(This is a pre-penultimate version before publication. The published version has some variances.)

**4. Protecting Democracy by Commingling Polities: the Case for Accepting Foreign Influence and Interference in Democratic Processes[[1]](#footnote-1)**

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**Introduction**

It is widely agreed that foreign governments are interfering in U.S. democratic elections by such problematic means as cyber hacking, deploying dark money,[[2]](#footnote-2) and by campaigns of disinformation, non-disclosed identity opining, and trolling internet platforms.

It is widely thought that these efforts should be countered by various means. These include (i) educating the American populace so as to immunize it to subversive influence; (ii) making social media and news platforms more responsible for the content they transmit; (iii) encouraging fact checking and cautionary addenda to sources of purported news stories and opinion; (iv) censoring speech hateful and violence inciting; (v) legally mandating transparency of political donations and transparency about authorship of news stories and opinion[[3]](#footnote-3); and (vi) the legal application of coercive response to perpetrators of interference as licensed by domestic and international law.[[4]](#footnote-4)

In this chapter, in Part I, I review the widely acknowledged problems with these methods, and adduce a further problem. I conclude that the methods cannot work, have bad side effects, are inimical to the very idea of unfettered deliberation that is a foundation of democracy, and leave unaddressed the root issue of what motivates the subversions. In Part II, I review and similarly object to a specific method that involves distinguishing influence from interference and hardening law to tackle the latter. In Part III, I identify the root issue as other nations being affected by our elections but not having a formal voice in them. I suggest that if we give them such a voice they will make arguments to us, the preferred method of issue-processing in a deliberative democracy, rather than trying to cheat the process. I then elaborate the case for giving them a voice and moot various methods of doing it. In Part IV, I deal with objections to allowing other countries this sort of power. Finally, in Part V, I recognize that some nations will still cheat; I allow that in the short term we will need coercive methods of dealing with that; but I suggest that our longer term goal should be to de-conflict our relations with these Actors to try to bring them into the fold of co-deliberative nations.

1. **Problems with the Standard Methods of Defending Against Foreign Influence and Interference**

In this Part, I review the well-known problems with the standard proposals about how to deal with foreign influence and interference in U.S. elections. I also object to them that all ignore that the facts and norms they try to force respect for are themselves the sorts of things rightly contested in elections. I conclude that the proposals are, in the aforementioned way, fascistic. I note that they have bad side effects, and they cannot work because they do not address the root problem, namely, the motivation other nations have for acting subversively.

It is widely agreed that all of the standard techniques of response to foreign interference are vulnerable to workarounds. They are therefore impermanent and expensive in perpetuity.[[5]](#footnote-5) Moreover, there are further, more specific problems with each. For example, there are limits to what is possible in educating the public to be more savvy consumers of information, especially given their lack of a foundational education in critical thinking since so few are university educated. As for the proposal to make news platforms more responsible for their content, this will likely result in the platforms’ algorithms filtering out legitimate information because it resembles problematic material to avoid risking running afoul of the law.[[6]](#footnote-6) Meanwhile, censorship is likely to have a chilling effect on valuable free speech, and is antithetical to the hoped for openness of the internet that was to continue the idea of open, democratic societies and be a force for the liberation of closed, undemocratic societies.[[7]](#footnote-7) As for transparency of authorship, that may be hard to enforce and could harm those who need anonymity to maneuver against tyranny. Further, transparency about donor identity will not be enough to compensate for the larger influence available to those of extreme wealth, including the wealthy countries seeking to influence America. Besides, for all of the activities the foregoing techniques try to defend against, it is (i) controversial in what sense some of the problematic behaviour is illegal and therefore a suitable target for legal censure, (ii) questionable whether its dangers rise to a level of threat permitting strong coercive responses, (iii) likely that new law would have to be written to enable these sorts of response, and (iv) difficult to attribute interference and so to know whom to target.[[8]](#footnote-8) It is also worried that any coercive response would be hypocritical since the United States engages in similar interference against other countries at least three times more frequently even than Russia, and has done so over 80 times in the last century all over the world.[[9]](#footnote-9) Even in the United States, parties on both sides of issues have used the foregoing interference and influence techniques against the other side.

Jens Ohlin argues that just because the United States did these things to other countries does not make it OK to do them to the United States now.[[10]](#footnote-10) The actions were wrong then and they are wrong now. I reply that the fact that they were wrong then might, in some cases, make them right now, e.g., if doing them to the United States now is part of redressing the wrong the United States did then. Ohlin also argues that in some of the past cases, the United States was interfering in other countries’ elections benignly, helping people maneuver against forces compromising their rights of self-determination.[[11]](#footnote-11) This may well be, but the fact that this is a possible motive and effect of interfering in a country’s democratic processes means we must ask whether there might not be good faith, benign, or at least justified, motives or effects of some of the actions now being undertaken in interfering with U.S. democratic processes. Maybe the perpetrators are defending their own rights of self-determination, or even helping the United States in its self-determination by attacking corrupting forces within U.S. society?

At any rate, I would add a further worry about the foregoing techniques: all are premised on the assumption that the empirical facts needed for a democracy to deliberate about the issues that concern it are known; likewise the more or less correct normative positions on broad matters; and likewise, too, the best methods for sorting out the former issues where they are disputed. Accordingly, it is assumed, the problem of foreign interference is correctly framed as how to defend against forces that would misrepresent the facts, undermine the correct consensus about normative matters, and prevent sound deliberation where the former two things need debate. But in fact, many of these things are contestable and contested. And not just by and between nations, but also within nations—think of political tribal disagreements in the United States about what the facts are, what counts as a reasonable view, what values matter. These need to be deliberated about. Therefore, the use of the above referenced techniques to filter and stonewall debate would be undemocratic. Moreover, for every proposal about how to implement the above-mentioned ideas, there is likely to be a countervailing proposal. As I write, there are pressures on social media companies from left-wingers to filter out certain ideas, and charges from right-wingers that this is a problematic political bias. Every tribe has its obvious truths; and for each tribe there is another that thinks those things obviously false. Every generation has its eternal verities. Unfortunately, they change. And to reify them into categorical imperatives never to be violated in a given election cycle is fascistic. We need constant deliberation to work out what the facts are, what the correct values are, and to determine what processes and voices need to be listened to in resolving disagreements about these things. And, as we shall see below, very often the forces represented as trying to interfere in democratic processes are actually trying merely to negotiate its proper outcomes. So, for example, if, say, Russia is “interfering” in U.S. politics, arguably this is because it fears that America, left to its own devices, will be unjust to Russia. And such interests deserve to be considered. Likewise, for when the United States “interferes” in other nations—it too has rights whose fulfillment may depend on the outcomes of the political deliberations of other nations.

In spite of these concerns, arguably we still need to do something about foreign influence and, more urgently, interference. This requires us to answer the question, what is the difference?

**II. What is the Difference between Influence and Interference?**

In this Part, I discuss attempts that have been made to distinguish between foreign influence on, and foreign interference with, elections—the hope was that identifying the later would give us a clean target for legal action with extant or new law. I suggest that (i) the distinction is difficult to draw, (ii) that even seeming interferences could be welcome in some circumstances, and (iii) that aiming to prevent interferences coercively will, again, leave the root problem unsolved, and so be doomed to fail.

