



Global Feedback &  
Input on the **Facebook**  
**Oversight Board** for  
Content Decisions

A debt of gratitude is owed to all those who provided their candid feedback as part of our outreach on Facebook's Oversight Board. We hope that this report stands as a testament to the willingness of partners, stakeholders, and individuals to give their time and thoughts to this undertaking, in support of a stronger, more transparent content governance system.

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# Foreword

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There are lots of calls, every day, for Facebook to take down, leave up, or put back up some piece of content on its platform. And every day Facebook tries to strike the right balance between safeguarding free speech and protecting people's safety, between what is and what is not acceptable on our platforms across many continents and countries.

The question then is: where do we draw the line? And more to the point: who decides? How does Facebook ensure its decisions are fair, transparent, and free from our own biases? And what remedy should people have when their content is taken down?

We have the responsibility to set down rules. Like most platforms, Facebook has its [Community Standards](#) for what is and what is not acceptable to share on Facebook. To enforce those standards, we have thousands of people reviewing content everyday, across the world. We leave up speech that shares a perspective, furthers a debate, or levels a criticism, and take down hate, harassment, or harm. We miss things sometimes, and we're always at work improving our systems.

In recent years, however, academics, legal scholars, and technologists have argued that, with a scale as massive as Facebook's, it is both impossible and possibly illegitimate for any single company to oversee such a variety of human expression and experience. They argue that Facebook alone cannot set the de facto global standard of free expression. We agree.

In November 2018, Mark Zuckerberg first [proposed](#) the creation of a new, independent body that would decide matters of speech and expression on Facebook. In January 2019, we expanded on that proposal in a [Draft Charter](#) for an Oversight Board for Content Decisions, which outlined 11 practical questions on issues including membership, independence, transparency, and public accountability.

At first, this idea sparked real interest and, for some, cautious optimism. At the same time, we heard a fair deal of skepticism about what this body would be, how it would work, and whether or not it would actually improve things for Facebook's global community of users. People

wondered whether it was possible for a company of our size to create an Oversight Board with real teeth and, more importantly, value.

To address these concerns, we've spent the last six months holding online and in-person consultations. We've heard from more than 2,000 people from more than 85 countries. The people who've engaged with us have been diverse and global. They include academics at the top of their field, grassroots organizers committed to change, and everyday people who just want to help us address some really tough issues. I've been amazed at how willing organizations, experts, and users have all been in sharing their time, thoughts, questions, and concerns.

Here's some of what we've heard.

- First and foremost, people want a Board that exercises independent judgment — not judgment influenced by Facebook, governments, or third parties. The Board will need a strong foundation for its decision-making — a set of higher-order principles, informed by free expression and international human rights law — that it can refer to when prioritizing values like safety and voice, privacy, and equality.
- Equally important are the details on how the Board will select and hear cases, deliberate together, come to a decision, and communicate its recommendations both to Facebook and the public. In making its decisions, the Board may need to consult experts with specific cultural knowledge, technical expertise, and an understanding of content moderation.
- People want a Board that's as diverse as the many people on Facebook. They would like Board members who are ready and willing to roll up their sleeves and consider how to guide Facebook to better, more transparent decisions. These members should be experts who come from different backgrounds, different disciplines, and different viewpoints, but who can all represent the interests of a global community.

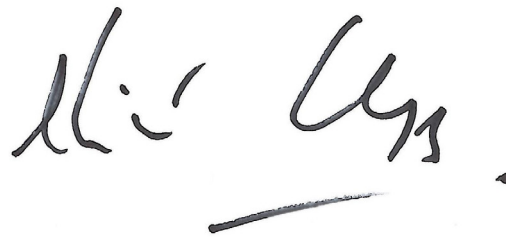
Today, we're publishing our initial report summarizing the commentary and feedback to date. We've listened, and we're considering all viewpoints as we move forward to develop stronger checks and balances, more due process, and increased transparency.

To be clear: the Oversight Board will not solve all of Facebook’s problems. For example, the Board is not designed to hear decisions about News Feed ranking or artificial intelligence, although these are pressing and important issues. We believe that the best way to set the Board up for success is to focus it specifically on content governance. This, in itself, is a complex and difficult issue — one which requires external input from highly qualified experts.

It will also take time for the Board to grow into its role. This body will not be able to hear millions — or even thousands — of requests for review, not at 40 members nor at 400. And though the Board may make mistakes, we are expecting that it will learn from them.

Our task is to build systems that protect free expression, that help people connect with those they care about, while still staying safe online. We recognize the tremendous responsibility we have not only to fairly exercise our discretion but also to establish structures that will evolve with the times.

Our challenge now, in creating this Oversight Board, is to shore up, balance, and safeguard free expression and safety for everyone on our platforms and those yet to come onto them, across the world.

A handwritten signature in black ink that reads "Nick Clegg". The signature is written in a cursive, slightly slanted style. Below the signature is a horizontal line that tapers to a point on the right side.

*Nick Clegg*

*Vice President of Global Affairs and Communication*

# I. Introduction

## A. The Oversight Board in context

Social media platforms — and their users — are shaping the contours of public discourse, of speech and the influence that comes with it. This process is dynamic and fluid; it is being played out on a global scale, with impact on billions of people.

The responsibility to determine what can stay up and what must come down is an immense one, exercised through the establishment and enforcement of rules. Nearly all social media platforms have adopted a system that allows users to report content that they believe violate those rules.

Facebook’s system is built around its Community Standards, a set of policies that govern what is allowed and not allowed on the platform. The proposed Oversight Board is intended to provide a layer of additional transparency and fairness to Facebook’s current system. The question of how it should be designed — and what it should govern — sits within a broader discussion about the role of content moderation generally, as well as the future of free expression online.

In recent years, researchers have proposed new models for understanding systems of online content moderation. A new generation of legal scholars has argued that “platforms have developed a system that has marked similarities to legal or governance systems.”<sup>1</sup> Thus, they need to be analyzed within “the perspectives of private governance and self-regulation.”<sup>2</sup> Academics and practitioners are increasingly leaning into the language of governance and the rules-based order — calling variously for a “Magna Carta for the web”<sup>3</sup> or a new “digital constitutionalism.”<sup>4</sup>

Content governance began with the adoption of a widespread practice: the user report.<sup>5</sup> In 2014, user reporting — or “flagging” — was described as a “ubiquitous

mechanism of governance” in the digital age.<sup>6</sup> Indeed, “flagging” has been widely adopted, with millions of reports being received weekly by Facebook alone. However, although it is a standard practice across the industry, user reporting often lacks a mechanism for “visible public discussion” — a gap that has been criticized for leaving

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“critical decisions about difficult content in the hands of a few unknown figures at social media companies.”<sup>7</sup>

This issue of transparency around content decisions has underpinned the discussion around — and backlash against — content moderation as it is currently practiced. The public most often becomes aware of the realities of content moderation only when specific pieces of content become controversial, revealing “the complex and fraught decisions being made behind the scene.”<sup>8</sup> Because the enforcement of platforms’ rules and policies feels like a “complex web of nebulous rules and procedural opacity,”<sup>9</sup> the power to determine who can say what — and how — seems like an “enormous cultural power ... held by so few, and ... largely wielded behind closed doors.”<sup>10</sup>

Civil society organizations have responded in kind, calling for action to support transparency, ensure external oversight, and remediate what they see as opaque decision-making. For example, the Santa Clara Principles on Transparency and Accountability in Content Moderation call for “independent external review processes,” which could form “an important component for users to be able to seek redress” through appeals of platforms’ content decisions.<sup>11</sup> Similarly, Article 19 has proposed establishing a multi-stakeholder and industry-wide “Social Media Council,” which shares some similarities with the Oversight Board proposed by Facebook.<sup>12</sup>

Against this backdrop, in early 2018, Noah Feldman developed two white papers in early 2018 on internet governance, in which he proposed a “Supreme Court.” He argued that this body would respond to the need for an independent decision-making process based on a formal commitment to freedom of expression.<sup>13</sup>

This new entity would be designed to operate on top of Facebook’s existing policy development, content review, and internal appeals processes. In that regard, it would aim to “provide opportunity for refinement of arguments and ideas in difficult cases... create a greater sense of openness, revisability, and participation... [and] conserve resources ... for truly unusual and difficult cases.”<sup>14</sup>

In response to feedback from stakeholders and the public, the Oversight Board has continued to evolve from the Constitutional Court conceptualized in Feldman’s original paper, beginning with Mark Zuckerberg’s first official announcement in November 2018.<sup>15</sup>

Core features from Feldman’s white paper remain, and he has been advising Facebook on the Board throughout its development. Facebook has proposed that the Oversight Board will focus on providing independent, binding judgment on removing or permitting content, with individual cases being heard by panels.<sup>16</sup> These panels would then issue public explanations of the Board’s decision, while offering “interested parties the opportunity to be heard.”<sup>17</sup> Most importantly, the primary objectives also remain the same: increased transparency, legitimacy of decision-making, and independent judgment.



## B. Facebook’s initial announcement

In an interview with Vox in April 2018, Mark Zuckerberg first mentioned Facebook’s intention to develop a mechanism for “independent appeal,” a structure that would provide a “second opinion” or “final judgment call” on content decisions.<sup>18</sup> Referencing Feldman’s Supreme Court metaphor, Zuckerberg identified the need for users to have recourse to an external appeals process, which would supplement the company’s own internal system of addressing user appeals, launched in April 2018:

*Right now, if you post something on Facebook and someone reports it and our community operations and review team looks at it and decides that it needs to get taken down, there’s not really a way to appeal that. I think in any kind of good-functioning democratic system, there needs to be a way to appeal. And I think we can build that internally as a first step.<sup>19</sup>*

Zuckerberg situated the need for an external appeals process alongside Facebook’s overall efforts to increase transparency and strengthen governance in the face of new global challenges. On transparency, for example, Facebook aimed to do a better job in communicating the steps the company takes to address violations of its rules.<sup>20</sup> For example, Facebook began to publish its biannual Community Standards Enforcement Reports, in May 2018.<sup>21</sup>

Facebook also brought together teams from across the company to continue to make progress in this regard. As Guy Rosen, VP for Integrity, explained:

*“By 2018 we had started to make progress on making our systems more proactive in detecting harmful content, but Mark pointed out that building the best system wouldn’t be enough — we also had to be open and build a lasting approach to governance. He pulled together a team to consolidate the strategy, which resulted in work such as the Oversight Board, appeals experiences, doubling down on our enforcement transparency reports and a push for more transparency initiatives.”*

In November 2018, Zuckerberg published his “Blueprint for Content Governance and Enforcement,” which explained many of these efforts.<sup>22</sup> This post announced that Facebook would establish an independent oversight body by the end of 2019. As Zuckerberg explained, this body would provide “... a new way for people to appeal content decisions to an independent body, whose decisions would be transparent and binding” based on the belief that “Facebook should not make so many important decisions about free expression and safety on its own.”<sup>23</sup>

## C. Early assessments of Facebook’s proposal

Early feedback ranged from considered skepticism to cautious optimism, and raised fundamental questions about the purpose, scope, operationalization, and impact of the proposed body: would Facebook commit to implementing the Board’s decisions or would this effort amount to little more than an “empty gesture”?<sup>24</sup> Would the Board have the power to select cases by its own determination?<sup>25</sup> Would Board membership include as many viewpoints and perspectives as possible in order to ensure that it reflects Facebook’s global community?<sup>26</sup>

Zuckerberg’s announcement sparked questions regarding Facebook’s assumption of State-like functions. As one editorial put it: “Call it a court or call it, as Facebook now does, an oversight board, this company, by adopting a structure of government, is essentially admitting it has some of the powers of a government. The question is what that means for the rest of us.”<sup>27</sup>

Others found the government metaphor to be less troubling and argued that “[f]ollowing legal and constitutional values might enhance the legitimacy” of the Board.<sup>28</sup> One observer compared this initiative to a “constitutional moment for the social network, in which Facebook voluntarily hands over a portion of its considerable power to an independent body.”<sup>29</sup>

Still others worried about Facebook’s motivations. According to critics, the creation of the Board is a way by which Facebook will “try and avoid government regulation for as long as possible.”<sup>30</sup> Concerns remain that the creation of an external body, charged with the final review of difficult content decisions, would simply become a mechanism for diverting responsibility away from Facebook. Although the company has clarified its intentions,<sup>31</sup> the perception still holds that “Facebook wants to distribute some of the unprecedented power it holds – and some of the blame it gets.”<sup>32</sup>

At the same time, Facebook’s proposal was also met with early, positive assessments. While calling for the company to “do much more,” one NGO stated that “Facebook’s proposal of creating an independent oversight board is an unusual gesture of humility that we, cautiously, welcome.”<sup>33</sup> Along the same lines, others expressed hope that the proposed Board could address Facebook’s “unprecedented size and power” by trying to devolve at least some limited power to the user community.<sup>34</sup>

Overall, observers called for more details on how, exactly, this Oversight Board would work. Some academics found “the idea of a Supreme Court of Facebook [as] promising in theory.”<sup>35</sup> Others stressed that it could “revolutionize online speech,” while also wondering “how the body’s decisions will be implemented in Facebook’s day-to-day operations.”<sup>36</sup> And “if handled well,” the Oversight Board “could represent an important new model for content moderation, providing a true counterbalance to the sometimes hesitant, often techno-utopian mindset at Facebook and other major platforms.”<sup>37</sup>

## II. Global Consultation

### A. Release of a draft charter

From across the spectrum of skepticism to support, the overarching theme remained the same: the “devil is [in] the details.”<sup>38</sup> In response, Facebook published a “Draft Charter: An Oversight Board for Content Decisions” in January 2019. The company presented this document as a starting point for discussion and an exchange of ideas on how the Board could be designed and supported.

