

## Connecticut Debate Association

January 11, 2020

**Pomperaug High School, Warde High School, Weston High School**

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**Resolved: The US should not target and kill foreign government officials.**

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### **Was the drone attack on Iranian general an assassination?**

The Associated Press, By JOHN DANISZEWSKI, January 4, 2020

NEW YORK (AP) — After Friday’s targeted killing of Iranian Gen. Qassem Soleimani, newsrooms struggled with the question: Had the United States just carried out an assassination? And should news stories about the killing use that term?

The AP Stylebook, considered a news industry bible, defines assassination as “the murder of a politically important or prominent individual by surprise attack.”

Although the United States and Iran have long been adversaries and engaged in a shadow war in the Middle East and elsewhere, the U.S. has never declared formal war on Iran. So the targeted killing of a high Iranian state and military official by a surprise attack was “clearly an assassination,” said Mary Ellen O’Connell, an expert in international law and the laws of war at the University of Notre Dame School of Law.

Just as clearly, the Trump administration doesn’t agree.

Though a statement issued by the Pentagon said the attack was specifically intended to kill Soleimani and that it was ordered “at the direction of the President,” it also characterized the killing as defensive, to protect U.S. military forces abroad, and stated that Soleimani was actively developing plans “to attack American diplomats and service members in Iraq and throughout the region.” Subsequent statements by Secretary of State Mike Pompeo and President Donald Trump also characterized the killing as punishment of Soleimani for past blood on his hands.

O’Connell’s counterargument: Whether the killing is framed as part of an armed conflict between two states or as a police action intended to deter terrorism, it cannot be characterized as an act of self-defense because there was never a full-fledged and direct attack on the United States by Iran. The United States’s legal reason for being in Iraq is to deter the Islamic State group, not to fight against Iran, she noted, and the attacks against the U.S. by Iranian-backed militias in recent months have been intermittent and relatively limited.

“Assassination is prohibited both in peacetime law as well as on the battlefield,” she said.

“We have really moved to a nearly lawless state,” she said. If the justification for a military response is self-defense, the response should be “necessary and proportionate.” But that would not justify individual targeted killings, she said. For Iran, Soleimani’s killing was a “horrific assassination,” wrote Majid Takht Ravanchi, Iran’s ambassador to the United Nations.

It is “an obvious example of state terrorism, and, as a criminal act, constitutes a gross violation of the fundamental principles of international law,” Ravanchi wrote in a letter to the U.N. secretary-general.

The premeditated killing of a specific individual commander for what they have done on the battlefield or what they may do has been prohibited by the law of armed conflict dating from the Hague Conventions of 1907, and by a protocol of the Geneva Convention in 1949 saying “it is prohibited to kill, injure or capture an adversary by perfidy,” she added.

International war law aside, there also has been a U.S. executive order in place since 1976 forbidding the U.S. from carrying out political assassinations. The order came into being after revelations that the CIA had organized or sanctioned assassination attempts against foreign leaders including Fidel Castro.

The current version of the executive order states: “No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.”

It does not however define what constitutes an assassination, and has been generally interpreted to mean an unlawful killing of a political leader in peacetime. For instance, during the “war on terror” since 9/11, the United States is believed to have conducted a number of secret drone strikes targeting individuals, such as the attack against al-Qaida propagandist Anwar al-Awlaki, who was killed in 2011 in Yemen.

Soleimani, however, was a military leader. If he was leading forces against the United States, under the international laws of war as enunciated in the 1949 Geneva Conventions, he and his forces could be considered legitimate battle targets during any actual war or armed conflict, declared or undeclared.

The AP has mostly refrained from describing Soleimani's death as an assassination — both because it would require that the news service decide that the act was a murder, and because the term is politically freighted.

Duke University Professor of Law Madeleine Morris, an expert on international criminal law, said the law is not terribly clear in this area.

She said that under the United Nations Charter, there is a clear right of self-defense in response to armed attacks. She noted that some might argue that the attacks the U.S. has experienced in this case do not meet at a threshold of gravity to justify this sort of targeted killing, while others would argue to the contrary that there is no explicit threshold — that if attacked a country has an absolute right to respond militarily.

”There is no obligation to kill a lot of people rather than a single person,” she said.

The question then would be whether the act of war was legal, allowed as self-defense, or would it be considered an illegal act of aggression? That would depend on the intelligence evidence offered by the United States and the imminence of any planned attack.

“The problem is that governments have good reason to make very little public in this situation, which makes it very difficult to evaluate the situation politically or legally.”