Ohlin and others have suggested that the difference between influence and interference is stealth.[[12]](#footnote-12) If Russian President Putin takes out an ad in the New York Times to argue that Americans should vote for Trump, not Clinton, and if Putin signs his name, this is mere influence, and is not problematic (let’s say). But if he uses a fictional name, or sends his ad secretly to some Americans and not others, whether with his real name attached or not, then this is interference. The difference, supposedly, is that if you stealth your influence, you rob voters of information needed to evaluate the argumentative worth of your contribution, and so you manipulate rather than persuade them.

But this way of drawing the distinction is problematic. Transparency of authorship is neither always necessary nor always sufficient for a consumer of something authored being autonomous in evaluating it. Here is a case where it is not necessary, and where it would in fact impede autonomous evaluation. Suppose Putin has in fact got great arguments, ones which should make Americans see the mutual interest of themselves and Russia in some proposed enterprise, but he couldn’t be taken seriously by Americans if they knew he was their author—they have too great a bias against him.[[13]](#footnote-13) Then would not the autonomous opinion of U.S. voters be better served by his anonymity? Would not this best get them what they want and need?

Indeed, I suspect something like this is in play in the current U.S. political scene. There is a long-standing enmity between Russia and the U.S., one deeply embedded in their respective political classes and organizations. Both have intelligence agencies habitually maneuvering against each other, diplomats assuming the worst of each other, think tanks and branches of the military arrayed against each other, and so on. But in modern times, with the collapse of communist ideology in Russia and its replacement by crony capitalism, these animosities are out of place. Here, arguably President Trump is correct to seek better business relations with Russia, to seek the commingling of U.S. and Russian interests. But the specifics of this case apart, it would seem that whether an autonomous vote is best facilitated by an opinion’s author being revealed or hidden, is contingent on such things as the prior prejudices of voters, and therefore something that would vary from case to case.

Perhaps it will be replied that there is a difference between stealthed authorship being in the interest of an American, and it not being an interference. Some interferences can have good effects. But if the effect is good, maybe sometimes that is more important than how the effect is achieved. And since the problem with prejudices is that they corrupt—interfere with—one’s judgement, arguably anything that frees you from the influence of prejudice eo ipso frees you from interference.

I am saying, therefore, that transparency is not always necessary for autonomy. But neither is it sufficient: suppose Americans see hundreds of ads for a well-financed Republican candidate, transparently signed, but only a few dozen for a poorly financed Democratic candidate, also signed. The mere fact of transparency does not compensate for the frequency of the former messaging, which can induce people to accept a thesis merely by force of repetition rather than by cogency of argument.

I draw three lessons from this discussion. First, for any technique of affecting the outcome of an election, or of a nation’s decision process more generally (acknowledging that not all nations are democracies), although that technique will in some circumstances be problematic, in others it could be salutary. Which of these it is depends on whether it conduces in the circumstances to proposals being assessed on their merits. Second, sometimes proposals about actions and policies, whether introduced by Americans or by other nations, will be better assessed on their merits by Americans if outsiders use some of the supposedly problematic techniques to hype them. Therefore, there is a case to be made that sometimes the U.S. democratic process *ought* to be “interfered with” by outside parties—in the hypothetical Putin case, the United States would be better for his stealthed efforts. Third, when we object to the use of some technique to affect the outcomes of our political process, we are not properly objecting to the technique itself. Rather, we are objecting that, as deployed in the instance in question, it is not conducing to a proposal being decided on its merits. In fact, in special circumstances, we might well feel justified in using such a technique ourselves against another country, thinking that, in *that* context, the technique will get a proposal (the one we favor, the one we think right) the uptake it deserves.

It is of course true that the default method of affecting each other’s choices in political processes should be one that seeks and respects the truth about matters of fact, and that identifies and responds to the interests of all affected parties. If you fail the first measure, you are at risk of undertaking actions and policies that will be undermined by the reality with which they are meant to contend. And if you fail the second measure, you will commit to courses of action that some persons will undermine once they learn they have been disrespected and acquire the opportunity to do something about it. This is why we value deliberative democracy: it concerts us all upon the truth, and it allows all of our interests to be factored into choices.

My operating assumption is that these values are universally shared, while deliberation that seeks to find and move from facts to courses of action that respect all stakeholders is universally preferred. People only deviate from these defaults when they feel their interests are disrespected, their conception of the truth, not recognized. This is what drives nations to be subversive of other nations’ processes, to manipulate rather than argue.

In the remainder of this chapter, I make the case for accepting outside influence and interference, and for channeling it into the default ideals just enunciated. In the first instance, I shall make arguments about America, since it is the case of the United States that occasioned this piece. But most of what I will say would apply to any country whose political decisions are consequential for other countries.[[14]](#footnote-14)

1. **The U.S. Democratic Process Ought to be Interfered With by Outside Parties**

The main reason other countries try to subvert our elections is that they have a stake in the outcomes but are not allowed a formal voice in determining those outcomes. In this Part, I suggest then that the best way to prevent them from trying to subvert our elections is to give them such a voice. The hope is that this will make them co-deliberators with us about the issues that concern our several nations, encouraging them to process their issues with us by argumentation rather than trying to have their pre-conceived way by using argument-subverting techniques. But giving other nations a voice would also have several other positive effects (ones that will become clear as we work through objections to this proposal in Part IV): (i) it would bring in fresh perspectives on issues, (ii) it would help average out the influence of problematic voices in America, (iii) it would make U.S. policy more responsible in how it treats all affected parties, and in so doing (iv) would result in polices that would be able to be consented to by all who are affected, rather than having to be imposed by threat or act of force. I further suggest that not just the United States but all nations whose electoral outcomes will significantly affect other nations should open their democracies to the voices of other countries for exactly the same reasons. Commingling polities in this way is the way to go. Finally, I shall moot a selection of models for how this could work.

So, to begin with, it is obvious that more than just U.S. interests are at stake in U.S. elections.[[15]](#footnote-15) U.S. democratically determined policy has vast consequences for the rest of the world, so arguably the rest of the world should have a say. Municipal matters at the level of pothole repair on roads in Cleveland are generally not of international interest. But Presidential elections and the resulting positions of the United States on issues of foreign policy, including economic and military policy, are vastly consequential for the rest of the world. And any and all persons who would have to bear the consequences of decisions on a given issue should get a say on it. Policies consequential for the problem of climate change would be a paradigm.

This principle that if you have a stake you should get a say, is practically the defining rationale of democracy. And it would be odd, therefore, if one were to defend the ideals of democracy, but not the idea of including as many as possible of the people who will be affected by a democratic process in the unfolding of that process.

But what form could this take?

**Methods of Giving Other Nations a Voice in the U.S. Polity**

There are several possible ways in which other countries could be given a more formal voice in the U.S. polity. First, U.S. media could be obliged to include a certain amount of foreign journalistic content—the obverse of something that happens in Canada, where there is a legal maximum on how much entertainment programming can have an U.S. source.

