

# The Case for Foreign Electoral Subversion

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Most foreign policy is not implemented through war. Yet, with a few recent exceptions—like James Pattison’s 2018 monograph *The Alternatives to War*—political and moral philosophers have yet to explore all options between war and doing nothing.<sup>1</sup> Here I consider one such option: subversive interference in a democracy’s nationwide elections. In that regard, the years 2016–2017 have proved rich in controversies. In France, Russian banks with close ties to the Kremlin provided cash loans to the National Front in the run-up to the 2017 presidential elections. In December 2017, the Australian premier announced a tightening of restrictions on foreign funding of political parties out of concern with alleged and undue Chinese influence on some Australian politicians. Last, but far from least, in the United States the Office of the Director of National Intelligence along with the CIA, FBI, and NSA all take the strong view, backed in part by social media data, that Russian authorities actively sought to undermine Hillary Clinton’s 2016 presidential campaign and to bolster Donald Trump’s.<sup>2</sup> Interestingly, however, some of President Putin’s critics are vulnerable to the charge of hypocrisy. To give but two examples, the United States has a long history of interfering in the institutions and elections of its Latin American neighbors and, indeed, at the height of the Cold War, of its European allies. More recently, many believe that, absent U.S.-driven assistance, the Democratic Opposition of Serbia would have lost the 2000 Yugoslavian presidential election to Slobodan Milošević.<sup>3</sup>

Attempting to subvert the democratic elections of a putatively sovereign country is a time-honored way of bending the latter’s domestic and foreign policy to

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one's will. However, it seems to elicit far more condemnation than war and, indeed, other forms of coercive diplomacy. Perhaps this is because, to many people, the rights of democratic participation have primacy over all other rights; or because most often electoral subversion takes place covertly. Either way, given how destructive those other modes of interference are, this is puzzling.

I frame my inquiry as follows. I focus on the state-sponsored, nonviolent, non-kinetic subversion of nationwide elections (for short, subversion). Moreover, because I am interested in exploring whether there are any situations in which subversion may be justified, I consider cases in which subversion is used as a means to prevent or end large-scale human rights violations, though my argument also has implications for subversion as a tool of foreign policy in general. In addition, my aim is not to evaluate subversion as an alternative to war or, for that matter, to other measures, such as economic sanctions. Due to space constraints, I simply wish to show that, under certain conditions and subject to certain constraints, subversion is *pro tanto* justified. Whether it is justified *all things considered*—and, in particular, once one has taken into account other options—is another matter and one that I cannot settle here. Finally, although subversion affects election candidates, it above all undermines a citizen's right to vote. Accordingly, in what follows I focus on the latter and not the former.

Before I begin, let me outline the overall normative framework on which my arguments rely. I take it for granted that all individuals, wherever they reside in the world, have rights to the freedoms and the resources they need to lead a minimally flourishing life—in other words, human rights. Moreover, they hold those rights against all human beings and their respective governments. Put differently, on this cosmopolitan view, all of us, wherever we reside in the world, are under duties to all other individuals, wherever they reside, to respect their human rights. How precisely we discharge those duties partly depends on the institutional structures under which we live. Be that as it may, I am not under a stronger duty to respect my compatriots' human rights—for example, not to be killed or to be given means of subsistence—than I am to respect those same rights of noncompatriots, and vice versa.<sup>4</sup>

