

**Russia's Use of the Wagner Group:
Definitions, Strategic Objectives, and Accountability**

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Chairman Lynch, Ranking Member Grothman, and distinguished members of the Subcommittee, thank you for giving me the opportunity to testify, and to share my research and analysis with you concerning Russia's Wagner Group. Because there is much more reliable, publicly available evidence about the Wagner Group than about other Russian "private" military and security companies, I will be discussing only the Wagner Group today.

Summary

My testimony today will address five questions: (1) what the Wagner Group is and is not; (2) the limits of publicly available information about the Wagner Group's deployments and activities; (3) how Russia's use of the Wagner Group has served its strategic objectives since 2014 in Ukraine, Syria, Sudan, the Central African Republic (CAR), Mozambique, Libya, and Mali; (4) how the United States and the international community can hold the Wagner Group accountable for war crimes, atrocities, and other illegal activities; and (5) why I do not support labeling the Wagner Group a Foreign Terrorist Organization (FTO), and instead recommend prosecuting it under existing or amended war crimes and crimes against humanity laws.

Please note that in July 2020 testimony before the House Foreign Affairs Committee Subcommittee on Europe, Eurasia, Energy, and the Environment, I discussed in depth the

Wagner Group's history, its ties to the Russian military intelligence agency (the GRU), and its commercial and contracting links to President Vladimir Putin's criminal network crony, Yevgeny Prigozhin.¹ I will not repeat that earlier discussion here.

What the Wagner Group Is and Is Not

The Wagner Group is neither a legally established private military company (PMCs remain illegal in Russia), nor a true mercenary group, even though these terms are often used to describe it. It is not even a well-defined, static organization. Its fighters serve on temporary contracts, and its activities have shifted over time and geographic space. For example, in both Libya² and Ukraine³ there are reports that Wagner Group members have flown fixed-wing Russian Air Force aircraft (and that in Ukraine the pilots have included retired Russian Air Force officers), but there were no reports of an air force connection before 2020.

The Wagner Group is instead a mechanism, closely tied to the GRU, for recruiting and training Russian and pro-Russian veterans on contract, in a country where the lines between public and private are blurred. Putin and his cronies use this blurring to enrich themselves, including through organized criminal activities. Wagner Group contractors are recruited under the umbrella of Putin's ally Prigozhin and a variety of his commercial firms. The recruits are sometimes highly professional and well-trained Russian veterans who may have served in the elite special forces, such as the snipers used to support Libyan warlord Khalifa Haftar in his 2019/2020 drive to seize Tripoli. At other times they are people down on their luck and desperate for employment, used for guard or repair duty or to fill infantry ranks. There are multiple reports that in 2022 the Wagner Group, like the uniformed Russian army, has been recruiting prison inmates to fight in Ukraine in return for having their sentences commuted.⁴

¹ Kimberly Marten, "The GRU, Yevgeny Prigozhin, and Russia's Wagner Group: Malign Russian Actors and Possible U.S. Responses," Testimony before the Committee on Foreign Affairs Subcommittee on Europe, Eurasia, Energy, and the Environment, United States House of Representatives, Hearing on Exposing and Demanding Accountability for Kremlin Crimes Abroad. Prepared for presentation on July 7, 2020.

² Rear Adm. Heidi Berg, AFRICOM Director of Intelligence, quoted by Eric Schmitt, "Russian Attack Jets Back Mercenaries Fighting in Libya," *New York Times*, Sept. 11, 2020.

³ Mary Ilyushina, "In Ukraine, a Russian mercenary group steps out of the shadows," *Washington Post*, Aug. 18, 2022, quoting Ukrainian intelligence officials.

⁴ Ilyushina, "In Ukraine."

The Wagner Group always serves at the behest of the Russian state, performing diverse duties. Sometimes it provides security or advisory support for foreign authoritarian leaders and regimes, as in Sudan, CAR and Mali. Sometimes it trains foreign fighters, sometimes it fight foreign wars, and often it fulfills several of these tasks simultaneously or in succession. Most places where the Wagner Group has been deployed (with the exception of Ukraine) it has also contracted to provide security and protection for mining or petroleum operations, where Prigozhin's companies get a share of the resulting profits.

