

CHAPTER I

INTRODUCTION

A. Problem Background

Digital Rights in the most used terms are defined as the rights that derived from the fundamental rights which is “*Right to Freedom of Speech and Expression, Right to Equality and Right to Life and Personal Liberty*” in the digital space, all these forms of rights led to the right to live freely without unjust imprisonment, and discrimination. Digital rights also refer to the rights of individuals to access, use, create, and share digital information and content in the online world, as well as the rights to privacy, security, and freedom of expression in the digital space.¹ These rights aim to ensure that individuals have the freedom to participate in the digital environment while being protected from abuse, exploitation, and violations of their personal freedoms. Digital rights encompass a wide range of issues, including online freedom of speech, net neutrality, and digital inclusion.

Digital Rights basically have never been officially defined in any of International Agreements, meaning that they do not yet have a certain and legally recognized definition. Despite that, there are dozens of definition regarding “Digital rights” as stated by the experts that can be found through some research, or as explained by International Organizations such as *Digital Freedom Fund* (DFF) in Europe, *EngageMedia* in Asean, and *ACCESNOW*, these Non-Profit International organizations dedicated to defending the digital rights of people and communities at risk around the world. In Addition, there are various legal basis that initiatives and expound on digital rights’ various elements. For example, there are the Charter of Human Rights and Principles for the Internet by the *Internet Rights and Principles Dynamic Coalition* and also the *Internet Rights Charter*², Both of Charters outline how human rights standards should be interpreted to apply to the online environment.

In the campaign agenda held by the *EngageMedia*, stipulated that:

“Digital rights involved all fundamental human rights in the digital environment. That’s all including all about free speech or freedom of expression also association and assembly and access to internet devices, access and rights to information, access to platforms (i.e. Facebook, Twitter, and more), online safe space, security

¹ Kouroupis, D. K., & Vagianos, D. (2021). Freedom of expression and digital rights in social media: Challenges and risks. *Journal of Data Protection & Privacy*, 4(3), p. 294-302.

² UN, (2011). Charter of Human Rights and Principles for the Internet by the *Internet Rights and Principles Dynamic Coalition* at the UN *Internet Governance Forum* (IGF), p. 13-17.

and safety, privacy and data protection, gender-responsiveness and anti-discrimination, and equality.”³

Meanwhile, The ACCESNOW has declared that The Human Rights Council has already spearheaded the recognition of “*Digital Rights*” at the UN Since 2012⁴, they declared that :

“UN has led various iterations of the Internet, addressing digital topics through a human rights perspective.”

In recent times, the General Assembly followed suit. In 2023, it passed — by consensus — a resolution on the promotion and protection of human rights in the context of digital technologies.⁵ This may be the first time the General Assembly has advanced a holistic dedicated resolution in order to address digital technologies in human rights perspective, but still, the necessity to create the “Legal Terms” of “Digital Rights” it’s something that essential in the field of International Law.

The News Media publications and the opinion of each individual become freely and widely spread and expressed in the space called Social media platforms. Social media platforms refers to a service that hosts user-generated content and facilitates interaction among users. One of the biggest and well known social media platforms is Meta, which is owning *Instagram, Facebook and WhatsApp*. Social media platforms are under political pressure to regulate the content shared by their users. This content moderation presents a challenge: balancing the necessity to remove harmful material like hate speech, graphic violence, and misinformation with the goal of preserving freedom of expression. Ideally, these decisions should be made transparently and in a way that prevents the platforms from being seen as prioritizing profits over potential societal damage.

In this current context of social media platforms, Meta has been reportedly restrict, take down and removed content, and account of it’s users. These several cases could be the reason that indicated that Meta has fail to comply the digital rights of it’s users. Between October and November 2023, Human Rights Watch recorded more than 1,050 kind of content being removed, takedown or suppressed on Instagram and Facebook. This content, posted by Palestinians and their supporters, included material about human rights violations.

³ Official website of Engage Media, (2022), <https://engagemedia.org/project-program/digital-rights/> accessed 28 July 2025, p. 1-2.

⁴ ACCESNOW, (2023). *WAVERING RESOLUTIONS: THE UN SECURITY COUNCIL ON DIGITAL RIGHTS* Digital, cyber, and human rights in the language of UN Security Council resolutions between 2001-2023 accessnow.org, p. 1-5

⁵UNGA, (22 December 2023). *Promotion and protection of human rights. A/RES/78/213*, p. 4-8

Human Rights Watch also actively invited reports of any form of online censorship or viewpoints related to Israel and Palestine.⁶ Meta has been established form of board in 2020 namely “*Oversight Board*” is an independent body that was established to provide an additional layer of accountability and transparency regarding content moderation decisions on Meta’s platforms, such as Facebook and Instagram. Despite it has it’s own website to run it’s function the background and purpose of the board are made directly for Meta, that is the reason why the board called “Meta’s Oversight Board” or the Meta’s OB . The board functions works as kind of “*Dispute Resolution Mechanism*” for content moderation, with the power to review and overturn decisions made by Meta’s internal teams regarding whether content should be allowed or removed. This new board in one hand could strengthen the digital rights of Meta’s Users but on the other hand it is also possible to gain more power to restricting the digital rights of Meta’s User.

Meta’s Platforms have a big role in disseminating the voice of the society’s Nationalism, Spreading more information all around the world, including in the field of International Human Rights Law and Humanitarian Law Conflict. The question is; What does Meta’s Oversight Board’s Role in digital rights based on the principal of international law this analyse will lead to the answer of how the “Oversight board’s role in digital rights” effects International Community. In the case of Social media companies, including Meta, they consciously bear the responsibility Under the Principle of International Bills of Human Rights⁷ and also under the International Telecommunication Law.

