same time, the nature of historical inquiry requires familiarity with interdisciplinary knowledge, enabling balanced interpretation of events

within their political, social, and cultural settings, free from fabrication, distortion, or bias. Accordingly, examining the civil liability of digital historians necessitates identifying an appropriate equilibrium between the autonomy of historical research and the legal obligations that regulate it [4].

1.2 Study Objectives

The objective of this study is to delineate the extent to which legal regulation governs the activities of the digital historian. It undertakes an examination of civil law doctrines alongside applicable legal frameworks relating to publication, documentation practices, and intellectual property. Within this context, the historian operates under a defined legal regime that imposes specific duties and establishes clear limits of civil liability in instances of non-compliance. Particular emphasis is placed on clarifying both the legal and ethical dimensions of responsibility, especially those concerning accuracy, objectivity, and the authenticity of sources.

A further aim of the study is to determine the conditions under which civil liability may arise where historical credibility is compromised. The misrepresentation or manipulation of facts may expose the historian to legal accountability, particularly where such distortions are subsequently used in ways that adversely affect others. Accordingly, the study explores the various forms of civil liability that may result from errors or misjudgements within historical research. These may include deliberate fabrication of events, damage to the reputation of individuals or institutions, and infringement of intellectual property rights associated with historical materials.

1.3 Importance of the Study

The significance of this study stems from the central role of the

historian in safeguarding the collective memory of nations through the recording, interpretation, and transmission of events across generations [5]. Such a role inevitably gives rise to a range of legal and societal considerations, thereby necessitating a comprehensive examination of the civic obligations associated with historical practice. The importance of the present study lies in its effort to elucidate the legal dimensions embedded within the work of the historian by identifying obligations derived from the general principles of Jordanian and French civil law, in addition to relevant specialised legislation. It also draws attention to the forms of liability that may arise when professional standards are breached. Furthermore, the study underscores the pressing need to develop a dedicated legislative framework specifically regulating the profession of the digital historian, with the aim of maintaining an appropriate balance between the freedom of academic inquiry and the protection of historical integrity.

1.4 Research Problem

The principal issue examined in this study lies in establishing a coherent legal framework that delineates the boundaries of the digital historian's civil liability, particularly in light of the need to balance two competing considerations: the right to exercise freedom of expression and to conduct historical inquiry through digital media, and the obligation to respect privacy, individual rights, and social reputation. Given the nature of digital historical practice—grounded in electronic documentation and extensive reliance on digital databases and archival systems—the digital historian may engage with materials that have the potential to affect reputational standing or alter the memory of individuals, whether living or deceased. This context gives rise to a number of critical questions, including:

- What is the scope of the digital historian's freedoms, and what legal constraints are imposed under contemporary legislative frameworks?
- Which legal and ethical duties govern the conduct of the digital historian when operating within digital platforms?
- How is civil liability characterized in instances involving factual distortion or misrepresentation of historical data?
- What are the essential elements required to establish civil liability for harm caused within the digital sphere?
- Who is entitled to seek compensation for non-material harm resulting from violations affecting the memory of deceased individuals? Is this entitlement confined to relatives, or may it extend further?
- Under what circumstances does the absence of a causal connection between the historian's conduct and the resulting harm operate as a ground for exemption from liability?
- To what extent is good faith taken into account, or is liability imposed upon the mere occurrence of fault or negligence, irrespective of intent?
- What standard is applied in determining fault in the work of the digital historian, and how far does the obligation extend in ensuring the accurate presentation of historical facts within the digital environment?

1.5 Study Methodology

This study employs a combined methodological framework integrating both analytical and comparative approaches. It investigates the civil liability of the digital historian through an examination of general legal principles, with particular attention to identifying the foundational elements underpinning such liability. The analysis explores the tension between the historian's freedom to conduct research and articulate historical interpretations, and the corresponding rights of individuals to safeguard their reputation and dignity. This is undertaken through a close reading of relevant legal provisions and the derivation of overarching principles governing civil liability. In addition to the analytical dimension, the study incorporates a comparative perspective by examining the approaches adopted in Jordanian and French legal systems. This comparison focuses on the determination of liability in cases of defamation involving digital historians, the limitations imposed on individual conduct, and the extent of legal protection afforded to third parties who may be affected by reputational harm or misrepresentation in historical outputs (Al-Rai et al., 2026). Furthermore, the study draws upon judicial applications to illustrate how courts have interpreted and adjudicated such issues in practice.

