

# OUR SYRIAN REBELS ARE ISSUING THREATS VIA WAPO

The people who want to keep backing rebels in Syria are lobbying through the WaPo again.

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# AFTER WE HELP THE SAUDIS COMMIT MORE WAR CRIMES WE'RE GOING TO MARS!

Mitch McConnell, John McCain, and Lindsey Graham successfully convinced the Senate to table a resolution halting arm sales to the Saudis because of their war crimes in Yemen. And then Bill Nelson announced we're going to colonize Mars.

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# TOLSTOY ON IRAQ

One of the great pleasures of travel is long uninterrupted stretches of time for reading. I'm on the road for a long trip, including a visit to Russia, and took a copy of *War and Peace* with me. It's really long, and therefore perfect for this kind of travel, and I was able to read it in a month amid the sightseeing and wandering that are the other great things about travel. On a visit to St. Petersburg last year, I saw the Military Gallery at the Hermitage, a long barrel-vaulted room with 332 portraits of the generals who took part in the Patriotic War of

1812, Napoleon's invasion of Russia and the destruction of his Grande Armée by the Russian people and their army under the leadership of M. I. Kutusov. Wikipedia has a nice entry on this part of the museum, including pictures of several of the people who appear in Tolstoy's book including one who is kin to the author..

Tolstoy was a drinker, a rake and a gambler as a young man, but that changed about the time he joined the army for a war between Russia and Turkey in 1851 and he began to write. His military experience gives the crackle of reality to the descriptions of the battles in War and Peace, and on the lengthy discussions of strategy and tactics. His explanation of the Russians crushing the French is fascinating, as is his lack of respect for the historians before him whose explanations he rejects abusively. I was particularly taken by the discussion in Chapter 1 of Book 14. This is from the translation of Louise Maude and Alymer Maude published in 1942. There are more recent and arguably better translations, but this one was easier to read in the Kindle edition.

All historians agree that the external activity of states and nations in their conflicts with one another is expressed in wars, and that as a direct result of greater or less success in war the political strength of states and nations increases or decreases.

Strange as may be the historical account of how some king or emperor, having quarreled with another, collects an army, fights his enemy's army, gains a victory by killing three, five, or ten thousand men and subjugates a kingdom and an entire nation of several millions, all the facts of history (as far as we know it) confirm the truth of the statement that the greater or lesser success of one army against another is the cause, or at least an essential indication, of an increase or decrease

in the strength of the nation – even though it is unintelligible why the defeat of an army – a hundredth part of a nation – should oblige that whole nation to submit. A army gains a victory, and at once the rights of the conquering nation have increased to the detriment of the defeated. An army has suffered defeat, and at once a people loses its rights in proportion to the severity of the reverse, and if its army suffers a complete defeat the nation is quite subjugated.

So according to history it has been found from the most ancient times, and so it is to our own day. All Napoleon's wars serve to confirm this rule. In proportion to the defeat of the Austrian army Austria loses its rights, and the rights and the strength of France increase. The victories of the French at Jena and Auerstadt destroy the independent existence of Prussia.

But then, in 1812, the French gain a victory near Moscow. Moscow is taken and after that with no further battles, it is not Russia that ceases to exist, but the French army of six hundred thousand, and then Napoleonic France itself. To strain the facts to fit the rules of history; to say that the field of battle at Borodino remained in the hands of the Russians, or that after Moscow there were other battles that destroyed Napoleon's army, is impossible.

The difference is this. After the defeats of Austria and Prussia, the residents of Vienna and Berlin stayed home, surrendered, and more or accepted the rule of Napoleon. This is perfectly natural. What difference does it make in the private lives of the people which monarch rules? For the rich and the prosperous, the French seemed charming and cultivated, and if that charm and culture were somewhat different from

that of their prior rulers, it was not a great difference and was one with which they were already familiar. As to the craftsmen and artisans, they continued to live as before, carrying out their trades for the new and old aristocracies, and the poor at least were free from conscription and misery in the army.

But that didn't happen in Russia. As Napoleon advanced towards Moscow, almost everyone left town. There is a funny scene where Napoleon plans his speech to the expected deputation from the city, at which he will explain his good intentions and his demands. It reads as if he were thinking the people of Moscow would welcome him and his enlightened rule with open arms and shower him with flowers. No deputation arrives, and the French generals argue about which of them is going to have to tell the Emperor the bad news.

As most people left, those who remained, peasants, convicts and lunatics, began looting and squatting in the emptied homes. The loot left town a bit later. When the French moved in, they found a nearly empty city, and they themselves began to loot and camp out in the vacant palaces and nicer homes. Then Moscow caught fire, in Tolstoy's explanation not by arson, but by carelessness and the lack of a fire department, and vast sections were reduced to rubble. Napoleon practically begged peasants to bring their hay and other provender to the city, offering extraordinary prices (which according to Tolstoy he planned to pay for with counterfeit rubles), but the peasants burned their produce rather than sell it to the invaders. Meanwhile the Russian Army is watching for an opportunity to attack. Suddenly the French Army breaks and runs. The Russians under M. I. Kutusov follow as the French run at a breakneck pace towards the border. Kutusov sends detachments of guerillas to harass the baggage trains and cannon, and to capture stragglers. Few of the French troops get away.

