




# South Korea digital rights advocacy case studies

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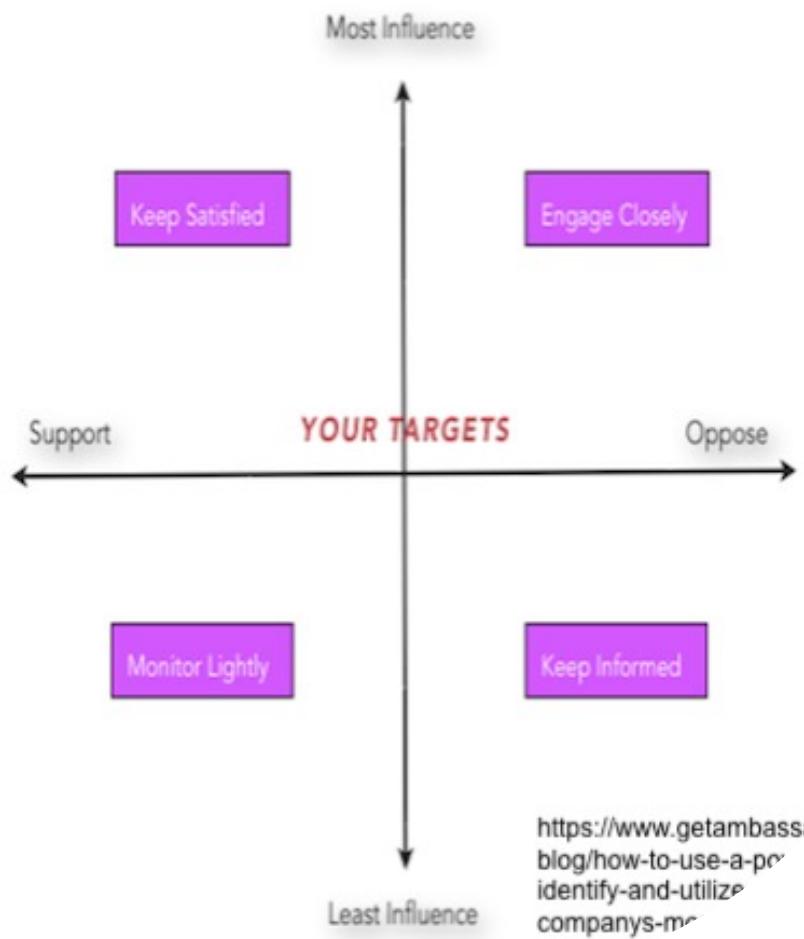
# Cases

- “network usage fee” bills - financial impediment to free speech 2.0
  - Press Arbitration Act amendment bills (press punitive damages bill) - civil damages impediment to free speech
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# Power mapping

