

POLITICAL FINANCE IN THE DIGITAL AGE: A CASE STUDY OF INDIA

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EXECUTIVE SUMMARY

India's population of over 1.4 billion people, and its 986 million voters, multiple national and regional political parties and dynamic political landscape make it the world's largest democracy. It has in recent years witnessed a significant transformation in political campaigning, particularly following the advent of digital media. Since the ground-breaking electoral victory of the Bharatiya Janata Party (BJP) in 2014, which was characterized by innovative digital campaigning under the leadership of Narendra Modi, there has been a noticeable surge in the use of social media for electoral campaigning. Parties across the spectrum, including regional parties, have ramped up their digital strategies to capitalize on an ever-growing Internet user base.

Key trends

- *A shift to digital campaigning:* Traditional campaigning methods are increasingly being supplemented by digital strategies, with significant investment in big data analytics, and innovative content creation.
- *Social media dominance:* Major parties, led by the BJP, have aggressively targeted social media platforms to engage with voters, involving considerable spending on political advertising.
- *Regional outreach:* Regional parties are also investing heavily in digital campaigns to compete with national parties, leveraging vernacular language platforms to connect with diverse electorates.

India has in recent years witnessed a significant transformation in political campaigning, particularly following the advent of digital media.

The Election Commission of India has issued guidelines and voluntary codes aimed at promoting transparency and accountability from both political actors and social media platforms in digital campaigns.

Main challenges

- *Digital campaign oversight:* The Election Commission of India (ECI) has issued guidelines and voluntary codes aimed at promoting transparency and accountability from both political actors and social media platforms in digital campaigns. This has included pre-certification of political advertisements and disclosure of social media spending by candidates and parties. Challenges remain, however, with regard to compliance and effective oversight.
- *Third party influence:* Online spending by third parties has been found to be highly significant in India. Despite the existence of guidelines and regulatory efforts, monitoring third party spending on digital campaigns presents problems, raising concerns about excessive influence and the transparency of expenditure.

Recommendations

- *Regulate and monitor third party spending:* Policymakers should introduce regulations to monitor and limit third party spending on digital campaigns, including expenditure by affiliated groups, supporters and interest organizations. In addition, mechanisms should be implemented to track and disclose third party expenditure on behalf of political entities to mitigate undisclosed influence on electoral outcomes.
- *Promote compliance with voluntary codes of conduct:* The ECI should develop strategies to encourage political parties and candidates to adhere to voluntary codes of conduct on online campaigning. Collaboration with major social media companies should be strengthened to enhance compliance, monitoring and enforcement mechanisms.
- *Enforce stricter disclosure requirements:* Legislation should mandate political parties and candidates to disclose all expenditure related to online campaigning, including payments to social media platforms, the cost of content development and the salaries of digital campaign personnel.
- *Strengthen regulatory oversight:* Investments should be made to enhance oversight capabilities and effective monitoring of online campaign finance. Sanctions should be imposed on political actors for any violation of political finance laws, including undisclosed spending by third parties and circumvention of regulations.
- *Improve public transparency initiatives:* The ECI should consider establishing public databases or portals for publishing comprehensive information on political advertisements, funding sources and expenditure (including on online campaigns) in user-friendly formats to allow civil society organizations and citizens to critically evaluate the available information and demand accountability from political actors.

Future outlook

As India approaches the 2024 general elections, the role of social media in shaping electoral narratives is expected to intensify. Increased spending on online campaigning and the proliferation of disinformation, particularly with the advent of artificial intelligence (AI) and deepfakes, mean that regulatory bodies face a daunting task in safeguarding the integrity of the electoral process while balancing freedom of expression in the digital sphere. Effective enforcement of regulations and proactive measures to account for spending online will be critical to ensuring a fair and transparent electoral environment in an increasingly digitalized democracy.

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1. INTRODUCTION

With a population of over 1.4 billion and 986 million voters, India is the world's largest democracy. It is a multiparty, federal democracy with 6 national parties, 54 state/regional parties and over 2,000 unrecognized political parties (see Rathore 2023). While 13 states are currently run by regional parties, two national parties—the Bharatiya Janata Party (BJP) and the Indian National Congress (INC)—between them govern in 15 Indian states. The BJP, which has been in power at the federal level since 2014, is currently in government across 17 Indian states, governing alone in 12 and in coalition in 5 (for a detailed view, see *Hindustan Times* 2024).

