



GLOBAL SURVEILLANCE AND THE BOUNDARY PROBLEM: WHAT CHALLENGES DOES INTERNATIONAL SURVEILLANCE POSE TO DEMOCRATIC THEORY?

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Abstract. The article analyzes how the emergence of bulk international surveillance impacts the boundary problem in political theory. It first describes how the boundary problem was defined and developed as well as the solutions proposed in the literature. Then, the paper analyzes surveillance as a violation of privacy which has a chilling effect and presents the specificities of bulk collection of electronic information. The main argument of the article is that the permanent uncertainty that bulk international surveillance causes triggers the need for a cosmopolitan legal regime to govern it under any of the solutions proposed to the boundary problem.

Keywords: surveillance, boundary problem, democracy, legitimacy, Snowden.

Introduction

Over eight years ago, NSA defector Edward Snowden revealed that the United States and Great Britain operated large-scale foreign surveillance programs that could collect the content and metadata of electronic communications in larger volumes than ever before. During these years, the legitimacy of those programs was debated in several fora, particularly in parliaments and courts of law. This has led to the emergence of

several legal regimes, established by states and international courts. What these regimes have in common is that, in the case of foreign surveillance, they protect the rights of foreigners to a lesser extent than those of one's nationals. Those in favor of practices such as the mass interception of foreign communications have argued that it is the only way that terrorist attacks can be discovered at an early stage of their planning. Alternatively, opponents claimed that states should not be able to subject foreign citizens to surveillance, given that they cannot be held accountable by their targets.

The paper will discuss how the emergence of bulk international surveillance impacts the boundary problem in democratic theory. A series of solutions to this problem have been proposed in the literature. However, these solutions have been examined against cases such as international pollution or migration, where decisions that affect people across borders are taken through public procedures and are enforced publicly. Alternatively, examining how the boundary problem is affected by a secret but ubiquitous practice such as international surveillance would bring a new contribution to the literature. The article argues that bulk foreign surveillance represents an extremely strong challenge for statisticians who claim that the demos should be the same as the population of a state. The challenge is given by the fact that states subject people who are not their citizens to an intrusive practice, which has a chilling effect on their behavior, is based on secret decisions and evaluations which cannot be challenged in a court of law. In the cases of bulk surveillance, this is carried out both against people who behave in a threatening way to the surveying state and against people who do not. The uncertainty and the chilling effect that bulk international surveillance cause, trigger a duty to justify the practice to all who might possibly be under surveillance.

The first section discusses the boundary problem and some of its applications, while the second looks at the specificities of international surveillance. Contemporary surveillance differs from the classical type given that some states can survey individuals wherever they are on the planet and that collection of communications content can occur in bulk, by capturing all the telecommunications traffic passing through a particular connection. The third section analyzes the two together and

claims that international surveillance attracts a need for justification towards those subject to it due to the fact that it creates permanent uncertainty for everyone at any time.

The boundary problem in political theory

When elaborating on the conditions of democracy, theorists foundered on the problem of how to democratically decide who the legitimate members of a polity are. This, called the "boundary problem", was raised by Robert Dahl and addressed, among others, by Joseph Schumpeter and F.G. Whelan (Arrhenius 2005; Owen 2012; Goodin 2016; Son 2012). According to them, in order to establish democratic institutions, one needs to have a pre-existing demos. However, there is no "democratic" way in which to constitute the demos. Attempting to do so by democratic procedures leads to an infinite regress, given that no initial constitutive body can be established.

The even more fundamental problem from which the boundary problem derives is the issue of political legitimacy. Given that legislation imposed by the state affects the central value of personal autonomy, authors have aimed to justify how people can remain free while living under the same system of rules. The literature on democratic legitimacy understands inclusion in the demos in two different ways, which are sometimes in tension. The liberal approach looks at the quality of norms which govern a particular field and inquires into whether they effectively ensure a person's basic rights (Abizadeh 2008; Habermas 1997), or in an even stronger formulation if they treat every person with equal concern (Dworkin 2002, 1-7). Freedom is understood in this particular context as freedom from the state, which needs to protect one's individual space. Conversely, the democratic approach looks at how laws are adopted and if everyone had an equal chance of participating in making laws. It argues that citizens are free if they self-legislate and that this is only possible through law-making procedures that includes as many of those who will be impacted by the legislation as possible (Habermas 1997, 40).

