November 2021

EXPLORATORY STUDY ON THE USE OF DIGITAL TECHNOLOGIES FOR POLITICAL-ELECTORAL PURPOSES:

Colombia's presidential campaign 2018
Bogotá's mayoral campaign 2015 & 2019



privacyinternational.org

Dejusticia

dejusticia.org

Dejusticia

Authors

This report was written by Daniel Ospina Celis and Juan Carlos Upegui, of Dejusticia, in collaboration with Privacy International.

Find out more about Dejusticia's research at:

https://www.dejusticia.org/en/

ABOUT PRIVACY INTERNATIONAL

Governments and corporations are using technology to exploit us. Their abuses of power threaten our freedoms and the very things that make us human. That's why Privacy International campaigns for the progress we all deserve. We're here to protect democracy, defend people's dignity, and demand accountability from the powerful institutions who breach public trust. After all, privacy is precious to every one of us, whether you're seeking asylum, fighting corruption, or searching for health advice.

So, join our global movement today and fight for what really matters: our freedom to be human.

Open access. Some rights reserved.

Privacy International wants to encourage the circulation of their work as widely as possible while retaining the copyright. Privacy International has an open access policy which enables anyone to access its content online without charge. Anyone can download, save, perform or distribute this work in any format, including translation, without written permission. This is subject to the terms of the Creative Commons Licence Deed: Attribution-Non-Commercial-No Derivative Works 2.0 UK: England & Wales. Its main conditions are:

- You are free to copy, distribute, display and perform the work;
- You must give the original author ('Privacy International' and 'Dejusticia') credit;
- You may not use this work for commercial purposes;

You are welcome to ask Privacy International and Dejusticia for permission to use this work for purposes other than those covered by the licence.

We are grateful to Creative Commons for its work and its approach to copyright. For more information please go to www.creativecommons.org.

Privacy International
62 Britton Street, London EC1M 5UY, United Kingdom
Phone +44 (0)20 3422 4321
privacyinternational.org

Privacy International is a registered charity (1147471), and a company limited by guarantee registered in England and Wales (04354366).

Cover image: Héctor Orjuela

CONTENTS

I. PRESENTATION 3

A. JUSTIFICATION 3

B. METHODS 5

II. GENERAL FINDINGS 8

A. BACKGROUND 8

B. ACTORS 12

i) Electoral Campaigns 12

ii) Political Parties and Movements 13

iii) Companies Offering Digital Marketing Services in Colombia 14

iv) Companies Offering Digital Marketing Services to the Companies Offering Digital Marketing Services in Colombia 15

v) Social Media Platforms 15

C. PRACTICES 17

i) Relationship Between the Actors 17

ii) WhatsApp and Closed Groups 22

iii) Microtargeting on Facebook 23

iv) In-House or Third-Party Databases 25

v) Lack of Traceability and the Transparency Problem 26

III. CONCLUSIONS

A. THE EXPANDING USE OF DIGITAL TECHNOLOGIES FOR ELECTORAL PURPOSES 28

B. THE ROLE OF DIGITAL TECHNOLOGIES IN THE ELECTORAL CONTEXT 29

C. THE COMPANIES INVOLVED IN THE ELECTORAL CONTEXT 30

D. LACK OF TRANSPARENCY 31

E. INSTITUTIONAL PREPARATION AND SCOPE OF REGULATION 32

F. (NEW) RISKS TO DEMOCRACY 33

I. PRESENTATION

A. JUSTIFICATION

The mass use of social media and the Internet has modified social dynamics and our relationship with technology in many areas[1]. The way political power is shaped in Democracies has not been immune to this trend. Political parties, candidates and campaigns, across diverse political and national contexts, use digital technologies and social media to spread their message, reach more people, and attract votes. Young audiences are consuming less and less traditional media, while social media networks are now a relevant political debate scenario.

Moreover, the digital economy, fueled by new technologies, has allowed integrating the analysis of large amounts of personal data (*big data*) into the services portfolios of a variety of companies that have data-driven business models. One example is the *microtargeting* technique, which was originally created to optimize the effectiveness of advertising, and that allows different actors, including electoral campaigns, to specifically identify the political interests of each individual and target them directly.

According to the well-known Karim Amer and Jehane Noujaim Netflix documentary *The Great Hack*, during the 2016 U.S. presidential election, the Cambridge Analytica partnership and a combination of *microtargeting* and fake news ultimately secured Donald Trump's victory. The phenomenon has been

1 In part, this is due to widespread access to the Internet and mobile devices. For example, and although this figure is much lower than in the Global North countries, it is estimated that in Colombia at least half of the population has access to mobile Internet and smart devices.

studied in the United States[2] and Europe[3], both for its novelty and the potential risk it poses to democracy and human rights[4].

In Colombia in 2018, the then mayor of Bogota, Enrique Peñalosa, was accused of hiring the controversial Cambridge Analytica firm during his 2015 election campaign[5]. Similarly, the firm's former director acknowledged interacting with three presidential campaigns in the 2018 electoral race[6]. As a result of the scandals associated with Cambridge Analytica around the world, the Colombian Superintendence of Industry and Commerce ordered, as a precautionary measure, a provisional block of the Pig.gi application, due to its potential commercial relationship with Cambridge Analytica[7]. In addition, *cookies* from the company NationBuilder (also hired by Donald Trump) were found on the websites of two of the 2018 presidential campaigns[8].

2 Endres Kyle, and Kelly Kristin J., "Does Microtargeting Matter? Campaign Contact Strategies and Young Voters", *Journal of Elections, Public Opinion and Parties*, Vol. 28(1), 2018, pp. 1–18.

3 Bennett Colin J., "Voter Databases, Microtargeting, and Data Protection Law: Can Political Parties Campaign in Europe as They Do in North America?", *International Data Privacy Law*, Vol. 6(4), 2016, pp. 261–275.

4 Gorton William A., "Manipulating Citizens: How Political Campaigns' Use of Behavioral Social Science Harms Democracy", *New Political Science*, Vol. 38(1), 2016, pp. 61-80; Zuiderveen Borgesius, Frederik J., Möller Judith, Kruikemeier Sanne, Ó Fathaigh Ronan, Irion Kristina, Dobber Tom, Bodo Balazs, and de Vreese Claes, "Online Political Microtargeting: Promises and Threats for Democracy", *Utrecht Law Review*, Vol. 14(1), 2018.

