THE DRONE WAR ON WESTPHALIA

will they be launched against us? (U.S. Navy photo by Cryptologic Technician 1st Class Carl T. Jacobson/Released)

I wrote a snippy post yesterday attacking Benjamin Wittes' claim that we've had a public debate about drones. But I wanted to do a more substantive post about something missing from the drone debate.

I believe that drones are a tool that presents a heightened threat to the concept of sovereignty, for better or worse. (Note, this is a really rough post, so I welcome historical and legal corrections. But hey, it's Independence Day, so why not launch a half-baked meditation on our loss of sovereignty?)

Drones change the relationship between the state and war

If you think about it, the system of sovereignty established by the Treaty of Westphalia in 1648 has been under increasing threat since World War II, a moment that brought many repressed peoples of the world closer to exercising their own sovereignty. While sovereignty never fully existed in practice, as we began to institute rules to enforce a more humane coexistence among sovereign nations, a number of forces starting chipping away at the concept of sovereignty. The chief threat to sovereignty is globalization—a force the US encouraged as a means to exercise global hegemony, but also one that (for example) makes it increasingly difficult for the US to fund its coffers or sustain the quality of life of its people. Terrorism as incarnated by al Qaeda did no more than capitalize on the globalized system the US championed; it used the same tools US-based multinationals exploit to maximize profit to strike at a much more

powerful foe. And in response to 9/11, the US has both wittingly and unwittingly catalyzed the decline of sovereignty, both with its counterterrorism approaches and with its current form of capitalism.

Its embrace of drones, I believe, is an important part of that process.

Now, the crux of Wittes' argument is that any problem with drones would exist with any other kind of weapon—drones are technologically neutral.

> Drones are a weapon. Their use raises some novel issues, but in many ways, those issues are more the logical extension of the issues raised by previous weapons technologies than departures from them. Ever since, once upon a primitive time, some neolithic fellow figured out that he would be safer if he *threw* his spear at the other guy from a distance, rather than running up to him and trying to jab him with it, people have been looking for ways to fight from more stand-off platforms—in other words, trying to assume less risk in going into combat. Guns and arrows are technological efforts to kill accurately from a distance. Air power and artillery are both efforts to deliver explosions to places one doesn't want to risk sending people. Drones are merely the extension of this logic—a means of protecting one's people almost absolutely while they fight a nation's battles. I don't see that as intrinsically problematic, morally or legally. I see it, rather as consistent with the entire history of the development of weaponry, which one should understand as a technological trend towards greater lethality from positions of ever lessening exposure.

But that takes a very narrow view of weapons

themselves, in isolation from the structure of government weapons co-evolve with. A caveman's spear is the weapon of individuals or clans fighting and feeding themselves, not of nation-states. Air power and artillery, by contrast, at least used to be weapons necessarily tied to a certain tax base and the ability to form armies that comes with that tax base (though the proliferation of such arms are one of the things that now empowers a new war-lordism). Drones, along with increasing reliance on mercenaries, are still tied to some source of revenue; but they're freed from a social contract between the nation-state and its people. Our elite, working in secret, can choose to target whoever whenever, and those of us forgoing pensions and infrastructure to pay for those drones and mercs, will have no say in the matter.

All of which is a point Spencer made in his excellent response to Wittes.

> Ben is correct to note that [a drone] strategy is "technology neutral." But that observation overlooks the fact that that in this case, the technology *drives* the strategy. The vast improvement in drone-derived intelligence (with some human intelligence, doubtfully) and weapons capability enabled a *huge* expansion in the ability to wage war while negating or reducing the constraining public costs to it, like troop deployments, financial drain, or conspicuous logistics trails. (You should see the command boxes that Army enlisted men and contractors sit in to operate these things from Bagram – the essence of modularity.) With that comes a lack of public accounting about the efficacy of the program and the criteria for targeting someone with a drone – and no objections from pesky congressmen.
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> That's what I would argue needs to change. There's an *elite* debate in your papers and think tanks about what smart

> people can *glean* about the drone war. It suffers from a dearth of information — not about *how* someone is targeted, which is properly classified, but *who* can be targeted; the specific authority for targeting; and the normative question of *where* the drone war ought to be waged. That, as Marcy points out, is a deliberate government choice. Factor out any ethical concerns: we can't even say with confidence that the drone war is *succeeding*, in any rigorous strategic sense of the term, just that it's killing a lot of people and unleashing a lot of missiles. July 4 seems as apt a day as any to point out that the public, through its elected representatives, is supposed to determine America's wars.