Given these discussions, some of the solutions proposed to the boundary problem rely on the idea of treating democracy as a set of values and principles, rather than a set of procedures. This has led authors to argue that the demos has been "democratically" constituted when it comprises a group selected according to a principle acceptable to reasonable individuals. Several possible solutions to the problem have been proposed in the literature. The first, the all-affected principle argues, at the most basic level, that all affected by a political decision should be represented in making it. In its most extensive formulation, the principle claims that all people possibly affected in any way, by any decision, should be given a vote on it. Attempting to mitigate the radically cosmopolitan conclusions of the principle, authors have argued that only those "actually" affected by a decision should have a take on it (Owen 2012; Goodin 2007). Further, different works (Goodin 2016) suggest different variations of the principle: either a sliding scale approach, in which people would have decision-making power only over the issues that affect them, or, in another formulation, only to the extent it affects them (Pârvu 2015).

The alternative principle, the all-subjected principle claims that only those subject to the same comprehensive system of laws should have a claim to participating in it (Lopez-Guerra 2005). In its stronger version, this principle argues that those who are subjected to a coercively enforced comprehensive system of laws can be part of the same demos (Miller 2020; Abizadeh 2007; 2021; Andric 2021). This has been challenged by the example of states who make laws with extra-territorial jurisdiction, thus imposing duties on people who are neither foreigners inside their boundaries nor their citizens abroad (Goodin 2016). Further, Abizadeh argues that stopping people from entering a state, through force exerted at the borders, amounts to coercion and generates a duty of inclusion (Abizadeh 2008).

In two articles aimed at clarifying the meaning of the principles, Ludvig Beckman argues that there is no understanding of the all-affected principle which can exclude resident aliens from voting in the country where they reside, and that at least one interpretation of the principle supports an universal right to be included in all decisions taken anywhere. Similarly, Beckman also claims that the all-subjected principles can be

interpreted in the sense that people can be subjected to legal duties or to a comprehensive system of laws coercively enforced by institutions. In the first case, there is nothing to stop expanding the franchise to all those to whom the state imposes any form of legal request. In the second, the principle binds only those on a certain territory governed by the same institutions (Beckman 2006; 2014). Finally, Beckman argues in favor of using the latter interpretation to decide on who should have the right to vote in a state and claims that those who reside for a while in a territory should receive the franchise (Beckman 2012).

The third solution proposed to the boundary problem is to argue that the demos should be constituted by tracking current borders. According to the proponents of this approach (Song 2012), this is based on the ideas that only in relatively small polities can political equality and solidarity emerge. Thus, a global democracy is impossible to achieve and would lead to a dilution of the connection between the governed and those governing. This is also supported by Miller (2020), who argues that borders should track communities where equality and solidarity can emerge. Erman's (2014) view of establishing the demos where citizens can have equal influence also falls within this category.

A fourth solution is proposed by Rainer Baubock (2015; 2018) and is entitled the "stakeholder principle". According to Baubock, "those and only those individuals have a claim to membership whose individual autonomy and wellbeing is linked to the collective self-government and flourishing of a particular polity" According to this view, people should have a right to vote in the place where they reside, but they should receive citizenship rights from the country whose citizens their parents are. This aims to link a person's right to vote with the "stake" one has in the particular polity, rather than with a pre-political approach to establishing who should be included in the demos. Thus, it takes into account one's actual place of residence and nationality at birth and recommends a semi-open migration policy, where anyone has a final right to return to a state where they have some other form of connection (Baubock 2009).

The principles proposed as solutions to the boundary problem have been applied to different circumstances. In all of these situations, an action takes place wholly in the jurisdiction of a single polity but has

trans-national effects. The case of pollution from economic activity which benefits only one nation, or of wide-spread radioactive fallout from a nuclear accident have been the paradigmatic cases. The conclusion of the two principles differs in these cases: if the all-affected interests principle recommends the inclusion of cross-border communities in the decision to establish polluting activities, the all-subjected principle does not (however, it does not exclude compensating those affected for the harms suffered). However, if a state establishes counter-terrorism or anti-corruption laws with an extra-territorial jurisdiction, this obliges it to include all potential addressees in the decision. Alternatively, Abizadeh (2007, 2008) applies the coercion-based all-subjected principle to the problem of migration and argues that states have no unilateral right to control their borders.

