

Western New England
University School of Law's

Lex | Brevvis

National Topic Issue 2020

Lex | Brevis

Spring 2020 Volume 47 Issue 3

1 **Expanding Civil Gideon:
Right to Counsel in
Evictions Gaining
Momentum, Keeping
Roofs Over Heads**

Laura Fisher

4 **2007 All Over Again**

Alex Cerbo

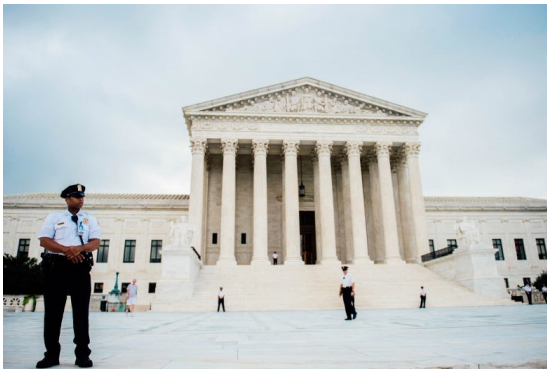
8 **Remote-controlled
Weapon Systems:
The Legality of Drones
in Armed Conflict and
In the Killing of Irani-
an General Soleimani.**

Eric R. Harrell

Expanding Civil Gideon: Right to Counsel in Evictions Gaining Momentum, Keeping Roofs Over Heads

by **Laura Fisher, Director of Career Services**

In 2017, the New York City Council passed legislation guaranteeing certain low-income tenants facing eviction with the right to counsel throughout the pendency of their eviction proceedings. In the first year of the right to counsel program's implementation, 84% of tenants who were provided an attorney in housing court remained in their homes.



Andrew Caballero-Reynolds/AFP/Getty Images

In New York City and throughout the nation, tenants have historically been represented by counsel with startling infrequency: an estimated 90% of landlords have legal representation, compared to only 10% of tenants. Such disparity in representation and access to justice ultimately leads to devastating consequences for individuals and communities.

New York City is not the only municipality to endorse the expansion of the

right to counsel to eviction proceedings. In 2018, through a ballot measure, San Francisco guaranteed legal assistance to anyone facing eviction regardless of their level of income. Right to counsel mandates and pilot projects for evictions have also surfaced in cities as disparate as Cleveland, Ohio; Washington D.C.; Newark, New Jersey; Los Angeles, California; and Denver, Colorado. Similarly, Massachusetts, Connecticut, and Minnesota are pursuing similar right to counsel initiatives statewide.

Inevitably, where a right to counsel for eviction proceedings exists, lawyers ready and willing to represent tenants in those proceedings must also exist. This unique juncture in history provides law students and new lawyers with the opportunity to be of service to a previously (and woefully) underrepresented group.

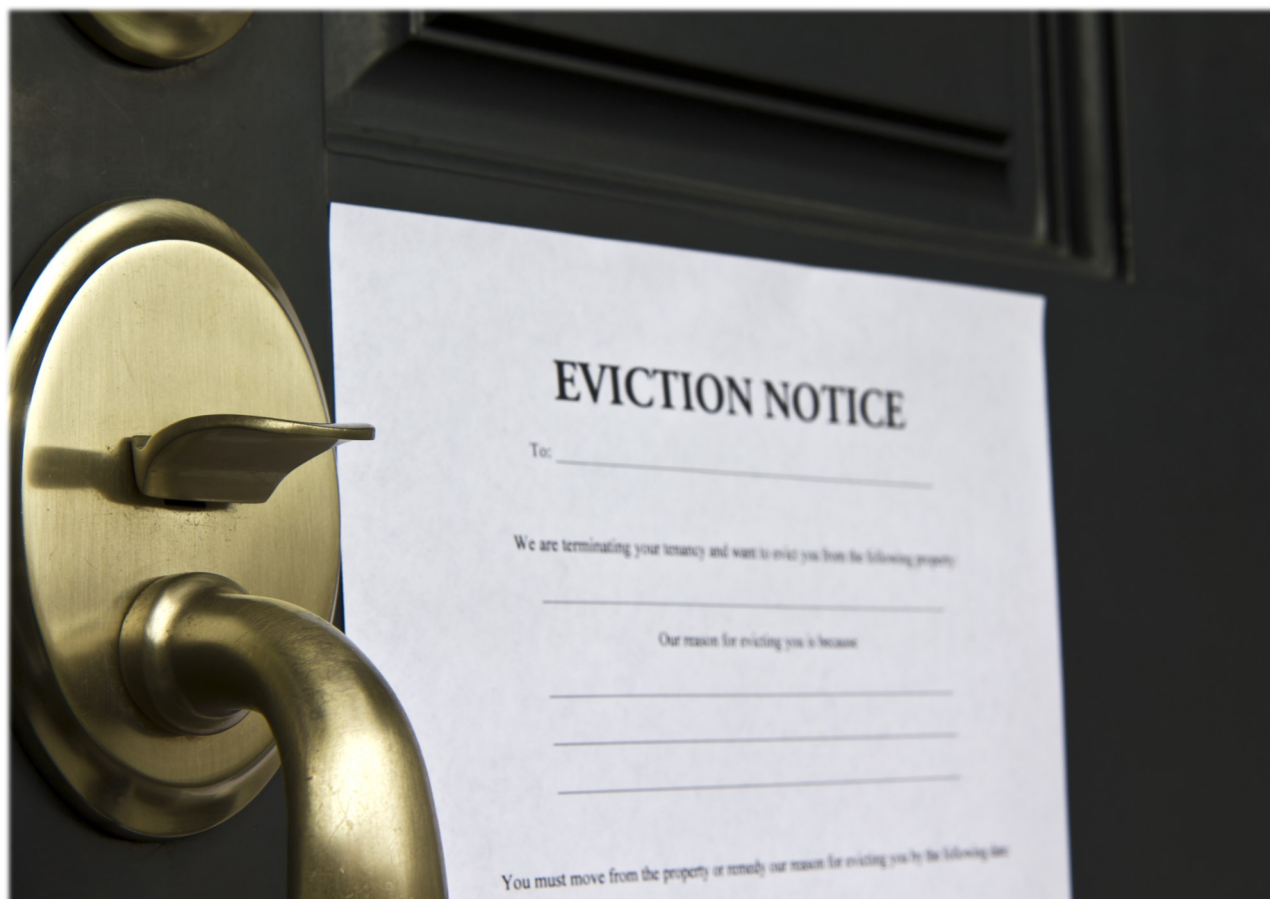
As the right to counsel for tenants in eviction proceedings percolates across the country, consider how you might gain experience in this practice area through your opportunities here at Western New England University School of Law. For instance, the Hampden County Bar Association provides Housing Court Lawyer for the Day volunteers to eligible landlords and tenants on Thursdays (eviction