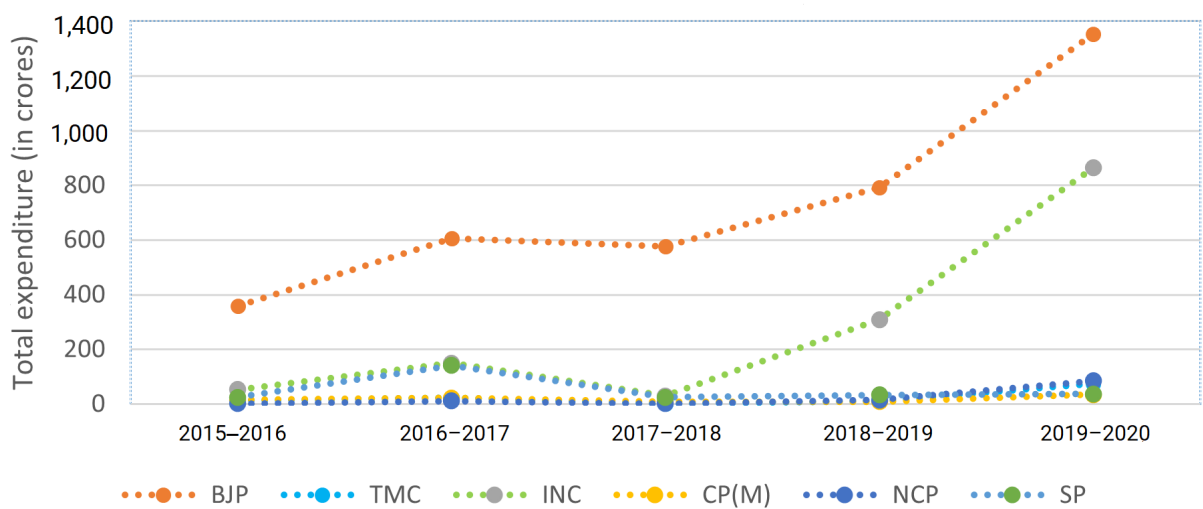
Since the BJP's historic electoral sweep in 2014, under the leadership of Prime Minister Narendra Modi, India's electoral scene has witnessed a rapid escalation in election campaign spending (see Figure 1). It is noteworthy that most parties, particularly the national parties such as the BJP and the INC, allot a substantial proportion of their party funds to publicity/election advertisements (see Figures 2 and 3). India has experienced a huge growth in social media users in the past decade, and political parties and candidates are increasingly deploying social media platforms in their electioneering, in particular to reach out to younger voters.

2. DIGITAL CAMPAIGNS: KEY TRENDS

Elections in India are aptly called 'Festival of Democracy'. Once the poll date has been announced, a carnival-like atmosphere sets in where political parties, candidates and their supporters can be seen campaigning door-to-door to the sound of drums, loud music, traditional recitals and chanted slogans. While the traditional mode of campaigning still rules the roost, a considerable amount has shifted online or to the digital sphere. The most significant use of digital technology in election campaigning was during the 2014 general election. This was the first election to see major political parties deploy big data analytics to crunch information on millions of new social media users to assist their campaigns. Furthermore, political parties

not only hired public relations executives and technical consultants, but proactively reached out to voters on Facebook, Twitter, TikTok and YouTube, among others. According to one reliable estimate, political parties possibly

Figure 1. Growing election expenditure by political parties*, 2015–2020

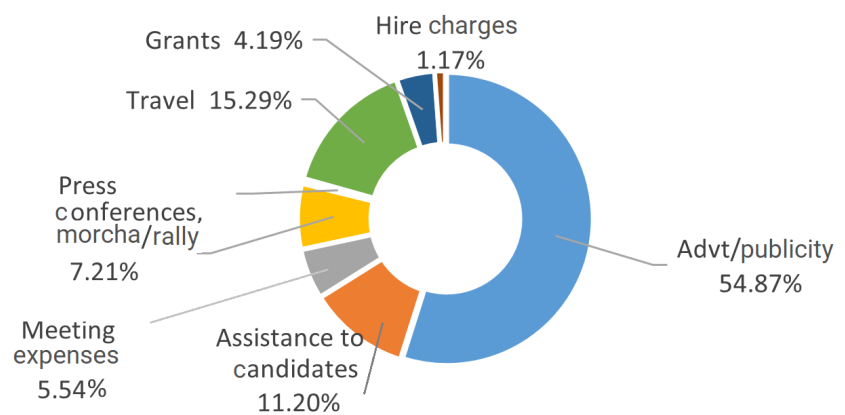


* 1. Expenditure in Crores (1 Crore=10 millions).

2. BJP: Bharatiya Janata Party; TMC: Trinamool Congress; INC: Indian National Congress; CP (M): Communist Part of India (Marxist); NCP: Nationalist Congress Party; SP: Samajwadi Party.

