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by Dani Belo and David Carment
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POLICY PERSPECTIVE

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In this paper we examine the involvement of non-state actors in grey-zone conflict, their relationship to hybrid warfare and the implications therein for conflict management.

The modern concept of hybrid warfare emerged from American military strategic studies, which have been influenced by the realization that since 9/11 – and following the 2006 Israel-Hezbollah war – the conflicts in which the U.S. and its allies are involved have become increasingly complex with regard to the number and kind of belligerents and the tools available to them. These hybrid threats drove the recent overt use of violence by state-backed proxies in Syria and Ukraine. Cold War-era concepts were the predecessors of Russia’s contemporary Gerasimov Doctrine and China’s concept of unrestricted warfare. However, in grey-zone conflicts, participants may rely entirely on unconventional tools and tactics, such as propaganda campaigns, economic pressure and the use of non-state entities, which do not cross the threshold of formalized state-level aggression.

Contemporary multi-modal hybrid threats have little in common with past examples of interstate aggression, which relied on conventional hard- and soft-power tactics to undermine opponents. Hybrid is distinct from regular warfare in that non-military actors and stakeholders are explicitly involved in war’s political, informational and economic components. Hybrid warfare today is societal in scope in terms of intended targets and those states that engage in it. This increased complexity is exacerbated by the fact that the participants’ ultimate goals are frequently, and often deliberately, unknown to prevent opponents from deploying deterrence measures.

One of the most important debates regarding grey-zone conflict has focused on how non-democratic states conduct hybrid operations using non-state actors against their democratic adversaries and what democracies can do to respond to those actions. It has been argued that non-democracies are more readily disposed to grey-zone conflict because they are less constrained and have more centralized, procedurally flexible decision-making structures than their more democratic, consensus-building counterparts. Internationally, states such as Russia and China can use propaganda, domestic legal structures, economic pressure and covert support for non-state entities more readily, compared to their democratic counterparts. Furthermore, the relatively unregulated international environment enables authoritarian states to normalize and internalize new practices for engagement against opponents.

In contrast, democracies have a different problem. Consider the U.S. deployment of special forces in more than 100 countries. The shift to kinetic diplomacy occurred during George W. Bush’s presidency after Sept. 11, 2001, when the president declared a “war on terror”. U.S. strategy then moved from containing threats to national security, to engaging them abroad pre-emptively. This meant more special forces on the ground and fewer diplomats. The U.S. acknowledges that its forces are involved in these missions, sometimes with foreign-partner special operations forces, in an undeclared conflict zone. This is highly controversial and many of these partnerships remain classified. In essence, special operations forces function in a dimension that shadows traditional



diplomacy (Duffy Toft 2018 a, b). There are some 70,000 U.S. special operators worldwide, compared to fewer than 10,000 foreign service officers.

Complete reliance on unconventional tools, like special operations forces, is likely to be less effective at fully and rapidly compelling relatively strong opponent(s) into specific avenues of desired action. Thus, states engaged in grey-zone conflicts are likely to use hybrid techniques and more of their conventional resources when there is a perception that unconventional techniques will not fully achieve a desired outcome. Conventional force against an opponent would be more likely incorporated in cases of asymmetric conflict in which the cost of applying conventional techniques against a weaker opponent is much lower. However, in cases where opponents are in a symmetric conflict, states are likely to rely heavily on unconventional tools and covert operations.

Early military strategists, such as Carl von Clausewitz (1918), note that the “fog of war”, or uncertainty at all levels of war from the tactical to the strategic, is associated with incomplete information, which has been a major barrier in military campaigns throughout history. However, with increased emphasis on this information domain, the effect of uncertainty has been declining steadily as the armed forces integrate more sophisticated intelligence-gathering and processing, and reconnaissance technology. Thus, with more information regarding the intentions of opponents and their non-state proxies, parties in conflict generally have a clearer outline of their possible contract space and may negotiate a settlement while forgoing the costs of fighting.