As Tolstoy explains it, the French thought they

were in a ritual duel with rapiers between two honorable combatants. Suddenly the Russian side realizes its danger, picks up a cudgel and beats its rival senseless. Tolstoy says that Napoleon complained to the Russian Emperor Alexander I and General Kutusov that the war is carried on “...contrary to all the rules – as if there were any rules for killing people.”

The publisher of my version explains that a new edition was warranted especially by Hitler’s invasion of Russia. We might see it as a good time to understand a lesson ourselves. The US Army and its allies destroyed the Iraqi Army, but the people were not defeated. The US Army won many battles with the army of North Viet Nam and conflicts with guerrillas in Viet Nam, but the people were not defeated. And the debacle in Afghanistan is even harder to understand in light of that country’s history. Tolstoy makes this lesson clear:

The fencer who demanded a contest according to the rules of fencing was the French army; his opponent who threw away the rapier and snatched up the cudgel was the Russian people ...,

Or, you know, the Iraqis, the Vietnamese or the Afghans.

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## **9/11: A STORY OF ATTACKS, HORROR, VICTIMS, HEROES AND JINGOISTIC SHAME**

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, 2001 is now 15 years in the mirror of life. Like the two Kennedy assassinations, the Moonshot and a few other events in life, it is one of those “yeah I remember where I was when...” moments. Personally, being on west coast time, I was just waking up thinking all I had was a normal morning court calendar. When my wife, who gets up far earlier than I, shouted at me to rub out the cobwebs and watch the TV because something was seriously wrong in New York City. She was right. It was a hell of a day, one of unspeakable tragedy and indescribable heroism. It was truly all there in one compact day, unlike any other, save maybe December 7, 1941.

2,996 people lost their lives, and their families and history were forever altered in the course of hours on an otherwise clear and beautiful day in Manhattan. Most were simply innocent victims, but many were the epitome of heroes who charged into a hellscape to try to salvage any life they could. There were other heroes that altered their lives in response, and either died or were forever changed as a result. One was a friend of mine from South Tempe, Pat Tillman.

No one can speak for Pat Tillman, and, save for his family, those who claim to only prove they never met the man. All I can say is, I wish he were here today. The one thing that is certain is he would not give the prepackaged trite partisan reaches you are likely to hear today. It would be unfiltered truth. Which the US did not get from its leaders after September 11, 2001, and is still missing today.

Instead of rallying and solidifying the oneness of the American citizenry that was extant immediately after September 11, 2001, the Bush/Cheney Administration and GOP told us to go shopping and that we needed to invade Iraq, who had nothing whatsoever to do with 9/11. It was a fools, if not devil's, errand and a move that threw away an opportunity for greatness from the country and exploited it in favor of war crimes and raw political power expansion and consolidation.

Instead of gelling the United States to make ourselves better as the "Greatest Generation" did sixty years before, America was wholesale sold a bill of goods by a determined group of unreformed and craven Neo-Con war criminals left over from the Vietnam era, and we were led down the path to a war of aggression that was an unmitigated disaster we have not only not recovered from today, but are still compounding.

The 2000's will prove to be a decade of American shame when history is written decades from now. Not from the attacks, but from our craven response thereto. So, pardon me if I join Colin Kaepernick and choose not to join, every Sunday, just because the Madison Avenue revenue generating NFL of Roger Goodell cravenly exploits it, the jingoistic bullshit of rote dedication to a racist National Anthem. Also, too, shame on opportunistic and Constitutionally ignorant whiny police unions who scold free speech and threaten to abandon their jobs in the face of it.

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, nee the world, to a forever war on the wings of a craven lie is universally recognized, condemned and scorned, right?

No. The Neo-Cons are unrepentant and still trying to advance themselves on the lie that their once and forever war justifies more than their prosecution and conviction in The Hague. Here is a belligerent and unrepentant Dick Cheney passing the torch of evil to his spawn Liz Cheney in the august pages of the Wall Street Journal:

We are no longer interrogating terrorists in part because we are no longer capturing terrorists. Since taking office, the president has recklessly pursued his objective of closing the detention facility at Guantanamo by releasing current detainees—regardless of the likelihood they will return to the field of battle against us. Until recently, the head of recruitment for ISIS in Afghanistan and Pakistan was a former Guantanamo detainee, as is one of al Qaeda's most senior leaders in the Arabian Peninsula.

As he released terrorists to return to the field of battle, Mr. Obama was simultaneously withdrawing American forces from Iraq and Afghanistan. He calls this policy "ending wars." Most reasonable people recognize this approach as losing wars.

Times may change, but the bottomless pit of Cheney lies and evil do not. As Charlie Savage pointed out on Twitter, the two terrorists the Cheneys refer to were actually released back to the "field of battle" by Bush and Cheney, not Obama. Was Obama involved in the story? Yes, he would be the one who actually tracked them down and killed them.

And then there is the failure to learn the lessons of the failed torture regime Bush and

Cheney instituted as the hallmark of the “War on Terror”. Our friend, and former colleague, Spencer Ackerman has a must read three part series over the last three days in The Guardian (Part One, Part Two and Part Three) detailing how the CIA rolled the Obama Administration and prevented any of the necessary exposure, accountability and reform that was desperately needed in the aftermath of the torture regime and war of aggression in Iraq. It will take a while, but read all three parts. It is exasperating and maddening. It is also journalism at its finest.

And so, as we glide through the fifteenth anniversary of September 11, what are we left with from our response to the attacks? A destabilized world, an ingraining of hideous mistakes and a domestic scene more notable for jingoism and faux patriotism than dedication to the founding principles that America should stand for.

