



## **Images of Partially Nude Indigenous Women**

**2025-005-IG-UA, 2025-006-IG-UA, 2025-007-IG-MR, 2025-008-FB-MR**

### **Summary**

The Oversight Board has overturned Meta in three out of four cases that demonstrate the disproportionate impacts of the Adult Nudity and Sexual Activity policy on users who share images of bare-chested indigenous women, when such nudity is part of the Indigenous Peoples' beliefs and customs. It has also upheld a decision to leave up content in a third case due to the newsworthiness allowance.

Meta's complete prohibition on posting images of bare-chested indigenous women in non-sexual contexts, along with granting ad hoc exceptions, does not result in necessary and proportionate restrictions on expression. Rather users' right to expression, including that of Indigenous Peoples for whom such nudity is part of their culture, is disproportionately restricted.

Meta should make public its Adult Nudity and Sexual Activity policy exception allowing content depicting bare-chested indigenous women in some circumstances, when such nudity reflects socially accepted custom and belief, and does not misrepresent these practices.

### **About the Cases**

The Board has reviewed four cases with imagery showing bare-chested indigenous women in non-sexual contexts.

In the first case, an Instagram user posted an image in July 2024 featuring two bare-breasted women in the traditional attire of the Himba people of Namibia. The post includes an English quote and caption referencing the Himba. The user appears to be a visitor or tourist, rather than Himba. An automated nudity and pornography



classifier removed it. The user appealed the removal. Following a human review, Meta confirmed its decision.

The second case involves an Instagram user posting a short video in July 2024 featuring a Himba man dancing, with bare-chested women in traditional Himba attire in the background. The caption includes references to Himba people and culture. After automated and human reviews, Meta removed the content.

In the third case, a Brazilian political party's official Instagram account in March 2023 posted an image of bare-chested indigenous women in traditional Yanomami clothing. The accompanying text praises government efforts to combat illegal mining on Yanomami lands. A user reported the post and a classifier identified it before a human reviewer removed it for violating the Adult Nudity and Sexual Activity policy. The posting user appealed via a personal contact at Meta. Meta restored it under the newsworthiness allowance, finding the content's public interest value outweighed the harm, with a newsworthy label. In September 2024, Meta referred the case to the Board.

In the fourth case, the administrator of a German newspaper's Facebook page posted an image in May 2023 of a bare-chested indigenous woman holding a child. The caption and text overlay in German describe a U.S. journalist's visit to a Mayan village and her perspectives on different cultures' parenting approaches, and the post links to an article. The image of the indigenous woman seems to belong to a photo agency, appearing in online collections of the Karo people of Ethiopia. A user reported the content to Meta and two human reviewers agreed it violated the Adult Nudity and Sexual Activity policy. As this account is in the cross-check program, the post was sent for additional review. Meta then determined the content should receive a spirit of the policy allowance and remain on Facebook, as, even though it violated Meta's nudity rules, keeping it up was in line with the policy rationale. Meta referred the case to the Board in September 2024.



## Key Findings

While Meta prohibits images of indigenous women with “visible female nipples” in non-sexual contexts, it sometimes allows this content via the spirit of the policy and newsworthiness allowances.

In the Yanomami post, Meta was right to keep this post up as newsworthy content due to its public interest value and limited risk of harm. The Yanomami have a social and cultural practice of bare-chested nudity and in the image there are indicators of consent.

Regarding the two Himba posts, the Board finds that Meta was wrong not to apply a spirit of the policy allowance. Meta did not follow its own exception guidelines concerning implicit consent in the context of indigenous nudity which focus on whether bare-chested nudity forms part of the beliefs and customs of an Indigenous People and are socially accepted. Nudity is a socially and historically accepted aspect of Himba custom, and both posts show sufficient indications of implicit consent to being photographed or recorded to justify the allowance.

In the Maya/Karo post, the majority of the Board finds that the fact that the image was shared by a news outlet is not a decisive factor in establishing consent. In this case, there is a clear disparity between the subject of the article (Mayan peoples) and the individual in the image (a Karo woman). The content, focused on parenting practices in Mayan cultures, does not relate to a social or historical tradition of nudity. Allowing the content to remain on the platform is therefore inconsistent with Meta’s policy rationale. A minority of the Board disagrees, finding that Meta made the right decision to keep the post up, as the nudity in the image aligns with the cultural norms of the depicted indigenous group. For the minority, the disparity between images was a minor mistake that does not diminish the public interest in the post.

Removing the Himba posts and keeping the Maya/Karo post up was also inconsistent with Meta’s human rights responsibilities. Meta’s complete prohibition on posting



images of bare-chested indigenous women in non-sexual contexts and granting ad hoc exceptions disproportionately restricts expression. It disproportionately impacts indigenous women's right to self-expression and sharing information about cultural practices, and restricts others' access to that information. The Board underscores the importance of representing indigenous cultures in ways that avoid distortion or decontextualization.