Second, the United States could help strengthen extant international bodies and could strengthen its commitment to following the outcomes of their deliberation.[[16]](#footnote-16) It already submits its main foreign policy initiatives to examination and contestation in international forums, e.g., The World Trade Organization, the United Nations, NATO, and “coalitions of the willing” in conflicts; and it already subjects the implementation of its policies to negotiation with other countries, e.g., in working out what was formerly called the North American Free Trade Agreement. Now, these things are not normally seen as ways of letting other countries influence U.S. politics. But since U.S. political impulses are generated with a view to the fact that they will have to be subjected to negotiation in these bodies, that is exactly what it is; and it is important to recognize this so that we will not find the idea of allowing other countries a voice in our polity such a great departure from norms we already accept. Meanwhile, if the United States committed itself to more of this—to signing and obeying treaties other nations sign, for example,[[17]](#footnote-17) other parties would not feel that they had to manipulate U.S. elections.[[18]](#footnote-18)

Third, the United States could keep the penalties for foreign interference low, so as not to over deter those who are so desperate as to need recourse to election influencing, and so who probably deserve to be heard by the U.S. polity. Or they could eliminate some of these penalties altogether, e.g., by making it more legal for foreign nations to donate to the U.S. election campaigns of their choice.[[19]](#footnote-19)

Fourth, U.S. politicians who accept that there is no reason why U.S. interests cannot be deliberatively reconciled with the interests of all peoples of the world could make the acceptability of proposed U.S. policy to other polities a larger issue in their campaigning and debates.

Fifth, the convenors of U.S. political debates at the presidential level could invite foreign leaders or their representatives to be participants as questioners or debaters. The United States could make much of this conditional on other countries doing likewise.

It might well happen that, were there all these official ways for other countries to affect the U.S. polity, they would have no need of the scurrilous ways. And the honest discussions so much needed could proceed.

A more radical way of having other nations influence the U.S. political process would be to let the members of other nations vote in some of America’s elections. Of course, any such proposal invites many questions: How would this even be possible? How could you have a hundred nations vote in America’s elections? How would people be informed enough to cast votes? And if we were to generalize this proposal, how could all nations vote in all nations’ major elections?

Well, in America’s case we might imagine that, just as there is a U.S. Electoral College of representatives of each state in the American Union, perhaps there could be an International College. Each embassy from another country to the United States would be a member. Of course the diplomats who staff these embassies are already specialists in relations between the United States and their own country; and they already advise the United States and get guidance from their governments on which policies they would like the United States to implement; so they would be ready to cast informed votes. And they already take arguments back to their home countries as they get feedback from U.S. officials on their requests. So they would already be skilled in the presentation and representation of arguments between nations, and in mediation. And each of these embassies might get a weighted vote in the International College, depending on the size of the population it represents.

The vote of the college would, in turn, have some weight among the votes of America’s already established Electoral College, as if the countries of the world were like states of the Union. Perhaps all the countries would be represented in one combined College vote. Perhaps there would be as many college votes as there are countries. Either way, some decision would have to be made about how much the one or the many colleges would count in determining U.S. electoral outcomes. I would suggest that, for the institution to have any meaning, it should be in principle possible for the vote(s) to be weighty enough as to marginally tip balances, in principle perhaps to break ties, and so on. But it may be that the actual weight need only be some small token. The most important thing is that the colleges would constitute pulpits from which foreign voices could speak; and they would constitute constituencies which those running for office in the United States would want to woo. This would guarantee that foreign voices could speak and be heard.

Another, perhaps simpler, way to go would be to have these voices expressed as token members of the House, or the Senate; or to have them constitute some third body, the Assembly of Ambassadors, with some token power to affect the threshold of House and Senate votes needed to move proposals into policy. And, of course, there would have to be something similar and reciprocal so that the United States could speak to and be heard by other countries. Having politically consequential units in each other’s countries would guarantee the internationalization of deliberation. Of course, there are many different governmental systems in the world, not all have anything like an Electoral College, or even democracy, and so the implementation of this proposal would need to vary depending on the systems of each country. But the form matters less than that it, one way or another, incentivize listening and persuading in deliberation.

To this there are, of course, many objections. Some of these would apply to the other proposed methods of giving other nations a voice. And we will consider them in Part IV, below. But one objection is worth mooting now, since that will elucidate a virtue with these proposals generally. The objection is that if non-American people are allowed to vote, the effect of any given American’s vote will be so small as to not be worth casting, which would undermine the political process entirely.[[20]](#footnote-20) (And no matter how little we weight foreign votes in any mechanism, this will to that extent dilute the influence of American votes.)

One reply is that, since the effect of any given person’s vote is already so small, no one can reasonably fear its further dilution. (This is obverse of the notorious problem how it can be rational to vote given how small a marginal difference to outcomes one’s vote makes.) It has therefore been argued that the true purpose of voting is to express your opinion, or to feel like at least you had a say, or to symbolize the sort of person you are (a tough guy, perhaps, or an empathetic person, or whatever, something you can express by the choice of policies or persons you vote for), or to be a part (however small) of a causal contribution to an outcome, rather than to have decisive influence on outcomes (a luxury had only by dictators). So long as these things have happened—you got to express, or to symbolize, or to causally contribute—it doesn’t matter to what *degree* your vote shaped the outcome. It may not even matter on a given occasion, or on many such occasions, whether your side won—part of the process is you tacitly pledging to go along with the outcome provided you had a say in what it should be. If this is right, it would seem more acceptable to permit foreign votes. Especially if letting everyone vote would increase their commitment to whatever policies resulted, and so, perhaps, to everyone in the world getting behind U.S. policy.

Of course, there is the worry that letting everyone vote would change what that policy would be. But would that necessarily be bad? After all, if this does not happen then U.S. policy, whatever it is, will only prevail by threat or act of force, which is a strong argument that it must have been bad or unfair policy; while if the resulting policy is one widely voted for, this means people can live with it. Part of this is due to the fact that democracy is not just about voting. It is also about the deliberative processes leading up to the vote—people putting issues on the table, becoming sophisticated about them by giving each other information and arguments,[[21]](#footnote-21) possible resolutions being tried out and being affirmed or rejected preliminarily in this trial balloon process. The resulting possibilities then get narrowed down so that none are so outrageous that they would be met with outright revolt should they prevail.

Many will find the foregoing suggestion about nations inter-voting too radical, favoring instead at most that nations should confederate, declare some issues the responsibility of the global federal level, and then either have their populations decide such issues by global referendum, or elect officials to a global level federal body to vote on such matters, perhaps on the model of the European parliament.[[22]](#footnote-22) In this way, it may seem that, instead of commingling their polities, nations retain their deliberative autonomy. We do not need to vote in each other’s elections, because our elected representatives can do the required negotiating for us by securing binding agreements, such as those found in free trade agreements.[[23]](#footnote-23) (Indeed, it might be thought that such agreements would be needed to make all of this work; for there is unlikely to be political commingling without economic integration.[[24]](#footnote-24))

I reply that, functionally, there may not be much difference between inter-voting and confederating (or between inter-voting and, say, negotiating trade agreements). For whether directly or indirectly, each nation’s citizens would be voting on policies that would affect other nations. And every nation would learn of every other nation’s positions in the course of the deliberations leading to votes. Of course, if confederating and commingling by the method of inter-voting are functionally equivalent, since we already have experience with forming confederations (between states, between provinces, between territories, even between countries, as in the European Union) we’d know how to commingle the polities of different nations that currently deliberate independently.