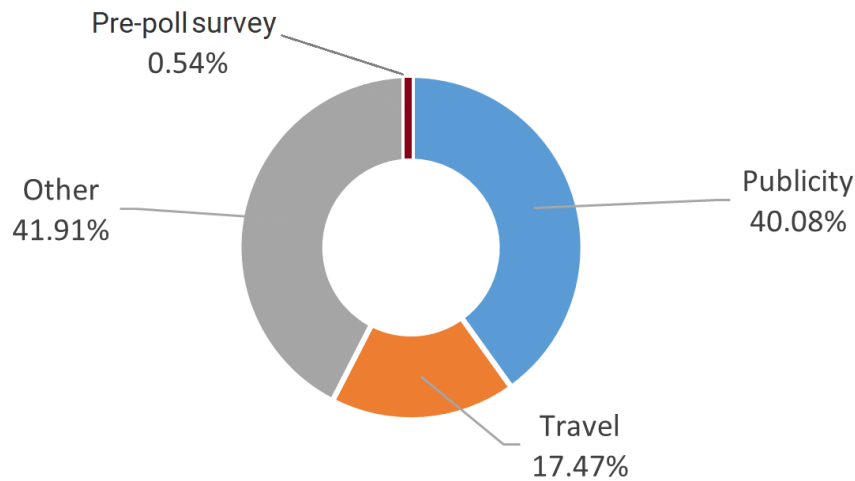
Source: Author's own estimate based on data from the Election Commission of India and the Association for Democratic Reforms (ADR), Delhi.

Figure 2. Spending on election publicity: BJP, 2015–2020



Source: Author's own estimate based on data from the Election Commission of India and the Association for Democratic Reforms (ADR), Delhi.

Figure 3. Spending on election publicity: INC, 2015–2020



Source: Author's own estimate based on data from the Election Commission of India and the Association for Democratic Reforms (ADR), Delhi.

spent around INR 500 crore (USD 82.91 million)¹ on dominating the social and digital media space during the 2014 polls (Dutta 2014). Although social media was mostly confined to the young, urban middle class, these sections are the real opinion makers, so reaching them created maximum buzz during the 2014 general election. The BJP and its candidate, Narendra Modi, launched the most innovative and aggressive digital media campaign that dominated most social media platforms (Rao 2019). Analysts felt that Modi's innovative social media outreach contributed greatly to his success in the 2014 election (Sen, Naumann and Murali 2019). Modi's spectacular electoral victory smartly harnessed the potential of digital media, prompting the London *Financial Times* (Chilkoti 2014) to call him the 'first social media prime minister'.

However, it was the 2019 general election, which was the most expensive election ever, that can truly be called a watershed election as far as social media is concerned. According to some estimates, political parties and candidates spent USD 8.7 billion on the 2019 general election (Pradhan and Kumaresan 2019). There had been massive growth in social media users in a country where more than half the population was under the age of 30 in 2019 (Indian Express 2022). India's Internet users had reached 560 million by January 2019, with 310 million social media users and a whopping 1.19 billion active cellular mobile connections (Kemp 2019).²

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¹ Based on April 2014 exchange rate. A crore is a term used in the Indian numbering system to represent 10 million.

² The most popular social media platforms among the over 800 million smartphone users in India are Facebook, Twitter (now X), WhatsApp and YouTube. According to the most recent data (Wong 2024), India is the largest market for Facebook (more than 400 million active users) and WhatsApp (500 million regular users).

Aided by cheap Internet data and the use of budget smartphones (second only to China), the digital divide as witnessed in the 2014 polls had considerably narrowed. Social media platforms such as Facebook, Google, YouTube, WhatsApp and Instagram dominated political communications and narrative-building, and political parties spared no efforts to dominate the new and potentially transformative medium for political communications. Staying ahead of the curve, the BJP, which had created its famed 'IT Cell' for the 2014 general election, deployed more than 1.2 million social media volunteers and thousands of troll armies to dominate the narrative and push the party's electoral agenda. The NaMo app, which captured all the major activities of Prime Minister Modi, was a standout feature of the ruling party's social media campaign strategy in the 2019 polls (Sen, Naumann and Murali 2019).

While the BJP retained the 'early mover' advantage, nearly all the political parties, particularly the main opposition the INC, gave a major push to improve their digital media capabilities during the campaign. According to media analysts, the INC spent more than INR 200 crore (USD 32.27 million) on social media campaigning, around 10 times its 2014 social media campaign budget, to counter the BJP-led government's digital platforms (Roy 2019). The party attempted to re-energize its social media outreach by establishing a dedicated social media team to stay afloat in the game. It trained social media staff, proxy workers and hundreds of volunteers to generate innovative digital content and filter creative messaging. Many regional parties, particularly the All India Trinamool Congress (TMC), the Telugu Desam Party (TDP), Yuvajana Sramika Rythu Congress Party (YSR), Biju Janata Dal (BJD) and Aam Aadmi Party (AAP), also invested heavily to boost their social media outreach among voters (Udupa 2019).