The Board is concerned that the spirit of the policy and newsworthiness allowances have significant limitations of accessibility and predictability. Therefore, it believes a clearly defined exception is preferable.

The Board considers that Meta could develop internal guidelines to assist at-scale reviewers to escalate indigenous nudity content that could potentially benefit from such exceptions, using objective criteria, such as relevant hashtags or visual clues including cultural symbols.

### **The Oversight Board's Decision**

The Board overturns Meta's decision to take down the two Himba women and Himba people dancing cases. The Board also overturns Meta's decision to leave up the Maya/Karo case. The Board upholds Meta's decision to leave up the Yanomami case.

The Board also recommends that Meta:

- Make public its Adult Nudity and Sexual Activity policy exception allowing content depicting bare-chested indigenous women in some circumstances. This exception should be applied on escalation only. The exception should allow such nudity where it reflects socially accepted custom and belief, and does not misrepresent these practices.

\*Case summaries provide an overview of cases and do not have precedential value.



## Full Case Decision

### 1. Case Description and Background

This decision addresses four cases with imagery showing bare-chested indigenous women. Meta determined all four pieces of content violated its Adult Nudity and Sexual Activity policy prohibiting “visible female nipples.” Meta referred two cases to the Oversight Board, regarding content it left on the platform despite violating its rules. Users appealed the other two cases when their posts were removed.

In the first case, an Instagram user posted an image on their account in July 2024 featuring two bare-chested women in the traditional attire of the Himba people of Namibia. It includes an English quote and caption referencing the Himba, Opuwo (the capital city of the Kunene Province where the Himba live) and Namibia. Based on the user’s profile, the image and caption, the user does not appear to be Himba but a visitor or tourist. One of Meta’s automated tools, a nudity and pornography classifier, removed the post for violating Meta’s Adult Nudity and Sexual Activity policy. The user appealed the removal. Following a human review, Meta confirmed its decision.

In the second case, a user posted a short video on their Instagram account in July 2024 featuring a Himba man dancing bare-chested, with bare-chested women in traditional Himba attire in the background. The caption contains English, French and Arabic references to the Himba people, as well as African dance, culture, and travel. Arabic text on the image also references the Himba culture. A nudity and pornography classifier identified the content as a potential violation of Meta’s Adult Nudity and Sexual Activity policy and sent it for human review. However, the post was not prioritized for review. After the same classifier again identified the content because the number of views or interactions had increased, it was removed by a human reviewer. The user appealed Meta’s decision, and following another human review, the company confirmed the removal.



In the third case, a Brazilian political party's official Instagram account in March 2023 posted an image of bare-chested indigenous women in traditional Yanomami clothing. Portuguese text on the image praises government efforts to combat illegal mining on Yanomami lands. The Portuguese caption emphasizes the importance of a government that protects indigenous land rights. The post was reported by another user but remained on the platform. A classifier then identified it as potentially violating Meta's Graphic Violence policy. As the account is part of the cross-check system, the post was sent for additional review. [Meta describes cross-check](#) as a mistake-prevention strategy that provides for extra levels of review. A human reviewer determined the content violated Meta's Adult Nudity and Sexual Activity policy and removed the post. The posting user then reached out to a personal contact at Meta to appeal the removal. Finally, Meta's policy experts granted a newsworthiness allowance, finding that despite violating the policy, the content's public interest value outweighed the harm. The company restored the post with a newsworthy label. In September 2024, Meta referred the case to the Board.

In the fourth case, the administrator of a German newspaper's Facebook page posted an image in May 2023 of a bare-chested indigenous woman holding a child. The caption and overlay German text describe a visit by a U.S. journalist to a Mayan village in Mexico, noting her perspectives as a mother on different parenting approaches between Western and indigenous cultures, and links to an article. The indigenous woman in the image does not appear to be Mayan. The image seems to belong to a photo agency, appearing in online collections of the Karo people of Ethiopia. A user reported this content to Meta and two human reviewers agreed it violated the Adult Nudity and Sexual Activity policy. As this account is in the cross-check program, the post was sent for additional review. Meta then determined the content should receive a spirit of the policy allowance and remain on Facebook because even though it violated its nudity rules, keeping it up was in line with the policy rationale. When Meta referred the Yanomami case to the Board, it also referred this case.

The Board notes the following context in reaching its decision:



According to experts consulted by the Board, among the [Himba Indigenous People](#), who live in northern Namibia, women may go bare-chested and wear symbolic jewelry and body adornments. This nudity is neither inappropriate nor inherently sexual, rather an integral part of their cultural identity. Nudity is tied to spirituality, and body paint and adornment signify a connection to their ancestral and cosmic world.

The [Yanomami Indigenous People](#) live in relative isolation in the Amazon rainforest in Brazil and Venezuela. Men often wear a small piece of cloth around their waist, while women may wear a simple cloth belt. Experts consulted by the Board noted that the Yanomami do not see nudity as inherently sexual. It is linked to their relationship with nature and the cosmos and plays an important role in rituals.