Using a structure of 11 core questions, the Draft Charter (Appendix A) offers a potential way forward for a Board that would make up-or-down decisions on specific pieces of content, while also contributing to the policy development process at Facebook. It is structured around the following format: a key question to set up debate; a few “considerations” to take under advisement; and an approach suggested by Facebook as a basis for moving forward. Interested parties were called on to review the paper and provide feedback to Facebook in order to “incorporate the most promising ideas into the final charter.”<sup>39</sup>

### Public commentary on the release of the Draft Charter

“We feel this is an important first step, however, many essential questions remain. Much about the mechanics of this body needs to be specified. We need guarantees of real independence, as well as decision-making that conforms to international legal standards for freedom of speech.”

- *Reporters Without Borders*

“Facebook has not shown itself capable of making reasonable policy decisions related to things like hate speech and propaganda. It may be time for it to bring in the experts, and let someone else make the decisions.”

- *Tech Crunch*

“...the oversight board seems particularly ill-equipped to handle some of Facebook’s most pressing problems.”

- *NY Magazine*

“We think that in adopting a semi-independent Oversight Board for Content Decisions, Facebook is taking a step in the right direction.”

- *Public Knowledge*

“Whenever it does come into being, the oversight board could be crucial to Facebook’s future.”

- *Engadget*

“That’s not to say there isn’t value in having an extra set of eyes on decisions that Facebook’s far-flung moderators sometimes make in a matter of minutes if not seconds. But no team, no matter the size or scope, could ever adequately consider every viewpoint represented on Facebook.”

- *Wired*

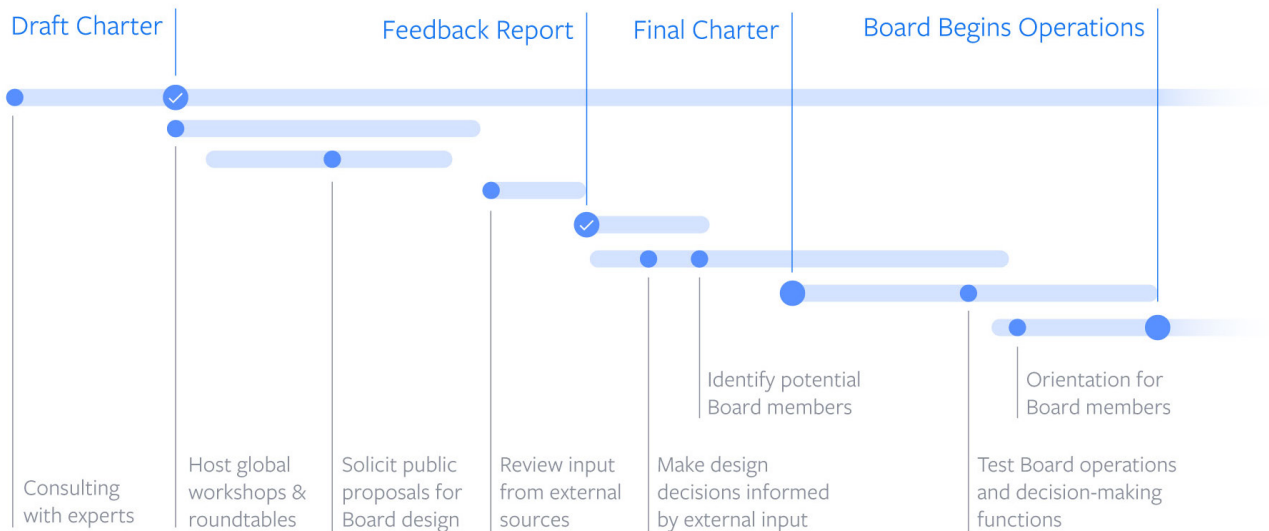
“It’s a good system to have in place—to ensure desperately needed oversight and accountability—but it still doesn’t tackle some of the most egregious day-to-day issues plaguing the platform, like harassment, misinformation, and targeted violence.”

- *Gizmodo*

## B. Launch of a consultation period

Facebook began convening informal groups of stakeholders in October 2018, just prior to Zuckerberg’s announcement. After releasing the Draft Charter in January 2019, Facebook launched its official, global consultation process that ran until the end of June 2019. This consultation process consisted of two-day, 40-person workshops in six cities,<sup>40</sup> 22 smaller-format roundtables around the world,<sup>41</sup> and a public call for feedback. More than 650 people from 88 different countries attended the workshops, roundtables, and town halls; in addition, Facebook spoke to more than 250 people through one-on-one meetings focused on the Oversight Board proposal. Altogether, these included experts from multiple disciplines in both the private and public sectors (e.g., freedom of expression, technology and democracy, the rule of law, journalism, child safety, civil rights, human rights protection, and others). Stakeholders from across the geographic, ideological, and policy spectrum — including vocal critics of Facebook — participated in these events. Facebook also sought feedback from the public to ensure that all those who could not attend an in-person convening could still engage and provide their feedback.

### How will the Board be formed?



Many of these convenings included decision-making simulation exercises, as well as dedicated sessions on the design of the Oversight Board.<sup>42</sup> These simulations allowed the participants, acting as Board members, to experience the complexities involved in content moderation. These exercises used some of Facebook’s most challenging cases as examples.

## Ensuring a Global Perspective



### Workshop & Roundtable Locations

*\*To be held*

- Brussels, Belgium
- São Paulo, Brazil
- Ottawa, Canada
- Zagreb, Croatia
- Berlin, Germany
- New Delhi, India
- Tel Aviv, Israel
- Florence, Italy
- Nairobi, Kenya
- Mexico City, Mexico
- Warsaw, Poland
- Dakar, Senegal\*
- Singapore
- Bratislava, Slovakia
- Johannesburg, South Africa\*
- Madrid, Spain
- Geneva, Switzerland
- Taipei, Taiwan
- Istanbul, Turkey
- Dubai, UAE
- New York, USA
- Norman, Oklahoma, USA
- San Francisco, USA
- Washington DC, USA

## Sample cases from in-person consultations

These examples describe the types of issues that the Board might review and deliberate on as part of its adjudicatory functions. They also illustrate how content decisions can require difficult trade-offs.

	HARASSMENT	HATE SPEECH	PRIVACY & SAFETY VIOLATIONS	HATE SPEECH
What happened?	A user shared a list of men working in academia, who were accused of engaging in inappropriate behavior and/or abuse, including unwanted sexual advances.	A Page that commonly uses memes and other forms of satire shared posts that used discriminatory remarks to describe a particular demographic group in India.	A candidate for office made strong, disparaging remarks to an unknown passerby regarding their gender identity and livestreamed the interaction. Other users reported this due to safety concerns for the latter person.	A government official suggested that a local minority group needed to be cautious, comparing that group's behavior to that of other groups that have faced genocide.
What is the central tension with this content?	The allegations, offered without proof or due process, specifically referenced other individuals, with the potential for real impact to their careers and personal lives. At the same time, these allegations were part of an ongoing protest movement to draw attention to unreported and often ignored inappropriate behavior and abuse.	At the edges of acceptable discourse, there is a thin line that separates strong speech from hate speech. This post was arguably intended to be satire, though it was difficult for some audiences to recognize this intention without additional information.	Facebook takes safety-related reports seriously, but because the person filming was a candidate for office, there may have been value in permitting this content to be viewed due to public interest.	A government official's perspective is noteworthy and important for ongoing discourse. At the same time, the official's comments were also widely understood — both locally and abroad — as something that could potentially incite violence against that group.
What did Facebook decide to do?	In this case, Facebook permitted the content to remain on the platform. In the end, Facebook prioritized voice, as this post drew attention to an ongoing social issue.	In this case, Facebook determined on review that this Page was using purposefully incendiary language to satirize discriminatory views and provide a potentially important counter to real-world hate speech. Facebook determined the content should be restored.	In this case, Facebook determined that protecting the individual who was identified in the video posted to Facebook outweighed the importance of this content as news in the public interest.	In this case, Facebook determined the content should be removed because it used violent language against an ethnic group. Under Facebook's policies, this is hate speech.
Why might the Board discuss this case?	A large number of people could be impacted by this decision in ways that are both personally tangible and have implications for broader social discourse. The Board could choose to review this decision to assess various tensions and ensure Facebook made the right decision.	The Board could determine whether the content shared should in fact constitute satire, and more broadly, if extremely incendiary language should be considered within the bounds of satire. The Board could determine that the content should remain off the platform.	It is challenging to determine when offensive content should be deemed newsworthy and in the public interest. The Board could choose to review this decision to ensure Facebook made the right call and provide additional clarity on when these lines are drawn.	The government official's comments were derogatory, but were also noteworthy with regard to an ongoing social issue. The Board could choose to review this decision to ensure Facebook made the right call.

Facebook also developed an open, online questionnaire designed to accept both quantitative and qualitative responses from the public. The feedback form was available in 13 languages,<sup>43</sup> and it remained open from April 1, 2019 to May 27, 2019.<sup>44</sup> The first part of the questionnaire consisted of a set of multiple-choice questions structured around the Draft Charter. The second part allowed for respondents to submit free-form essays on who should serve, how the Board would hear cases and make decisions, and what governance structure should be put in place to ensure independent judgment.

In all, 1,206 people participated in this online questionnaire, 138 of whom also chose the option to submit additional essays. A summary report was prepared jointly by Baker McKenzie<sup>45</sup> and Facebook's Research team focused on integrity issues. Completed in June 2019, this summary is included as Appendix B. All essays from respondents who agreed to have their essays shared publicly are included as Appendix C. Together with the responses gathered through the open, online consultation, Facebook's extended period of feedback spurred civil society organizations, advocacy groups, and individuals to release their thoughts on the Oversight Board. These white papers and statements are included as Appendix D.

The majority of commentators found Facebook's process to be a welcome departure from standard practice. For example, 27 civil society groups and individuals signed a "Joint Statement," which welcomes Facebook's consultation on the Draft Charter.<sup>46</sup> Others described the "open process and consultations" as "maybe the most dramatic decision that we have seen from [Facebook] in the last few years, at least regarding its content policy."<sup>47</sup>

On the other hand, some found this public consultation "not nearly iterative enough, nor transparent enough, to provide any legitimacy" to the process of creating the Board.<sup>48</sup> This report seeks to provide more transparency by documenting the main lines of feedback from those who engaged in this consultation process. It also serves to inform Facebook's future decisions, as the company works toward a revision of the Oversight Board's Draft Charter.

## C. Research into existing oversight models

In parallel with the public consultation process, Facebook undertook research to study the range of oversight models that exist globally. The resulting report (Appendix E) reviews community and institutional mechanisms for decision oversight, as well as a range of judicial and quasi-judicial models. Facebook's research identified six "families" of oversight design, which could be used to inform the establishment of the Oversight Board: investigative institutions, supervisory institutions, arbitral adjudication processes, administrative adjudication bodies, national judicial systems,

and international judicial systems. These "families" were assessed against autonomy of process, validity and salience of information considered, procedural fairness, transparency, and executability of outcome. See chart below.

This research found that "there is no perfect system — all systems involve trade-offs and require prioritization based on overall goals."<sup>49</sup> In other words, there is no "silver bullet" for institutional design that will address all issues for all constituencies in all conditions.<sup>50</sup> It also concluded that external awareness is key to legitimacy, and clearly communicating how priorities are set and what decisions are made can be just as critical as the specific decisions themselves.<sup>51</sup> Thus, public reason giving will be a crucial feature of the Oversight Board, one which drives at the heart of the legitimacy of its decisions.<sup>52</sup>

