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Meet the people deciding Trump's fate on Facebook

The ruling by the scholars, lawyers, activists and journalists who make up Facebook's oversight board will reverberate across the world of social media.

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A group of 19 lawyers, scholars, activists and journalists from around the world will announce on Wednesday whether former President Donald Trump's Facebook account is to be reinstated or kept off the platform for good, a ruling with massive implications for U.S. politics.

The so-called Facebook oversight board has been deliberating Trump's case since January, when he was booted off after the Jan. 6 siege on the Capitol over fears he might incite more violence. Their decision could give the former president back one of his most powerful megaphones or muzzle him permanently on yet another major social media platform.

While the board members have spoken sparingly about how they are weighing Trump's suspension, many have a long track record of weighing in on contentious issues around free speech on social media, and their backgrounds could offer a glimpse into how they each approached Trump's blockbuster case.

A spokesperson for the board did not return a request for comment for this story, but the group has previously said its diversity of opinions is its strength. "The Oversight Board has Members with various backgrounds, expertise and characteristics, so that they can make fair decisions on cases from around the world," the board said in a tweet last year.

The board has no shortage of vocal Trump critics — some who have even suggested he should be imprisoned over his role in the storming of the Capitol or that he's a bigot and a racist. But their views on free speech online are far more complex, meaning they could still go either way on Trump's suspension.

Here's what we know about the board members, and what their experiences in the realms of law, government, academia, human rights and journalism may tell us about Trump's fate on Facebook.

The Americans

One of the board's five U.S. members has been deeply involved in the determination of whether Trump stays or goes on Facebook, while another is sitting out the decision entirely.

Under the board's rules, a panel of five members first reviews any case and makes a recommendation, which is then accepted, rejected or amended by a majority vote from the entire body. While the members of the smaller panel are not disclosed, it always includes one member from the case's region. That means at least one U.S. member was directly involved in the board's initial read of the Trump case.

The cast of Americans includes two prominent conservative figures — former federal judge Michael McConnell and John Samples, vice president of the libertarian Cato Institute. Alongside them are two other lawyers steeped in debates around online speech, Columbia Law professor Jamal Greene and University of Oklahoma law professor Evelyn Aswad.

Greene has been critical of Trump as a person and politician, calling him "a serial liar, a sexual predator ... a white nationalist, a plutocrat and a professional con artist" and tweeting about his "unfitness" for office. But he's struck a more cautious tone in discussing how the board should approach a case about the former president's right to free expression, telling NPR that the board needs to "have all the facts" and strike "a proper deliberative posture" before making a call on Trump's suspension.

McConnell and Samples may be the closest thing to ideological allies Trump has on the oversight board, but they have in the past warned against mapping how board members may rule on cases of free speech based on their political backgrounds.

"One's views on politics are not the same as one's views on the scope and limits on freedom of expression," McConnell said at an event last May. "A commitment to civil liberties can transcend one's politics."

Still, some of their past remarks suggest they may be receptive to Trump's arguments.

Samples defended Facebook's decision not to fact-check ads by Trump and other politicians. And he's warned against government regulation around online speech, writing in 2019 that "'more speech' remains the best answer to 'bad speech.'"

McConnell, who was appointed to the federal bench by President George W. Bush, has long been a staunch advocate of free speech more broadly. Now a professor at Stanford, he has warned against the "growing intolerance" of different political views on college campuses — striking a position in another frontier in the ongoing culture wars.

Aswad, of the University of Oklahoma, has voiced concern about the "power that the private sector is building over human discourse" and called for decisions by companies like Facebook to be guided by human rights law and other legal standards around free speech.

The fifth U.S. member, PEN America CEO Suzanne Nossel, joined after the board took on Trump's case and won't partake in the deliberations, a spokesperson for the oversight board confirmed.

Lawyers, judges and politicians

More than half of the members of the oversight board have experience serving as lawyers, judges, politicians or studying law, and they have spent years arguing about the limits of free speech in courtrooms or in the political arena. That includes Helle Thorning-Schmidt, a former

Danish prime minister and Emi Palmor, a former director general at the Israeli Ministry of Justice.

What legal lens they use to interpret the case will be crucial toward how they assess Trump's case, according to legal experts tracking the case.

Several members have expertise in human rights law, an area the board has said will play a major role in all its cases. They include Thorning-Schmidt, along with András Sajó, a former judge and vice-president at the European Court of Human Rights; and Catalina Botero-Marino, former Special Rapporteur for Freedom of Expression for the Inter-American Commission on Human Rights.

Human rights standards generally dictate that any limits placed on free expression, such as suspending an account, must be for a clearly articulated reason and be consistently enforced.