5 Cuestión Pública. "Cambridge Analytica habría asesorado a Enrique Peñalosa". March 20, 2018. Retrieved from **https://cuestionpublica.com/cambridge_analytica_penalosa/**

6 El Espectador. "El vínculo de Cambridge Analytica con tres campañas presidenciales en Colombia". April 18, 2018. Retrieved from **https://www.elespectador.com/noticias/el-mundo/el-vinculo-de-cambridge-analytica-con-tres-campanas-presidenciales-en-colombia-articulo-750725/**

7 Superintendence of Industry and Commerce . "Como medida preventiva, Superintendencia ordena bloqueo de aplicación Pig.gi por su aparente vinculación con posible tratamiento ilegal de datos personales de colombianos". March 28, 2018. Retrieved from **https://www.sic.gov.co/noticias/como-medida-preventiva-superindustria-ordena-bloqueo-de-aplicacion-pig-gi-por-su-aparente-vinculacion-con-posible-tratamiento-ilegal-de-datos-personales-de-colombianos.** *See also* Revista Dinero. "Superintendencia ordenó bloqueo de aplicación por posible uso ilegal de información". March 28, 2018. Retrieved from **https://www.dinero.com/pais/articulo/superindustria-bloquea-aplicacion-por-su-relacion-con-cambridge-analytica/256829**

8 Fundación Karisma. "Análisis confirma relación de Nation Builder, empresa que ayudó a Trump a llegar a la presidencia, con dos campañas presidenciales en Colombia". April 6, 2018. Retrieved from **https://web.karisma.org.co/analisis-confirma-relacion-de-nation-builder-empresa-que-ayudo-a-trump-a-llegar-a-la-presidencia-con-dos-campanas-presidenciales-en-colombia/**

In addition, it was recently reported that *retargeting*[9] technology was used in Claudia López's website and web tracking technology was used in Miguel Uribe's website, both candidates in the 2019 Bogotá mayoral race[10]. The issue is undoubtedly relevant in Colombia's political context, in light of signs that new technologies, social media and, in general, new forms of communication are being used by candidates and political campaigns to promote their agendas and win the popular vote.

In light of the above, this research was guided by the intent of exploring the use of digital technologies for political-electoral purposes, in particular, different microtargeting practices, specifically in the 2018 Colombia presidential campaign and the 2015 and 2019 Bogotá mayoral campaigns.

In this final research report, we briefly discuss the research methods employed, the most notable findings, and some conclusions.

B. METHODS

We used three research methods to collect the information used to draft the final report. The methods were applied in a successive and staggered manner, to integrate the preliminary findings into our subsequent research. First, we conducted an open search on the web to identify relationships "in the public domain" between political campaigns and digital marketing companies. We also sought to ascertain the type of services publicly offered by the companies

9 Labarthe, Saavedra and Sáenz describe *retargeting* or *remarketing* as "showing an ad on a topic about which the user has already expressed an interest, either on advertisers' sites or in other contexts" (p. 41).

10 Stéphane Labarthe, Víctor Práxedes Saavedra and Pilar Sáenz. *Pequeño manual introductorio de tecnologías para el marketing digital electoral. El caso de las candidaturas a la Alcaldía de Bogotá 2019*. Fundación Karisma, 2020.

contracted by political campaigns in Colombia. Second, we submitted requests to access public information to the seven main political parties in Colombia, to the National Data Protection Authority[11], and the National Electoral Council. Finally, we conducted semi-structured interviews with key figures among academics, businesspeople, political communications advisors, journalists, and experts on the use of data in the digital era.

For the first method, we relied on the reports published on the *Cuentas Claras* (Transparent Accounts) platform, available at the web page www.cnecuentasclaras.gov.co, which is managed by the National Electoral Council. This website originated in Resolution 3097 of 2013 of the National Electoral Council, which requires candidates running for elected office to complete a report disclosing the totality of their campaign's expenses and income and to make it available to the public. The information included in the expense report must include the contract amount, its purpose, and the name of the contractor. This tool allowed us to examine the electoral advertising[12] expense reports of all the candidates in the three electoral races being analyzed. We were therefore able to identify the companies hired by the candidates to conduct their campaign advertising.

Next, we conducted a brief web search in relation to the digital services offered by the companies we identified earlier. This was mostly carried out using their own websites. As these companies seek to attract new customers, their websites usually present detailed information on the available services. In any event, it is possible that the services described do not fully represent the services actually rendered by the company. However, since this information is provided to the public voluntarily, we consider it is a suitable source to ascertain whether the

11 We refer to the Data Protection Office of the Superintendence of Industry and Commerce. We call it the National Data Protection Authority because this is the technical name for this type of institutions and how it is known internationally, independently of the specific name given to it in Colombia.

12 The reports reviewed can be downloaded from the web page **www.cnecuentasclaras.gov.co** as Annex 5.7B for the Bogotá mayoral race and Annex 6.8 for the presidential campaign.

companies hired by the candidates offer services to conduct massive personal data analysis or *microtargeting*.

Second, we submitted public freedom of information requests to seven political parties[13], the National Data Protection Authority, and the National Electoral Council[14]. They are all subject to Law 1712 of 2014 (Law on Transparency and Access to Public Information) and, for that reason, all information in their possession is considered public. Although the Cuentas Claras reports were available, the requests submitted to political parties sought to determine again and in more detail whether the parties had business relationships with digital marketing companies. We also asked whether the parties conducted targeted advertising on social media (targeting or microtargeting) and what privacy policies, if any, they operated under. We asked the other two entities about the existence of specific regulation on personal data protection in an electoral context, the guarantee of transparency in the relationships between companies and political campaigns, and the institutional capacity to enforce the relevant regulations. Five of the seven political parties did not respond to our information requests. We had to litigate these cases before an *amparo* judge, after which the replies were provided.

Finally, we conducted ten semi-structured interviews to learn from key stakeholders about the use of digital tools in political campaigns, the value of microtargeting for political candidates, and the extent to which Colombia is comparable to scenarios like the United States, where it appears that microtargeting is crucial in tight political races. We interviewed experts, academics, businesspeople in the political communications field, communication advisors to political leaders, people who participated in electoral campaigns, and

13 Green Alliance Party, Radical Change Party, Democratic Center Party, Colombian Conservative Party, Liberal Party, Alternative Democratic Pole, and Unity Party.

14 The requests submitted to all three were based on the questions that our London-based partner organization, Privacy International, suggests asking when investigating the use of personal data in elections. Retrieved from **https://privacyinternational.org/node/3359**.

political journalists. The interviews were recorded and transcribed, then cross-checked and aggregated, to identify commonalities, divergences, and salient facts. While we have pledged not to use their names in the research reports, we thank all those who agreed to be interviewed remotely with us. We look forward to meeting in person in the future.