That is not what the real heroes, not only of 9/11 but the totality of American history, died to support and protect. In fact, it is an insult to their efforts and lives. If America wants to win the “War on Terror”, we need to get our heads out of our asses, quit listening to the neocons, war mongers, and military industrial complex Dwight Eisenhower warned us about, and act intelligently. This requires a cessation of adherence to jingoistic and inane propaganda and thought, and a focus on the principles we are supposed to stand for.

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## **IN ATTEMPTED HIT PIECE, NYT MAKES**

# PUTIN HERO OF DEFEATING TPP

In an remarkable hit piece NYT spent over 5,000 words yesterday trying to prove that all of WikiLeaks' leaks are motivated from a desire to benefit Russia.

That of course took some doing. It required ignoring the evidence of the other potential source of motivation for Julian Assange – such as that Hillary participated in an aggressive, and potentially illegal, prosecution of Assange for being a publisher and Chelsea Manning for being his source – even as it repeatedly presented evidence that that was Assange's motivation.

Putin, who clashed repeatedly with Mrs. Clinton when she was secretary of state,

[snip]

In late November 2010, United States officials announced an investigation of WikiLeaks; Mrs. Clinton, whose State Department was scrambled by what became known as "Cablegate," vowed to take "aggressive" steps to hold those responsible to account.

[snip]

Another person who collaborated with WikiLeaks in the past added: "He views everything through the prism of how he's treated. America and Hillary Clinton have caused him trouble, and Russia never has."

It also required dismissing some of the most interesting counterexamples to the NYT's thesis.

Sunshine Press, the group's public relations voice, pointed out that in 2012 WikiLeaks also published an archive it called the Syria files – more than

two million emails from and about the government of President Bashar al-Assad, whom Russia is supporting in Syria's civil war.

Yet at the time of the release, Mr. Assange's associate, Ms. Harrison, characterized the material as "embarrassing to Syria, but it is also embarrassing to Syria's opponents." Since then, Mr. Assange has accused the United States of deliberately destabilizing Syria, but has not publicly criticized human rights abuses by Mr. Assad and Russian forces fighting there.

As I have noted, there is a significant likelihood that the Syria files came via Sabu and Anonymous from the FBI – that is, that it was actually an American spy operation. Even aside from how important a counterexample the Syrian files are (because they went directly contrary to Putin's interests in protecting Assad, no matter how bad they made Assad's western trade partners look), the provenance of these files and Assange's current understanding of them deserve some attention if NYT is going to spend 5,000 words on this story.

But the most remarkable stunt in this 5,000 screed is taking Wikileaks' efforts to show policies a great many people believe are counterproductive – most importantly, passing trade deals that benefit corporations while hurting real people, but also weakening other strong hands in climate change negotiations – and insinuating they might be a Putinesque plot. This bit requires editorial notes in line:

From November 2013 to May 2016, WikiLeaks published documents describing internal deliberations on two trade pacts: the Trans-Pacific Partnership, which would liberalize trade *[ed: no, it would protect IP, the opposite of liberalizing trade]* between the United

States, Japan and 10 other Pacific Rim countries, and the Trade in Services Agreement, an accord between the United States, 21 other countries and the European Union.

Russia, which was excluded, has been the most vocal opponent of the pacts [*this is presented with no evidence, nor even a standard of evidence. I and all of America's TPP opponents as well as TPP opponents from around the world must redouble our very loud effort*], with Mr. Putin portraying them as an effort to give the United States an unfair leg up in the global economy.

The drafts released by WikiLeaks stirred controversy among environmentalists, advocates of internet freedom and privacy, labor leaders and corporate governance watchdogs, among others. They also stoked populist resentment against free trade that has become an important factor in American and European politics. [*Here, rather than admitting that this broad opposition to these trade deals shows that Putin is not the most vocal opponent of these pacts – contrary to their foundational assumption in this section – they instead portray a wide spectrum of well-considered activism as unthinking response to Putinesque manipulation. And note, here, a news outlet is complaining that ordinary citizens get access to critically important news, without even blushing? Also note the NYT makes no mention of the members of Congress who were also begging for this information, which makes it easier to ignore the profoundly anti-democratic nature of these trade agreements.*]

The material was released at critical moments, with the apparent aim of

thwarting negotiations, American trade officials said. *[In a piece obscuring the unpopular and anti-democratic nature of these trade deals, the NYT gives these sources anonymity.]*

WikiLeaks highlighted the domestic and international discord on its Twitter accounts.

American negotiators assumed that the leaks had come from a party at the table seeking leverage. *[That anonymity again: NYT is protecting some bitter trade negotiators who've invented a paranoid conspiracy here. On what grounds?]*

Then in July 2015, on the day American and Japanese negotiators were working out the final details of the Trans-Pacific Partnership, came what WikiLeaks dubbed its "Target Tokyo" release.

Relying on top-secret N.S.A. documents, the release highlighted 35 American espionage targets in Japan, including cabinet members and trade negotiators, as well as companies like Mitsubishi. The trade accord was finally agreed on – though it has not been ratified by the United States Senate – but the document release threw a wrench into the talks.

