

Examining the International Legal Dimensions of the Assassination of Lieutenant General Qasem Soleimani

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ABSTRACT:

The present study aims to examine the international legal dimensions of the assassination of Lieutenant General Qasem Soleimani. The research method is descriptive-analytical and is based on library sources. The action taken by the United States in this case has been regarded in the official positions of the Iraqi government as a “violation of the principle of the prohibition of the use of force, the principle of sovereign equality of states, and the territorial integrity of that country.” According to the agreement under which the United States was required to coordinate all its military actions on Iraqi soil with the central government, the U.S., contrary to this obligation, carried out a military attack on the positions and movement routes of Iraq’s official military force (Popular Mobilization Forces), thereby violating the national sovereignty and security of that country in addition to breaching the joint security agreement through the use of force. Accordingly, U.S. attacks against the Popular Mobilization Forces—recognized as a fully official military force in Iraq and operating under the command of the Commander-in-Chief of the Iraqi Armed Forces—constitute not only a clear violation of the aforementioned security agreement but also a breach of the principle of non-use of force as a peremptory norm of international law. On this basis, the attack on members of the Islamic Revolutionary Guard Corps by the United States, under the pretext of combating terrorism, cannot be considered a legitimate objective; rather, the issue of the illegality of the Trump administration’s action under its own domestic law is also raised. Therefore, the action of U.S. forces in targeting military commanders of Iran and Iraq on Iraqi territory constitutes, first and foremost, a violation of the principle of respect for the national sovereignty of Iraq and Iran. Consequently, a breach of the principles of non-intervention and non-use of force collectively indicates a clear violation of peremptory norms of international law.

Keywords: *Assassination of Lieutenant General Qasem Soleimani, Counterterrorism, Principle of Respect for National Sovereignty*

INTRODUCTION:

The vehicles carrying General Qasem Soleimani, as well as Abu Mahdi al-Muhandis, Deputy Commander of the Popular Mobilization Forces, along with nine of their Iranian and Iraqi companions, were targeted in the early hours of January 3, 2020 (corresponding to 14 Dey 1398 in the Iranian calendar) near Baghdad International Airport by a missile strike from a U.S. MQ-9 drone, resulting in the deaths of all occupants. The United States government stated that this action was carried out under the explicit order of President Donald Trump and attributed the deaths and injuries of thousands of Americans to actions by General Soleimani, emphasizing that there had been a prior plan to kill him. The U.S. drone strike on the vehicles carrying General Soleimani, Abu Mahdi al-Muhandis, and their companions generated extensive domestic and international reactions. Various perspectives were

raised in media and academic circles, including claims related to “the right of self-defense,” “deprivation of the right to life,” “assassination and targeted killing,” “state terrorism,” “fundamental violations of human rights,” “violation of the sovereignty and territorial integrity of Iran and Iraq,” “threat or unlawful use of force,” “violation of international humanitarian law,” “breach of the United Nations Charter and human rights instruments,” and “aggression.” Alongside condemnation of the act, there were also calls, to varying degrees, for holding the United States accountable (Baranli, 2010).

The assassination of General Soleimani, as an Iranian military commander, does not qualify as self-defense and cannot be justified under Article 51 of the United Nations Charter. Considering that one of the key principles of international humanitarian law is the principle of distinction—whose violation in recent

decades has resulted in numerous casualties—the United Nations Security Council has repeatedly urged states, through statements and resolutions, to respect this principle in both international and non-international armed conflicts.

The principle of distinction in international armed conflicts is considered one of the non-derogable principles of customary international law. It aims to protect individuals who are not directly participating in hostilities. Accordingly, armed conflicts can only be invoked where, based on treaty obligations, violence has escalated to a level that qualifies as war or armed conflict under international humanitarian law. Generally, labeling a situation as an armed conflict requires the occurrence of hostilities between two states or between state and non-state actors, such as in a civil war; such a conflict must be ongoing, sustained, comprehensive, and organized (Faqih Habibi, 2022).