days). Interested students can contact Sam Charron in Career Services for information on how to sign up for this work, which counts toward the pro bono graduation requirement. There are numerous other experiential opportunities for involvement as well—internships with housing court judges and legal services organizations offering representation to tenants, for starters.

If this type of work resonates with you, be assured that the expansion of the right to counsel into eviction proceedings portends hiring of said counsel. Your experience in tenant representation while in law school might lead to a job someday. Even better, your work might help a local tenant avoid homelessness.

¹ All About the Right to Counsel for Evictions in NYC, January 5, 2020, available at: http://civilrighttocounsel.org/major_developments/894

² A Right to Counsel Is a Right to a Fighting Chance: The Importance of Legal Representation in Eviction Proceedings, October 2, 2019, available at: <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>



WNE PUBLIC INTEREST LAW
ASSOCIATION
INVITES YOU

SILENT AND LIVE AUCTION

WESTERN NEW ENGLAND
SCHOOL OF LAW COMMONS

MARCH 26
2020

6 PM
TILL 8:00

BUSINESS CASUAL
APPETIZERS AND DRINKS START AT 6PM.

JOIN US IN FUNDING SCHOLARSHIPS
FOR PUBLIC INTEREST INTERNSHIPS

2007 All Over Again

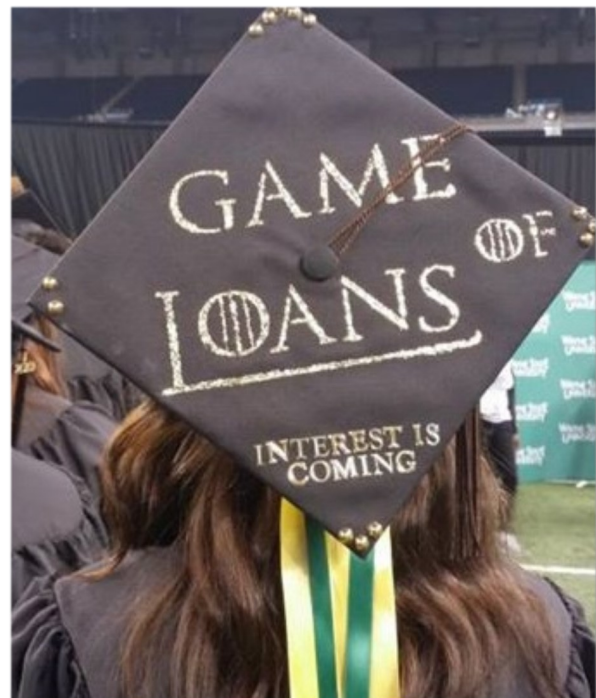
by Alex Cerbo, Editor-in-Chief

The student loan crisis in America is perhaps the gravest concern facing our youth. With 44.7 million student borrowers owing a collective amount of \$1.56 trillion dollars, the financial future of the next generation, and for our country as a whole, is frightening. Many Americans now wake up every day and ask themselves whether it is even worth going to college in the first place. A recent survey showed that half of millennials would say it is not.