Prigozhin was in the past a cleaning and catering contractor for the Russian Defense Ministry, and the Russian Defense Ministry appears to have paid for the 2022 contracts of Wagner Group fighters in Ukraine. While many analysts (including myself in the past) have hypothesized that Prigozhin himself was funding Wagner Group contracts, perhaps using the proceeds from his mineral deals, there has never been any publicly available evidence to confirm this. Every Wagner Group contract that has been either published by journalists or confirmed by multiple sources (in Syria, Sudan, the Central African Republic, Mozambique, Libya, and Mali) has been funded by a foreign government or entity, with the Russian state acting as the interlocutor to ensure contract approval. As a result it is likely that Prigozhin is the middleman who manages the contracts and recruiting—not the Wagner Group's primary funder.

Indeed with the exception of gold in Sudan, where the *New York Times* has traced Prigozhin's pathway to profits for Russia,⁵ there is little publicly available evidence that Prigozhin is making much money from the commercial deals associated with the Wagner Group's presence. Diamonds in CAR are mined artisanally, by people sifting dirt, with a payoff that cannot possibly match that of Russia's giant industrial diamond mines on its own territory and in places like Angola. In Syria most analysts similarly see Prigozhin's oil leases as having minimal economic value, serving instead as a permanent geopolitical toehold for Russia in the country.⁶ In Mozambique the local security forces reportedly considered the Russians as competitors for

⁵ Declan Walsh, "'From Russia With Love': A Putin Ally Mines Gold and Plays Favorites in Sudan," *New York Times*, June 5, 2022.

⁶ Amy Mackinnon, "Putin's Shadow Warriors Stake Claim to Syria's Oil," *ForeignPolicy.com*, May 17, 2021.

their own control of the illegal economy,⁷ perhaps contributing to the Wagner Group's failure there in 2020. In Mali, too, the Wagner Group now faces great challenges in accessing the country's mineral wealth, competing against well-established local interests.⁸

Wagner Group fighters—including those who are citizens of other Slavic countries, such as Serbia, Belarus, and Ukraine—recognize themselves as serving on behalf of the Russian state and consider themselves pro-Russian patriots, even though they may be in it for the money (or the violence⁹). The exceptions are the Syrian militia members who were recruited by the Wagner Group to serve in Libya (and perhaps in CAR, although the situation there is less well documented¹⁰). These fighters were former rebels living in Russian-held territory in Bashar Assad's Syria, reportedly pressured or coerced to go to Libya, sometimes under false pretenses. Despite widespread media reports that the Wagner Group would also send large numbers of Syrians to Ukraine, that has not happened.¹¹

The Problem of Finding Reliable Information about the Wagner Group

Analysts without security clearances face a fundamental problem in attempting to understand the details of Wagner Group activities: the Wagner Group is a product of the GRU, so by definition its actions are cloaked in secrecy and subject to sophisticated disinformation campaigns. It is not always clear who is a Wagner Group soldier, versus a serving member of the Russian armed forces or a security contractor for another Russian entity. Disinformation may come not only from Russian intelligence agencies, but also from Russia's opponents (including some U.S. allies), who may have both battlefield and public influence incentives to exaggerate or distort Wagner's presence and activities.

⁷ David Matsinhe, quoted by Geoffrey York, "Russian mercenaries regroup after setback in Mozambique," *Toronto Globe and Mail*, Nov. 29, 2019.

⁸ Raphael Parens, "The Wagner Group's Playbook in Africa: Mali," Foreign Policy Research Institute, Mar. 18, 2022.

⁹ Some uniform patches on the bodies of Wagner Group fighters killed in Ukraine read, "I don't believe in anything. I'm here for violence." Yaroslav Krechko, "Bodies Of Russian Mercenaries Litter Field After Donetsk Battle With Ukrainian Army," Radio Free Europe/Radio Liberty, Aug. 12, 2022.