## THE ISSUE

At first sight, subversion is deeply worrisome. A commitment to democracy is the bedrock of the international normative order. Regular, free, fair, and binding nationwide elections, in which every eligible citizen has the right to cast one

vote, are the hallmark of democracy, as they ensure that individual preferences are converted into collective outcomes. Now, let us imagine that a country's citizenry has to choose between two presidential candidates, Jones and Smith, and that a foreign regime—Intervener—wishes Smith to win. The election has three variables: a set of citizens, two candidates, and a voting procedure. Intervener might subvert the election at all three junctures. First, it might interfere with the citizens' exercise of their right to vote. For example, it might threaten to take harmful measures if Jones wins, such as the denial of aid (as the United States did in connection with the 2009 Lebanese election<sup>5</sup>) or the imposition of economic sanctions. To the extent that those citizens believe that incurring such costs are too high, Intervener would undermine the principle that citizens ought to be free to determine their collective future. More invasively, Intervener might deprive citizens who are more likely to vote for candidate Jones of the opportunity to cast their vote by hacking into and tampering with electoral rolls. In so doing, it would undermine the principle that all eligible citizens have the right to vote—that is, the principle that voting should be free.

Second, Intervener might seek to shape the candidates' playing field. For example, it might help Smith by financing her party and electoral campaign (Russia and the French National Front), or by providing technical assistance with polling and campaign research (the United States and the 2000 Yugoslavian election). It might also undermine candidate Jones directly, such as by hacking into his party's IT infrastructure, disclosing damaging albeit accurate information about his entourage, and conducting disinformation campaigns. In so doing, Intervener would undermine the principle not only that the election should be free but also that it should be fair—that is to say, that citizens with widely divergent preferences should have a decent chance of electing the candidate that most represents them.

Third, Intervener might disrupt the voting procedure itself, for example, by hacking into vote-counting software so that even if Jones gets more votes than Smith, Smith would be officially declared the winner. In so doing, Intervener would sever the link between citizens' preferences and collective outcomes, and undermine citizens' effective exercise of their right to vote.

## A FIRST CUT: SUBVERTING DEMOCRATIC CHOICES

So conceived, subversion does seem deeply problematic. Whether it is successful or not, it violates the democratic requirement that the government be of, by, and

for the people. It is easy to see why leaders who comment on other countries' elections or referenda are harshly condemned by the side they disfavor, why many democracies ban or severely restrict foreign donations and loans to political parties, and why some governments have recently expressed worries about, and have indeed banned, Internet voting.<sup>6</sup>

Upon closer inspection, however, there are grounds for endorsing subversion under some circumstances. Whether one favors democracy for its intrinsic value, its instrumental value, or both, from a cosmopolitan perspective we have democratic rights only to the extent that we are more likely, by exercising them, to respect and promote the human rights of other agents—and not just those of our fellow citizens *but those of distant strangers too*. The latter point cannot be stressed strongly enough: citizens do not have the moral right to vote for any foreign policy they might prefer, regardless of ethical considerations. Even if there can be such a thing as a right to do wrong, and even if citizens have such a right, they do not have the right to authorize mass violations of human rights. Indeed, when they do so, in principle they may be subject to retortive measures, such as war, economic sanctions, and various punitive measures.<sup>7</sup>

If this is correct, voters forfeit their democratic rights when they exercise them as a means to violate human rights, and thus do not have a grievance against agents who seek to thwart their attempt to do so. To illustrate, suppose that Jones is the democratically elected president, and thereby commander-in-chief of a country named Blue. Since his election his foreign policy vis-à-vis Intervener has been characterized by mass human rights violations. For example, Jones has authorized a large-scale military invasion of Intervener's eastern province; or he has repeatedly authorized cyberattacks on Intervener's major utilities and financial services, as a result of which a number of Intervener's citizens have suffered severe hardship. Clearly, Intervener is justified in taking some defensive steps against Jones and his supporters. Now, suppose Jones is up for reelection, and that if reelected he will continue so to act. But if Smith wins, she will put a stop to such a policy and seek to negotiate with Intervener's regime. Under those circumstances, Jones provides Intervener with a justification for seeking to get Blue's citizens to avoid voting for him. For example, Intervener may justifiably put the case for negotiations via propaganda campaigns targeted at Blue's citizens; it may also justifiably threaten to escalate the conflict or to refuse to compromise during ensuing diplomatic negotiations. Jones's ongoing policies also provide Intervener with a justification for helping Smith directly, for example, by

providing material and financial support for her campaign and thereby reshaping the candidates' playing field. More controversially still, Intervener also has a justification for undermining citizens' right to vote, for example, by tampering with the voting procedure. For insofar as those citizens' rightful exercise of the right to vote is subject to their not using it to grievously wrongful ends, Intervener's decision to thwart their vote does not wrong them. The point is structurally similar to the claim that by culpably subjecting you to a wrongful lethal threat I forfeit my right not to be killed, and you in turn do not wrong me by killing me in self-defense.