Here are some statistics which *should* scare you: Since 1970, wages have increased by 67%. However, college tuition has increased well beyond that percentage and is still exponentially growing. Of the 44.7 million student loan borrowers, 609,800 of them owe \$200,000 or more in student loans. This crisis does not just affect those in their 20's, either. Over 3 million senior citizens, aged 60 or over, are still paying their student loans. That's right, more than 3 million Americans, who should be enjoying time with their grandchildren, owe a collective debt of more than \$6 billion dollars in unpaid student loan. And what's most ironic about this particular circumstance is that the federal government is paying off their own loans as most senior citizens are using their social security check to make their monthly student loan payment.

It is estimated that by 2023, 40% of student loan borrowers will default on their loans. Of those individuals filing Chapter 7 bankruptcy, 32% are doing so

due to their outrageous student loans. And perhaps the saddest reality of all, 13% of student loan borrowers have listed their student loan debt as the reason they have decided to not have children. With the average student loan debt at approximately \$30,000, who can blame them? Our next generation of Americans is starting off their lives in debt, having to work countless hours so that hopefully, one day in the future, they can actually start a family and enjoy life. Many have compared this current financial crisis to the housing market crash of 2007, and it appears just as that bubble burst, this one may as well.





As we head into an election year, many democratic presidential candidates have proposed plans on how they would deal with this national emergency. Most notably, Senator Elizabeth Warren has introduced a plan to forgive \$1.25 trillion dollars of student loan debt, practically erasing the collective amount all together while also advocating for universal free college. Other candidates such as Bernie Sanders, Andrew Yang, Amy Klobuchar and others have proposed similar plans to ease the burden of student loan debt and provide more student loan forgiveness programs. They even want to subsidize the cost of college for those who enlist into national guard.

Fortunately, there is a silver lining for student loan borrowers: the recent Seventh Circuit decision in *Nelson v. Great Lakes Higher Education*. In this case, a student borrower brought suit against her student loan provider under her state's consumer protection statute for misrepresenting her options for loan repayment and loan forgiveness programs, a common problem with private student loan servicers. Attorney Adam Minsky expands upon this common issue many student borrowers face

when repaying their loans by stating “some of the biggest student loan servicing companies have been accused of widespread unfair and deceptive practices such as deliberately steering borrowers into forbearance or failing to accurately convey critical information about student loan repayment and forgiveness programs.”

Minsky also explains the dilemma of taking legal action against loan servicers for these “deceptive practices,” especially if they are a federal student loan borrower.

“One of the particularly challenging aspects of the student loan system is that if a federal student loan borrower is subjected to some sort of misconduct by their loan servicer, there may not be clear resource under federal law. That’s because in order to sue a federal contractor for violations of its obligations, federal law has to allow for a suit to be filed through what’s sometimes called a ‘private right of action.’”



Attorney Adam Minsky, Student Loan Lawyer.

Unfortunately, the Higher Education Act—*a major piece of federal legislation which governs most of the student loan system*—prohibits the private right of action which would allow individual student loan borrowers to go after their loan servicer for violations.

However, there are many states which have laws making it illegal for any form of unfair or deceptive business practices to be used by consumer financial companies. In fact, several states have recently passed what is known as the Student Loan Borrower Bill of Rights. This Bill of Rights specifically bans some of the most common acts of misconduct by student loan servicers. These laws also include a private right of action which allows individuals to file suit, as mentioned above. In recent years, loan servicers, backed by the federal government, argued that federal law trumps state law, and since there is no federal law which provides a right of actions for violations under the Higher Education Act, state law cannot do so either. The decision in *Nelson* changed that for the better, as the court ruled that “affirmative misrepresentations (or active efforts by a student loan servicer to mislead borrowers about their rights, options, or obligations) are not pre-empted by federal law.”

¹ Hillary Hoffower & Allana Akhtar, 11 Mind-Blowing Facts that Show Just How Dire the Student-Loan Crisis in America is, *Business Insider* (2019).

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

While this decision does have some caveats such that it is only binding in the Seventh Circuit, nonetheless it still serves as a major stepping-stone for student loan borrowers when it comes to interacting with loan servicers. It is important that future legislation be proposed to help protect against other forms of deceptive practices by loan services such as omitting pertinent information or not disclosing all of their repayment options to their borrowers. Still, this is a crucial step in the right direction for the student loan crisis. It is aiding in servicer accountability and stopping deliberate misconduct in its tracks. Maybe one day this nation will be free from student loan debt altogether. Until then, we must



⁹ Adams S. Minsky, Esq., This Big Court Decision May Help Student Loan Borrowers, *Forbes* (2019).

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*



WESTERN NEW ENGLAND
UNIVERSITY | **WNE**
SCHOOL of LAW

LLSA

E: LLSAATWNELAW@GMAIL.COM

SUMMER 2020: WHAT WILL YOU DO?

