

Safeguarding Democracy from Digital Platforms

Ahead of the 2019 Lok Sabha elections, the role of digital platforms, such as Google, Facebook and Twitter, and the threat India's democracy faces from these platforms, have to be scrutinised closely. It has been estimated that Google and Facebook control nearly 70% of global internet traffic. From India to Brazil, we see WhatsApp, owned by Facebook, becoming the most important means of communication for many, with over 200 million users in India alone.

It is also clear by now that these entities are no longer mere communication platforms but serve as media organizations as well. In western countries, ad spending on digital media has outstripped that on print and television. In India, too, there has been a drastic rise in the same.

The digital platforms today have the ability to influence people's behaviour on an enormous scale, and, therefore, also the election process. Google and Facebook, as well as independent researchers, have analysed the impact of these platforms on influencing electoral processes and have concluded that there could be a significant swing in results through manipulation of electoral feeds.

The impact of the rise of these digital monopolies on the democratic process was partially revealed with the Cambridge Analytica scandal. Cambridge Analytica, using data from Facebook, is believed to have generated profiles on millions of users which were reportedly used by campaigns in the US elections for targeted messaging. In Brazil, during the presidential elections, allegations surfaced about business interests close to the far-right candidate and eventual winner, Jair Bolsonaro, illegally using WhatsApp to send millions of defamatory messages about his main opponent.

The 2014 election campaign gave us the first hints of the kind of influence digital platforms could have on popular perception. The campaign of the BJP, led by Narendra Modi, is believed to have spent substantial amounts for the campaign, a

sizeable part of it being spent on media advertising alone. Today, with a far higher number of voters on digital platforms such as Facebook, YouTube, WhatsApp, and a host of other platforms, the influence of digital platforms on the elections will obviously be greater than in the preceding ones.

Taking the cue from the BJP's campaign, many political parties have set up IT Cells, contracting IT professionals and political consultancy firms to crunch data and launch fine-tuned campaigns targeted at specific demographics, mainly through Facebook and Twitter. All of this could be outside of EC regulations, lacking in transparency or regulatory control of ECI unless effective steps are taken. Recent media reports have revealed the extent of cooperation between Facebook and the BJP campaign, including key personnel who worked in both.

The apps of various parties, which are reported to be gathering a lot of information for profiling and targeting, need to be monitored and brought under the regulatory oversight of the Election Commission.

India has a fairly robust electoral code of conduct, which scrutinizes campaigning on the ground and through conventional media, but the same has not translated to a scrutiny of online campaigning. This has enabled the political parties, which could mobilise large amounts of money – the BJP being way ahead of the pack- to spend substantially on digital media without any checks and balances.

In the years since 2014, the number of smartphone users has doubled, and the number of WhatsApp users has increased more than five-fold. In the various elections since 2014, we have seen the use of WhatsApp to spread communally charged and polarising messages and fake news on a massive scale. This election is likely to be no different.

Parties with the capacity to spend may even use, for example, WhatsApp Business Application Program Interfaces to deliver messages to very specific demographics, further dividing the electorate, and marking yet another 'milestone' in the misuse of data collected by digital giants.

Unlike campaigning through other forms of media, digital media campaigns are often difficult to analyse as both the amount of money involved and the methodology used for targeting remains in the background, and are the exclusive

domain of the digital monopolies. Similarly, unlike other media, there are few regulations across the globe on campaigns through digital media.

On a positive note, in the aftermath of the Cambridge Analytica scandal, there have been attempts by both digital monopolies and governments to document and regulate ad spending. Recently, Facebook has announced the ‘paid for’ and ‘published by’ features for all political ads, as well as a publicly accessible library which will archive these ads. Google has announced similar measures, while Twitter has said all political ad spending will be visible on a dashboard. These steps are not enough considering the scale of the upcoming elections in India. A much more broad-based campaign, involving multiple stakeholders – political parties, civil society and the Election Commission - is necessary to ensure that these platforms are not used to determine electoral results.

We note that the Election Commission’s consultations with digital platforms and the Internet and Mobile Association of India (IAMAI) have culminated in the adoption of a Voluntary Code of Ethics effective from March 20, 2019. We understand that the digital platforms have committed to bringing about a certain measure of transparency in respect of political ads, instituting a mechanism for handling complaints of misuse, and enforcing the 48 hour silence before the end of poll on social media. While we welcome this outcome as a step forward, it needs to be pointed out that the Code has been drafted without any transparency, public inputs or civil society engagement. The participation of all key stakeholders is of crucial importance in a consultation of this nature. We also note that the Code is not binding, has no legal force, and does not address the larger issues that we have articulated in this note.

In this respect, certain suggestions are being made to uphold and defend the integrity of the next general elections.

Appeal to the Political Parties:

It is critical for our electoral process and the health of our democracy that the role of money power in elections should be restricted. For last two decades, a proposal to limit the expenditure of political parties in elections has not been acted upon by

any government. We appeal to all political parties to recognise the threat of money power in the elections and evolve a consensus to enact a legislation to cap the expenditure of political parties in elections. Since the parties are now preparing their manifestos, we urge them to include therein a firm commitment to work for such a cap in future elections.