"The lesson for Japan is this: Do not expect a global surveillance superpower to act with honor or respect," Mr. Assange said in a news release at the time. "There is only one rule: There are no rules." *[That the US spies on trade negotiations was of course not news by this point. But it is, nevertheless, worthy to point out.]*

Because of the files' provenance, United States intelligence officials assumed that Mr. Assange had gotten his hands on some of the N.S.A. documents copied by Mr. Snowden.

But in an interview, Glenn Greenwald, one of the two journalists entrusted with the full Snowden archive, said that Mr. Snowden had not given his documents to WikiLeaks and that the “Target Tokyo” documents were not even among those Mr. Snowden had taken.

The next paragraph goes on to note that the same NSA documents focused on climate negotiations between Germany and the UN, which seems to suggest the NYT also believes it is in petro-state leader Putin’s interest for the US attempts to dominate climate change negotiations to be thwarted, even as Assange describes US actions as protection petroleum interests, which of course align with Putin’s own.

In other words, as a central piece of evidence, the NYT spent 11 paragraphs repackaging opposition to shitty trade deals – a widely held very American view (not to mention a prominent one is most other countries affected) – into something directed by Russia, as if the only reasons to oppose TPP are to keep Russia on an equal shitty neoliberal trade footing as the rest of us, as if opposing the deals don’t benefit a whole bunch of red-blooded Americans.

That’s not only logically disastrous, especially in something billed as “news,” but it is very dangerous. It makes legitimate opposition to bad (albeit widely accepted as good within beltway and I guess NYT conventional wisdom) policy something disloyal.

NYT’s argument that Putin was behind WikiLeaks’ NSA leaks doesn’t hold together for a lot of reasons (not least that those two topics are probably not what Putin would prioritize, or even close). But it also has the bizarre effect, in a hit piece targeting Assange and Putin, of making Putin the hero of the anti-TPP movement.

And yet, NYT’s three journalists don’t seem to understand how counterproductive to their “journalistic” endeavor that argument is.

Update: Oy. As Trevor Timm notes, NYT worked with WL on the TPP release.

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## BREAKING FROM SAUDI ARABIA!!! TWO MONTH OLD MISLEADING NEWS

This Reuters exclusive is getting a lot of careless attention. Here's what a careless reader learns:

*Exclusive:  
U.S. withdraws  
staff from  
Saudi Arabia  
dedicated to  
Yemen  
planning*

From that headline, particularly the use of the present tense, you might assume that the US is in the process of withdrawing its Yemen-related staff from Saudi Arabia, perhaps in response to the Saudi war crimes earlier this week.

But here's what the story actually reports: the staff withdrawal happened in June, and was in no way a response to this week's war crimes.

The June staff withdrawal, which U.S. officials say followed a lull in air strikes in Yemen earlier this year, reduces [sic] Washington's day-to-day involvement in advising a campaign that has come under increasing scrutiny for causing civilian casualties.

In spite of the fact that this “exclusive” – which has since been reported by other outlets with similarly misleading headlines – describes two month old news, it nevertheless obscures that fact with its editorial choices, as here where it suggests the move “reduces,” in present tense, staff numbers, or the headline which hides that, in fact, the US already withdrew these staffers.

In fact, the report goes on to admit that this was not a response (which would have required a time machine in any case).

U.S. officials, speaking on condition of anonymity, said the reduced staffing was not due to the growing international outcry over civilian casualties in the 16-month civil war that has killed more than 6,500 people in Yemen, about half of them civilians.

But the Pentagon, in some of its strongest language yet, also acknowledged concerns about the conflict, which has brought Yemen close to famine and cost more than \$14 billion in damage to infrastructure and economic losses.

“Even as we assist the Saudis regarding their territorial integrity, it does not mean that we will refrain from expressing our concern about the war in Yemen and how it has been waged,” Stump said.

I’d also suggest that reports about what non-uniformed US personnel are doing in Yemen’s immediate neighborhood would be a better gauge of the support we’re giving Saudi Arabia beyond refueling their airstrikes, the latter of which has not stopped at all.

It’s not until the last line two paragraphs of the story that we learn what this misleading news is really about:

U.S. Representative Ted Lieu, a Democrat from California and a colonel in the Air Force Reserve, said he believed such strikes could help galvanize votes for limiting arms transfers to Saudi Arabia.

“When its repeated air strikes that have now killed children, doctors, newlyweds, patients, at some point you just have to say: Either Saudi Arabia is not listening to the United States or they just don’t care,” Lieu said.

Not long ago, the US announced \$1.5 billion in new arms sales to Saudi Arabia. Congress has a narrow window to affirmatively veto that sale, and people like Ted Lieu and Rand Paul and Chris Murphy are trying to do just that. The arms sale was announced such that Congress has just one day after they come back in session to reject the transfer. Stories like this – suggesting the US is not as involved in this war as it really is – will make the task all the more difficult.

The reality remains that the US, even the overt uniformed operations, continues to provide key support to Saudi Arabia’s war, and therefore to its war crimes. Selling it more arms in the wake of these most recent war crimes only doubles down on the complicity.

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## **SIX YEARS LATER, THE US CONTINUES TO FACILITATE SAUDI WAR CRIMES**

Over six years ago, according to a State Department cable liberated by Chelsea Manning, the US ambassador to Saudi Arabia met with

Prince Khalid bin Sultan to complain about all the civilians the Saudis killed in an airstrike on a health clinic. Prince Khalid expressed regret about the dead civilians. But the Saudis "had to hit the Houthis very hard in order to 'bring them to their knees.'"