¹⁰ Jack Losh, "Putin Resorts to Syrian Mercenaries in Ukraine. It's Not the First Time," *ForeignPolicy.com*, Mar. 25, 2022.

¹¹ Pierre Bousset, "Syrian Mercenaries in Ukraine: Delusion or Reality?" Carnegie Endowment for International Peace, June 23, 2022.

It is therefore difficult to assess the reliability of interviews given to journalists by those who present themselves as current or former Wagner Group fighters and their friends and family members. One example is the question of whether the Wagner Group was actually deployed to Venezuela in 2019 to provide added security for Nicolás Maduro's regime at a time of instability. An initial Reuters report, relying on interviews, stated that this was so,¹² and the report was widely recirculated, taking on the status of fact. A later investigative report, though, also relying on interviews, cast doubt on the claim. It suggested that while a variety of Russian military and intelligence contractors and officials had been in Venezuela in many capacities since 2017, they were not employed by the Wagner Group and had taken on a wide range of activities to support the regime: paying local gangs to beat up protestors, guarding Venezuelan gold surreptitiously transferred to Russia, providing traditional training and support for Russian weapons sales, guarding Rosneft oil facilities in the country, and removing Russian corporate documents from Venezuelan territory.¹³ Complicating any assessment is that individuals working for the Wagner Group have sometimes also served as more traditional security guards for Russian state commercial enterprises doing business abroad,¹⁴ so the presence of a past Wagner Group fighter does not necessarily indicate current Wagner Group involvement.

In past years Russian and Western investigative journalists were able to uncover and publish a great deal of well-sourced information about the Wagner Group's makeup and activities.¹⁵ Putin's suppression of all independent media in Russia, the imprisonment of some Russian analysts and the murder of some Russian journalists, and the Russian state's increasing crackdown against battlefield social media use by its fighters has made the gathering and reporting of such information increasingly difficult. Some well-sourced gems have surfaced more recently (such as Prigozhin's criminal record from Soviet times,¹⁶ the contents of a laptop

¹² Maria Tsvetkova and Anton Zverev, "Exclusive: Kremlin-linked Contractors Help Guard Venezuela's Maduro," Reuters, Jan. 25, 2019.

¹³ Lilya Yapparova, "Geopolitical debts: Why Russia is really sending military advisers and other specialists to Venezuela," *Meduza*, July 29, 2019.

¹⁴ Candace Rondeaux, "Decoding the Wagner Group: Analyzing the Role of Private Military Security Contractors in Russian Proxy Warfare," *New America*, Nov. 2019.

¹⁵ For an earlier summary and analysis, see Kimberly Marten, "Russia's use of semi-state security forces: the case of the Wagner Group," *Post-Soviet Affairs* 35, no. 3 (2019): 181-204.

¹⁶ "Prigozhin's criminal past, straight from the source: A complete translation of one of the court documents from the case that sent 'Putin's chef' to prison, four decades ago," *Meduza*, June 29, 2021.

left by a fleeing Wagner Group fighter in Libya,¹⁷ and confirmation that Prigozhin was still involved in gold mining in Sudan in 2022¹⁸), but these are rare. Western analysts have been able to use publicly available flight, customs, satellite, and social media data to analyze some, but not all, activities linked to the Wagner Group and Prigozhin.¹⁹ Two United Nations (UN) Panel of Experts reports include rich and detailed information about the Wagner Group's activities in Libya²⁰ and CAR.²¹ But not all of the UN sources are publicly revealed, and the CAR report in particular did not directly name the Wagner Group, contributing to the blurred lines between the Wagner Group and other Russian activities.