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## **Can the President Just Kill Anyone He Wants Now?**

Slate, By JOSHUA KEATING, JAN 03, 2020

Bush and Obama handed Trump a legal defense for pretty much any military action he wants.

Experts and politicians are debating if the U.S. killing of Iranian Gen. Qassem Soleimani and a top Iraqi militia commander on Friday was legally justified. But the strike is forcing a bigger question: If Donald Trump can get away with this, what can't the president do?

The closest thing to a legal justification offered by the U.S. government so far is a Pentagon statement asserting that “This strike was aimed at deterring future Iranian attack plans.” According to Joint Chiefs Chairman Gen. Mark Milley, the U.S. had “clear and unambiguous evidence“ that Soleimani was planning a stepped up “campaign of violence.”

The vagueness of that threat falls short of the traditional understanding of self-defense.

“Usually when you're talking about limited self-defense actions, you're talking about a pretty concrete, finite threat. You're only supposed to take a proportionate response to get yourself out of harm's way,” says Scott Anderson, a former legal adviser at the State Department who is now a fellow at the Brookings Institution. Anderson notes that the U.S. has often taken a somewhat more expansive view of self-defense. “This goes one step even further saying we're taking preemptive action against people who are planning threats against us. It's just on a different scale.”

It's hard to judge the extent of any threat without access to the U.S. government's intelligence. But Soleimani was involved in attacks against U.S. troops in the region for decades, and the U.S. has so far avoided taking this step. So why did killing him now become an absolute military necessity? Even Milley acknowledged that an attack “might still happen” without Soleimani.

The Trump administration has undoubtedly stretched the president's war-making authority, but it had already gotten pretty stretchy over the past two decades. Like the two presidents before him, Trump will almost certainly trot out a pair of well-worn resolutions to justify his actions. The 2001 Authorization for the Use of Military Force authorized action against the perpetrators of the 9/11 attacks, but has been applied to a growing number of countries and groups since then—and the 2002 AUMF authorized military action in Iraq.

According to a letter from the State Department to Congress last year, the Trump administration interprets the two AUMFs as permitting military action against Iran if it is “necessary to defend U.S. or partner forces engaged in counterterrorism operations or operations to establish a stable, democratic Iraq.” A State Department official said earlier this week that the strikes the U.S. carried out last Sunday against the Iranian-backed militias Kataib Hezbollah were justified under this interpretation of the AUMF.

But the killing of Soleimani, one of the most powerful people in Iran, is on another level of magnitude, raising the question of just how far this authority goes. Could the U.S. bomb Tehran in order to defend its counterterrorism mission? Launch a ground invasion?

All three presidents since 9/11 have made innovative use of the 2001 AUMF to justify military action with only the most tenuous connection to 9/11 or al-Qaida. Barack Obama made some halfhearted attempts to repeal the law, but also used it to attack ISIS—a group that didn't exist on Sept. 11, 2001, and opposes al-Qaida.

The AUMF is not the only tool expanding executive war powers. To justify missile strikes against Syria in 2018, the Trump administration cited Obama's Office of Legal Counsel's argument for the legality of the 2011 intervention in Libya: that “constrained and limited operations” did not constitute hostilities under the War Powers Resolution, and

therefore do not require congressional authorization. As I wrote when Trump was considering military action against Iran last summer, it's easy to imagine such "limited" strikes being justified the same way. (In the Soleimani case, Trump didn't even inform congressional leaders, much less seek authorization, though Sen. Lindsey Graham says he was apparently filled in.)

Congress deserves fault for failing to exercise oversight and letting war powers expand to this degree, and the situation seems unlikely to improve any time soon. Sen. Tim Kaine, a longtime critic of executive power, says he will introduce a new war powers resolution to force a debate on hostilities with Iran, but it's unlikely to pass in a Republican-controlled Senate. Meaningful war powers reform will require members of Congress who are willing to limit the powers of their own party's president.

Beyond the question of what U.S. law allows, international law is also getting murkier. The U.S. troops in Iraq, including, presumably, those that launched the strike on Soleimani, are there at the invitation of the Iraqi government for the specific purpose of fighting ISIS—not Iran. Launching a military operation on another country's soil without that country's government's permission is generally considered an act of aggression. The U.S. has justified such actions in the past (think of the operation in Pakistan to kill Osama Bin Laden, or the fight against ISIS in Syria) when the government in question has proved "unwilling or unable" to deal with a threat such as terrorism.

That's relatively new and dicey territory. (As recently as 2008, John McCain—not exactly a dove—criticized Barack Obama as irresponsible for saying he would strike al-Qaida targets in Pakistan without the government's permission. "That's still bombing Pakistan," he said.)