### Key Trade-offs Across Process and Outcome Dimensions for Assessment

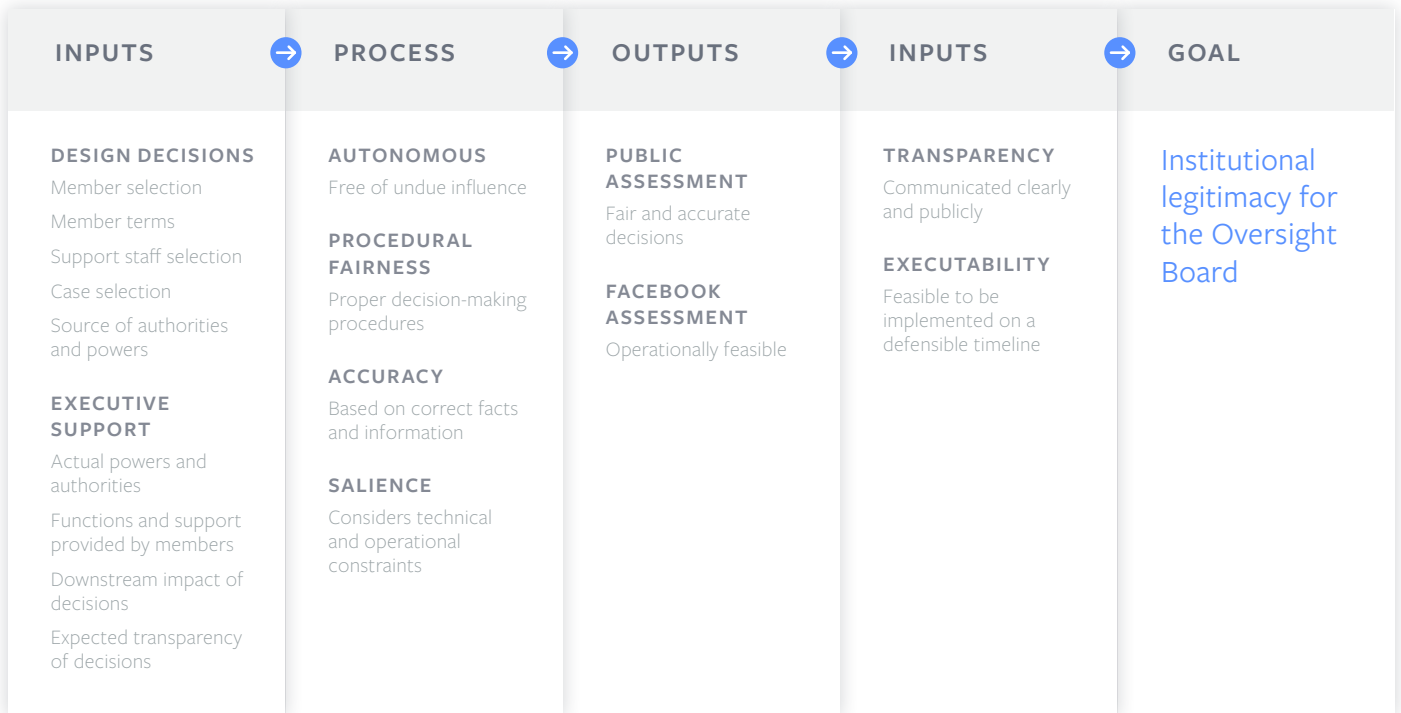


	FAMILIES OF OVERSIGHT MODELS							
	INVESTIGATIVE	SUPERVISORY	ARBITRATION		ADMINISTRATIVE	NATIONAL COURT SYSTEMS		INTERNATIONAL COURTS
EXAMPLE	<i>Hospital incident review board</i>	<i>Academic research institutional review board</i>	<i>Commercial/Institutional</i>	<i>Community (e.g., shura)</i>	<i>Social Security Appeals Council (US) or Special "Courts"</i>	<i>US Appeals/SCOTUS</i>	<i>French Court of Cassation</i>	<i>Trade courts or Int'l human rights court</i>
Autonomy	MORE	LESS	LESS	MOST	LESS	MORE	MOST	LESS
Validity	MOST	MORE	MORE	LESS	MOST	MORE	MOST	MORE
Salience	MORE	MOST	MOST	MOST	MOST	MORE	MORE	MORE
Procedural Fairness	MORE	LESS	LESS	MOST	MORE	MOST	MORE	MORE
Transparency	LESS	LESS	LESS	MORE	LESS	MOST	LESS	MOST
Executability	MORE	MORE	MORE	MORE	MOST	LESS	MORE	MORE

GOWDER AND PLUM



## Research Model



## III. Summary of feedback

Both the Draft Charter and the online, public consultation process were structured loosely around three issue areas: (1) membership; (2) decisions; and (3) governance, values, and independent judgment. The remainder of this report — structured around these three topics — will provide a public summary of the feedback collected during Facebook’s consultation period. This document is intended to guide Facebook as it continues to answer open questions about the design of the Board, prior to its actual establishment.

### A. Board membership

#### I. SELECTION PROCESS

*Many of those who engaged in consultations expressed a degree of concern over a Facebook-only selection process, but feedback was split on an alternative solution. An intermediate “selection committee” to pick the Board could ensure external input, but would still leave Facebook with*

*the task of “picking the pickers.” There was broad agreement that transparency around the ultimate selection process will be key.*

The Draft Charter suggests that Facebook will select the first cohort of members, with future selection to be taken over by the Board itself. This option may be the most expeditious, given Facebook’s determination to see the Board operationalized by the end of this year.<sup>53</sup>

However, many participants expressed concern that the Board would be less legitimate if Facebook itself was central to the Board member selection process.<sup>54</sup> Others questioned the proposal to leave future selection up to the Board itself, as this could result in a “recursion problem”<sup>55</sup> and the “perpetuation of bias.”<sup>56</sup>

A variety of counter-proposals followed that ranged in complexity and level of external input. Some recommended that membership be left to a fully democratic vote by Facebook users; others worried that a vote would open up the process up to pre-existing bias.<sup>57</sup> Some advocated for a hybrid approach, combining selection procedures so that Facebook, outside groups, and users could all participate.<sup>58</sup>

Other suggestions varied. They included: soliciting public comment on a slate of applicants;<sup>59</sup> inviting civil society groups to select some of the Board members;<sup>60</sup> asking governments to weigh in on names and candidates;<sup>61</sup> opening a public nomination process;<sup>62</sup> and using a randomized lottery system to select members from among Facebook users.<sup>63</sup>

One recurring proposal was the establishment of a selection committee, a recommendation that participants raised at each of Facebook’s six regional workshops. To some, delegating this responsibility away from Facebook would provide a “critical layer of separation” on day one of the Board’s establishment.<sup>64</sup> An external selection body would help “eliminate any questions in people’s minds” that the body might not be independent because Facebook had a hand in the selection of Board members.<sup>65</sup>

At the same time, others recognized the efficiency of Facebook’s proposed approach, which would avoid “the Kafkaesque process of drafting a separate committee to pick the ... committee.”<sup>66</sup> Facebook would still have to determine which organizations and representatives would get a seat at the selecting table. Thus, a selection committee would not eliminate Facebook’s influence, as the company “would still be picking the pickers.”<sup>67</sup> This process, some argued, may be “equally bad”<sup>68</sup> and not “worth the complexities” it would bring.<sup>69</sup>

Furthermore, others warned Facebook not to get “bogged down by the notion that outsiders need to be part of [the] selection process. Facebook generally, as a company, needs to own more of its decisions, including this one.”<sup>70</sup> Should the company indeed select the first slate of members, as indicated in the Draft Charter, it will not only have to “own” this decision, but also any controversy that results from its choices.

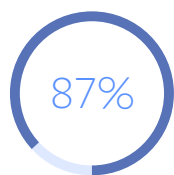
In the end, whatever selection method is chosen, the process for setting up the Board should be fully transparent,<sup>71</sup> “in line with the implied openness of [Facebook] creating an Oversight Board.”<sup>72</sup> While “no choice is perfect,” Facebook should be open about its decisions on eligibility criteria and qualifications, as well as the ultimate process for selecting members.<sup>73</sup>

**II. QUALIFICATIONS AND DIVERSITY**

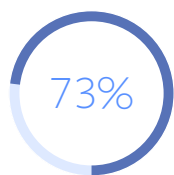
*All agreed on the importance of diversity, though perfect representation is not possible. Feedback was split on the need for candidates who have “name recognition” and high profiles. Debate exists over whether members should be active users of Facebook or, at least, familiar with social media. There is an expectation that members should serve the interest of the Facebook community as a whole, rather than specific constituencies.*

In the Draft Charter, the company committed to releasing a public list of qualifications for potential Board members.<sup>74</sup> Additionally, as part of the member selection process,

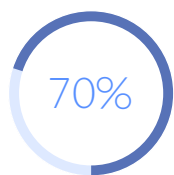
When considering the Board as a whole, respondents prioritized the following as extremely important: cultural and linguistic knowledge (59%), ideological or political views (48%), and race or ethnicity (48%).



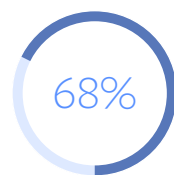
Cultural & linguistic knowledge



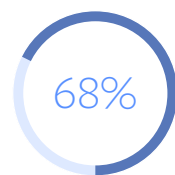
Ideological or political views



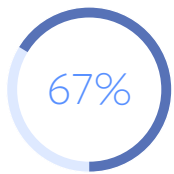
Race or ethnicity



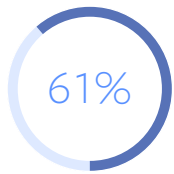
Professional background



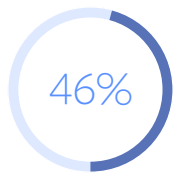
Other characteristics (e.g., gender, sexuality)



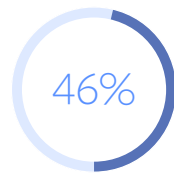
Nationality



Educational background



Religious views



Income level

Facebook has stressed the importance of ensuring diversity, vis-à-vis geographic and gender balance, professional background, political viewpoints, and other characteristics.

With only 40 members, it has been said that the Board “cannot hope to represent every single view on the balance between protecting free speech and regulating harmful speech.”<sup>75</sup> Nonetheless, many stressed the need for the Board’s composition to reflect as many segments of society as possible. In addition to the aspects of diversity listed above, other suggestions included: national and religious minorities;<sup>76</sup> victims or targets of online hate speech and harassment;<sup>77</sup> those with both technical and policy backgrounds;<sup>78</sup> and industry voices, including “key advertising industry associations.”<sup>79</sup> Many interlocutors also urged Facebook to ensure that lawyers and legal experts not be over-represented on the Board.<sup>80</sup> They preferred that the Board focus on a multidisciplinary, multi-stakeholder approach to membership selection.<sup>81</sup>

Some favored candidates with high name recognition, who could lend credibility to the Board.<sup>82</sup> Others preferred a different approach, stressing that the Board “doesn’t need people with public profiles.”<sup>83</sup> Instead, it should include expert-level candidates with demonstrable professional experience, a willingness to be “engaged and involved,”<sup>84</sup> and expertise in key fields of study.

Regarding presence on the platform and familiarity with technology, feedback was split. Some strongly believed that all members “should have a Facebook account as a requisite”<sup>85</sup> since being a non-Facebook user “would make it harder to understand nuances of the platform.”<sup>86</sup> Others felt that this would limit the likelihood of finding strong Board members who may be critics,<sup>87</sup> and feedback was nearly unanimous in stressing the importance of having some Facebook critics on the Board.

Above all, a general consensus emerged with regard to seeking out Board members who can serve all users, through an open, deliberative process.<sup>88</sup> Stressing, for example, that the “the board is not a parliament,”<sup>89</sup> many of those consulted discouraged a culture where members advocate for their particular constituency.<sup>90</sup> It would be “practically impossible” for the Board to “provide representation for all,” given the sheer diversity of users on the platform.<sup>91</sup> Instead, it would be preferable for each member to serve “not on behalf of their organizations,” but as a representative of the entire Facebook community of users.<sup>92</sup>

### III. DISQUALIFICATIONS, CONFLICTS OF INTEREST, REMOVAL

*With some exceptions, interlocutors agreed that Facebook employees (current and former) should be excluded from the Board. They also agreed that Facebook should not have the power to remove members without cause, but sought more clarity on exactly what “cause” would include. Additional suggestions included having the Board*

*develop its own code of conduct, recusal process, and other accountability measures.*

In the Draft Charter, Facebook proposed that current and former employees not be eligible as Board members. This is a position that finds general acceptance, given the need for independence and credibility.<sup>93</sup> However, a minority view held that former Facebook employees should not be immediately disqualified, as the Board may benefit from an insider’s technical expertise and institutional knowledge.<sup>94</sup>

Under Facebook’s current proposal, the company would not be allowed to remove any members “except if the member has violated the terms of his or her appointment.”<sup>95</sup> Generally, this proposal met with agreement. However, observers called for increased specificity on these terms and for the Board itself to be involved in removal decisions.<sup>96</sup> Removal, it was argued, “should be based only on ‘reasons of incapacity or behavior that renders [members] unfit to discharge their duties, such as serious grounds of misconduct or incompetence.’”<sup>97</sup>

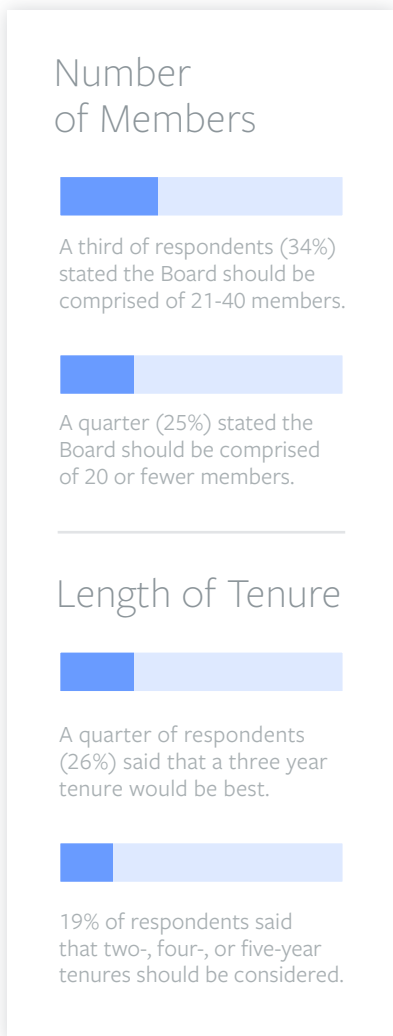
Other suggestions for accountability varied. These included the establishment of an ethics subcommittee;<sup>98</sup> the development of a recusal process;<sup>99</sup> the disclosure of financial (and other) conflicts of interest;<sup>100</sup> and the promulgation of a specific code of conduct.<sup>101</sup>

**IV. TERM LENGTHS AND PART-TIME SERVICE**

*Feedback varied with regard to term lengths, the size of the Board, and part-time service. Some felt that the responsibilities of the Board necessitate full-time positions; others worried that a full-time requirement would hinder qualified candidates from serving.*

Facebook has suggested that Board members serve a fixed term of three years, renewable once.<sup>102</sup> Other suggestions included varied term lengths;<sup>103</sup> staggered appointments;<sup>104</sup> and shorter term lengths, given the “rapid pace of change” in content and technology.<sup>105</sup> However, while some felt that three years was too long, others felt it was not long enough. The latter believed that more time is necessary for members to become acquainted with their responsibilities, as well as the complexities of content governance.<sup>106</sup>

Feedback was similarly split on the size of the Board. Facebook has suggested up to 40 members on the initial Board, which would be global in nature and organized to operate and decide on cases in panels.<sup>107</sup> Some felt this number was too small and expressed concern over “docket management” and “caseloads.”<sup>108</sup> Others, conversely, found the number to be unwieldy and unmanageable.<sup>109</sup> Still others, on a more practical level, suggested that the Board include 41 members, in case a tiebreak would be required.<sup>110</sup>