What there is overwhelming evidence to support, with facts uncontested by anyone except Russian officials and media, is that wherever it has been deployed (Sudan,²² CAR,²³ Syria,²⁴ Libya,²⁵ Mali,²⁶ and Ukraine²⁷) the Wagner Group has carried out and/or facilitated terrible atrocities and war crimes. But then, that same pattern holds true for the Russian uniformed military, too: earlier in its civil war in Chechnya, and more recently in its foreign wars in Georgia, Syria and Ukraine.

¹⁷ Nader Ibrahim and Ilya Barabanov, "The lost tablet and the secret documents: Clues pointing to a shadowy Russian army," BBC News, n.d. (2021).

¹⁸ Walsh, "From Russia With Love."

¹⁹ Shelby Grossman, et al., "Stoking Conflict by Keystroke: An Operation Run by IRA-Linked Individuals Targeting Libya, Sudan, and Syria," Stanford Internet Observatory, Dec. 15, 2020; Graphika and the Stanford Internet Observatory, "More Troll Combat: French and Russian Influence Operations Go Head to Head Targeting Audiences in Africa," Dec. 15, 2020; Candace Rondeaux, Oliver Imhof, and Jack Margolin, "The Abu Dhabi Express: Analyzing the Wagner Group's Libya Logistics Pipeline & Operations," New America, Nov. 1, 2021; Candace Rondeaux, Ben Dalton, and Jonathan Deer, "Wagner Group Contingent Rusich on the Move Again," New America, Jan. 26, 2022.

²⁰ United Nations, "Final report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011)," S/2021/229, March 8, 2021.

²¹ United Nations, "Final report of the Panel of Experts on the Central African Republic extended pursuant to Security Council resolution 2536 (2020)," S/2021/569, June 25, 2021.

²² Tim Lister, Sebastian Shukla and Nima Elbagir, "Fake news and public executions: Documents show a Russian company's plan for quelling protests in Sudan," CNN, Apr. 15, 2019.

²³ "CAR: Russian Wagner Group harassing and intimidating civilians – UN experts," UN Office of the High Commissioner on Human Rights, Oct. 27, 2021; Jason Burke and Zeinab Mohammed Salih, "Russian mercenaries accused of deadly attacks on mines on Sudan-CAR border," *The Guardian*, June 21, 2022.

²⁴ Denis Korotkov, "Golovorezy [Thugs]," *Novaya Gazeta*, Nov. 20, 2019; summarized in Matthew Luxmoore, "In Syria, A Mutilated Corpse, Video Evidence, And New Scrutiny For Russian Mercenaries," Radio Free Europe/Radio Liberty, Nov. 21, 2019.

²⁵ Salem Solomon, "Russian Mercenaries in Libya Leave Mines as Deadly Calling Cards, Observers Say," VOA News, Aug. 4, 2020.

²⁶ Catrina Doxsee and Jared Thompson, "Massacres, Executions, and Falsified Graves: The Wagner Group's Mounting Humanitarian Cost in Mali," CSIS, May 11, 2022.

²⁷ Lorenzo Tondo, Isobel Koshiw, Emma Graham-Harrison and Pjotr Sauer, "Alleged Wagner Group fighters accused of murdering civilians in Ukraine," *The Guardian*, May 25, 2022.

The Wagner Group and Russia's Strategic Objectives

As Russia's use of the Wagner Group has shifted across time and space, it has served multiple strategic objectives for the Kremlin—all centered on helping Moscow expand its global sphere of influence at the expense of the United States and its allies.

One of the core purposes of the Wagner Group, especially early on, was to give the Russian state plausible deniability for its military presence on the ground in new locations where it was not supposed to be. For example, the Wagner Group essentially sneaked into CAR in 2017/2018. Moscow told the United Nations that its personnel were there temporarily, to transport spare AK-47s into the country (approved as a UN sanctions exception) and provide supplementary training.²⁸ In reality the Wagner Group was soon providing regime security, supporting a (failed) Russian-negotiated ceasefire between the regime and rebels, training CAR special forces in defiance of a UN-approved European Union training mission, smuggling in additional weapons that violated the UN sanctions regime, and guarding diamond and gold mines on behalf of Prigozhin's firms. By December 2020 it was actively fighting rebel groups, too.