The Mayan Indigenous People do not have a [tradition](#) of nudity with cultural or spiritual significance.

## **2. User Submissions**

The users who posted the content of the two Himba women and the Himba people dancing appealed Meta’s removal decisions to the Board. In their submissions, they state that their content was significant as it featured the traditional attire and cultural practices of the Himba people, aiming to promote cultural awareness and education. One appeal emphasized that Meta’s policies are meant to prevent explicit material, arguing that the policy prohibition should not include cultural representations and indigenous traditions. They stated that “reinstating this content is crucial for promoting understanding and respect for indigenous cultures.”

Following Meta’s referrals of the third and fourth cases, and the Board’s decision to accept them, both users who posted the content were provided with an opportunity to submit a statement. No response was received.

## **3. Meta’s Content Policies and Submissions**



## *I. Meta's Content Policies*

### [Adult Nudity and Sexual Activity Policy](#)

Meta's policy rationale states that the company generally restricts nudity to protect users who are sensitive to it, particularly due to cultural background or age. It defaults to removing sexual imagery to "prevent the sharing of non-consensual or underage content." The rationale also states that "nudity can be shared for a variety of reasons, including as a form of protest, to raise awareness about a cause or for educational or medical reasons. Where appropriate and such intent is clear, we make allowances for the content."

At the time these cases were selected, Meta's rules prohibited imagery of "uncovered female nipples." On May 14, 2025, Meta updated this policy to refer to "visible female nipples" and introduced new restrictions for users under 18. In the current rules, Meta prohibits: "Photorealistic/digital imagery of adult nudity," including "visible female nipples, except in a breastfeeding, or act of protest context." There are other exceptions where Meta labels content or only allows users 18 and older to view it. For "[v]isible female nipples, when shared in a medical or health context (including mastectomy or cancer survivor tattoos," the company applies a label stating the content may be sensitive. For such nudity in "real world art" or "shared in the context of famine, genocide, war crimes, or crimes against humanity," Meta applies this label and limits visibility to users 18 and older.

In the policy before and after the May 14, 2025 changes, there is no exception for bare-chested indigenous women in the public-facing language of the policy, but the company sometimes allows this content via newsworthiness and spirit of the policy exceptions. Meta does not decide these exceptions at scale, but only on escalation. This means that it is only applied by Meta's policy teams after special review (see [Iranian Make-Up Video for a Child Marriage](#) decision).

### [Newsworthiness Allowance](#)



In certain circumstances, the company will allow content that violates its policies to remain on the platform if it is “newsworthy and if keeping it visible is in the public interest.” When making this determination, Meta conducts a balancing test that weighs the public interest in the content against the risk of harm. The company assesses “whether that content surfaces an imminent threat to public health or safety, or gives voice to perspectives currently being debated as part of a political process.” Meta can apply a warning to content under this allowance and limit users under 18-years-old from viewing the content. Lastly, the company states: “Newsworthy allowances can be ‘narrow,’ in which an allowance applies to a single piece of content, or ‘scaled,’ which may apply more broadly to something like a phrase.”

### Spirit of the Policy Allowance

According to Meta, it may apply a spirit of the policy allowance to content when the policy rationale and Meta’s values demand a different outcome than a strict reading of the rules. In previous decisions, the Board recommended that Meta provide a public explanation of this allowance ([Sri Lanka Pharmaceuticals](#) decision, reiterated in [Communal Violence in the State of Odisha](#) and [Iranian Make-Up Video for a Child Marriage](#) decisions.) Meta has stated it is in the process of implementing this recommendation.

Meta maintains internal guidelines on when to issue spirit of the policy exceptions and allow certain posts under the Adult Nudity and Sexual Activity Policy. For indigenous nudity, these guidelines include signals or indicators of nudity in the cultural context, focusing on “the customary beliefs, social norms, and material traits of a racial, religious, or social group and where such nudity is socially acceptable.” To make this determination Meta “relies on market context from [its] regional teams” and alignment of internal teams’ views “to confirm that such nudity is indeed socially acceptable and that there are no safety concerns for the persons depicted in the image.”



## *II. Meta's Submissions*

Meta determined that all four posts violated its Adult Nudity and Sexual Activity policy prohibiting “[visible] female nipples.” Despite this, Meta found the content shared in the Yanomami and Maya/Karo cases to be eligible for a newsworthiness allowance and a spirit of the policy allowance, respectively. It ultimately allowed these posts.

The posts of the two Himba women and Himba people dancing were removed. According to the company, there was a greater risk of the content being sexualized and it was unclear if the people depicted would consent to their images being shared. At the time of removal, neither piece of content was escalated to internal experts for further review.

In both cases, Meta determined that a spirit of the policy exception was not appropriate, as there was no indication that the Himba women depicted had consented to their images being shared. Meta also concluded that the newsworthiness allowance was not warranted, as the public interest value of the content did not outweigh the risk of harm. According to Meta, private individuals who were not members of the Himba community shared the posts. Meta found they were posted primarily for personal purposes rather than to raise awareness or give voice to perspectives being debated around the Himba people. Meta determined that in these cases the privacy and dignity risks outweighed the value of voice.