In September 2023, Al Jazeera channel airs an investigation Titled “*Closed Space*”⁸, shedding light on the targeting of Arabic content on social media platforms. The investigation documents, through leaks and exclusive interviews, shows the mechanisms used to target Arabic content, particularly Palestinian content, and to restrict and ban thousands of Arabic accounts and terms in a controversial manner. The program team conducted independent research and experiments over months to test the mechanisms of blocking and restricting, particularly on Facebook, which has received the lion’s share of accusations and criticism of targeting Arabic and Palestinian content. The program was able to interview several officials involved in the file, including former Facebook officials and human rights activists. The program host also met with a member of Meta’s Oversight Board to respond to the investigation’s findings. This Investigation shows that many of Meta’s users has been aggrieved to be not allowed to having their basic rights to “shows the truth” in their owns account and this led to the

⁶ Human Rights Watch, (2023). *Systemic Censorship of Palestine Content on Instagram and Facebook*, December, p.10.

⁷ *Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1976, International Covenant on Economic Social and Cultural Rights 1976.*

⁸ The Program Broadcasted in the Official Youtube Channel Of Al-Jazeera namely; “*What’s Hidden is Greater*”, and The Investigation titled “*Closed Space*”, Presented by: Tamer Al-Meshal, accessible link :<https://youtu.be/cnj0rmnsAdI?feature=shared>

justification of such conduct by the perpetrators of international crimes and demonization the right one through the “double standard framing” by the Meta’s Platforms itself.⁹ Thus, it’s important to Meta’s Oversight board to have the ability to moderate and balancing between the freedom of rights and the acts against international crimes that currently blow up in the middle east and not just in the middle east but as well as for all the unrepresented group in the International Community.

Based on the above explanation, it proliferates the interest of author to analyse the role of Meta’s Oversight board (OB) in the field of Digital rights, what does Oversight Board’s role comply with digital rights under International Law, How the jurisdiction in the field of International Telecommunication Law, the OB’s Authority, and how does it comply the International Human Rights Law based on several principal, and this research will also analyse how the OB’s can be able to address the conduct of *Cencorship, Shadow-Ban & Removing Content, deletion, and restricton* by Meta’s authority, which still exist in this current situation.

B. Research Question

1. What does the Meta’s Oversight Board’s Role in digital rights?
2. How does the Meta’s Oversight Board’s role comply with digital rights under International Law?

C. Research Purpose and Benefit

a. Research Purpose

The purpose of this research are as follows:

1. To analyse the Meta’s Oversight Board’s Role in digital rights
2. To analyse How does the Meta’s Oversight Board’s role comply with digital rights under International Law

b. Research Benefit

The benefit of this research are as follows:

1. Theoretically, the result of this research intends to enlighten the readers and author upon the problem that massively occurs in Social Media Platforms particularly due to the bias ‘*Law in Action*’ of content moderation rules/policy that might be committed by any social media’s platforms, and this research will highlighting the role of ‘Oversight Board’ in the field of International Law, all of these subjects may become a source of reference for future research.
2. Practically, the result of this research intends to contribute to the development of International Human Rights law, International Telecommunications Law and Policy spesifically in the Digital and communication governance, moreover it can also contribute to the development of, and source of evidence in the

⁹ Pérez Castro, V. (2024). *How States and the Media Build Strategic Narratives: The Case of the Israeli-Palestinian Conflict in Western Media*, p. 12-13.

International Humanitarian Law, and policymaking in general level.

D. Research Originality

This thesis with the title ***“International Legal Analysis Toward Meta’s Oversight Board’s Role In Digital Rights”*** is originally written by author’s self through analyzing the growing concern of digital right’s in light with Meta Platforms cases, and has never been conducted before based on the results of the literature searching. To compare, there are several significant differences between the current author’s scope of research and prior published research as follows:

1. Author : Lisa Miralda Namara	
Title : Tinjauan Yuridis penghapusan video dalam media Youtube oleh Google (2010-2020) di Indonesia sebagai pembatasan terhadap hak atas kebebasan berekspresi berdasarkan Hukum HAM Internasional	
Category : Bachelor Thesis	
Year : 2021	
Institution : Faculty of Law, Trisakti University	
Description of Previous Research	Research Plan
Problems & Issues : <ol style="list-style-type: none"> 1. Does the removal of videos on the YouTube platform by Google (during the period 2010-2020) in Indonesia constitutes a restriction on the right to freedom of expression? 2. Does the internal appeal mechanism provided by Google for Indonesian video content removed from YouTube during the period 2010-2020 complies with international human rights law norms? 	<ol style="list-style-type: none"> 1. What does the Meta’s Oversight Board’s Role in digital rights? 2. How does the Meta’s Oversight Board’s role comply with digital rights under International Law?
Research Methods : Normative	Normative
Results and Recommendation : The obligation of multinational companies to respect the human rights of every individual in their business activities is a new concept contained in an instrument called UN	

Guiding Principles on Business and Human Rights which is the embodiment of the codification of customary international law. In a practical order, the concept of the obligation of multinational companies to respect human rights is still not complied with by a number of multinational companies, including Google in guaranteeing the protection of the right to freedom of expression of every user of the YouTube service owned by Google itself. The conclusions of this study are: the removal of Indonesian video content on YouTube by Google has been in accordance with the UNGP; and the internal appeal mechanism provided by Google does not meet the requirements set out in the UNGP.	
Author :	Ruby O’Kane
Title :	“Meta’s Private Speech Governance and the Role of the Oversight Board: Lessons from the Board’s First Decisions.”
Category :	Research Article
Year :	2022
Institution :	Stanford Law School, Stanford University
Description of Previous Research	Research Plan
Problems & Issues : This research tends to examine and analyze The Oversight Board, Starting handling its decisions in early 2021. Impelemnting it’s act as a “Supreme Court”-type body for Meta’s speech governance regime, this research stated that the new institution (Oversight Board) has been untransparent with doubts from its inception.	<ol style="list-style-type: none"> 1. What does the Meta’s Oversight Board’s Role in digital rights? 2. How does the Meta’s Oversight Board’s role comply with digital rights under International Law?
Research Methods : Normative	Normative
Results and Recommendation :	

This research reveals that the analysis of the Board's first decisions shows its willingness to criticize the maker. However, the decisions also shows the Board's institutional pitfalls.