Importantly, my defense of subversion does not apply only to cases in which Jones and his regime target Intervener; it also applies to cases in which a regime commits, or has committed, large-scale human rights violations against a section of its own population, and in which the latter needs external assistance to overthrow the culpable regime. The aforementioned case of Serbia, whose 2000 presidential election witnessed a very high degree of foreign involvement, illustrates the point well. Incumbent President Milošević, who had been indicted in absentia by the International Criminal Tribunal for the former Yugoslavia for crimes against humanity, had clearly demonstrated that he was willing and capable of engaging in highly repressive policies toward his opponents, and there was every reason to assume that he would have continued to do so had he been reelected. There was also ample evidence that a growing majority within the Serbian citizenry wished him out, yet had been consistently and violently repressed by his security apparatus for trying to do so peacefully. Under those circumstances, Milošević's supporters did not have a right to be allowed to return their candidate into power, whereas their opponents were *pro tanto* justified in seeking, and getting, external help to block their efforts.<sup>8</sup>

So far I have assumed that Jones is the incumbent and has already initiated and authorized a policy of mass human rights violations. Suppose now that at the time of the election Jones has not yet done so, but that he is running on a platform of new policies, the adoption of which would provide Intervener with a justification for some retortive measures. (Either Jones is the incumbent but is advocating a shift in foreign policy or he is the challenger.) In this case, subversion would have to be justified, if at all, on preventive grounds. Admittedly, preventively blocking a future threat is harder to justify, other things equal, than thwarting an ongoing harm. Nevertheless, the considerations adduced above in support of the claim that subversion does not wrong Jones's voters when the latter provide

Intervener with a justification for blocking ongoing human rights violations also apply here.<sup>9</sup> To see this, suppose that I declare to all and sundry that I plan to assault Albert as soon as I can get hold of a baseball bat—an act for which I have no justification. Bob, who is aware of my intention, nevertheless proceeds to lend me his bat. Should you decide to step in and prevent Bob from so acting, he cannot complain that you wrong him. Even though, for all he and you know, I will not in fact assault Albert, he really ought not to lend me his bat under those circumstances. Analogously, *if* Jones's voters would vote for him notwithstanding his grievously wrongful platform, they cannot complain that they were wrongfully denied the opportunity to elect their preferred candidate in a free and fair election.

## REFINING THE ACCOUNT

Some readers might object that my defense of subversion rests on an overly simplistic view of elections. Candidates rarely campaign on a one-issue platform, and citizens rarely vote for a candidate on the basis of only one of the many policies he or she endorses. They also rarely vote in full knowledge of their preferred candidates' platform. These considerations might seem to pose a difficulty for, and thus generate an objection to, subversion in at least the following three kinds of cases. First, suppose citizens vote for Jones while sincerely believing, on the basis of his pronouncements, that he will not take the country into a war that would turn out to be unjust. Unbeknownst to them, however, Jones intends to do precisely that. Even if Intervener has some reasons to distrust Jones, and even if Jones *himself* lacks a claim not to be subject to subversion, it seems unfair to undermine those citizens' democratic rights, given that they are not morally responsible for the uses to which their vote will be put. Consider the 1964 U.S. presidential election. Many U.S. citizens voted for incumbent President Lyndon B. Johnson believing in his repeated assertions that he would seek "no wider war" in Vietnam. At the same time, however, his administration was preparing for military escalation.<sup>10</sup> Let us accept for the sake of argument that escalation was morally wrong. Even if subversion would have been justified vis-à-vis those of his voters who did not in fact believe him and supported his Vietnam policy, it would not have been justified vis-à-vis those whom he successfully misled. Or so the putative objection would go.