II. GENERAL FINDINGS

A. BACKGROUND

It is necessary to clarify some aspects of the Colombian context to better understand the relationship that exists between digital marketing companies and political campaigns and the influence of microtargeting in Colombian politics. We will address three aspects: the country's political culture, the dissociation between political parties and political campaigns, and Internet penetration in a context of digital divide.

First, it is important to consider the country's political culture. Multiple analysts have noted that the Colombian political regime and its institutions have not consolidated fully. For example, Dávila and Delgado differentiate three types of clientelism in Colombia's history: traditional, modern, and market clientelism[15]. Market clientelism, they argue, is new, while the other two date back to colonial times, and make use of institutional reforms such as popular elections and decentralization to asymmetrically distribute resources under local patronages,

15 Dávila, Andrés and Natalia Delgado. 2001. "La metamorfosis del sistema político colombiano: ¿clientelismo de mercado o nueva forma de intermediación?". In Francisco Gutiérrez (ed.). ¿Degradación o cambio? Evolución del sistema político colombiano. Bogotá: Norma – IEPRI.

whose power extends both regionally and nationally. Hence, in many parts of Colombia, elections are reduced to the interests of local mafias[16] rather than the *true* popular vote.

Clientelism, the capture of elections by illegal powers, *caudillismo* and the concentration of power have increased the distrust of the citizenry in the democratic functioning of institutions[17]. This is compounded by problems in the design of the National Electoral Council as the institution responsible for overseeing the proper conduct of Colombian elections and the State's lack of technical and legal capacity to control local mafias or *cacicazgos* (political fiefdoms).

Most of the people we interviewed, regardless of their academic approach to researching institutional weakness in Colombia, indicated that microtargeting strategies for political-electoral purposes should be analyzed within the political and social context of institutional weakness and electoral risks, especially beyond the major urban centers. In fact, some of the interviewees even ventured that the use of personal data and social media networks in politics would only be effective in four or five capital cities, precisely because of the political dynamics in the rest of the country. Accordingly, for some elections or in some constituencies, it is more profitable for a candidate to make use of traditional clientelistic or illegal strategies than to develop a digital campaign that involves the large-scale use of personal data.

Second, there is a dissociation between campaigns and political parties. Under the Colombian electoral regime, it is possible to conduct electoral campaigns without the endorsement of a political party or with the endorsement of several political parties. Moreover, regulations allow separating, dissociating, the legal

16 There are many examples of the kind of electoral practices that distort public affairs and harm national democracy. One of them, written as a chronicle, can be found at **https://lasillavacia.com/como-comprar-un-edil-64076**.

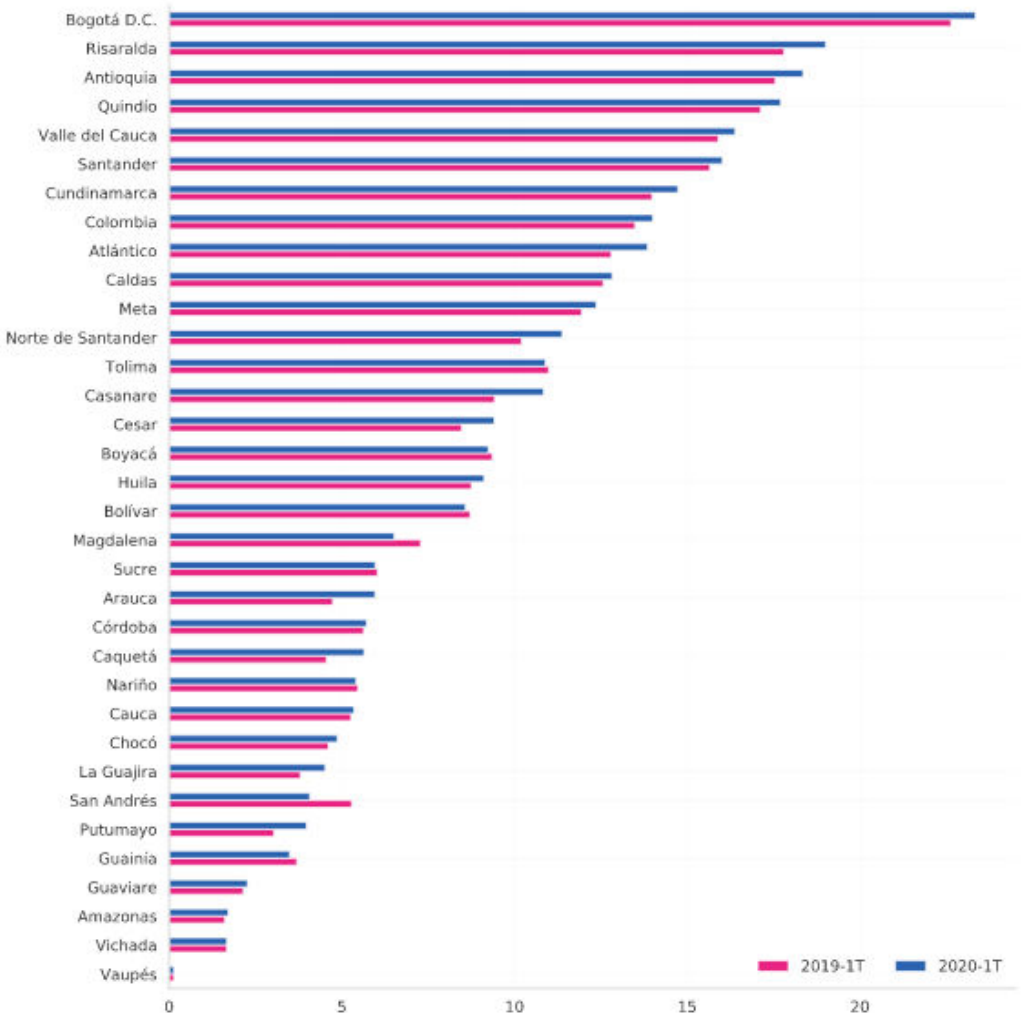
17 Mauricio García Villegas and Javier Eduardo Revelo Rebolledo. *Estado Alterado: Clientelismo, mafias y debilidad institucional en Colombia*. Dejusticia, 2010, p. 167.

obligations of a political campaign from the institutional responsibility of political parties. As a result, political parties are not directly responsible for compliance with legislation related to a campaign's expenses and caps or for the information handled by the campaign, even in the case of campaigns conducted by candidates that have their backing. The responsible entity is the campaign itself, which hampers accountability, since electoral campaigns disappear once the elections are over.