In one of the latest contributions on the topic, Spitzer (2022) argues that trying to establish who the demos is in a democratic fashion brings no benefits. Alternatively, the resolution of transboundary problems should be done by establishing, through a judicial-like process, if a particular subject (state or historic community) has the right to self-determination. This is done through a "demotic" process, rather than a liberal-democratic one, which takes into account historical claims of collective subjects rather than individual ones. This is also supported by Theuns (2021), who claims that it makes no sense to inquire into who is part of the demos, but to accept the historical arbitrariness of current states and to work on democratizing them. According to him, a demos can only emerge where a democratic government can. Alternatively, Erman (2022) proposes a combination of the all-affected and all-subjected principles, arguing that they fulfill different functions in a democratic polity.

The specificities of international surveillance

At the most general level, surveillance involves gathering information about aspects of a person's life which should normally be under the absolute control of that person, without that person's consent. When done by the state, it amounts to intrusion of a state authority in the private space of an individual. Bellaby (2014) conducts a summary of the

literature on the right to privacy and argues that it represents „a type of isolation or seclusion as the individual removes himself from society and sets out a sphere of non-intrusion”. He analyzes accounts of privacy in the literature and argues that two main defenses of privacy have been offered. The idea of privacy as boundaries relies on the importance of a individual space where no other person should enter (Bellaby 2014, 45). The first analysis of the right to privacy, elaborated by Brandeis and Warren already in the late XIX century relies on this perspective (Warren and Brandeis 1890). Alternatively, privacy as control relies on the idea that people are entitled to control certain information about themselves and limit the access that other people have to it. For example Posner (1977) maintains that there is a market for private information, which some wish to withhold while others desire to obtain. This information is, normally, under the control of the one whose life it concerns, amounting to a form of property. Moreover, it has been argued that surveillance has a chilling effect on free speech, as one who suspects that he or she might be watched will temper his behavior and reduce the level of criticism of government (Richards 2012).

Two technological developments have dramatically altered the nature of surveillance in the digital age. The large scale use of the internet presupposes the emergence of a global network of fiber optic cables, connected at relatively few points, as well as the development of large scale data storage and data analysis capabilities. These have created the possibility that technologically advanced nation-states can intercept virtually all electronic communications of everyone on the planet. Large scale interception has been achieved by accessing both the fiber optic cables through which internet communications take place, as well as the servers of telecommunications providers. Additionally, information about the communication (metadata) can now be stored and used to elaborate detailed profiles of a person's behavior. Conversely, before the wide-scale use of digital technology, communications could only be intercepted in a relatively small and targeted fashion. State agents would tap telephone lines or access telephone switchboards. This allowed only for targeted and small scale interception of telecommunications, involving only several people and only communications passing through a particular channel (ex. telephone, telegraph) (Shubber 2013; MacAskill & Dance 2013).

The interception of large volumes of data has been dubbed "bulk" collection. It is opposed to "targeted" collection, whereby a single person or group of persons is selected to be subjected to surveillance. In addition to collecting communication contents, the practice of bulk collection involves the application of "selectors", search terms which allow an analyst to filter through intercepted material automatically, based on keywords, e-mail addresses, telephone numbers or on the location from which the communication was sent or received (Anderson 2016).

Surveillance and the boundary problem

International surveillance implies an infringement of a person's most intimate space by a government which is not accountable to him or her. Further, the possibility for information to be collected in bulk allows for a person to become a target of surveillance without any suspicion of having committed any action that could harm a person or state. This triggers the need for an examination of the practice and a discussion of the conditions under which it might be made legitimate.

Surveillance affects people in several different ways, all of which have been elaborated in the literature: it infringes on the privacy of the individual and it has a chilling effect on his or her actions (Manokha 2018). The first means that private information is collected without the individual's consent by a government agent while the second relates to the self-censorship that one might undertake if one knows he or she might be surveyed. Further, unlike other actions that the state imposes on the individual, surveillance is undertaken based on secret decisions and individual evaluations, which the person has no means of challenging.

Thus, surveillance infringes on an individual's interest in a very fundamental way. It does so to a greater extent than, for example, tax law or traffic law, but to a lesser extent than laws imposing military duties. Further, as a practice it affects behavior through the chilling effect, but to a lesser extent than actual coercion. According to Abizadeh (2008, 40), the specific nature of coercion is that it substitutes an alien will for one's own. Surveillance does so indirectly – its specific harm is that it relies on deliberately induced uncertainty in order to make people adapt their behavior based on the simple, but constant fear of being surveyed.