**Come join our Panel Discussion
as we talk about the different
Summer Internship
Experiences including:**

- **Public Interest**
- **Study Abroad**
- **Federal Work Study**
- **Small/Big Firms**
- **District Attorney's Office**
- **Judicial Internships**

**FEB. 18, 2020
3:30PM-5:00PM
ROOM C**

DRONE ASSASSINATIONS

Remote-controlled Weapon Systems: The Legality of Drones in Armed Conflict and In the Killing of Iranian General Soleimani

by **Eric R. Harrell**

The holidays can be tense as people struggle to buy last-minute gifts and find time to see both friends and family. As law students, I think we look forward to the holidays as a welcome reprieve from class after the stress of finals. It's a time where we look forward to celebrations and dinners. Heck, we depend on this time to recuperate. We've even come to expect the holidays as part of our ritual for recovery, but none of us could have expected a drone strike over the holidays.

Students weren't alone in their shock. No one expected the political assassination of Iranian General Qassem Soleimani to be carried out by a drone in Baghdad on January 3rd, 2020. Even Congress didn't expect the attack! It was surreal to be vacationing in Canada during the holidays, watching the news, and wondering if a war would begin by the time I got back to the States. As I followed the whole fiasco, I suddenly got the itch: I knew that I'd have to delve into this issue and determine the legality of such an attack myself.

The use of drones, termed as remote-controlled weapon systems, has increased significantly by international parties to armed conflict. In an armed conflict, a drone represents a terrifying weapon. The drone's ability to bypass terrain on the ground and enter virtually any airspace to carry out a deadly attack causes a lot of concern for some countries. Turns out armed Drones raise a lot of legal questions. The rest of this article will delve into the legality of remote-controlled

weapons in the framework of the world's rules of war, noting the national procedures for use of force along the way.



THE DRONE

The drone that carried out that attack on Soleimani was an MQ-9 Reaper drone. According to the United States Air Force, the 64.2-million-dollar drone has an effective range of 1,150 miles and can reach altitudes as high as 50,000 feet. That's higher than the 45,000 feet limit set by commercial airlines. Higher than most clouds in temperate climates. Most importantly, that altitude range is outside of visible range. The effective range of the drone is more than twice the distance from Springfield, Massachusetts to Toronto, Canada. The range of the drone is approximately the same distance from this Law School (Western New England) to the state of Florida. Take that in.

The MQ-9 Reaper drone is a remotely piloted aircraft system that was “designed to execute time-sensitive targets with precision” and to destroy them. To that end, it is armed with AGM-114 Hellfire missiles, GBU-12 Paveway II, and GBU-38 Joint Direct Attack Munitions. According to the U.S. army, AGM-114 Hellfire missiles are anti-tank air-to-ground missiles that are capable of destroying any modern tank. Such a devastating weapon was likely the one used upon the transport vehicle that carried Iraqi paramilitary commander Abu Mahdi al-Mohandes and Soleimani as they were traveling on a road leading to Baghdad International Airport. No matter your political affiliation, you have to agree that the ability of a near invisible drone capable of flying into aerial space to launch an attack that kills a precise target from over a thousand miles away is alarming and would be frightening in the wrong hands. The question that might be running through your mind right now is whether such a weapon was legal to use.

BACKGROUND OF THE ATTACK

Qasem Soleimani was the leader of the Quds Force, a squad that carried out military intelligence missions and overseas operations for the Islamic Revolutionary Guard Corps (“IRGC”), which reports directly to Iran’s spiritual leader Ayatollah Ali Khamenei. Soleimani was no ally of the United States and was even responsible for the training of Iraqi militias, which led attacks on United States forces. In 2019 alone, Soleimani’s IRGC Quds Force attacked oil tankers and processing facilities while supporting the Houthi militiamen who fired missiles into Saudi Arabia. On April 8 of 2019, President Trump declared that the IRGC was a terrorist group.

Donald Trump approved the drone attack that killed General Soleimani. In a Statement by the Department of Defense released January 2 of 2020, the Trump administration justified the attack by stating that the attack deterred and prevented an imminent Iranian attack. The release stated that “General Soleimani was actively developing plans to attack American diplomats and service members in Iraq and throughout the region.” This attack was followed by statements from Iran vowing retaliation and led to Iran abandoning a nuclear deal that put limits and checks on Iran’s Nuclear Program. There were serious concerns that the U.S. would go into war with Iran.



Iran's threat was followed by Trump's own threat over twitter that the United States would target 52 sites, including those important to Iranian culture. Iran responded by bombing two Iraqi military bases on January 7th, which held American military personnel. Iranian Foreign Minister Mohammad Javad Zarif tweeted after that attack: "Iran took & concluded proportionate measures in self-defense under Article 51 of UN Charter targeting base from which cowardly armed attack against our citizens & senior officials were launched. We do not seek escalation or war, but will defend ourselves against any aggression." The next day, the Iranian military mistakenly shot down a Ukrainian Boeing 737 passenger airliner plane killing 176 people on board, including 63 Canadians. Iran's military labeled this incident an accident caused by human error but there is no mistaking the deaths of 176 human beings as a result of this retaliation.