Third, we have the country's digital divide and Internet penetration data. According to the most recent report of the Ministry of Information and Communication Technologies[18], only 14% of the Colombian population have access to a fixed Internet connection (in homes, schools, or workplaces). Only 58.4% have access to mobile Internet (through mobile devices and 2G, 3G or 4G networks). Furthermore, limited internet access has a differentiated impact on Colombia's departments, especially those that are predominantly rural. In some departments, for example, not even 5% of the population has fixed Internet access, as shown in this chart:

18 Ministry of Information and Communication Technology. Boletín trimestral de las TIC. Cifras Primer Trimestre de 2020, September 2020. Retrieved from **https://colombiatic.mintic.gov.co/679/articles-151338_archivo_pdf.pdf**

Gráfico 16. Accesos fijos a Internet por cada 100 habitantes por departamento



Fixed internet access per 100 inhabitants by department

Colombia's political culture and the digital divide that exists in the country shed light on the relative importance of the Internet and digital marketing in Colombian electoral campaigns. In Bogotá, for example, where more people have access to the Internet and political dynamics are less dependent on local political chieftains, the impact of digital marketing is stronger than in the rest of the country. Nevertheless, a significant percentage of the capital's population has no connection to Internet or is subjected to varying degrees of political pressure from urban mafias. There is no data, and interviewees agree that, despite the

importance of new technologies and electoral communication through the Internet, it is unclear to what extent an entirely digital campaign would be successful.

On this last point, the interviewees agree that in Colombia, including in the elections covered in our research, most of the votes are won on the ground. Even with social media and digital channels, the actual presence of the candidate or his or her team on the streets is fundamental. The digital discussion, though relevant, often does not reflect the opinion of the people who will actually vote, nor is it able to change the vote of a person who has already decided. Therefore, it is still fundamental –or even more important– to develop robust political communications on the ground with face-to-face events and public presentations, rather than to rely exclusively on digital communications and interactions.

B. ACTORS

A thorough understanding of how digital advertising operates in the electoral context requires knowing the actors in the political ecosystem and how they relate to each other. In our research, we were able to identify the following categories of actors: i) political campaigns; ii) political parties or movements; iii) companies that offer digital marketing services in Colombia; iv) companies that offer digital marketing services to companies that offer digital marketing services in Colombia; and v) social media platforms.

i) Electoral Campaigns

Article 9 of Law 130 of 1994[19] provides that a person who is not registered or endorsed by any political party or movement may run as a candidate in any election if the prospective candidate submits a personal guarantee to the National Electoral Council that their candidacy is serious and collects a given number of signatures in support of the candidacy. In addition, one person may be backed by several political parties or movements.

ii) Political Parties and Movements

Article 2 of Law 130 of 1994 defines political parties as "permanent institutions that reflect political pluralism, promote and channel citizen participation, and contribute to forming and expressing the will of the people, with the objective of gaining access to power, to elected office, and to influence the political and democratic decisions of the Nation." This same article provides that political movements are "associations of citizens freely constituted to influence the formation of the political will or to participate in elections." Both figures have independent legal personality.

According to the replies received from political parties in response to our freedom of information requests and the assertions of some interviewees, in Colombia neither electoral campaigns nor political parties or movements have the infrastructure or technical capacity necessary to deploy microtargeting strategies autonomously. Both are entirely dependent on the companies that offer these services and especially on social media platforms.

Political parties have –at most– a couple of personal data databases, one for members and supporters, and another for individuals who have registered voluntarily to receive political information. They do not have, as opposed to what

19 Law 130 of 1994. "Establishing the basic statute of political parties and movements, rules on their financing and the financing of electoral campaigns, and other provisions."

has been reported in the United States,[20] structured databases with personal information from voters in general, regardless of their affiliation to the political party or movement concerned.

iii) Companies Offering Digital Marketing Services in Colombia

There are several companies that offer digital marketing services in Colombia and are contracted directly by the electoral campaigns. However, the information obtained during the investigation does not show that the totality of firms hired to deliver digital advertising offer products that involve the massive use of personal data and that allow microtargeting.

Moreover, our research showed that not all the companies that provide digital advertising services belong to the same economic sector. Companies offering political communication consultancies compete against companies dedicated to digital marketing for the digital advertising of electoral campaigns, even though they belong to two relatively different sectors. The interviewees agree that none of these companies focus solely on politics, hence their wide range of services, for a simple reason: the financial sustainability of the business. These are companies that turn to politics during electoral periods and compete to attract clients with a limited budget (in any case, due to legal spending caps); they channel their advertising and digital marketing know-how towards electoral campaigns, and afterwards return to their ordinary business activities.

Excluding contracts entered into with social media platforms or individuals, we were able to determine that the campaigns under analysis hired eleven companies that provided digital advertising or similar services. These are: Brújula,

20 Channel 4. "Revealed: Trump campaign strategy to deter millions of Black Americans from voting in 2016", September 28, 2020. Retrieved from **https://www.channel4.com/news/revealed-trump-campaign-strategy-to-deter-millions-of-black-americans-from-voting-in-2016**

Creo Media Group SAS, Deeploy, Duende, Eikon Digital SAS, Globalsoft Wigilabs SAS, Go Digital Agency SAS, Internet Media Services, Mailchimp, Mostaza Studios SAS, and Turbo Internet. Based on the products and services offered by each of these companies, it is highly likely that Deeploy, Eikon Digital SAS, Go Digital Agency SAS, and Mailchimp use digital tools that exploit people's digital identity for electoral purposes.

iv) Companies Offering Digital Marketing Services to the Companies Offering Digital Marketing Services in Colombia

Due to the lack of transparency, the prospect of identifying the relationships between companies hired by the campaigns and other companies that provide digital services (outsourcing) is highly limited. Legal transparency obligations only require campaigns to disclose direct contractors, therefore, even when it occurs, subcontracting is not included in the public records. However, based on the information gleaned from the interviews, it is likely that the companies directly contracted by the campaigns in turn subcontract services to other companies that are not necessarily domiciled in Colombia. This is how the documented appearance of companies such as Nation Builder or Cambridge Analytica in the electoral context is possible. The issue with this business practice is that it does not allow to adequately track what companies actually provide political advertising services, what kind of services are actually contracted and provided, and in what capacity and at what level of intervention these companies feature in political campaigns.

v) Social Media Platforms

Social media platforms are perhaps the most important actors in political digital advertising in Colombia. The campaigns or the companies hired by the campaigns

disseminate their political messages using the advertising tools offered by social media (mainly YouTube, Twitter, and Facebook). Social media is used more frequently than direct political advertising delivered to email accounts or mobile phone numbers. Furthermore, campaigns place a high value on the possibility of segmenting audiences on social media, because it allows them to target a specific sector of the population with their message. According to several interviewees, social media companies contact the electoral campaigns directly and offer them their services, advising them that they will be able to reach a larger audience and improve their metrics by using social media.