Since the 2019 elections, the appeal of digital media to candidates and parties has continued to grow. More than half the population now has access to smartphones and social media channels. As more and more rural populations consume digital data, political parties are going all out to overhaul their social media campaign strategies and infrastructure. This has been vividly demonstrated in state polls, where regional and smaller political parties compete with national parties to leverage the potential of digital media (Shekhar 2022).

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A striking feature of political communication through social media in India is the rapid expansion of social media applications in regional languages. By 2019, most political parties were using regional language platforms to enhance their support among electorates. Two standout social media platforms that emerged were ShareChat and Helo, which catered to regional languages, operating in as many as 15 different languages, including Hindi, Tamil, Telugu and Bengali. In no time, ShareChat was able to target 100–150 million mobile Internet users in rural India and Tier 2 and 3 cities (Sen, Naumann and Murali 2019). Thus, a major transformation had taken place between 2014 and 2019 as far as social media communications were concerned.

3. DIGITAL CAMPAIGNING EXPENDITURE IN NUMBERS

As discussed above, the massive jump in the number of social media users in the past decade has led political parties both large and small to make huge efforts to leverage the potential of digital media in election campaigns, as well as political and related outreach. One point that needs to be emphasized, however, is that while regional parties have greatly improved their presence in social media and campaign spending, digital media election campaigns are largely dominated by the two national parties, and the BJP has the lion's share.

The BJP has invested heavily in its digital infrastructure and personnel to maximize its reach on social media (Mehta 2019). An analysis of political advertisements placed on the two major digital platforms, Google and Facebook, which unlike other digital platforms launched advertisement transparency initiatives ahead of the 2019 election, shows that the BJP had overwhelming dominance in social media spending. Cumulative digital advertising spending by political parties on Google and Facebook during the campaign period (February to May 2019) was INR 58 crore (USD 8.3 million). Compared to the volume of spending on publicity (see Figure 3) by most political parties, this sum appears minuscule. However, this might be because these figures do not include expenses in connection with content development, salaries/fees for social media personnel, and so on (Chaturvedi 2019). Thus, what is visible in the public domain is a fraction of total spending by parties and candidates.

The BJP topped the list of social media spending by key parties. Of the INR 28.4 crore (USD 4 million) that Facebook received for advertising, the BJP spent INR 4.3 crore (USD 615,750), while the INC spent around INR 1.8 crore (USD 257,760) (see Table 1). Among the regional parties, All India Trinamool Congress (TMC) spent INR 29.28 lacs (USD 41,930) during the 2019 elections. Political advertising on Google varied slightly. While INR 29 crore (USD 4.15 million) was spent on Google advertising and its associated platforms, the BJP alone spent 60 per cent of the total. The second highest spender was the Telugu Desam Party (TDP), a regional party based in Andhra Pradesh and Telangana. The third top spender on Google was Dravid Munnetra Kazhagam (DMK), a regional party based in Tamil Nadu. The INC spent just INR 2.71 crore (USD 388,070) on Google for the 2019 polls.

Since 2019, political advertising on social media has taken an upward turn, particularly as more regional parties seek to enhance their social media strategies to match the ruling BJP. A major explanation for this is the Covid-19 pandemic and the associated restrictions imposed by the Election Commission on political rallies and door-to-door campaigning. For instance, on the 2021 elections for the five states of Uttar Pradesh, Goa, Uttarakhand, Manipur and Punjab, political parties spent INR 12.6 crore (USD 1.7 million) on Facebook (Rampal 2022). In the recently concluded elections for the five states of Madhya Pradesh, Rajasthan, Chhattisgarh, Telangana and Mizoram, in September to November 2023, there was a substantial increase in political advertising on social media. As per data collected by the Association for

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Democratic Reforms (ADR), INR 53.5 crore (USD 6.42 million) was spent on advertising by political parties on various social media platforms. A much greater acceleration in social media spending by political parties is expected in the upcoming general election in early 2024. A large youthful population is literally conversing on social media (CSDS 2019). Content moderation, the challenges of disinformation and hate messages, and regulation of political advertisements/endorsements by third parties/supporters will present major challenges for the ECI and other associated institutions.

Table 1. Facebook and Google advertising spend in 2019 election (top spenders)

Party	Ad spending on Facebook	Party	Ad spending on Google
Bharatiya Janata Party	INR 4.3 crore (USD 615,750)	Bharatiya Janata Party	INR 18 crore (USD 2.6 million)
Indian National Congress	INR 1.8 crore (USD 257,760)	Telugu Desam Party	INR 5.8 crore (USD 830,556)
All India Trinamool Congress	INR 29.28 lacs (USD 41,930)	Dravida Munnetra Kazhagam	INR 4.1 crore (USD 587,117)
		Indian National Congress	INR 2.71 crore (USD 388,070)
		Yuvajana Sramika Rythu Congress Party	INR 2.31 crore (USD 330,790)

Sources: Compiled by the Association for Democratic Reforms (ADR) from Facebook and Google Ads Lab Archives 2019.