Debate also surfaced with regard to full-time or part-time service. Some wondered if the responsibilities in the Draft Charter were more ambitious than the part-time position originally envisioned by Facebook:

*As I was looking at the Draft Charter, it looks like these board members will have to select the cases they want to hear, write up decisions, write up dissents ... they are also supposed to select the next slate of board members ... it sounds like a pretty full-time job, if done well and thoughtfully and correctly.<sup>111</sup>*

Some worried that a part-time arrangement could lead to a bias towards a certain type of people, such as academics and the financially independent, who are more likely to accept part-time positions.<sup>112</sup> Similarly, others expressed concern that part-time service would lead to the Oversight Board being dominated by its permanent staff.<sup>113</sup>

Some, meanwhile, supported the Draft Charter's part-time proposal, which would mean that members' "livelihoods are not hinging on Facebook."<sup>114</sup> Separately, others pointed to the fact that most boards are part-time positions.<sup>115</sup> Given this expectation, some felt that, "if it's not part-time, you're going to drastically reduce the pool of potential candidates."<sup>116</sup>

Should the Board ultimately entail part-time service, it will be necessary to manage expectations with regard to the number of cases the Board could review. Facebook's own research points out that "workload management is particularly salient in part-time boards"; if mismanaged, the part-time nature of the work could "be a significant limitation on their institutional capacity."<sup>117</sup>

Facebook has acknowledged this tension, while opening the possibility of Board membership evolving into a full-time commitment over time. As one company representative stated, "the caseload that they're likely to hear at least in the first couple years, is something more like one or two ... decisions a week ... [but] if it turns out that this is actually much more of a full-time job, that there's a huge array of matters that need to start going before this Board, I think that's an evolution that is possible after having got it started."<sup>118</sup>

## B. Content decisions

### I. REQUESTS FOR REVIEW

*Cases will come before the Board through two mechanisms: Facebook-initiated requests and user-initiated appeals. One open question is how the latter would be filtered; some prefer a democratic element (i.e., voting) while others do not. Commentators generally supported the*

*Board having the power to choose its own cases, as well as the establishment of transparent criteria for prioritizing and selecting cases. Feedback varied as to what that criteria should be. Those engaged in the consultation period expressed a strong preference for quality over quantity, in terms of caseloads and case review.*

The Draft Charter explained that cases will come before the Board through two avenues.<sup>119</sup> First, Facebook itself will request review of pieces of content that are particularly “important and disputed.”<sup>120</sup> Second, users will also be able to request a review, after undergoing Facebook’s internal appeals process.<sup>121</sup>

In some way, these requests for review will need to be filtered and prioritized, given the limited number of cases the Board will be able to hear. Some suggested opening up case selection to public voting,<sup>122</sup> though others feared that well-organized groups could dominate the process at the expense of stakeholders with less influence and resources.<sup>123</sup>

Feedback has generally supported a Board that retains “certiorari power”<sup>124</sup> to select which requests for review that it wishes to hear — in other words, a Board that has the discretion “to control its docket.”<sup>125</sup> While a general consensus supports this view, some also believe this may result in the actual task of selection being left to the Board’s support staff.<sup>126</sup>

Thus, “selection criteria would need to be outlined in general terms in the Charter and specified by the independent board through transparent, internal guidelines.”<sup>127</sup> If the expectation is for the Board to hear “contentious cases,” then it would be “important to define what a contentious case is.”<sup>128</sup> Given that difficult or contentious cases are a matter of subjectivity, the Board will “need basic requirements for what types of cases [it] should hear.”<sup>129</sup>

Feedback varied with regard to what those requirements and criteria should be. Suggestions included the following: a potential for real-world harm;<sup>130</sup> cases without precedent;<sup>131</sup> high-profile cases with international implications;<sup>132</sup> highly emblematic cases;<sup>133</sup> and content that deals with freedom of speech, hate speech, or terrorist propaganda.<sup>134</sup> A number of commentators asked about the Board’s ability to group cases<sup>135</sup> — and whether it would hear “class action types of content issues, looking across a particular ecosystem of content” rather than simply individual posts.<sup>136</sup>

Irrespective of how requests for review are surfaced, there is a strong preference for the Board to accept a smaller number of requests for review, in order to spend more time on each individual case. 76% of respondents to Facebook’s public consultation stated that dedicating more time and research to each case is more important than making more decisions each year.<sup>137</sup> Workload management will

be critical, not only to avoid backlogs and ensure quality reviews, but also to set realistic expectations of what the Board can actually achieve.<sup>138</sup>

## II. PANELS AND DECISIONS

*Facebook has proposed that smaller panels, not the Board as a whole, will hear and deliberate on cases. Feedback was varied on the exact size of the panels. Some respondents also suggested that the Board may need to convene en banc to hear cases where panels disagree. On panel assignment, opinion was also divided; options could include randomized, thematic, and/or regional panels. With regard to the latter, some strongly suggested regional or national panels, while others expressed concern that this would risk bias, balkanization and/or state capture. Regardless, the Board will issue public explanations of their decisions; opinions diverged whether these should be attributed (for reasons of transparency) or anonymous (for reasons of safety, as well as the Board’s unity of purpose).*

Facebook’s Draft Charter proposed that cases be heard by smaller, subsets of Board members.<sup>139</sup> The practicalities of this proposal are implied: some 40 Board members would be very difficult to convene for every review. Given that the Draft Charter provides only a suggested approach, many details of how these panels would convene and hear cases were left open for consultation.

Regarding panel size, some suggested three members for so-called “ordinary decisions” and larger panels for difficult ones;<sup>140</sup> others simply recommended an odd number of panel members that could range anywhere from three to nine.<sup>141</sup> Some issues, especially in cases where panels disagree with one another, may require the Board to meet *en banc*, with a final decision coming from the Board as a whole.<sup>142</sup>

As for the composition of the panels, some recommended that panels be assigned randomly.<sup>143</sup> Others suggested to arrange them thematically, in order to leverage the types of expertise within the Board;<sup>144</sup> for example, panels of experts could be formed specifically to deal with hate speech.<sup>145</sup> Alternatively, panel assignment could factor in regional representation,<sup>146</sup> especially for cases that heavily involve an understanding of local context, cultures, and norms.<sup>147</sup>

While some advocated for entirely regional or national boards,<sup>148</sup> others worried that such an arrangement would increase the risk of bias and influence or co-optation by States.<sup>149</sup> Facebook itself has expressed some caution over a regionalized approach. In one conversation about the Oversight Board, a Facebook representative explained: “If we had different rules for different countries ... there could well be a sense in



which you get to a lowest common denominator where countries ... with more restrictive legal regimes would affect in a big way content that might be available in other countries.<sup>150</sup>

As a middle ground, panels could include a mix of regional and non-regional representation, which could “keep [the] focus on universal rights,” rather than just local issues.<sup>151</sup> At the same time, a number of observers also pointed to dysfunction within certain multilateral organizations as a model that should be avoided.<sup>152</sup>

Whether randomized or thematic, regional or global, these panels are expected to issue public explanations of their decisions, as stated in the Draft Charter.<sup>153</sup> As one commentator observed, “If, as part of this oversight board, there will be reasoned decisions that will be published, we think that that is a step in the right direction.”<sup>154</sup>

Other ideas for transparency include a review period for assessing user opinions, as well as an impact analysis to assess whether the Board’s decisions align with public expectations of the Board’s duties and responsibilities.<sup>155</sup>

While citing security and privacy concerns of Board members, Facebook indicated that panels will issue their decisions without attribution.<sup>156</sup> Trade-offs would be required to balance transparency, security, and privacy; feedback in this regard was split.

Some argued that anonymity on panels

could contribute to a culture of collective and consensus-based decision-making by the board,<sup>157</sup> while also increasing the likelihood of impartiality and objectivity.<sup>158</sup>

Facebook has also suggested that, “[s]hould a panel decision not be unanimous, a member who is in the minority may include his or her perspective as part of the explanation shared.”<sup>159</sup> This presupposes decision-making by majority rule. Should unanimous decisions not be required, many recommended allowing dissenting opinions as a mechanism to ensure transparency and public debate.<sup>160</sup> Others supported dissents as a practical measure, given that the type of people chosen for the Board will likely “not be quiet if they disagree.”<sup>161</sup>

However, dissents are not universal practice, and some preferred that panels come to decisions “as far as possible, on the basis of consensus.”<sup>162</sup> This would perhaps ensure a greater unity of purpose, as well as a commitment to deliberative decision-making by the Board. At the same time, some felt that Board members will “rarely [be] likely to come to a unanimous ruling,” given the difficult nature of the cases that would be presented.<sup>163</sup>

*“If, as part of this oversight board, there will be reasoned decisions that will be published, we think that that is a step in the right direction.”*

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### III. INFORMATION FROM FACEBOOK AND THIRD PARTIES

*Facebook will need to provide information to the Board as part of its deliberation and decision-making. Some believed strongly that this contact should be strictly limited, with a strong wall of separation between the Board and Facebook staff. Others felt that some degree of interaction would be inevitable, perhaps even preferable. At the same time, the Board may require additional independent information and advice; a common suggestion was to develop a roster of independent experts who could provide background on both cultural context, as well as technical matters. Separately, additional stakeholders, such as civil society organizations, may wish to present their own views to the Board. Feedback was split on the value of allowing outside arguments (i.e. amicus briefs) to be submitted by third parties.*

In order to make decisions, the Board will need to have access to information from Facebook. During consultations, a number of interlocutors asked questions regarding how information sharing between Facebook and the Board would be structured and carried out.

Some advocated for limited communication between the Board and Facebook staff. “Board members,” it was argued, “should not be permitted to preview their decisions with Facebook employees ... and Facebook employees and leadership should not be permitted to provide input on cases before deliberations have concluded and a decision has been reached.”<sup>164</sup>

Conversely, others felt that “Facebook should not attempt to build a wall between the Board and its staff,” given that “[s]ome interaction between Facebook staff and the Board ... is going to be inevitable.”<sup>165</sup> It would be necessary for panels to be able to request information from Facebook when necessary<sup>166</sup> and interview Facebook staff as part of a proposed “fact-finding function,” as long as appropriate “whistleblower protections” were included.<sup>167</sup>

In addition, many felt that the Board would need independent expertise at their disposal, especially when reviewing content whose meaning and impact was highly dependent on local context. Interlocutors generally recommended “supplementing the board itself with a network of experts to ensure that the necessary linguistic, cultural, and socio-political expertise is available when the board makes a decision.”<sup>168</sup> Multiple workshop and roundtable participants suggested the development of a roster or pool of experts, which the Board could then call upon as needed.<sup>169</sup> Another suggestion was to include technical experts who could advise the Board on the feasibility and scalability of its recommendations.<sup>170</sup>

As for seeking additional inputs from other third parties, many supported a mechanism for “pertinent stakeholders”<sup>171</sup> to present their views to the Board.<sup>172</sup> On the whole, both advocacy groups and workshop participants supported the proposal for the Board to build a mechanism to accept “expert third party opinions,”<sup>173</sup> similar to amicus briefs.<sup>174</sup> Balance will be required, however, in order to guard against an amicus process devolving into a mechanism for professional lobbying or unfair influence by well-resourced organizations.<sup>175</sup>

Along these lines, others warned that allowing amicus briefs could potentially introduce a bias, given that organizations from the Global North may have more capacity and resources to formulate submissions to the Board.<sup>176</sup> One proposal suggested that Facebook should provide dedicated resources to support stakeholders who otherwise could not “afford to dedicate their time to the consultations related to the board at their own cost.”<sup>177</sup>

#### IV. PRECEDENT

*The Draft Charter has left room for debate with regard to precedent for Board decisions. On the whole, feedback supported decisions with some precedential weight, as long as the Board can balance both coherence and flexibility. Most felt that the Board should, as a default, defer to its past decisions; however, precedent should not necessarily be determinative.*

The Draft Charter does not include explicit language on precedent; it simply states that “Board decisions are binding on the specific content brought for review and could potentially set policy moving forward.”<sup>178</sup> This description left ample room for debate.