However, it is not clear that in Colombia segmentation tools are accurate enough to speak of microtargeting and unique voter identification through a "digital identity." The interviewees agree that in Colombia the capabilities for data exploitation and microtargeting in the political advertising context are yet to be developed largely because the Colombian market is not currently attractive in terms of economic profitability, especially when compared to the North American market. The typical segmentation hired and deployed by campaigns and their communication advisors is, in principle, very basic and relies on cross-checking the geolocation of the user/prospective voter by, for example, municipality, gender, age range, and some of his or her interests. Although this type of segmentation enables campaigns to substantially narrow down the target audience of the promoted content, it does not allow the identification (and consequently, the targeting) of specific individuals. In particular, two companies are very relevant in this context: Facebook (which owns Facebook and Instagram) and Google (which owns YouTube).

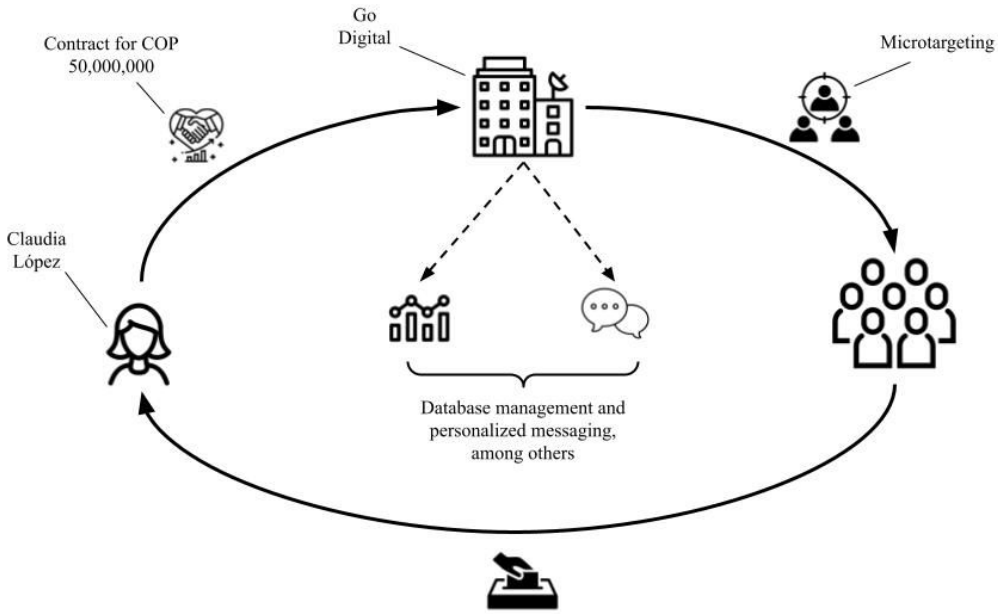
C. PRACTICES

i) Relationship Between the Actors

It is a widespread practice in Colombia for political campaigns to hire companies that offer digital marketing or political communication consulting services to manage their presence on digital media. In turn, these companies usually hire foreign companies to deliver some of the services offered, particularly social media platforms, to offer targeted advertising tools to groups of individuals identified by cross-checking specific data categories. In some cases, political campaigns contracted directly with Facebook or Google to serve political ads to online users on these platforms. The purpose of digital political advertising, needless to say, is to secure votes for a candidate. Below we can observe a graphic representation of some of these relationships.

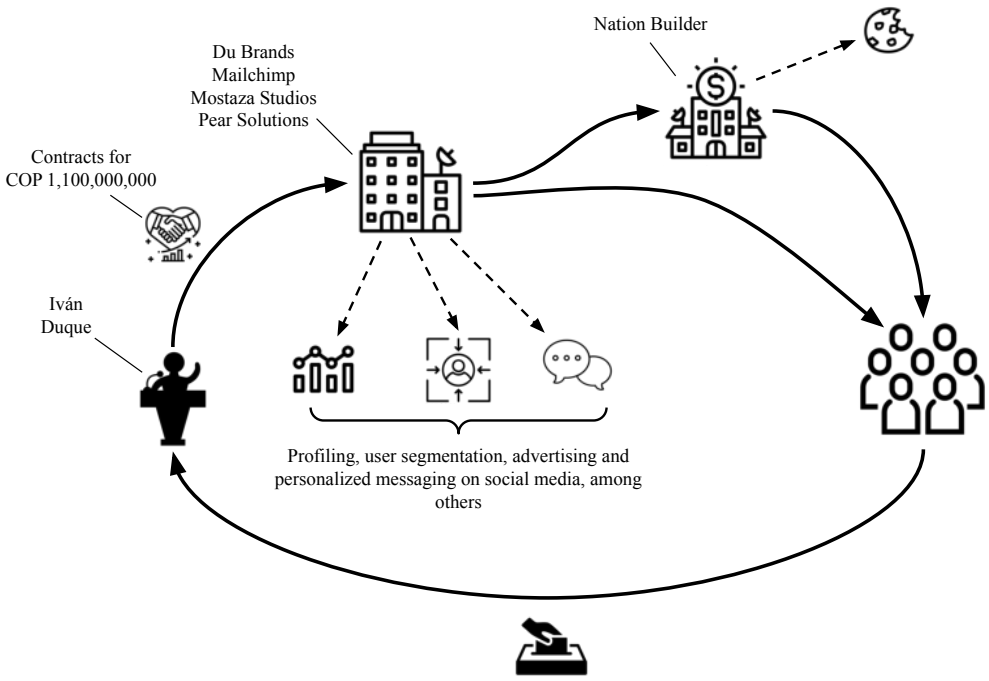
Scenario 1: The campaign hires a company to manage its databases and provide personalized messaging. In this case, it is not transparent how the targeted advertising and personalized messages reach the user. We assume that the company subsequently hires social media platforms.