Complicating things further, one of the men killed, Abu Mahdi al-Muhandis, was both a militia leader and an Iraqi government official. Iraq's prime minister has said he views the killing as an act of aggression against the Iraqi state. Iraq could make a case that it now has a legal right to respond militarily. At the very least, Trump's actions have put the future status of U.S. forces in Iraq in question.

As for Soleimani, he may have the blood of hundreds of American service members on his hands, and opposing commanders are considered fair game in war. But killing a country's senior general is the sort of thing you only do when you are in a state of war or outright hostilities, which is why commentators including Slate's Fred Kaplan have concluded that we're now at war.

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## **Suleimani killing the latest in a long, grim line of US assassination efforts**

The Guardian, Ed Pilkington, Sat 4 Jan 2020 00.30 EST

There has been no shortage of US attempts to remove foreign adversaries through highly dubious legal or ethical means. The US government is no stranger to the dark arts of political assassinations. Over the decades it has deployed elaborate techniques against its foes, from dispatching a chemist armed with lethal poison to try to take out Congo's Patrice Lumumba in the 1960s to planting poison pills (equally unsuccessfully) in the Cuban leader Fidel Castro's food.

But the killing of General Qassem Suleimani, the leader of Iran's elite military Quds Force, was in a class all its own. Its uniqueness lay not so much in its method – what difference does it make to the victim if they are eviscerated by aerial drone like Suleimani, or executed following a CIA-backed coup, as was Iraq's ruler in 1963, Abdul Karim Kassem? – but in the brazenness of its execution and the apparently total disregard for either legal niceties or human consequences.

"The US simply isn't in the practice of assassinating senior state officials out in the open like this," said Charles Lister, senior fellow at the Middle East Institute in Washington. "While Suleimani was a brutal figure responsible for a great deal of suffering, and his Quds Force was designated by the US as a terrorist organization, there's no escaping that he was arguably the second most powerful man in Iran behind the supreme leader."

Donald Trump's gloating tweets over the killing combined with a sparse effort to justify the action in either domestic or international law has led to the US being accused of the very crimes it normally pins on its enemies. Iran's foreign minister, Mohammad Javad Zarif, denounced the assassination as an "act of international terrorism".

Vipin Narang, a political scientist at MIT, said the killing "wasn't deterrence, it was decapitation".

There has been no shortage of US interventions over the past half century that have attempted – and in some cases succeeded – in removing foreign adversaries through highly dubious legal or ethical means. The country has admitted to making no fewer than eight assassination attempts on Castro, though the real figure was probably much higher.

William Blum, the author of *Killing Hope: US Military and CIA Interventions Since World War II*, points to a litany of American sins from invasions, bombings, overthrowing of governments, assassinations to torture and death squads. "It's not a pretty picture," is his blunt conclusion.

The CIA was deemed to have run so amok in the 1960s and 70s that in 1975 the Church committee investigated a numerous attempted assassinations on foreign leaders including Lumumba, Rafael Trujillo of the Dominican Republic,

Vietnam's Ngo Dinh Diem, and of course Castro. In the fallout, President Ford banned US involvement in foreign political assassinations.

The ban didn't last long. Since 1976 the US has continued to be engaged in, or accused of, efforts to eradicate foreign leaders.

Ronald Reagan launched bombing raids in 1986 targeting Libya's Muammar Gaddafi. As recently as two years ago North Korea alleged that the CIA tried to assassinate its leader Kim Jong-un.

But most of the interventions in the modern era have been covert and conducted beneath the radar. Where they have been proclaimed publicly, they have tended to target non-state actors operating in militias or militant groups like Islamic State.

Presidents Obama and Trump both claimed huge public relations victories when they oversaw the killings of Osama bin Laden and the Isis leader Abu Bakr al-Baghdadi respectively.

By contrast, until Trump the US has tended to fight shy of conducting overt assassination attempts on state actors connected to sovereign regimes. Suleimani himself is a case in point.

In 2008, the CIA worked hand in glove with the Israeli intelligence service the Mossad to target Imad Mughniyah, a senior Hezbollah leader, for assassination. In the course of their efforts they had the chance of taking out not only Mughniyah but also Suleimani in a single drone strike. In the end, the operation was called off because the US government blocked it on grounds that it could seriously have destabilised the region.

Despite such reticence, Mary Ellen O'Connell, a professor of international law at the University of Notre Dame, draws a direct line between earlier US administrations and the convention-shredding unpredictability of Trump. She said the advent of the unmanned drone in 2000 put the US on a slippery slope towards the current crisis.

