

Qasem Soleimani, Iran, and the Rule of Law



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As with most political issues, there are those who praise the United States assassination of Iranian general, Qasem Soleimani, and those who decry it. And, as per usual, the division is mostly along party lines, with some calling it wise, virtuous, and a necessary act that will prevent war with Iran, while others call it foolish, evil, and an unnecessary act that will lead to war with Iran.

What is also as per usual is the fact that most are merely arguing for or against the act, but few are asking questions and even fewer are discussing matters of principle and the rule of law. My friend, Jake MacAulay, of the Institute on the Constitution, was the first that I'm aware of to actually drag the U.S. Constitution into the debate in his [weekly commentary](#).

The first questions that Christian people committed to honoring God, upholding the U.S. Constitution, and maintaining the rule of law must always ask are, 1) What does the word of God say? 2) What does the U.S. Constitution say? 3) What will

limit the power of government and maximize liberty? To fail to ask these three questions is to throw ourselves open to Godlessness, lawlessness, and tyranny.

Considering that government derives its just power from the consent of the governed (as stated in the Declaration of Independence), then government can have no power except that which the people first possess in themselves, then delegate to government. In like fashion, people only possess that power, and those rights, which our Creator first bestowed upon us.

In other words, civil government only possesses the aggregate authority of the people who establish it. Anything that it is right, or authorized by God for us as individuals to do, we, acting in the collective, can authorize government to do. Conversely, anything that God has not authorized us as individuals to do, we, acting in the collective, cannot authorize government to do.

God clearly prohibits murder. However, His word also makes it evident that he approves of protecting the innocent, even to the point of using lethal force to stop an aggressor. From this we derive laws in the civil society that prohibit murder but allow killing in self-defense, calling it justifiable homicide.

Similarly, Christian people, beginning with Saint Augustine, developed a Just War Doctrine which, among other things, concludes that a just war is a defensive war because government only possesses the authority given it by people who themselves possess only the rights granted to them by God. Therefore, if it's wrong for an individual to murder, it's wrong for government to murder. If it's right for an individual to defend themselves, it's right for government to defend its citizens.

With God's word, the U.S. Constitution, and my friend Jake MacAuley's commentary in mind, I came to the following

conclusions regarding General Soleimani, Iran, and the Rule of Law.

1) If it can be verified that the nation of Iran poses an imminent threat to the lives, liberty, or property of American citizens, that all reasonable diplomatic efforts have been exhausted, and that American lives will be lost if immediate action is not taken, then it is the duty of Congress to issue a declaration of war against the sovereign nation of Iran pursuant to Article I, Section 8, Clause 11 of the U.S. Constitution, and of the President to prosecute that war through military force in defense of our God-given rights.

2) If the nation of Iran is not an imminent threat to the God-given rights of Americans, but if it could have been verified that General Soleimani had killed Americans, had led a group that killed Americans, or was planning an imminent attack on Americans, then it would have been the duty of Congress to issue a letter of marque pursuant to Article I, Section 8, Clause 11 of the U.S. Constitution naming the general as its target.

3) If neither a declaration of war, nor letter of marque and reprisal are passed by Congress and signed by the President, then the killing of any person, either within the borders of the United States or abroad, without due process of law (arrest, trial, execution), is an ordinary act of murder for which both the President ordering the act and those carrying out the order are liable (military personnel take an oath to "support and defend the Constitution of the United States" making it incumbent upon them to disobey an unlawful, i.e., unconstitutional order).

Following the simple criteria laid out in the U.S. Constitution for declaring war and issuing letters of marque and reprisal would address the major concerns that I have with the assassination of General Soleimani and our apparent determination to engage in hostilities with Iran.

We have long been told by our government, the news media, and a whole host of talking heads, that Iran is our enemy. We are now told by the same people that General Soleimani was a terrorist killing Americans. My concern is that the same government told us there were weapons of mass destruction in Iraq and the same news media told us Donald Trump colluded with Russians. I have no confidence in either our government or the news media to tell us the truth in such matters. I'm not paranoid nor waxing conspiratorial, I'm just not that gullible.

My concerns with killing Soleimani as a terrorist and pursuing hostilities with Iran as an enemy are, 1) Where's the proof of the allegations? 2) Where's the Constitutional authority for the actions?

I'm not saying the allegations against Soleimani and Iran aren't so, and I know my conservative friends can assure me they are so because Fox News and their favorite talk radio hosts have told them so day and night. What I am saying is that it's foolhardy to trust the government, believe the news media, and based on their assertions, give Presidents a license to kill without requiring verification of the claims and clear Congressional authorization through a declaration of war or letters of marque and reprisal. (Last I checked, we do not have a declaration of war with Iran but are operating under the [2001 AUMF](#) which authorizes the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on Sept. 11, 2001..." But no one is even trying to argue that Iran, Soleimani, or for that matter, Syria, Yemen, etc, participated in 9-11.)

So, where's the proof? Where's the declaration of war? Where's the letter of marque? And where's the Constitutional rule of law?

Iran may be an enemy, and Soleimani may have been a terrorist, but requiring Congress to issue a declaration of war, or grant a letter of marque, would necessitate debate in Congress and the establishing of the facts necessary for “we the people” to be assured that our government is acting lawfully, not engaging in unnecessary hostilities, nor assassinating persons whose actions do not rise to the occasion. Such debate and establishing of facts would go a long way toward building public trust and support for our government’s actions.

And this isn’t just about Soleimani, Iran, or Trump. This is about Trump, Obama, and Bush before them. It’s about Iran, Iraq, Syria, Yemen, Afghanistan, Pakistan, and however many other places around the world we have military personnel engaged in hostilities, advisers directing military actions of other countries, arms being provided to various factions, and U.S. Presidents authorizing assassinations based on computer-generated [“kill lists.”](#)

This isn’t about one incident or one man, but about holding Presidents accountable to the people’s representatives in Congress and holding Congress accountable to the U.S. Constitution and the rule of law.

By not requiring a debate in Congress, nor the establishing of facts, nor a declaration of war or letter of marque, “we the people” are effectively signing a blank check and saying that it’s okay for this, and future Presidents (who may be of another party), to kill whoever they want, whenever they want, wherever they want, and to order America’s sons and daughters to fight and die for whatever cause they want, whenever they want, wherever they want – no proof of allegations required; no Congressional authorization required; no rule of law required.

If “We the people” do not hold our Presidents accountable to our Congressional representatives and their Constitutional duty to declare war and grant letters of marque and reprisal,

then we have abandoned the republic and its Constitution, replacing them instead with an elective imperial executive.

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[BIO: Robert Peck lives in Spokane Valley, Washington, where he owns and manages residential rental property. As a Christian man who finds himself compelled to take a stand in the civil arena, Bob has served in political campaigns, promoted Constitutional education in the community, provides technical assistance to various Constitutional causes and also manages to write the occasional article. Having served in the Constitution Party, both as a county chairman, state chairman, and national committee member, Bob counts party fonder, the late Howard Phillips, as the example of boldly uncompromising Christian Constitutionalism that he hopes to emulate.]

ADDITIONAL RESOURCES

- [**The Constitutionality of Long Distance Air Strikes**](#) – Weekly commentary by Jake MacAulay, CEO Institute on the Constitution.
- [**Trump and the General**](#) – Analysis by Darrell Castle, 2016 Constitution Party Presidential candidate.
- [**Rick Steves After Travelling to Iran: “Why Death To America”**](#) – Travel writer and television personality, Rick Steves, shares his personal experiences with the Iranian people and their way of life (5 minutes – see the [1 hour version here](#)).