Microtargeting and political campaigns: The Claudia López case



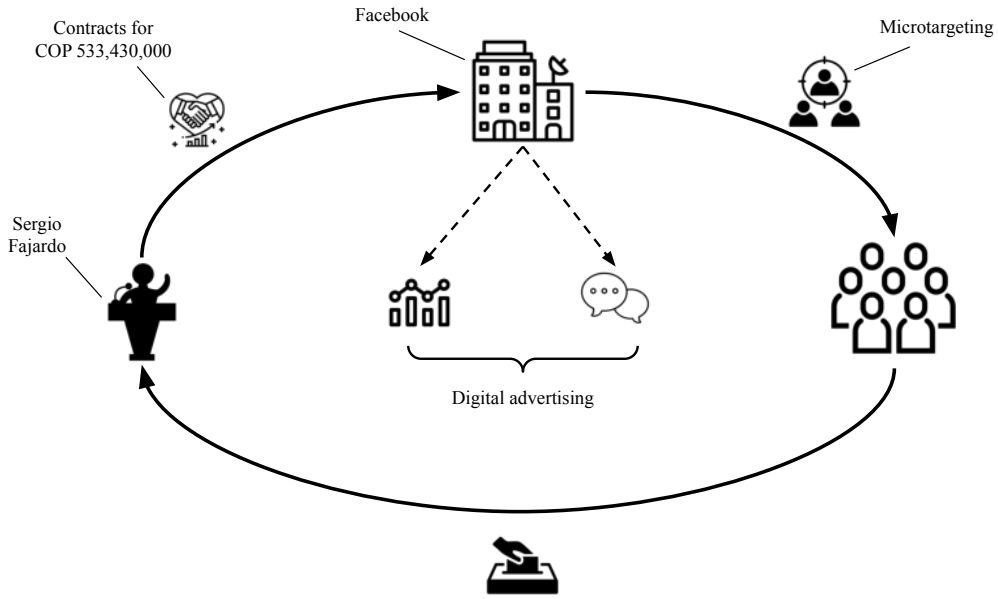
Scenario 2: The campaign hires a company that in turn hires another company. In this case it is not transparent how the targeted advertising reaches the user. We assume that one of the two companies subsequently hires social media companies.

Microtargeting and political campaigns: The Iván Duque case



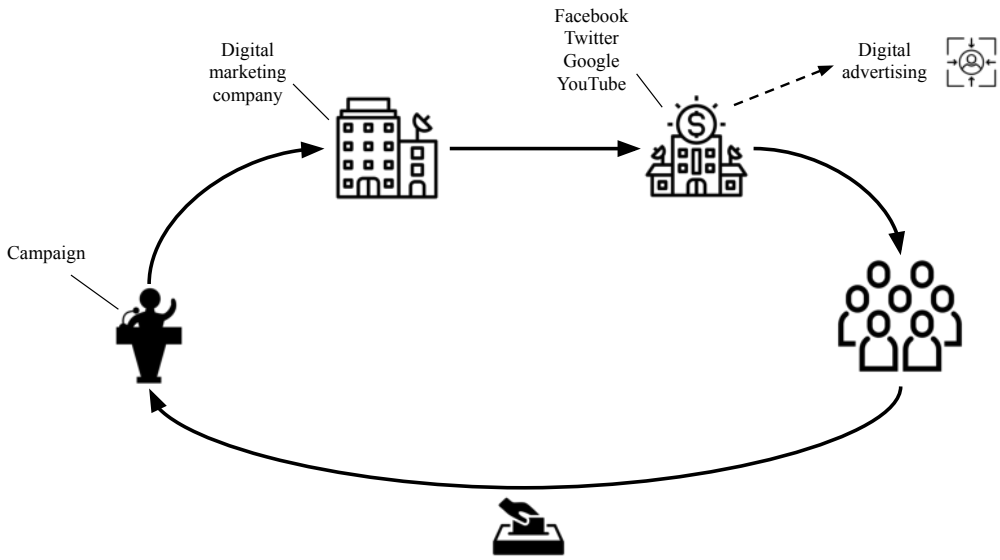
Scenario 3: The campaign directly hires social media platforms to deliver digital political advertising through the platform by using microtargeting techniques.

Microtargeting and political campaigns: The Sergio Fajardo case



Scenario 4: The campaign hires a digital marketing company, which in turn hires the companies that own the social media platforms to offer advertising on their platforms. Given the lack of transparency in these relationships, there is no evidence to support this scenario. However, this appears to be the most common scenario, since digital political advertising is usually disseminated as advertised content on social media.

Microtargeting and political campaigns: The most common case



ii) WhatsApp and Closed Groups

WhatsApp is effectively an instant messaging service with high privacy expectations due to an end-to-end encryption system. This means that only the sender and receiver of the message can see the content of any conversation. Not even the company itself can see it[21]. Such privacy expectations make it difficult to track the content circulated by an electoral campaign. Moreover, since it is an instant messaging service and not a social media platform, it is not possible to deliver targeted advertising content, as is the case with Facebook, Twitter, or YouTube. As our allies at Linterna Verde rightly noted, "WhatsApp reflects the decentralized –and disorganized– interaction of users with defined interests (campaign advisors, influencers, volunteers) and users whose engagement is occasional or intermittent (the majority of citizens). Therefore, while some actions can be coordinated, the bulk of the distribution is the result of spontaneous reactions and individual decisions."[22]

Despite the oversight limitations imposed by WhatsApp's functioning, it is important to acknowledge that content created by political campaigns is shared through groups or mailing lists on WhatsApp. A number of the interviewees who are familiar with campaigning practices emphasized the role of WhatsApp in positioning ideas or messages that would not easily circulate on social media platforms. Due to its decentralized nature, WhatsApp is an affordable and uncontrolled scenario for the dissemination of any type of ideas or messages. This strength has a limitation: it is not possible to obtain reliable metrics once people start replicating the message spontaneously, which makes it difficult for the campaigns themselves to have control over its impact.

21 The end-to-end encryption offered by WhatsApp, however, allows access to certain metadata connected to the message in question, so it is not one of the strongest encryptions on the market.

22 Linterna Verde. La política (en WhatsApp) es dinámica. Desinformación y difusión de 'cadenas' políticas en Colombia. 2018, p. 20. Retrieved from **https://linternaverde.co/informe-whatsapp/**

iii) Microtargeting on Facebook

Facebook is the most important company in the digital political advertising ecosystem, not only because it owns WhatsApp and Instagram, but because of its eponymous social network. Most of the paid political advertising in Colombia runs through this network. As shown above, Facebook has become so relevant that campaigns hire this company directly for digital advertising purposes. It is no surprise that the 2018 presidential candidate Sergio Fajardo signed contracts with Facebook for more than $500,000,000 pesos (approximately USD 170,000 at the time).