The first deployment of a drone as an assassination tool was ordered by Bill Clinton in an effort to get Bin Laden. The first successful "targeted killing", as it is now called, came soon after, carried out by the Bush administration in Yemen.

Obama inherited Bush's widespread use of drone killings and increased their frequency tenfold, while seeking to give them a veneer of legal respectability with the secret internal "targeted killing memos". Those documents argued that drone assassinations were justified under international law as self-defense against future terrorist attacks – a rationale that has been widely disputed as a misreading of the UN charter.

"Since Obama there has been a steady dilution of international law," O'Connell said. "Suleimani's death marks the next dilution – we are moving down a slope towards a completely lawless situation."

O'Connell added that there was only one step left for the US now to take. "To completely ignore the law. Frankly, I think President Trump is there already – his only argument has been that Suleimani was a bad guy and so he had to be killed."

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## Trump's Legal Authority

The Wall Street Journal, By The Editorial Board, Jan. 3, 2020 6:50 pm ET

Like other Presidents, he has the power to use military force against terrorists and to defend against attacks.

You may have read that Donald Trump can't do anything right, and apparently now he's exceeded his authority as President by ordering a drone strike against Qasem Soleimani without congressional approval. That's the claim being made by Democrats and various legal worthies, except they're wrong on the law and Constitution.

Mr. Trump is accused of violating the executive order against assassinations. But that long-time ban has never applied to terrorists, which Soleimani clearly was. He ran Iran's Quds Force, which the Bush Administration designated as a terror group in 2007. He was also a general in the Islamic Revolutionary Guard Corps, which Mr. Trump designated as a terror group last year. If Mr. Trump's drone strike was illegal, then so were Barack Obama's raid on Osama bin Laden and his hundreds of drone strikes over eight years as President.

Mr. Trump also has the power, as Commander in Chief, to use military force against anyone waging war against the U.S. The Quds Force has been doing that for years, going back to the Iraq war and recently with the rocket attacks on U.S. troops in Iraq by militia under Soleimani's control. Soleimani was a general in the chain of command of the enemy, and as such was a justifiable target. An analogy is the U.S. decision to shoot down Admiral Isoroku Yamamoto's plane in World War II.

Congress had declared war on Japan, but under international law there is no need for such a declaration when a nation is acting in self-defense. The drone strike in Iraq was a defensive military action intended to prevent attacks on U.S. troops by an enemy general who had ordered such attacks in the past. Numerous Presidents have used force in such a way without Congressional approval, including Ronald Reagan in 1986 against Libya after the terror bombing at a Berlin nightclub killed three people, including two American soldiers.

Some say Mr. Trump's drone strike is different because it has the potential to become a larger conflict with Iran and thus needs Congressional assent. But Mr. Obama's Libya intervention also had the potential to become a larger conflict, as did JFK's naval blockade of Cuba. The consequences of any military action are hard to predict.

The question for these critics is whether they would be making the same arguments if someone else were President. We doubt it.

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## **Did the Killing of Qassim Suleimani Deter Iranian Attacks, or Encourage Them?**

The New York Times, By Amanda Taub, Jan. 4, 2020

U.S. officials have justified the assassination as retribution for the general's actions and as deterrence of future American deaths. The big strategic implications can get lost, though.

One of the many big questions looming over President Trump's decision to assassinate Maj. Gen. Qassim Suleimani is this: Was it a good idea?

Some Iranian officials have called the killing of General Suleimani — whose role in Iran has been likened to that of an American vice president, chairman of the Joint Chiefs and C.I.A. director rolled into one — an act of war. But if it was, it took place without any of the public discussion in the United States that preceded actions like the 2003 American invasion of Iraq.

American officials have justified the attack in Baghdad as retribution for the general's own actions and as deterrence of future American deaths. The strategic implications, though, can be confusing in this quickly unfolding debate.

### **Crime(s) and Punishment**

General Suleimani planned and directed attacks that killed thousands of civilians in Iraq and Syria, along with many American service members. American politicians on both the left and the right have taken pains to note his past, whether or not they support his being killed.

"Qassem Soleimani masterminded Iran's reign of terror for decades," said Senator Tom Cotton, a Republican who supported the airstrikes. Former Vice President Joseph R. Biden Jr., one of the leading Democratic presidential candidates, said General Suleimani "deserved to be brought to justice," though he criticized the strategic wisdom of Mr. Trump's decision.

"He was a monster, no question," said Vipin Narang, an M.I.T. political scientist who has studied efforts to halt Iran's nuclear program. "But there's a consequentialist argument as well."