2. What is a Digital Historian?

The contemporary world is characterised by accelerated advancements across multiple domains, within which the digital historian assumes a critical function in the documentation and interpretation of past events through the utilisation of advanced digital tools [6]. This function facilitates the ability of individuals and societies to extract informed insights

that contribute to future development. In this context, the digital historian devotes sustained scholarly effort to the examination and evaluation of historically significant phenomena—such as armed conflicts, political shifts, and social transformations—by systematically correlating extensive historical datasets with present-day developments [7]. Such an approach enables the production of rigorous analytical outputs that inform contemporary discourse and, in certain instances, support reasoned projections regarding future trajectories. In light of these considerations, the study proceeds to examine the nature of the digital historian as follows:

3. The Concept of the Digital Historian

History is commonly understood as the academic discipline concerned with the investigation, documentation, and interpretation of past events [8]. Accordingly, the existence of historians is integral to the continuity of this field [9]. In this regard, the digital historian may be defined as a scholar who specialises in examining and recording historical phenomena through the application of advanced digital methodologies [10]. Their work encompasses both narrative construction and in-depth analytical inquiry into human-related historical developments. Furthermore, digital historians employ a range of computational and technological techniques, including the digital archiving of documents, quantitative analysis, data mining, and geographic information systems (GIS), in order to collect, organise, and assess historical data [11]. These tools enable them to manage large-scale and heterogeneous datasets, connect historical information with contemporary contexts, and conduct structured research that enhances understanding of the past while supporting informed reflections on future developments [12].

In contrast to conventional historians, digital historians rely extensively on emerging digital technologies in the execution of their scholarly responsibilities [13]. They function as specialised experts within the domain of digital history, with their authority deriving from both academic qualification and applied research experience [14]. The dissemination of their work through digital publications and interactive platforms further strengthens their academic visibility and expands public access to historical knowledge [15]. Nevertheless, it is important to observe that most Arab legal systems do not yet provide an explicit statutory definition of the "digital historian." This gap is largely attributable to the absence of comprehensive legislation regulating the profession of historians or clearly defining their rights and obligations within digital environments. Consequently, recognising the digital historian as an independent epistemic actor presents an emerging legal challenge. The conceptualisation of the digital historian may instead be inferred from general civil law principles, particularly those governing liability arising from intellectual production and digital publication activities [16]. Unlike traditional historians, digital historians are responsible for producing diverse digital outputs such as databases, interactive systems, and electronically published scholarly works. This expansion of practice introduces complex legal concerns, particularly in relation to intellectual property protection, personal data regulation, and accountability for the accuracy of disseminated information [17].

Ultimately, the digital historian may be described as a specialised academic who engages in the systematic collection, analysis, and verification of historical events. This process involves sourcing information from both original and digitised materials, situating it within its relevant temporal, social, and political contexts, and presenting it in accordance with rigorous scientific standards grounded in objectivity and neutrality. In distinguishing themselves from journalists, creative writers, and novelists, digital historians are bound by a methodological obligation to verify the authenticity of both digital and printed sources, while applying critical analytical frameworks in the interpretation of historical facts [18]. This methodological discipline confers upon their work the status of scholarly research and reinforces their intellectual authority, which is derived from academic training, research experience, and the credibility of their published outputs and digital platforms.

3.1 The Legal Foundations of the Historian's Freedom

The freedom enjoyed by the digital historian is grounded in the broader constitutional principles of freedom of expression and freedom of scientific inquiry, both of which are recognised as fundamental rights. However, the degree of explicit recognition and legal protection afforded to these principles varies across legal systems. In France, such freedoms are firmly supported through constitutional instruments and statutory frameworks [19], whereas in Jordan, despite their constitutional acknowledgment, they are more extensively conditioned by considerations of public order and morality [20]. This divergence results in a comparatively wider scope of research autonomy for historians under the French legal model than under the Jordanian framework.

It is noteworthy that the French Constitution does not expressly codify freedom of scientific research, and by extension the freedom of the historian, as an independent constitutional right [21]. Instead, its recognition has been progressively established through judicial interpretation and jurisprudential development. French legal scholarship often interprets freedom of research broadly, arguing that the absence of explicit constitutional wording does not negate its legal protection, provided it falls within the ambit of constitutionally safeguarded fundamental freedoms. In this regard, the French Constitutional Council has relied on the Declaration of the Rights of Man and of the Citizen, which enshrines freedom of opinion and expression, thereby affirming the protection of communicative and intellectual freedoms in academic teaching and research contexts.

Within this interpretative framework, the liberty of the digital historian is regarded as an integral component of academic freedom and freedom of expression. Consequently, scholarly activity undertaken by digital historians benefits from indirect constitutional protection, placing it within the category of fundamental rights recognised by law. Nonetheless, like freedom of expression in general, this liberty is subject to legal limitations, particularly where its exercise exceeds legally defined boundaries and gives rise to civil or criminal liability. Such restrictions may include defamation, infringement of the dignity of both living and deceased persons, and denial of crimes against humanity, among others. In line with the jurisprudence of the European Court of Human Rights (ECtHR), the pursuit of historical truth is considered an inherent aspect of freedom of expression. This interpretation is derived from the European Convention on Human Rights (ECHR), which does not differentiate between categories of expression, including scientific or academic discourse. Accordingly, the freedom of the historian is treated as an extension of the broader right to freedom of expression and is afforded protection under the European human rights framework.