Through its targeting tools, Facebook allows the delivery of targeted political advertising to diverse audiences made up of its users. Facebook uses personal data to segment users and deliver moderately personalized advertising. It is believed that in the Global North the vast amount of data held by Facebook allows for microtargeting, i.e., fully personalized advertising. In some cases, Facebook data is combined with databases developed by electoral campaigns to increase the accuracy of microtargeting. By contrast, based on the sources consulted and in relation to the campaigns analyzed, we did not find evidence of this practice in Colombia.

Although campaigns – as advertisers – do not have access to the personal information that Facebook uses to segment audiences, they do benefit from such segmentation. According to the information on Facebook's page, as accessed from Bogotá, the following information is used to target an ad:

- Pages liked by the user and their friends, Facebook and Instagram profile information (age, gender, likes, etc.), and places visited on Facebook;
- Information obtained by third parties that have agreements with Facebook (usually by visiting their websites or downloading their applications);
- The user's location

By cross-checking several of the above categories, a relatively personalized segmentation can be achieved. In politics it is usual to cross-check data like the user's location, age, gender, and particular preferences with the aim of targeting specific population groups. For example, through Facebook, a political ad can target women between 18 and 35 years of age who live in Usaquén (Bogotá) and who like pages about animal welfare. Some interviewees agreed that it is commonplace to craft and deliver multiple messages simultaneously to different target audiences throughout a campaign. That is precisely what Facebook allows, to speak directly to several groups at the same time, as long as the segmentation is implemented correctly. According to a person who was part of Enrique Peñalosa's campaign in Bogotá, Facebook segmentation was crucial to target women in the western part of the city and, as a result, recover a voter group that was thought lost. However, this person acknowledges that the campaign fell far behind the microtargeting techniques used in other countries. A similar strategy was used by Claudia López who, trailing in the polls by almost ten points, decided to focus her campaign on highlighting her personality and targeting people who would identify with her story.

Although it is innovative due to the volume of data involved, we should not lose sight of how the audience segmentation that Facebook makes possible is a digital and sophisticated expression of an age-old political advertising technique. Several of the people we interviewed emphasized that segmentation is practiced on the ground and was an electoral strategy before the advent of social media. For example, for a candidate it is essential to know who is the leader of a community and to be able to address that person directly, with the view that a direct relationship with this person can bring electoral benefits in the community they lead. Rather than creating segmentation, social media deepened it and took it to a mass level.

iv) In-House or Third-Party Databases

As mentioned above, the most efficient way to reach a large number of potential voters is through social media ads, especially on Facebook. This platform has the most data on its users and, therefore, it has the capacity to develop more detailed and precise targeting techniques. By contrast, the use of in-house or third-party databases is not aimed at strengthening microtargeting in social media, but rather at contacting people through alternative means. Although Facebook notably allows integrating in-house databases with its own database, we do not have evidence that that occurred in the Colombian electoral context. We also believe that such integration is unlikely since Facebook's database is probably more complete than the in-house databases of political campaigns, parties, or movements in Colombia.

However, some interviewees agree that the purchase and sale of databases is common in the Colombian electoral context, despite being an illegal practice. They also agree that digital marketing companies, aware of the legal risks related to the relatively strict data protection laws, have abandoned the practice or do not include it among their assets or strategies. In addition, they assert that, in any event, these databases usually contain basic contact information such as a person's name, cell or landline phone number, and their e-mail address, and that in many cases they are "dirty" databases or the data is outdated or incorrect.

Political parties and movements have their own databases, primarily two types: databases of their members and databases of people who have consented to the use of their information to be contacted or to send information. Although we have evidence of the use given to in-house databases by political parties and movements, it is not clear whether these databases are also used by the campaigns, and this relationship is not clear in the context of the dissociation that exists legally and in practice between campaigns and political parties.

One of the companies hired by several campaigns is Turbo Internet. It specializes in mass messaging through WhatsApp, social media, and text messages. According to the company's "Services" section on its website, mass messaging is carried out "while respecting Habeas Data and European data protection," which leads us to assume that Turbo Internet does not commercialize databases and only provides messaging automation services after a database has been made available. It is not clear how the campaigns obtain the databases that feed into the automated mass messaging service.

v) Lack of Traceability and the Transparency Problem

Microtargeting in social media, electoral digital marketing, and the relationship between campaigns and digital advertising companies in Colombia are all characterized by a lack of transparency. Several links in the chain are opaque, which makes it impossible to clearly see the entire landscape that surrounds the use of digital technologies and personal data for electoral purposes.

While the National Electoral Council's Cuentas Claras initiative is a step in the right direction, it does not allow members of the public to specifically ascertain the sums spent by political campaigns on political communications and digital marketing and, in particular, to determine the specific type of services contracted. In addition, it does not provide any information as to whether any services were subcontracted, or the identity of third parties subcontracted by the companies or individuals with whom the candidates contracted. The vast number of contracts entered into between a campaign and individuals or companies providing multiple services, as well as the vagueness of the purpose of these contracts (for example, "digital advertising") defeat the initiative's purpose since the accounts are not fully transparent. It is not clear exactly which service was hired, nor if the hired company carried out personal data processing activities to render the service in question.

Moreover, political parties or movements do not make this type of information transparent when it is requested, despite being bound by Law 1712 of 2014 (Law on Transparency and Access to Public Information). For example, when we asked the Green Alliance Party if it has had business relationships with any digital marketing company offering political advertising services through electronic media, it replied "the Green Alliance Party enforces data protection in all the databases in its custody." The Radical Change Party, in response to the same question, stated that it was the obligation of each candidate to report this information to the National Electoral Council, and therefore we should approach this entity instead. In contrast, the Unity Party and the Democratic Center indicated the companies with which they have business relationships to distribute political advertising through digital media[23].

In addition, it is practically impossible to ascertain the criteria used by political campaigns to segment the population on social media. The large number of publications that target a specific group during the electoral period make it difficult to trace the common denominator used for segmentation. This is assuming that the information is available, but it is not. Neither the companies that own the social media sites, nor the digital marketing companies, nor the campaigns, make public the information about what type of persons were targeted by which ads. In fact, it is very likely that, due to the flurry of activity typical of an election season, neither the marketing company nor the political campaign have these records. The social media site holds this information, but it does not release it publicly. As part of our research, we reviewed Facebook's political ad repository, but we were unable to access the segmentation settings of any of the ads identified. In brief, there are transparency problems from the moment a third party is hired to offer semi-customized digital advertising until the advertising reaches the user.

23 The Democratic Center informed us that it contracts all its advertising with Hanford, a company specialized in outdoor billboards. The Unity Party sent a detailed list of the nine most recent contracts (which included the contractor and the contract purpose) related to advertising that were signed by the party.

