



OPINION

Politicians say they care about privacy. So why can political parties ignore privacy law?

MICHAEL MORDEN

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 4 COMMENTS

Michael Morden is the research director at the Samara Centre for Democracy.

Last week, the federal government announced a new “digital charter” and an overhaul of privacy law, surfing a growing wave of concern about how our data is being collected and used.

There’s lots we don’t yet know about what the government plans to do, but it’s fairly clear that when the dust settles, a gaping hole in our privacy law will remain: Political parties are, and will continue to be, exempt from the important privacy legislation in Canada.

The government is talking tough about privacy, suggesting that the law that applies to corporations is insufficient to protect Canadians. Yet it will continue to allow political parties to operate outside even those insufficient standards.

Parties collect lots of our private information: our names, addresses, numbers, social media handles, political leanings, jobs, history of participation, and observational data about us like our religion or ethnicity. They collect it directly from Elections Canada or from third parties, and when they canvass door-to-door or get Canadians to sign petitions.

They collect this information to decide if we might be persuaded to support them – basically, if we’re worth talking to, or encouraging to vote. They use it to “micro-target”: to figure out exactly what they should or shouldn’t say to us.

They do all of this with basically no oversight. Last year, Parliament passed the Elections Modernization Act, which did create some new privacy rules for parties, but they are pillowy soft. Parties are now required to have a privacy policy, and to make it available on their

website. So if you have the time and really want to go digging, you could read about what data parties are collecting from you. You still won't be asked for your consent. There is still no obligation on parties to limit themselves to necessary data collection. And if you want to lodge a complaint, there is no external mechanism to do so; in contrast, if you object to how a corporation is using your data, you can complain to the Privacy Commissioner.

This issue is not complicated, and Canadians are not conflicted. When the Samara Centre for Democracy asked in a survey if parties should legally be held to the same privacy standards as corporations, about 70 per cent agreed while only 8 per cent disagreed. The federal privacy commissioner, all the provincial and territorial privacy commissioners, and the Chief Electoral Officer agree, too.

Why do parties continue to enjoy this exemption, even amid deepening fears about how we're being watched, measured, and manipulated? Some senior party officials have insisted that we can't apply existing privacy standards to parties because they are too different from commercial organizations, and doing so might get in the way of the important democratic engagement work they do.

There may be some truth to this, although parties in Europe and elsewhere (including provincial parties in British Columbia) have learned to work within strong privacy rules. But if we need to cater the rules to accommodate the unique nature of parties, it remains the government's responsibility to do so: to craft a law that meets the principles of the promised new privacy regime, and to justify the way those principles are tailored specifically to fit parties.

The real reason for the exemption is simpler: The fox is guarding the hen house. Parties get a light touch in Canadian law because parties write the law. And until now, there has not been enough public pressure or scrutiny to make it worthwhile for governments to voluntarily surrender the powerful political resource of unfettered data collection and use.

It's too late to bring parties into privacy law in a meaningful way before the 2019 federal election, when the collection and use of our data will go into overdrive. But as citizens, we can use the election to send a signal to whomever forms government that our patience has run out. We can do that by asking canvassers about the data they're collecting and have collected about us, and how they're using it. And when candidates appear at our doorsteps, we can let them know that the era of party self-regulation is ending.