4. OVERVIEW OF EXISTING POLITICAL FINANCIAL REGULATIONS

Broadly speaking, India's campaign finance rules and operating principles are enshrined in the Representation of the People Act (RPA), 1951. However, the Election and Other Related Laws (Amendment) Act, 2003 is also important legislation. Company and individual donations to political parties are 100 per cent tax deductible under sections 80 GGB and 80 GGC of the Income Tax Act, respectively. It is mandatory for political parties to submit a list of donations over INR 20,000 (USD 240) to the Election Commission of India (Eswaran and Vaishnav 2018). Nationally, there have been no restrictions on contributions to political parties since the Finance Bill of 2017 removed the cap on corporate donations to political parties (Vaishnav 2019). Corporations were previously allowed to donate up to 7.5 per cent of average net profits over the three previous years. Furthermore, India has removed an earlier bar on foreign contributions to political parties. The Finance Bill of 2017 amended the Foreign Contribution (Regulation) Act of 2010 by inserting a clause that a company will 'not be deemed a foreign source' if the 'nominal value of share capital is

within the limits specified for foreign investments'. In effect, this allows Indian subsidiaries of various foreign companies to donate any amount to political parties (Srivastava 2018). There is no cap on donations by individuals, other than anonymous donations which are restricted to INR 20,000 (USD 240).

In terms of election expenditure, the 2003 act puts an upper cap on candidate spending in elections for the Lok Sabha and regional legislative assemblies. This includes money spent by 'third parties' for a particular candidate. According to the most recent ECI direction, the upper cap for Lok Sabha elections is INR 95 lacs (USD 114,000). However, there are no limits on political party spending on election campaigns. This exemption for parties often leads to widespread violations or redundancy of the cap on candidate spending.

There is no specific legislation on expenditure on social media campaigns by parties or candidates. The ECI in partnership with social media companies has developed guidelines and a voluntary code of ethics to regulate advertising and spending on digital or social media campaigns. This apart, the ECI's Model Code of Conduct (MCC), which remains in effect throughout the campaign period, also applies to social media campaigns. The ECI has been attempting some form of monitoring and regulation of social media expenditure since 2008. In 2013 the federal election management body rolled out elaborate guidelines for social media companies, candidates, political parties and third parties, among others (Election Commission of India 2013). The ECI defined social media as a means of interaction among people on which they create, share or exchange information and ideas in virtual communities and networks. The ECI maintains that existing legal provisions related to election campaigning should apply to social media in the same way as they apply to any other forms of election campaigning. The ECI has made it mandatory for candidates to disclose their social media accounts when they file their nominations. Significantly, the ECI instructed Media Certification and Monitoring Committees (MCMC) at the state and district levels to issue pre-certification of political advertisements for political parties and candidates carried by Internet/social media or websites. It also directed political parties and candidates to publish their expenditure on social media (Election Commission of India 2013).

Closer to the 2019 general elections, the ECI issued much more comprehensive social media guidelines that, among other things, stated that candidates were required to file affidavits on Form-26 when they filed their nominations (Election Commission of India 2019).³ The candidates must also disclose all their social media accounts. Furthermore, the ECI extended the power of the MCMC at the district and state levels to undertake pre-certification of political advertisements released to any social media or website by political parties and candidates. Notably, the ECI expected all candidates and political parties to maintain a record of all expenditure, including any expenses incurred on social media advertisements, payments made to Internet companies and websites,

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³ A copy of Form 26 can be found at <[https://ceomadhya Pradesh.nic.in/Links/Form%2026%20\(as%20Amended%20on%2026.02.2019\).pdf](https://ceomadhya Pradesh.nic.in/Links/Form%2026%20(as%20Amended%20on%2026.02.2019).pdf)>.

operational expenditure on creative content development, salaries paid to professionals/staff, and so on. However, the ECI's guidelines were largely silent on third parties or proxy advertisers (Election Commission of India 2019).

5. THE MOST RECENT ATTEMPT TO REGULATE DIGITAL CAMPAIGNS: THE 2019 NATIONAL POLLS AND VOLUNTARY CODE OF ETHICS

By 2019, the exponential growth in social media and alarming rise of misinformation had led to growing pressure on the ECI from civil society groups to devise stringent regulations on advertisements related to social media campaigns (Newslick 2019). Independently, the major social media platforms—Twitter, Facebook, Google, ShareChat, TikTok and most importantly WhatsApp—agreed to devise and publish a 'voluntary code of ethics'. The code, which was drafted by the Internet and Mobile Association of India (IAMAI), was submitted to the ECI on 29 March 2019. In the meantime, the ECI had set up the Sinha Committee to look into the feasibility of regulating social media advertising during election campaigns and ways to prevent its misuse.⁴ The ECI and the IAMAI signed an agreement on the voluntary code, which entailed four key commitments from social media companies.⁵ First, social media companies agreed to conduct education and awareness campaigns, and to establish a fast-track grievance redress channel to take action on objectionable posts reported to the ECI under various electoral laws, such as section 126 of the Representation of the People Act, 1951. Second, and notably, it was agreed that social media companies would take action within three hours of reported violations of the mandatory 48-hour period of no-campaigning and advertising silence before voting. Third, they pledged to ensure pre-certification of all political advertisements published on their channels by the government's media certification and monitoring committees, as mandated by the Supreme Court in *Common Cause vs Union of India* (2005). Finally, they committed to transparently report paid political advertisements and to label them accordingly (Mehta 2019).