III. CONCLUSIONS

A. THE EXPANDING USE OF DIGITAL TECHNOLOGIES FOR ELECTORAL PURPOSES

In Colombia, the use of sophisticated digital technologies for electoral purposes is still in its infancy but it has the potential to expand. One of the reasons for this state of affairs is that the market for digital political advertising is a temporary market. In Colombia, the activity is still not professionalized and specialized in a way that extends beyond electoral periods. A mere economic profitability analysis shows that it is not sustainable for a company to focus its efforts, make investments, and specialize solely in political marketing or political communications. This is partly because campaigns have historically utilized other audience segmentation tools, not necessarily mediated by digital technologies, that are still very effective and that predate the emergence of social media.

Additionally, and more recently, the advertising services offered by Facebook (custom and lookalike audiences), which allow audience segmentation, have been used by electoral campaigns in Colombia and are seen as very cost-effective in the context of Colombian electoral practices.

We did not find that Facebook offers or has offered, during the relevant period and for the political campaigns studied, the ability to individually identify a user as a prospective voter or nonvoter through the use of microtargeting, or, in general, that it applied digital technologies to build detailed digital profiles or specific digital identities that could be used to increase the efficiency and effectiveness of political communication and the placement of electoral messages that were designed in accordance with such profiles or identities.

B. THE ROLE OF DIGITAL TECHNOLOGIES IN THE ELECTORAL CONTEXT

The persistence of clientelistic practices and electoral manipulation, which have been a feature of Colombian elections, is one of the major obstacles to the widespread and intensive adoption of digital political communication strategies.

The digital divide has a negative impact on the use of digital technologies by electoral campaigns, particularly outside the major urban centers, where the use of digital media to gain votes can be more expensive and, above all, less efficient than the old electoral practices.

Some interviewees agree that despite the widespread use of social media as part of a campaign's political communication strategies, this alone does not guarantee favorable election results. In the three campaigns studied, the use of digital technologies and social media advertising did not play a definitive role in the election outcome.

The interviewees concur, given the number of Twitter users in Colombia (less than 5 million people) and the platform's dynamics (trends placement, retweet metrics, use of bots), that the debates and the transmission of messages using Twitter have a marginal effect on voting intention. For them, it would appear that the most tangible effect of using this platform is to effectively convey the state of mind of the different campaign teams and their leaders, and not so much the actual likelihood of changing voting intentions or adding or subtracting voters.

Several interviewees agreed that some people and companies in the digital advertising and political communication market employ techniques to "inflate the discourse" and overstate the power of social media to win an election or determine its outcome. Without denying their importance, two of the interviewees used the expression "selling smoke and mirrors" when referring to this type of practices.

C. THE COMPANIES INVOLVED IN THE ELECTORAL CONTEXT

Although we found evidence of companies not reported in Cuentas Claras interacting with some political campaigns, we did not find direct evidence that the companies hired by the political campaigns outsourced services to these digital marketing companies.

Digital marketing companies and other companies, such as social media platforms, not based in Colombia, are becoming increasingly important in the Colombian digital political advertising market.

Facebook is undoubtedly the most important company in this market. Either because its audience segmentation advertising services are hired directly by parties and political campaigns, or because its services are hired by digital marketing or political communication companies that use Facebook's services to provide their services to campaigns and political parties.

D. LACK OF TRANSPARENCY

The Cuentas Claras monitoring tool created by the National Electoral Council is a valuable initiative to increase the general transparency of political campaign expenditures. However, precisely because of its general nature, it does not ensure transparency in relation to the costs of hiring digital marketing and political communication services or the services actually hired by the campaigns.

The dissociation between political parties and political campaigns in Colombian legislation and electoral practice hinders accountability and electoral transparency. Campaigns, which are responsible for accountability and handling the information, disappear once the elections are over.

Social media companies lack transparency in relation to the services hired by the campaigns for the distribution and placement of digital advertising and political messages. Since these companies are not domiciled in Colombia, it is difficult to hold them accountable.

In general, political parties are reluctant to hand over public information in their possession. Only two of the seven parties contacted provided a timely response to the freedom of information requests submitted during this study. In the case of the other five, we had to file a writ of *amparo*, and even after a favorable ruling, in one of the cases, the responses were irrelevant and incomplete. This alone gives us an idea of the challenges faced when attempting to obtain information that the Transparency Law considers public, and in general of the opacity that surrounds the activities and functioning of political parties in terms of the use of digital technologies and hiring digital marketing services.

E. INSTITUTIONAL PREPARATION AND SCOPE OF REGULATION

In Colombia there is no specific regulation pertaining to electoral matters or the protection of personal data that regulates the use of digital technologies for electoral purposes. These questions fall under the general regulatory framework of the Colombian Electoral Law and the General Law on Personal Data Protection.

The oversight bodies (the National Electoral Council and the Personal Data Protection Office of the Superintendence of Industry and Commerce (National Data Protection Authority)) have not yet issued any pronouncements on the interaction between companies and political campaigns for the deployment of digital technologies that use personal data as an input.

Since its inception, the National Data Protection Authority has only issued two resolutions on the protection of personal data in electoral contexts, in reference to a couple of cases with no major relevance.

Some interviewees agree, and in some cases, it is clear from their answers, that among people working in digital marketing with political purposes there is still a significant lack of knowledge about the legislation on personal data protection, and in particular, about the available channels to report irregularities.

F. (NEW) RISKS TO DEMOCRACY

Digital technologies that enable microtargeting for electoral purposes have the potential to alter the behavior of user-voters. This technology, even when used "well," i.e. without falsifying information and without the deliberate intention of manipulating those targeted, is certainly a risk for the will of the user/voter, if this type of "services" or "practices" are not accompanied by the deliberate and conscious exercise of transparency.

The potential these technologies hold evolves from being a mere risk and becomes a real threat to the freedom of users/voters when used to spread false or manipulative messages or fake news to people who have been previously profiled and are likely to believe this information.

Digital technologies that enable microtargeting as a way of channeling certain messages unfold in the functional context of social media. These technologies, coupled with algorithms that link profiles by affinities and with the creation of a person's social network, enable the creation of "information bubbles" that can alter and determine the way members of the social network see and interpret the world. This potential already poses a distinct threat to the freedom of individuals, to the construction of the political public space, and to the overall functioning of a well-ordered society.

Privacy International
62 Britton Street
London EC1M 5UY
United Kingdom

+44 (0)20 3422 4321

privacyinternational.org

Privacy International is a registered charity (1147471), and a company limited by guarantee registered in England and Wales (04354366).