From this perspective, the digital historian—similar to the traditional historian—is entitled to legally protected freedom in relation to research and publication activities, provided that such activities remain within the domain of scientific and intellectual expression. Nevertheless, this freedom is not absolute, as it is subject to legitimate limitations aimed at safeguarding public order, protecting individual dignity, and preventing the denial of internationally recognised atrocities such as crimes against humanity. The ECtHR therefore conceptualises the freedom of the digital historian as part of the wider system of fundamental freedoms, thereby ensuring its protection at the international level. With respect to legal limitations, the freedom of the digital historian is an extension of freedom of expression as recognised in both national legislation and international instruments [22]. It constitutes a form of scientific and intellectual liberty involving the investigation, interpretation, and dissemination of historical facts through established scholarly methodologies. However, this freedom remains regulated and is not unlimited, as it is subject to applicable legal constraints. Under the general provisions of both the Jordanian Civil Code and the French Civil Code, a historian may incur civil liability where their conduct causes harm to others through fault or negligence. Nevertheless, French jurisprudence has clarified that disputes arising from historical publications are primarily governed by the Press Law of 1881, which serves as the specialised legal framework regulating freedom of expression. As a result, general civil liability rules are applied only in subsidiary situations not expressly covered by this specific legislation. A comparable approach exists in Jordanian law under the Press and Publications Law and its subsequent amendments. In addition, the historian's freedom is further restricted by the criminal provisions embedded within the French Press Law, which criminalises defamation. This framework may lead to liability where historical works are found to unlawfully glorify criminal conduct or otherwise violate protected legal interests.

3.2 The Obligations of the Digital Historian

Discussing the civil liability of the historian requires first identifying and clarifying the legal duties imposed upon them. Any breach of these duties amounts to a violation of professional obligation, thereby giving rise to liability grounded in fault or negligence. From this standpoint, the historian is expected to record and present historical events with accuracy, neutrality, and objectivity. This responsibility is accompanied by legal obligations designed to safeguard the integrity of their work and to protect the rights of individuals and entities affected by the dissemination of historical information [23]. Accordingly, the obligations of the digital historian are analysed as follows:

3.2.1 The Historian's Obligation to Refrain from Defaming the Memory of the Deceased

Firstly, deceased individuals are recognised as possessing a protected right to dignity, which extends to multiple associated interests, including bodily integrity, identity, name, privacy, and reputation. In this sense, legal systems also acknowledge a posthumous dimension of

reputation, which must not be unlawfully undermined. Accordingly, safeguarding this interest is necessary, and any infringement upon it is legally impermissible. As a general principle, historians may incur responsibility for defamation or slander arising from their portrayal of individuals involved in historical events. Defamation refers to conduct that damages a person's reputation through written or spoken assertions. In this context, reputation denotes social esteem, honour, and public standing. The digital historian may similarly damage the reputation of deceased persons through factual misrepresentation, distortion of historical events, misinterpretation of circumstances, or presenting historical material in a degrading or humiliating manner. Such conduct constitutes a serious breach of professional and ethical duties. Historical scholarship is expected to adhere to recognised methodological standards, as it is grounded in a disciplined scientific approach. Accordingly, only those who critically analyse and systematically interpret events in accordance with scholarly standards may properly be regarded as historians; mere narrative writing about past events does not, in itself, satisfy this classification.

A digital historian is therefore required to maintain honesty, accuracy, and scholarly integrity when documenting historical material, regardless of the nature of the events or individuals under study. This obligation preserves the scientific credibility of the discipline and ensures that historical knowledge remains meaningful, reliable, and valuable to contemporary society. To uphold such standards, historians must verify information rigorously and avoid the dissemination of false or misleading content. Several fundamental principles govern the treatment of the memory of deceased persons and historical material, including respect, integrity, and the prohibition of defamation. Any violation of these principles is regarded as an infringement of the right to dignity and reputation, thereby exposing the digital historian to potential civil liability, and in certain circumstances, criminal responsibility as well.