That could give Trump an avenue back to the platform if the board finds Facebook didn't give the former president enough due process in deciding to indefinitely suspend him.

But under that framework the board members must also consider the impact of that speech on others — in other words, whether Trump's activity infringed on the human rights of other users.

“There's no such thing as free speech which is completely without any balance because there are other human rights and freedom of speech has to be balanced with other human rights, and that is the hard thing,” Thorning-Schmidt told the Wall Street Journal in February.

Scholars and researchers

Some of the legal experts on the board have also taken up the debates over speech in prestige journals and other academic settings. They include Ronaldo Lemos, a law professor at Rio de Janeiro State University; Nicolas Suzor, a professor at the Law School at Queensland University of Technology; Katherine Chen, a professor at National Chengchi University; and Sudhir Krishnaswamy, vice-chancellor of the National Law School of India University.

While some have weighed in directly on social media companies' handling of Trump, others have offered opinions on how companies and governments should handle the types of content that critics have accused Trump of spreading, such as hate speech or calls to violence.

Suzor warned in a 2017 interview that there could be major consequences if Trump's favorite platform, Twitter, went ahead with a "very big intervention" and kicked him off for good.

"We've seen social media platforms heavily criticized for interfering in political processes or even thinking about interfering in political processes ... there's no real precedent for what these firms should do, and they are all trying to work it out as they go along," he said, years before being tapped to serve on the oversight board and Trump's suspension.

“Should Twitter ban Trump? Surprisingly, I say ‘it's complicated,’” he added in a tweet.

Lemos, of Rio de Janeiro State University, has spearheaded calls for new internet regulations in Brazil to deal with issues including misinformation. But he's argued that the way to address misleading content and other harmful material is by cracking down more narrowly on well-financed disinformation campaigns, rather than misleading speech itself.

“We cannot fight fake news by amending or changing free speech related treaties,” he told Forbes in June. “To fight fake news, I think it is more helpful to think about them as professional disinformation campaigns — that are sometimes very well funded! – and to focus on the properties and dynamics in the technologies employed by these campaigns. That will be more productive than harming free speech.”

Activists and advocates

Facebook’s handling of Trump’s account has been the target of criticism from activist and advocacy groups across the political spectrum for years. Now, a select few from that realm are getting a say on whether he gets back on.

That includes Maina Kiai, director of Global Alliances and Partnerships at Human Rights Watch; Nighat Dad, executive director of the Digital Rights Foundation, Pakistan; Julie Owono, executive director of Internet Sans Frontières; and Afia Asantewaa Asare-Kyei, program manager at the Open Society Initiative for West Africa.

Those groups advocate on a wide array of issues, from net neutrality and internet access to human rights and women’s rights. But a number of them have come under fire from prominent Republicans, who have pointed to their past critical remarks about Trump as proof they are biased against him.

Dad tweeted in 2017 that the “world needs to build a wall around” around Trump and never let him out, with the hashtag “#BanTrump.” Owono tweeted quotes calling Trump “a liar, a racist, a bigot,” and quipped that his presidency couldn’t go by fast enough. Kiai in a 2016 podcast called Trump the “jewel in the crown of the far right, fascist, xenophobic, right-wing groups that exist.”

Even Trump’s most vocal critics on the board, however, have said they plan to weigh cases based on Facebook’s policies and values, as well as through a human rights lens.

Journalists

Journalists spent years obsessively combing over Trump’s postings on social media, from the launch of his presidential campaign in 2015 through his suspension across major platforms in January. But for the last few months, only a few have been dedicated to that task.

Alan Rusbridger, former editor-in-chief of The Guardian; Endy Bayuni, senior editor of The Jakarta Post; and Tawakkol Karman, a civil rights activist and journalist, are the only members of the media represented on the board. Despite those roles and their current gigs with Facebook, they have not shied away from occasionally throwing barbs at Trump.

Tawakkol, a Nobel Peace Prize laureate, has been among the most publicly critical of Trump since being tapped to serve on the board, tweeting the day after the Jan. 6 riot that “#Trump spared no effort to topple #US democracy and has gone too far in plunging the country into chaos.”

“People like him should be in prison, and not as president of the world’s most powerful country,” she added.

Rusbridger, of the Guardian, has also taken aim at Trump’s role in fomenting the violence at the Capitol, as well as news outlets he said helped Trump to spread lies about the election.

“Shame on ‘news’ channels who enabled Trump and his repeated assaults on truth,” he tweeted the day of the riot. Later that month he posted an article that argued Trump “couldn’t have incited sedition without the help of Fox News.”