Drawing on its 2013 guidelines, the ECI set out in its 2019 'Handbook for Media' rules on third party disclosure and procedures for parties and candidates to lodge accounts of their election expenses, including on social media. The handbook defines social media expenditure as including payments made to Internet platforms/websites for advertisements, operational expenses related to the development of campaign content or maintenance of social media accounts, and salaries/wages paid to employees or professionals who undertake the tasks of maintaining these accounts (Election Commission of

⁴ The Sinha Committee was set up by the ECI in 2018 to study the provisions of section 126 of the Representation of the People Act, 1951 in order to identify gaps and the difficulties of regulating violations of the MCC. It was also asked to extend the MCC to social media. The Committee in its recommendations extended the MCC to cover print and social media, the Internet, cable channels and online versions of print media. It further recommended a collaboration between platforms and the ECI to develop a mechanism to allow the platforms to flag content that violates electoral laws and take it down as soon as possible.

⁵ The text of the code is available in Annex A.

India 2019). During the 2022 state elections, the ECI added a new column to candidates' election expenses returns for the submission of information on expenses incurred on digital campaigning (*Economic Times* 2022). In short, the Commission created a 'dedicated point' for capturing social media expenditure incurred by candidates and parties. To further improve regulation intended to check the misuse of social media during campaigns, the ECI launched the cVIGIL app, which allows citizens to report instances of misuse to the ECI and its officials (*The Hindu* 2023).

A significant aspect of regulation related to social media expenditure on election campaigns is that they have been brought under the purview of the existing MCC. The MCC is a set of guidelines agreed on by the political parties to prevent the incumbent government from misusing its power or position during elections. Once the election schedule has been declared by the ECI, no new policies or programmes can be announced by the incumbent government and the official machinery is debarred from being used for campaigning work (Daniyal 2019). Although the MCC has no legal standing, it has over the years served as a bulwark for electoral integrity and a check on the misuse of official powers during the course of election campaigns. To check the growing misuse of social media during elections, and disinformation and hate messages in particular, the ECI has authorized the Chief Electoral Officers in the states and officers at the district level to establish complaint redress mechanisms and take expedited action.

Thus, regulations and related mechanisms for controlling social media expenditure during election campaigns have evolved with rapid transformation of the digital space.

6. ISSUES AND CHALLENGES

While there have been a number of initiatives, including the elaboration of a detailed set of guidelines on digital media spending by political parties and candidates, and a voluntary code for social media companies, including pre-certification by ECI officials, they at best offer only minimal deterrence against misuse or violations.

Limited effectiveness of the voluntary code

While the Internet companies have independently agreed to a voluntary code, there have been widespread instances of its violation. For instance, of the 510 code violations in the 2019 elections, 93 were shortlisted but only 75 were analysed by the Commission and some inferences were made. In the end, no penalties were imposed by the Commission or its affiliated bodies for violations (Sen, Naumann and Murali 2019). Similarly, 909 posts were taken down by the social media platforms during the 2019 general elections, as per the ECI, following due grievance and complaint processes. While this may look encouraging, the numbers are clearly minuscule (Mehta 2019). The 2019 polls witnessed millions of fake or misleading posts uploaded to all kinds

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of platforms, but in particular to Facebook, Twitter, Google and WhatsApp (Sen, Naumann and Murali 2019). Only a few hundred were taken down by these media channels. While Facebook, Google or YouTube content and advertisements can be monitored by open sources, popular and widely used platforms such as WhatsApp are impossible to regulate or monitor. In short, there are serious question marks regarding the efficacy of voluntary codes to check harmful content in social media campaigns. The extremely poor records kept on the Code of Ethics and Broadcasting Standards or on enforcing peer surveillance and industry-evolved guidelines on commercial television news are a telling reminder of the limitations of self-regulation (Seshu 2018).