3.2.2 The Digital Historian's Obligation to Document the Truth

Any infringement of individual rights through fabrication, distortion, or falsification constitutes a breach of the legal and ethical obligations incumbent upon the digital historian. Such conduct may give rise to civil liability, particularly where it results in defamation affecting relatives or the misrepresentation of historical truth. Consequently, historians are required to exercise accuracy, fairness, and methodological rigour when engaging with historical subjects, so as to maintain an appropriate balance between academic freedom and the protection of the posthumous moral rights of individuals. Historians are not exempt from responsibility in the execution of their work; rather, their professional credibility is grounded in the faithful representation of facts supported by evidence. A legitimate historian is primarily accountable to the evidentiary basis of the events or phenomena under examination. In this regard, the closer and more reliable the available evidence, the greater its evidential value in supporting historical interpretation. Sound historical research is therefore guided by evidence rather than subjective interpretation, requiring strict objectivity and the avoidance of bias.

It may be argued that a historian can avoid liability for violations of dignity where they are able to substantiate their accounts through verifiable evidence. This raises an important legal question regarding the allocation of the burden of proof, namely whether historians may defend themselves by requiring the claimant to demonstrate the falsity of the reported facts. In such a scenario, the claimant bears the responsibility of establishing that the historian's account is inaccurate. Conversely, the historian may rely on documentary evidence to demonstrate the accuracy of their narrative, thereby negating liability. However, the obligation to tell the truth cannot be invoked as a justification for infringing upon the moral rights or dignity of individuals involved in historical events. The digital historian is bound by both legal and ethical duties to ensure truthfulness in factual reporting. This dual obligation requires a clear distinction between factual presentation and evaluative interpretation. Where historical facts are presented objectively and accurately, the historian retains intellectual freedom to analyse and assess them. Nevertheless, the use of defamatory language or abusive characterisations of individuals is impermissible. Similarly, the deliberate omission or concealment of essential information that results in distortion or misleading representation constitutes a breach of professional and legal obligations, thereby giving rise to civil liability based on omission of truth.

This issue has become increasingly significant in contemporary contexts, particularly where digital historians engage with recent historical events or recently deceased individuals. In such cases, there is an elevated risk of legal claims initiated by relatives or heirs alleging factual inaccuracies or reputational harm. French judicial practice has established that a digital historian commits a fault giving rise to civil liability where inaccurate facts are published. The Civil Court of Paris has held that liability arises where incorrect historical information is reported, while the Paris Court of Appeal has similarly ruled that liability is incurred when a historian exceeds the permissible limits of reporting and evaluation, particularly where inaccuracies persist despite formal notification.

In certain legal systems, historical works may be recognised as admissible evidentiary material provided that they comply with established legal and professional standards. Under such conditions, a judge may consider them as documented representations of historical events. Moreover, courts may appoint historians as technical experts in cases requiring specialised historical interpretation, where their input is treated as expert opinion assisting judicial assessment. The digital historian is also under a duty to ensure truthfulness to the extent permitted by available sources, exercising due diligence in the collection, verification, and critical analysis of evidence from multiple references. Among the most significant obligations imposed upon historians—whether operating in traditional or digital environments—is respect for the right to privacy, a right widely protected under national legislation and international human rights instruments.

In this regard, the French Civil Code affirms the right of every individual to respect for private life and empowers judicial authorities to adopt necessary protective measures. The recognition of urgent preventive remedies reflects the existence of an actual violation rather than a mere risk thereof. This principle is further supported by international human rights frameworks, including the Universal Declaration of Human Rights and the European Convention on Human Rights [24]. Similarly, the Jordanian Constitution recognises the inviolability of private life and classifies any infringement as a criminal offence not subject to limitation periods, thereby imposing a corresponding duty on the state to ensure adequate protection of this right.

Accordingly, digital historians are obliged to respect privacy when engaging with historical material. The disclosure of private information without consent is impermissible, and any resulting harm may engage civil liability, as freedom of scientific inquiry does not extend to the violation of dignity or private life. The protection of privacy thus forms an integral part of the broader constitutional and legislative safeguards afforded to individuals, and its breach triggers legal consequences, including civil responsibility. While historians retain the freedom to investigate and publish matters of public concern, this freedom is subject to legal limitations designed to prevent defamation and the violation of human dignity. French law, in particular, treats the collection and dissemination of defamatory material for publication purposes as an abuse of freedom of expression, thereby imposing clear restrictions on historical narration. Unlike journalists, who typically engage with contemporary events, historians often deal with distant or reconstructed pasts; nevertheless, this does not reduce their legal exposure, as the risk of infringement remains significant.

At the same time, historians are permitted to evaluate the competence and conduct of public figures, provided that such criticism does not amount to abuse or defamation. They may also disclose information relating to public officials where such disclosure serves the public interest, including references to judicial decisions, on condition that such records are accurately represented and do not endanger individuals. Although courts may, in certain circumstances, require the publication of judicial decisions as a form of sanction or public disclosure, historians must remain mindful of the legal principle of rehabilitation. Rehabilitation entails the legal erasure of criminal records, thereby restoring the individual's legal standing and precluding further attribution of the past offence. Consequently, associating rehabilitated individuals with prior convictions in historical publications may constitute defamation and result in both civil and criminal liability. Ultimately, the historian's engagement with public life must be governed by a principle of proportionality between intellectual freedom and the protection of human dignity. This requires that digital historians refrain from including defamatory material or relying on expunged criminal records when constructing historical narratives.