Prior to the emergence of grey-zone conflicts, points of victory by non-state actors could generally be identified: capturing centres of government, localized resources, territory and/or the people who live there – frequently under the banner of ideological superiority. In grey-zone conflicts, it is unclear whether state and non-state actors understand their own long-term goals for engagement with opponents. In grey-zone conflicts, unconventional operations and the increasing inseparability of civilian and military spheres facilitate situational ambiguity which states use to their advantage. This largely reverses the trend that started in the early post-Second World War period. During the Cold War, even though many conflicts incorporated sub-state proxies, their relatively higher intensity prevented them from migrating into a frozen state. In grey-zone conflict, low intensity is a key characteristic and hostilities frequently emerge between parties that are politically and economically interdependent. Thus, grey-zone conflicts also challenge the conventional wisdom which links strong economic relations and peace.

A key question is the scope and purpose of conflict management strategies to prevent and mitigate the increasing use of hybrid warfare involving non-state actors. For example, international law – whether through signed treaties such as the Geneva Conventions of 1949 or customs – has generally provided sufficient guidelines to define and manage interstate conduct in conventional wars. However, within grey-zone conflicts, due to their low intensity and high degree of operational covertness, the laws of war provide relatively few guidelines. For example, cyber- and information technology offers new tools for non-state actors to create disruption and inflict infrastructure damage. Principles of conduct have started to emerge in cyber-space over the past decade, but in regard to political, economic and many elements of soft power, such guidelines are



weak or absent. This creates a permissive environment for, and normalizes, the use of unconventional military and low intensity non-kinetic tactics for both state and non-state actors.

Grey-zone conflicts are significant for the debate between institutionalists and realists regarding the anarchic world order and the role of various entities in contemporary conflict management. Institutionalists contend that structures such as international organizations and norms indeed influence the behaviour of conflict participants toward peace in all stages of conflict management from prevention to resolution. However, empirical evidence from grey-zone conflicts casts a more pessimistic shadow on this claim. The resistance of grey-zone conflicts to resolution and the consistent inability of international institutions to influence state participants' behaviour, and their aid to sub-state actors, support the long-standing realist claim that security can ultimately be promoted by, and for, individual states. Furthermore, grey-zone conflicts support the claim that the international community is currently ill-prepared to manage civil conflict – and malicious or incompetent domestic governments – because our international and national institutional structures are set up to deal with disputes across interstate borders, not those situated within them. In other words, institutions have generally been structures to mitigate Cold War-era confrontations and are not equipped to prevent and manage highly complex, low intensity, and perpetual grey-zone conflict. This means if international institutions are to be responsive to the modern security environment, they will need new mandates, structures, tools and procedures to effectively deal with this new format of conflict.

The foregoing discussion highlights several challenges for scholars and policy-makers. First, it is critical to adapt longstanding international legal provisions such as articles 51 and 2(4) of the UN Charter to the context of a grey-zone conflicts era.¹ Considering that states which engage in such conflict often rely entirely on sub-state actors for kinetic and non-kinetic operations, these provisions raise the important question of how to regulate the behaviour of non-state groups, sponsored by third-party state intervenors, across international borders. For example, the issue of offensive cyber-operations by states and non-state entities has created a conundrum regarding their legality in relation to UN self-defence provisions, the Law of Armed Conflict (LOAC) and norms regarding pre-emptive operations. Related to this, the attributing of actions by non-state actors to their state sponsors has been an opaque area. Legal scholars and policy-makers alike have yet to provide a consensus regarding standardized guidelines or procedures to prove attribution that would decisively warrant specific retaliatory measures.

Second, Article 5 of the NATO Charter remains ambiguous regarding the format and intensity of an attack that would trigger a collective deterrence response.² Some of the ambiguous aspects of this provision are the intensity threshold or the nature of the attack required to trigger the collective response. For example, state and non-state actors alike engage in low-intensity cyber-

¹ UN Charter Article 2(4) states that “all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” Article 51 states that “nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations.”

