ARTIFICIAL INTELLIGENCE AND TECHNOLOGY
IN ELECTION RIGGING

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Abstract

Election rigging is a serious issue plaguing the elections of many States. It may be referred to as the manipulation, interference with the process either by increasing the vote share of the candidates. In the recent years, it has been used quite efficiently towards tailoring the results. In an era of modern technology, Artificial Intelligence (A.I) has grown to an extent where it is utilised to analysis and compound data of voters. It does things quite indirectly by manipulating the voters data and through third party websites. One such incident was the Cambridge Analytica which shook the entire world as both United States and Europe"s elections were rigged using data of the voters on social media website. So, it is important to combat ways or neutralise the use of such technology against rigging. It has to been seen as to what will be the future impacts of these technology in elections in India especially.

Keywords:

Artificial Intelligence, Facebook Cambridge Analytica, GerryMandering, Electinos and Technology.

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Introduction:

Election rigging is a serious issue plaguing the elections in many States. Artificial Intelligence is used in almost all consumer driven product. It is a new means to rig elections also. They have been in the process of collecting vast amount of data either with the consent or without the consent. It is used to generate informative which is sensitive and can be used to make decisions having profound importance. One such scandal is the Facebook-Cambridge Analytica where technology was used to rig elections and influence the voters using their data on social media. It also led to data privacy issues. On the other hand when vast amount of data is possessed, it becomes easy to rig elections even at the base level. Base level can be said to being right from the constituency division. In other words, A.I and data can lead to gerrymandering also. It can be said that when such data is collected, it can be used even to divide constituencies which may bring favour to one party or candidate and also it will enable the makers to know the voters choice easily. In order to tackle these issues, both U.S and E.U have enacted legislations to protect the consumer data and privacy which was undermined previously. E.U has brought the GDPR and U.S (Californian State) has brought the California Consumer Data Privacy Act. In our country, it still lies a grey area without proper legislation. Also, with the delimitation of constituencies coming up in the next few years, if left unregulated these data holders might involve in gerrymandering causing the elections to be rigged.

Artificial Intelligence and Its Terminologies:

Artificial Intelligence is a technology where the machines / softwares learns to mimic a particular task. These days it is used in almost all sectors of life and business houses also exploit it for their gains.[1] Generally, A.I can be classified into narrow, general and super intelligence ones. Narrow are used for donkey jobs and general performs task like humans and super ones do unnatural tasks.[2] So, the ones which cause rigging issues or serious election issues will be with super and general category.

When it comes to election, a major part of A.I is done by machine learning. For e.g A.I is used for finding unregistered voters where data is processed when its feed with basic details from each state and the software reviews it and compiles a new list. But on the hand, it has deep learning which is unique through algorithms that can solve issues which humans can"t. E.g Lyre Bird uses this technology to clone voices and

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[1] RUSSELL, STUART J.& NORVIG PETER. ARTIFICIAL INTELLIGENCE: A MODERN APPROACH 2 (3rd ed.,2009).

[2] Anjali UJ, *UNDERSTANDING THREE TYPES OF ARTIFICIAL INTELLIGENCE*, ANALYTICAL INSIGHT (Aug.26, 2020, 11.43PM), https://www.analyticsinsight.net/understanding-three-types-of-artificial-intelligence/.

create accurately digital voice like that of Barrack Obama and Donald Trump.[3]

History of the Cambridge Analytica Scandal:

The scandal is not one where it happened overnight, in fact it was years in the making. Firstly,on 21st April 2010, Facebook launched Open Graph allowing external developers or makers to access users"s critical data with consent when an individual uses Facebook. Data such as gender, location, birthday, education , opinion, chats etc. In 2013, it launched the "thisisyourdigitallife" app to take psychological test with 300,000 users. Facebook from 2014 changes its rule to restrict developers" access to users information. In December 2015, it was reported Cambridge Analytica was helping Ted Cruz" Presidential Campaign for Republican Party and when Facebook got knowledge of it, it got Kogan (other app) and Cambridge Analytica to delete the data. In 2016, Cambridge Analytica"s Managing director, Mark Turnbull told that his firm was responsible for the defeat of Hilary and cause for victory of Donald Trump. Finally, in the year of 2018, both The Guardian and The New York Times reported around 50 million Facebook profiles were used by Cambridge Analytica and final numeral was 87 million. March 20, 2018- Federal Trade Commission starts investigation and on 21st

March 2019- Mark Zuckerberg testifies in Court.[4]

Artificial Intelligence is used to determine the behaviour of the individual whose data is feed to it. Its predictive skills and analysis of the data is the helm for it to interpret and give results regarding the individual"s behaviour. Also, there are cases where the machines are feed with biased algorithm, then even the results will get effects[5]. It leaves the data subject without any legal remedy for use of his/her information without their consent. This in turn leads to the website application influencers to give wrong predictions. It can lead to rigging the elections reverse either way making rigging a costly affair to the citizens.