4. The Nature of the Digital Historian's Civil Liability

It is firmly established in jurisprudence and legal practice that the digital historian, like any other legal subject, remains fully governed by the provisions of both civil and criminal law, and does not benefit from any form of special immunity that would exempt them from legal accountability [25]. Accordingly, they may incur criminal liability where their conduct amounts to offences such as defamation, slander, libel, or the unlawful disclosure of confidential information. In parallel, they may also be held civilly liable for damages caused to others in the course of their scholarly activities, particularly where fault-based conduct results in compensable harm. In light of the above, the study proceeds to examine the nature of the digital historian's civil liability as follows:

4.1 Disagreement Regarding the Nature of the Digital Historian's Civil Liability

According to general legal principles, civil liability is traditionally

classified into two main categories: contractual liability and tortious liability. Where harm results from the breach of a general legal duty imposed on all persons to act with due care and avoid causing damage to others, the resulting liability is characterised as tortious, provided that no contractual relationship exists between the digital historian and the individual affected by the documentation [26]. In this respect, the Jordanian Civil Code recognises tort liability as applicable to situations where the digital historian exceeds the permissible limits of truthfulness or violates professional standards, thereby causing harm to the reputation or dignity of individuals. By contrast, contractual liability arises where the harm is the consequence of a failure to fulfil obligations arising from a binding agreement between the digital historian and the injured party. This may occur, for example, where the historian enters into a contractual arrangement with an individual or institution to produce a specific historical study or documentation and subsequently fails to perform the agreed obligations. In such cases, liability is grounded in the contract itself and the duties expressly or implicitly derived from it. Accordingly, the nature of civil liability will be examined as follows:

4.1.1 The Contractual Liability of the Digital Historian

the contractual liability of the digital historian arises where a valid agreement is concluded between the historian and the subject of the historical record, or their heirs or legal representatives, for the purpose of producing historical documentation [26]. such a contract establishes specific obligations on the part of the historian, and liability is engaged once these obligations are breached and damage results therefrom. in the absence of a contractual relationship, liability cannot be characterised as contractual; instead, it falls within the scope of tortious liability, particularly where harm is caused to third parties due to negligence or lack of due care. it is widely accepted in legal doctrine that the obligation assumed by the digital historian is generally an obligation of means rather than an obligation of result. this signifies that the historian commits to exercising reasonable diligence and professional care in conducting research and presenting findings, without guaranteeing the attainment of an absolute or definitive historical truth. accordingly, the historian is expected to rely on primary sources, apply recognised methodological standards, and verify the reliability of available evidence in accordance with established historical criteria. consequently, the inability to reach a conclusive or uncontested interpretation of historical events does not, in itself, give rise to liability.

The Jordanian Court of Cassation has consistently affirmed in its jurisprudence that the relevant standard of assessment is the degree of care exercised by the obligor in light of the specific circumstances of each case. In line with this approach, some legal scholars classify the digital historian's obligation as one of heightened professional diligence when documenting events or individuals, requiring careful collection, evaluation, and selection of information from credible sources. It follows that liability is not established merely by proving non-performance of the obligation; rather, it is necessary to demonstrate fault, namely a failure to exercise the required standard of care. At the same time, the debtor may avoid liability by proving the existence of an external cause that prevented performance, thereby reinforcing the relative nature of contractual responsibility, which is anchored in due diligence rather than guaranteed outcomes.

In this framework, the core duty of the digital historian is one of professional care. This requires a reasonable level of scholarly effort in researching and verifying sources, without imposing an obligation to achieve a specific historical conclusion or absolute truth. Nevertheless, this general principle may be modified in certain contexts, particularly where historians address contemporary events or living individuals, situations that demand a high degree of factual accuracy and impartial representation based on reliable and verifiable sources [24]. In such circumstances, the historian's contractual responsibility may arise from the failure to achieve the agreed result, without the need to separately establish a breach of the duty of care, as the obligation is oriented towards producing an accurate and substantiated account of contemporary facts. Consequently, liability may be triggered where the contractual outcome is not achieved, even if efforts were made, provided that the final output does not conform to the requirements stipulated in the agreement or inherent in the nature of the obligation.