In the Yanomami case, Meta granted a “narrow” newsworthiness allowance, applicable only to the post in question. Meta determined that the public interest value of the content outweighed the potential risk of contributing to offline harm. The footage was shared by the official Instagram account of a Brazilian political party, addressing an ongoing political issue related to the Yanomami people. Key factors in Meta’s assessment included the post’s caption and overlay text, which aimed to raise awareness about the Yanomami people’s rights and illegal mining. Meta also considered that the nudity depicted in the content appeared incidental and secondary to the broader message of raising awareness.



The company did not issue a spirit of the policy allowance under its internal exception guidelines because it found no indication that the Yanomami depicted in the image would have likely consented to their photos being shared.

Meta granted a spirit of the policy allowance to the Maya/Karo content. The company determined that, since the content was posted by a news outlet, it was likely that the photo had been taken with the consent of the person depicted and with the understanding that it would be distributed. The company's subject matter experts also confirmed that the nudity in the image was "associated with customary beliefs, social norms and material traits of an indigenous group where nudity is socially acceptable." In this post, a German daily newspaper discusses a journalist's experience visiting a Mayan village. However, in response to a question from the Board, Meta acknowledged that the image does not appear to depict Mayan people and that nudity is not an element of Mayan culture.

The Board asked Meta questions about its nudity policy, initiatives to modify the policy over time and the stakeholders consulted on this, and enforcement processes. The Board also asked how Meta assesses or infers consent when granting allowances. Meta responded to all questions.

#### **4. Public Comments**

The Board received three public comments that met [the terms for submission](#). One of the comments was submitted from the United States and Canada, one from Latin America and the Caribbean and one from Sub-Saharan Africa. To read public comments submitted with consent to publish, click [here](#).

The submissions covered the following themes: indigenous groups that practice nudity or partial nudity as a form of cultural expression; the traditions of the Yanomami people and the importance of protecting their freedom of expression on social media; and, considerations around content moderation policies in balancing cultural expression with individual autonomy.



## 5. Oversight Board Analysis

The Board selected these cases to assess the impact of Meta’s nudity rules on the ability to share depictions of indigenous cultural nudity, and the impact of those rules on Indigenous Peoples, particularly women who traditionally go bare-chested. These cases highlight the tension between Meta’s values of voice and ensuring the privacy and dignity of Indigenous Peoples. They fall within the [Board’s strategic priority](#) of Gender.

The Board has previously engaged Meta’s rules about “uncovered,” and now “visible female nipples” ([Breast Cancer Symptoms and Nudity](#) and [Gender Identity and Nudity](#) decisions). In those cases, the content fell within existing policy exceptions. These cases present the Board with the opportunity to assess content featuring bare-chested indigenous women, depicted in a non-sexual cultural context, which is not covered by any public-facing policy exception.

The Board analyzed Meta’s decision in this case against Meta’s content policies, values and human rights responsibilities. The Board also assessed the implications of this case for Meta’s broader approach to content governance.

### 5.1 Compliance With Meta’s Content Policies

#### *Content Rules*

All four posts violate the express terms of the Adult Nudity and Sexual Activity policy, which prohibits imagery of “visible female nipples.” They all depict bare-chested indigenous women and do not fall under the policy’s exceptions, which are “breastfeeding, or act of protest,” “medical or health contexts,” and depictions related to “famine, genocide, war crimes, or crimes against humanity.”

The Board therefore analyzes Meta’s decisions on whether to grant allowances in these cases.



In the Yanomami case, the Board finds that Meta was right to keep this post up on Instagram as newsworthy content due to its high public interest value and limited risk of harm. The post addressed ongoing human rights and political issues stemming from the [humanitarian crisis](#) the Yanomami faced due to illegal mining on their lands, an issue echoed in a public comment (see [PC-30909](#), Internet Lab). On the other hand, risk is also limited, as the Yanomami have a social and cultural practice of bare-chested nudity, and in this specific image, the women face the camera and appear to be aware of being photographed.

However, the Board disagrees with how Meta applied its spirit of the policy allowance in the remaining three cases.

With respect to the two Himba women and Himba people dancing cases, the Board finds that Meta's failure to grant a spirit of the policy allowance was wrong. Meta's decision was based on the posts being shared by private individuals, with no indication of consent from the Himba women and without the intent to raise awareness or address an issue of public interest. Although those are reasonable considerations, the Board notes that Meta did not follow its own exception guidelines regarding implicit consent in relation to indigenous nudity.