But I do not want to over-focus on the idea of voting in each other’s elections, whether expressly or by functionally equivalent processes. These were just two of seven ways that I have identified of giving other nations a voice. For now, it will be enough to defend the very idea of doing that, never mind the exact method.

**IV. Objections**

Now that we have seen what forms giving other countries a voice in our deliberations could take, I want to deal with the many standard arguments against allowing any of these things. These principally include (i) that nations do not have a right to affect each other’s elections because that would deprive nations of the rights of autonomy, including expression of national identity, self-determination, and the self-administration of their own property; (ii) it would allow too great a voice to autocratic regimes and to America’s enemies generally; (iii) it would be hopeless to try to commensurate radically different societies and traditions; (iv) it would overwhelm weak nations; (v) it would require more trustworthiness than is likely to be forthcoming, weakening polities who admit foreign influence without being allowed it in return; and (vi) the proposals would export the problems in each other’s polities into other polities.

1. **Autonomy-Based Objections**

I begin with the autonomy based family of objections. It might be argued that the rights of sovereignty mean that only the citizens of a country should be the determiners of its fate—only Americans should participate in any way in U.S. elections.[[25]](#footnote-25) But this is a highly problematic argument, since it rests on a conception of sovereignty according to which each country should be left to make its own decisions regardless of whether these are compatible with the interests of the rest of the world. Why would anyone concede to any nation the right to behave without regard for others? And how could any nation reasonably demand that right? For political scientists, legal scholars, and historians, these questions will seem odd: are not these rights the very foundation of the Westphalian conception of nations? And yet the questions scream for answers morally. Moreover, as a matter of realpolitik, each nation that tries to subvert another’s supposedly rightful deliberative process is in effect saying that the nation against which it is maneuvering has no such right, or at least not to just any conclusion to its process. Finally, all nations recognize that there are limits on the extent of harms one nation can inflict on another, limits whose violation would be a justification for war. I am, in effect, suggesting that the grey zone between one country’s action not inflicting a harm on another and one country’s action constituting a harm so great as to be an act of war, is the zone of issues regarding which there is currently election subverting. Such issues might be better addressed by bringing the involved nations into political co-deliberation.

A related argument against commingling—that Americans own their own country and its processes, and therefore have, by right of ownership, the right to be the exclusive operators of their polity**—**falls to a similar reply. Namely, why should any nation be permitted to operate on a conception of the rights conferred by being the owner of something that would allow them to make choices about what to do with that property without regard for the possible deleterious effects on other nations?

Similar rebuttals can counter arguments to the effect that being the sole determiner of the outcomes of elections is essential for the expression of individual or national identity, or to satisfy some supposed right of self-determination or autonomy.[[26]](#footnote-26) Why should other people or nations allow a given person or nation a right of self-expression – or autonomy or self-determination – that could be exercised at the expense of the welfare of others (or at the expense of their similar rights of identity expression or autonomy or self-determination?)[[27]](#footnote-27) Indeed, it is doubtful that there is any such right as the right to self-determination. To be sure, there are real rights that are conceptually nearby, e.g., the right to have one’s own welfare counted in how the world is arranged, the right to live one’s life as one sees fit provided this does not collide with the similar rights of others, and so on. But these rights do not necessarily require or entitle given persons or nations to non-influence from other persons and nations. In fact, it is in dialogue with other persons that one would work out the extent of these rights.

A more subtle objection is that arguably Americans have invested their labour and taxed contributions into systems of property and benefits that they therefore have rights to protect, specifically, to protect from other people in other nations voting or otherwise influencing themselves into an unearned share.[[28]](#footnote-28) One might give specific context to the issue by asking whether non-Americans living in other countries, people who have therefore not paid U.S. taxes, should have a right to vote on how U.S. taxed contributions should be spent. For example, should foreigners have the right to vote for laws permitting easy immigration into America? Should they have the right to vote to have money that has been taxed from Americans be used to fund, say, health care in their own countries? These are questions that could arise not only if one proposes that peoples of other nations have a vote in U.S. elections, but also if, for example, the United States were to confederate with other nations. It would then face issues about when immigration with full citizen rights would be permitted between confederated nations; or issues about whether, when emigrating, they should have transferable funded health-care.[[29]](#footnote-29)

The question of American ownership of their own property is difficult to navigate. On the one hand, arguably Americans built up their wealth and treasure in a time before the world became massively interconnected, and in a time therefore where Americans maneuvered without moral need of regard for others, since the actions of Americans did not affect others. Americans have therefore mixed their labour exclusively with goods from nature and so should have exclusive share rights in them. On the other hand, even the great founders of the ideas of private property, e.g., John Locke, recognized that, in appropriating goods for one’s self from their unowned state in the state of nature, one has a duty to leave over enough goods from the natural world, and of as good quality, for all other persons to have a share.[[30]](#footnote-30) And it is contestable whether the United States has done that. There is also the issue of whether the goods Americans have come to own were originally unowned parcels of goods in nature, or whether Americans unjustly appropriated these parcels from prior owners—the indigenous peoples of North America, for example; or from client states acquired by coercive political action. (Think of American adventurism in securing access to oil). It is apparent that the issue of American entitlement to its wealth is complicated.[[31]](#footnote-31) But even setting that aside, American wealth is now vastly connected to the lives of those in other countries. So even if Americans are entitled to their wealth, surely others have a moral right to some say in whether that wealth will be deployed in ways harmful to them.

The preceding issues connect with large issues in political philosophy about what different nations owe to each other—whether this be nothing or, at a minimum, at least non-interference, or co-operation on mutually advantageous terms, or positive help in prosecuting each other’s ends. Likewise, there are connections to issues regarding what individual citizens of a given nation owe to individual citizens of other nations, and whether they owe these things directly or only by virtue of the relations of citizens to other social and political institutions. Finally, there are connections with issues in the possible foundations of any such duties, e.g., Kantian universalization (act only as you could will others to act towards you), veil of ignorance reasoning (act only in ways you would approve if you did not know whether you would be benefitted or exploited by the act), and rational bargaining for arrangements of mutual advantage.[[32]](#footnote-32) I am not weighing in on specifics about any of these matters here. I *am* supposing that there are some duties of nations towards each other, and that, even if there are not, it would be understandable if nations demanded to have their interests respected by other nations. But what the present chapter is more focused on is the question of what method should be used to resolve these issues, whether subversion of other polities, diplomacy, war, or, as I am defending, direct participation in each other’s political processes. I am similarly supportive of nations deliberating in and accepting the authority of international organizations and larger political units expressly tasked with working out acceptable relations between nations.