This objection raises deep and complicated questions about the nature of forfeiture and its relationship to facts, belief, and evidence, which space constraints

prevent me from addressing here. It is worth noting, however, that it relies on the claim that one is justified vis-à-vis an agent to deprive him of that to which he has a presumptive right only if he is morally responsible for the harmful consequences of his exercise of that right. Yet this seems to prove too much, for by that token one may not forcibly stop an oblivious agent from moving from point A to point B (thereby depriving her of her presumptive right to freedom of movement) as the only means to prevent her from knocking an innocent person to the ground. In fact, either the agent would not vote for Jones if she knew what his real intentions were with respect to the unjust policy, in which case she ought to welcome Intervener's subversive steps; or she would vote for him, in which case she has forfeited her democratic rights anyway.

Second, and conversely, suppose that Jones conducts his campaign on a morally unjustified, rights-violating foreign policy platform. In truth, however, he has no intention of conducting those policies, but he needs to secure electoral support from the hawkish wing of his party and "natural" electorate.<sup>11</sup> Even though Jones' voters intend for him to pursue this policy, they do not *in fact* enable him to do so, and so have not forfeited their right to elect him. Thus, even if Intervener has every reason to believe (albeit mistakenly) that Jones is not bluffing, it is not justified in resorting to subversion. Or so the putative objection goes.

The objection assumes that one forfeits one's right not to be thwarted in one's ends only if one in fact exercises it to wrongful ends—and not if one merely intends, though fails, to pursue those ends. This too seems to prove too much. By analogy, suppose that I shoot at you, fully intending to kill you, without warrant. You shoot back at me in self-defense. Neither you nor I know that my gun is firing blanks. Intuitively at least, by dint of my apparent conduct, I provide you with a justification for defending yourself, such that you do not wrong me by harming me in the course of defending yourself. The same point applies, *mutatis mutandis*, to subversion in this case.

Third, suppose that if Jones were (re)elected he would not only embark on a rights-violating policy against Intervener, such as to provide the latter with a just cause for retortive measures, he would also embark on much-needed reforms mandated by social justice. Smith, for her part, would not conduct a rights-violating policy vis-à-vis Intervener, but she would slash welfare programs and introduce tax cuts for the benefit of the rich. It may well be that Jones himself has forfeited his democratic right to run for office in a fair and free election, be declared the winner, and so on (after all, he could run on a social justice and

peace platform). Still, not all his electors support his foreign policy. On the contrary, some would much rather that he just bring about social justice. Given that they have justice-based reasons for voting for Jones, subverting the electoral process, particularly by undermining their right to vote, does seem to wrong them.

Still, by voting in favor (albeit reluctantly) of Jones, they would if successful enable the commission of grievous rights-violations against Intervener. The question, then, is whether the fact that they would also and at the same time enable the realization of social justice within Blue entails that Intervener may not engage in subversion. The answer depends on whether Intervener is morally obliged to confer greater weight on the realization of social justice within Blue than on protecting itself from the latter. I doubt that it always is: individuals and communities can only sacrifice so much for the sake of others. Even if subversion infringes upon the democratic rights of Jones's justice-minded electors, it does not follow that Intervener may not resort to it. This is because agents are sometimes justified in infringing the right of another person for the sake of protecting a third person from grievous harm. To claim otherwise is to imply that war, which typically inflicts collateral damage on innocent people, thereby infringing their rights, can never be justified however strong the cause, which seems implausible (*pace* absolutist pacifists).<sup>12</sup>

## CONCLUSION

Clearly, there is much more to be said about foreign meddling in elections in particular, and in democratic decision-making in general. For a start, we need to investigate the extent to which, if at all, subversion wrongs candidates, which in turn requires a proper inquiry into the grounds and limits of the right to run for office. We also need to consider more deeply how subversion compares with other alternatives, including doing nothing. A full account and defense (or, for that matter, rejection) of subversion, which is long overdue, should tackle these (and related) questions.