Nudity is a socially and historically accepted element of Himba custom. Additionally, the Himba have experienced [growing interest](#) from researchers, journalists and tourists and have shown apparent openness to visitors sharing their way of life. In these specific posts there are indicators of consent. In the two Himba women case, the women are depicted close-up, looking directly at the camera. Meta's reviewers on escalation should also consider additional context from the post. The appealed image was accompanied by other photos of the Himba women together with the poster, which further suggests consent. The Himba people dancing post appears to have been taken at close range during a public performance, suggesting that the man dancing and the Himba women in the background were likely aware they were being recorded.



The Board finds that, according to Meta's own internal guidelines on when to apply the spirit of the policy allowance, these signals are sufficient to grant the allowance. The Board recognizes that consent to images being taken may not always equate to consent to images being distributed. However, the Himba approach to nudity, along with the content-specific indicators, makes applying the exception consistent with the policy's intent to prevent the sharing of non-consensual imagery that impacts privacy and dignity. However, the Board reiterates below its concerns with Meta's spirit of the policy allowance.

Regarding the Maya/Karo case, a majority of the Board finds Meta should not have granted a spirit of the policy allowance to keep this content up on Facebook under its own rules. While Meta focused on the fact that the image was shared by a news outlet, which it found generally suggests that the woman consented and understood that her image would be distributed, this should not be a dispositive factor. In this case, there is a clear disparity between the subject of the article (Mayan people) and the individual in the image (a Karo woman). The Board finds that a news outlet likely would have known this is not a Mayan woman yet selected an unrelated nude image of a Karo woman.

Meta's own internal criteria for allowing cultural nudity – when it is “associated with the customary beliefs, social norms, and material traits of a [...] group, and where such nudity is socially acceptable” – are not met in this case. The content, focused on parenting practices in Mayan cultures, does not relate to a social or historical tradition of nudity. This case again raises issues of whether consent to be photographed equates to implicit consent to distribution. This concern is heightened in a clickbait context, where exaggerated or misleading titles or imagery are used to drive engagement with posts. Allowing the content to remain on the platform is therefore inconsistent with Meta's policy rationale.

A minority of the Board disagrees, finding that Meta made the right decision to leave the post in place in a discussion of a matter of public interest. Given the current policy, this should be considered newsworthy. For the minority, the most important factor is



that the nudity in the image aligns with the cultural norms of the depicted indigenous group. In their view, the substitution of a Karo woman for a Maya woman was a minor mistake due to a third party and did not diminish the public interest in the post.

## **5.2 Compliance With Meta’s Human Rights Responsibilities**

### *Freedom of Expression (Article 19 ICCPR)*

On March 16, 2021, Meta announced its [Corporate Human Rights Policy](#), in which it outlines its commitment to respecting rights in accordance with the [United Nations Guiding Principles on Business and Human Rights](#) (UNGPs). According to the UNGPs, companies should “avoid infringing on the human rights of others and should address adverse human rights impact with which they are involved” (Principle 11, UNGPs).

Article 19 of the [International Covenant on Civil and Political Rights](#) (ICCPR) provides broad protection for freedom of expression. The right to freedom of expression is guaranteed to all people without discrimination as to “sex” or “other status” ([ICCPR](#), Article 2, para 1). The United Nations (UN) Special Rapporteur on the right to freedom of expression emphasizes “the importance that exercising the right to freedom of opinion and expression has for minorities and Indigenous Peoples, as [it] is a basic tool for ensuring the specific recognition of the rights demanded by these groups” ([A/HRC/14/23](#) paras. 41 and 59).

Article 19 also protects the right to seek and receive information. For these cases, the importance of expression is strengthened because the content shares information relevant to cultural rights. The UN Special Rapporteur on the right to freedom of expression has stated that expression serves as an “enabler” of other rights, including [...] the right to take part in cultural life [...] as well as civil and political rights” ([A/HRC/17/27](#), para. 22, see also [General Comment No. 21](#), E/C.12/GC/21, paras. 13-19, 37). According to the UN Committee on Economic, Social and Cultural Rights (CESCR), the right to participate in cultural life includes the right “to seek and develop cultural knowledge and expressions and to share them with others” ([General Comment No. 21](#), E/C.12/GC/21, para. 15). This extends to understanding one’s “own culture and that of others through education and information,” and learning “about forms of expression



and dissemination through any technical medium of information or communication” ([General Comment No. 21](#), E/C.12/GC/21, para. 15).

Further, UN mechanisms have repeatedly recognized that cultural life includes traditions, customs, and dress (Special Rapporteur on cultural rights, [A/HRC/17/38 and Corr.1](#), para. 4; CESCR, [General Comment No. 21](#), E/C.12/GC/21, para. 13; Expert Mechanism on the Rights of Indigenous Peoples [A/HRC/30/53](#), paras. 5, 7). Similarly, the [UN Declaration on the Rights of Indigenous Peoples](#) recognizes the rights of Indigenous Peoples specifically to their cultural practices (articles 11–13, 15 and 31).