#### USG CONCERNS ABOUT POSSIBLE STRIKES ON CIVILIAN TARGETS

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2. (S/NF) Ambassador Smith delivered points in reftel to Prince Khaled on February 6, 2010. The Ambassador highlighted USG concerns about providing Saudi Arabia with satellite imagery of the Yemen border area absent greater certainty that Saudi Arabia was and would remain fully in compliance with the laws of armed conflict during the conduct of military operations, particularly regarding attacks on civilian targets. The Ambassador noted the USG's specific concern about an apparent Saudi air strike on a building that the U.S. believed to be a Yemeni medical clinic. The Ambassador showed Prince Khaled a satellite image of the bomb-damaged building in question.

#### IF WE HAD THE PREDATOR, THIS MIGHT NOT HAVE HAPPENED

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3. (S/NF) Upon seeing the photograph, Prince Khalid remarked, "This looks familiar," and added, "if we had the Predator, maybe we would not have this problem." He noted that Saudi Air Force operations were necessarily being conducted without the desired degree of precision, and recalled that a clinic had been struck, based on information received from Yemen that it was being used as an operational base by the Houthis. Prince Khalid explained the Saudi approach to its fight with the Houthis, emphasizing that the Saudis had

to hit the Houthis very hard in order to “bring them to their knees” and compel them to come to terms with the Yemeni government. “However,” he said, “we tried very hard not to hit civilian targets.” The Saudis had 130 deaths and the Yemenis lost as many as one thousand. “Obviously,” Prince Khaled observed, “some civilians died, though we wish that this did not happen.”

If only the Saudis had more accurate targeting, Prince Khalid explained – not just satellite imagery from the Americans, but also Predator drones – such unfortunate accidents might not happen.

Six years later, over a year into Saudi Arabia’s latest war against the Houthis, now backed by US satellite imagery and a drone base on Saudi soil, the Saudis are still having unfortunate “accidents,” attacking at least the third of four MSF facilities attacked in Yemen in the last year (Saudis deny responsibility for one of these strikes).

A hospital supported by the international medical humanitarian organization Doctors Without Borders/Médecins Sans Frontières (MSF) in northwestern Yemen was hit by an airstrike today, killing at least 11 people and injuring at least 19.

The attack on Abs Hospital, in Yemen’s Hajjah governorate, occurred at 3:45 pm local time and immediately killed nine people, including an MSF staff member. Two more patients died while being transferred to Al Jamhuri hospital. Five patients remain hospitalized. The hospital, supported by MSF since July 2015, was partially destroyed, and all the remaining patients and staff have been evacuated. The GPS coordinates of the hospital were repeatedly shared with all parties to the conflict, including

the Saudi-led coalition, and its location was well-known.

"This is the fourth attack against an MSF facility in less than 12 months," said Teresa Sancristóval, MSF emergency program manager for Yemen. "Once again, today we witness the tragic consequences of the bombing of a hospital. Once again, a fully functional hospital full of patients and MSF national and international staff members was bombed in a war that has shown no respect for medical facilities or patients."

"Even with a recent United Nations resolution calling for an end to attacks on medical facilities and with the high-level declarations of commitment to International Humanitarian Law, nothing seems to be done to make parties involved in the conflict in Yemen respect medical staff and patients," Sancristóval continued. "Without action, these public gestures are meaningless for today's victims. Either intentional or as a result of negligence, this is unacceptable."

MSF calls on all parties, and particularly the Saudi-led coalition responsible for the attack, guarantee that such attacks do not happen again.

Congress is finally beginning to complain about these serial war crimes, with Rand Paul and Chris Murphy attempting to block the latest \$1.5 billion arms sale to the Saudis, and Ted Lieu issuing this scathing statement in support of an effort to do the same on the House side.

I have tried numerous times to work with the Administration to stop the United States from assisting Saudi Arabia in their indiscriminate killing of civilians in Yemen. But when Saudi Arabia continues to kill civilians, and

in this case children, enough is enough. Having served on active duty, one of my responsibilities was to teach the Law of War. I am also a graduate of Air War College. The indiscriminate civilian killings by Saudi Arabia look like war crimes to me. In this case, children as young as 8 were killed by Saudi Arabian air strikes. By assisting Saudi Arabia, the United States is aiding and abetting what appears to be war crimes in Yemen. The Administration must stop enabling this madness now.

Nevertheless, six years later, we're still getting this kind of lip service from the State Department.

QUESTION: All right. So just to clarify earlier what you said about Yemen in regards –

MS TRUDEAU: Yeah.

QUESTION: – to the hospital bombing this morning, you are – is it fair to say that you're not coming out and condemning the attack; you're saying we're raising concerns with the coalition?

MS TRUDEAU: No, of course we would condemn any attack that hit civilians. We're gravely concerned by any reports of civilian casualties. What we're saying is we've seen these reports. Of course we would condemn any strike against a hospital.

QUESTION: Okay. Because, I mean, I've been hearing you all say for months now that we're raising these concerns with the Saudi-led coalition, but this is the fourth attack on an MSF medical facility in Yemen in the past year, let alone countless others on clinics and hospitals. Are you concerned that these sort of stern conversations aren't

having the desired effect?