My aim has been more modest. In particular, my arguments in favor of subversion and my responses to putative objections have not decisively established that Intervener may resort to subversion. For even if everything I have said so far is true, there may be powerful countervailing reasons for rejecting subversion *all things considered*. In particular, some modes of subversion might do considerably more harm in the longer run than alternative measures. Hacking into a



candidate's IT infrastructure, waging disinformation campaigns, and tampering with electoral rolls and voting machines might elicit such distrust in politicians and in the integrity of democratic processes and institutions as to wholly undermine democracy itself. That, in the end, might turn out in the longer run to be worse, all things considered, than (for example) targeted economic sanctions or a very quick war. Thus, if Intervener has good reasons to believe that to be the case, it must shun it in favor of other alternatives. Such a judgment would have to be reached on a case-by-case basis. The point still stands, however, that the subversion of a democracy's nationwide elections as a means to thwart citizens from voting for grievously unjust policies may sometimes be justified, so long as it is a proportionate response.

#### NOTES

- <sup>1</sup> For studies of those alternatives to war, see James Pattison, *The Alternatives to War: From Sanctions to Nonviolence* (Oxford: Oxford University Press, 2018). See also Cécile Fabre, *Economic Statecraft: Human Rights, Sanctions, and Conditionality* (Cambridge, Mass.: Harvard University Press, 2018).
- <sup>2</sup> The joint CIA-FBI-NSA declassified report on alleged Russian interference in the 2016 U.S. presidential election, entitled "Background to 'Assessing Russian Activities and Intentions in Recent US Elections': The Analytic Process and Cyber Incident Attribution" (January 6, 2017), is available at [www.dni.gov/files/documents/ICA\\_2017\\_01.pdf](http://www.dni.gov/files/documents/ICA_2017_01.pdf). On the National Front and the loans it secured from Russian banks, see "Financement du FN : des hackers russes dévoilent des échanges au Kremlin," *Le Monde*, April 3, 2015, [www.lemonde.fr/les-decodeurs/article/2015/04/02/fn-des-hackers-russes-devoilent-des-echanges-au-kremlin\\_4608660\\_4355770.html](http://www.lemonde.fr/les-decodeurs/article/2015/04/02/fn-des-hackers-russes-devoilent-des-echanges-au-kremlin_4608660_4355770.html). On the Australian case, see Jonathan Pearlman, "Australia Bans Foreign Donations to Political Parties after China Controversy," *Telegraph*, December 5, 2017, [www.telegraph.co.uk/news/2017/12/05/australia-bans-foreign-donations-political-parties-china-controversy/](http://www.telegraph.co.uk/news/2017/12/05/australia-bans-foreign-donations-political-parties-china-controversy/).
- <sup>3</sup> For a recent empirical discussion of some of those cases, see Dov H. Levin, "When the Great Power Gets a Vote: The Effects of Great Power Electoral Interventions on Election Results," *International Studies Quarterly* 60, no. 2 (2016), pp. 189–202; Ryan Grim and Arthur Delaney, "The U.S. Has Been Meddling In Other Countries' Elections For A Century. It Doesn't Feel Good," *Huffington Post*, July 27, 2016, [www.huffingtonpost.co.uk/entry/the-us-has-been-meddling-in-other-countries-elections-for-a-century-it-doesnt-feel-good\\_us\\_57983b85e4b02d5d5ed382bd](http://www.huffingtonpost.co.uk/entry/the-us-has-been-meddling-in-other-countries-elections-for-a-century-it-doesnt-feel-good_us_57983b85e4b02d5d5ed382bd); and Michael Dobbs, "U.S. Advice Guided Milosevic Opposition," *Washington Post*, December 11, 2000, [www.washingtonpost.com/archive/politics/2000/12/11/us-advice-guided-milosevic-opposition/ba9e87e5-bdca-45dc-8aad-da6571e89448/?utm\\_term=.96076215fe9b](http://www.washingtonpost.com/archive/politics/2000/12/11/us-advice-guided-milosevic-opposition/ba9e87e5-bdca-45dc-8aad-da6571e89448/?utm_term=.96076215fe9b).
- <sup>4</sup> I develop an argument to that effect in Cécile Fabre, *Cosmopolitan War* (Oxford: Oxford University Press, 2012), ch. 1; and in Cécile Fabre, *Cosmopolitan Peace* (Oxford: Oxford University Press, 2016), ch. 1.
- <sup>5</sup> Levin, "When the Great Power Gets a Vote."
- <sup>6</sup> For relevant provisions in the United Kingdom and the United States, see, respectively, the 2000 Political Parties, Elections and Referendums Act (articles 54 and 71H), and the United States Code § 30121. Internet voting was banned in the 2017 French legislative elections.
- <sup>7</sup> On the right to do wrong in general, see Jeremy Waldron, "A Right to Do Wrong," *Ethics* 92, no. 1 (1981), pp. 21–39. On democracy's right to do wrong, see Michael Walzer, "Philosophy and democracy," *Political Theory* 9, no. 3 (1981), pp. 379–99. On those retortive measures specifically, see Pattison, *Alternatives to War*.
- <sup>8</sup> On protests and repression under Slobodan Milošević's regime, see, for example, Nebojša Vladislavljević, "Competitive Authoritarianism and Popular Protest: Evidence from Serbia under Milosevic," *International Political Science Review* 37, no. 1 (2016), pp. 36–50. Incidentally, the rationale for subversion in such cases also supports internal subversion, when some citizens of Blue tamper with Blue's elections on the grounds that some of their compatriots would vote for grievously unjust policies if unimpeded. I am grateful to Matthew Mandelkern for drawing my attention to this.

