

Lies, the Bethlehem Doctrine, and the Illegal Murder of Soleimani

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In one of the series of blatant lies the USA has told to justify the assassination of Soleimani, Mike Pompeo said that Soleimani was killed because he was planning "[Imminent attacks](#)" on US citizens. It is a careful choice of word. Pompeo is specifically referring to the Bethlehem Doctrine of Pre-Emptive Self Defence.

Developed by Daniel Bethlehem when Legal Adviser to first Netanyahu's government and then Blair's, the Bethlehem Doctrine is that states have a right of "pre-emptive self-defence" against "imminent" attack. That is something most people, and most international law experts and judges, would accept. Including me.

What very few people, and almost no international lawyers, accept is the key to the Bethlehem Doctrine - that here "Imminent" - the word used so carefully by Pompeo - does not need to have its normal meanings of either "soon" or "about to happen". An attack may be deemed "imminent", according to the Bethlehem Doctrine, even if you know no details of it or when it might occur. So you may be assassinated by a drone or bomb strike - and the doctrine was specifically developed to justify such strikes - because of "intelligence" you are engaged in a plot, when that intelligence neither says what the plot is nor when it might occur. Or even more tenuous, because there is intelligence you have engaged in a plot before, so it is reasonable to kill you in case you do so again.

I am not inventing the Bethlehem Doctrine. It has been the formal legal justification for drone strikes and targeted assassinations by the Israeli, US and UK governments for a decade. [Here it is](#) in academic paper form, published by Bethlehem after he left government service (the form in which it is adopted by the US, UK and Israeli Governments is [classified information](#)).

So when Pompeo says attacks by Soleimani were "imminent" he is not using the word in the normal sense in the English language. It is no use asking him what, where or when these "imminent" attacks were planned to be. He is referencing the Bethlehem Doctrine under which you can kill people on the basis of a feeling that they may have been about to do something.

The idea that killing an individual who you have received information is going to attack you, but you do not know when, where or how, can be justified as self-defence, has not gained widespread acceptance - or indeed virtually any acceptance - in legal circles outside the ranks of the most extreme devoted neo-conservatives and Zionists. Daniel Bethlehem became the FCO's Chief Legal Adviser, brought in by Jack Straw, precisely because every single one of the FCO's existing Legal Advisers believed the Iraq War to be illegal. In 2004,

when the House of Commons was considering the legality of the war on Iraq, Bethlehem produced a remarkable paper for consideration which said that [it was legal because the courts and existing law were wrong](#), a defence which has seldom succeeded in court.

(b)

following this line, I am also of the view that the wider principles of the law on self-defence also require closer scrutiny. I am not persuaded that the approach of doctrinal purity reflected in the judgments of the International Court of Justice in this area provide a helpful edifice on which a coherent legal regime, able to address the exigencies of contemporary international life and discourage resort to unilateral action, is easily crafted;

The key was that the concept of “imminent” was to change:

The concept of what constitutes an “imminent” armed attack will develop to meet new circumstances and new threats

In the absence of a respectable international lawyer willing to argue this kind of tosh, Blair brought in Bethlehem as Chief Legal Adviser, the man who advised Netanyahu on Israel’s security wall and who was willing to say that attacking Iraq was legal on the basis of Saddam’s “imminent threat” to the UK, which proved to be non-existent. It says everything about Bethlehem’s eagerness for killing that the formulation of the Bethlehem Doctrine on extrajudicial execution by drone came after the Iraq War, and he still gave not one second’s thought to the fact that the intelligence on the “imminent threat” can be wrong. Assassinating people on the basis of faulty intelligence is not addressed by Bethlehem in setting out his doctrine. The bloodlust is strong in this one.

There are literally scores of academic articles, in every respected journal of international law, taking down the Bethlehem Doctrine for its obvious absurdities and revolting special pleading. My favourite is [this one](#) by Bethlehem’s predecessor as the FCO Chief Legal Adviser, Sir Michael Wood and his ex-Deputy Elizabeth Wilmshurst.