In this regard, although relations between Iran and the United States have been at their lowest point since the Islamic Revolution, from a legal standpoint, there was no “armed conflict” between the two countries at the time of the January 3 attack on General Soleimani. Despite tensions and hostile rhetoric and behavior, and notwithstanding existing crises, the two states were not engaged in direct warfare and, in fact, a state of peace legally prevailed between them. Therefore, the assassination of General Soleimani, a senior Iranian military commander, constitutes a violation of the rules and norms of international humanitarian law, including the principle of distinction and the requirement of direct participation in hostilities. Nevertheless, regardless of the various perspectives expressed and the differing political, legal, and media interpretations concerning this case—and their conformity or non-conformity with international legal rules—the legal examination of this incident from the standpoint of international law, international humanitarian law, and human rights law remains of great importance. Based on the foregoing, the objective of the present study is to examine the international legal dimensions of the assassination of Lieutenant General Qasem Soleimani.

Theoretical Foundations of the Study:

Status of the Assassination of Martyr Lieutenant General Soleimani:

The competent Iranian commander, General Qasem Soleimani, an official member of the Islamic Revolutionary Guard Corps, was assigned by the Islamic Republic of Iran to safeguard national border security, establish peace and security, and repel threats posed by the unprecedented and horrific terrorist activities of ISIS in the West Asia region—particularly in religious holy sites and shrines—and to prevent the spread of ISIS-related threats to other parts of the world. He was deployed alongside advisory forces to participate in collective defense operations in support of the governments of Iraq and Syria. Through the application of intelligent military strategies and with the assistance of popular and volunteer forces from Islamic countries—primarily Iraq, Syria, Lebanon,

Afghanistan, and Iran—he succeeded in countering the expansion and influence of this terrorist group. He officially announced the defeat and end of ISIS in 2017.

Examination of the Issue from the Perspective of the Legitimacy of Preventive and Pre-emptive Self-Defense:

One of the most significant international justifications invoked by the United States to defend actions that violate the principle of non-use of force, including assassination and targeted killing, is self-defense in its preventive or pre-emptive form.

The doctrine of preventive self-defense is an unreasonable approach that advocates defensive action whereby a state resorts to military force in order to eliminate potential future attacks. However, regarding the legitimacy of preventive self-defense, it should be noted that in 1949, all members of the International Law Commission rejected it. In fact, this approach—previously proposed by George W. Bush, then President of the United States, in the U.S. National Security Strategy documents—was never accepted. In contemporary international relations, there are numerous instances in which states have resorted to force under the title of preventive self-defense in response to actions labeled as terrorism; however, based on the practice and reactions of the international community, such wars are rejected. Although the responses of the international community may vary, the prevailing practice does not endorse such actions. One example is the Israeli regime’s attack on the Palestine Liberation Organization headquarters in Tunisia in 1985, which was justified as self-defense against terrorism; however, the act was deemed military aggression and a violation of the Charter, and the United Nations Security Council strongly condemned it. In general, it can be stated that contemporary international law does not recognize a concept known as pre-emptive self-defense. Although proponents of this doctrine do not seek justification within the framework of the Charter, they have instead attempted to bypass it as an effective tool, particularly after the events of September 11 (Faqih Habibi, 2022).

The Illegitimacy of the Assassination of General Soleimani Based on the Conditions of Self-Defense:

Following the targeted killing of General Soleimani, Commander of the Quds Force of the Islamic Republic of Iran, the U.S. Department of Defense, the Secretary of State, and the President of the United States adopted positions claiming that the action was intended to prevent a large-scale attack against American citizens and U.S. interests. These statements indicate that the United States has attempted to justify its action within the framework of “self-defense” and international legal standards.

However, the reality is that this assassination cannot be characterized as self-defense, as there was no full-scale or direct attack against the United States by the Iranian government. Therefore, as previously mentioned, the doctrine of preventive self-defense—also referred to as

deterrent war—has never received comprehensive or even relative support, since a preventive attack based on future security concerns and the protection of vital interests is not justified under such a broad interpretation. Given that the drafters of the United Nations Charter enshrined the maintenance of international peace and security as a fundamental and non-derogable principle, and assigned responsibility for its protection under Chapter VII of the Charter to the Security Council, the determination of aggression and its instances falls within the competence of the Security Council. Accordingly, independent decision-making by a state to attack another state or group, without such determination, is contrary to the spirit of the Charter and the international community (Ziaei Bigdeli, 2019).