Early on Wagner Group forces could be described by the Russian state as “volunteers,” not under Russian command, leaving doubts about who was actually directing their activities. A notable instance was when Wagner Group forces led an attack on Kurdish-held territory and natural gas infrastructure in Deir Al Zour, Syria, in February 2018.²⁹ U.S. military commanders used the Syrian deconfliction line to warn their Russian counterparts repeatedly that U.S. forces were protecting the Kurdish forces and would fire on the attackers, but Russian commanders responded that the attackers were not “theirs.” As a result dozens of the attackers were killed by U.S. airstrikes.³⁰ While wounded Wagner Group fighters were eventually flown out from Syria by Russian aircraft and treated at a military hospital in St. Petersburg, Russia reportedly refused even to send helicopters to the post-battle space to evacuate the wounded, probably causing

²⁸ Kimberly Marten, “Into Africa: Prigozhin, Wagner, and the Russian Military,” PONARS Policy Memo 561, Jan. 4, 2019.

²⁹ Kimberly Marten, “The Puzzle of Russian Behavior in Deir Al-Zour,” *War on the Rocks*, July 5, 2018.

³⁰ The definitive public account of the battle is provided by Thomas Gibbons-Neff, “How a 4-Hour Battle Between Russian Mercenaries and U.S. Commandos Unfolded in Syria,” *New York Times*, May 24, 2018.

worse casualties. (Beyond the purpose of maintaining plausible deniability, this event may also have reflected a deadly internal conflict between the Russian Defense Ministry and Prigozhin.)

By mid-2018, though, Russian and western investigative journalists were tracking the Wagner Group everywhere it went, and plausible deniability could no longer be maintained. In Russia's legislature (the Duma) the Wagner Group was mentioned by name; this was reported by a leading Russian daily business newspaper, *Vedomosti*, and repeated by TASS, the Russian state news agency.³¹ That December when Putin was asked about the Wagner Group in his annual press conference (most likely, the question was planted), he encouraged it to carry out its business anywhere in the world as long as it didn't violate Russian laws,³² thereby publicly confirming the group's existence and state support for its activities. In 2021 three Prigozhin-funded action movies, about the exploits of an unnamed Russian paramilitary group in eastern Ukraine,³³ CAR,³⁴ and Mozambique (where they were portrayed as victorious, despite the Wagner Group's failure there)³⁵ aired on Russian television. By summer 2022, the Wagner Group was openly recruiting across Russia for fighters to join the Kremlin's war in Ukraine, including via highway billboards.³⁶

As plausible deniability became less credible, the Wagner Group continued to serve three key purposes for the Russian state. First, it was used for dangerous and sometimes experimental military actions where Putin did not want to risk the lives of ordinary Russian conscripts and soldiers. This allowed the Kremlin to expand Russia's military influence abroad without unleashing public unhappiness about casualties. The Committee of Soldiers' Mothers non-governmental advocacy group, founded in 1989 during the Soviet war in Afghanistan, had

³¹ "Vedomosti: Lawmakers mull bill on protecting journalists in conflict zones," TASS, Aug. 2, 2018.

³² Liana Faizova, "Kudrin, Povar, ChVK Vagnera, Zhenit'ba: Chto Vaszhnogo i Strannogo Skazal Putin Na Press-Konferentsii [Kudrin, the Chef, the Wagner PMC, Marriage: What Important and Strange Things Putin Said at the Press Conference]." *The Bell*, Dec. 20, 2018.

³³ Liliya Yapparova, "'A Lugansk chainsaw massacre:' Pro-Kremlin channel to premiere Prigozhin-backed film about Donbas war," *Meduza*, Aug. 13, 2021.

³⁴ Liliya Yapparova, "'We fight for justice:' Russian mogul bankrolls action movie about his mercenary troops in Africa amid allegations of war crimes," *Meduza*, May 28, 2021.