Overall, feedback generally supported some sort of precedent-setting arrangement. Most expressed hope that the Oversight Board could support “some idea of ... continuity, some idea of stare decisis”<sup>179</sup> that could evaluate “multiple fact patterns and have some precedential weight.”<sup>180</sup> Response from the public questionnaire suggested the same. The majority of respondents (66%) stated that “considering past decisions is extremely to quite important,” while almost a third (28%) consider past decisions as “somewhat important.”<sup>181</sup>

Others felt that precedent would need “to be considered carefully, as ... there will need to be overruling rules articulated in order to reverse panel decisions that are later seen to be out of step with changing circumstances.”<sup>182</sup> Furthermore, it was argued, “a strict coherence rule may cause a situation where the first panel to discuss a certain issue might set a standard that may not be reconsidered later. This will create a sense of arbitrariness and stagnation.”<sup>183</sup> Others argued that since social media is a rapidly

changing industry,<sup>184</sup> precedent should not prevent review of future, similar content.<sup>185</sup> In the end, many argued for balance: an understanding of precedent that would help ensure consistency but not necessarily be determinative.<sup>186, 187</sup>

## V. POLICY INFLUENCE

*A strong consensus emerged that the Board’s decisions should influence Facebook’s policy development. Without some policy influence, the Board would not be seen as valuable or legitimate. While some expected the Board to make binding policy decisions, others understood the practicality of non-binding advisory opinions. Others also wished the Board to raise policy issues proactively, separate from the review of (and deliberation on) an individual case; similarly, the Draft Charter indicated that Facebook may bring policy questions before the Board. Most expect transparency and accountability with regard to Facebook’s implementation of Board decisions. Likewise, should the company decline to implement a decision, there is an expectation that it should also explain its rationale in writing.*

Feedback strongly favored the Board’s ability to have influence over Facebook’s policy. For example, 95% of respondents from the public consultation reported that “the Board should be allowed to recommend changes to Facebook rules and policies.” Without some influence over Facebook’s Community Standards, some wondered: “What’s the point of having the Board just duplicate content review?”<sup>188</sup> Or alternatively: “If Facebook isn’t learning and fine tuning along the way, then why even establish this process at all?”<sup>189</sup>

By and large, commentators supported the Board issuing policy recommendations. Some even preferred these recommendations to be binding.<sup>190</sup> In the Draft Charter,

Facebook indicated that the Board’s decisions will influence future policy development, while noting that it will remain “ultimately responsible for making decisions related to policy, operations and enforcement.”<sup>191</sup> Some advocacy groups expressed concern that this could be taken as “an intent to exonerate Facebook from any meaningful commitment to the independent oversight mechanism.”<sup>192</sup>

*“If Facebook isn’t learning and fine tuning along the way, then why even establish this process at all?”*

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At the same time, others recognized the practicalities of the Board issuing advisory recommendations only.<sup>193</sup> The Board “shouldn’t mandate policy changes,” it was argued, as Facebook should still hold the responsibility of writing and implementing

its own policies.<sup>194</sup> In addition, binding policy changes may not always be advisable, as that would put the Board in a regulatory position that it may not have the technical expertise to support.<sup>195</sup> Finally, observers noted, situations may arise wherein the Board issues a decision that is genuinely out of step with Facebook’s commercial interests (and/or with the majority of Facebook users). In such contexts, Facebook would need to resolve both its responsibilities to implement the Board’s decisions with “its fiduciary duties to its shareholders.”<sup>196</sup>

As for how the Board’s recommendations would be formulated, some felt that advisory opinions would be helpful both reactively and proactively. In other words, the Board should make policy recommendations *both* in response to individual cases of disputed content *and* in response to new and emerging issues, unconnected to specific appeals. As one respondent from the public consultation wrote:

*To ensure that the Board is genuinely an “oversight” body, it should not be restricted in reviewing Facebook’s content policies only when a particular case has reached it for review. Instead, it should be able to proactively monitor the policies and their enforcement, and make recommendations about any policy changes as and when it feels necessary. This ability would allow the Board to be more dynamic and responsive to new or changing situations, and would benefit Facebook by allowing the Board to raise potential issues to Facebook before problems arise (or increase in scale) when content decisions are made.*<sup>197</sup>

Similarly, Facebook itself has also indicated that it may raise policy questions proactively, untethered from individual pieces of disputed content. In the Draft Charter, for example, the company has signalled already that it “may request policy guidance from the board.”

Regarding implementation, the expectation is that Facebook would be held accountable for explaining publicly how it acted on the Board’s guidance. “As a minimum,” it was noted, “Facebook should respond to the Board’s comments letting it know why, why not, and how Facebook decided to adopt the recommendations.”<sup>198</sup> In some cases, for example, the Board may suggest a policy change that is not technically feasible. In this context, Facebook could “decline to adopt the board’s recommendations” — but, in doing so, it should set out its reasoning in writing.<sup>199</sup>

*See next page.*

## The Oversight Board and Facebook’s policy development

Facebook “can incorporate the board’s decision in the policy development process” and “may also request policy guidance for the board.” That’s a good starting point, but it isn’t enough.

- *Public Knowledge*

The board should play a meaningful role in developing and modifying policies... As an oversight board, and given that content moderation decisions are ultimately made on the basis of the policies which underpin them, it is critical that the board has a clear and meaningful role when it comes to developing and modifying those underlying Terms of Service / policies. For example, the board must be able to make recommendations to Facebook and be consulted on changes to key policies that significantly impact the moderation of user content...Providing the board with such policy-setting authority would also help legitimize the board, and ensure it is not viewed as simply a mechanism for Facebook to shirk responsibility for making challenging content-related decisions.

- *Joint Statement from multiple signatories*

In order for the Board to be an effective entity that can promote fairness and respect for human rights in Facebook’s content takedown practices, it must be able to both review content takedown cases and provide meaningful input on policy development.

- *Open Technology Institute*

We believe that the board has a critical role to play in supporting the development of Facebook’s policies relating to content moderation, and that this should be more explicitly detailed in the final charter.

We recommend, in particular, that the board be able to proactively recommend changes to Facebook’s content moderation policies, both through its decisions and of its own volition if there are particular issues which the board feel should be brought to the attention of Facebook. While we do not recommend that Facebook be bound by any recommended changes, it should publicly respond to them and set out why it will or will not follow any recommendations.

- *Global Partners Digital*

A board can resolve mistakes in individual cases when existing appeals processes have failed, but it can’t do this at scale. The real value of the Oversight Board is in its ability to identify persistent, systemic problems and to recommend changes to policy.

- *Digital Social Contract*

Así, proponemos un cambio de la idea original planteada en el borrador de Facebook, y planteamos directamente que el “Oversight Board” tenga la facultad de impactar directamente el diseño regulatorio de las políticas de contenido de la misma plataforma.

- *Joint Statement from Latin American and Caribbean Civil Society Organizations (See Appendix D)*

## C. Governance

### I. INDEPENDENT JUDGMENT

*The Oversight Board’s ability to exercise independent judgment will be critical for its efficacy and legitimacy. While some felt that compensation was not appropriate and/or necessary, most agreed that Board members should receive remuneration for their time and expertise. One recurring recommendation, aimed at separating Facebook-provided funding from influence over the Board’s decisions, was to establish an independent trust. The company has already indicated that it is doing so. Feedback*

*was varied with regard to the Board’s incorporation, whether that be through a fully independent entity, an NGO or university, or some structure still somehow connected to Facebook. Separately, observers expressed concern over possible state influence over the Board, which would need to be managed carefully.*

The Draft Charter has asked how Facebook can ensure independent judgment, which it defines as “inappropriate or undue influence from Facebook or any other external sources.”<sup>200</sup> Feedback in this regard has focused primarily on three main issues: compensation of Board members, the Board’s relationship with Facebook, and influence by States.

Regarding compensation, a few disagreed with Facebook’s position in the Draft Charter. They felt that service on the Board should be a voluntary position, given that “he who pays the piper calls the tune.”<sup>201</sup> The majority of others, however, argued that experts should be remunerated for their time and effort, but that compensation should be fixed and standard, as well as structured in such a way that Facebook cannot revoke resources in response to Board decisions.<sup>202</sup> One suggestion included having Facebook “fund the board’s compensation and its supporting staff by awarding an annual budget figure that is commensurate with Facebook’s evaluation of the board’s value.”<sup>203</sup>

Commentators generally supported the idea of “platform oversight bodies ... [that are] financially independent,”<sup>204</sup> and the most common suggestion in this regard was the establishment of a separate trust, endowment or foundation.<sup>205</sup> In response to this feedback, Facebook has already stated publicly that the development of a trust is underway.<sup>206</sup>

In addition to compensation, some respondents from the online consultation supported the establishment of a totally “independent entity based somewhere besides Menlo Park, Calif.”<sup>207</sup> Suggestions included housing the Board within a university,<sup>208</sup> NGO<sup>209</sup> or some other third-party organization.<sup>210</sup> However, others found this arrangement to be “just too convoluted”<sup>211</sup> and worried that the choice of a third party organization would introduce bias.<sup>212</sup>

Even some critics acknowledged the need for some close working relationship between the Board and Facebook. As one wrote, “Ensuring the Oversight Board’s independence is critical — yet that independence will mean nothing if Facebook staff is so far removed from the decisions that it could easily ignore the recommendations and/or fail to enforce the outcomes, or if implementing those decisions is regularly frustrated by ...the company’s leadership.”<sup>213</sup>

In addition to the relationship with Facebook, the Board’s ability to make independent decisions will also hinge on its relationship — or lack thereof — with third parties.

## Supervision of Operations

41.7%

of public consultation respondents said the Board should supervise its own operations.

23.6%

said operations should be supervised, administered, and supported by a nonprofit or nongovernmental organization.

Many workshop and roundtable participants (especially in smaller countries and across the Global South) expressed concern over influence from powerful state governments<sup>214</sup> and even the possibility of state capture.<sup>215</sup> “How will foreign governments,” one roundtable participant asked, “rally to influence this body and their members? It is scary when one thinks of lobbying from governments.”<sup>216</sup>

Others worried about pressure from both government regulation of the Board’s activities, as well as pressure from businesses.<sup>217</sup> Many did not want to see the Oversight Board produce a cottage industry for professional lobbying,<sup>218</sup> either by states or by well-resourced interest groups.<sup>219</sup>

## II. BOARD ADMINISTRATION AND STAFF

*Facebook’s Draft Charter has suggested that the Board will have support from a full-time staff. This proposal raised many questions, especially with regard to the staff’s duties, functions, and responsibilities. Some worried that the staff would wield outsize power over the Board; a number of commentators strongly preferred a staff that is wholly separate from Facebook. At the same time, others assumed that this staff would simply be Facebook employees or, at the very least, have institutional knowledge about the platform’s content moderation and enforcement procedures.*

The Draft Charter affirms that the Board will be supported by a full-time staff that will provide support and ensure the implementation of its decisions; this staff will not be part of the Board itself.<sup>220</sup> Throughout the consultation period, interlocutors highlighted the “potentially significant role” this staff would play, while calling for the revised Charter to include more “detail on the role and powers that this staff will have.”<sup>221</sup>

There was a general consensus that the Board would need staff support, in order to help review cases and liaise with Facebook regarding the implementation of decisions,<sup>222</sup> while also ensuring that potential cases meet certain procedural requirements.<sup>223</sup> Other functions could include assessing amicus briefs,<sup>224</sup> reviewing past Board decisions,<sup>225</sup> conducting general research,<sup>226</sup> serving as rapporteur,<sup>227</sup> liaising with government interlocutors,<sup>228</sup> and generally relieving Board members of “onerous administrative tasks that will detract from the board’s purpose.”<sup>229</sup>

Some saw the Board’s staff as a secretariat function; others compared it to a judicial clerkship. In the case of the latter, some observers expressed concern that the Board’s staff could “wield immense power,” especially if they were to be involved in drafting decisions and deciding on case selection.<sup>230</sup> Others pointed out a potential imbalance between part-time Board members and full-time staff, which could



result in the latter actually “hold[ing] the power, because they will be the ones day in, day out, year after year doing this work.”<sup>231</sup>

For this reason, observers by and large argued for the Board staff to be wholly independent of Facebook,<sup>232</sup> perhaps with its own, separate offices.<sup>233</sup> One recommendation even suggested that the Board establish its own Human Resources department, which could run “an open and global application process” for staff selection — of which Facebook would have no part.<sup>234</sup> Others, however, strongly discouraged the development of Board support structures that would simply add layers of unnecessary bureaucracy.<sup>235</sup>

At the same time, others stressed that the Board’s staff must include “knowledge, training and historical context to advise the Board members of established Facebook procedures.”<sup>236</sup> While not explicit, this does imply that staff would either need to be Facebook employees, former Facebook employees, and/or observers with close, insider knowledge of Facebook’s procedures for content moderation and enforcement. Still others considered that the Board’s staff would just be “Facebook employees... compensated according to standard Facebook company salary requirements.”<sup>237</sup>

### III. BASIS FOR DECISION-MAKING

*The Board will need to have a foundation for its decision-making. The Draft Charter indicated that this would include a set of values, but did not determine what those would be. In response, some have called for a “constitution” or “values commitment” — some form of statement of higher-order principles. Others urged that any list of values be clear on prioritization, in cases where different values come into conflict. Meanwhile, a strong contingent of human rights organizations urged that the Board simply adopt international human rights law as its basis for decision-making. Others felt this would not provide the necessary clarity and pointed to different interpretations of human rights norms across different regions and countries.*

As noted in the Draft Charter, “The primary function of the board is to review specific decisions we make when enforcing our Community Standards. It will base its decisions on these standards as well as a set of values, which will include concepts like voice, safety, equity, dignity, equality and privacy.”<sup>238</sup> In addition to these substantial values, some felt that procedural values, like due process and the right to be heard, would be just as essential to clarify and codify.<sup>239</sup>

As some observed, more clarity may be required, so that these values are more meaningful than “just a bunch of buzzwords.”<sup>240</sup> Thus, some have called for Facebook to go beyond its existing values of “Safety, Voice, and Equity”<sup>241</sup> and instead adopt

“something like a constitution: a code of fundamental principles that would be harder to amend than the company’s malleable content moderation rules.”<sup>242</sup> This “constitutional” concept is echoed by the original “Facebook Supreme Court” proposal, which recommended that the company adopt a single, formal, concise, and public “values commitment.”<sup>243</sup>

However, others have cautioned that such a list, without clear prioritization, would not be meaningful,<sup>244</sup> since “the very nature of hard freedom of speech cases is that they involve trade-offs between these values.”<sup>245</sup> Facebook itself, not the Board, “must make the difficult choices about which values it wishes to prioritize.”<sup>246</sup>

To address the concern about the underlying bedrock for its decisions, many proposed that the Board incorporate international human rights norms and standards into its core decision-making functions.<sup>247</sup> This suggestion recurred at the vast majority of workshops and roundtables, often with an admonishment to Facebook not “to reinvent the wheel.”<sup>248</sup>

A number of civil society groups have also publicly encouraged the Facebook and the Oversight Board to adopt human rights principles as its guiding values. These groups include, *inter alia*, Article 19, Access Now, Bonavero Institute of Human Rights, and Global Partners Digital, as well as the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