WAS THE ATTACK LEGAL UNDER UNITED STATES' LAW

After the killing of Soleimani, there were some Americans celebrating the attack on the belief that the drone strike was justified but there was also the outcry of many others saying that it was illegal for Trump to order the strike without the approval of Congress. "The notification, required by law within 48 hours of introducing American forces into armed conflict or a situation that could lead to war, has to be signed and then sent to Congress, according to the officials with knowledge of the plan." The notice is required by the War Powers Resolution, enacted in 1973 during the Nixon administration, which requires presidents to notify Congress after

deploying United States armed forces and limits how long units can remain engaged without congressional approval. Almost every sitting president since, from Reagan with El Salvador, to Clinton with Kosovo, and even Obama with Libya, has challenged the War Powers Resolution.

White House national security advisor, Robert C. O'Brien, cited President Trump's "constitutional authorities as commander in chief to defend our nation" as justification for the strike. He cited Congressional approval in 2002 granting President George W. Bush the legal authority to wage war on Saddam Hussein and the government of Iraq. President Obama used his authority to extend the U.S.'s military campaign into Libya without congressional authority. Obama's administration argued that the U.S.'s role was so limited that it did not oblige the administration to ask for authorization under the War Powers Resolution, since that operation did "not involve sustained fighting or active exchanges of fire with hostile forces, nor [did] they involve U.S. ground troops." The same reasoning does not apply to the Trump administration because this drone strike used a U.S. military asset to commit an assassination of a high ranking foreign general and it could not argued that the role of the United States was limited.

Typically, there are two ways that a Presidential administration can enter into hostilities with another country: (1) the decision can be authorized by Congress under an Authorization for Use of Military Force ("AUMF") or (2) a President, as Commander-in-Chief of the armed forces, can direct the military under Article II § 2 of the Constitution. The drone strike was

carried out without the consultation of Congress. There was no advance notice given to Congress that is typical and the eventual notice that was given to Congress was classified and thus unavailable to the public. According to House Speaker Nancy Pelosi, the classified notice has serious implications and raises questions about the timing, manner and justification of Trump's drone strike against Iran. The President also has the power to direct the military under the Constitution, which establishes the President as Commander-in-Chief of the armed forces. The President could make the argument that the attack was necessary in self-defense to prevent an imminent attack and he was authorized under the Constitution to make an executive military decision.

U.S. officials did not state a specific legal basis for the strike until Robert O'Brien, Trump's national security adviser, cited the 2002 AUMF, which authorized the war against Saddam Hussein's regime in Iraq. O'Brien said that the 2002 AUMF was consistent with the president's constitutional authority as commander-in-chief to defend the country and armed forces against attacks. You may be wondering how the Trump Administration could justify an attack on an authorization that was provided during the Bush Administration. Well, the 2002 AUMF is still in effect. Recall also that Soleimani was attacked within Iraq, killed on his way to the Baghdad International Airport. This may also explain the suddenness of the attack. Essentially, military forces must have known that the window to kill Soleimani only existed as he was within Iraq and pressured Trump to make the call. Still, it is a loose justification to assassinate a foreign official from Iran under the

authorization for a war in Iraq nearly a decade ago. This justification has been criticized but not legally challenged. Experts and legal academics have recognized a steady trend that presidential war powers have been consistently expanding for years. The real concern is when presidential war powers are justified on a basis so far removed that one could not make the connection without doing some sort of mental gymnastics.

The Trump administration's justification comes on the heel of the Department of Defense's statement that the drone strike was ordered to prevent what it described as an imminent attack. This statement was later explained by Defense Secretary Mark Esper. Appearing on CNN's 'State of the Union,' Esper said "[w]hat the President said with regard to the four embassies is what I believe as well. . . . [Trump] said that he believed that they probably, that they could have been targeting the embassies in the region." In a separate interview on January 5th, Esper backtracked his earlier statements and stated that he did not see a specific threat. The statements call the justification of the drone strike into question. 'Probably' and 'could have' are not credible indicators of surety and should not be the basis of any use of lethal force. If the attacks were



predicated on the deterrence of an imminent attack on U.S. embassies, then Esper's portrayal of Trump's uncertainty is damning. Esper's comments suggest that the attack on U.S. embassies was not imminent at all.

Supposedly, there were also statements from the Pentagon that the drone strike was authorized under 10 U.S. Code § 127e. This justification, contradicting the justification given by Trump's national advisor, suggests that there was even some confusion within the Pentagon. Proponents of that statute say that it cannot justify an attack of this kind. 10 U.S. Code § 127e only authorizes funding for counterterrorism efforts. While IRGC, which Soleimani led, is designated a terrorist group, an attack cannot be justified solely on 10 U.S. Code § 127e, since it only affects funding. Given the Trump administration's more recent justification, there is no way that it would ever admit to using 10 U.S. Code § 127e as a legal basis.