It might be objected that my proposal is absurd on grounds of leaving no purview for the individual nation or person to decide how to act. For example, if, as I say, someone should get a vote on any proposed course of action by anyone if the action could affect them, then, since consumers are affected by the decisions of labour unions, should not consumers get a vote in union affairs? But then what is the point of having a union? Likewise, a given individual may have an interest in the activities of another individual: should the first get to dictate behaviour to the second? Surely not.[[33]](#footnote-33)

I reply that this exemplifies another timeless debate in political philosophy, namely, how extensive should the rights of the individual be? On almost all accounts, people should get a say in some aspects of each other’s lives. Governments reserve the right to interfere with union matters when union members perform essential services that cannot safely be interrupted. And we all think we have a right to regulate each other’s behaviour in various ways (e.g., we get to dictate that no one may murder, steal, or rape).

1. **Enemy-Based Objections**

I would move now to the objection thatother nations have interests that make them the enemies of America, so that permitting influence from them would undermine America. The problem with this objection is that the idea that two countries could be such that their interests are permanently opposed is almost certainly mistaken. Perhaps there was a time when several countries intractably held ideologies requiring each to conquer the other and to impose its favored ideology. And it was understandable that each would resort to force and subversion to stop this. Holders of private property and believers in the inherent justice of such a system of property rightly feared communism, nationalizing of businesses, seizing and forcible redistribution of private property, collapse of the negative liberties that are entrained by this system of property distribution, and liquidation of the most prominent and resistant of the extant property holders. And defenders of communism rightly feared the de-nationalization of businesses, and the collapse of guarantees of education, health care, employment, minimum incomes, pensions, and the weakening of the state organizations whose ostensible missions were to protect them from outside aggression, and to sustain the ways of life and traditions which defined them.

But such ideological conflicts are now vastly fewer, and less consequential. As Michael Mazaar has argued, most of America’s so-called enemies do not seek huge disruption in the global order, nor, therefore, huge change in America. They seek only incremental changes giving them somewhat greater shares of wealth and power.[[34]](#footnote-34) Most of the nations the United States sometimes regards as its enemies now endorse democratic government in some form or another, at least officially. And all endorse, in one degree or another, some form of private property and free market capitalism. To the degree that this is not true, it is because the current holders of wealth and power in various nations seek to preserve their power and increase their wealth, some by mafia-like means. But this is not an ideological conflict; and since the motives are merely wealth and power, the conflicts between these nations can be resolved by negotiated relations featuring protection of variants on the status quo, and wealth sharing of the cooperative surpluses from future business deals. That is, there is nothing in principle non-negotiable here.

There are, to be sure, other spectra of variance between nations: e.g., between more and less authoritarian, more and less fundamentally religious, Christian or Judean vs. Muslim, Sunni vs. Shiite, more and less individualistic, more and less favoring centralized services. But coercive evangelism about these things is now vastly less common, and the postures of nations about these things are more defensive than offensive. And even the most extreme differences, e.g., between Western nations and those hostile to The West—to its Christianity and secularity, variously—are tractable. For almost all of the differences tend to evaporate the more educated the countries in question become. For example, many of the most intense seeming ideological and religious conflicts trace more to people seizing upon something to argue from in arguing for improved social standing or greater self-determination, e.g., in the form of emancipation from colonialism, or from more recently occupying powers, or from religious or class oppression. So here again, negotiation towards a greater sharing of wealth and status will solve the problems.

Obviously, a full defence of this method of dealing with problematic interference would require a detailed analysis of the main agents of interference and their relations with America, including Russia, North Korea, perhaps China, and perhaps ISIS and its ilk. So let me just admit that if I am wrong about the commensurability of the interests of the major powers, and if these powers really are in a relation of irresolvable conflict between their interests, then we would have to go another way. And of course even if my analysis is correct, the method of dealing with problematic influences and interferences I have proposed would require a great deal of summitry and treaty making. It would not be a quick fix, a fact which may recommend the more standard methods as a stop-gap.

1. **Objections Regarding the Impossibility of Commingling Democracies and Autocracies**

Perhaps it will be objected that itis naive to expect all nations to participate in any of these process in good faith. Autocracies, for example, would have a stake in undermining democratic societies so that the autocracies could maneuver without constraint. Democracies and autocracies cannot happily coexist, and so the policies a democratic nation will favour must needs differ from those an autocratic state would favor. Therefore there could not be reconciliation of their differences by co-deliberative processes.[[35]](#footnote-35)

I reply thatdemocracies need not fall in order for alternatives to democracies to rise. Indeed, the thriving of democracies, and the thriving of their legitimate alternatives, have similar preconditions, such as stability, trading relationships, and coordination on global problems like climate change that require the participation of all nations to solve. And arguably the nurturing of these conditions would be furthered by democracies and their alternatives comingling their polities. Of course it would be interesting what form this commingling could take while yet respecting the ways in which the polities are different. Consider such plausible alternatives to democracy as societies in which, while there are no elections, affairs are run by civil servants responsive to perceived citizen need and desire as determined by surveillance-state monitoring of citizens’ dialogues on social networking sites.[[36]](#footnote-36) They might take democratic voting outcomes in other countries as new data for policy formation in their own countries. Meanwhile democracies might take the surveillance-state data as relevant new data for policy formation in *their* respective countries. There seems to be enormous functional similarity here in the roles and goals of governments; and so there seems to be enormous room for rapprochement. For example, one can imagine Canadian and Chinese civil servants profitably interacting at conferences about how to transmute electoral votes, and surveillance-determined citizen attitude data, respectively, into policy. And one can imagine a confederation of states, one of which is a conventional democracy, the other, a state run by civil servants selected and trained to be responsive to citizen will as detected by monitoring of social media, representatives of each country negotiating which federation-level policies to enact. One way or another, there could be a debates between whatever are the sovereigns of each nation. In a democracy, the sovereign is the people, in the form of the highest elected official(s). In China, it is, say, the ruling civil servants; in Russia, it is, say, the most powerful oligarchs.

In The West we think you need democracy and a multi-party system to solve the problem of governing class corruption caused by cynical self-interest or unconscious bias in favour of the self. But there are apparently thriving nations which instead solve the problem by creating, and creating faith in, a civil servant class of technocrats. Indeed, such societies can have as an advantage over democracies that, since their ruling class is more enduring, rather than term-limited, it can take a longer view, and so can solve problems that require enduring policy commitments. Climate change is a perfect example. And it would be all to the good to have the deliberations of term-limited democracies brought into contact with the deliberations of nations with more enduring ruling bodies.

**D. Objections Regarding the Inappropriateness of Commingling Democracies with Illegitimate Governments**

I have been speaking about legitimate alternatives to democracies. But what of illegitimate alternatives? What of states run by malign oligarchs and autocrats, states which are little more than vertically integrated criminal organizations for the extraction of wealth from their citizens?[[37]](#footnote-37) Surely the rulers of such states have no interest in having their nations converted into genuine democracies, since they would then lose power and wealth. So they will not want their citizens commingling in other nations’ elections. Instead, these rulers have every interest in ruining the democracies of nations, because then they could manipulate those nations in ways that will enhance their own wealth and power.[[38]](#footnote-38) So it would be wrong to allow these malign nations unfettered influence in the U.S. polity. At best, the only nations that should be allowed in are ones already established as democracies, and who therefore would be inclined to non-destructively co-affiliate with America, on the model, for example, of the European parliament.