The Oversight Board is the pivotal player in the emerging private governance structure of online speech and speakers. It has, largely of its own volition, creating methodology for its decision-making based on the framework of International Human Rights Law (IHRL) and norms, Especially those around freedom of expression, limitations on this freedom basis from to the principles of proportionality, necessity, and legitimacy. However, this creating an internal incoherency with Meta's speech governance regime.

E. Theoretical Basis/ Conceptual

1. The Concept of Digital Rights in the field of International Law

It is necessary to trace the aspect of the Digital Rights policies and the rationale for the practices in order to comprehend the logic behind the development of Digital Rights based on International Human Rights Law and International Telecommunication Law. In the context of International Human Rights Law, Digital Rights work in the area of "Human Rights in the Digital Space" which has been explain by many of the experts of International Law. Meanwhile in the context of International Telecommunication Law, Digital Rights mostly work in more specific areas such as (i) Data Protection and Privacy (ii) Cybersecurity and in regard with this research International Telecommunication Law also work in (iii) Cross-Border Regulation, and (iv) Access to Information.

1.1 International Human Rights Law

As the matter of facts that Human rights law was established before the advent of the internet, mobile phones, and social media which making it impossible .to foresee the human rights challenges posed by digitalization. These challenges include issues like regulating global social media companies,

addressing gender and racial biases in AI algorithms, combating automated disinformation, deepfakes, and the unauthorized collection of personal and copyrighted data through surveillance capitalism and generative AI.

The concept of human rights is certainly a dynamic one and has been subject to change and expansion, as can be seen from the various definition of the experts, among them are :

*“The essence of the concept of Human Right is that every individual has certain inalienable and legally enforceable rights protecting him or her against state interference and the abuse of power by governments. These so called civil rights and fundamental freedoms are, for example, the right to a fair trial, freedom of religion or freedom of speech”.*¹⁰

*“Internationally defined Human Rights or ecological norms represent common spiritual assets where States can no more assert their exclusive sovereignty, even within their territory [than] they could over areas of space which extend above their air-space.”*¹¹

In relation to this research, the concept of Digital Rights definitely derived from Human rights law as what explained above. To date, the digitalization of work has led to human rights abuses, particularly for data labelers, and online content moderators. In light with the matter of Content Moderation, the pivotal framework that will be useful to examine such “Content Governance/ Content moderation” matter is the Article 19 of International Covenant on Civil and Political Rights, that constituted:

1. *“Everyone shall have the right to hold opinions without interference.”*

2. *“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”*

3. *“The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

¹⁰ Peter Malanczuk, (1997) AKEHURST'S ; *Modern Introduction To International Law*, Seventh revised edition, published in the Taylor & Francis e-Library, Routledge, p. 209.

¹¹ Andrew Clapham, (2012), *"Brierly's Law of Nations" An Introduction to the Role of International Law in International Relations*, seventh edition, Oxford University Press, p.166.

(a) For respect of the rights or reputations of others;; (b) For the protection of national security or of public order (ordre public), or of public health or morals.”¹²

This research will examine several cases from the user and also the user that come from some countries along with Article 19 Framework. As the matter of fact that while the digitalization of social protection has helped many, it has also further excluded the most marginalized groups. This is the reason why “Human Rights Law” still exist in the digital eras in the forms of Digital Rights.

1.2 International Telecommunication Law

The International Telecommunication Union (ITU) has provided a comprehensive and more technical definition of ‘telecommunication’. In this respect the Constitution of the ITU defines ‘telecommunication’ as:

“any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.”¹³

International Telecommunications Law is the International law that encompasses the legal rules or agreements or other legal principles that govern the international telecommunication relations or activities of States as well as international organizations and individuals This includes the regulatory frameworks or agreements that govern the construction and operation of international telecommunication networks such as communication satellites and submarine cables, It also involves the regulations related to the allocation and management of limited telecommunications resources, such as the radio-frequency spectrum, as well as the governance of international and regional telecommunication services.¹⁴

Despite frequently associated with Media Law and others sub- of Law, Telecommunication Law maintains an independent conceptual framework. Telecommunication Law could be analogically equivalent to Civil Law as a broader legal category (*genus*), whereas Media Law parallels Marriage Law as a specific subcategory (*genre*).¹⁵ Telecommunication Law serves as the foundational Legal framework for all aspects of Telecommunications, encompassing areas such as

¹² International Covenant on Civil and Political Rights (adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 19 (a-b).

¹³ The Constitution of the International Telecommunication Union (ITU) published in ITU, Collection of the Basic Texts of the International Telecommunication Union (ITU: Geneva, 2011), p. 56.

¹⁴ Orji, U. J. (2018) “International Telecommunications Law and Policy,” Cambridge Scholars Press, p. 23.

¹⁵ Judhariksawan, (2005), Pengantar Hukum Telekomunikasi, PT Raja Grafindo Persada: Jakarta, p. 8.