I addressed the Bethlehem Doctrine as part of my contribution to [a book reflecting on Chomsky’s](#) essay “On the Responsibility of Intellectuals”

In the UK recently, the Attorney General gave [a speech in defence](#) of the UK’s drone policy, the assassination of people – including British nationals – abroad. This execution without a hearing is based on several criteria, he reassured us. His speech was repeated slavishly in the British media. In fact, the Guardian newspaper simply republished the government press release absolutely verbatim, and stuck a reporter’s byline at the top.

The media have no interest in a critical appraisal of the process by which the British government regularly executes without trial. Yet in fact it is extremely interesting. The genesis of the policy lay in the appointment of Daniel Bethlehem as the Foreign and Commonwealth Office’s Chief Legal Adviser. Jack Straw made the appointment, and for the first time ever it was external, and not from the Foreign Office’s own large team of world-renowned international lawyers. The reason for that is not in dispute. Every single one of the FCO’s legal advisers had advised that the invasion of Iraq was illegal, and Straw wished to find a new head

of the department more in tune with the neo-conservative world view. Straw went to extremes. He appointed Daniel Bethlehem, the legal 'expert' who provided the legal advice to Benjamin Netanyahu on the 'legality' of building the great wall hemming in the Palestinians away from their land and water resources. Bethlehem was an enthusiastic proponent of the invasion of Iraq. He was also the most enthusiastic proponent in the world of drone strikes.

Bethlehem provided an opinion on the legality of drone strikes which is, to say the least, controversial. To give one example, Bethlehem accepts that established principles of international law dictate that lethal force may be used only to prevent an attack which is 'imminent'. Bethlehem argues that for an attack to be 'imminent' does not require it to be 'soon'. Indeed you can kill to avert an 'imminent attack' even if you have no information on when and where it will be. You can instead rely on your target's 'pattern of behaviour'; that is, if he has attacked before, it is reasonable to assume he will attack again and that such an attack is 'imminent'.

There is a much deeper problem: that the evidence against the target is often extremely dubious. Yet even allowing the evidence to be perfect, it is beyond me that the state can kill in such circumstances without it being considered a death penalty imposed without trial for past crimes, rather than to frustrate another 'imminent' one.

You would think that background would make an interesting story. Yet the entire 'serious' British media published the government line, without a single journalist, not one, writing about the fact that Bethlehem's proposed definition of 'imminent' has been widely rejected by the international law community. The public knows none of this. They just 'know' that drone strikes are keeping us safe from deadly attack by terrorists, because the government says so, and nobody has attempted to give them other information

Remember, this is not just an academic argument, the Bethlehem Doctrine is the formal policy position on assassination of Israel, the US and UK governments. So that is lie one. When Pompeo says Soleimani was planning "imminent" attacks, he is using the Bethlehem definition under which "imminent" is a "concept" which means neither "soon" nor "definitely going to happen". To twist a word that far from its normal English usage is to lie. To do so to justify killing people is obscene. That is why, if I finish up in the bottom-most pit of hell, the worst thing about the experience will be the company of Daniel Bethlehem.

Let us now move on to the next lie, which is being widely repeated, this time originated by Donald Trump, that Soleimani was responsible for the "deaths of hundreds, if not thousands, of Americans". This lie has been parroted by everybody, Republicans and Democrats alike.



Elizabeth Warren ✓
@ewarren



Soleimani was a murderer, responsible for the deaths of thousands, including hundreds of Americans. But this reckless move escalates the situation with Iran and increases the likelihood of more deaths and new Middle East conflict. Our priority must be to avoid another costly war.

4:20 AM · Jan 3, 2020 · [Twitter Web App](#)

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Really? Who were they? When and where? While the Bethlehem Doctrine allows you to kill somebody because they might be going to attack someone, sometime, but you don't know who or when, there is a reasonable expectation that if you are claiming people have already been killed you should be able to say who and when.