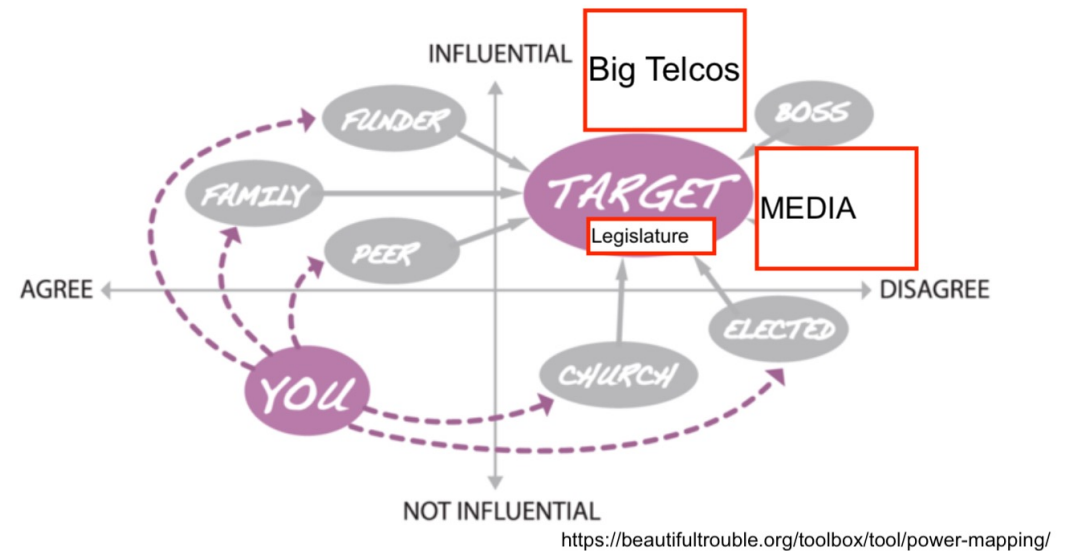


<https://beautifultrouble.org/toolbox/tool/power-mapping/>

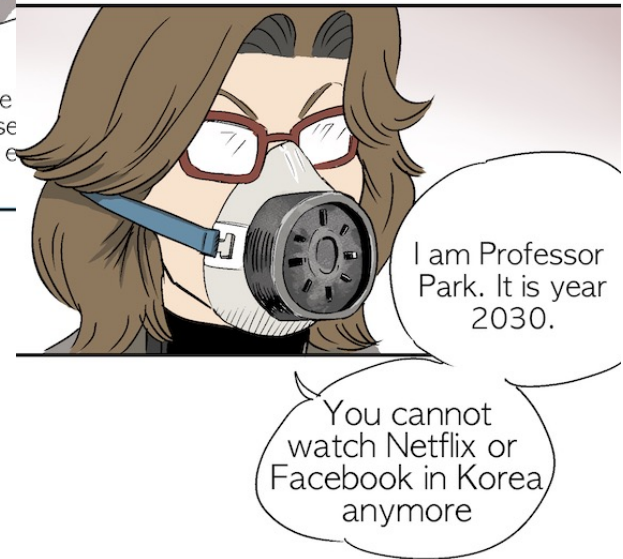
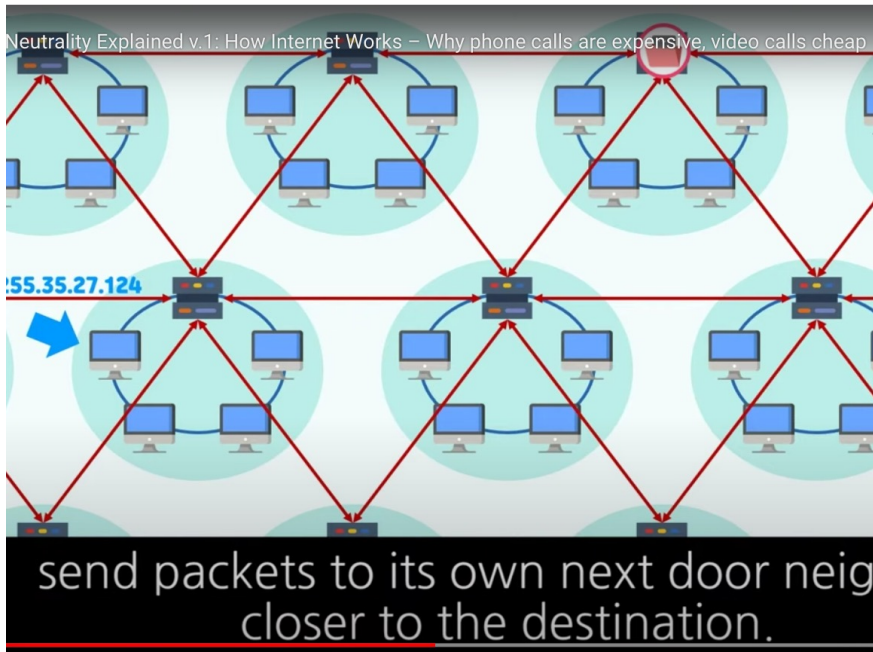


# "Network usage fee" bills

- Power map
  - Lobbying by 3 Big telcos
  - Almost all media in favor
  - Technically difficult to understand
- Solution - Occupy!
  - Public education first (2 years)
    - Webtoons
    - Videos
  - 7 bills up for deliberation
    - Targeted testimony at public hearing
    - Public petition