Difficulty of monitoring third party online campaigning

There are also challenges with regard to the accurate capture and disclosure of spending on social media advertisements by candidates and political parties. Although the 2019 polls were billed as the most expensive in the world and a social media election, the accounts of the major political parties such as the BJP and the INC show only a meagre amount devoted to social media. While parties have reported a massive increase in their publicity costs (see Figure 3), expenditure on social media represents a minuscule proportion. This raises the issue of third party or proxy spending on digital campaigns. As analysts have pointed out, most expenditure on digital platforms is not by political parties or candidates, but by their sympathizers or groups affiliated with political parties and candidates (Mehta 2019; Udupa 2019). Given the massive penetration of social media over the past decade, it is quite plausible that a significant proportion of campaign money is being diverted to social media platforms for digital messaging, social media war rooms, social media influencers and troll factories. What is pre-certified and reported as political advertising by candidates and political parties is only a small fraction of larger political mobilization programmes on digital platforms. Even with pre-certified and declared political advertisements on social media channels, appearances can be deceptive. A lot of advertising money is routed through separate but friendly groups (Mehta 2019). The political advertisements of the BJP and INCon Google and Facebook illustrate the complexity of third party advertisements and the challenges of identifying and accounting for them. The absence of an intermediary liability law in India is important here. The 2000 Information Technology Act is rather weak on checking the misuse of intermediaries.⁶ Although central government through the Ministry of Communications and Information Technology issued a framework and advice for social media platforms in 2021, which among other things allows users to register complaints, this has been of little help in curbing misuse.⁷ India's record of enforcing regulation on political finance is therefore very weak.

⁶ According to analysts: 'Section 79 of the Information Technology Act provides for "notice & takedown" under which an intermediary on being notified that any information, data or communication link, residing in or connected to a computer resource controlled by it, is being used to commit an unlawful act, must take adequate action against the same within 36 hours or lose its immunity to prosecution. However, the immunity is applicable only where the platforms are mere conduits or hosts and are exercising due diligence. It does not apply where the intermediary has conspired, abetted, aided or induced the unlawful act. Failure to take action can result in the platform being held responsible as a contributing party and its executives may be charged under section 153A of the Indian Penal Code. To escape liability, platforms often act as censors creating a deterrent and a chilling effect' (see Sagar 2019).

⁷ See the framework and regulations issued by the Ministry of Communications and Information Technology (Government of India n.d.).

Disclosure and transparency norms are regularly openly violated by parties and candidates with impunity and the ECI is barely empowered to take on the violations (Eswaran and Vaishnav 2018).

7. CONCLUSION AND RECOMMENDATIONS

As India prepares for the 2024 general elections, political parties and candidates are already working to leverage the great advantages that can be gained from technology and social media. India's state agencies, particularly the ECI and other regulatory institutions, will be put under tremendous pressure. Many analysts speculate that the 2024 elections will be the most expensive ever (Pradhan 2024). Key parties plan to spend aggressively on social media and a number of them are hiring social media influencers (Singh and Parkin 2024). It, however, remains to be seen how effectively the ECI and other state institutions will be able to monitor and check the use and misuse of social media by candidates, parties and their supporters and manage the daunting challenges of disinformation, the growing use of generative AI and deepfakes as well as hate messages, and safeguard the integrity of the electoral process.

Based on the above analysis, various considerations for policymakers, oversight agencies, social media platforms and civil society actors are set out below to enhance transparency in online campaign finance and safeguard the integrity of India's electoral processes in the digital age.

Regulate and monitor third party spending

- Policymakers should consider introducing regulations on monitoring and limiting third party spending on digital campaigns, including expenditure by affiliated groups, supporters and interest organizations.
- The ECI should implement mechanisms to track and disclose expenditure by third parties on behalf of political entities, to mitigate the risk of undisclosed influence on electoral outcomes.

Promote compliance with the Voluntary Code of Conduct

- The ECI should design strategies to encourage political parties and candidates to adhere to voluntary codes of conduct, and promote transparency and ethical conduct in online campaigning.
- Collaboration should also be strengthened with major social media companies to enhance compliance monitoring and enforcement mechanisms, thereby ensuring adherence to agreed standards of conduct.

Enforce stricter disclosure requirements

- Existing legislation should be reviewed to mandate political parties and candidates to disclose all expenditure related to online campaigning,

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Investments should be made by the ECI and other relevant bodies to enhance the oversight capabilities of responsible personnel to monitor and regulate the financing of online campaigning effectively.

including payments to social media platforms, the costs associated with content development and the salaries of digital campaign personnel.

- The ECI should implement robust mechanisms at the operational level to ensure comprehensive reporting and disclosure of digital campaign expenses in the financial statements submitted to the electoral authorities.

Strengthen regulatory oversight

- Investments should be made by the ECI and other relevant bodies to enhance the oversight capabilities of responsible personnel to monitor and regulate the financing of online campaigning effectively.
- In order to promote compliance with political finance laws, sanctions should be levied on political actors for any violation, including undisclosed spending (including by third parties) and circumvention of regulations.