Surveillance is generally justified by relying on two arguments (stemming from both the liberal and the democratic approach): the fact that in a democratic polity citizens, through their representative bodies, have established that a set of actions amount to serious enough threats to overcome one's interest in privacy and the ability to target surveillance to individuals who exhibit those behaviors. These behaviors are then publicized and people are warned against engaging in them. Thus, on the "positive" side of the justification, surveillance represents a solution for stopping terrorist attacks, organized crime and dangerous criminals such as pedophiles. On the negative "side", a set of constraints is imposed on surveillance activities, in order to ensure they are used only to the extent that it is absolutely necessary: first of all, the democratic nature of a political system allows for the representatives of citizens to make the laws which lay down actions that can make one the subject of surveillance. Then, an impartial body (in most democratic nations a part of the judicial branch) applies the law and grants authorization for surveillance in individual cases, over a limited amount of time and for specific information. Further, in most cases, intelligence services have a duty to inform subjects of surveillance of the activities carried out. Those who had been placed under surveillance then have a right of redress (for example the Investigatory Powers' Tribunal in the UK). Finally, intelligence services are overseen by independent bodies, usually parliamentary commissions or external independent auditors, who evaluate their governance and the relevance of their actions for the overall security goals of the nation

A pragmatic case for international surveillance been supported based on the transnational nature of certain threats to security such as terrorism, drug trafficking and tax evasion. If criminals can establish transnational networks, sometimes based in states unwilling or unable to stop and prosecute them, then governments should be able to protect their citizens. If stopping transnational criminal networks and global terrorists is a legitimate goal, then the problem of surveillance becomes one of means. Lubin (2017) argues that states have, on the one hand, the ability to select from a myriad of means when acting on their territory, being able to gradually use more intrusive techniques when the level of threat increases. Alternatively, when acting abroad, states have only the

possibility to conclude mutual legal assistance schemes and intelligence sharing arrangements with states who are willing to do so. Further, states can much more easily control their domestic communications network and can thus select gradually more intrusive surveillance means. Finally, those subject to surveillance abroad cannot be harmed by the surveying state to the same degree as those who reside in the state's territory (Lubin 2017).

In the case of bulk collection people are surveyed (and their communications might be examined when applying relevant selectors) even when there is no information that they might constitute a threat. While the use of selectors might eliminate some of the unnecessary information, there will still a considerable amount of material analyzed which belongs to persons who cannot be connected to a particular threatening activity.

When surveillance is conducted by a state against a non-citizen, it cannot be said in any way that the person has consented to the rules governing surveillance. Thus, a person's communications might be captured in the "dragnet" of the collection mechanism due to his location in a specific country or town, due to his use of a particular messaging system or due to his use of some specific key words in a non-threatening context.

Thus, one can argue that bulk international surveillance triggers a universal duty of inclusion in the demos, under all the principles which have tried to solve the boundary problem. To some extent, bulk surveillance is similar to nuclear weapons: once the capabilities have been built there is no possibility of them being dismantled in such a way that anyone can always be sure they cannot be secretly rebuilt. The only solution is regulation at the international level, which should respect both individual rights and ensure the security of states, and which can be verifiably enforced against all.

The main characteristic of bulk international surveillance which triggers this duty of justification is the permanent uncertainty it creates in everyone at every single moment of time. This is not only a harm in itself, but it, many times, has a chilling effect. On the weaker interpretation of the all-affected principle, the "all-possibly-affected-principle", the discussion could be said to be moot, given that the principle includes every person

on the planet in every political decision. However, bulk international surveillance can be said to meaningfully affect people even under the stronger "all-actually-affected" interpretation of the principle. All are actually affected given that no one ever knows if their electronic communications is intercepted or if automated selectors decide their communications can be inspected. Secondly, due to the important interest one has in privacy and political expression, bulk international surveillance affects people in enough of a meaningful way so as to trigger a duty of justification. This is not an indirect effect caused, for example, by an impact on one's standard of living, but an actual change of behavior in both the public and the private sphere.

Under the all-subjected principle, one can argue that while one is not subjected to a comprehensive system of laws in a way as one living in the same state would be, bulk international surveillance can be placed in between the two categories established by Beckman (addressing obligations to people and enforcing them through institutions). Thus, it amounts to not merely creating legal duties for people on whom they can never be enforced on, but also undertaking a secret verification of whether they are actually complied with. These legal duties are created in secret and without any account given to those who are verified.

The argument applies even in the case in which the state which undertakes surveillance does not take actual action against the person, either directly (for example through sending a special operations teams to arrest or kill them on another state's territory) or indirectly, by working through the state on whose territory the person resides. When one's communications are intercepted and examined or when one undertakes or refrains from an action based on a reasonable suspicion that they might be, then one can be said to be, in a relevant fashion, part of a comprehensive system of laws. In a similar way, domestic laws operate less by relying on punishment than on willing adaptation of behavior in order to avoid direct state action.