Media Law, Radio Communication Law, Telematics Law, and Information Technology Law, Its development and application are informed by various legal disciplines, including International Law, International Air Law, International Space Law, the Law of International Organizations, Human Rights Law, Intellectual Property Law, Consumer Protection Law, Competition Law (particularly in the context of liberalization), Criminal Law as it pertains to telecommunications, and Contract Law, especially with regard to equipment leasing and e-commerce transactions.¹⁶

International Telecommunication Law has the ability to address issues related to Digital Rights, including in the context of content moderation in Social Media Platforms. Despite the fact that it typically does so in a broader context not really in specific way. However, The International Telecommunication law also focuses on the regulation of communication infrastructures, networks, and international data flow these includes Data Protection and Privacy, Cross-Border Regulation, Access to Information, particularly the Cross-Border Regulation and acces to information. Telecommunication law can also regulate the flow of information, which content moderation on social media platforms often deals with balancing free expression with preventing harmful content, a matter that intersects with international norms for communication, such as those involving the International Telecommunication Union (ITU), could influence guidelines or frameworks for how countries cooperate on regulating internet services, including social media platforms. This in line with one among the mandates of the ITU as established under its Constitution include in the paragraph (g);

(g) : “to undertake studies, make regulations, adopt resolutions, formulate recommendations and opinions, and collect and publish information concerning telecommunication matters.”

In conclusion, while the ITU does not directly regulate content moderation on social media platforms, ITU role in global telecommunications policy, standards, and international cooperation could shape the broader framework within which these platforms operate, particularly regarding access, data protection, and cross-border communications. So, while International Telecommunication Law might not directly regulate content moderation practices, it can influence the broader legal framework within which these practices occur.

The Budapest Convention on Cybercrime (2001)

Several Countries have already ratified the Budapest Convention on Cybercrime and in regards with “Digital Rights Violation” context, Including the United States, where Meta’s corporate headquarters is located. Meta’s platforms were heavily used during the Rohingya crisis to spread hate

¹⁶ Judhariksawan, *Ibid*, p. 16.

speech and disinformation and it's conduct approved by Meta itself. In 2018 UN Fact-Finding Mission report concluded that Facebook had played a "determining role" in the crisis by amplifying hate speech and enabling the spread of dehumanizing propaganda against the Rohingya.¹⁷ UN investigators highlighted Facebook's role in exacerbating ethnic violence. Therefore, in 2021, Rohingya refugees then filed a \$150 billion lawsuit against Meta, accusing it of failing to prevent the spread of hate speech and misinformation that contributed to the genocide.¹⁸

The ICJ does not have a direct mandate to handle the allegedly platform's company cases like those involving cybercrime and the breach of digital rights. However, there is international efforts to address cybercrime, mostly like the Budapest Convention frameworks, the cases of digital rights are handled through criminal investigations, extradition requests, and international cooperation, it facilitates cooperation between countries in criminal matters related to cybercrime, including crimes that may involve media outlets. There have been cases where international disputes related to digital rights on media outlets or critical infrastructure have arisen, and Budapest convention can facilitate it the cross-border collaboration in addressing the cases, particularly when the perpetrators are states or international criminal organizations. Budapest Convention itself does not directly impose sanctions or penalties on individuals or states that fail to comply. However, there are several mechanisms through which non-compliance with the Budapest Convention can result in consequences, Therefore, the article on Budapest Convention that can possibly address the digital rights regarding Meta's regulation issues are hereunder:

Article 12 – Corporate liability

Article 15 – Conditions and safeguards

Article 23 – General principles relating to international co-operation

Article 25 – General principles relating to mutual assistance

Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements.¹⁹

¹⁷ Amnesty International, (2022). *The Social Atrocity: Meta and the Right to Remedy for the Rohingya* ; Global Witness, "Facebook Approves Adverts Containing Hate Speech Inciting Violence and Genocide against the Rohingya," London. 20 March 2022; Global Witness, "Algorithm of Harm: Facebook Amplified Myanmar Military Propaganda Following Coup," 23 June 2021; Rio, *The Role of Social Media in Fomenting Violence*, p. 15.

¹⁸ Schissler, M. (2024). *Beyond Hate Speech and Misinformation: Facebook and the Rohingya Genocide in Myanmar*. *Journal of Genocide Research*, p. 1-26.

¹⁹ COUNCIL, O.E., 2001. *Convention on Cybercrime*, Nov. 23, T.I.A.S. 13174, E.T.S. No. 185, <http://perma.cc/4KKP-2YM7> [hereinafter Budapest Convention]. Article 12-27, p. 3-8.

1.3 Digital Rights

There are at least three ways of understanding The Concept of Digital Rights based on the research published by Brighton Institute of Development Studies²⁰, These three ways are:

(i) Digital rights Understood as legal entitlements.

As “Legal entitlements” Digital rights are understood as existing human rights when using digital technologies. They are the legal freedoms that every individual has entitled to for the sake of international Human Rights Law. The Universal Declaration of Human Rights provides every individual with 30 essential human rights and these rights guarantee various freedoms and protections for all people, among other things:

- The right to privacy of correspondence (Article 12)
- The right to freedom of opinion and expression and to receive and impart information over any media regardless of frontiers to free expression (Article 19)
- The right to free association and assembly (Article 20)
- The right to take part in the life of the community including collective political (Article 21)
- Cultural life (Article 27)
- Form or join a trade union (Article 23).

These rights officially in this current situation clearly established in International law that “The same rights that people have offline must also be protected online”.²¹ All human rights are universal, indivisible, and inalienable. This means that they apply to all people without exception, That all rights are of equal, crucial, interconnected and that they cannot be taken away, traded, or transferred. Governments can only suspend a human right if they are able to prove that doing so is ‘legal, necessary, and proportionate’ to secure a legitimate aim.

In the context of several cases. Some countries may be able to suspend the right to privacy of terrorists if it can show a judge evidence that a serious crime is being planned. Then how about the International Crimes that officially and legally recognized and declared by The International law? Clearly It is evident that the Advisory opinion 19 July 2024 by the International Court of Justice²², and along with the United Nation General Assembly (UNGA) Resolution 13 September 2024²³ shows the Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory. Hence. The

²⁰ Roberts, T. (2025) Understanding Digital Rights: Definitions, Conceptions, and Myths, Brighton: Institute of Development Studies, DOI: 10.19088/IDS.2025.014, p. 9.