MS TRUDEAU: Well, what we would say – and we'd point you back to what we talked about earlier – is the Saudi-led coalition themselves have taken a look at these, they have done reports. One of those reports – I think one or two has been turned over to the UN. We've also called on them to make those reports public. And so there is more transparency in that accountability. We remain gravely concerned about civilian casualties anywhere in the world where they occur, and Yemen is no exception.

We've been (claiming to be) gravely concerned about Saudis bombing hospitals for six years now. Yet the only thing we do is throw more and more weapons at the Saudis to help them kill still more civilians.

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## HILLARY'S NATIONAL SECURITY ALLIANCE FOR QUIVERING OVER BANK PROSECUTIONS

Fresh off being caught lying about rolling her eyes in response to calls for Palestinian rights, Neera Tanden has rolled out something called the National Security Leadership Alliance. Best as I can tell, it exists mainly on paper right now – I couldn't even find it on CAP's site yet. But it seems designed to fear-monger about what will happen if Trump becomes Commander-in-Chief.

The project, called the National Security Leadership Alliance, will be funded by C.A.P. Action. It will feature

a roster of major members of the foreign policy and national security community, including two retired four-star generals; Leon E. Panetta, the former C.I.A. director; Madeleine K. Albright, the former secretary of state; Eric H. Holder Jr., the former attorney general; and Carl Levin, the former Michigan senator. All have endorsed Mrs. Clinton.

There will be an effort to highlight precisely what, in the military arsenal, Donald J. Trump would have access to as president. Mr. Trump has been criticized for his views on foreign policy, criticisms that have been central to the case that Mrs. Clinton has made against him in an effort to describe the stakes of the 2016 presidential election. The Center for American Progress is led by a top outside adviser to Mrs. Clinton, Neera Tanden, and the new project seeks to put a spotlight on what officials are calling a progressive foreign policy vision.

I'm perfectly okay with fearmongering about Trump. But let's look at this lineup. It features the woman who said letting half a million Iraqi children die was worth the price of enforcing sanctions against the country. It also includes a guy, Panetta, whose exposure of the identities of Osama bin Laden killers' to Hollywood producers serves to reinforce what a double standard on classified information Hillary (and Panetta) benefit from.

But I'm most curious by a "national security" team that includes both Eric Holder and Carl Levin, especially given the NYT focus, in announcing the venture, on Brexit.

"I think what brought us together is obviously a lot of concern about some of the division and polarization that we're seeing in the world," Mr. Panetta said in an interview. "We know we're living

in a time of great change and uncertainty.”

But he added, “The concern we have is we see these forces of division that are prepared to throw out the fundamental” principles of foreign policy in the United States over many decades.

“What we’re learning from ‘Brexit’ is that there’s a price to be paid in terms of letting out emotion dictate policy instead of responsible leadership,” he said, referring to Britain’s vote to leave the European Union. “We shouldn’t throw the baby out with the bath water.”

Leon Panetta, in rolling out a venture including Carl Levin – who as head of the Senate’s Permanent Subcommittee on Investigations worked tirelessly for some kind of accountability on bank crime – and Eric Holder – who ignored multiple criminal referrals from Levin, including one pertaining to Goldman Sachs head Lloyd Blankfein – says the lesson from Brexit is that we can’t let emotion dictate policy but instead should practice “responsible leadership” guarding the “fundamental principles of foreign policy in the United States over many decades.”

Of course, as David Dayen argued convincingly, to the extent Brexit was an emotional vote, the emotions were largely inflamed by elite failures – the failures of people like Eric Holder to demand any responsibility (Dayen doesn’t deal with the equally large failures of hawks like Albright whose destabilizing policies in the Middle East have created the refugee crisis in Europe, which indirectly inflamed Brexit voters).

Again, I’m okay if Hillary wants to spend her time fearmongering about the dangers of Trump.

But to do so credibly, she needs to be a lot more cognizant of the dangers her own team have created.

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# NATO AND BREXIT

For the record, I think it quite likely that UK's Tories will never trigger Article 50, which would mean the two year process of leaving the EU will never start much less finish. If that happens, we will face an increasing game of chicken between the EU – primarily Germany – and the UK, because until things settle with the UK, other right wing parties will call to Exit the EU.

All that said, I want to consider what a UK exit would mean for security, particularly as regards to the balance between privacy and dragnettery in which the EU has, in recent years, played a key but largely ineffectual role.

From a spying perspective, Brexit came just hours after the US and EU finalized a draft of the Privacy Shield that will replace the Safe Harbor agreement next week. When I read it, I wondered whether the US signed it intended to do some data analysis in the UK, an option that will likely become unavailable if and when the UK actually does leave the EU. Amazingly, the UK's hawkish Home Secretary Theresa May (who in the past has called for the UK to leave the ECHR) is considered a favorite to replace David Cameron as the Tory Prime Minister, which would be like Jim Comey serving as President. The UK will still need to sign its own IP Bill, which will expand what is authorized spying in the UK.

But all that assumes the relative structure of nesting alliances will remain the same if and when the UK departs the EU. And I don't think that will happen. On the contrary, I think the US will use the UK's departure – and security concerns including both a confrontational expanding Russia and the threat of terrorism – to push to give NATO an enhanced role off what it has.

