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Will our nation be able to protect us?

Thu, 06/04/2015 - 10:47am Field Notes From A Battleground [1] Opinion/Viewpoint [2] Opinion/Viewpoint [3]
A world of mass empowerment is coming
By Charles R. Church

That's the critical question posed by Benjamin Wittes and Gabriella Blum in their groundbreaking new book, "The Future of Violence: Robots and Germs, Hackers and Drones, Confronting a New Age of Threat." I regard Wittes, a senior fellow at Brookings, as one of our wisest and deepest thinkers on the intersection between national security and human rights, and Blum has established herself as a star in the same realm at Harvard Law. The following account from their book, now fanciful, offers a preview of threats which soon may become very real. Note: I paraphrase from the book, using quotation marks for longer passages. This approach, I think, allows the authors' powerful ideas to shine through most effectively.

The authors ask us to consider: You enter your shower and find a spider. If it's real, is it harmless or venomous? Is it a surveillance spider sold by "Drones 'R' Us" for $49.95, dispatched by a neighbor annoyed by your noisy dog who controls the spider on her iPhone from a sports bar downtown? Are pictures of your naked body, taken by the spider, now being shown on several screens at the bar for the patrons' amusement? Or, has your business competitor just deployed a drone attack spider to take you out? On spotting you with its sensors, the spider shoots an infinitesimally thin needle into your left leg to take a blood sample. Your competitor compares your blood against your DNA profile at EVER.com, an international DNA database that sells access for $179.99. He confirms the match in seconds, then directs the spider to follow you into your bedroom, where it darts into your body another needle containing a lethal dose of synthetically produced poison. Your assassin, on summer vacation in Provence, then sends his spider under the crack of your bedroom door and out of the house to initiate its self-destruct function. No trace of the spider will be found.

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How soon might this account, and others like it, become real? Insect-sized drones already are being developed in robotics labs around the world, and are likely to become cheaper and more capable. The National Science Advisory Board for Biotechnology stated in 2006 that it's "possible

to construct infectious agents from synthetic or naturally derived DNA. The technology for synthesizing DNA is readily accessible, straightforward and a fundamental tool ... in biological research. .. " And Nathan Myhrvold — former chief technology officer at Microsoft — wrote in 2013, "Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race — or at least killing a sufficient number of people to ... set humanity back 1,000 years or more. ... But ... it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily." The number of people able to mount a meaningful cyberattack has grown with the proliferation of globally networked computer systems, and the opportunities for such attacks are themselves proliferating and becoming less costly to exploit. In sum, modern technology enables, or soon will, individuals to wield the destructive power of states (that is, nations), so that other individuals, including you and me, can potentially be attacked with impunity from anywhere in the world.

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The year 1648, when the Peace of Westphalia ended the Thirty Years War, marked the beginning of the modern state-based international order. We created the state to mediate disputes among citizens and to protect them from outside attack. But now, the state may be losing its ability to serve as the ultimate guarantor of security to its citizens, in a new world of many-to-many threats, and defenses, too, though their development tends to lag the threats. Distance no longer will protect us, and each person will have great power and great vulnerability. We will live in a world of radical populism — of mass empowerment — that threatens to become a place of unaccountable freedom to do great harm where that very lack of accountability for harms may spur some to inflict them.

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Back to the authors' crucial concern: How a state should govern so as to effectively ensure security in an environment of simultaneous individual empowerment and individual vulnerability, an environment in which the government has to protect both itself and its citizens against all potential enemies either may have, anywhere in the world. The authors sketch some adaptations that both states and citizens would have to make to the social contract — the bargain under which the people grant power to the government — to prepare for the world of many-to-many threats.

As new and terrible threats materialize, we will become ever more tolerant of enhanced state capacity — including in formerly unthinkable ways — to allow the state to keep ahead of individual empowerment in the technology race. The new social contract no longer will rely exclusively on government to provide security; we increasingly will look to the private sector to augment the state's defensive capabilities, to serve as a force multiplier. "Already, private industry is developing counter-surveillance, detection, and defensive shields, including vaccinations and treatments for emerging pandemics." The social contract also is likely to become more international. In the absence of an international government, it "falls to states to negotiate their mutual obligations in the new threat environment and to design agreed-upon governance structures to enforce them."

Next time, Church will complete his description of this book, which he considers seminal.