²¹ Roberts, T. *Ibid*, p. 10.

²² ICJ, (2024). Summary of the Advisory Opinion of 19 July, <https://www.icj-cij.org/node/204176>

²³ UN General Assembly, (2024). A/ES-10/L.31/Rev. p. 6.

country or private company are responsible to comply the International Law; protecting and securing all the human rights at all cost.

(ii) Digital rights understood as a framework

Another way to understanding the Digital rights are a framework for evaluating technology initiatives and policies. These rights are frequently used as a framework to assess the implementation of new technologies and initiatives in society. Understanding the context of Digital Rights as a framework also beneficial because the extent to the human rights in digital field can be a useful way to evaluate the introduction of new technologies, projects, or policies. Digital rights non-profit or for profit organisations, whether it's from Government or mostly Non-Government Organizations and researchers have applied digital rights as a framework for workers' evaluation of the digitalisation of social protection, To examine the consequences of online surveillance, to assess the implications of digital disinformation and also internet shutdowns. The fact that almost all countries right now are signatories to the UDHR can offers and provides a solid strong platform for collective action internationally. These Platforms include, among others; *Access Now's* #StopSilencingPalestine and #KeepItOn are campaigns by *AccesNow* that advocated to stop the censorship and advocated around internet shutdowns, there also APC's campaigns on online gender-based violence and promotion of a feminist internet, and so much more examples that can be found on the internet or these Organizations website.

(iii) Digital rights understood as collective action

The way to understood Digital Rights and the closest way to understand this research because it will be used to carried out the methods of this research is that Digital rights are also a form of collective action against technology injustices. Based on the definitions and also the fact that mostly Digital rights activists are human rights defenders. They use their voices, awareness, write and act respond to injustices by working to secure for everyone the ability to exercise, defend, and expand their rights. These people work at three levels:

*“(a) to mitigate immediate harms, (b) to reform policies and laws, and (c) to tackle the power relations that give rise to rights violations and injustice. This three-tiered strategy is sometimes referred to as the ‘conformist, reformist, transformist’ approach. Collective action is targeted at digital rights issues, including: (a) Access, (b) Bias, (C) Censorship.”*²⁴

²⁴ Roberts, Op. Cit, p. 15

The problem of three digital rights Issues that often be targeted by Collective Action above are the issues that massively occurs in the recent context, and each of them will be examine in this research.

- **Protection and Limitations of Human rights in the context of Digital Rights**

In the broad field of International Human Rights regarding the context of Digital Rights, the protection and limitation must exist in some of Rights, including the Digital Rights which understood as collective action, such as; a) Access, (b) Bias, (C) Censorship in the Social Media Platforms. Before we proceed with a more in-depth analysis, it's important to take a look what kind of rights that be restricted/limited and which the rights that International Law still protected. Based on the construction of international human rights law, the limitations on the uploading of content as outlined in the Meta's Community Guidelines closely intersect with the narrative of the right to freedom of expression, which is enshrined in several international instruments, including: (i) Article 19 of the Universal Declaration of Human Rights 1948 (UDHR); (ii) Article 19, 20 and 26 of the International Covenant on Civil and Political Rights 1966 (ICCPR).

In regards with this list of international human rights legal instruments, the ICCPR emphasizes that the right to freedom of expression may, in principle, be subject to limitations. This is reflected in Article 19, paragraph (3) of the ICCPR, which states the following;

(3). "The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary."

(a) "For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public)."

(b) "or of public health or morals."

Moreover, the formulation of limitations on the right to freedom of expression, including the freedom to disseminate content on the internet, was interpreted by UN Special Rapporteur Frank La Rue in 2011 into the following three cumulative principles:

1. Limitations must be provided by clear and accessible laws that are available to everyone.
2. Limitations are only permissible based on the objectives outlined in Article 19, paragraph (3) of the ICCPR (principle of legitimacy or legality); and
3. Limitations must be demonstrably necessary and a measure that is not excessively restrictive in achieving the intended goal (principles of necessity and

proportionality).²⁵

Furthermore, Frank La Rue specifically highlighted the types of digital content that should be limited under Article 19, paragraph (3) of the ICCPR. Such content includes: “(i) information containing child pornography (to protect children's rights); (ii) the dissemination of hate speech (to protect the rights of affected communities); (iii) defamation (to protect the rights and reputations of others from attacks by irresponsible parties, public incitement to commit genocide, and to protect the rights of others); and (iv) advocacy of nationalism, race, or religion that could incite discrimination, violence, or hostility (to protect the rights of others, such as the right to life).”²⁶

The same as the framework promulgated by U.N. Special Rapporteur, David Kaye, Kaye proffered a framework of standards for content moderation based on the ICCPR and UNGPs.

“The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression outlines how existing standards serve as a guide for governments exploring regulatory measures and for companies aiming to uphold human rights online. The report starts by introducing the international legal framework, with an emphasis on United Nations treaties and major interpretations of provisions related to so-called hate speech.”

Kaye emphasizes important obligations for States and discusses how companies can approach content moderation in ways that respect the human rights of both users and the broader public, concluding with recommendations for both States and companies. First, platforms must respect human rights “by default.” Platforms must make policy commitments aligning with IHRL, which should govern all decisions and policymaking. Second, where platforms restrict user expression, this limitation must be justified under the principles of legality, legitimacy, necessity, and proportionality.²⁷

1. Legality

Restrictions on speech must be grounded in clear, precise, public, and accessible laws. These laws should avoid vague or overly broad language that grants excessive discretion to authorities. Laws must be enacted through proper legislative or administrative processes and include procedural safeguards such as independent judicial oversight. This ensures that individuals know what is prohibited and that enforcement is fair and transparent.

