

# Digital Campaign Advertising and the Threat to Elections

———— Tehilla Shwartz Altshuler | Guy Lurie



Abstract



**Policy Paper 155**

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## **ABSTRACT**

Recent years have seen a dramatic change in the nature of election campaign advertising in Israel and throughout the world. The switch to online advertising and to individual contacts and marketing via diverse digital platforms—specifically targeted to a voter—has unleashed a power that is immeasurably greater than that of all earlier forms of voter persuasion. The new methods make it possible to manipulate voters' ideas and the election process, especially with their potential to disseminate fake news or disinformation/misinformation via social networks and other channels, as well as a deep analysis of personal data by means of algorithms based on the processing of big data.

Meanwhile, the laws related to election propaganda are frozen in the past, an archaic relic of the modes that were employed in years gone by. They prescribe rigid and detailed limits for political advertising in the traditional media (the print press, radio, and television). Today, however, candidates, political parties, and others (“non-party actors”) publish freely on digital platforms, whose influence on the voting public continues to grow, and are not subject to any legal strictures. Quite the contrary: from the statutory perspective in Israel, so far as election propaganda is concerned the online world is the Wild West.

The absence of boundaries between the permitted and the forbidden distorts the possibility of free and autonomous voting decisions by individuals, as well as the fairness of the election process and the equal opportunity that should be enjoyed by all lists and candidates. In other words, the fact that there is no regulation of election propaganda in the digital universe bodes disaster for the defense of the values that are the basis of democratic elections: freedom of expression, pluralism, equal opportunity, secrecy, privacy, and free and fair elections, as well as squandering public resources. Some of the problem stems from the fact that techniques that were originally meant to sell products and services online are now exploited to influence beliefs, opinions, and democratic elections. Accordingly, with regard to modes of advertising and persuasion that relate to the democratic process and not to the commercial marketplace, we need to create a new regulatory framework to protect the values that are the bedrock of democratic elections.

To cope with the threat that online election propaganda poses to the principles of democratic elections in Israel, we propose five reforms, as follows:

- (1) To add to the Election Propaganda Law a clear section on its goals, including protection of the right to privacy;
- (2) To include in the law the principle of transparency, obligating advertisers to identify themselves and mark content as political propaganda. This provision should apply to all types of election propaganda, including in the digital realm and the social networks, and to advertising by candidates, political parties, and nonparty organizations;
- (3) To enact legislation that places limits on the use of personal information for the purpose of election propaganda. In particular: (a) to limit the use of the voters' roll and other databases and to restrict the processing of sensitive personal information; (b) to outlaw all digital efforts to interfere with elections and suppress voter turnout; (c) to

ban digital fraud and threats to honest elections; (d) to require that a provision for privacy and a privacy impact assessment be included in the processing of data for election purposes; (e) to empower the chair of the Central Elections Committee to issue restraining orders against violations related to direct mailings and database administration;

**(4)** To authorize the chair of the Central Elections Committee to issue restraining orders against election propaganda that violates statutes that are not enumerated in the Election Propaganda Law. This power would be invoked only in exceptional cases that severely infringe the possibility of free and fair elections;

**(5)** To enact more comprehensive regulation for safeguarding data that is collected and saved by candidates.

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