Charles R. Church is an attorney practicing in Salisbury who focuses primarily on Guantánamo Bay, detention, torture, habeas corpus and related issues.

NOTE: Article continues with Part Two below

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Last time, Church began describing the newly published, "The Future of Violence: Robots and Germs, Hackers and Drones, Confronting a New Age of Threat," by Benjamin Wittes and Gabriella Blum, which he considers a seminal work. In this column, he will complete the task. Note: He paraphrases from the book, using quotation marks for longer passages. This approach, Church believes, allows the authors' powerful ideas to shine through most effectively.

According to the conventional metaphor, liberty and security dwell on opposite sides of grand scales. Every added bit of liberty or privacy tilts the scales by disrupting our security. Wittes and Blum challenge this metaphor. In truth, they argue persuasively, the relationship between aggregate levels of liberty and security in a society far more often is direct, rather than inverse. Even the U.S. Constitution's preamble envisions that our governing document will at once "insure domestic Tranquility, provide for the common defense ... and secure the Blessings of Liberty." The balance metaphor more emphatically misleads when applied to technologies of mass empowerment in an environment in which threats and defenses are widely distributed. There, securing ourselves against a great many dispersed threats requires a government capable of robust enforcement actions. And leaving important domains of human activity unpatrolled in the name of restricting government power may sometimes undermine freedom.

Despite international law's modern reticence about allowing a state to reach beyond its territory, states' interests in doing just that are becoming more pronounced as technologies of mass empowerment facilitate terrorism, cyberattacks and other harmful acts from faraway lands. "The more diffuse transnational violence becomes, the greater the challenge it will pose to the existing allocation of territorial and extraterritorial exercises of power in our state system based on sovereign equality." This reality is accentuated where failed states provide natural havens for perpetrators of crime and violence. The Somali government, for example, even if it wanted to, has no real hope of stopping piracy emanating from its shores.

The authors evaluate a number of tools available to a political community that wishes to create a more secure environment, but I will focus on just one. Jack Goldsmith and Tim Wu in “Who Controls the Internet,” explain why the early dreams of an Internet beyond sovereign authority turned out to be illusory. The rise of networking did not eliminate intermediaries, the most important of which are Internet Service Providers (ISPs), such as search engines, browsers, the physical network and financial entities. By regulating ISP components, the government exerts outsized power over widespread use of a technology of mass empowerment both at home and abroad, “making it harder for local users to obtain content from, or transact business with, the law-evading content providers abroad.” Used improperly, this power implicates a terrifying potential for tyranny because, through the intermediaries, the government reaches the countless individuals who rely on them. But this enhancement in government power is exactly what makes ISP regulation a promising strategy for creating a safer environment. Regulating ISPs involves government interaction with far fewer actors than does direct regulation, just as regulators were able to improve road safety by requiring a few companies to make cars safer. And intermediary regulation mutes the problem of crossing jurisdictional boundaries inherent in regulating widely dispersed technologies. The grad student who wishes to fabricate smallpox may be at a foreign university, but some firm still has to make the gene synthesis equipment he needs, and another has to fill the orders for those parts of the genome he seeks to buy. “Even the attack spider has to be manufactured, and the airwaves over which it communicates with its controllers are subject to regulation too.”

Even with the tools proffered and analyzed by Wittes and Blum, some believe that a worldwide polity of super-empowered governments and subjects — some evil, many more careless or not very bright — is an impossible place to govern. And the authors agree on the plausibility of the hypothesis that our modern state system of governance is just not up to the task of preventing a globally supercharged Hobbesian state of nature: a state of war, with “every man against every man.” This state of nature results, as the 17th century philosopher Thomas Hobbes famously wrote in “Leviathan,” in a life that is “solitary, poor, nasty, brutish and short.”

But Wittes and Blum are not ready to succumb to despair, to give up on the state as the major instrument for governing in a world of heightened risk. But the danger of despair, they warn, comes with an obverse peril. “Any attack or any threat environment becomes much more devastating if it leads to a hysterical or disproportionate response that exacerbates conflict and magnifies the secondary effects of the initial attack.” And government overreaction, or misdirected reaction, to threats is much more than a possibility; it is an omnipresent danger and its consequences often are grave.

At bottom, the trend to universal technological empowerment necessitates serious, sustained and careful thinking about how we organize nations and how nations organize the larger international system.

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