2. Legitimacy

Any restriction must pursue the standard of legitimacy or legitimate aim as defined by international human rights law, specifically Article 19(3) of the ICCPR. Legitimate objectives include protecting the rights or reputations of

²⁵ La Rue, F. (2011). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression* (UN Human Rights Council, Seventeenth Session, 16 May 2011) A. HRC/17/27,[42], p. 24.

²⁶ Rue, F. *Ibid*, p. 25.

²⁷ David Kaye (Special Rapateur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Rep. of the Special Rapporteur on the Promotion and Prot. of the Right to Freedom of Op. and Expression, U.N. Doc. A/74/486 (Oct. 9, 2019), <https://perma.cc/T9TH-RBHX>. P.4.

others, national security, public order, public health, or morals. The legitimacy principle also demands that these aims are interpreted in a non-discriminatory and universal manner, not based solely on a single cultural or moral tradition.

3. Necessity

The process of Restrictions must be necessary to achieve the legitimate aim. This means the state must demonstrate a direct and immediate connection between the expression and the threat or harm it seeks to prevent. The restriction should be the least intrusive means available if there are probably any less restrictive ways to achieve the same goal, those must be used instead. For example, non censorial methods like education or anti-discrimination laws should be considered before limiting speech.

4. Proportionality

The restriction must be proportionate to the interest being protected. The benefits of the restriction to the public interest must outweigh the harm caused to freedom of expression. Proportionality acts as a double-check alongside necessity, ensuring that any interference with speech rights is justified and limited to what is strictly required.²⁸

These standards must be applied in the regulation or process of the content governance or content moderation rules, Platform rules must be not vague and explicit including any action taken must be in accordance with these rules. Platforms must provide how enforcement actions can be **“narrowly tailoring restrictions”** and such actions must be the least intrusive option available at the time. This framework shows a clear procedure for balancing of rights, ensures any limits on freedom of expression are based on specific enumerated circumstances that do not include private interest or profit. This Framework should be the reason that any social media platform must considering properly about speech decision-making and policies according to the principles of legality, necessity, and proportionality.

2. Content Governance and Content Moderation

Content governance is the concept that encompassing the policies, frameworks, and decision-making processes that determine how content moderation is designed, implemented, and overseen on digital platforms. It involves balancing competing values such as freedom of expression, public health, and accountability, often within complex political and social contexts.²⁹ Content governance is inherently political, involving trade-offs between fairness, justice, and the power dynamics of who controls speech online. Algorithmic moderation can obscure these political decisions behind technical processes.³⁰

²⁸ David Kaye, (2019) *ibid.* p. 4.

²⁹ Bowers, J., & Zittrain, J. L. (2020). Answering impossible questions: Content governance in an age of disinformation. p. 10.

³⁰ Gorwa, R., Binns, R., & Katzenbach, C. (2020). Algorithmic content moderation: Technical and political challenges in the automation of platform governance. *Big Data & Society*, 7(1), 2053951719897945. p. 6

Meanwhile, Content moderation refers to the specific practices and processes by which online platforms monitor, filter, review, and potentially remove or restrict user-generated content to enforce community standards, legal requirements, or platform policies. It involves both human moderators and increasingly artificial intelligence (AI) tools that analyze text, images, and videos to identify content such as hate speech, misinformation, extremist material, or other violations.³¹

Content moderation includes automated detection using AI technologies like machine learning, natural language processing, and computer vision, combined with human review to handle contextual nuances and cultural differences. AI-based moderation faces issues of accuracy, fairness, and transparency. It can inadvertently censor lawful content or disproportionately affect marginalized groups due to biased training data. In the European Union, regulations such as the Digital Services Act (DSA) and the AI Act impose transparency, accountability, and fairness requirements on content moderation systems, especially those classified as high-risk due to their impact on fundamental rights like freedom of expression.³²

3. Meta Platforms Policies

Meta is technology company (specifically corporation) based in California. Meta company owns and operates platforms such as; *Facebook, Instagram, Threads, and WhatsApp*, among other products and services. Meta ranks among the largest American information technology companies, alongside the other big Five corporations Alphabet (Google), Amazon, Apple, and Microsoft. In 2023 the company was ranked #31 on the *Forbes Global 2000* ranking.³³

3.1 Meta Terms Of Service

Based on the official website of Meta, Meta Terms Of Service Constitutes several conditions for it's users, and also what Meta's do and not do, for instance in the first paragraph of it's overview stipulated;

"These Terms of Service (the "Terms") govern your access and use of Facebook, Messenger and the other products, websites, features, apps, services, technologies and software we offer (the Meta Products or Products), except where we expressly state that separate terms (and not these) apply. (For example, your use of Instagram is subject to the Instagram Terms of Use). These Products are provided to you by Meta Platforms, Inc."

"These Terms therefore constitute an agreement between you and Meta Platforms, Inc. If you do not agree to these Terms, then do not access or use

³¹ Badouard, R., & Bellon, A. (2025). Introduction to the special issue on content moderation on digital platforms. *Internet Policy Review*, 14(1), p. 18

³² Gosztonyi, G., Gyetván, D., & Kovács, A. (2025). Theory and Practice of Social Media's Content Moderation by Artificial Intelligence in Light of European Union's AI Act and Digital Services Act. *European Journal of Law and Political Science*, 4(1), p. 34.

³³ *"The Global 2000 2023"*. *Forbes*. Archived from [the original](#) on January 29, 2024. accessed April 9, 2025.