³⁵ Pjotr Sauer, "Prigozhin Bankrolls New Movie About Russian 'Instructors' in Mozambique," *The Moscow Times*, Dec. 24, 2021.

³⁶ "The 'W' orchestra awaits you: Russian journalists identify mercenary recruiters thanks to Wagner Group billboards in the regions," *Meduza*, July 21, 2022; originally published in *Verstka*, trans. Eilish Hart.

played a particularly important role in publicizing conscript deaths, injuries, and mistreatment during Russia's civil wars in Chechnya, including at the start of Putin's regime.³⁷ By using the Wagner Group—seen by many Russians as scraggly mercenaries who knowingly risk death to make money—the Kremlin short-circuited what might have been major protest actions by Soldiers' Mothers or other activists against Russia's foreign military adventures.

Second, in Sudan, CAR, Libya, and Mali, the Wagner Group has allowed Russia to insert itself as a necessary player in the resolution of African civil wars and conflicts without using regular military forces. It gives Russia a low-cost presence on the ground, and a reputation for being important and powerful outside of its immediate region. The Wagner Group has often been tasked with maintaining regime security or helping to restore stability—assistance which can be withdrawn at any time if Russian goals are not met. This makes it somewhat similar to a mafia protection racket, essentially holding its beneficiaries hostage to Kremlin demands. (Indeed in Russia's original military intervention in eastern Ukraine in 2014/2015, the Wagner Group reportedly used direct physical coercion to force independent-minded local militias to join the pro-Russian side.) The geopolitical benefits for the Kremlin may eventually include new permanent military bases. Russia signed an agreement in 2020 for a Red Sea naval base in Sudan (although it may never be built, given Sudan's ambivalence about it).³⁸ Moscow probably also hopes for a military base on the Mediterranean coastline in eastern Libya, if Haftar's forces succeed in maintaining permanent control there. Bases in either of those locations could be used to monitor or harass U.S. and allied commercial and military activities.

Third, Prigozhin's public relations and internet firms have been used to discredit Russia's perceived geopolitical competitors in Africa, particularly France, while instilling support for Russia and the Wagner Group in CAR³⁹ and Mali.⁴⁰ In Mali Russia contributed to efforts by the

³⁷ Valerie Sperling, "The last refuge of a scoundrel: patriotism, militarism and the Russian national idea," *Nations and Nationalism* 9, no. 2 (2003): 235-253. In 2021 Soldiers' Mothers stopped its activities out of concern about state persecution.

³⁸ Amy Mackinnon, Robbie Gramer, and Jack Detsch, "Russia's Dreams of a Red Sea Naval Base Are Scuttled—for Now," *ForeignPolicy.com*, July 15, 2022.

³⁹ Kimberly Marten, "Russ-Afrique? Russia, France, and the Central African Republic," *PONARS Policy Memo* 608, Aug. 2019.

⁴⁰ Bokar Sangaré and Fatoumata Diallo, "Russia-Mali: Who is spreading Moscow's soft power in Bamako?" *The Africa Report*, Nov. 25, 2021; Christophe Châtelot and Cyril Bensimon, "Paris fails to counter Russian propaganda in the Sahel," *Le Monde*, May 21, 2022.

ruling military junta to convince French, other European, and Canadian anti-terrorism forces to leave the country. In other words, the goal is not merely to expand Russia's influence, but to undercut western influence, too, even if doing so makes regional security situations worse.

Holding Russia Accountable

The Wagner Group and Prigozhin are already sanctioned by the United States and the European Union, and those sanctions are having an important effect: they limit the geographical scope of where the Wagner Group can be deployed, and where Prigozhin can dock his planes and boats. For example, in 2020 (even before EU sanctions were in place) an airplane owned by Prigozhin landed in Lithuania with the intention of getting repair work done. While it was allowed to land, no services were performed because the local provider feared triggering U.S. secondary sanctions.⁴¹ The only countries willing to contract Wagner Group services or to conduct business with Prigozhin are those already under U.S. and EU sanctions, or at least willing to risk them.