The truth of the matter is that if you take every American killed including and since 9/11, in the resultant Middle East related wars, conflicts and terrorist acts, well over 90% of them have been killed by Sunni Muslims financed and supported out of Saudi Arabia and its gulf satellites, and less than 10% of those Americans have been killed by Shia Muslims tied to Iran.

This is a horribly inconvenient fact for US administrations which, regardless of party, are beholden to Saudi Arabia and its money. It is, the USA affirms, the Sunnis who are the allies and the Shias who are the enemy. Yet every journalist or aid worker hostage who has been horribly beheaded or otherwise executed has been murdered by a Sunni, every jihadist terrorist attack in the USA itself, including 9/11, has been exclusively Sunni, the Benghazi attack was by Sunnis, Isil are Sunni, Al Nusra are Sunni, the Taliban are Sunni and the vast majority of US troops killed in the region are killed by Sunnis.

Precisely which are these hundreds of deaths for which the Shia forces of Soleimani were responsible? Is there a list? It is of course a simple lie. Its tenuous connection with truth relates to the Pentagon's estimate - [suspiciously upped](#) repeatedly since Iran became the designated enemy - that back during the invasion of Iraq itself, 83% of US troop deaths were at the hands of Sunni resistance and 17% of of US troop deaths were at the hands of Shia resistance, that is 603 troops. All the latter are now lain at the door of Soleimani, remarkably.

Those were US troops killed in combat during an invasion. The Iraqi Shia militias - whether Iran backed or not - had every legal right to fight the US invasion. The idea that the killing of invading American troops was somehow illegal or illegitimate is risible. Plainly the US propaganda that Soleimani was "responsible for hundreds of American deaths" is intended, as part of the justification for his murder, to give the impression he was involved in terrorism, not legitimate combat against invading forces. The idea that the US has the right to execute those who fight it when it invades is an absolutely stinking abnegation of the laws of war.

As I understand it, there is very little evidence that Soleimani had active operational command of Shia militias during the invasion, and in any case to credit him personally with every American soldier killed is plainly a nonsense. But even if Soleimani had personally supervised every combat success, these were legitimate acts of war. You cannot simply assassinate opposing generals who fought you, years after you invade.



The final, and perhaps silliest lie, is Vice President Mike Pence's attempt to link Soleimani to 9/11. There is absolutely no link between Soleimani and 9/11, and the most strenuous efforts by the Bush regime to find evidence that would link either Iran or Iraq to 9/11 (and thus take the heat off their pals the al-Saud who were actually responsible) failed. Yes, it is true that some of the hijackers at one point transited Iran to Afghanistan. But there is zero evidence, as the 9/11 report specifically stated, that the Iranians knew what they were planning, or that Soleimani personally was involved. This is total bullshit. 9/11 was Sunni and Saudi led, nothing to do with Iran.

Soleimani actually was involved in intelligence and logistical cooperation with the United States in Afghanistan post 9/11 (the Taliban were his enemies too, the Shia Tajiks being a key part of the US aligned Northern Alliance). He was in Iraq to fight ISIL.

The final aggravating factor in the Soleimani murder is that he was an accredited combatant general of a foreign state which the world - including the USA - recognises. The Bethlehem Doctrine specifically applies to "non-state actors". Unlike all of the foregoing, this next is speculation, but I suspect that the legal argument in the Pentagon ran that Soleimani is a non-state actor when in Iraq, where the Shia militias have a semi-official status.

But that does not wash. Soleimani is a high official in Iran who was present in Iraq as a guest of the Iraqi government, to which the US government is allied. This greatly exacerbates the illegality of his assassination still further.

The political world in the UK is so cowed by the power of the neo-conservative Establishment and media, that the assassination of Soleimani is not being called out for the act of blatant illegality that it is. It was an act of state terrorism by the USA, pure and

simple.

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