In this sense, the Board’s analysis is informed by strong protections for expression as an enabler of rights, including cultural rights as well as civil and political rights. When a state imposes restrictions on expression, it must meet the requirements of legality, legitimate aim, and necessity and proportionality (Article 19, para. 3, ICCPR). These requirements are often referred to as the “three-part test.” The Board uses this framework to interpret Meta’s human rights responsibilities, both about specific posts and Meta’s approach to content governance.

Given that Meta decided the Yanomami post should remain on its platform, the content was not removed and thus there was no infringement on expression regarding this particular content. As a result, the Board will not analyze it further and upholds Meta’s decision in this case.

As Meta removed the Himba posts, and the Board found that under its own rules the Maya/Karo post should be removed, it assesses these posts under the three-part test framework.

### *I. Legality (Clarity and Accessibility of the Rules)*

The principle of legality requires rules limiting expression to be accessible and clear ([General Comment No. 34](#), para 25). People using Meta’s platforms should be able to access and understand the rules and content reviewers should have clear guidance regarding their enforcement.



Meta’s Adult Nudity and Sexual Activity policy prohibits: “visible female nipples,” except in specific contexts such as “breastfeeding, or act of protest,” or “when shared in a medical or health context (including mastectomy or cancer survivor tattoos).” The Board finds that the specific rules prohibiting “visible female nipples” are sufficiently clear as applied to the facts of these cases.

However, the Board reiterates its concerns regarding Meta’s application of allowances. Regarding newsworthiness, the Board notes that Meta has provided greater clarity about the process and criteria for this allowance in its Transparency Center in response to Board recommendations (see [Former President Trump’s Suspension](#), [Colombia Protests](#) and [Iran Protest Slogan](#) decisions).

Concerning the spirit of the policy allowance, the Board has repeatedly noted that this allowance may “fall short of the standard of legality” (see [Sri Lanka Pharmaceuticals](#), [Communal Violence in the State of Odisha](#) and [Iranian Make-Up Video for a Child Marriage](#) decisions). In the Sri Lanka Pharmaceuticals decision, the Board recognized the need for a catch-all allowance to prevent clear injustices when moderating massive amounts of content at a global scale. However, it recommended that Meta describe the criteria used to apply this allowance, which Meta has [committed](#) to do, and use it only in exceptional circumstances.

These special allowances have significant limitations. In terms of predictability, Meta’s rules for allowing this type of content are outlined in confidential internal guidelines, which are not publicly available. This does not provide sufficient information on what type of content is permitted. In terms of accessibility, Meta has limited pathways to identify content that should qualify for these allowances because Meta’s at-scale moderators cannot apply them, and they are not instructed or empowered to identify and escalate content that could benefit from them (see [Candidate for Mayor Assassinated in Mexico](#) decision). Here, for example, only content posted by cross-checked accounts remained on the platform. Accounts that are not part of Meta’s cross-check program or do not have contacts at Meta face significant challenges in gaining access to specialized teams who can apply these allowances. In its response to



the Board for this case, Meta acknowledged that applying these allowances on escalation can lead to enforcement inequities.

Where allowances are repeatedly used in the same way, the company should carefully assess whether it should be included explicitly in the policy. According to Meta, cultural nudity is a significant issue that is escalated recurrently on its platforms.

To ensure that Meta applies its exceptions based on clear criteria, the Board recommends that Meta develop indicators of indigenous cultural nudity, as discussed below. It should also include a limited exception within the public-facing Adult Nudity and Sexual Activity policy to allow content depicting bare-chested indigenous women in non-sexual cultural contexts.

## *II. Legitimate Aim*

Any restriction on freedom of expression should pursue one or more of the legitimate aims listed in the ICCPR, which includes protecting other people's rights. As has been found previously in the [Gender Identity and Nudity](#) decision, Meta's Adult Nudity and Sexual Activity policy seeks to pursue the legitimate aim of protecting the rights of others, among other aims. In seeking to "prevent the sharing of non-consensual content" the policy serves the legitimate aim of protecting the right to privacy of others (ICCPR, Article 17), particularly of indigenous women in this case.

In its rationale to the Board in this case, Meta also cited the aim of protecting "the sensitivities of users." Previously, in the Gender Identity and Nudity case, Meta referenced "community sensitivity." There, the Board noted this could align with the aim of preserving "public morals," but expressed concern that this concept has been misused by governments to violate the rights of members of vulnerable groups. The Human Rights Committee has cautioned that "the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition" (Human Rights Committee, General Comment 34, para. 32). As a result, the Board again places greater emphasis on protecting the right to privacy.



A minority of the Board believes that "community sensitivity" cannot be considered a legitimate justification for speech limitations unless it is clearly intended to preserve public morals, which has not been demonstrated in this case. Meta should not extend the enumerated grounds for restricting speech. Moreover, freedom of speech includes expressions that are unpleasant or offensive.

### *III. Necessity and Proportionality*

Under ICCPR Article 19(3), necessity and proportionality requires that restrictions on expression “must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected” (General Comment No. 34, para. 34).