Using retribution as justification can be straightforward in criminal proceedings, where judges and juries can apply the law without considering strategic consequences. But that logic does not apply in foreign policy, analysts said.

"The underlying reason that we don't go around killing all bad people is that we usually make a decision about which bad people it's in our interest to kill at this time," said Lindsay P. Cohn, a foreign policy scholar at the Naval War College, who spoke in a personal capacity. Relying on retribution alone as a basis for such action, she said, is "fundamentally unstrategic."

If the killing of General Suleimani creates a precedent for assassinating senior government figures, he said, American officials and their allies could become targets as well. And that would be a source of broad global instability.

"We killed people inside their sovereign territory, without the permission of the government," Dr. Cohn said, noting that the American airstrike also killed Abu Mahdi al-Muhandis, an Iraqi militia leader aligned with Iran, and other Iraqis. "This is a massive violation of sovereignty."

### **A Case for Deterrence**

The administration has also cited deterrence as a motive. Secretary of State Mike Pompeo, in an appearance on CNN, said the American strike disrupted an "imminent attack" on American interests in the Middle East.

Scholars tend to divide deterrence into two broad categories. Specific deterrence focuses on stopping individuals from specific acts. General deterrence sends a message that goes well beyond the direct targets.

In this case, the narrowest type of deterrence has been effective. Killing General Suleimani ensures he will no longer carry out attacks on the United States or its interests. But widen the circle slightly, and the picture becomes less clear.

"The best-case argument for deterrence is, you kill Suleimani and whoever replaces him is more moderate because they're afraid of the same fate. And that's possible," said Dr. Narang, the M.I.T. political scientist.

Rupal Mehta, a political scientist at the University of Nebraska who studies Iran's military and nuclear program, also said the American strike could send a message to the surviving members of General Suleimani's network.

But when the United States has killed high-ranking members of terrorist organizations, Dr. Mehta said, their

replacements have tended to be more extreme, not less.

The crucial question, when it comes to deterring future attacks by Iran or its allied militias, Dr. Cohn said, is whether the assassination has degraded Iran's military capability.

If so, the assassination will probably avert further attacks, at least in the short term. Analysts agree that no single individual in Iran can match General Suleimani's military skill and political power.

But Iran may not need to replace him precisely in order to maintain its military capacity.

General Suleimani created a network of armed groups that may withstand his death. It includes Iran's Quds Force, which conducts the country's foreign military operations, as well as militias in Lebanon, Yemen, Iraq and Syria.

Dr. Narang of M.I.T. said the deterrence argument "assumes a unitary, rational actor." While he said that could apply to Iran, which may want to avoid war, it may not apply, say, to Hezbollah, which Iran backs in Lebanon.

### **The Risk Equation**

Mr. Trump's predecessors also had opportunities to assassinate General Suleimani but chose not to do so. By going ahead with the killing, Mr. Trump may gain leverage by demonstrating to Tehran that he has a higher tolerance for risk than did Presidents Barack Obama or George W. Bush.

"Tehran's estimate of Trump's cost tolerance has almost certainly increased," Kyle E. Haynes, a Purdue University political scientist, wrote on Twitter.

Still, for general deterrence to work in foreign policy, a country needs to send a message — either directly through diplomatic channels, or implicitly via force and threats — that clearly conveys its demands and the threatened consequences for failing to cooperate.

"If I'm one country and you're another country and I want you to do something or not do something, if you comply with my demands I have to hold up my end of the bargain," said Elizabeth Saunders, an international relations scholar at Georgetown University. If the demands are unclear, the rewards of compliance will seem uncertain.

In this case, Mr. Trump has called for Iran's "aggression in the region" to end, but specifics about what that entails are scarce.

Military force, like the attack on General Suleimani, is an especially high-risk means of delivering a message of deterrence. It threatens to create what foreign policy scholars call a spiral, in which tit-for-tat retaliation locks the parties into escalating conflict.

To prevent such a spiral, at least one of the parties has to have opportunities to back down without losing face, experts say.

"These cases are all a kind of delicate dance, a mix of public signals and private signals," Dr. Saunders said. Often, the less public a conflict is, the more options there are to defuse it.

By taking public responsibility for General Suleimani's assassination, the Trump administration "blew up that delicate dance," Dr. Saunders said, creating pressure on Iran to retaliate rather than step back from the conflict.

The administration is preparing for a potential escalation, which would seem to undermine its deterrence argument. On Friday, the Pentagon announced that 4,000 troops would deploy to Kuwait, "in response to increased threat levels against U.S. personnel and facilities."

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