² NATO Charter Article 5 states that “an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence.”



operations against their opponents to an equally effective degree. A complicated issue associated with this is the virtual intrusion by non-state groups, the composition of which may be defined, and therefore protected, as civilians under the Geneva Conventions of 1949 Article 51 (3) additional Protocol I.

Third, currently there are few international institutions that can effectively identify, and comprehensively respond to, elements of grey-zone conflict and low-intensity hybrid warfare. For example, NATO's preoccupation with military affairs and militarization strategies in the Baltic region has escalated tensions with Russia while doing little to tackle the conflict's political dimensions, such as minority rights protection. This raises the question of how such structures can be adapted to the era of grey-zone conflicts. Furthermore, sending grey zone conflict-related economic disputes through commerce arbitration will not provide long-lasting resolutions to conflicts, as such institutions will be unable to account for the broader context of the problem – the strategic security dimension.

Over the latter part of the 20th century, international organizations have played an important role in fragile states, such as capacity-building, conflict management and post-conflict reconstruction. However, will they remain relevant for the age of grey-zone conflicts? The UN has been the largest international player to facilitate conflict management by states through activities such as multilateral peace-making and peace-building operations. This includes monitoring a ceasefire, or addressing questions of retribution for both sides in case of non-compliance. However, the UN would be a relatively ineffective organ for de-escalation in grey-zone conflicts, considering the large number of non-state entities often making up the majority of participants. The decision-making process regarding conflict and crisis management strategies at the UN is largely state-centric – even if the targets are ultimately non-state militant groups, rebels or non-combatants. This means that the ultimate victims of inter-ethnic hostilities have a limited ability to partake in the process of de-escalating their own conflict. This mismatch increases the risk that de-escalation efforts will fail altogether.

More robust international human rights enforcement mechanisms must be created within alliances such as NATO. The comprehensive approach to deterrence that emerged from the 2011 Lisbon Summit Declaration is a step toward countering unconventional threats, but empirical evidence from the Baltics shows that it has yet to be sufficiently effective in remedying the key areas that enable the use of diaspora-related grey-zone tactics (Carment and Belo 2019).

The adaptation of modern international institutions may be a lengthy process that would require broad international consensus and legitimization. In our related research, we have argued that the domain where regional international organizations, such as the Organization for Security and Co-operation in Europe (OSCE), can be the most effective is in the diagnosis of causes and conflict de-escalation (Carment and Belo 2020, forthcoming). Regional organizations have in-depth specialized knowledge of the geographic area and actors, comparatively lower costs of operation, and are highly effective at producing outcomes in low-intensity disputes. Second, due to the perceived impartiality of such organizations, they have unmatched access to the conflict region and may monitor and disclose issues associated with spoilers, human rights and ceasefire



agreement violations. Finally, unlike large international organizations such as the UN, regional security-oriented organizations can incorporate non-state actors into the multilateral dialogue for conflict management.

However, the resolution of grey-zone conflicts will, in our opinion, still depend on some aspects of bilateral and small-format multilateral negotiations between great powers as the funders of the non-state groups responsible for much of the tactical-level activities. We observe the emergence of this kind of diplomacy between the U.S. and Russia in the latter stages of the conflict in Ukraine with meetings between U.S. special representative Kurt Volker and Russia's Vladislav Surkov in the summer of 2017 (Carment et al. 2019). Recently, we have observed an increased frequency of bilateral negotiations such as Russian President Vladimir Putin's summit with U.S. President Donald Trump in July 2018, with France's President Emmanuel Macron in August 2019, and the phone conversation with Ukraine's President Volodymyr Zelensky in July 2019. Finally, there has been renewed interest in the Normandy format, following three years of disengagement. However, the success of these diplomacy formats are contingent upon the development of robust, broadly accepted, legal attribution mechanisms that create clarity regarding states' actions in support of non-state entities. The questions that this paper raises create future research avenues as grey-zone conflicts, non-state actors and armed groups continue to define the mode of interaction among powerful states.



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