Five new ways to erode sovreignty with drones

One thing I think is stunning about our drone war is the degree to which it impacts issues of sovereignty almost everywhere we use it. The one exception is the latest member of our target club, Somalia, given that it is already a failed state (not that that justifies drones strikes.) Consider:

Afghanistan: Of all of our drone wars, Afghanistan is the only one that started with traditional legitimacy (and like Somalia, its state was weak to begin with). Yet we're at the stage now where drones are a key weapon to defend Hamid Karzai—the "Mayor of Kabul"—in the absence of having a fully functional national army. Increasingly, though, we remain in Afghanistan to protect it as a launching pad for attacks on Pakistan, where the bulk of our real enemies are.

Iraq: While plenty of America's wars have been dubiously legitimate, Iraq certainly is at the top of that list. We trumped up a case against a sovereign nation-state (one with manufactured legitimacy internally, but no less than many of our allies in the region). In what may be the

last traditional nation-state war we fight, we managed to (at least thus far and only barely) avoid breaking the country up into three or more parts and establish another leader with questionable legitimacy. In most of that, drones weren't key. But I'm betting that they will be going forward as a threat to Nuri al-Maliki that if he doesn't invite our troops to stay longer, we will feel free to use drones in his country. That's just a guess, mind you, but the evolution of our drone power (and the influence Iran has in Iraq) surely has a bearing on whether and how Iraq fully reasserts is sovereignty by kicking our troops out.

Pakistan and Yemen: Here's where the secrecy I discussed yesterday becomes so key. In both Pakistan and Yemen, we are using drones as a way to cooperate with a country's leadership to make war on—rather than employ police powers on—that country's own people. Obviously, police power was both untenable in those countries (because there isn't any in the areas of concern) and strategically unworkable (because both these countries have an ambivalent relationship with the terrorists in their own countries). But the key to this process is secrecy: the utterly laughable fiction that drones were dropping down on these countries but no one had to explain the cooperation behind it. Now, in Pakistan, the example of the Osama bin Laden raid proves this doesn't have to do exclusively with drone technology. But up until the moment when you launch a raid on a figure like OBL, the drones serve as the most visible—and therefore dangerous, from a legitimacy standpoint—reminder of the lie of the country's sovereignty. To some degree the drone strikes are just a change in degree from the kind of secret big-footing the US and other neocolonial powers have used for decades, but they are more visible, and they allow the US to exercise a much greater degree of autonomy with regards to the partners in question. And for that reason, I believe, they will take fragile states and exacerbate the legitimacy concerns, making them much more likely to turn into even more dangerous

(nuclear-armed, in Pakistan's case) failed states.

Libya: Libya is the most interesting of all these examples. That's true, first of all, because it demonstrates Spencer's point: that the US will use these weapons in defiance of any public costs to doing so (both literally—we're dumping billions into this campaign at the exact same time we're cutting trillions in domestic spending, but also figuratively, with Obama's defiance of the WPR). But one particular potential use of drones (or multinational air strikes, as we tried in our first attempt to decapitate Qaddafi) is to assassinate the leader we still recognize as the legitimate leader of Libya. Now I know we've assassinated the legally legitimate leaders of countries in the past. But doing so with such audacity, with so little plausible deniability, seems to mark a new step in our approach to rule of law. And if Qaddafi, in response, sets off a series of terrorist attacks in Europe and the US, we'll have a lot harder time appealing to the principles of sovereignty we did when al Qaeda attacked us, because we broke those laws first.

In all of these cases, it seems, we risk trading a failed state in pursuit of what the Executive Branch, often in secret, defines as our national interest. It not only risks exacerbating the risk failed states represent around the world—and the further proliferation of terrorism—but as Spencer lays out, the fact that the Executive can do so without balancing the political cost of doing so changes our relationship with our government. (It is no accident, I think, that these changes in strategy are occurring at precisely the same moment both parties are cooperating to dismantle the social safety network.)

Now, for the record, I'm not entirely certain whether chipping away at sovereignty is a good thing—will it allow oppressed people to band together to fight the global elite, or a terrible thing—will it allow weaponized elites

to turn average people back into serfs in exchange for the security the nation-state used to offer (though of course I've repeatedly suggested we're headed for the latter condition). But our elected representatives are wittingly and unwittingly pursuing policies that accelerate the process.

So there are two public debates that we're not having. First, there's the debate about what standard the Executive needs to use before he assassinates a US citizen with no due process, or what standard the Executive needs to use before he launches new "hostilities" with no congressional mandate. Those are the old-style debates about public accounting that the Executive is using secrecy to try to avoid.

But there's a larger debate we need to be having. Our system of governance is changing, subtly but increasingly radically, with no discussion. Drones are one symptom and one catalyst of that. And before the consent of the governed is completely eliminated, it'd be nice to have a "public debate" about it.

Again, sorry if this is really rough. But I've got to go prepare to celebrate our nation's own sovereignty by watching a bunch of pyrotechnics paid for by a multinational pyramid scheme.

Happy Independence Day, everyone!

Update: Thanks to everyone who corrected my very embarrassing (for someone who has studied the Czech lands' history) typo on Treaty of Westphalia. And for the grammatical fixes.