These advocacy groups have also noted that Facebook is a member of the [Global Network Initiative](#) and, “[w]hile Facebook is not legally bound by international human rights laws, the UN Guiding Principles on Business and Human Rights set out responsibilities that companies like Facebook have to respect human rights.”<sup>249</sup> In particular, it was proposed that Article 19 of the International Covenant on Civil and Political Rights (ICCPR) would “provide the oversight board with a set of tools and a ‘common vocabulary’ for addressing and resolving hard questions around the moderation of online content.”<sup>250</sup>

At the same time, others felt that focusing exclusively on a human rights framework would not be enough to adjudicate hard cases. More practical and operationalizable guidance would be needed. As one observer noted:

*The concrete way these human rights principles would be implemented — and reflected — in both the [Oversight Board] mandate and the Community Standards (CS) is an overlooked issue by many civil society groups. Would the implementation of this framework affect, for example, the way Facebook balances users’ security and trust against freedom of expression?*<sup>251</sup>

Furthermore, as others pointed out, “International human rights norms are not a panacea for the intractable problems of online speech regulation,” as human rights

law is not “a single, self-contained and cohesive body of rules.”<sup>252</sup> Instead, “these laws are found in a variety of international and regional treaties that are subject to differing interpretations by states that are parties to the convention as well as international tribunals applying the laws.”<sup>253</sup>

Similarly, others noted the various interpretations of human rights standards across different countries and regions, expressed concern about a bias from the Global North, and wondered if these would provide the clarity needed for the Oversight Board’s decisions.<sup>254</sup> As one workshop participant asked, “Have you seen one single country that is just ruled solely by human rights? No, because you need ... additional standards.”<sup>255</sup>

In short, while Facebook is “not required by international human rights law to provide a home for all opinions,”<sup>256</sup> supporters of a stronger focus on human rights principles argue that, overall, “the advantages of aligning corporate speech codes with international human rights law outweigh the potential disadvantages.”<sup>257</sup>

#### IV. SCOPE

*Facebook has set out that the Board’s scope will be content governance; this is indicated even in the subtitle of the Draft Charter. However, many have wondered whether the Board could also hear other policy issues, such as algorithmic ranking, privacy, local law, AI, monetization, political ads, and bias. On legal questions, for example, many have pressed for issues of local law to be included under the Board’s remit. Facebook, meanwhile, has explained that it will not be in scope. Expectation management will be key, as different understandings of the Oversight Board — some limited, some capacious — will need to be resolved.*

The subtitle of the Draft Charter — “An Oversight Board for Content Decisions” — made clear that this body would focus specifically on content. In this regard, Facebook has been relatively clear about the Board’s scope and remit.<sup>258</sup>

However, throughout the consultation period, interlocutors often proposed that the Board hear a wide range of controversial and emerging issues: newsfeed ranking,<sup>259</sup> data privacy,<sup>260</sup> issues of local law,<sup>261</sup> artificial intelligence,<sup>262</sup> advertising policies,<sup>263</sup> and so on.

In addition to content decisions, the Draft Charter also foreclosed the Board from deciding cases “where reversing Facebook’s decision would violate the law.”<sup>264</sup> This was seen as an “understandable” limitation but also one that “does give governments de facto control over the [Board’s] remit.”<sup>265</sup> Some felt strongly that “companies

accede too quickly to government requests,”<sup>266</sup> and the Board should serve as a forum for discussion on such issues. However, the company has been clear in this regard, and as one Facebook representative stated:

*The Board, and we’re very intentional on this, will not actually be about making those decisions that are legally prohibited country by country, and the reason for that is that we actually cannot confer on the board greater authority than Facebook itself has. We, as a company, [respect] the laws of different countries and different places ... this is really a delegation of authority and part of how we’re envisioning exercising our responsibility, and we actually can’t go beyond those lines.*<sup>267</sup>

Nonetheless, observers would like more information on how the Board will interact with local law — as well as a host of other issues. These range from algorithmic downranking to political ads, from election interference to privacy, from platforming to political bias. This feedback suggests that Facebook still needs to communicate the “level of ambition”<sup>268</sup> it expects out of the Board — while managing expectations over what a 40-person body could possibly achieve.

The question persisted: should the Board be restricted to content decisions only, without much real influence over policy? If so, “What’s the point of having the Board just duplicate content review?”<sup>269</sup> Or is the establishment of the Board — already described as a “constitutional moment”<sup>270</sup> — a “very ambitious project, maybe too ambitious” for it to be successful?<sup>271</sup> As one workshop participant explained, “One of [the Board’s] biggest risks is overthinking this...[it’s] not going to please everyone, so the Board should get it approximately right and then adjust.”<sup>272</sup>

In the end, balance will be needed; Facebook will need to resolve tensions between minimalist and maximalist visions of the Board. Above all, it will have to demonstrate that the Oversight Board — as an enterprise worth doing — adds value, is relevant, and represents a step forward from content governance as it stands today.

*See next page.*

## IV. Conclusion

This report has only been possible thanks to the effort, acuity, and honesty of a diverse group of scholars, experts, and interested people who took the time to analyze and engage in conversation on Facebook's plans.

But building an institution like the Oversight Board is the work of years, not months. The issues raised during this initial consultation period and discussed in this report are not exhaustive, nor could they be. The design of the Board is still only a first step. How it works in practice, and how it is improved when it doesn't work, will determine the real value of this or any similar enterprise.

Facebook finds itself in a historically unique position. It cannot deprive or grant anyone the freedom of expression, and yet it is a conduit through which global freedom of expression is realized. As Facebook continues to build out the Oversight Board, and make decisions on its architecture and values, it will need — and will look for — the continuing input of the community that has provided feedback for this report.

# Oversight Board Consultation Report

1. Kate Klonick, “The New Governors: The People, Rules, and Processes Governing Online Speech,” *Harvard Law Review* 131, rev. 1598 (March 2017): 1602.
2. Klonick, “The New Governors,” 1622.
3. Brian R. Fitzgerald, “Tim Berners-Lee: the Web Needs a Magna Carta,” *Wall Street Journal*, March 12, 2014, <https://blogs.wsj.com/digits/2014/03/12/tim-berners-lee-the-web-needs-a-magna-carta/>. To access the proposal from the Web Foundation, see *The Case #ForTheWeb* (Washington D.C.: Web Foundation, 2018), <http://webfoundation.org/docs/2018/11/The-Case-For-The-Web-Report.pdf>.
4. Edoardo Celeste, “Digital constitutionalism: Mapping the constitutional response to digital technology’s challenges,” HIIG Discussion Paper Series 2 (2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3219905](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3219905).
5. In addition to user reports, Facebook also uses proactive detection to find content that violates Community Standards (e.g. the sale of regulated goods). See *Community Standards Enforcement Report*, Facebook, May 2019, <https://transparency.facebook.com/community-standards-enforcement>.
6. Kate Crawford and Tarleton L. Gillespie, “What is a flag for? Social media reporting tools and the vocabulary of complaint,” *New Media & Society* (August 2014): 2, <https://journals.sagepub.com/doi/10.1177/1461444814543163>.
7. Crawford and Gillespie, “What is a flag for?,” 12.
8. Robyn Caplan, “Content or Context Moderation? Artisanal, Community-Reliant, and Industrial Approaches,” *Data & Society* (November 14, 2018): 5, [https://datasociety.net/wp-content/uploads/2018/11/DS\\_Content\\_or\\_Context\\_Moderation.pdf](https://datasociety.net/wp-content/uploads/2018/11/DS_Content_or_Context_Moderation.pdf).
9. Sarah T. Roberts, “Digital detritus: ‘Error’ and the logic of opacity in social media content moderation,” *First Monday* 23 (3) (March 2018), <https://firstmonday.org/ojs/index.php/fm/article/view/8283/6649>.
10. Tarleton Gillespie, “How Social Networks Set the Limits of What We Can Say Online,” *Wired*, June 26, 2018, <https://www.wired.com/story/how-social-networks-set-the-limits-of-what-we-can-say-online/>.
11. *Santa Clara Principles on Transparency and Accountability in Content Moderation*, <https://santaclaraprinciples.org/>.
12. “Facebook oversight board: Recommendations for human rights-focused oversight,” Article 19, March 27, 2019, <https://www.article19.org/resources/facebook-oversight-board-recommendations-for-human-rights-focused-oversight/>.
13. Noah Feldman, “A Supreme Court for Facebook” (January 1, 2018): 1-2; Noah Feldman, “Facebook Supreme Court: A Governance Solution” (March 2018): 2.
14. Feldman, “Facebook Supreme Court,” 6.
15. Around this time, in October 2018, a coalition of advocacy groups also launched a “Change the Terms” campaign, aimed at reducing hateful speech online. Some of the proposals included as part of this campaign include a right of appeal and increased transparency, which are relevant to discussions on the Oversight Board.
16. *Draft Charter: An Oversight Board for Content Decisions*, Facebook, January 28, 2019: 1 and 3, <https://fbnewsroomus.files.wordpress.com/2019/01/draft-charter-oversight-board-for-content-decisions-1.pdf>.
17. Feldman, “Facebook Supreme Court,” 1.
18. “Mark Zuckerberg on Facebook’s hardest year, and what comes next,” interview by Ezra Klein, Vox, transcript, April 2, 2018, <https://www.vox.com/2018/4/2/17185052/mark-zuckerberg-facebook-interview-fake-news-bots-cambridge>.
19. “Mark Zuckerberg on Facebook’s hardest year,” interview by Ezra Klein.
20. “Mark Zuckerberg on Facebook’s hardest year,” interview by Ezra Klein.
21. For example, in the first quarter of 2019, Facebook reported that it removed almost 2.2 billion fake accounts. See Guy Rosen “An Update on How We Are Doing At Enforcing Our Community Standards,” Facebook, May 23, 2019, <https://newsroom.fb.com/news/2019/05/enforcing-our-community-standards-3/>.
22. It also highlighted that additional transparency efforts, such as publishing the minutes of deliberations on Facebook’s process for developing its Community Standards — as well as efforts to improve the accuracy of Facebook’s content reviewers and algorithmic systems.
23. The proposed body would have three related functions: “First, it will prevent the concentration of too much decision-making within our teams. Second, it will create accountability and oversight. Third, it will provide assurance that these decisions are made in the best interests of our community and not for commercial reasons.” See Mark Zuckerberg, “A Blueprint for Content Governance and Enforcement,” Facebook, November 15, 2018, <https://www.facebook.com/notes/mark-zuckerberg/a-blueprint-for-content-governance-and-enforcement/10156443129621634/>.
24. Kate Klonick and Thomas Kadri, “How to Make Facebook’s ‘Supreme Court’ Work,” Opinion, *The New York Times*, November 17, 2018, <https://www.nytimes.com/2018/11/17/opinion/facebook-supreme-court-speech.html>.
25. “What Facebook’s high court should look like,” Opinion, *The Washington Post*, November 22, 2018, [https://www.washingtonpost.com/opinions/what-a-supreme-court-for-facebook-should-look-like/2018/11/22/c0d3ffd4-ecce-11e8-96d4-0d23f2aaad09\\_story.html](https://www.washingtonpost.com/opinions/what-a-supreme-court-for-facebook-should-look-like/2018/11/22/c0d3ffd4-ecce-11e8-96d4-0d23f2aaad09_story.html).
26. Klonick and Kadri, “How to Make Facebook’s ‘Supreme Court’ Work.”
27. Molly Roberts, “Facebook has declared sovereignty,” Opinions, *The Washington Post*, January 31, 2019, <https://www.washingtonpost.com/opinions/2019/01/31/facebook-has-declared-sovereignty>.
28. John Samples, “Who Should Moderate Content at Facebook?,” Cato Institute, December 18, 2018, <https://www.cato.org/blog/who-should-moderate-content-facebook>.
29. Scott Rosenberg, “Facebook’s constitutional moment,” Axios, February 14, 2019, <https://www.axios.com/facebook-constitutional-moment-content-moderation-board-541071dc-f9c2-4f45-9ed9-81637e1f7822.html>.
30. Anna Hesel, “Facebook’s ‘independent oversight group’ is destined to fail,” *Venturebeat*, November 15, 2018, <https://venturebeat.com/2018/11/15/facebooks-independent-oversight-group-is-destined-to-fail/>.