Some may argue that since the Islamic Revolutionary Guard Corps was designated as a terrorist organization in an April 2019 statement by the U.S. Department of State, any action targeting its commanders anywhere in the world would fall within the framework of the U.S. doctrine of counterterrorism and would therefore be legitimate. In response, it can be stated, first, that there is still no comprehensive agreement on a global definition of the “war on terrorism,” as acknowledged by some legal scholars; second, labeling the armed forces of the Islamic Revolutionary Guard Corps as a terrorist organization is inconsistent with the principles of maintaining peace and strengthening global security and violates the political principles of international law, including sovereign equality of states, non-intervention, cooperation and friendly relations, and respect for the independence and territorial integrity of states within the framework of the United Nations’ objectives. Overall, due to the lack of international legal legitimacy, such a designation lacks international validity (Aghareb Parast, 2023).

Instances of Conflict Between the Targeted Killing of General Soleimani and Principles of International Law:

An examination of relevant international legal provisions indicates that the U.S. attack of January 3, 2020, against commanders of Iran’s Islamic Revolutionary Guard Corps and Iraq’s Popular Mobilization Forces can be analyzed within the framework of several principles and rules of international law.

The principle of non-intervention is one of the fundamental principles of the United Nations and the international community, as well as one of the basic rights and obligations of states. It has long been recognized in public international law and is among the most important principles of international coexistence. The principle of the prohibition of the use of force, as enshrined in the United Nations Charter, encompasses any coercive action in international relations. This rule, particularly after the adoption of the Charter and the end of World War II, has become a general rule and one of the most important norms of international law, possessing the status of a peremptory norm (*jus*

cogens), with its exceptions being strictly limited and clearly defined.

Article 2 of the United Nations Charter explicitly affirms the principle of respect for national sovereignty and the prohibition of intervention in the affairs of states. It addresses respect for territorial integrity, political independence, and sovereignty, while paragraph 7 of the same article emphasizes non-intervention in domestic affairs. Accordingly, the U.S. action in assassinating General Soleimani and his companions constitutes, first and foremost, a violation of the sovereignty and political independence of Iraq and is therefore fundamentally inconsistent with the basic principles of international law. Following the U.S. action in assassinating Iraqi and Iranian military commanders, Adil Abdul-Mahdi, then Prime Minister of Iraq, explicitly stated that the assassination of high-ranking Iraqi officials or officials of a friendly state constitutes a clear violation of Iraq’s sovereignty and a breach of the conditions governing the presence of U.S. forces in Iraq (Beighzadeh, 2022).

According to Article 4 of the agreement consisting of 30 articles between the United States and Iraq, approved in November 2008, all military operations conducted by the United States must be carried out with the consent of the Iraqi government. Paragraph 2 of this article further stipulates that such operations must be conducted after full coordination with Iraqi authorities. In contrast, paragraph 4 requires that all such operations be carried out in full compliance with the Iraqi Constitution and relevant laws and must not result in violations of Iraq’s sovereignty or national interests as defined by the Iraqi government. Therefore, under this security agreement, the United States requires at least the permission or notification of the Iraqi government for any military attack on Iraqi soil. Even in such cases, it is not authorized to attack Iraqi military forces, including the Popular Mobilization Forces, as they are part of Iraq’s official military structure. Consequently, the U.S. attack on this lawful military force constitutes not only a clear violation of the signed security agreement but also a violation of Iraq’s sovereignty (Vakil, 2023).

Iranian military forces, regardless of rank, insofar as they act as representatives of the Iranian state and provide military advisory support to host governments in Iraq and Syria, should be immune from any form of attack. In this context, General Soleimani’s presence in Iraq, which occurred with the permission and invitation of the Iraqi government and within the framework of a mission with diplomatic backing, further reinforces this status. The fact that he was officially received at Baghdad airport by the deputy head of the Popular Mobilization Forces—an official Iraqi military authority—demonstrates the formal nature of his visit. Accordingly, under the Convention on Special Missions and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including diplomatic agents, General Soleimani was entitled to recognized immunities. Therefore, the act of assassinating this high-ranking military representative

of Iran and his accompanying group constitutes not only an unacceptable act but also a serious violation of legal rules concerning the immunity of state officials and representatives under the aforementioned conventions.

Approaches and Reactions:

Following the U.S. drone missile strike on vehicles carrying senior Iranian and Iraqi military commanders, which resulted in their deaths along with their companions, a range of reactions and approaches emerged at both national and international levels.