4.1.2 The Digital Historian's Liability for Damages Caused to Others

Tortious liability is founded on the breach of a general legal duty requiring every individual to exercise reasonable care and caution in order to avoid causing harm to others, even in the absence of any pre-existing contractual relationship. In this regard, the digital historian may incur liability for damage arising from their documentation or digital publication activities where they exceed the limits of objectivity or fail to uphold factual accuracy, whether through distortion, negligence, or the omission of essential information. Initially, French jurisprudence tended to exclude historians from civil liability for the historical accounts they produced, provided that

they adhered to neutrality, objectivity, and reliance on verified sources [27]. This approach was grounded in the principle that freedom of scientific research may only be restricted by clear and explicit legal provisions. However, this position underwent a significant shift following the ruling of the French Court of Cassation in the well-known *Branly* case, where the Court held that historians may incur civil liability for documentary errors resulting from the omission or exclusion of essential historical facts. Such omission was classified as a tort giving rise to compensation.

Subsequent jurisprudence reinforced this development, affirming that a historian's liability for negligence arises where an error is committed in the recording or presentation of historical facts. This position is consistent with the provisions of the French Civil Code and corresponds with the Jordanian Civil Code, which stipulates that any harm caused to others obliges its author to provide compensation, even in the absence of discernment. Accordingly, the digital historian, like the traditional historian, falls within the scope of this general principle and may be held responsible for any harm resulting from a breach of their professional duties. This is particularly significant in light of the expanding reach of digital publication and the accelerated dissemination of information through electronic platforms.

4.2 Elements of Tort Liability

According to general legal principles, tortious liability is based on the existence of three essential elements: a wrongful act, the occurrence of damage, and a causal relationship linking the act to the harm. Within the context of the work of the digital historian, these constituent elements may be identified as follows:

4.2.1 The Harmful Act of the Digital Historian

It is generally accepted that the wrongful act constitutes a central element of civil liability. The mere occurrence of damage, in itself, is insufficient to establish liability; rather, it must be linked to conduct that violates a legal duty. In this regard, the French Civil Code reflects the principle that liability arises from the commission of an unlawful act. Within this framework, fault represents the primary constituent element of the digital historian's tortious liability. The existence of harm alone does not suffice to establish responsibility; it is also necessary to demonstrate that the historian engaged in conduct amounting to a breach of legal or professional obligations. French jurisprudence defines fault broadly as any act or omission by a person who fails to act with the prudence and diligence expected of a reasonable individual, thereby neglecting the foreseeable consequences of their conduct, irrespective of intent. In the context of historical practice, fault is assessed by reference to the standard of a careful and competent digital historian, namely one who complies with the professional requirements of historical scholarship in digital publication environments.

Accordingly, fault may include the publication of inaccurate historical information, the omission of essential facts, reliance on inappropriate or unreliable sources, or the presentation of material in a manner that distorts historical truth. This assessment is based on an objective standard, namely that of the "careful and discerning digital historian," who is expected to verify information rigorously prior to publication and adhere to established scientific and ethical norms, particularly in light of the speed and wide dissemination characteristic of digital content. Civil liability therefore arises where the historian's conduct departs from this objective standard and results in harm to others. This approach was notably affirmed by the French Court of Cassation in the *Branly v. Turpain* case, where the Court held that the omission of Édouard Branly's contribution to the invention of radio constituted a breach of scientific integrity, amounting to a negligent act capable of engaging civil liability. The judgment confirms that fault may consist not only in false attribution or inaccurate reporting but also in the omission of relevant facts where such omission distorts historical truth. Liability may thus arise from a failure to fulfil the duty of verification or from inaccurate presentation of information, regardless of whether the omission or distortion was intentional.

In the digital context, the significance of this standard is further amplified. Errors in documentation and omissions are more likely to cause widespread harm due to the rapid and expansive dissemination of information through electronic media. Consequently, the digital historian bears direct responsibility for ensuring accuracy, verification, and objectivity in the presentation of historical facts. The standard applied remains primarily objective, focusing on the existence of fault rather than subjective intent. As such, arguments based on good faith or absence of intent to harm do not, in themselves, preclude the establishment of liability where a breach of duty and resulting damage are proven.

4.2.2 Harm Arising from the Actions of the Digital Historian

Harm is a core constitutive element of civil liability. The occurrence of a fault or error by a digital historian is not, in itself, sufficient to establish liability; it must be shown that such conduct has resulted in damage to the rights or legitimate interests of another party. This harm may be material, such as financial loss or property damage, or non-material (moral), such as injury to reputation, honour, dignity, social standing, or freedom of conscience [28]. Material harm may arise where erroneous historical publication leads to tangible economic consequences, such as loss of employment, termination of commercial contracts, or reputational damage to a business entity. Moral harm, by contrast, typically manifests in defamation, the misattribution of actions, ridicule of achievements, or the dissemination of false representations concerning individuals. Such non-material harm is particularly prevalent in digital environments, where information spreads rapidly and its effects are often immediate and difficult to contain.