My reply is that autocrats can have the power they seek only by getting large numbers of people to do things whose products can be harvested in the form of money; and the best way to attain this effect on populations is by deliberative democracy—that is, by talking them into it. Further, oligarchs profit more from peace than war, and will have a stake in attaining peace with each other. Finally, even oligarchs are better off in a world of safety and stability as secured by deliberative democracy, and therefore will tend towards this system. For it is the system most likely to protect their gains, whether ill-gotten by prior predation or not, due to the inherent conservatism of the rule of law that democracies tend to exemplify.

Destroy democracies? No. Ultimately oligarchs will want to participate in world government, and will want to use their powers to have a large voice in democratic decision-making. We see this already in the titans of capitalism encouraging the formation of liberal democracies the world over. How are we to have influence on them? In return for giving them a voice in our elections, they give us a voice with them—if they get to speak to our people in our elections, we, in the form of our leaders, pundits, and other operators of the deliberative process, get to talk to their ruling group, whether this be a Politburo, a military Junta, an hereditary King and his Courtiers, or some mafia-like power-holding group.

1. **Objections Regarding the Difficulty of Commingling Polities of Radically Different Cultures and Value Systems**

Other sorts of differences between nations could make their commingling problematic. Imagine two nations with different prevailing fundamentalist religions and therefore with conflicting attitudes on central questions of morality and value. How can they profitably commingle? And if one of these nations was powerful, like America, say, what conceivable reason could a weaker state with different values and a different religion have to commingle? More generally, would not the proposal tend to result in unwelcome cultural homogenization? In fact, it might be worried that any culture that permits itself to commingle with the United States will in effect *become* America, with the result that there will simply be one large mono-culture, in this case, American, with all the problems that afflict that culture (problems with which my proposal would infect the whole world).[[39]](#footnote-39)

To this, there are several replies. First, even nations widely different culturally, religiously and morally have issues it would benefit them to deal with in a shared polity, (e.g., issues around trade, climate, infrastructure, health, war, etc.). So long as commingling was confined to these issues, the results could be salutary. And the resolution of these issues wouldn’t necessarily require that, in other respects, the countries become alike. Second, commingling on deliberation about deep issues of morality and value could result in much needed learning for all of the affected countries. I premise this on two possibilities. First, I assume that there may be a single truth on some of these matters (that is, some things that are, in fact morally permissible and others not) and dialoguing between countries might help both to find it. But failing that, second, dialoguing might help the two countries become more tolerant of their differences; it might motivate them to form policies mutually respecting of these differences, and which quarantine the issues off from other issues needing resolution (issues a clear vision of which might otherwise be obstructed by the moral differences in play). On either premise, both countries would have to mindfully and more fully subject themselves to the norms of deliberative democracy, and to the listening to others that this constitutively entrains. This could thus improve both cultures.

1. **The Problem of Commingling Overwhelming Smaller, Weaker Nations**

We have been discussing variants of the concern that the United States may have interests inherently incompatible with those of other nations, and so should not open itself up to influence by them. A related family of concerns runs in the other direction: it may be bad for the United States and other large nations to have an influence in the polities of smaller, vulnerable nations, for then weaker nations and poor peoples would be overwhelmed.[[40]](#footnote-40) Commingling the world’s polities will merely allow powerful countries to enlarge the power they already have over weaker countries.[[41]](#footnote-41) Think of the Ukraine, and consider the most extreme form of polity commingling I proposed: should Russia be allowed a vote in the affairs of a nation it seeks to annex? On the face of it, the answer is a resounding no.[[42]](#footnote-42)

I reply that the weak are otherwise in danger anyway, and might profit from there being deliberative norms according to which they get to represent their interests to the majority and the powerful in commingled polities. And if commingling were to be widely implemented, then states who seek to dominate smaller states would have to make their case to other powerful states who might be sympathetic to the small states. In the case of Russia and the Ukraine, all the NATO nations would probably have a lot to say about what Russia should be allowed to do.

But, now tacking in the other direction, it is not necessarily true that the weaker countries should be left alone, or should have their interests be decisive against those of stronger states. Consider the smaller island nations being flooded out by human-induced global warming. Do these nations really have a right to our ceasing the industrial revolution that lifted billions of people out of poverty over the last hundred years? Do the inhabitants of these islands really have the right to insist on staying on the Islands and demanding that we revise our climate posture to ensure their safety? Do they really have the right, therefore, to have their decision-making processes be safeguarded against influence from suasion by outside interests? To be sure, the welfare of those threatened by climate change ought to be taken into account. But arguably their opinions about policy ought to be brought into deliberative contact with the opinions of others representing larger numbers of people. At any rate, supposing we think nations large and small should have certain rights, we could arrange for these to be respected by, for example, having a kind of constitution and bill of rights, laying out what is and is not to be in the autonomous purview of individual nations, what costs may and may not be imposed on them, etc. We could require larger majorities of voters, and larger number of countries, to be in agreement for these documents to be changed. Such rules might be drawn up where, say, confederation is chosen as the best method of commingling polities.

1. **The Prisoners Dilemma Problem for Mutual Trust in Commingling**

It might be argued that all these considerations notwithstanding, movements to commingle are fraught with risk. For all nations may be in a Prisoners Dilemma with each other on this matter, with all the attendant problems in finding a rationale for cooperation.[[43]](#footnote-43) After all, even if both countries are better off if both let each other affect their deliberations, it is also true that if one country lets the other influence its policy deliberations, and the other country does not, the latter country has a power advantage and so will do even better. Thus, each has an incentive to try to exploit the other.[[44]](#footnote-44)

I have several replies. First, countries could assess the characters and motives of other countries in deciding whether to offer them commingling, and only offer it to those expected to be trustworthy in allowing it in return. And there is a theory of rationality according to which, if it was rational on this expectation to offer cooperation to an agent, then it is rational to fulfill that offer even if there is no guaranteed enforcement mechanism. Instead of worrying about enforcing deals, we can just be careful about who we make ourselves vulnerable to in offering deals. This is often cheaper and less risky than seeking to ensure the possibility of enforcement.[[45]](#footnote-45) Second, even if the foregoing proposal is too idealistic, commingling could be gradual enough that if one party is not playing along, the other could still have enough political autonomy to kill the deal. Third, countries found to be cheating will ruin their reputation for trustworthiness and so imperil their bid for inclusion in future such deals with the given country and other countries, missing out on the possibility of creating and sharing any surplus goods cooperation solving a Prisoners Dilemmas produces. And countries not welcomed into the club of cooperating nations will gradually wither in comparison. Fourth, many of America’s so-called enemies do not seek to dominate America, but only relief from oppression by it—they are aggressive to the United States only as a defense strategy. So all the United States need do to ensure trust-worthy interactions with them is open itself to such interactions—the United States is in an assurance game where, if the United States provides an assurance of trustworthiness in the form of making its polity vulnerable to outside influence, the country thereby assured will reciprocate. Fifth, if two countries would be inclined to commingle were it not that they don’t trust each other to play fair, they could give some treasure to mutually trusted third parties who would release it back only upon verified mutual cooperation, thus incentivizing cooperation. Or the countries could seek a country or a supra-national organization, like the United Nations, willing to enforce deals and be a peace-keeper between them. Finally, many of the relations between countries are misrepresented as Prisoners Dilemmas. Instead, the countries are in coordination problems where neither can do well unless both do their part, and so each has an incentive to do it for the surplus in shareable goods that would result from coordination. There is then no incentive to defect, since there is then no surplus for anyone.[[46]](#footnote-46)