One step the U.S. could take to increase financial pressure against the Wagner Group and Prigozhin would be to work with its United Arab Emirates (UAE) partners to single out Russian gold smuggling efforts from Africa for special scrutiny and enforcement in Dubai. U.S. anti-smuggling efforts in Dubai have sometimes fizzled,⁴² and as recently as Dec. 2021 many African states expressed doubt that the UAE was actually following through on promises to crack down on gold smuggling.⁴³ New Russian-origin gold is now sanctioned internationally. A logical extension would be to ensure that organized criminals do not provide false origin documents for Russian-mined, African gold melted down in Dubai.

Prigozhin, his coworkers, and several of his firms were also indicted by the U.S. Justice Department in 2018 for election interference, although prosecutors were forced to drop the case in 2020 when Prigozhin's lawyers succeeded in demanding the release of confidential

⁴¹ Jūratė Skėrytė, "Lithuanian Parliament Seeks EU Sanctions on 'Putin's Chef,'" LRT English, Feb. 19, 2020.

⁴² Kyra Gurney, "US Treasury Department abandoned major money laundering case against Dubai gold company," International Consortium of Investigative Journalists, Sept. 21, 2020.

⁴³ Simon Marks, Michael J Kavanagh, and Verity Ratcliffe, "Dubai Can't Shake Off the Stain of Smuggled African Gold," Bloomberg News, Dec. 28, 2021.

information that would have revealed sources and methods.⁴⁴ When this is combined with the difficulties that researchers without security clearances have in separating truth from rumor about the Wagner Group's activities, it suggests that if the U.S. seeks to impose further accountability on the Wagner Group, it may need to reconsider current rules about declassification of evidence. One example stands out, from Libya in 2020. US AFRICOM publicly released many satellite photos to demonstrate that Russian military fighter and bomber aircraft had been surreptitiously repainted and transported to Haftar's area of control, via Syria, in May 2020, and were being used to fly missions.⁴⁵ There is no question they were supporting the Wagner Group's activities there. But we have to take AFRICOM's word that it was actually Wagner Group pilots who were flying those advanced jets⁴⁶—as opposed to Libyan rebels (including former Libyan air force officers), Syrian air force officers or contractors, or regular Russian air force officers. No evidence for Wagner Group piloting was publicly released.

Criminal indictments matter, even if they never lead to convictions for foreign actors, because they limit the ability of individuals to travel to any of the 116 countries with which the U.S. has an extradition treaty. They can thereby serve as a deterrent to others tempted to commit such crimes. Indictments would have even more impact if the U.S. were to amend the War Crimes Act of 1996, as proposed earlier this year in a bipartisan Senate bill, to allow universal jurisdiction (aligning the U.S. with international practice).⁴⁷ Currently the War Crimes Act applies only to perpetrators located in or extradited to the United States who are themselves U.S. citizens or service members, or whose victims are U.S. nationals.⁴⁸ If the act were amended to align with universal jurisdiction norms, anyone could be indicted in the U.S., and hence subject to extradition and prosecution, for war crimes or crimes against humanity regardless of the nationality of the offender or the victim.

⁴⁴ Katie Benner and Sharon LaFraniere, "Justice Dept. Moves to Drop Charges Against Russian Firms Filed by Mueller," *New York Times*, Mar. 16, 2020.

⁴⁵ U.S. Africa Command Public Affairs, "New evidence of Russian aircraft active in Libyan airspace," June 18, 2020.

⁴⁶ Eric Schmitt, "Russian Attack Jets Back Mercenaries Fighting in Libya," *New York Times*, Sept. 11, 2020.

⁴⁷ Geoffrey S. Corn, "Congress Needs to Amend the War Crimes Act of 1996," *Lawfare*, Mar. 2, 2022; Ania Zolyniak, "The United States and the International Justice Enterprise," Council on Foreign Relations blog, May 27, 2022.