However, not every adverse effect qualifies as legally compensable damage. Lawful forms of expression remain protected where they fall within the scope of legitimate freedoms, even if they negatively affect reputation [29]. Accordingly, freedom of expression and digital publication may, in certain cases, conflict with private interests, but this is tolerated so long as it does not cross into defamation or slander. Legitimate criticism, even where it harms reputation or social standing, does not ordinarily give rise to liability, as it constitutes a lawful exercise of expression. Once the boundary of lawful expression is exceeded, however, the conduct loses its protective legal character. Where a digital historian, journalist, or researcher engages in defamation, distortion of facts, or unlawful disclosure of personal data, the resulting harm is deemed unlawful, thereby triggering an obligation to compensate the injured party.

A key legal principle establishes that mere error in documentation or publication is insufficient to found civil liability. Liability arises only where such error produces actual harm to another person. Thus, damage is a necessary condition for the existence of civil liability; in its absence, liability cannot be established. For civil responsibility to arise, the conduct must infringe a legally protected right or economic interest, and the resulting harm must be directly attributable to the historian's actions. For example, where a digital historian publishes allegations of financial misconduct that subsequently lead to reputational damage, contract cancellation, and economic loss for a company, civil liability may be established due to demonstrable material harm. Moreover, such harm must be actual or certain to occur; purely hypothetical or speculative harm is insufficient. The mere possibility that published material might cause future damage does not satisfy the legal threshold. In the context of digital historiography, harm is typically expressed through reputational degradation, loss of professional standing, or distortion of public perception resulting from incomplete or misleading information.

A further area of legal debate in French jurisprudence concerns standing to bring claims relating to harm caused by the portrayal of deceased individuals. The central issue is whether such claims are limited to immediate family members or may extend to more distant relatives, including those of collateral or remote degrees. The prevailing general principle permits historians to engage with both living and deceased subjects, provided that their work is conducted objectively, honestly, and without intent to cause harm. French jurisprudence has generally recognised that immediate descendants may bring claims where they demonstrate personal harm resulting from defamatory representations of a deceased relative, on the basis that injury to the memory of the deceased may indirectly affect their own moral interests. However, the Court of Cassation has also held that heirs do not automatically possess standing to oppose the republication of a deceased ancestor's image or work unless they can establish direct personal damage.

Some scholars argue that restricting standing is necessary to prevent abusive litigation that could unduly restrict historical inquiry and academic freedom. From this perspective, moral harm as an element of civil liability is not presumed for distant relatives, as emotional or reputational impact becomes too attenuated. Consequently, claims brought by relatives beyond the immediate family circle, such as cousins or more remote kin, are generally considered inadmissible. French case law further indicates that compensation for moral harm is only awarded where the claimant can demonstrate personal injury. For instance, courts have denied compensation to a son in relation to the publication of a work concerning his deceased father, on the basis that personal harm was not sufficiently established. Nevertheless, French law also recognises preventive remedies, allowing relatives to seek injunctive relief to prevent publication where privacy interests are at stake, as illustrated in disputes concerning correspondence of historical figures such as Benjamin Constant.

In certain doctrinal approaches, it is argued that historical criticism of deceased individuals should remain broadly free, a position reflected in some judicial decisions, including those concerning artistic or cinematic representations such as the "Suez" case. Courts have emphasised that the subjective feelings of relatives alone are insufficient to restrict historical or critical discourse. Accordingly, compensation for moral harm arising from defamation of the deceased is generally limited to cases where immediate

descendants can demonstrate concrete personal injury. Nonetheless, historians are expected to exercise heightened caution when addressing deceased persons, given the sensitivity of balancing historical inquiry with reputational and dignity-based protections.

4.2.3 Causation Between the Digital Historian's Action and the Harm

Causation constitutes a fundamental requirement for establishing the civil liability of the digital historian. Neither the mere existence of an error nor the occurrence of damage alone is sufficient; rather, it must be demonstrated that the harm is a direct and adequate consequence of the historian's wrongful act, whether in recording, interpreting, or digitally publishing historical material. This is commonly referred to as the causal link, which requires proof that the damage would not have occurred in the absence of the relevant error [30]. For instance, where a digital historian publishes unverified allegations on a website or digital platform attributing treasonous conduct to an individual without reliable evidence or source verification, thereby causing reputational damage or psychological distress to the individual or their family, the causal connection between the publication and the resulting harm is generally established [31].

