



## Facebook names 20 people to its 'Supreme Court' for content moderation

David Ingram and Jo Ling Kent

May 6, 2020

Facebook on Wednesday appointed 20 people from around the world to serve on what will effectively be the social media network's "Supreme Court" for speech, issuing rulings on what kind of posts will be allowed and what should be taken down.

The list includes nine law professors, a Nobel Peace Prize laureate from Yemen, journalists, free speech advocates and a writer from the libertarian Cato Institute.

Absent, however, was any prominent expert in studying disinformation. Facebook has struggled to contain state-based manipulation efforts as well as hoaxes on subjects like false cures and gun violence.

Helle Thorning-Schmidt, a former prime minister of Denmark and one of four co-chairs of the board, said they would consider such expertise in recruiting more members.

"We have tried to consider all communities and also people who have been critical of Facebook in the past," she said. The number of members will rise to 40 over time, she said.

The oversight board is more than two years in the making, its creation prompted by CEO Mark Zuckerberg, who said in 2018 that he wanted to create "some sort of structure, almost like a Supreme Court," for users to get a final judgment call on what is acceptable speech and relieve the company's executives of having to decide.

Social media networks dating back to MySpace have struggled to write rulebooks that are easy to understand and consistently enforceable and yet cover the varied material that people try to post online.

The rules, including Facebook's "community standards," have evolved to prohibit not only illegal images such as child pornography but also hate speech, harassment and, most recently, false information about the coronavirus pandemic.

The questions often become political footballs, as lawmakers in Washington and elsewhere have turned their fire on Zuckerberg when they believe they or their supporters are being unfairly censored.

The creation of Facebook's oversight board is designed to effectively hand the last word over to the expert panel, possibly taking Zuckerberg and other Facebook executives out of the picture on

writing speech rules — and sparing them having to answer questions from users, lawmakers and journalists.

But one of the co-chairs, former federal judge Michael McConnell, said he expected the board to have a steep learning curve.

“We are not the internet police,” McConnell said. “Don’t think of us as sort of a fast-action group that’s going to swoop in and deal with rapidly moving problems. That’s not our job.” The job, he added, was to hear appeals of decisions that Facebook has already made.

The board’s decisions will be binding “unless implementation could violate the law,” Facebook said. The decisions will also apply to Facebook-owned Instagram but not initially to WhatsApp, where content is generally encrypted. Membership on the board is part-time. The board isn’t disclosing its compensation.

Facebook has taken steps to try to make the board independent, creating a \$130 million trust to pay for its operation and pledging that it cannot remove members from the board. Facebook will refer cases to the board for its consideration when the company considers them “significant and difficult,” and Facebook users will be able to suggest cases through an online portal.

The board members will hear cases in five-person panels except in rare cases where the full board weighs in. They may also gather evidence about the local context of a speech question.

“All Members are committed to free expression, and reflect a wide range of perspectives on how to understand the principle and its limits,” Facebook said in a statement.

“Some have expressed concerns with the dangers of imposing restrictions on speech, and allow for only very narrow exceptions. Others make comparatively greater accommodations to a range of competing values, including safety and privacy,” the company said.

Day-to-day enforcement of the rules will still be up to Facebook, which uses a combination of computer algorithms and human moderators to decide which posts violate its rules.

One reason that moderating content online is so complicated is because companies such as Facebook tailor their rules to specific countries based on local law. Facebook, with 2.6 billion people across its apps, has users in nearly every country.

Americans are the best-represented nationality on the oversight board, with at least five members. No other country has more than one. Facebook said the members chosen collectively have lived in more than 27 countries and speak at least 29 languages.

Not all are avid Facebook users. “I myself am not really an Instagram or Facebook user,” said Jamal Greene, a Columbia Law School professor. But he said he appreciated that “Facebook’s decisions affect people all over the world and can affect people in profound ways.”

Of the 20 members so far, half are male and half female.

Two of the lawyers joining the board have been discussed as potential U.S. Supreme Court nominees: Pamela Karlan, a Stanford law professor who’s a favorite of liberals, and McConnell, also a Stanford professor and a conservative former judge appointed by President George W. Bush.

McConnell told reporters on a conference call that he viewed the court as ensuring Facebook is a neutral platform — a contentious idea as hoaxes and other information have spread on the network. “One of the fruits of this if we do our jobs right is that this will bring about a degree of political and cultural neutrality,” he said.