Improve public transparency

- The ECI could establish public databases or portals for the publication of comprehensive information on political advertisements, sources of funding and expenditure in a user-friendly interface, as well as data visualization tools to enable greater transparency and accountability.
- Transparency-focused civil society organizations could promote initiatives on social media literacy to equip citizens with the skills to critically evaluate online political content and identify misleading or deceptive information.

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ANNEX A. VOLUNTARY CODE OF ETHICS FOR THE GENERAL ELECTIONS 2019

Preamble

The Internet has created opportunities for all to access reliable information, seek out credible sources, and obtain relevant facts. The web's openness has made these benefits available to all no matter who they are and where they are located.

This equally applies to elections, which are key to nurturing and strengthening a democratic culture. A free and fair election is the foundation of democracy. Access to reliable information and communication platforms via the Internet enables people to make informed choices in exercising their franchise during elections.

Keeping this context in mind and as per recommendations of the Sinha Committee Report, Participants recognize that while their products/services allow users to post content, the Participants are neither the author(s) nor the publisher(s) of such content. However, the Participants have together developed this 'Voluntary Code of Ethics for the General Elections 2019' (Code) and are committed to helping support such democratic processes by improving the integrity and transparency of the electoral process.

The Participants recognize that their group companies provide and administer different products and services, each operating under different business models and technologies while having varying audiences. Therefore, the Participants will endeavour to ensure that such products/services meet the spirit of the Code while accounting for the diverse nature of the products/services, which are governed by their respective product policies.

The Code shall apply within the existing legal framework in India. In case of any conflict between the voluntary framework and the existing legal framework, the legal framework will prevail.

Purpose of the Code

The purpose of this voluntary Code is to identify the measures that Participants can put in place to increase confidence in the electoral process. This is to help safeguard the products and/or services of the Participants against misuse to vitiate the free and fair character of the 2019 General Elections in India.

Commitments

The Participants will endeavour to meet, in good faith and to the best of their ability, the following commitments during the 2019 Lok Sabha General Elections in India:

1. Participants will endeavour to, where appropriate and keeping in mind the principle of freedom of expression, deploy appropriate policies and

processes to facilitate access to information regarding electoral matters on their products and/or services.

2. Participants will endeavour to voluntarily undertake information, education and communication campaigns to build awareness including electoral laws and other related instructions. Participants will also endeavour to impart training to the nodal officer at ECI on their products/services, including mechanism for sending requests as per procedure established by law.
3. Participants and the Election Commission of India (ECI) have developed a notification mechanism by which the ECI can notify the relevant platforms of potential violations of Section 126 of the Representation of the People Act, 1951 and other applicable electoral laws in accordance with procedures established by law. These valid legal orders will be acknowledged and/or processed within 3 hours for violations reported under Section 126 as per the Sinha Committee recommendations. All other valid legal requests will be acted upon expeditiously by the Participants, based on the nature of reported violation.
4. Participants are creating/opening a high priority dedicated reporting mechanism for the ECI and appoint dedicated person(s)/teams during the period of General Elections to interface with and to exchange feedback as may assist with taking expeditious action upon receipt of such a lawful request, following due legal process, from the ECI.
5. Participants will provide a mechanism for relevant political advertisers, in accordance with their obligations under law, to submit pre-certificates issued by ECI and/or Media Certification & Monitoring Committee (MCMC) of the ECI in relation to election advertisements that feature names of political parties, candidates for the 2019 General Elections. Further, Participants shall expeditiously process/action paid political advertisements lawfully notified to Participants by the ECI that do not feature such certification.
6. Participants will commit to facilitating transparency in paid political advertisements, including using their pre-existing labels/disclosure technology for such advertisements.
7. Participants will, pursuant to a valid request received from the ECI, via Internet and Mobile Association of India (IAMA) provide an update on the measures taken by them to prevent abuse of their respective platforms.
8. IAMA will coordinate with the Participants on the steps carried out under this Code and IAMA as well as Participants will be in constant communication with the ECI during the election period.

Entry into Force

This Code will become effective and will enter into force on 20 March 2019 and will be in force for the duration of the 2019 Indian General Elections.

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ABOUT THE SERIES

This Case Study of India was drafted between July and December 2023 and is part of International IDEA's 'Political Finance in the Digital Age' project, which collects empirical information about the ways countries adapt to and cope with political finance challenges associated with digitalization.

Through the project, members of political finance oversight agencies and civil society organizations, political party officials and legislators can learn about good practices and lessons learned from various countries that can help them devise and implement political reforms to protect the integrity of political processes and institutions against existing and emerging digital risks.

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The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with 35 Member States founded in 1995, with a mandate to support sustainable democracy worldwide.

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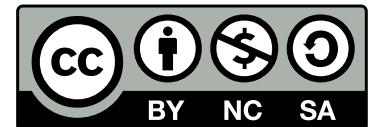
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