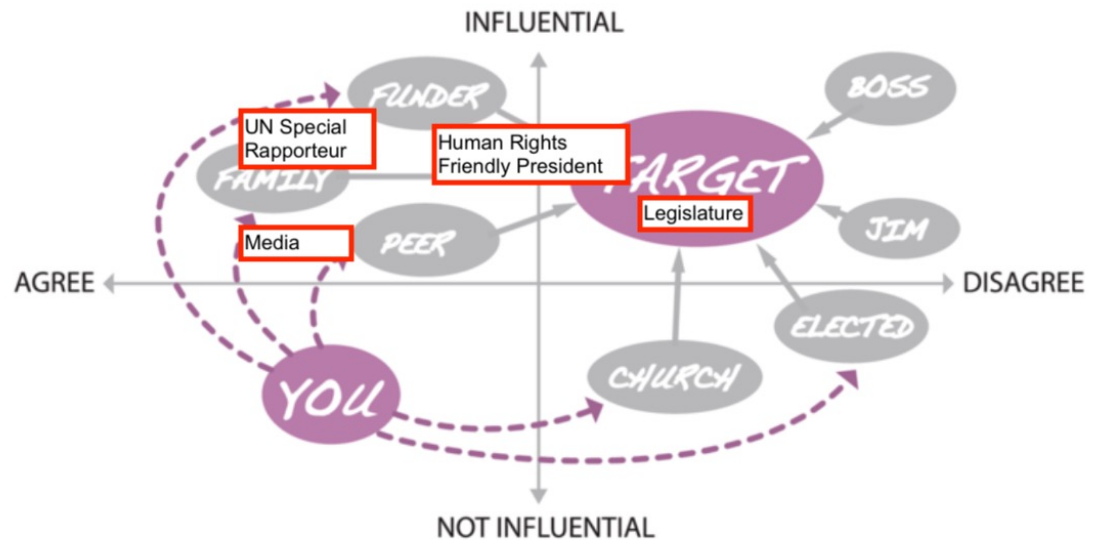


# Educational video and webtoons



# Press punitive damages bill


- Power map
  - All media against it
  - All political parties for it
  - Human Rights friendly president
- Solution - High-wire act
  - Educate president on human rights implications
  - How? - have him talk to the human rights officer of UN, Irene Khan.
  - Official communication from Khan - "counsel moderation"



<https://beautifultrouble.org/toolbox/tool/power-mapping/>




# Strategic Litigation

- Different strategies for different litigation - no general theory
  - Ultimate limiting factor - independence of judiciary (assuming that there is budding independence. . .)
  - Identification of lawsuits - maybe a theory possible
  - Three constitutional lawsuits needed in Indo-Pacific area
    - Administrative censorship
    - Registration requirement
    - Criminal defamation
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# Spread of NetzDG in Broader Contents Scope

- 2019 Philippines Anti False Content Act - mentions NetzDG
  - 2018 Malaysia Anti Fake News Act - mentions NetzDG
  - 2018 Vietnam Cybersecurity law - "propaganda against Vietman", etc., - similar to NetzDG, e.g., 24 hours
  - 2019 Singapore Protection from Online Falsehoods and Manipulation Act -false statement of facts - mentions NetzDG
  - 2021 Indonesia MR5 - "prohibited content", e.g., 4 hours, 24 hours of **flagging by Ministry** - similar to NetzDG
  - 2022 Myanmar Cybersecurity Bill - must remove "timely" all prohibited content **after flagging by the department** including "complained of stmts damaging another's social standing and livelihood"
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# France Avia Law struck down– Constitutional Conseil (June 2020)

- Part I: Terrorist content, child pornography AS notified by administrative authority - within 1 hr
  - Part II: Other “manifestly illegal” content - within 24 hours of notice
  - Unconstitutional b/c time too short, extrajudicial → criminal penalty not proportionate
  - Probably considered impact on free speech - “false positives”
  - Conseil national du numérique (French Digital Commission), la Commission nationale consultative des droits de l’homme (French Human Rights Commission) opposed the law.
  - Notice that Part I is not even a liability law but **direct administrative censorship**.
  - 2022 October Spanish Supreme Court on blocking order on womenonweb.org - administrative censorship unconstitutional!
  - 2009 June French Supreme Court on HADOPI law - **administrative cut-off** of internet access unconstitutional
  - 2014 Philippines Supreme Court - administrative censorship unconstitutional
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# Registration Requirement

- SIM card registration
- MR5 platform registration requirement
- Commonality?
- Korea periodicals registration requirement, Internet real name law - all struck down
- Strategies: anonymity restriction + prior restraint





# Criminal defamation laws

- Lesotho, Kenya struck down as unconstitutional
- UK abolished by legislation and spreading through former UK colonies
- US almost outlawed
- Reasons: 1. room for abuse - Criminalization gives the executive branch the power to attack by law dissidents
- 2. Theoretical: What is reputation but people's thoughts about others?
- 3. Excessive