Trump's justification relies on the characterization of the drone attack as an act of self-defense in an armed conflict rather than the characterization of an assassination. Assassinations is prohibited by any U.S. executive order. But how else do we characterize a drone strike launching an attack to kill one individual? There are experts who compare this drone strike to Iran killing a U.S. military official with a bomb, which would undoubtedly be characterized as an assassination under the Trump administration. However, there are exceptions for a lawful killing during an armed conflict and under this exception, even if the president personally planned and ordered the attacks, the drone strikes would not constitute an assassination.

It's difficult to argue that the drone strike against Soleimani is unlawful under U.S. law but it can be argued that those "justifications may rely on interpretations of law that are controversial or antiquated." The constitution provides a large deference to the President in matters of war. Nevertheless, the use of an AUMF should have triggered a War Powers notification to Congress under the War Powers Resolution. The President's weak justification, the classified contents of the Congressional notice, and the narrow characterization of the attack do not work in this current administration's favor.

WAS THE ATTACK LEGAL UNDER INTERNATIONAL RULES OF WAR

The rules of war are articulated by the laws governing armed conflict otherwise known as International Humanitarian Law ("IHL") and under IHL, drone attacks are legal. Armed drones themselves are not expressly prohibited, nor are their attacks considered to be inherently indiscriminate. First, drones are not specifically mentioned in any weapon treaties or other IHL instruments. Drones are not entirely autonomous and are likened to manned aircrafts like helicopters by virtue of their remote control.

IHL is articulated by the four Geneva Conventions of 1949 and their Additional Protocols published in later years. The four Geneva Conventions have been universally ratified now with 196, including all UN member states agreeing to its provisions. The Additional Protocols of the Geneva Conventions have also been ratified by a majority of States. Yes, countries in international law are referred to as States — which can get tricky when refer-

ring to states within those countries. States do not have unlimited rights to choose the method of warfare in an armed conflict. Civilians enjoy certain protections under the Geneva Convention. Under article 51 of Additional Protocol II to the Geneva Convention, an attack must not be indiscriminate. An attack is indiscriminate if it's not directed at a specific military objective. In an armed conflict between states, lethal force may be used against combatants, fighters, and against civilians taking a direct part in hostilities.

Here, the armed drone itself is not prohibited. Furthermore, the hellfire missile attack on Soleimani would not likely fall under the definition of an indiscriminate attack since the drone strike is not inherently indiscriminate and missile attack was directed at a specific military target. The drone strike did not kill any civilians. The only reported victims of the drone strike are Soleimani and Abu Mahdi al-Mohandes. Of those two, it could be argued that they were combatants or at the very least civilians taking direct part in the armed conflict. Therefore, it is unlikely that the drone strike violated IHL. Note that this is a very narrow application of the law from a law student and not a comprehensive legal opinion that would invariably utilize more legal sources to make its finding

While the drone attack is arguably legal in the armed conflict between the U.S. and Iran, the ordered killing of Soleimani has dire consequences for the region. The U.S. drone strike was a severe escalation of tensions in the region and a departure from the foreign policy practices by States in that region. Under international law generally, States are not sup-

posed to use military force without the consent of the host state. In the past, the U.S. has argued that a host government that is unwilling or unable to consent must allow a State to take action without consent. This argument is extremely controversial because it defeats the whole point of consent in the first place. Even under a justification of self-defense, the test has a high burden and requires that the threat be imminent and that the State has been left with no other choice.

It is unlikely that this matter would ever go before the International Court of Justice ("ICJ") and even more unlikely that there would be a ruling that prohibits armed drone attacks. The ICJ operates differently than courts in the U.S. Unlike the *stare decisis* that is adhered to in the U.S., prior decisions are not binding on the ICJ and are only persuasive. Even if the ICJ were to decide that this one drone attack violated international law, the same court could decide the opposite in another case.

The fear of a drone strike may be overwhelming but the world has laws in place to determine the efficacy of its use in armed conflicts. Long after its use in both World Wars, chemical gas weaponry has been prohibited as a matter of law. The use of chemical weapons in armed conflicts have been condemned through the signing of the 1993 Convention on the Prohibition of Chemical Weapons, signed by 193 States, including a majority of the UN Security Council. Perhaps one day, the world will recognize the dangers that drones pose and prohibit its use as well.

QUICK WORD ON HUMAN RIGHTS

The conversation on human rights has been admittedly lacking and is in its infancy so this article has decided to table the discussion on this front. At the end of the day, people have basic human rights afforded to them by numerous international covenants such as the Universal Declaration of Human Rights (“UDHR”) and the International Covenant on Civil and Political Rights (“ICCPR”).