- <sup>9</sup> On preventive war, see, for example, David Rodin and Henry Shue, eds., *Preemption: Military Action and Moral Justification* (New York: Oxford University Press, 2007).
- <sup>10</sup> For an absorbing account, see Daniel Ellsberg, *Secrets: A Memoir of Vietnam and the Pentagon Papers* (New York: Penguin, 2002), especially chs. 2–4.
- <sup>11</sup> I am grateful to James Pattison for drawing my attention to this kind of case.
- <sup>12</sup> The points I make in this paragraph apply *mutatis mutandis* to cases in which Jones would authorize severe rights-violations against Blue’s ethnic minorities yet embark on social justice reforms to the benefit of the majority, while Smith would do the opposite, and in which Intervener would be inclined to subvert the election in Smith’s favor.

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Abstract: It is widely alleged that President Putin’s regime attempted to exercise influence on the 2016 U.S. presidential election. It is known that its Soviet predecessors funded Western communist parties for decades as a means to undermine noncommunist regimes. Similarly, the United States has a long history of interfering in the institutions and elections of its Latin American neighbors, as well as (at the height of the Cold War) its European allies. More recently, many believe that, absent U.S.-driven assistance, the Democratic Opposition of Serbia would have lost the 2000 Yugoslavian presidential election to Slobodan Milošević. As those examples suggest, attempting to subvert the democratic elections of a putatively sovereign country is a time-honored way of bending the latter’s domestic and foreign policy to one’s will. In this paper, I focus on the state-sponsored, nonviolent, nonkinetic subversion of nationwide elections (for short, subversion) through campaign and party financing, tampering with electoral registers, and conducting disinformation campaigns about candidates. I argue that, under certain conditions and subject to certain constraints, subversion is *pro tanto* justified as a means to prevent or end large-scale human rights violations.

Keywords: campaign financing, democratic rights, electoral subversion, propaganda, Russia, Serbia, United States, Vietnam