What Cambridge Analytica does is the norm, not an aberration

The real issue is that India does not have a legal framework for data protection.

The BJP and Congress have been busy accusing each other the past week of hiring Cambridge Analytica, a data mining and analytics firm, to win elections through unfair means. Cambridge Analytica is under investigation for using the Facebook data of millions of users to influence the 2016 US elections through targeted political advertising.

Reports in the Indian media claim that both the BJP and Congress have in-fact used the services of Cambridge Analytica at various points since 2010, through its Indian subsidiary Ovlono. Such manipulation of public opinion undermines core democratic principles and could have serious implications for the 2019 elections.
Yet, the response by Indian leaders – with the IT minister threatening to summon Mark Zuckerberg if Facebook is found interfering in the 2019 elections – demonstrates that there is little understanding of the issue at hand.

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To be clear, the Cambridge Analytica episode highlights two key challenges – the use and abuse of data and the scope for external or foreign influence in democratic processes. Both these challenges are being exacerbated by India’s own legal frameworks, or lack thereof, not Cambridge Analytica or Facebook.

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The first point that needs to be noted is that what Cambridge Analytica has been accused of doing – creating profiles based on individual data and using that to influence individual electoral choices – is in fact happening on the Internet every day.

The business model of the Internet revolves around the collection and monetisation of individual data – what is now frequently referred to as ‘surveillance economy.’ Targeted fake news is at play everyday on WhatsApp chats across India, even without Cambridge Analytica.

In other words, what Cambridge Analytica does is the norm, not an aberration. The real issue is that India does not have a legal framework for data protection. Certainly, any data protection law will come with its own challenges – from issues of meaningful consent to regulating transnational data flows. But, it will nonetheless create a vital and necessary framework against which rights and responsibilities can be articulated, and digressions thereof evaluated.

A draft framework is currently under review; to be effective, it will have to hinge on more than just informed consent to mechanisms for holding governments and private sector accountable for the misuse of data.

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The second issue is about the role that external actors can play in steering democratic processes. The Cambridge Analytica episode highlights the invisible yet pervasive ways in which public opinion can be shaped in a digital age and transform political destinies. The lesson to take away is the need for more stringent regulations around election campaigning.

Yet, India seems to be further relaxing existing checks and balances. The BJP government through the Finance Bill 2016 amended the FCRA to make it easier for parties to accept foreign funding; earlier this week, the Finance Bill passed in Lok Sabha, without debate, contained a further amendment doing away with scrutiny of political party funding since 1976. (The retrospective amendment will help BJP and Congress escape the fallout of a 2014 Delhi High Court judgement that held both guilty of violating the FCRA).

While the US wrestles with allegations of foreigners meddling with presidential elections, India seems to be further enabling such influence. As we gear up for the
2019 elections, it is the absence of these two basic safeguards we should be worried about, not Cambridge Analytica or Facebook.

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