



THE UNACCOUNTABLE CANDIDATE: ALGORITHMIC AUTHORSHIP AND THE CRISIS OF ELECTORAL SPEECH LIABILITY

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ABSTRACT

Artificial intelligence (AI) is increasingly influencing democratic processes, not by contesting elections as a candidate but by shaping political communication through synthetic speech, deepfakes, and AI-generated content. While Indian election law clearly requires candidates to be natural persons capable of legal accountability, it remains ill-equipped to address situations where AI acts as the untraceable author of political messages. This paper argues that the real constitutional and regulatory challenge is not AI candidacy but algorithmic authorship that undermines accountability under the Representation of the People Act, 1951. By analysing developments in India alongside comparative approaches such as the European Union's AI Act and emerging state-level regulations in the United States, the paper identifies significant legal gaps concerning transparency and liability. It proposes a framework incorporating presumptive party liability, mandatory disclosure of AI-generated political content, and electoral disqualification for deliberate misuse of synthetic media to safeguard electoral integrity and democratic accountability.

Keywords: Artificial Intelligence, Electoral Accountability, Deepfakes, Representation of the People Act, Algorithmic Authorship.

INTRODUCTION

In April 2018, residents of Tama City, a suburb of Tokyo, were asked to choose a mayoral candidate offering a promise of governance that would be “fair and balanced”, void of the cognitive biases that humans are prone to. The candidate in question was an artificial intelligence, according to his own campaign materials, represented by a robot avatar named

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Michihito Matsuda, and a human being of the same name who lost two mayoral elections as a human being. Four years later, a Danish collective launched The Synthetic Party, whose policy decisions were made entirely by a chatbot called “Leader Lars”, who had been fed data on four decades of manifestos of fringe parties, and was supposed to represent the fifth of Danish voters who normally abstain from voting. None of these experiments resulted in an AI occupying an office. Both, however, yielded a result of much greater significance: a practical demonstration of the questions posed by this paper.

But the more pressing, unsettled question is not, ultimately, whether artificial intelligence can run for office. Every legal system that requires a candidate to be a natural person, swear an oath, or be criminally liable, and has done so up until now, answers in the negative and is likely to continue doing so for the foreseeable future. The real question is the possibility of something else: the situation where an AI doesn’t seek office but captures it by taking over the speech, image, and persuasiveness of a human candidate in a situation where the law assumes accountability and treats the AI as an unaccountable entity.

THE REAL REQUIREMENTS FOR CANDIDACY UNDER INDIAN LAW

There is nothing about humanity, conscious thought, or the persuasive power of the candidate in the definition of the term “candidate”. Under the Representation of the People Act, 1951, section 5 lays down the condition that a candidate standing for the Legislative Assembly must be an elector from a constituency within the State, in turn dependent on the candidate’s citizenship and the relevant age under Article 326 of the Constitution. Section 8 disqualifies certain candidates due to a criminal conviction for certain offences, and Section 123 makes the candidate and their agents liable for what the law calls “corrupt practices” such as the publication of any “false statement respecting the candidate’s character or conduct”. None of this requires intellectual capacity of any kind. It is a regime designed to test the ability of the candidate to be a natural person capable of being a citizen, a convict, a disqualified elector, and a defendant in a legal proceeding under the law.

An AI system, regardless of its capacity, cannot be an elector as it cannot be enrolled on the voters’ roll in the context of residence and age. It also cannot be “convicted” of any offence in a manner that disqualifies the individual from voting; it is also impossible for an AI system to face charges of corrupt practice and answer to the tribunal as a candidate under Section 123. Candidacy law thus incorporates the doctrine of accountability in terms of natural personhood,

in the same way as company law is premised on directors behind the corporate veil rather than the company's algorithms behind it.

This is exactly what both the Tama and Copenhagen experiments conceded, despite generating headlines to the contrary. While Michihito Matsuda's AI candidate could never have run in the election, human Matsuda himself was on the ballot, "deferring" to the recommendations of the AI. Similarly, the Synthetic Party of Denmark had explicitly warned voters that "Leader Lars" would never stand on a Danish ballot, with human members required to serve as "mediums" of Lars's message. Thus, both of these "experiments," intended or not, proved that the most ardent advocates of artificial intelligence cannot dodge the accountability requirement, but rather introduce another human layer between the algorithm and the law.

THE QUESTION THAT MATTERS: AI AS UNACCOUNTABLE AUTHOR

If AI cannot be a candidate, the foregoing comparison would appear to answer the query in the affirmative. However, it conceals a much more significant point: AI is already affecting the outcome of elections, not as a candidate, but as an unattributed author of the speech that candidates attribute to themselves. The legal assignment of liability for the same has yet to catch up to this paradigm shift.