Consider what Obama said in his initial statement about Brexit [my emphasis in all these passages],

The people of the United Kingdom have spoken, and we respect their decision. The special relationship between the United States and the United Kingdom is enduring, and *the United Kingdom's membership in NATO remains a vital cornerstone of U.S. foreign, security, and economic policy*. So too is our relationship with the European Union, which has done so much to promote stability, stimulate economic growth, and foster the spread of democratic values and ideals across the continent and beyond. The United Kingdom and the European Union will remain indispensable partners of the United States even as they begin negotiating their ongoing relationship to ensure continued stability, security, and prosperity for Europe, Great Britain and Northern Ireland, and the world.

To Cameron,

President Obama spoke by phone today with Prime Minister David Cameron of the United Kingdom to discuss the outcome of yesterday's referendum on membership in the European Union, in which a majority of British voters expressed their desire to leave the EU. The President assured Prime Minister Cameron that, *in spite of the outcome, the special relationship between the United States and the United Kingdom, along with the United Kingdom's membership in NATO, remain vital cornerstones of U.S. foreign, security, and economic policy*. The President also expressed his regret at the Prime Minister's decision to step aside following a leadership transition and noted that the Prime Minister has been a trusted partner and friend, whose

counsel and shared dedication to democratic values, the special relationship, and the Transatlantic community are highly valued. The President also observed that the EU, which has done so much to promote stability, stimulate economic growth, and foster the spread of democratic values and ideals across the continent and beyond, will remain an indispensable partner of the United States. The President and Prime Minister concurred that they are confident that the United Kingdom and the EU will negotiate a productive way forward to ensure financial stability, continued trade and investment, and the mutual prosperity they bring.

And to Merkel,

The President spoke today by phone with Chancellor Angela Merkel of Germany regarding the British people's decision to leave the European Union. Both said they regretted the decision but respected the will of the British people. The two leaders agreed that the economic and financial teams of the G-7 partners will coordinate closely to ensure all are focused on financial stability and economic growth. The President and the Chancellor affirmed that Germany and the EU will remain indispensable partners of the United States. *The leaders also noted that they looked forward to the opportunity to underscore the strength and enduring bond of transatlantic ties at the NATO Summit in Warsaw, Poland, July 8-9.*

NATO, NATO, NATO.

John Kerry and NATO Secretary General Jens Stoltenberg seem to echo that viewpoint, with Stoltenberg arguing NATO will become more

important.

"We have high expectations of a very strong NATO meeting and important deliverables," Kerry said of the summit planned for Warsaw on July 8-9. "That will not change one iota as a consequence of the vote that has taken place."

Kerry, who is on a lightning tour of Brussels and London intended to reassure U.S. allies following the British vote, noted that 22 EU nations, including Britain, are part of NATO.

In Brussels Kerry met NATO Secretary General Jens Stoltenberg and EU foreign policy chief Frederica Mogherini.

"After the UK decided to leave the European Union I think that NATO has become even more important as a platform for cooperation between Europe and North America but also defence and security cooperation between European NATO allies," said Stoltenberg, whose own country Norway is in NATO but not the EU.

Retired Admiral Stavridis provides a list of four reasons why Brexit will strengthen NATO.

1. Putin's adventurism: "NATO has provided the most resolute military balance against [Russia], and thus its stock can be expected to rise with publics in Europe."
2. UK manpower will be freed up from EU tasks: UK "will have additional ships, troops, and aircraft to deploy on NATO missions because they

will not have to support EU military efforts such as the counter-piracy operations off the coast of East Africa or EU missions in the Balkans.”

3. By losing the UK’s military power, the EU will become even more of a soft power entity ceding real military activities to NATO. “And, given that European military efforts will be greatly diminished by the loss of British military muscle, the EU can be expected to defer to NATO more frequently.”
4. The UK will have to prove itself in NATO to retain its “special relationship.” UK “will have to look for new ways to demonstrate value in its partnership with the United States if it hopes to maintain anything like the “special relationship” it has become accustomed to (and dependent on).”

It’s actually the third\* bullet that I think will be key – and it will be carried over into spying. Without the UK, the EU doesn’t have the capability to defend itself, so it will be more dependent on NATO than it had been. Similarly, without GCHQ, the EU doesn’t have heightened SIGINT power to surveil its own population. And so – I fear – whereas prior to Brexit the EU (and Germany specifically) would at least make a show of pushing back against US demands in

exchange for protection, particularly given the heightened security concerns, everyone will be less willing to push back.

It's unclear whether Brexit (if it happens) will hurt the UK or EU more. It probably won't hurt the US as much as any entity in Europe. It might provide the trigger for the dismantling of the EU generally.

I think it very likely it will shift Trans-Atlantic relationships, among all parties, to a much more militaristic footing. That's dangerous – especially as things heat up with Russia. And the countervailing human rights influence of the EU will be weakened.

But I think the US will gain power, relatively, out it.

Update: I originally said “fourth” bullet but meant third. Also, I originally said an “expanding” Russia, which I changed because with the coup in Ukraine I think the “west” started the expansionary push.

Update: This piece games out a number of possibilities on data protection.

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## **WHEN DOES A RANDOM TAXI DRIVER BECOME A LAWFUL COMBATANT?**

A couple of weeks ago, I wrote a post questioning the Obama Administration's logic in killing the leader of the Afghan Taliban in a drone strike in Pakistan. It turns out that the Defense Department also employed some very suspect reasoning surrounding the drone strike.