For example, under Article 3 of the UDHR, “everyone has the right to life, liberty and security of person” and under Article 6, everyone has the right to recognition everywhere as a person before the law. Under article 6 of the ICCPR, “Every human being has the inherent right to life . . . [which] shall be protected by law . . . [because] [n]o one shall be arbitrarily deprived of [their] life.” Under article 9, “1. Everyone has the right to liberty and security of person.” Under article 14 of the ICCPR, “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

Just because someone is bad or has committed atrocities, we must still afford them human rights because we cannot abrogate those rights without a ruling of the court. I am not even convinced that people’s human rights should be stripped after a ruling from a national legislative body. Peoples’ lives have inherent value and the day a national court can justify a murder without responding to issues of human rights or even the opportunity for a trial is the day that we lose our sense of justice.

FINAL THOUGHT

Watching this all unfold in Canada while writing a paper on Armed Conflict for the Jessup Moot Court Team was auspicious. The fear of returning from vacation to a war between the United States and Iran was real. Over the holidays, the questions of legality of drone strikes began to burrow their way into my head, causing me to delve into this complicated issue and I hope it helped answer any questions that you had. When drones are used in armed conflict, international humanitarian law apply. In the absence of armed conflict, national law and international human rights law apply.

The legality of the drone strike is precarious, but it is likely that the legality under U.S. law will not be challenged in any court. Internationally, the world is unsure of how to approach drones and they occupy a bit of a loop-hole in the matter of armed conflict but it is important that the lack of express prohibition is relied upon by many countries around the world. While I am grateful that this drone strike did not result in a war, the damage to foreign policy in the area cannot be undone. The question of whether the President was justified is ultimately up to you, the reader and member of the public to decide for yourself. Unfortunately, that question is hard to answer for a member of the public. The notice has been classified in relevant parts by the Trump Administration and it lacks the transparency needed for a person to make an informed conclusion. What is evident is that there is a line that is walked by Presidents and that line can have serious implications for our country and for our lives.

Regarding the attack itself. It's hard for me to celebrate any kind of death. I don't adhere to the principle of lex talionis and I prefer rehabilitative justice systems rather than punitive ones. Still, it's a reality that some deaths are espoused as necessary in times of war but that is a stark reality to accept.