“It is our ambition and goal that Facebook not decide elections,” he said.

The Nobel Peace Prize laureate is Tawakkol Karman, who won the award in 2011 for her role in organizing protests against the Yemeni government as part of the pro-democracy Arab spring.

Among the other members are Alan Rusbridger, a former editor of Britain’s Guardian newspaper who oversaw the newspaper’s coverage of U.S. spying based on leaked documents from Edward Snowden, and John Samples, a Cato Institute vice president who has argued against government censorship of social media.

Below is Facebook's list of the 20 members of the Facebook Oversight Board:

- Afia Asantewaa Asare-Kyei - A human rights advocate who works on women’s rights, media freedom and access to information issues across Africa at the Open Society Initiative for West Africa
- Evelyn Aswad - A University of Oklahoma College of Law professor who formerly served as a senior State Department lawyer and specializes in the application of international human rights standards to content moderation issues
- Endy Bayuni - A journalist who twice served as the editor-in-chief of The Jakarta Post, and helps direct a journalists’ association that promotes excellence in the coverage of religion and spirituality.
- Catalina Botero Marino, co-chair - A former U.N. special rapporteur for freedom of expression of the Inter-American Commission on Human Rights of the Organization of American States who now serves as dean of the Universidad de los Andes Faculty of Law.
- Katherine Chen - A communications scholar at the National Chengchi University who studies social media, mobile news and privacy, and a former national communications regulator in Taiwan.
- Nighat Dad - A digital rights advocate who offers digital security training to women in Pakistan and across South Asia to help them protect themselves against online harassment, campaigns against government restrictions on dissent, and received the Human Rights Tulip Award.
- Jamal Greene, co-chair - A Columbia Law professor who focuses on constitutional rights adjudication and the structure of legal and constitutional argument.
- Pamela Karlan - A Stanford Law professor and Supreme Court advocate who has represented clients in voting rights, LGBTQ+ rights, and First Amendment cases, and serves as a member of the board of the American Constitution Society.

- Tawakkol Karman - A Nobel Peace Prize laureate who used her voice to promote nonviolent change in Yemen during the Arab Spring, and was named as one of “History's Most Rebellious Women” by Time magazine.
- Maina Kiai - A director of Human Rights Watch’s Global Alliances and Partnerships Program and a former U.N. special rapporteur on the rights to freedom of peaceful assembly and of association who has decades of experience advocating for human rights in Kenya.
- Sudhir Krishnaswamy - A vice chancellor of the National Law School of India University who co-founded an advocacy organization that works to advance constitutional values for everyone, including LGBTQ+ and transgender persons, in India.
- Ronaldo Lemos - A technology, intellectual property and media lawyer who co-created a national internet rights law in Brazil, co-founded a nonprofit focused on technology and policy issues, and teaches law at the Universidade do Estado do Rio de Janeiro.
- Michael McConnell, co-chair - A former U.S. federal circuit judge who is now a constitutional law professor at Stanford, an expert on religious freedom, and a Supreme Court advocate who has represented clients in a wide range of First Amendment cases involving freedom of speech, religion and association.
- Julie Owono - A digital rights and anti-censorship advocate who leads Internet Sans Frontières and campaigns against internet censorship in Africa and around the world.
- Emi Palmor - A former director general of the Israeli Ministry of Justice who led initiatives to address racial discrimination, advance access to justice via digital services and platforms and promote diversity in the public sector.
- Alan Rusbridger - A former editor-in-chief of The Guardian who transformed the newspaper into a global institution and oversaw its Pulitzer Prize-winning coverage of the Edward Snowden disclosures.
- András Sajó - A former judge and vice president of the European Court of Human Rights who is an expert in free speech and comparative constitutionalism.
- John Samples - A public intellectual who writes extensively on social media and speech regulation, advocates against restrictions on online expression, and helps lead a libertarian think tank.
- Nicolas Suzor - A Queensland University of Technology Law School professor who focuses on the governance of social networks and the regulation of automated systems, and has published a book on internet governance.
- Helle Thorning-Schmidt, co-chair - A former prime minister of Denmark who repeatedly took stands for free expression while in office and then served as CEO of Save the Children.