A similar approach can be defended also in the case of the stakeholder principle of inclusion. Bulk surveillance and the uncertainty it causes radically affects autonomy and, thus, links the flourishing of each citizen on the planet to the fate of those technologically advanced states who can afford this level of technological development. One becomes

interested in the way in which a particular state regulates its intelligence activities and which protections it offers to those potentially targeted.

The liberal nationalist principles espoused by David Miller and Sarah Song, which require that the demos track national borders can be also challenged by the existence of bulk international surveillance. While equality and solidarity cannot emerge in a global context at the current time, states should at least refrain from practices which only diminish them. Thus, while according to this view, the demos can be constituted only when certain conditions are pre-existent, permitting actions which reduce the possibility of those conditions emerging seems to violate the fundamental aim of the principle.

Conclusion

The paper argued that the emergence of bulk international surveillance has created a situation where any citizen of the globe might be at any time under surveillance. This can have implications both for privacy and for political expression. Surveillance, given its secret nature, has a chilling effect on people, radically affecting their behavior in the public.

By analyzing the practice of bulk international surveillance in relation to the boundary problem, the paper argued that citizens need accountability from governments who might engage in this type of surveillance. The only way this can be achieved is if a global legal regime of surveillance is adopted, which is based on a global consultation and which treats all global denizens as equals and in the making of which all are represented.

One objection to this might argue that states which have built these capabilities could simply dismantle them and the problem would become moot. Bulk surveillance capabilities are, to some extent similar to nuclear weapons, in the sense that once discovered, they cannot be "un-discovered", they are built in secret and their use can be decisive in a conflict. This has the effect of radically increase uncertainty and mistrust between actors and of leading to an "arms race" between the main actors in the field. Thus, enforceable legislation at the global level is the solution, in a way similar to the Treaty on the Non-proliferation of Nuclear Weapons.

REFERENCES

- ABIZADEH, Arash. 2021. The scope of the All-Subjected Principle: On the logical structure of coercive laws. *Analysis* 81(4): 603-610. <https://doi.org/10.1093/analysis/anab041>
- ABIZADEH, Arash. 2008. Democratic theory and border coercion: no right to unilaterally control your own borders. *Political Theory* 36(1): 37-65. <https://doi.org/10.1177/0090591707310090>
- ABIZADEH, Arash. 2007. Cooperation, pervasive impact, and coercion: on the scope (not site) of distributive justice. *Philosophy & Public Affairs* 35 (4): 318-358. <https://doi.org/10.1111/j.1088-4963.2007.00116.x>
- ANDERSON, David. 2016. *Report on Bulk Powers Review*. London: UK Government. <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2016/08/Bulk-Powers-Review-final-report.pdf>.
- ANDRIC, Vuko. 2021. Is the all-subjected principle extensionally adequate? *Res Publica* 27 (3): 387-407. <https://doi.org/10.1007/s11158-020-09479-9>
- ARRHENIUS, Gustaf. 2005. The boundary problem in democratic theory. In *Democracy Unbound: Basic Explorations*, eds. Gustaf Arrhenius & Folke Tersman, 14-29. Stockholm: Stockholm University, Filosofiska institutionen.
- BAUBÖCK, Rainer. 2018. *Democratic inclusion: Rainer Bauböck in dialogue*. Manchester: Manchester University Press. <https://doi.org/10.7765/9781526105257.00007>
- BAUBÖCK, Rainer. 2015. Morphing the Demos into the right shape. Normative principles for enfranchising resident aliens and expatriate citizens. *Democratization* 22(5): 820-839. <https://doi.org/10.1080/13510347.2014.988146>
- BAUBÖCK, Rainer. 2009. Global Justice, Freedom of Movement and Democratic Citizenship. *European Journal of Sociology* 50(1): 1-31. <https://doi.org/10.1017/S000397560900040X>
- BECKMAN, Ludvig. 2014. The subjects of collectively binding decisions: Democratic inclusion and extraterritorial law. *Ratio Juris* 27(2): 252-270. <https://doi.org/10.1111/raju.12038>
- BECKMAN, Ludvig. 2012. Is residence special? Democracy in the age of migration and human mobility. In *Territories of citizenship*, eds. Ludvig Beckman & Eva Erman, 18-39. London: Palgrave Macmillan. https://doi.org/10.1057/9781137031709_2
- BECKMAN, Ludvig. 2006. Citizenship and Voting Rights: Should Resident Aliens Vote? *Citizenship Studies* 10(2): 153-165. <https://doi.org/10.1080/13621020600633093>
- BELLABY, Ross W. 2014. *The ethics of intelligence: A new framework*. New York: Routledge. <https://doi.org/10.4324/9780203383575>
- DWORKIN, Ronald. 2002. *Sovereign virtue: The theory and practice of equality*. Cambridge, MA: Harvard University Press. <https://doi.org/10.2307/j.ctv1c3pd0r>
- ERMAN, Eva. 2022. The boundary problem of democracy: A function-sensitive view. *Contemporary Political Theory* 21(1): 1-22.
- ERMAN, Eva. 2014. The boundary problem and the ideal of democracy. *Constellations* 21(4): 535-546. <https://doi.org/10.1111/1467-8675.12116>