Methods Used By A.I:

Artificial Intelligence"s subsets both machine learning and deep learning are the greatest tools used to understand individual behaviour. As mentioned above, one way is to collect data and interpret them, use it to influence a voter"s behaviour. But slightly more advanced is the system of having political bots to have political

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[3] Ashley Sams, *Artificial Intelligence Could Help or Hurt Midterm Elections*, MARKETING INSTITUTE (Aug.26, 1.01 PM), https://www.marketingaiinstitute.com/blog/artificial-intelligence-could-help-or-hurt-midterm-elections.

[4] Sam Meredith, Facebook-Cambridge Analytica: A timeline of the data hijacking scandal, CNBC (Aug.28, 2020, 12.17 PM), https://www.cnbc.com/2018/04/10/facebook-cambridge-analytica-a-timeline-of-the-data-hijacking-scandal.html

[5] Chris Middleton, Cambridge Analytica vs Facebook: Why AI laws are inadequate, INTERNET OF BUSINESS (Aug.28, 8.01 PM), https://internetofbusiness.com/cambridge-analytica-vs-facebook-why-ai-laws-are-inadequate/.

advantage. There are reports that a flock of bots were used to rig elections in 2017 United Kingdom General Elections. Bots are automatic accounts specially programmed to spread a particular message in order to bring an illusion to the public. Its duty is to spread awareness about a candidate which can be both positive and negative via social media among its users. It is designed like a normal individual account but under the veil is automatic program doing the work.

For 2016, U.S. Presidential Elections, certain bots called as Pro-Trump Bots were used to impinge Twitter and Facebook Pages of the other candidates to spread more content on Trump. The same bots were used for 2017 Presidential Election of France where the candidate Emmanuel Macron. It was leaked via emails exchanged and bots would often contain data about Macron which were false about his financial dealings. The objective was to portray him as a fraud and to trending topics to dominate in social media.[6] An effective way of

manipulating public discussion on media is to rely on automated and cyborg accounts. For e.g. Sock puppets initiate conversation and ideas then amplifier bots increasingly tweet or publish the topic to cover users and approval bots work

with particular tweet or comment to retweet or like or reply to enhance the credibility.[7]

India and CambridgeAnalytica:

Cambridge Analytica has claimed that it has worked in the 2010 Bihar Assembly Elections. It tied up with Strategic Communication Laboratories Private Limited, one of its directors Amrish Kumar Tyagi is the son of the Janata Dal Leader K.C.Tyagi. Rai is another party person worked with another person,Alexander Nix. They created a database for seats for the next election and tried to rig the same but due to the death of close aid Muresan.[8] Though, it was reported that they tried reaching to Congress and BJP, it was a failure. Also, in the year of 2018, Whistle Blower Christopher Wylie, has mentioned that they (Cambridge Analytica) have worked extensively for elections in India. But the extent to which they rigged has remained unclear. Further, he stated that Congress is a client and he has promised to provide documentation for the work done in India.[9]

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[6] Vyacheslav Polonski, How artificial intelligence silently took over democracy, WORLD ECONOMIC FORUM (2nd Aug. 2020, 4.05 PM) https://www.weforum.org/agenda/2017/08/artificial-intelligence-can-save-democracy-unless-it-destroys-it-first/.

[7]Renee DiResta, John Little & Jonathon Morgan, The Bots That Are Changing Politics,VICE (4th Aug. 2020, 5.04 PM) ,https://www.vice.com/en_us/article/mb37k4/twitter-facebook-google-bots-misinformation-changing-politics

[8]Shivam V.J, Exclusive: The inside story of what Cambridge Analytica actually did in India,THE PRINT (6th Aug. 2020, 7.20 PM), https://theprint.in/politics/exclusive-inside-story-cambridge-analytica-actually-india/44012/

[9] Vidya Ram, Cambridge Analytica worked „extensively" in India, and for Congress: Whistleblower tells UK parliamentary panel, THE

Furthermore, Cambridge Analytica and its parent company S.C.L had close to 300 permanent staff employed and 1400 consultants prior to the 2014 General Elections. It claimed to have established the most sophisticated political research hub with offices in 10 cities in India. They support campaign team by functioning as nerve for caste, political and party research design, data collection and analysis enabling parties to deliver right messages through right candidates. It has handled around 8 assignment starting from 2003 Rajasthan elections to the 2012 UP elections.[10]