First, the Board will analyze the necessity and proportionality tests as applied to the Himba cases and Maya/Karo case. Then, it will conduct a broader analysis of Meta’s policy prohibiting content that features bare-chested indigenous women where nudity is part of their cultural expression.

The Board finds that Meta’s decision to remove the posts in the two Himba women and Himba people dancing cases was neither necessary nor proportionate. Given the nature of the images and indicators of consent, and the Himba peoples’ approach to nudity, restricting expression to protect the privacy of those depicted was not necessary. The nudity depicted is a culturally accepted and historically embedded aspect of Himba women's heritage. The posts include several indicators of implicit consent, such as direct engagement with the camera, interaction with the apparent photographer and the setting of a public performance, suggesting that the women were likely aware they were being recorded. Additionally, none of the posts portray the Himba women in a distorted, decontextualized, pejorative or exploitative manner. Therefore, removing the content places a disproportionate burden on the poster and on the audience, who were sharing and seeking information about Himba traditions.

In the Maya/Karo case, a majority of the Board finds that, in line with the correct application of Meta’s current rules, removing the content was necessary and



proportionate to protect the indigenous woman's right to privacy. Regardless of whether the Karo woman might have consented to her image being taken, this depiction, posted by a third party, misrepresents her cultural practice. The photo features a Karo indigenous woman from Ethiopia, a community where nudity is culturally accepted, whereas the article discusses parenting practices among the Mayan people, whose cultural norms do not include nudity. The article makes no reference to Karo women. This misalignment impacts the depicted woman's privacy and dignity by inaccurately portraying her culture. Given this, removal is the necessary and proportionate response in line with Meta's human rights responsibilities.

A minority disagrees, arguing that nudity is embedded in Karo's culture, which creates a presumption of consent. This is especially true since the community has allowed their pictures to be taken in many other instances. There is no indication that the Karo woman did not implicitly consent to being depicted bare-chested, and, therefore, her rights were not harmed. In the minority's view, attributing inappropriate motives cannot serve as the basis for restricting speech without evidence. In this case, the newspaper relied on an image belonging to a photo agency in good faith. As there is no Mayan person depicted, there can be no privacy issue for Mayan persons.

The Board also finds that Meta's complete prohibition on posting images of bare-chested indigenous women, and granting ad hoc exceptions when content reaches special Meta teams, does not result in necessary and proportionate restrictions on expression. While some depictions of indigenous nudity may impact rights to privacy, as the Maya/Karo case shows, a total ban disproportionately limits expression.

The Board had [previously noted](#) the "severe impact of this policy on communities where women may traditionally go bare-chested." A total prohibition restricts their ability to use social media for self-expression and self-representation in general, perpetuating exclusion in digital spaces. Whether these images are posted by the women themselves or others, all depictions of daily life, as well as images of bare-chested indigenous women exercising civil and political rights would be removed.

It also disproportionately impacts Indigenous Peoples' right to share information specifically about their cultural practice, including traditional attire, while restricting



others' access to that information. Digital platforms provide a vital space for people to preserve traditions and educate others about their cultures ([A/74/255](#), paras. 6, 70, 83). Experts consulted by the Board stated that some indigenous women use such imagery in social media to share their stories accurately on their own terms and to pass down cultural traditions.

A different approach would better respect users' expression while protecting indigenous women's rights to privacy. The Board recommends that Meta make public its internal exception in its Adult Nudity and Sexual Activity policy to allow images of bare-chested indigenous women in some circumstances. A public exception, instead of allowances, removes the burden on expression that bare-chested indigenous women must be "newsworthy" or serve "awareness raising" or "educational" purposes to remain or be depicted online.

The UN Special Rapporteur on the right to freedom of expression has asked that companies engage with indigenous groups around the world to "develop better indicators for taking into account cultural and artistic context when assessing content featuring nudity" ([A/HRC/38/35](#), para 54).

Regarding consent, the Board recognizes that agreeing to be photographed or recorded does not always imply consent to the distribution of those images. However, many Indigenous Peoples' perspectives on nudity and the sharing of such imagery differ from the views on nudity and consent that Meta's rules reflect. This distinction is implicitly reflected in Meta's current internal allowance guidelines, which take these cultural differences into account when assessing such content. Meta's internal guidelines focus on whether bare-chested nudity forms part of the beliefs and customs of an Indigenous Peoples and is socially accepted. The Board understands that in some indigenous cultural contexts, such as those in these cases, nudity is understood as not inherently sexual but rather an integral part of cultural identity. In line with Meta's internal guidelines, the Board finds that Meta should consider this to mean implicit consent once content has been determined to reflect such customs and beliefs, particularly when it is determined that the content was shared by the Indigenous Peoples themselves.



However, in addition to this, the Board notes that international instruments and UN human rights experts have emphasized the importance of representations of indigenous cultures that avoid distortion or decontextualization.