31. The company's leadership has put out statements and given interviews reinforcing this point. For example, one Facebook Vice President released an op-ed during the consultation period, reiterating, "[t]o be clear, we are not asking a group of experts to make decisions for us." See Ime Archibong, "Strengthening Safety and Encouraging Free Expression: Facebook's Goals for a New Content Oversight Board," Op-ed, Facebook, March 26, 2019, <https://newsroom.fb.com/news/2019/03/ime-op-ed/>. Another Facebook Vice President has stated that the "establishment of the board will not interrupt or replace our efforts to address the challenges we face." See Simon Milner, "Facebook starts global conversation in Singapore," Commentary, *The Business Times*, February 22, 2019, <https://www.businesstimes.com.sg/opinion/facebook-starts-global-conversation-in-singapore>.
32. Issie Lapowsky, "Real Facebook Oversight Requires More Than a 40-Expert Board," *Wired*, January 28, 2019, [https://www.wired.com/story/facebook-oversight-board-draft-charter/?mbid=social\\_twitter\\_onsiteshare](https://www.wired.com/story/facebook-oversight-board-draft-charter/?mbid=social_twitter_onsiteshare).
33. Gus Rossi, "Our Thoughts on Facebook's Oversight Board for Content Decisions," (blog) Public Knowledge, February 11, 2019, <https://www.publicknowledge.org/news-blog/blogs/our-thoughts-on-facebooks-oversight-board-for-content-decisions>.
34. Casey Newton, "Facebook is giving some power back to its users — but very slowly," *The Verge*, January 29, 2019, <https://www.theverge.com/2019/1/29/18201472/facebook-oversight-board-social-science-one-power>.
35. Klonick and Kadri, "How to Make Facebook's 'Supreme Court' Work."
36. Evelyn Douek, "Facebook's New 'Supreme Court' Could Revolutionize Online Speech," *Cyber & Technology* (blog), Lawfare, November 19, 2018, <https://www.lawfareblog.com/facebook-new-supreme-court-could-revolutionize-online-speech>.
37. Tarleton Gillespie, "Facebook's Blueprint Needs a Blueprint," *Slate*, November 16, 2018, <https://slate.com/technology/2018/11/facebook-zuckerberg-content-moderation-appeals-independent-council.html>.
38. Jeff Jarvis, "Regulating the Net is Regulating Us," *Medium*, May 31, 2019, <https://medium.com/whither-news/regulating-the-net-is-regulating-us-e78e922d3be0>.
39. *Draft Charter: An Oversight Board*, Facebook, 5.
40. Workshops were held in: Singapore (February 2019), New Delhi (February 2019), Nairobi (March 2019), Mexico City (May 2019), New York City (May 2019), and Berlin (June 2019). Discussions on the design of the board were held under the Chatham House Rule.
41. Roundtables took place in: Menlo Park (October 2018), Berlin (November 2018), Menlo Park (January 2019), Washington D.C. (February 2019), Berlin (February 2019), São Paulo (February 2019), Warsaw (April 2019), Brussels (April 2019), Madrid (April 2019), Dubai (April 2019), Geneva (May 2019), Ottawa (May 2019), San Francisco (May 2019), Bratislava (May 2019), Zagreb (May 2019), Tel Aviv (May 2019), Istanbul (May 2019), Florence (May 2019), Norman, Oklahoma (May 2019), and Taipei (June 2019). These closed-door roundtables were held under the Chatham House Rule. Two roundtables are still forthcoming in Dakar and Johannesburg (early July 2019). In addition, Facebook partnered with the University of Oklahoma College of Law to host a public town hall on the Oversight Board. See "Town Hall Meeting on Facebook's Oversight Board," Center for International Business and Human Rights, University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
42. For all workshops, discussions specifically on the design of the Board were held under the Chatham House Rule.
43. These languages were: Arabic, Bahasa Indonesian, Burmese, English, French, German, Italian, Japanese, Korean, Portuguese, Spanish, Thai, and Urdu.
44. The public consultation was originally scheduled to be open for six weeks, but was left open for additional time due to interest.
45. Baker McKenzie served as Facebook's partner for administering this call for feedback. This was explained in an April 2018 newsroom post. See Brent Harris, "Getting Input on an Oversight Board," Facebook, April 1, 2019, <https://newsroom.fb.com/news/2019/04/input-on-an-oversight-board/>.
46. *Facebook's Draft Charter: Joint Statement*, Global Partners Digital et al., May 10, 2019, <https://www.gp-digital.org/wp-content/uploads/2019/05/Facebook's-Draft-Charter-Joint-Statement.pdf>.
47. Untitled paper from the Center for Studies on Freedom of Expression and Access to Information (CELE), University of Palermo, Argentina, submitted to Facebook on June 5, 2019.
48. Gaurav Laroia and Carmen Scurato, "Free Press Comments on Facebook Oversight Board," Free Press, May 13, 2019: 1, [https://www.freepress.net/sites/default/files/2019-05/Facebook\\_Oversight\\_Board\\_Comment\\_0.pdf](https://www.freepress.net/sites/default/files/2019-05/Facebook_Oversight_Board_Comment_0.pdf).
49. Paul Gowder and Radha Iyengar Plumb, "Oversight of Deliberative Decision making: An Analysis of Public and Private Oversight Models Worldwide," (unpublished manuscript, June 2019): 5. Microsoft Word file.
50. Gowder and Plumb, "Oversight of Deliberative Decision making," 9.
51. Gowder and Plumb, "Oversight of Deliberative Decision making," 62.
52. As Evelyn Douek states, "the Board can be an important forum for the public reasoning necessary for persons in a pluralistic community to come to accept the rules that govern them, even if they disagree with the substance of those rules." See Evelyn Douek, "Facebook's 'Oversight Board': Move Fast with Stable Infrastructure and Humility," *North Carolina Journal of Law and Technology* 21, no. 1 (April 2019): 4, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3365358](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3365358).
53. "As part of this consultation period, we will begin piloting these ideas in different regions of the world in the first half of 2019, with the aim of establishing this independent body by the end of the year." Zuckerberg, "A Blueprint for Content Governance."
54. "[T]he selection of the members of the Oversight Board should not remain in the sole hands of Facebook." "Facebook oversight board: Recommendations," Article 19. "The current plan is for Facebook to select the first group of Board members without any external consultation. We are concerned this could create a perception of bias." *An Oversight Board to Review Facebook's Content Decisions: Global Partners Digital Response*, Global Partners Digital, May 2019: 3, [https://www.gp-digital.org/wp-content/uploads/2019/05/Facebook's-Draft-Charter-An-Oversight-Board-for-Content-Decisions-GPD-Submission\\_\\_\\_\\_.pdf](https://www.gp-digital.org/wp-content/uploads/2019/05/Facebook's-Draft-Charter-An-Oversight-Board-for-Content-Decisions-GPD-Submission____.pdf).
55. New York City workshop participant.
56. São Paulo roundtable participant.
57. "I'm not sure opening it up to the public adds value - most people aren't going to take the time to thoroughly research each candidate, and there's a significant likelihood of preexisting bias or negative media coverage influencing outcomes. The final selection should be made with a more thoughtful approach rather than a fully "democratic" approach." Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 88.
58. Stefan Theil and Kate O'Regan, "Comments on Facebook's draft Charter for an independent review board," *Bonavero Report*, No. 2 (May 6, 2019): 11, [https://www.law.ox.ac.uk/sites/files/oxlaw/bonavero\\_report\\_2\\_2019\\_facebook\\_charter.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/bonavero_report_2_2019_facebook_charter.pdf).
59. "Facebook oversight board: Recommendations," Article 19.
60. Singapore workshop participant.
61. Geneva roundtable participant.
62. Geneva roundtable participant.

63. According to the proposal, “the initial members of the independent board could be drawn by lot from active users of Facebook.” Theil and O’Regan, “Comments on Facebook’s draft Charter,” 11.
64. *Mandate of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*. Letter to Mark Zuckerberg from David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Reference: OL OTH 24/19, May 1, 2019, 4, [https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL\\_OTH\\_01\\_05\\_19.pdf](https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL_OTH_01_05_19.pdf).
65. Geneva roundtable participant.
66. Lapowsky, “Real Facebook Oversight Requires More Than a 40-Expert Board.”
67. Oklahoma roundtable participant.
68. Mexico City workshop participant.
69. Nairobi workshop participant.
70. New York City workshop participant.
71. Javier Pallero, *Protecting Free Expression in the Era of Online Content Moderation: Access Now’s Preliminary Recommendations on Content Moderation and Facebook’s Planned Oversight Board*, Access Now, 2019: 9, <https://www.accessnow.org/cms/assets/uploads/2019/05/AccessNow-Preliminary-Recommendations-On-Content-Moderation-and-Facebooks-Planned-Oversight-Board.pdf>.
72. Untitled paper submitted to Facebook (unpublished), American Association of Advertising Agencies, Advertiser Protection Bureau (APB), May 17, 2019.
73. Warsaw roundtable participant.
74. *Draft Charter: An Oversight Board*, Facebook, 5.
75. Thomas E. Kadri and Kate Klonick, “Facebook v. Sullivan: Building Constitutional Law for Online Speech,” *Southern California Law Review*, forthcoming; *St. John’s Legal Studies Research Paper No. 19-0020* (2019): 42, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3332530](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3332530).
76. Warsaw roundtable participants; Bratislava roundtable participants. See also *Facebook’s Oversight Board for Content Decisions Must Promote Greater Transparency and Accountability in Its Content Moderation Policy*, New America’s Open Technology Institute (OTI), April 30, 2019, [https://newamericadotorg.s3.amazonaws.com/documents/FB\\_Oversight\\_Board\\_OTL\\_Comments.pdf](https://newamericadotorg.s3.amazonaws.com/documents/FB_Oversight_Board_OTL_Comments.pdf).
77. Klonick and Kadri, “How to Make Facebook’s ‘Supreme Court’ Work.”
78. New York City workshop participant.
79. Untitled paper submitted to Facebook (unpublished), American Association of Advertising Agencies, Advertiser Protection Bureau (APB), May 17, 2019.
80. New Delhi workshop participant; New York City workshop participant; see Statement by Brent Harris, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights, University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
81. “Therefore, academic background, innovative and critically oriented work in connection with governments, practitioners, civil society organisations and multi-stakeholder representation would be very suitable for the establishment of [oversight board] membership criteria.” Fabricio B. Pasquot Polido, respondent to the Facebook Oversight Board Consultation.
82. Jeff John Roberts, “Who Should Sit on Facebook’s Supreme Court? Here are 5 Top Candidates,” *Fortune*, November 18, 2018, <http://fortune.com/2018/11/18/facebook-supreme-court-oversight-board-candidates/>.
83. Washington D.C. roundtable participant.
84. Warsaw roundtable participant.
85. Singapore workshop participant.
86. New Delhi workshop participant.
87. As one Nairobi workshop participant put it, “we have some people here [at this workshop] who are not on Facebook, and it has enriched the debate.”
88. Washington D.C. roundtable participant.
89. Mexico City workshop participant.
90. Washington D.C. roundtable participant; New Delhi workshop participant; Berlin workshop participant.
91. Untitled paper from the Center for Studies on Freedom of Expression and Access to Information (CELE).
92. Nairobi workshop participant.
93. Singapore workshop participant; Bratislava roundtable participant; New York City workshop participant. As noted by Article 19, “preventing current or former Facebook employees from serving ... [is] an important start.” See “Facebook oversight board: Recommendations,” Article 19.
94. Rossi, “Our Thoughts on Facebook’s Oversight Board.”
95. *Draft Charter: An Oversight Board*, Facebook, 2.
96. *Mandate of the Special Rapporteur*, Kaye, 4-5. Similarly, Article 19 argues that “only the Board itself should have the power to remove members and the reasons and procedure for removal should clearly be defined in the Charter.” See “Facebook oversight board: Recommendations,” Article 19.
97. *Mandate of the Special Rapporteur*, Kaye, 5.
98. Saswati Saha Mitra, respondent to the Facebook Oversight Board Consultation.
99. New Delhi workshop participant.
100. Untitled paper submitted to Facebook (unpublished), American Association of Advertising Agencies, Advertiser Protection Bureau (APB), May 17, 2019.
101. See “Facebook oversight board: Recommendations,” Article 19.
102. *Draft Charter: An Oversight Board*, Facebook, 2.
103. Dubai roundtable participant.
104. Nairobi workshop participant; New York City workshop participant.
105. *Oversight Board to Review Facebook’s Content Decisions*, Global Partners Digital, 3.
106. Theil and O’Regan, “Comments on Facebook’s draft Charter,” 10.
107. *Draft Charter: An Oversight Board*, Facebook, 3.
108. San Francisco roundtable participant.
109. Washington D.C. roundtable participant.
110. Mexico City workshop participant.
111. Statement by Evelyn Aswad, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights,” University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
112. Mexico City workshop participant; Berlin workshop participant.
113. Statement by Evelyn Aswad, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights,” University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
114. Nairobi workshop participant.
115. São Paulo roundtable participant.
116. Mexico City workshop participant.
117. Gowder and Plumb, “Oversight of Deliberative Decision making,” 49.
118. Statement by Brent Harris, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights, University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
119. *Draft Charter: An Oversight Board*, Facebook, 3.
120. *Draft Charter: An Oversight Board*, Facebook, 1.