As for the 2019 Lok Sabha Elections, many of the election based applications and companies worked with Congress and BJP for influencing the customers. Silver Push, an application worked with Congress for understand the sentiments of the voters especially done when before and after the party launches any program for campaign. Next Election, a Bangalore based firm has pointed the use of big data for use of parties along with Vidooly. Vidooly has an algorithm which can trace the pattern and

interpret which political video is trending or gaining public attention.[11]

Law and Rigging:

Election laws on rigging are not watertight around the global. In practicality, it is hard to prove that an voter"s decision was actually influenced by the online campaigning via usage of elections companies like Cambridge Analytica. But the larger picture is that the data of voters (citizens) have been used by them to make campaigning favourable for a particular candidate or party. Presently, those kind of companies are only punished under privacy and data protection laws. Though, there are no direct laws to punish them, laws such as the General Data Protection Regulation and Californian Consumer Privacy Act. It just gives the subjects the right to regulate their own data. It throws a caution to the companies processing data to specify the exact process and obtain consent from the data subject to use the same. GDPR provides protection for the data subject if their data is used in any electoral activities, the same may be permitted in public interests only if it has proper safeguards established.[12]

HINDU BUSINESS LINE (6th Aug. 2020, 8.01 PM), https://www.thehindubusinessline.com/info-tech/social-media/cambridge-analytica-worked-extensively-in-india-and-for-congress-says-whistleblower-tells-uk-parliamentary-panel/article23366308.ece.

[10]Itika Sharma Punit, Cambridge Analytica"s parent firm proposed a massive political machine for India"s 2014 elections, QUARTZ (7th Aug. 2020, 10.08 PM), https://qz.com/1239561/cambridge-analyticas-parent-firm-proposed-a-massive-political-machine-for-indias-2014-elections/

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[11]Smriti Srivastava, India General Elections2019: How big data is influencing voters psychology, ANALYTICS INSIGHt (7th Aug. 2020, 10.35 PM), https://www.analyticsinsight.net/indian-general-election-2019-how-big-data-is-influencing-voters-psychology/ .

[12] Recital 56 of the General Data Protection Regulation, 2016.

Californian Consumer Privacy Act (CCPA), 2018 protects the data of the individual the same way GDPR does. It does differ with the GDPR with regards to some aspects because GDPR covers even firms that do not have offices in Europe but sells goods and services to Europe. CCPA is quite unclear as to its jurisdiction. GDPR does not classify data but CCPA does classify them. CCPA classifies it as commercial, biometric, internet or electronic, professional etc. There differences for business houses.[13] So, indirectly they firms use these data to rig elections, they can be subject to liability and penalties. But these doesn"t change the fact that elections are rigging by influencing the voters indirectly through online and other media applications.

India on the other hand has just recognised privacy as a fundamental right had set up the Shri Krishna Committee on Artificial Intelligence and Personal Data Protection Bill. The report was published in 2018 with mostly resembling the GDPR.[14] It lays down a duty that the

person who process data should do it in a fair and reasonable way. The object and purpose of the data has to be clear and specific and data should not be used for other purposes.[15] Appropriate penalties are laid down in Sections 67-75 of the Bill again it can only indirectly punish companies. A way out to claim loss for elections can be to seek for damages claiming that their data has been used without their consent firstly and then used improper to rig elections, making election rigging cough up damages. Election results may not change but it would set a precedent to companies not to misuse data.

Delimitation of Constituencies:

India has been independent for the past 71 years and during this time it has adopted a democratic form of Government. Over the years" various democratic values were inculcated including universal suffrage, fair representation, free election, etc. And at the heart of such democratic values lies the periodic elections which is conducted every five years.

According to Article 82[16] of the Indian Constitution, delimitation of the states shall be carried out after each census for such elections. But disproportionate growth of population in certain regions of the country and the failure/reluctance of state governments to pursue family planning measures led to freeze in delimitation

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[13] Gabriela Zan r-Fortuna, Michelle Bae,Comparing privacy laws: GDPR v. CCPA, FUTURE OF PRIVACY FORUM (7th Aug. 2020, 10.35 PM),https://fpf.org/wp-content/uploads/2018/11/GDPR_CCPA_Comparison-Guide.pdf.