The 2024 Indian General Elections provide perhaps the clearest evidence to date. In February 2024, the official Twitter handle of a prominent regional party posted an AI-generated audio clip of a dead politician addressing the party cadre. In November 2024, the official handle of a competing party posted alleged "audio conversations" implicating rival politicians in a scandal during the Maharashtra State Assembly Elections. At least three clips of these posts have been independently authenticated as AI-generated, and the posts have remained online long after the Election Commission had exceeded the three hours recommended for taking them down. The Election Commission of India's response advisories issued in May 2024 and again in October 2025 instructed political parties to remove any deepfakes within three hours of notification and to identify the AI system used, but had no basis in any independent statutory regime; it invoked the existing Model Code of Conduct and certain provisions of the Representation of the People Act and Information Technology Act, 2000, both of which are silent on the matter of synthetic media. As commentators have noted, the result is a gap in enforceability: an advisory that does not bind, directed to parties that will have every reason not to comply once the deepfake favours them, issued by an institution with no capacity to verify provenance on a mass scale. This is

the problem of the candidacy law's deep structure that the candidacy law was never designed to solve. Section 123's corrupt-practices regime expects a human to publish a false statement about another human candidate's conduct. The law operates on a presumption of an identifiable publisher and author who can demonstrate knowledge, or reasonable belief of falsity of a statement. When "publisher" is a party's machine using a generative model and "author" is a statistical process lacking *mens rea*, the doctrinal framework of corrupt practices law starts breaking down. The law has a well-developed machinery for figuring out who said this and whether he knew it was a lie. The law has nothing to say when nobody says anything.

COMPARATIVE REGULATORY RESPONSES

Most sophisticated among these is the EU's AI Act, yet even these fall short of addressing the candidacy-adjacent issue at hand. Under Article 50(4), deployers are obliged to disclose that they used AI in generating or manipulating image, audio, or video content "constituting a deepfake". In addition, there is a parallel disclosure obligation regarding AI-generated text on matters of public interest, which the European Commission's draft guidelines interpret to include political content. Notably, the requirement is tailored to the need for disclosure, not prohibition: a deepfake is not unlawful provided it is clearly labelled, except in cases where the content is "obviously" artistic, satirical, or fictional. This is a transparency solution, not an accountability solution, one that lets voters know whether AI is involved, but does not tell them who should be responsible for AI-generated political content when that content is also false or defamatory. Meanwhile, the US, which lacks the corresponding federal statute, leaves regulation of election-related synthetic media to a series of state-level statutes that apply within a certain time window preceding polling day, relying on injunctive relief as a means of enforcement rather than the criminal-adjacent disqualification logic of India's election laws. India has neither a transparency requirement nor a liability rule in place, but only an advisory regime that some scholars have already criticised as toothless, just because it was never incorporated into primary legislation.

TOWARDS A DOCTRINE OF ALGORITHMIC AUTHORSHIP

The reform suggested herein emerges directly from the diagnosis in Part I. If the structural logic of candidacy law is a stand-in for accountability as opposed to testing the humanity of a candidate *per se*, the right response to AI-generated political speech cannot be asking whether an AI could be a candidate a query with a straightforward and trivial solution but how liability

under Section 123 (as well as similar provisions elsewhere) should be attributed when the immediate author of political speech is a generative algorithm as opposed to a human being. Three such changes would plug the loophole without necessitating comprehensive statutory rewriting. First, a rebuttable presumption of party liability for any content generated or manipulated by AI in official communications from either a candidate's or party's official channel, thus reversing the evidentiary burden on a complainant who often has no proof about how a model has been employed by the party, which will control such channels and the vendor relationship for such content. Second, a statutory transparency requirement like Article 50(4), the only one that has legal teeth, mandating any political communication using AI exceeding a reach threshold during the notified election period to reveal their use, transforming the Election Commission's existing standard of taking down content from such channels in three hours into an actionable provision of the Representation of the People Act. And third, and most importantly, a disqualification criterion under Section 8 (or a new clause drafted like that) for candidates found to knowingly deploy synthetic media which misrepresents any rival candidate, thus making algorithmic authorship not a defence ("the AI did it"), but an aggravation. None of these demands addresses the prior philosophical question of whether or not an AI could ever be a "responsible speaker" in the same sense as assumed in the Constitution of citizens using their Article 19(1)(a) rights. All that is needed here is the recognition by law that it should not assume, as it currently does by omission, that political speech is always traceable back to a person who can be made accountable for such speech.

CONCLUSION

Both the Tama City and Copenhagen experiments lend themselves to a speculative fiction narrative of robot politicians. However, in reality, this is far from the most important thing in the picture. Both experiments prove that accountability design in the candidacy laws works even against its most ardent opponents. What is outside the scope of this design altogether is the outright substitution happening now, where AI is no longer the candidate itself, but rather the ghost writer, voice impersonator and image creator for those people running for office who will reap all the electoral benefits, while the law will ask merely if a human signed the form for the political party. Accountability has always been the premise on which democracy rests.