Facebook or the other products and services covered by these Terms. These Terms (formerly known as the Statement of Rights and Responsibilities) make up the entire agreement between you and Meta Platforms, Inc. regarding your use of our Products. They supersede any prior agreements."³⁴

Moreover, each points of Meta's Term of Service provides; (For summary)

1. The services Meta's provide (contains 9 Points with comprehensive explanation)
2. How Meta's services are funded
3. Meta Users commitments to Facebook and Meta's community (i) Who can use facebook (ii) What you can share and do on Meta Products, (iii) The permissions you give us (Meta) this includes 5 details points, such as ; Your Content, Permission to use content that you create and share, Deleting your content, Permission to use your name, profile picture and information about your actions with ads and sponsored or commercial content, (iv) Limits on using our (Meta) intellectual property
4. Additional provisions
5. Updating our Terms
6. Account suspension or termination
7. Limits on liability
8. Disputes
9. Miscellaneous (contains 7 Points with details)
10. Other Terms and Policies that may apply to users.

3.2 Meta Community Standards

Based on the official website of Meta. Meta's Community Standards define the rules for what is permitted and prohibited on Facebook, Instagram, Messenger, and Threads. These guidelines apply globally to all users and cover every kind of content, including material created by AI. Each section begins with a "Policy Rationale" explaining the purpose of the rule, followed by detailed policies describing how content is moderated, This include:

a) Content that's not allowed; and
 b) Content that requires additional information or context to enforce on, content that is allowed with a warning screen or content that is allowed but can only be viewed by adults aged 18 and older. Each section of Meta Community Standards can be acces more specific on the Meta Official website, but shortly it's include ;

- 1) Coordinating Harm and Promoting Crime
- 2) Dangerous Organisations and Individuals
- 3) Fraud, Scams and Deceptive Practices
- 4) Restricted Goods and Services
- 5) Violence and Incitement
- 6) Adult Sexual Exploitation
- 7) Bullying and Harassment

³⁴ Meta Official Website, <https://about.meta.com/> accessed April 9, 2025.

- 8) Child Sexual Exploitation, Abuse and Nudity
- 9) Human Exploitation
- 10) Suicide, Self-Injury and Eating Disorders
- 11) Adult Nudity and Sexual Activity
- 12) Adult Sexual Solicitation and Sexually Explicit Language
- 13) Hateful Conduct
- 14) Privacy Violations
- 15) Violent and Graphic Content
- 16) Account Integrity
- 17) Authentic Identity Representation
- 18) Cybersecurity
- 19) Inauthentic Behavior
- 20) Memorialisation
- 21) Misinformation
- 22) Spam Third-Party Intellectual Property Infringement
- 23) Using Meta Intellectual Property and Licences
- 24) Additional Protection of Minors
- 25) Locally Illegal Content, Products or Services
- 26) User Requests

The Section of the Meta Community standard that highly contributed the conduct of Meta's Oversight Board are (i) Coordinating Harm and Promoting Crime, (ii) Dangerous Organisations and Individuals and (iii) Violent and Graphic Content, due to the fact that Meta has it's own standar and definition of "which conduct that define as terrorist, violence, which content that for education and so on.

4. Meta's Oversight Board

4.1 The Definition of Meta's Oversight Board

The Meta Oversight Board is an independent body of Meta Platform that makes adjudication, precedent setting decisions on content moderation for Meta's platforms, including Facebook, Instagram, and Threads. It acts as a form of platform self-governance, providing an external check on Meta's enforcement of its content standards and ensuring these decisions align with the company's policies, values, and international human rights standards.³⁵

The Board reviews cases where users or Meta itself challenge content decisions, and its rulings are binding unless implementation would violate the law. In addition to case decisions, the Board issues policy recommendations to improve Meta's content moderation practices and promote transparency, fairness, and freedom of expression. The Board is structurally independent from Meta, funded by an irrevocable trust, and its members are not Meta employees.

³⁵ Meta's Oversight Board Official Website <https://www.oversightboard.com/oversight-board-terms-for-public-comment-submissions/> accessed April 9, 2025.

However, there still emergence of cases and normative approach research that reveals that Meta's Oversight board implementations are not transparent and conduct such bias regarding freedom of expression of it's users.³⁶ Another research reveals the equality and strength transparency as well. This research will examine both of controversy based on the research methods that will be used in this research.

4.2 Task and Function of Meta's Oversight Board

Based on this research background explanation, The Oversight Board of the Meta Company was established as the Independent Board and it has it's own website to run it's function. The official website of Meta's Oversight Board explained their task and function descriptively, in summary :

1. The Task of Meta's Oversight Board

- To assist Meta Platforms, Inc
- To determine what content should be taken down from and what content should be allowed on Facebook and Instagram based on Meta's rules and policies, to give decision and advisory opinion/ recommendation.

2. The Function of Meta's Oversight Board :

- Supports Meta's work in promoting safety, security and integrity of the Meta Products.
- supports the Meta community by ensuring independent review and validation of the application of Meta's community standards and other policies in case importance to Meta's users and the wider community.

Furthermore The oversight Board "website" provides the Terms of Use of the Oversight Board, and also provides Meta users and the general public with an opportunity to learn more about the Board and to request an appeal of certain of Meta's decisions regarding whether or not their piece of content violated Meta's content policies, as well as a summary of those decisions and the policies and values used by Meta to make those decisions.³⁷

³⁶ Douek, E. (2024). The Meta Oversight Board and the empty promise of legitimacy. *Harvard Journal of Law & Technology*, 37. p. 10.

³⁷ Meta's Oversight Board Official Website <https://www.oversightboard.com/oversight-board-terms-for-public-comment-submissions/> accessed April 9, 2025.