[14]Sindhuja Balaji, India Finally Has A Data Privacy Framework -- What Does It Mean For Its Billion-Dollar Tech Industry?, FORBES (7th Aug. 2020, 10,44 PM), https://www.forbes.com/sites/sindhujabalaji/2018/08/03/india-finally-has-a-data-privacy-framework-what-does-it-mean-for-its-billion-dollar-tech-industry/#32f2f81d70fe.

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[15] Section 4,5 of the Personal Data Protection Bill, 2018.

[16] INDIA CONST.art 82.

activity after 1976 until 2001 under the Constitution (42nd amendment) Act, 1976. And this freeze was further extended under the 84th Constitutional Amendment up to 2026 due to the lack of success in family planning programs.

However, they decided to divide the population of the states into equal numbers of assembly constituencies without altering the number of seats and under 87th amendment it was provided that the number of seats shall be frozen until 2026 on the basis of the1976 census[17].

The 2026 delimitation brings new challenges to the table, as there could be chances of malapportionment or through gerrymandering.

<u>Gerrymandering:</u>

Gerrymandering occurs where constituencies are divided for the benefit of one political party at the expense of others .Gerrymandering dates back to the 18th century when the Governor of Massachusetts , Elbridge Gerry approved delim-itation of constitutional districts which aided the Democratic Republican Party in 1812. The term Gerrymandering was then invented, by a fede-ralist newspaper upon observing that a new district was similar to a salamander. By 1840, Gerrymandering became a common practice. Since then various forms of Gerrymandering

was formed including Partisan Gerrymandering , Racial Gerrymandering and Bipartisan Gerrymandering, with Partisan Gerrymandering being the most common form[18].

In the U.S Gerrymandering was found to occur across the years across various states including North Carolina between 2003 to 2015, California in 2010, Texas in 2003, Illinois in 2013, etc.The elections clause, Article 1 of the United States Constitution[19] which assigned power to the legislature of the states to prescribe" Times, places and manner of holding election" to the members of the Congress and also to alter the regulations. It was a means to aid in stopping such unfair practices during elections. The Apportionment Act,1842 was one such legislative enactment which required that districts be made of contiguous territories, then later additional requirements were added such as compactness and equality.

In the landmark judgement of Davis v. Ban-demer[20], the court upheld the claims of Partisan that gerrymandering has occurred viol-ating the Equal Protection Cluase of the 14th Amen-dment.

More recently in the case of League of Women Voters of Pennsylvania v. Commonwealth of

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[17] Lakshmi Iyer & Maya Reddy, Redrawing the Lines: Did Political Incumbents Influence Electoral Redistricting in the World‟s Largest Democracy?, HARVARD BUSINESS SCHOOL (5th Aug.2020, 6.03 PM), https://hbswk.hbs.edu/item/redrawing-the-lines-did-political-incumbents-influence-electoral-redistricting-in-the-worlds-largest-democracy.

[18] Larry Alexander & Saikrishna B. Prakash, Tempest in an Empty Teapot: Why the Constitution Does Not Regulate Gerrymandering, 50 William. & Mary L. Rev. 1 (2008).
[19] U.S. CONST. art. I, § 8, cl. 5.
[20] Davis v. Bandemer, 478 U.S. 109 (1986).

Pennsylvania, [21]the Pennsylvanian Supreme Court declared that the State's Congressional districts were designed in a manner violating the constitution of the State and hence should be redrawn again for the 2018 election.

Across the world there were several instances of gerrymandering found, including in Turkey, Australia, Nepal, Philippines, Kuwait, Malaysia, etc. However gerrymandering remains the most common in the U.S.A, where it initially started.

Gerrymandering and India:

In India the basic principles that govern delimitation is provided under the Constitution. And Article 82[22] provides for delimitation to be done by "such authority and in such manner as the law may determine". It is usually carried out by a high power body called as the delimitation commission. But due to lack of time the first delimitation was done by the Office of the President and the groundwork was completed by the election commission, then proposals were laid before the Parliament, but the process was seen as deplorable as the proposals were more for the individual interests of the members of the house rather than the general public interest, hence this is not considered as the actual first delimitation as it was not independent of person interest[23].A delimitation commission was thus

formed in 1952, since then a delimitation commission has formed 4 times in 1952, 1963, 1973 and 2002.

However it is very surprising to note that there was no constitutional entrenchment on how to make the delimitation. On the other hand, the delimitation Act,1972 on the basis of the constitution provision provides certain requirements which is geographical compactness, existing boundaries of administrative units, facilities of communication and public convenience and is present within the current act of Delimitation Act,2002 as well

However, this has not been very effective as there has been various instances of delimitation including in 1966 when the new state of Punjab was created, there were accusations that the boundaries were drawn in the favour of Congress, accusations were levelled even against the second delimitation as being in favour of the Congress Party, and that without the gerrymandering Congress might not have won the 1967 election[24].