However, this causal link may be broken where the harm results from an external intervening factor that interrupts the chain of causation. Such external causes are typically classified into three principal categories. The first is force majeure or a sudden, unforeseeable event. In such cases, liability is excluded where it is proven that the harm resulted from an extraordinary event beyond the control of the digital historian, which could not reasonably have been foreseen or prevented despite the exercise of due care. Force majeure is characterised by unpredictability, irresistibility, and inevitability, even with reasonable diligence. Examples include the destruction of archival material or digital records due to natural disasters such as earthquakes or floods, or exceptional events such as armed conflict or civil unrest. In such circumstances, the historian's error is not considered the effective cause of the harm, and civil liability is therefore excluded.

The second category concerns the fault of the injured party. Where the harm is wholly or partially attributable to the conduct of the victim, this may either eliminate or reduce the liability of the digital historian. For example, if a historian commits an error in reporting information about a public figure, and the injured party subsequently responds by disclosing private or sensitive information through media channels in an attempt to defend their reputation, thereby aggravating the harm suffered, the court may determine that the victim's own conduct significantly contributed to the damage, potentially displacing or reducing the historian's liability. The third category relates to the fault of third parties. In certain situations, harm may result from a combination of the digital historian's error and the conduct of other actors, such as additional historians, journalists, or media platforms disseminating inaccurate or misleading historical content. In such cases of concurrent causation, multiple parties may be held jointly liable towards the injured party. The court will allocate compensation in proportion to each party's contribution to the harm. Where it is not possible to determine the respective degree of contribution, liability is typically apportioned equally among the responsible parties.

5. Results, Conclusion and Recommendations

5.1 Results

- The study of digital history is grounded in scientific inquiry aimed at identifying and establishing historical truths through the application of rigorous methodological principles. In this process, historical human experiences are critically examined, and the resulting knowledge is often used to inform contemporary understanding as well as future interpretations. Within this framework, the work of the digital historian is subject to a range of legal norms governing freedom of expression, speech, and publication. Failure to comply with these legal requirements may result in either civil or criminal liability.
- Like other intellectual and professional actors, the digital historian is bound by specific legal and ethical duties. A breach of these duties may give rise to civil liability, provided that both fault and resulting harm are established. In this regard, intellectual freedom is not unlimited; it does not permit violations of professional standards or legal obligations under the justification of academic inquiry or research autonomy.
- Civil liability involving digital historians may take a contractual form where there exists a prior agreement obligating the historian to produce or document historical content relating to a specific individual or subject. In the absence of such a contractual relationship, liability is characterised as non-contractual (tortious), provided that its essential elements are satisfied, namely fault, damage, and a causal link between them.

- The mere existence of an error is insufficient to establish civil liability. Liability arises only where the error results in actual material or moral harm to the person concerned, their reputation, or their relatives, in line with the compensatory function of civil liability.
- Where a digital historian violates the dignity or memory of deceased individuals, their close relatives may be entitled to initiate legal proceedings seeking civil redress, particularly where such conduct results in reputational harm or emotional injury affecting the family's social standing and moral interests.

5.2 Conclusion

The legal liability of digital historians indicates that issues of civil responsibility within this field are becoming increasingly significant, particularly in light of the absence of specific legislative regulation in Jordan. Although digital historians engage in intellectual and academic activities through digital platforms, the outcomes of such work may produce legal consequences affecting the rights and interests of third parties. Accordingly, it is necessary to subject digital historians to the general framework of civil liability, whether contractual or tortious in nature. This position reflects the fact that the liability of digital historians is currently governed by general principles of civil law, in the absence of any specialised statutory regime addressing their professional activities. Nevertheless, this legal gap highlights the need for dedicated legislation that clearly defines and regulates the civil liability of digital historians in the digital environment.

5.3 Recommendations

- The Jordanian legislature is advised to enact dedicated legislation governing the profession of digital historians, clearly defining their rights, duties, and the scope of civil liability associated with their professional practice. Such legislation should also establish binding ethical standards for researchers in this field. This would ensure an appropriate balance between freedom of digital research and the protection of individual and collective rights.
- Academic curricula at the university level, particularly within faculties of humanities and arts, should include specialised courses such as "Ethics of Digital Historical Research" and "Civil Liability of the Digital Historian." These courses would aim to familiarise students with the ethical, legal, and professional dimensions of working in this discipline.
- Regular scientific conferences and academic seminars should be organised with the participation of scholars in law, philosophy, and digital history in order to examine issues related to responsibility, freedom, and professional duties. Such initiatives would contribute to the development of legal and ethical frameworks governing the profession.
- The establishment of specialised review committees is recommended to evaluate the work of digital historians prior to publication, particularly in cases involving contemporary figures or ongoing events. This would help reduce the risk of civil liability arising from inaccurate or harmful publications.
- Digital platforms and websites that publish historical content should bear a degree of responsibility for the material they disseminate; particularly where misleading or harmful content is published without adequate verification.
- The principle of shared or collective responsibility should be strengthened by recognising a form of joint liability between the digital historian and the academic or institutional body to which they are affiliated.

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