Biography

Kate Klonick is an Assistant Professor at St. John’s University Law School and an Affiliate Fellow at Yale Law School’s Information Society Project. Her research on networked technologies’ effect on social norm enforcement, freedom of expression, and private governance has appeared in the Harvard Law Review, New York Times, New Yorker, The Atlantic, The Guardian and numerous other publications.

Abstract

For a decade and a half, Facebook has dominated the landscape of digital social networks and has evolved to become one of the most powerful arbiters of online speech. Twenty-four hours a day, seven days a week, over 2.5 billion users leverage the platform to post, share, discuss, react to, and access content from all over the globe. Through a system of semi-public rules called “Community Standards,” Facebook has created a body of “laws” and a system of governance to administer those rules, which dictate what users may say on the platform. As their immense private power over the public right of speech has become more visible, Facebook has come under intense pressure to become more accountable and transparent—not only in how it creates its fundamental policies for speech, but in how it enforces them. In answer to years of entreaty from the press, advocacy groups, and users, CEO and Founder Mark Zuckerberg announced in November 2018 that Facebook would create an independent oversight body. The express purpose of this institution was stated to be to serve as an appellate review of user content and to make content moderation policy recommendations to Facebook. This Article empirically documents the creation of what is now called the Facebook Oversight Board. It is the first time a private transnational company has voluntarily jettisoned a portion of its core policy and product decisions to a self-regulating independent entity. The Article begins with a detailed history of content moderation and online speech at Facebook and then gives a description of the 18-month process of creating the Board, a massive endeavor, both in terms of philosophical aims and practical articulation. Finally, this Article analyzes the Oversight Board creation process and the final decisions for Board formation to facilitate public understanding of the Board’s role in online governance, its chances for success, its potential impact on industry standards, and how it can be leveraged by users to create accountability around issues of private governance of global online speech.