A new form of Gerrymandering was introduced where electoral reservation for only S.C or S.T candidates for a particular district was misused. For example in 1986, there were allegations that the Maharashtra Schedule casts reserved seats were dumping grounds for the areas which did not support Congress. And in the 1957 election,

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[21] League of Women Voters v. Pennsylvania, 921 F.3d 378 (3d Cir. 2019).
[22] Supra note 16.
[23] Lakshmi Iyer & Maya Shivakumar, Electoral Redistricting in the World‟s Largest Democracy: An Evaluation, ISID (6th Aug.2020, 7.02 PM),

https://www.isid.ac.in/~pu/conference/dec_09_conf/Papers/LakshmiIyer.pdf.
24   R. P BHALLA, ELECTIONS IN INDIA, 1950-1972 (1st

edn. S. Chand, 1973).

a new double member constituency was created in a bid to defeat the former finance minister from the Congress Government, who at that time became a leader in the Swatantra Party.[25]

While the delimitation freeze from 2002[26] has resulted in a pause in the gerrymandering. Within the next decade, the challenges for the upcoming delimitation have just exacerbated. The population since 1976's census has increased drastically from 54.81 crore with registered voters within it being 27.4 crore to eight hundred million voters and yet 543 Lok Sabha MP which have been based on the ancient 1971 census set as the maximum limit constitutionally under Article 81(1)[27] represent over 1.28 billion people. Now there shall be changes to both the aspects which shall bring new challenges, especially in light of the Cambridge Analytica

The Cambridge Analytica Scandal, showed the world how technology could be misused to change electoral results, as has been discussed in the earlier chapters. Thus, now more than ever in the light of next delimitation happening within the next decade there is need for immediate steps to be taken so as to ensure there is no manipulation of the voters mindset nor is there a manipulation of constitutional districts

based on the personal data gained about the voters.

Critical Analysis:

Elections Rigging happens in one way or the other with latest being using public data. Data is collected from social media or third party websites without the consent of the users. It led to data leaks like Facebook-Cambridge Analytica where data used for political campaigning. The main issue to be seen is that sometimes these firms create false or artificial campaigning and also relate your interests and hobbies and sends you only those contents. So, naturally one gets influenced that the a party or candidate "s ideologies are matching with that individual. With the help of General Data Protection Regulation and Californian Consumer Privacy Act, one will be able to stop companies from using data for illegal purposes that too without consent. On one hand, it can misused for campaigning or influencing people and on the other hand with volumes of data, it is possible with the help of Artificial Intelligence to involve in gerrymandering. With the delimitation of constituencies to be done in 2026, the data will helpful to divide constituencies according to a particular manner favouring a party or candidate. It has to be ensured that companies or firms don't use political data in such manner. At this hour, there is a solid need to make laws firstly to avoid manipulation of voters through social media and secondly to prohibit data from being

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25   G.N. GAWA GURU, PARTY POLITICS IN RESERVED
CONSTITUENCIES. (Ph.D Thesis, Jawaharlal Nehru University, Delhi, 1985)

[26] Supra note 24.
[27] Supra note 16 art.81(1).

used for delimitation to favour a party or candidate and other illegal purposes.

Conclusion:

Artificial Intelligence has changed the role of technology in life. It being clubbed into use with political firms like Cambridge Analytica has made both technology and data vulnerable. When such data is used to influence voters over the social media, it causes outcry among people when their data is being use agains them without their consent. In light of that E.U enacted the GDPR and U.S (Californian State) brought the CCPA to protect misuse of data and it forbids companies from using the same without their consent. In the earlier times, people at least had a choice whereby they voluntarily with consent sat for speeches or electoral campaigns of candidates but the Cambridge Analytica methods people did not have a choice. It is high time that the electors data is not misused for campaigning without their consent. India at the hour needs a watertight legislation like GDPR for data protection and amendments to campaigning among candidates.

More than ever, this data can be used for gerrymandering where the preferences of the voters can be easy found. On this basis, constituencies and its boundaries can be drawn up to favour parties. With the delimitation for India coming up in less a decade (2026), it must be important that this kind of rigging is avoided. It is now possible not only to influence voters but also manipulate them and their consti-

tuencies. With the present laws, it is hard to prove as to how can voter"s behaviour was influenced. So, India at this hour at the growth of technology its experiencing we need to laws to protect them and have free and fair elections. Gerrymandering may not on the agenda for now but inflecting voters through social media needs to be looked in serious.