- GOODIN, Robert. 2016. Enfranchising all subjected, worldwide. *International Theory* 8(3): 365-389. <https://doi.org/10.1017/S1752971916000105>
- GOODIN, Robert. 2007. Enfranchising all affected interests, and its alternatives. *Philosophy & public affairs* 35(1): 40-68. <https://doi.org/10.1111/j.1088-4963.2007.00098.x>
- HABERMAS, Jürgen. 1997. Popular sovereignty as procedure. In *Deliberative democracy: Essays on reason and politics*, eds. James Bohman & William Rehg, 35-65. Cambridge, MA: MIT Press.
- LÓPEZ-GUERRA, Claudio. 2005. Should expatriates vote? *Journal of Political Philosophy* 13 (2): 216-234. <https://doi.org/10.1111/j.1467-9760.2005.00221.x>
- LUBIN, Asaf A. 2017. We Only Spy on Foreigners: The Myth of a Universal Right to Privacy and the Practice of Foreign Mass Surveillance. *Chicago Journal of International Law* 18(2): 502-552. <https://doi.org/10.2139/ssrn.3008428>
- MacASKILL, Ewen & Gabriel DANCE. 2013. NSA Files Decoded: What the Revelations means for you. *The Guardian*, 1 November, <https://www.theguardian.com/world/interactive/2013/nov/01/snowden-nsa-files-surveillance-revelations-decoded>
- MANOKHA, Ivan. 2018. Surveillance, panopticism, and self-discipline in the digital age. *Surveillance & Society* 16(2): 219-237. <https://doi.org/10.24908/ss.v16i2.8346>
- MILLER, David. 2020. Reconceiving the democratic boundary problem. *Philosophy Compass* 15(11): 1-9. <https://doi.org/10.1111/phc3.12707>
- OWEN, David. 2012. 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. *Ethics & Global Politics* 5(3): 129-152. <https://doi.org/10.3402/egp.v5i3.18617>
- PÂRVU, Camil. 2015. The Boundary Problem in Democratic Theory: Cosmopolitan Implications. In *Cosmopolitanism Without Foundations?*, ed. Tamara Cărauş & Dan Lazear, 93-114. London: Zeta Books. <https://doi.org/10.5840/zeta-cosmopolitanism20156>
- POSNER, Richard A. 1977. The right of privacy. *Georgia Law Review* 12: 393. <https://doi.org/10.1017/S0021223700005926>
- RICHARDS, Neil M. 2012. The dangers of surveillance. *Harvard Law Review* 126: 1934.
- SHUBBER, Kadhim. 2013. A simple guide to the Prism controversy. *Wired*, 10 June, <https://www.wired.co.uk/article/simple-guide-to-prism>
- SONG, Sarah. 2012. The boundary problem in democratic theory: why the demos should be bounded by the state. *International Theory* 4(1): 39-68. <https://doi.org/10.1017/S1752971911000248>
- SPITZER, Aaron John. 2022. Approaching the boundary problem: Self-determination, inclusion, and the unpuzzling of transboundary conflicts. *Journal of International Political Theory* 18(2): 244-261. <https://doi.org/10.1177/17550882211020386>
- THEUNS, Tom. 2021. Pluralist democracy and non-ideal democratic legitimacy: Against functional and global solutions to the boundary problem in democratic theory. *Democratic Theory* 8(1): 23-49. <https://doi.org/10.3167/dt.2021.080103>
- WARREN, Samuel, & Louis D. BRANDEIS. 1890. Right to privacy. *Harvard Law Review* 4:193. <https://doi.org/10.2307/1321160>

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