121. *Draft Charter: An Oversight Board*, Facebook, 3.
122. Bratislava roundtable participant.
123. *Oversight Board to Review Facebook's Content Decisions*, Global Partners Digital, 4.
124. Kadri and Klonick, "Facebook v. Sullivan," 42.
125. "Facebook oversight board: Recommendations," Article 19.
126. Theil and O'Regan, *Comments on Facebook's draft Charter*, 4.
127. Theil and O'Regan, *Comments on Facebook's draft Charter*, 4.
128. San Francisco roundtable participant.
129. Singapore workshop participant.
130. Singapore workshop participant; New Delhi workshop participant.
131. Singapore workshop participant.
132. Singapore workshop participant.
133. New York City workshop participant.
134. Dubai roundtable participant.
135. Nairobi workshop participant; New Delhi workshop participant; Brussels roundtable participant.
136. New York City workshop participant.
137. See Appendix B, 20.
138. Zagreb roundtable participant.
139. *Draft Charter: An Oversight Board*, Facebook, 3.
140. Theil and O'Regan, "Comments on Facebook's draft Charter," 10.
141. Singapore workshop participant.
142. Menlo Park roundtable participant. Others noted that "it will be necessary to have an en banc mechanism or a small Supreme Court body to make final decisions on especially important issues and to resolve inconsistencies between panels addressing similar issues." Andrew Jay Schwartzman and Mark McCarthy, co-respondents to the Facebook Oversight Board Consultation.
143. Kevin Wei, respondent to the Facebook Oversight Board Consultation.
144. Geneva roundtable participant.
145. Dubai roundtable participant; Ottawa roundtable participant.
146. Dubai roundtable participant; Singapore workshop participant; New Delhi workshop participant.
147. As some noted, this issue of local context is one that already presents challenges to content reviewers at Facebook. In Mexico City especially, some participants stressed that context is vital to determine whether content should be taken down and wondered if Facebook currently has the mechanisms and methods in place to review content while taking into account the requisite local context. Discussions focused on how and if the Board could spur improvements in this regard.
148. The Electronic Frontier Foundation, speaking about Social Media Councils in general, has supported Article 19's proposal for national councils to be established. See Corynne McSherry, "Social Media Councils: A Better Way Forward, Window Dressing, or Global Speech Police?" Electronic Frontier Foundation, May 10, 2019, <https://www.eff.org/deeplinks/2019/05/social-media-councils-better-way-forward-lipstick-pig-or-global-speech-police>.
149. Singapore workshop participant.
150. Statement by Peter Stern, "I vote / je vote," Facebook Live, May 8, 2019, <https://www.facebook.com/ivotejevotef/videos/360809281229442/>.
151. Dubai roundtable participant.
152. For example, multiple workshop and roundtable participants discouraged a Board modelled after the United Nations. Tel Aviv roundtable participants; Singapore workshop participants; New Delhi workshop participants.
153. *Draft Charter: An Oversight Board*, Facebook, 5.
154. Statement by Thomas Kadri, "Constitutionalizing Speech Platforms," Berkman Klein Luncheon Series, Harvard Law School, April 9, 2019.
155. Untitled paper submitted to Facebook (unpublished), American Association of Advertising Agencies, Advertiser Protection Bureau (APB), May 17, 2019.
156. *Draft Charter: An Oversight Board*, Facebook, 5.
157. Menlo Park roundtable participant.
158. Kevin Wei, respondent to the Facebook Oversight Board Consultation. See Appendix C, 36.
159. *Draft Charter: An Oversight Board*, Facebook, 5.
160. Singapore workshop participant; Geneva roundtable participant; Zagreb roundtable participant.
161. Brussels roundtable participant.
162. *Oversight Board to Review Facebook's Content Decisions*, Global Partners Digital, 4.
163. New York City workshop participant.
164. *Facebook's Oversight Board for Content Decisions Must Promote Greater Transparency*, New America's Open Technology Institute (OTI).
165. Enrique Armijo, respondent to the Facebook Oversight Board Consultation.
166. "Facebook oversight board: Recommendations," Article 19.
167. "The Board should also be permitted to interview relevant Facebook staff and contractors, including content moderators and members of the policy, legal, product design and engineering teams." See Mandate of the Special Rapporteur, Kaye, 5.
168. *Oversight Board to Review Facebook's Content Decisions*, Global Partners Digital, 4.
169. Nairobi workshop participant; Mexico City workshop participant; Singapore workshop participant.
170. New York City workshop participant.
171. *Draft Charter: An Oversight Board*, Facebook, 4.
172. Statement by Evelyn Aswad, "Town Hall Meeting on Facebook's Oversight Board," Center for International Business and Human Rights," University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
173. "Facebook oversight board: Recommendations," Article 19.
174. New Delhi workshop participant. Some observers asked "are interveners permitted to submit amicus briefs?" See Theil and O'Regan, *Comments on Facebook's draft Charter*, 12.
175. Nairobi workshop participant; Singapore workshop participant; Bratislava roundtable participant.
176. *Oversight Board to Review Facebook's Content Decisions*, Global Partners Digital, 4.
177. Pallero, *Protecting Free Expression in the Era of Online Content Moderation*, 12.
178. *Draft Charter: An Oversight Board*, Facebook, 3.
179. Statement by Thomas Kadri, "Constitutionalizing Speech Platforms," Berkman Klein Luncheon Series, Harvard Law School, April 9, 2019. [NB: *Stare decisis* is a legal term referring to precedence.]
180. Singapore workshop participant.
181. See Appendix B, 20.
182. Singapore workshop participant.
183. Tel Aviv roundtable participant.
184. Stewart Foss, respondent to the Facebook Oversight Board Consultation.
185. Marcio Malmegrin, respondent to the Facebook Oversight Board Consultation.
186. Ronald Davenport, respondent to the Facebook Oversight Board Consultation.

187. Andrew Jay Schwartzman and Mark MacCarthy, co-respondents to the Facebook Oversight Board Consultation.
188. Singapore workshop participant.
189. Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 88.
190. Washington D.C. roundtable participant; Brussels roundtable participant.
191. *Draft Charter: An Oversight Board*, Facebook, 5.
192. “Facebook oversight board: Recommendations,” Article 19.
193. Brussels roundtable participant. According to Kevin Wei, respondent to the Facebook Oversight Board Consultation, “the Board should also have the ability to recommend policy changes to Facebook, which should be treated as recommendations and not as binding.” Similarly, Global Digital Partners states that “these should not be binding on Facebook in the same way as its decisions about specific pieces of content.” See *Facebook’s Oversight Board Public Consultation: Global Partners Digital Submission*, Global Partners Digital, May 2019, <https://www.gp-digital.org/wp-content/uploads/2019/05/Facebook-Oversight-Board-Public-Consultation-GPD-Submission.pdf>.
194. New Delhi workshop participant.
195. Saswati Saha Mitra, respondent to the Facebook Oversight Board Consultation.
196. Douek, “Facebook’s ‘Oversight Board.’ Move Fast,” 22. Also, according to Samples, “the emphasis on independence from the business contains a truth: a board dedicated to maximizing Facebook’s quarterly returns might have a hard time gaining legitimacy. But the board’s deliberations should not be completely independent of Facebook. Facebook needs to make money to exist. Doing great harm to Facebook as a business cannot be part of the remit of the board.” See John Samples, “What’s Missing from Facebook’s Oversight Board,” Cato Institute, February 5, 2019, <https://www.cato.org/blog/whats-missing-facebooks-oversight-board>.
197. *Facebook’s Oversight Board Public Consultation: Global Partners Digital Submission*, Global Partners Digital.
198. Rossi, “Our Thoughts on Facebook’s Oversight Board.”
199. *Facebook’s Draft Charter: Joint Statement*, Global Digital Partners et al.
200. *Draft Charter: An Oversight Board*, Facebook, 4.
201. Singapore workshop participant.
202. Singapore workshop participant.
203. Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 84.
204. Kadri and Klonick, “Facebook v. Sullivan,” 42.
205. New Delhi workshop participant; Nairobi workshop participant. “Financial independence is perhaps best achieved through a trust endowed by Facebook and managed by independent trustees ...” See Theil and O’Regan, *Comments on Facebook’s draft Charter*, 2. “The Board should be funded by an independent trust.” See Fabricio B. Pasquot Polido, respondent to the Facebook Oversight Board Consultation.
206. Statement by Brent Harris, “Town Hall Meeting on Facebook’s Oversight Board.”
207. Anne Collier, respondent to the Facebook Oversight Board Consultation.
208. “Delegating operation to a university with a long term contract would be workable.” Andrew Jay Schwartzman and Mark MacCarthy, co-respondents to the Facebook Oversight Board Consultation. “The Oversight Board should be independently administered by a university.” Christina Athanasiou, respondent to the Facebook Oversight Board Consultation.
209. Marcio Malmegrin, respondent to the Facebook Oversight Board Consultation.
210. Ronald Davenport, Jr., respondent to the Facebook Oversight Board Consultation.
211. Nils Parker, respondent to the Facebook Oversight Board Consultation.
212. Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 74.
213. Laroia and Scurato, “Free Press Comments on Facebook Oversight Board,” 3.
214. Zagreb roundtable participant.
215. Mexico City workshop participant; Berlin workshop participant.
216. Washington D.C. roundtable participant.
217. Bratislava workshop participant.
218. Singapore workshop participant; Nairobi workshop participant.
219. Bratislava roundtable participant; Geneva roundtable participant.
220. *Draft Charter: An Oversight Board*, Facebook: 1 and 4.
221. *Facebook’s Draft Charter: Joint Statement*, Global Digital Partners et al.
222. *Facebook’s Draft Charter: Joint Statement*, Global Digital Partners et al.
223. *Facebook’s Oversight Board Public Consultation: Global Partners Digital Submission*, Global Partners Digital.
224. Statement by Bob Latham, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights, University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
225. Statement by Bob Latham, “Town Hall Meeting on Facebook’s Oversight Board.”
226. New York City workshop participant.
227. Zagreb roundtable participant.
228. Anne Collier, respondent to the Facebook Oversight Board Consultation.
229. Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 84.
230. Statement by Megan Lambert, “Town Hall Meeting on Facebook’s Oversight Board,” Center for International Business and Human Rights, University of Oklahoma College of Law, May 31, 2019, <https://www.facebook.com/OUCollegeofLaw/videos/622217908258003/>.
231. Statement by Evelyn Aswad, “Town Hall Meeting on Facebook’s Oversight Board.”
232. Bratislava roundtable participant; New Delhi workshop participant; and Brussels roundtable participant.
233. *Facebook’s Oversight Board for Content Decisions Must Promote Greater Transparency*, New America’s Open Technology Institute (OTI).
234. Theil and O’Regan, *Comments on Facebook’s draft Charter*, 11.
235. Washington D.C. roundtable participant.
236. Laroia and Scurato, “Free Press Comments on Facebook Oversight Board,” 3.
237. Anonymous respondent to the Facebook Oversight Board Consultation. See Appendix C, 89.
238. *Draft Charter: An Oversight Board*, Facebook, 3.
239. Geneva roundtable participants.
240. Statement by Thomas Kadri, “Constitutionalizing Speech Platforms,” Berkman Klein Luncheon Series, Harvard Law School, April 9, 2019.

241. The values of “safety,” “voice” and “equity” are presented in the Community Standards. They are used to formulate policies along with efforts to also “base ... policies on input from our community and from experts in fields such as technology and public safety.” As stated, “the goal of our Community Standards is to encourage expression and create a safe environment.” See *Community Standards*, Facebook, <https://www.facebook.com/communitystandards/introduction>.
242. Thomas Kadri, “How Supreme a Court?” *Slate*, November 19, 2018, <https://slate.com/technology/2018/11/facebook-zuckerberg-independent-speech-content-appeals-court.html>. Klonick and Kadri also say that “Facebook should consider — especially if it continues to act as a type of governing body — adopting something like a constitution that is harder to amend than its ever-shifting content-moderation rules, which it could alter mercurially to get around decisions issued by its court that it doesn’t like.” See Klonick and Kadri, “How to Make Facebook’s ‘Supreme Court’ Work.”
243. Feldman, “Facebook Supreme Court,” 2.
244. Madrid roundtable participant.
245. Douek, “Facebook’s ‘Oversight Board:’ Move Fast,” 23.
246. Douek, “Facebook’s ‘Oversight Board:’ Move Fast,” 24.
247. *Mandate of the Special Rapporteur*, Kaye, 2.
248. Bratislava roundtable participant; Mexico City workshop participant.
249. “Facebook oversight board: Recommendations,” Article 19.
250. *Mandate of the Special Rapporteur*, Kaye, 2-3. See also Evelyn Mary Aswad, “The Future of Freedom of Expression Online,” *Duke Law & Technology Review* 17, rev. 26 (2018): 60, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1331&context=dltr>. Aswad notes: “a rigorous and good faith interpretation of ICCPR Article 19’s tripartite test of legality, necessity, and legitimacy would bring company speech codes much closer to First Amendment standards than what is currently happening with the curation of speech on platforms.”
251. Carlos Cortés, “Comments on Facebook Oversight Board Proposal,” *LinternaVerde*, June 4, 2019, paper submitted directly to Facebook on June 4, 2019.
252. Evelyn Douek, “U.N. Special Rapporteur’s Latest Report on Online Content Regulation Calls for ‘Human Rights by Default,’” *First Amendment* (blog), Lawfare, June 6, 2018, <https://www.lawfareblog.com/un-special-rapporteurs-latest-report-online-content-regulation-calls-human-rights-default>.
253. Douek, “U.N. Special Rapporteur’s Latest Report on Online Content Regulation Calls for ‘Human Rights by Default.’”
254. Brussels roundtable participant.
255. Berlin workshop participant.
256. Nicolas Suzor, “Facebook’s Oversight Board and the challenges of making policy we can trust,” *Digital Social Contract*, May 27, 2019, <https://digitalsocialcontract.net/facebooks-oversight-board-and-the-challenges-of-making-policy-we-can-trust-9088482601b8>.
257. Aswad, “The Future of Freedom of Expression Online,” 69.
258. Similarly, as Facebook clarified last year, the Oversight Board will provide “a way to appeal *content decisions*.” Emphasis added. Zuckerberg, “A Blueprint for Content Governance.”
259. Douek, “Facebook’s ‘Oversight Board:’ Move Fast,” 10.
260. Dubai roundtable participant; Ottawa roundtable participant.
261. New Delhi roundtable participant; New York City workshop participant.
262. Brussels roundtable participant.
263. Douek, “Facebook’s ‘Oversight Board:’ Move Fast,” 10.
264. *Draft Charter: An Oversight Board*, Facebook, 3.
265. Douek, “Facebook’s ‘Oversight Board:’ Move Fast,” 9.
266. New York City workshop participant.
267. Statement by Brent Harris, “Town Hall Meeting on Facebook’s Oversight Board.”
268. New York City workshop participant.
269. Singapore workshop participant.
270. Rosenberg, “Facebook’s constitutional moment.”
271. Tel Aviv roundtable participant.
272. Berlin workshop participant.

This report was written by Zoe Mentel Darmé and Matt Miller of Facebook, together with Kevin Steeves, an independent researcher. A large team of partners supported the global effort to gather all the feedback in this report, including Facebook's regional public policy teams across Europe, Latin America, the Asia-Pacific region, North America, Africa, and South Asia, as well as Baker McKenzie and George P. Johnson, who helped to plan and execute the public consultation and global workshops, respectively.

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