For example, the UN Declaration on the Rights of Indigenous Peoples affirms Indigenous Peoples’ “right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information (Article 15, see also Article 31, [General Comment No. 21](#), E/C.12/GC/21, para. 37). Similarly, the UN Educational, Scientific and Cultural Organization (UNESCO) emphasizes that efforts to raise awareness about indigenous cultures should avoid “decontextualiz[ing] or denaturaliz[ing] the intangible cultural heritage manifestations or expressions.” UNESCO stresses the importance of “mutual respect” and “appreciation of intangible cultural heritage” (see the [UNESCO Convention](#) for the Safeguarding of the Intangible Cultural Heritage, its [Operational Directives](#), para. 102.a) and [Ethical Principles](#), 3 and 10). The Board considers that “decontextualization or denaturalization” refers to sharing content outside its original context, which strips it of its intended meaning or cultural significance and increases the risk of misrepresentation or distortion. Examples of decontextualization include but are not limited to, content that depicts cultural nudity in a sexualized, discriminatory or clickbait manner. In the exception to its Adult Nudity and Sexual Activity Policy, in addition to the current factors Meta uses, the company should also incorporate this factor of avoiding decontextualization of indigenous practice, particularly when depictions are shared by third parties.

The Board acknowledges that determining when to allow indigenous nudity content based on these factors will require contextual analysis. This makes it challenging for at-scale review and better suited for escalation. While the Board has expressed concern about escalation-only policies’ effectiveness (see [Sudan’s Rapid Support Forces Video Captive](#) and [Statements About the Japanese Prime Minister](#) decisions), it reiterates that a clearly defined exception is preferable to relying on allowances.

Meta emphasized to the Board the difficulties in implementing any new exceptions to its nudity policy with its current enforcement technology. The Board recognizes the



challenges Meta may face in implementing criteria to identify indigenous nudity. However, the Community Standards already include a list of exceptions that require the company to differentiate between different types of nudity, such as images depicting “acts of protest.” Therefore, despite challenges in implementing these policies, the Board finds that indigenous cultural expression should be afforded the same consideration.

The Board considers that Meta could establish clear pathways and develop internal guidelines to assist at-scale reviewers to escalate bare-chested indigenous nudity content that could potentially benefit from such exceptions, using objective criteria. These signals could include indicators such as relevant hashtags or geo-tagging. Additionally, visual cues, such as body paint, jewelry, feathers, cultural symbols, or ceremonial objects, could help clarify that an image may include indigenous nudity.

Meta could also adopt other measures to mitigate potential harm from depictions of indigenous nudity, including harm to the communities' own freedom of expression. For example, it could implement culturally appropriate appeal pathways that allow Indigenous Peoples and their members to request the restoration of content that depicts bare-chested indigenous women that was inappropriately removed, or the removal of content shared without consent or that misrepresents their culture. Additionally, Meta could empower these communities to flag content they believe was wrongly removed or inaccurately portrays their traditions through Meta’s Trusted Partners program.

The Board also notes that Meta should consider applying the Board’s recommended approach to other instances of cultural nudity. For example, in the public portrayal of some traditional ceremonies, festivities and events – like the [Reed Dance in Eswatini](#) – some women are bare-chested. Meta’s current rules also prohibit sharing information about important aspects of these cultural groups and communities.

## **6. The Oversight Board’s Decision**



The Oversight Board overturns Meta’s decision to take down the two Himba women and Himba people dancing cases, requiring them to be restored. The Board also overturns Meta’s decision to leave up the Maya/Karo case, requiring it to be removed. The Board upholds Meta’s decision to leave up the Yanomami case.

## **7. Recommendations**

### Content Policy

1. To better protect expression, while respecting the rights of Indigenous Peoples and their members, Meta should make public its Adult Nudity and Sexual Activity policy exception allowing content depicting bare-chested indigenous women in some circumstances. This exception should be applied on escalation only, and should allow such nudity where it reflects socially accepted custom and belief, and does not misrepresent these practices.

The Board will consider this recommendation implemented when Meta updates the public-facing Adult Nudity and Sexual Activity Community Standard with the policy exception.

### **\*Procedural Note:**

- The Oversight Board’s decisions are made by panels of five Members and approved by a majority vote of the full Board. Board decisions do not necessarily represent the views of all Members.
- Under its [Charter](#), the Oversight Board may review appeals from users whose content Meta removed, appeals from users who reported content that Meta left up, and decisions that Meta refers to it (Charter Article 2, Section 1). The Board has binding authority to uphold or overturn Meta’s content decisions (Charter Article 3, Section 5; Charter Article 4). The Board may issue non-binding recommendations that Meta is required to respond to (Charter Article 3, Section



4; Article 4). Where Meta commits to act on recommendations, the Board monitors their implementation.

- For this case decision, independent research was commissioned on behalf of the Board. The Board was assisted by Duco Advisors, an advisory firm focusing on the intersection of geopolitics, trust and safety, and technology. Memetica, a digital investigations group providing risk advisory and threat intelligence services to mitigate online harms, also provided research.