Antonio Guterres, Secretary-General of the United Nations, in response to the assassination of General Soleimani in Iraq, stated that the world must not allow another war to occur in the Persian Gulf and called on all parties to exercise restraint. While expressing concern over developments in Iraq and emphasizing restraint by Iran and the United States, and referring to the global inability to تحمل another war, the Secretary-General, despite implicitly criticizing the U.S. action in targeting senior Iranian and Iraqi military officials and causing their deaths, refrained from taking an explicit position or referring the matter to competent international bodies within the framework of the powers granted under the United Nations Charter.

Sigmar Gabriel, former German Foreign Minister, described General Soleimani as a “hidden ally” in the fight against ISIS and characterized the drone strike on his convoy as a clear violation of international law. Sergey Lavrov, Russian Foreign Minister, also stated that the U.S. action in assassinating General Qasem Soleimani constituted a clear violation of international law. The spokesperson for China’s Ministry of Foreign Affairs, in reaction to the assassination, called for calm and restraint by all parties. Meanwhile, the response of the Islamic Human Rights Commission of the United Kingdom differed from other reactions, as it formally lodged a complaint with the UN Secretary-General regarding the assassination of General Soleimani and his companions by the United States.

Following the incident, the White House issued a statement accepting responsibility for the attack. The statement described the action as a “decisive defensive measure to deter imminent Iranian attacks.” According to the then U.S. Secretary of Defense, the President was identified as the authority who ordered and bore responsibility for the strike. Based on Pentagon statements, the airstrike was ordered by President Donald Trump, Commander-in-Chief of the U.S. Armed Forces. The U.S. government claimed that General Soleimani was preparing attacks against American forces and characterized the operation as a form of “pre-emptive self-defense.” Accordingly, after the incident, the U.S. Department of Defense, in its official statement and in its letter to the UN Security Council (pursuant to Article 51 of the UN Charter), attempted to justify the action within the framework of the “right of preventive self-defense” (Ramezani Qavam Abadi, 2022).

Thus, the U.S. government, without explicitly invoking the doctrines of preventive or pre-emptive self-defense,

and without presenting any documented evidence of an imminent, overwhelming, and unavoidable armed attack or demonstrating necessity and urgency, implicitly sought to justify and reinforce this claim.

The Iraqi government condemned the U.S. drone strike on General Soleimani, Abu Mahdi al-Muhandis, and their companions as a violation of Iraq’s sovereignty, territorial integrity, and the bilateral security agreement. Adil Abdul-Mahdi, then Prime Minister of Iraq, in a statement calling for an emergency parliamentary session, described the U.S. action as a violation of the bilateral agreement and characterized the assassination of an official Iraqi military commander as an act of aggression against Iraq, as well as a clear breach of Iraqi sovereignty (Kaminga, 2022).

According to the security agreement between Iraq and the United States, U.S. forces are permitted to wear military uniforms and carry weapons. However, their use of force and conduct of military operations are subject to Iraqi sovereignty and require its authorization. Under Article 4(5) of the 2008 agreement, as well as Article 27(1), the United States is explicitly prohibited from using Iraqi territory to launch attacks against third countries. Accordingly, Iraq may invoke the 1974 UN General Assembly Resolution on the Definition of Aggression—which has largely acquired customary status—to interpret the U.S. targeting of members of the Popular Mobilization Forces and Iranian commanders as a clear act of aggression and a violation of prior agreements, and to respond accordingly.

Thus, the official positions of the Iraqi government consider the US action in this case as a “violation of the principle of prohibition of the use of force and the principle of equality of state sovereignty and territorial integrity of that country’s state.” An agreement according to which the Americans should carry out all their military actions in Iraqi territory in coordination with the central government; but contrary to that, while militarily attacking the positions and places of movement of the official Iraqi military force (Popular Mobilization Forces), it has violated the national sovereignty and security of that country in addition to violating the Joint Security Agreement by resorting to force. Therefore, the US attacks against the Popular Mobilization Forces, which are considered a completely official military force in Iraq and are under the command of the Commander-in-Chief of the Armed Forces of that country, in addition to a clear violation of the aforementioned security agreement, are also considered a violation of the principle of non-recourse to force as a peremptory international rule.