WORKS CITED

- ¹ <https://www.nytimes.com/2020/01/04/us/politics/white-house-war-powers-resolution.html>
- ² ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, 31st International Conference of the Red Cross and Red Crescent, (2011).
- ³ <https://nypost.com/2020/01/03/a-look-at-the-deadly-capabilities-of-the-mq-9-reaper-drone-that-took-out-gen-qassem-soleimani/>
- ⁴ <https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104470/mq-9-reaper/>
- ⁵ <https://www.usatoday.com/story/travel/columnist/cox/2014/02/02/maximum-altitude-airlines-concorde/5165635/>
- ⁶ <https://www.thoughtco.com/how-high-in-sky-are-clouds-3443677>
- ⁷ <https://bit.ly/38wIhZg>
- ⁸ <https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104470/mq-9-reaper/>
- ⁹ *Id.*
- ¹⁰ <https://asc.army.mil/web/portfolio-item/hellfire-family-of-missiles/>; <https://www.military.com/equipment/agm-114-hellfire>
- ¹¹ <https://www.wsj.com/articles/leader-of-iranian-revolutionary-guard-s-foreign-wing-killed-11578015855>; <https://www.forbes.com/sites/sebastienroblin/2020/01/04/did-the-pentagon-use-new-joint-air-to-ground-missiles-in-killing-of-general-soleimani/#7f5ba85c4bb6>
- ¹² <https://www.washingtonpost.com/world/2020/01/04/what-is-irans-revolutionary-guard-corps-that-soleimani-helped-lead/>
- ¹³ <https://www.bbc.com/news/world-middle-east-50987333>
- ¹⁴ <https://rusi.org/commentary/iran-s-first-response-soleimani-s-death-and-tehran-s-future-moves>
- ¹⁵ <https://www.washingtonpost.com/world/2020/01/04/what-is-irans-revolutionary-guard-corps-that-soleimani-helped-lead/>
- ¹⁶ <https://www.defense.gov/Newsroom/Releases/Release/Article/2049534/statement-by-the-department-of-defense/>
- ¹⁷ *Id.*
- ¹⁸ *Id.*
- ¹⁹ <https://www.nationalheraldindia.com/international/iran-abandons-nuclear-deal-in-response-to-soleimanis-death>
- ²⁰ https://twitter.com/realDonaldTrump/status/1213593975732527112?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1213593975732527112&ref_url=https%3A%2F%2Fwww.esquire.com%2Fnews-politics%2Fa30402232%2Ftrump-iran-threat-52-sites-twitter%2F
- ²¹ <https://www.cnbc.com/2020/01/07/iran-state-tv-says-tehran-has-launched-missiles-at-iraqs-air-base-housing-us-troops.html>
- ²² https://twitter.com/JZarif/status/1214736614217469953?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed&ref_url=https%3A%2F%2Fwww.cnbc.com%2F2020%2F01%2F07%2Firan-state-tv-says-tehran-has-launched-missiles-at-iraqs-air-base-housing-us-troops.html
- ²³ <https://www.usatoday.com/story/news/world/2020/01/09/ukraine-plane-likely-shot-down-iran-missile-report/4419263002/>
- ²⁴ <https://www.nbcnews.com/news/world/iranian-military-says-it-unintentionally-shot-down-ukrainian-plane-n1113996>
- ²⁵ <https://www.nytimes.com/2020/01/04/us/politics/white-house-war-powers-resolution.html>
- ²⁶ <https://www.history.com/topics/vietnam-war/war-powers-act>
- ²⁷ *Id.*
- ²⁸ <https://www.nytimes.com/2020/01/04/us/politics/white-house-war-powers-resolution.html>
- ²⁹ *Id.*
- ³⁰ <https://www.nytimes.com/2011/06/16/us/politics/16powers.html>
- ³¹ *Id.*
- ³² <https://www.washingtontimes.com/news/2020/jan/4/donald-trump-gives-congress-justification-missile/>
- ³³ *Id.*
- ³⁴ <https://www.npr.org/2020/01/04/793412105/was-it-legal-for-the-u-s-to-kill-a-top-iranian-military-leader>
- ³⁵ *Id.*
- ³⁶ <https://www.npr.org/2020/01/04/793412105/was-it-legal-for-the-u-s-to-kill-a-top-iranian-military-leader>
- ³⁷ <https://www.cnn.com/2020/01/12/politics/mark-esper-us-embassies-soleimani-cnntv/index.html>
- ³⁸ *Id.*
- ³⁹ <https://lawandcrime.com/legal-analysis/the-trump-admins-likely-legal-justifications-for-bypassing-congress-to-kill-qassem-soleimani/>
- ⁴⁰ *Id.*
- ⁴¹ <https://www.npr.org/2020/01/04/793412105/was-it-legal-for-the-u-s-to-kill-a-top-iranian-military-leader>
- ⁴² *Id.*
- ⁴³ *Id.*
- ⁴⁴ *Id.*
- ⁴⁵ <https://www.npr.org/templates/story/story.php?storyId=125206000>; <https://www.icrc.org/en/doc/resources/documents/interview/2013/05-10-drone-weapons-ihl.htm>
- ⁴⁶ *Id.*
- ⁴⁷ *Id.*
- ⁴⁸ International Committee of the Red Cross (ICRC), *Additional Protocol II to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, art. 35, 1125 UNTS 3, (1978).
- ⁴⁹ *Id.* at art. 51.
- ⁵⁰ *Id.*
- ⁵¹ <https://www.icrc.org/en/doc/resources/documents/interview/2013/05-10-drone-weapons-ihl.htm>
- ⁵² <https://www.sfchronicle.com/world/article/California-members-of-Congress-react-to-fatal-14948707.php>
- ⁵³ <https://www.npr.org/2020/01/04/793412105/was-it-legal-for-the-u-s-to-kill-a-top-iranian-military-leader>
- ⁵⁴ *Id.*
- ⁵⁵ *Id.*
- ⁵⁶ See, art. 38; <https://www.icj-cij.org/en/statute>.
- ⁵⁷ Eugenio V. Garcia, *Artificial Intelligence, Peace and Security* . . . , P. 12 (2019).





Bar Prep Course Features Checklist.

ABA
AMERICAN BAR ASSOCIATION™
Themis Bar Review was chosen by the ABA
as an official bar prep provider.

Get MORE with Themis Bar Review.

Themis Course Features	
Themis Students Pass the Bar Pass rates published every year.	✓
Straightforward Pricing Model No hidden costs. No cancellation fees. No binding contracts.	✓
Keep Your Study Schedule on Track with the Adaptive Calendar™ and Study Pacer™.	✓
The Science of Learning Only Themis includes principles of segmentation and retrieval for improved outcomes.	✓
Customize Your Studying Online flashcards that you can create by subject or subtopic, with premade flashcards included.	✓
Practice with “Real” Questions We offer NCBE-licensed questions from past bar exams.	✓
Gain Confidence with Unlimited Essay Grading from the same Dedicated Essay Grader throughout the course, featuring twice the number of assigned essays as other providers.	✓
Get the Support You Need from your Attorney Advisor, who monitors your performance and reaches out to you during bar prep with tailored test-taking tips and strategies.	✓
Start Studying Early with full course access up to four months in advance.	✓
Pay Over Time with an interest-free payment plan.	✓
100% Free Pass Guarantee Free repeat of next scheduled exam for first-time Themis takers.	✓

We want **YOU!**

Lex Brevis is always looking for new talent!

Submissions are welcome from day and night students, professors, administrators, alumni, the dean of the law school, you get the idea!

If you are interested in becoming a staff writer, have a great idea for the newspaper, or have captured awesome pictures of your law school community,

Email us at **LexBrevis@gmail.com**