1. **The Problem of Exporting the Problems With Each Other’s Polities Into Other Polities**

One final concern is that, the more we commingle, the more we will be infected with the problems endemic to each other’s respective polities. Does the United States really want more exposure to Putin’s mischievousness, Kim’s bluster, Xi’s special pleading? Does any nation want more exposure to Trump? Moreover, many nations, including America, are flawed democracies. U.S. elections are a chaotic free-for-all; Russia’s and China’s have only the illusion of freedom; and so on. And every nation is heavily influenced by its own oligarchs and special interests. Do other nations really want to open themselves to yet more of this? Every nation has prejudices and blind spots in its perspectives, disenfranchised peoples in its own populations, and elements of its population that are undereducated, resistant to reason, or so poorly circumstanced as to be prone to manipulation.[[47]](#footnote-47) Do we really want to be exposed to each other’s failings and vulnerabilities in our political deliberations, and to have our decisions be hostage to the flaws in other polities?

The short answer is, yes, we do, for several reasons. First, the deliberative norms of commingling polities will tend to induce greater reason in those who participate in it, because of the formality and sobriety of the process, and because its whole point is to offer a forum for the exchange of arguments. Second, this sort of deliberation is inherently educative, each party bringing information and new perspectives to the other. Third, the process is inherently tolerance enhancing, as is all exposure between peoples who have information-deficit-based prejudices against each other. Fourth, the special interests within nations will now have to dialogue with the special interests in other nations. This will have two effects, one being dilution of their power (as they then have other forces to contend with) and the other, moderation (as each has to make compromises in order to make surpluses of shareable goods with others in cooperative ventures). They will accept these effects precisely because they carry with them the possibility of making and sharing cooperative surpluses.

**V. The Best Way of Dealing with Vestigial Problematic Influence and Interference**

Perhaps some nations will not be content with having a formal voice constituted of the right to make arguments, and will continue trying to interfere in U.S. political processes, violating the ideals described at the end of Part II. They might have any of several reasons: enmity and mistrust from past conflict; the worry that the outcomes of American-based deliberation are unlikely to respect their values and traditions (this making the nations incommensurable democratically); the nations being too far apart about what would be a fair distribution of some good; or the nations’ leaders being pathological by virtue of being power-mad, robber barons, or psychopaths.[[48]](#footnote-48)

It is not difficult to say what it is we think these nations are doing wrong: they are violating deliberative ideals, in ways we feel disrespect us. As I suggested in Part I, above, there can be no more contentful criterion than this for classing their subversive activity as wrong, since that is the kind of thing about which it is the purpose of politics to resolve contestation.

In the end, I suggest that the best defense is the improvement of the bad relations between nations that lead them to subversion. This too involves giving them a voice, although an argumentative voice in diplomacy, not a subversive voice in elections—against the latter we will still need coercive methods of enforcing our norms. Still, such diplomacy is itself part of safeguarding the integrity of America’s democratic processes.

Thus the best way to deal with this problematic remainder of unwelcome maneuvering is to realize that it is enough that it is unwelcome—we need not trifle about whether it crosses over from influence to interference—and that the grievances in which it is based need to be allayed. The United States should seek to resolve the conflicts constructively, respecting the needs and concerns of its enemies, and aiming to bring all nations into mutually beneficial arrangements which leave no incentive for subverting democratic processes. The United States should fix any long-standing conflicts with these countries by reassuring them that it will not undermine their regimes; it will help them to improve the wealth of their citizens and the stability of their societies; and will encourage business relationships, education and cultural exchange programs and other forms of commingling, so that every country has a stake in the welfare and deliberative integrity of every other country. They would then be inclined to maneuver to support each other’s countries.

Such an approach would be non-coercive and based on positive incentive and agreement rather than violence and the reciprocal subversion of other countries. It would already count as legal and so could be begun without the law-revising needed for other methods from Parts I and II. Finally, it would result in stable associations that all parties would have motivation to preserve; there would be no need to guard against the workarounds that would perpetually be sought against coercive solutions.