⁴⁸ William J. Clinton, "Statement on Signing the War Crimes Act of 1996," archived by the American Presidency Project (University of California, Santa Barbara), Aug. 21, 1996.

Where this might especially make a difference is in Ukraine. The U.S. State Department is aiding the Office of the Prosecutor General of Ukraine, the Organization of Security and Cooperation in Europe, and the International Criminal Court (ICC) in their efforts to hold Russian actors (including the Wagner Group) accountable for their actions in Ukraine, including through the Atrocity Crimes Advisory Group, in cooperation with the UK and EU.⁴⁹ This international process could be expanded by demanding financial reparations from the Russian state for war crimes committed under its auspices (including by the Wagner Group), perhaps using an expanded definition of asset forfeiture rules under an amended U.S. War Crimes Act.

The ICC is also investigating war crimes committed in CAR, Mali, and Libya (the latter under UN Security Council jurisdiction), but its focus in all three cases is on domestic actors and crimes that long predate the Wagner Group's arrival. Even though the U.S. did not ratify the Rome Statute and does not recognize ICC jurisdiction, the State Department could choose to provide additional assistance to the ICC in these cases as well. Since all three of these cases are couched in terms of starting dates for atrocity investigations, not end dates, they could theoretically be expanded to include recent Wagner Group actions. The current regimes in both CAR and Mali would stymie any such efforts, though.

Is the Wagner Group a “Foreign Terrorist Organization”?

Some have proposed labeling the Wagner Group a Foreign Terrorist Organization (FTO) under the U.S. Antiterrorism and Effective Death Penalty Act.⁵⁰ It would be much better to hold the Wagner Group accountable under existing and amended war crimes, crimes against humanity, and anti-torture laws instead, for three reasons.

First, as noted above, those who work under Wagner Group auspices are temporary state contract recipients in a system that morphs over time and geographic location. The Wagner Group is not a legal or permanent entity, and even its name is unofficial. Labeling the Wagner Group an FTO will not change how the Russian military does contracting.

⁴⁹ U.S. Ambassador-at-Large for Global Criminal Justice Beth Van Schaack, Washington Foreign Press Center Briefing, “War Crimes and Accountability in Ukraine,” June 15, 2022.

⁵⁰ James Petrila and Phil Wasielewski, “It’s Time to Designate Wagner Group as a Foreign Terrorist Organization,” *Lawfare*, June 30, 2022.

Second, even though Russia publicly denies that the Wagner Group is working on its behalf, it is in fact a tool of the Russian state and its defense and intelligence agencies. Labeling the Wagner Group an FTO is effectively labeling Russia an FTO. The label carries a great deal of diplomatic baggage, complicating any future cooperation with Russia on arms control, cyber, climate, and other agreements that the U.S. might at some point find to be in its own national interest.

Finally, the designation would blur the distinction between terrorism and war crimes. Not all horrific violence is terrorism. While terrorism has no universally accepted definition, the label is commonly applied to acts of violence committed by non-state organizations against non-combatants, done for shock value to gain attention or support for a political cause. That is not who the Wagner Group is or what it does.

When violence is committed against non-combatants in wartime it is considered a war crime under the Geneva Conventions. If torture is committed, then the action also falls under the 1984 international Convention Against Torture. Because domestic laws in many parts of the world often make it easier to prosecute acts of terrorism than war crimes and other crimes against humanity, countries are tempted to redefine terms and blur the two. This risks undercutting the development and strength of international war crimes law,⁵¹ while making “terrorism” a meaningless term beyond the idea that its victims are non-combatants. Instead, the U.S. should concentrate on prosecuting Wagner Group actions under existing and amended war crimes, crimes against humanity, and anti-torture laws, reserving the FTO label for true terrorist groups.

⁵¹ Kelisiana Thynne, “Better a war criminal or a terrorist? A comparative study of war crimes and counterterrorism legislation,” *International Review of the Red Cross* no. 916-917, Feb. 2022.