Furthermore, the U.S. drone strike does not fall within any of the recognized exceptions to the prohibition of the use of force, including “collective security measures” under Article 43 of the UN Charter, “self-defense” under Article 51, or “consent” to the use or threat of force. Therefore, the action stands in clear contradiction to the fundamental principle of the UN Charter prohibiting the use of force and entails international legal responsibility for the United States.

Accordingly, the Iraqi Prime Minister declared the assassination of high-ranking Iraqi and Iranian officials to be a clear violation of Iraq's sovereignty. Thus, the U.S. aerial operation and its intrusion into Iraqi airspace for assassination constitute a violation of Iraq's sovereign rights, in light of the prohibition of the use of force and non-intervention in national sovereignty (Tabatabaei Lotfi, 2022).

International Legal Dimensions of the Assassination from the Perspective of International Think Tanks:

John Bellinger, an international law expert, in an article published on the website of the U.S. Council on Foreign Relations, stated regarding the legality of the assassination: "The legality of this attack under international law is questionable. Under the United Nations Charter, the use of force against another state without its consent and without authorization from the UN Security Council is prohibited, unless it is in self-defense against an armed attack or to prevent an imminent attack. Mike Pompeo, the then U.S. Secretary of State, claimed that the strike was carried out in self-defense, but the government has not provided evidence. If the United States considered this action as self-defense, it should have immediately reported it to the Security Council under Article 51 of the Charter, but it has not done so."

The Atlantic Council, in an article by Abbas Kadhim titled "The Assassination of General Soleimani by Order of Trump Violates Iraq's Constitution and Strategic Agreement with the United States," noted that the killing of General Soleimani and Abu Mahdi al-Muhandis placed Iraq at the center of escalating tensions between the U.S. and Iran and strained U.S.–Iraq relations. The Iraqi parliament's vote to expel U.S. forces was both symbolically and substantively significant, signaling Iraq's prioritization of sovereignty and national interests. The article argued that the U.S. presence in Iraq—originally intended for training and counterterrorism—was used for other purposes, such as the attack on Soleimani, thereby violating Iraq's constitution and bilateral agreements (Shok, 2021).

In an analysis published by the Brookings Institution, authored by Mehdiya Afzal, it is stated that "the killing of Qasem Soleimani is striking because he represented Iran's military, and Iran views it as an act of war."

Ina Rudolph, in an article published by the German Council on Foreign Relations, described the U.S. action as aggressive and unlawful, emphasizing that the assassination of General Soleimani and Abu Mahdi al-Muhandis lacked legitimacy and further undermined Iraq's sovereignty.

The New York Times also published an article by Jonathan Stevenson titled "Committing a War Crime and the Disarray in U.S. Foreign Policy," stating that the assassination of General Qasem Soleimani and four others in Baghdad lacked significant strategic logic for the United States and, in many respects, highlighted failures in U.S. foreign policy decision-making.

CONCLUSION:

Legal analysis of the assassination of Martyr Soleimani is considered an international crime by some legal scholars and can be tried in Iranian courts since the victim was an Iranian. This incident also includes the crime of territorial aggression as defined in the UN Charter and the Statute of the International Criminal Court. In other words, the US attack on Baghdad airport is a violation of Iraq's sovereignty and political independence. It is also considered an armed attack on Iran, and there is a right of self-defense based on the UN Charter and customary international law. This attack also violated US domestic law because it was carried out without the authorization of the US Congress. The US has referred to deterrent defense in justifying its action. However, from a legal perspective, defense against aggression makes sense, which is based on the three principles of proportionality, necessity, and urgency. Iran can independently take countermeasures within the framework of the UN's 2001 draft on the international responsibility of states. Because in terms of international law, Iran and the United States are not in a state of armed conflict, resorting to the tools of the law of war to justify the US action in targeting General Soleimani would be unwarranted. Declaring the IRGC a terrorist organization by the US is within the scope of US domestic law, and relying on it in the territory of Iraq is not appropriate.

One of the challenges facing the Islamic Republic of Iran in pursuing this issue is the high influence of the United States on authorities such as the UN Security Council, as well as the non-membership of the governments of Iraq, Iran, and the United States in the International Criminal Court, which is considered to complicate judicial proceedings in the international arena. Therefore, given that this incident occurred on Iraqi soil, the process of properly handling this case requires the collection of effective information in cooperation with the said government and an international fact-finding committee, which can be formed at the request of Iran to the Secretary-General of the United Nations.

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