F. Theoretical Framework

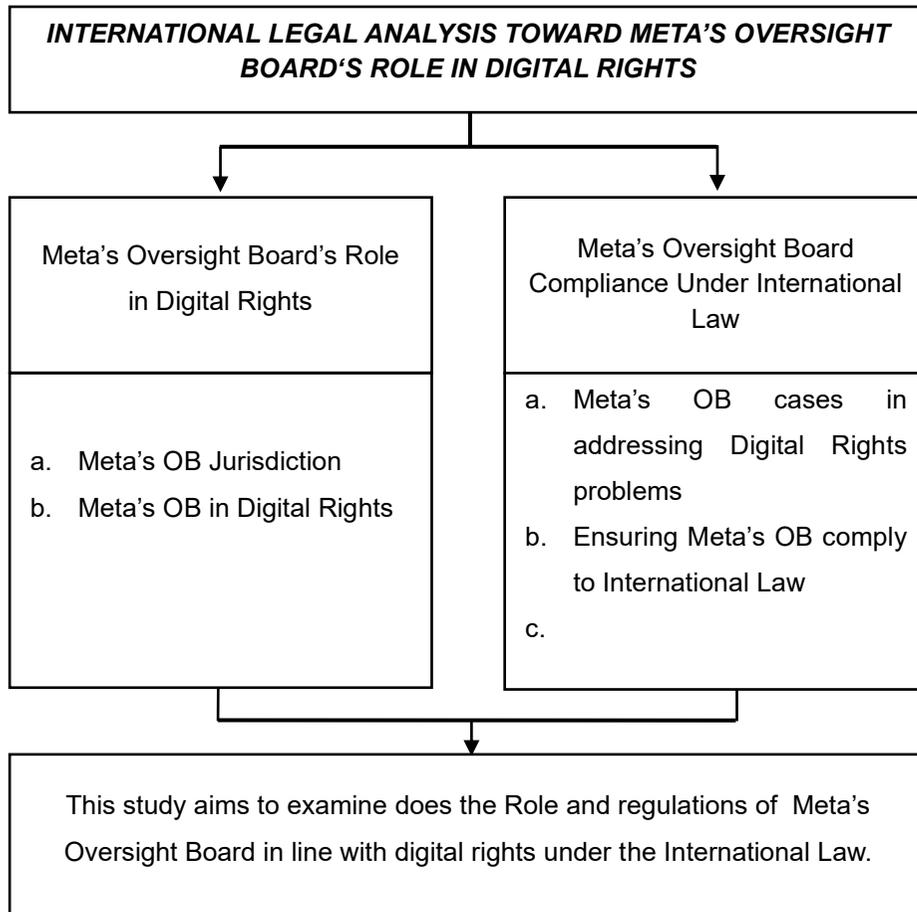


Table 1.1 *Theoretical Framework*

CHAPTER II

RESEARCH METHOD

A. Research Type and Approach

The research methods selected by the author for this study is the normative legal research method. Normative legal research involves examining and analyzing documents.³⁸ This research will involve reviewing various sources, including legislation, legal theories, principles, and expert opinions. The parts of approach in the “normative legal research” will be used in this research is as follows:

1. Conceptual Approach

This research approach offers an analytical perspective on solving legal problems by examining the underlying legal concepts, or by considering the values embedded within the norms of a regulation as they relate to the concepts applied.

2. Statute Approach

This approach is a research method that focuses on legal materials which are statutory regulations such as laws, conventions, statutes, and others as basic materials and basic references in conducting the research. Statute approach focuses more on the gap among the Statute/ Regulations Hierarchy in the field of law.³⁹

3. Comparative Approach

Comparative approach involves comparison between the law of one nation to the law of another nation, or the law of one time period to the law of another time. This activity is useful for disclosing the background to the occurrence of legal provisions for the same problem from two or more countries.

B. Research Material

1. Primary Legal Material

Primary research material refers to authoritative legal sources, which may include statutory regulations, case law, or official commentaries on specific statutory provisions.⁴⁰ Primary research material would utilize International legal sources consisting of treaties, customary international law, general principles of international human rights law, and scholarly writings.

2. Secondary Legal Material

Secondary legal material is a complementary source that would

³⁸ Irwansyah, (2022), *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel*, Yogyakarta: Mirra Buana, p. 40.

³⁹ I Made Pasek Diantha, (2016), *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, Jakarta : Prenadamedia Group, p. 156.

⁴⁰ *Irwansyah, Op.Cit*, p. 167

analyze the primary legal materials, this includes article in Journals, monographs (including textbooks, case books) including conference papers and case report from the Court.⁴¹

3. Tertiary Material

Tertiary sources consist of non-legal materials that provide guidance and support in interpreting primary and secondary legal material. These include online resources, campaign and reports relevant to the research topic.

C. Legal Material Collection Process

a) . Primary Legal Material

Primary legal materials are assembled through analyzing relevant regulations surrounding the selected cases and by utilizing case and statutory approach technique.

b) . Secondary Legal Material

To gather secondary legal materials, a library research method will be employed, involving the acquisition of journal articles, and reports that supplement this study.

c). Tertiary Material

In collecting tertiary material the process would be carried out through searching all research-related materials which are not part of legal material that supports the justification of the research as a result of synthesizing primary and secondary legal material.

D. Legal Material Analysis

In the Analysis Process that would be conducted after collecting all primary, secondary, and tertiary materials, a normative legal analysis will be executed through case and statutory approach. The literature analysis for each research question will take precedence over the analysis in International Legal Research. This method involves examining international treaties, conventions, and agreements, along with the principles governing international law, in order to obtain a systematic and comprehensive analysis from all the obtained legal materials.⁴²

The analysis also will be conducted through a Law case analysis and Statutory Interpretation to enable a detailed problem solving of the related cases which includes the facts of law and cited legal instruments as a deciding material, which led to the conclusion and the recommendation. The result of this analysis will present the information as the answer of research problems, and in line with the Research purpose and research benefit.

⁴¹ Irwansyah, *Op.Cit.*, p. 168

⁴² Irwansyah, *Op.Cit.*, p. 170.