On June 1 (apologies for the delay, but as most of you know, our site was hacked and has migrated to a new host) Brigadier General

Charles H. Cleveland, who heads the US effort in Afghanistan, took part in a press conference in which he was patched into Washington via a video link from Kabul. At the end of the transcript, we have a very telling exchange:

Q: General, Lucas Tomlinson, from Fox News. Just a quick follow-up to Louis' question. Were you or General Nicholson concerned that Mullah Mansur was in Iran? And are you concerned about Iran sheltering Taliban officials? Thank you.

BRIG. GEN. CLEVELAND: Yes, Lucas. Thank you very much.

You know, our – our real focus on it, again, continue to be Afghanistan and I know it sounds like I'm dodging your question and I don't mean to, but again, you know, the location of Mullah Mansur and where he was either before or during the strike, et cetera, are really questions that probably the team back in Washington, D.C., has got a better answer for you.

Our real role, again, as I think you're well aware – Mullah Mansur was a threat to U.S. forces, he was an obstacle to peace. An opportunity presented, the president made a decision and he was targeted and he was killed. And so really, the rest of the aspect of that really is better to answer – better answered back in Washington, D.C.

Q: And lastly, was the taxi cab driver – was he part of the Taliban, too? Did he – did he have that same threat to U.S. forces?

BRIG. GEN. CLEVELAND: So bottom line is we are confident, Lucas, in our targeting and we are confident that he was a lawful combatant.

General Cleveland's response to Tomlinson here

would have us think that Mohammad Azam, the taxi driver who was killed along with Mansour, was a member of the Taliban who posed a direct threat to the US. That would seem to make him an appropriate target for killing.

It seems that a suitable reference on which to rely for DoD's thinking on combatants is to go back to William Haynes' memo dated December 12, 2002 and titled "Lawful Combatants". This memo comes from Haynes as General Counsel to DoD and is addressed to a Roundtable assembled by the Council on Foreign Relations. It appears that this exercise was geared toward providing legal cover for the Bush Administration's "new" reading of international law and especially its attempts to shield prisoners from the Geneva Conventions.

In the memo, Haynes says this with regard to combatants:

An "enemy combatant" is an individual who, under the laws and customs of war, may be detained for the duration of an armed conflict. In the current conflict with al Qaida and the Taliban, the term includes a member, agent, or associate of al Qaida or the Taliban. In applying this definition, the United States government has acted consistently with the observation of the Supreme Court of the United States in *Ex parte Quirin*, 317 U.S. 1, 37-38 (1942): "Citizens who associate themselves with the military arm of the enemy government, and with its aid, guidance and direction enter this country bent on hostile acts are enemy belligerents within the meaning of the Hague Convention and the law of war."

"Enemy combatant" is a general category that subsumes two sub-categories: lawful and unlawful combatants. See *Quirin*, 317 U.S. at 37-38. Lawful combatants receive prisoner of war (POW) status and the protections of the Third Geneva

Convention. Unlawful combatants do not receive POW status and do not receive the full protections of the Third Geneva Convention. (The treatment accorded to unlawful combatants is discussed below).

The President has determined that al Qaida members are unlawful combatants because (among other reasons) they are members of a non-state actor terrorist group that does not receive the protections of the Third Geneva Convention. He additionally determined that the Taliban detainees are unlawful combatants because they do not satisfy the criteria for POW status set out in Article 4 of the Third Geneva Convention. Although the President's determination on this issue is final, courts have concurred with his determination.

So according to the 2002 DoD interpretation of a "determination" by President George W. Bush, members of the Taliban are enemy combatants. But they also are unlawful combatants instead of lawful combatants, so that is one bit of misleading information from Cleveland.

A much bigger problem, though, is that from all appearances, Mohammad Azam was not a driver affiliated with the Taliban and certainly not Mansour's personal driver. The Guardian looked carefully into the circumstances of how Azam came to be driving Mansour and it appears that Azam was randomly assigned to drive Mansour:

It was a series of chance occurrences that led to Azam finding one of the US's most wanted men sitting in his white Toyota Corolla.

Azam got much of his work through a small local transport company owned by Habib Saoli, which has its office near the exit of the Iranian-Pakistani border facility that straddles the border.

Mansoor emerged from that building shortly after 9am on 21 May, returning to Pakistan after a long visit to Iran which, it has been reported, was for both medical attention and to visit members of his family.

/snip/

He immediately began looking for a ride for the 600km journey to the city of Quetta.

Said Ahmed Jan, an employee of a bus company, was trying to fill up the final seats of his Quetta-bound minibus but Mansoor wasn't interested.

"He said, 'I want to go in a car', so I called Habib and asked him to provide a car," said Jan. "Habib took a little commission and gave the job to Azam."

It's very hard to see how a taxi driver randomly assigned to transport a legitimate target of the Defense Department suddenly becomes transformed into a lawful combatant himself. Despite Cleveland's assurance to the contrary, I seriously doubt that DoD considered Azam a lawful combatant at the time they authorized the strike. The most logical assumption is that DoD came to the decision that Azam's life was acceptable collateral damage for taking out Mansour. Cleveland simply lacked the honesty to deliver that sad truth.

There also may be legal reason for this lie, however, since Azam's family has started the paperwork within Pakistan to sue the US over his death. It will be interesting to see whether the case proceeds, especially in light of the previous ruling in the Peshawar High Court that US drone strikes in Pakistan are war crimes.

**Postscript:** I suppose that one might argue that Cleveland was referring to Mansour rather than Azam when he was making his assurance that "he was a lawful combatant", but then that says

Cleveland completely ignored the question about the status of Azam.