Appeal to the Election Commission

1. **Monitor compliance:** The Election Commission of India should monitor the online spending of political parties for election campaigns, and not just spending by candidates.
2. **Disclosure by Political Parties on their IT Cells, contractors and ads to the ECI:** Make it mandatory for political parties to disclose official Political Party/Individual handles on all major platforms such as Facebook, Twitter as well as lesser known platforms such as WeChat, Sharechat, TikTok, etc.
 - a) The EC must direct all political parties to disclose the names of companies and paid consultants looking after their social media, IT cell, digital marketing, as well as nodal digital officers.
 - b) Political parties must submit details of all digital spending during the election campaign process. These details must be made public.
 - c) The Election Commission must direct candidates to disclose their social media handles and campaign spends. Also ask to provide information on paid consultants posting on their behalf or otherwise officially promoting them. All “Office of (Candidate name)” social media accounts involved in campaigning or in coordination of communications in relation to electoral matters, must also be listed.
 - d) The EC must direct candidates and political parties to provide information on all contracts signed by them with third party vendors for digital services. Disclose publicly.
3. **Improve transparency:** Recently, digital platforms have announced steps for greater transparency on digital spending. Some of these measures include declaration of the identity of those paying for/publishing ads, as well as various kinds of verification. It is important in this context that there be a

common understanding of what constitutes a political ad. The Election Commission must initiate a process involving political parties and tech firms which evolves common definitions on such ads. Similarly, the verification process announced by various firms must be certified by the Election Commission and must be transparent. These safeguards have been implemented in other countries, too, especially the US, but reports have pointed to the ease with which they can be bypassed. The Election Commission must conduct an independent audit of the declaration processes for political ads. Specific steps may include:

- a) Direct digital platforms to aggregate and provide it details regarding electoral ad/promotion spend, as well as information on expenditures for ads/promotions by political parties and their listed IT cells and social media promoters. This information must be made public.

Direct digital platforms to track the monetisation of posts (the practice of paying money to boost the visibility of posts) on social media platforms by political parties, as well as by individuals representing these parties. The digital platforms should also disclose the specific demographics being targeted. The amounts spent on monetised posts and the identities of their target groups should be made public.

- b) Caution all major internet and social media firms that foreign funded, advertisements supporting or assisting political candidates entail a violation of Indian laws, including the Foreign Contributions (Regulation) Act.
- c) Request relevant governments/departments in the US, UK, and the EU for any filings/data pertaining to services, compensation offered to candidates running for office required to be filed under the foreign bribery laws of such countries (for example, the US Foreign Corrupt Practices Act, UK Anti-Bribery Act).

- 4. **Build institutional capacity:** The Election Commission must create a nodal department to address the growing threat of fake news which has the potential to jeopardise free and fair elections in the country. Headed by a competent and senior officer and staffed by members with the requisite technical

capabilities, the department can also receive complaints and grievances from the public, candidates, or political parties.

5. **Prevent profiling and hate speech:** The Election Commission should ensure that Facebook and digital platforms should not be used to target communities on the lines of caste, religion, ethnicity and linguistic identity, or in any other way that violates the electoral code of conduct. The same regulations should be applicable for apps developed by/for political parties.
 - a) Digital platforms must not do anything that influences the voting process in any way.
 - b) All digital firms must establish a robust and transparent complaints mechanism, with nodal officers to deal with reports of violations of norms on their platforms.
 - c) Digital platforms must conduct outreach programmes to their users to familiarize them with the process of complaints. Digital firms should also make public the process by which they deal with these complaints so as to enable audit of the corrective measures.
6. **Additional steps to strengthen the environment for free and fair elections:**
 - a) The Election Commission should reveal any discussions it has had with digital giants in the run-up to the elections about the process.
 - b) The Elections Commission should conduct an outreach programme, educating social media users on ways to report violations of electoral norms. Some specific steps include:
 - i. Engage with news organisations, civil society, and other independent groups seeking to combat disinformation, hate news circulation, and improve fact checking during the poll process
 - ii. Set up mechanisms to collaborate with the independent civil society, new media groups and political parties in order to focus on fact checking.

- iii. Call for an open, consultative meeting with experts and independent actors working on electoral integrity and combating disinformation, besides discussions with web firms, government departments, and political parties.
- iv. Require all party digital/IT leads to be informed of the current MCC media guidelines, social media guidelines, and Indian Penal Code provisions.
- v. Put in place curbs on data brokers which are in the business of collecting large volumes of data and selling it to political parties. There are reports of many such agencies already having conducted vast data collection exercises ahead of the elections. The EC should insist that political parties report any such transactions.
- vi. Ensure that any voter id collected as part of any initiative by other government agencies should be immediately deleted from the latter's database so that it is not used for electoral purposes.