1. This chapter began as a paper for a conference sponsored by the Center for Ethics and the Rule of Law at the University of Pennsylvania Law School, The Foreign Policy Research Institute, The Andrea Mitchell Center for the Study of Democracy, The Wharton School of Business at the University of Pennsylvania, The Carol and Lawrence Zicklin Center for Business Ethics Research, and The Office of Information Security. In many ways it is a response to Jens Ohlin’s contribution to this volume (Chapter 10). The paper also benefitted from comments received at a colloquium at Dalhousie University, from comments from students in my class on the theory of rational decision, and from written comments by Richmond Campbell, Greg Scherkoske, and the volume editors, Jens Ohlin and Duncan Hollis. As always, L.W. and Max Dysart helped me read the moral compass. Finally, in the spirit of full disclosure I should say that I am a Canadian trying to influence the American polity. On the other hand, I identify with the American project. [↑](#footnote-ref-1)
2. *See generally* Ciara Torres-Spelliscy, *Dark Money as a Political Sovereignty Problem*, 28 Kings Law J 239 (2017). [↑](#footnote-ref-2)
3. *See* Chapter 10 at xxx. [↑](#footnote-ref-3)
4. Jules Zacher, *Using American Civil Litigation to Stop Russian Interference in the American Election* (abstract, dated November 2018, on file with author). [↑](#footnote-ref-4)
5. *See* Robert Chesney and Danielle Citron, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, Lawfare (Feb. 21, 2018). [↑](#footnote-ref-5)
6. Matt Burgess, *Theresa May’s Fake News Unit is Just Another Naïve Plan for the Web*, Wired (Jan. 24, 2018). [↑](#footnote-ref-6)
7. Staci Leiffring, *First Amendment and the Right to Lie: Regulating Knowingly False Campaign Speech After United States v. Alvarez*, 97 Minn. L. Rev. 1047, 1047-1078 (2013). [↑](#footnote-ref-7)
8. *See generally* Delbert Tran, *The Law of Attribution: Rules for Attributing the Source of a Cyber-Attack*, 20 Yale J. Law & Tech 376 (2018). [↑](#footnote-ref-8)
9. Peter Beinart, *The U.S. Needs to Face UP to Its Long History of Election Meddling*, The Atlantic (July 22, 2018); Ishaan Tharoor, *The Long History of the U.S. Interfering with Elections Elsewhere*, Wash. Post (Oct. 13, 2016). [↑](#footnote-ref-9)
10. See Chapter 10 at xxx. [↑](#footnote-ref-10)
11. See Chapter 10 at xxx. [↑](#footnote-ref-11)
12. *See, e.g.,* Chapter 10 at xxx. [↑](#footnote-ref-12)
13. S.I. Strong, *Alternative Facts and the Post-Truth Society: Meeting the Challenge*, 165 U Pa. L. Rev. 137 (2017). [↑](#footnote-ref-13)
14. I should acknowledge that some of the arguments for having foreigners mix in domestic political processes are not new, but rather only their application to the problem of nefarious influence. For previous arguments for mixing, see R.E. Goodin, *Enfranchising All Affected Interests, and Its Alternatives*, 35 Philosophy & Public Affairs 40-68 (2007); C. López-Guerra, *Should Expatriates Vote?*, 13 J. Political Philosophy 216-34 (2005). *See also* C. López-Guerra, Democracy and Disenfranchisement (2014); D. Owen, *Constituting the Polity, Constituting the Demos: On the Place of the All Affected Interests Principle in Democratic Theory and in Resolving the Democratic Boundary Problem*, 5 Ethics & Global Politics 129-152 (2012); S. Song, *Democracy and Noncitizen Voting Rights?*, 13 Citizenship Studies 602, 607 (2009); Zephyr Teachout, *Extraterritorial Electioneering and the Globalization of American Elections*, 27 Berkeley J. Int’l Law 162, 166-173 (2009). [↑](#footnote-ref-14)
15. Teachout, *supra* note 14. [↑](#footnote-ref-15)
16. Thanks to Jens Ohlin for prompting this discussion. [↑](#footnote-ref-16)
17. The United States is often a non-signatory to key transnational governance regimes, e.g., on treaties regarding climate change, weapons use, the use of outer space, etc. [↑](#footnote-ref-17)
18. I would bet, for example, that nations with whom the United States has less conflict in the United Nations are also less involved in subverting U.S. elections. [↑](#footnote-ref-18)
19. Thanks again to Jens Ohlin for prompting this discussion. [↑](#footnote-ref-19)
20. This Part moots the relevance of large issues in the theory of democracy. For a start on these and their literatures, see Jason Brennan, *The Ethics and Rationality of Voting*, Stanford Online Encyclopedia of Philosophy*, at* <https://plato.stanford.edu/entries/voting/#6>; R.A. Dahl, After the Revolution? Authority in a Good Society 64 (1990). [↑](#footnote-ref-20)
21. See the work of Philip Pettit on the idea of deliberative democracy for more on this. [↑](#footnote-ref-21)
22. Thanks to Andrew Fenton and David White for suggestions along these lines. [↑](#footnote-ref-22)
23. Again, thanks to David White for this. [↑](#footnote-ref-23)
24. Thanks to Robert Paul for this suggestion. [↑](#footnote-ref-24)
25. *See, e.g.,* Jens Ohlin, *Did Russian Cyber Interference in the 2016 Election Violate International Law*? 95 Tex. L. Rev. 1579, xxxx (2017). [↑](#footnote-ref-25)
26. *Id.*  [↑](#footnote-ref-26)
27. *Contra* Teachout, *supra* note 14, at xxx. [↑](#footnote-ref-27)
28. Megan Reiss suggested this point to me. [↑](#footnote-ref-28)
29. In fact conceptually identical questions arise when nations negotiate trade agreements, since they are in effect negotiating what counts as fair competition, unfair government subsidies, and so on – things which affect the benefits workers will receive. [↑](#footnote-ref-29)
30. For a classic discussion of Locke’s theory of property and of the foregoing pretexts for doubts that one is the legitimate holder of a given piece of property, *see generally* Robert Nozick, Anarchy, State, and Utopia (1974). [↑](#footnote-ref-30)
31. And of course this is a huge issue not just for the United States, but also for colonial powers, much of whose wealth derives from conquest. [↑](#footnote-ref-31)
32. For a nice survey of these issues and of extant positions on them, see Thomas Nagel, *The Problem of Global Justice*, 33 Philosophy & Public Affairs 113-147 (2005). [↑](#footnote-ref-32)
33. Thanks to David White for this line of objection. [↑](#footnote-ref-33)
34. For a general defense of this position see Michael Mazaar, Mastering the Gray Zone: Understanding a Changing Era of Conflict 126-137 (2015). [↑](#footnote-ref-34)
35. Thanks to Todd Calder and Jack Whitmer for these concerns. [↑](#footnote-ref-35)
36. On this see, Christina Larson, *Who needs democracy when you have data?,* Tech. Rev. (August 20, 2018). [↑](#footnote-ref-36)
37. *See generall*y Sarah Chayes, Thieves of State: Why Corruption Threatens Global Security (2015). [↑](#footnote-ref-37)
38. Nagel*, supra* note 28, at xxx (making a related point about the more well-off nations being reluctant to accept duties to help the less well off). [↑](#footnote-ref-38)
39. Thanks to Shirley Tillotson and Steven Burns for these worries. [↑](#footnote-ref-39)
40. Thanks to Max Dysart for this concern. [↑](#footnote-ref-40)
41. Thanks to Tyler Hildebrand for this objection. [↑](#footnote-ref-41)
42. Thanks to Fred Arsenault for this case. [↑](#footnote-ref-42)
43. *See generally* David Gauthier, Morals By Agreement (1986) on the general structure of Prisoners Dilemmas. [↑](#footnote-ref-43)
44. Thanks to Richmond Campbell for this objection. Campbell also suggests that nations participating in each other’s polities may be necessary to the moral progress that consists in bringing everyone in the world into the circle of morality – the progress that justified polities in the first place – but which now, because of the increasing interdependence of the fates of the world’s political tribes, needs a tribe of tribes to enlarge the circle. [↑](#footnote-ref-44)
45. For more on this theory, see Gauthier, *supra* note 38; Duncan MacIntosh, *Assuring, Threatening, a Fully Maximizing Theory of Practical Rationality, and the Practical Duties of Agents*, 123 Ethics 625-656 (July 2013); *see generally* Jens David Ohlin, The Assault on International Law (2015). [↑](#footnote-ref-45)
46. For more details on the structure of coordination problems, see Duncan MacIntosh, *Buridan and the Circumstances of Justice (On the Implications of the Rational Unsolvability of Certain Co-ordination Problems)*, 73 Pacific Philosophical Q. 150-173 (1992); *see also* Duncan MacIntosh, *Intransitive Preferences, Vagueness, and the Structure of Procrastination*, in The Thief of Time: Philosophical Essays on Procrastination 68-86 (Chrisoula Andreou & Mark D. White, eds., 2010). [↑](#footnote-ref-46)
47. For more on these issues in the specific case of the United States, see Duncan MacIntosh, *De-Weaponizing Incivility and Disinformation: Do We Need A (Virtual) Two-State Solution For America?*, prepared for the conference Navigating Law and Ethics at the Crossroads of Journalism and National Security, organized by the Center for Ethics and the Rule of Law at the University of Pennsylvania Law School, November, 2017. (Manuscript on file with Author.) [↑](#footnote-ref-47)
48. These last explanations are simplistic, and they lead to policy that de-humanizes opponents, something usually unfair to them, and always unfair to their civilian populations. [↑](#footnote-ref-48)