

GREY ZONE OPERATIONS: CONCEPT, PRACTICE AND LAW



Dr. VIJAY SAKHUJA

Director, School of Integrated Coastal & Maritime Security Studies, Rashtriya Raksha University, India

The Cold War established a definitive pattern of forward naval presence and was structured around open sea warfare premised on competitive naval strategy. In the immediate post-Cold War period navies had begun to rearrange their force structure from alliance (NATO and Warsaw Pact) commitments and focused on national security. Their focus was on asserting rights in respective maritime zones accrued under the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

This period of 'relative peace', vis-a-vis the great power competition during the Cold War, was short lived. The September 2001 attacks in the US ushered asymmetric warfare led by violent non-state actors resulting in the emergence of new missions for the navies and coast guards. Countering maritime terrorism, sea piracy, arms smuggling, narcotics and human trafficking, clandestine transfer of weapons of mass destruction (WMD), gained prominence

compared to State vs State conflicts which however continued but were generally localized, and did not spill over to other regions.

It was agreed that the asymmetric or non-traditional (NTS) threats and challenges are transnational in nature and therefore cannot be responded to by one country; it required a global approach necessitating cooperative and convergent maritime strategies. Initiatives such as the Regional Maritime Security Initiative (RMSI), Container Security Initiative (CSI), Proliferation Security Initiative, (PSI), Straits of Malacca patrols, and the ongoing counter piracy operations in the Gulf of Aden were constituted to ensure 'order at sea'. These global, regional or sub regional initiatives including those announced by the United Nations, have proven successful and showcased the desire among maritime nations, big and small, to cooperate and build capacities notwithstanding diverse political persuasions and

naval capabilities-capacities.

Competitive strategies have made a comeback in the third decade of the 21st century; but the actors choose to operate just below the “threshold” to achieve strategic objectives keeping in mind that their actions do not attract a military reaction-response from the opponent. In the past, such tense situations have featured during the Cold War and were resolved through politico-diplomatic initiatives, and will hopefully continue in the future. Be that as it may, the contemporary strategic literature has labelled such “situations and responses thereof” as Grey Zone operations and few regions/areas have been identified where Grey Zone operations are in vogue and being practiced.

Definitions and Understandings

Grey Zone operation as a typology is understood or labelled as “Hybrid Warfare,” “Gray Zone Warfare,” “Unrestricted Warfare,” “Irregular warfare” and “Ambiguous Warfare”. There is no “universally agreed-upon definition” of Grey Zone which “only adds to the conceptual confusion and ambiguity surrounding gray zone warfare; it also obfuscates identifying gray zone threats in practice and the already difficult task of countering them”.

Given the diverse ‘labelling’ and ‘ambiguity’ associated with the typology, it is quite natural that there are several definitions for Grey Zone depending upon where one comes from. A naval commentator has cautioned against using these terms interchangeably i.e. “‘hybrid’ and ‘grey-zone’ connote two different conditions in the context of asymmetric maritime operations”.

The United States Special Operations Command defines Grey Zone as “competitive interactions among and within state and non-state actors that fall between the traditional war and peace duality.” The Center for Strategic and International Studies defines the grey-zone as “the contested arena somewhere between routine statecraft and open warfare.”

Australia’s 2020 defence strategy defines Grey Zone as, “activities designed to coerce countries in ways that seek to avoid military conflict... paramilitary forces, militarisation of disputed features, exploiting influence, interference operations and the coercive use of trade and economic levers.” Likewise, “the challenges of the gray zone go beyond the ordinary, normal, peaceful geopolitical rivalry. They are aggressive in their nature, ambiguous and depend on the perception of the problem”

An expanded understanding of Grey Zone notes that it is “fluid” and can be described as “geopolitical, economic, military actions and cyber and information operations that go beyond regular diplomatic and economic activities but fall below the use of kinetic military force...Tactics utilized in the gray zone include but are not limited to : Information warfare; Encouraging internal strife within targeted countries; Subversive economic practices; Support for domestic and international proxies; Coercive investment and bribery for political aims; Industrial policy designed to monopolize a strategic industry or to destroy such an industry in other nations; Military and paramilitary provocations and operations short of war; Hostage diplomacy; and Changes in internationally recognized borders.”

Notwithstanding different formulations, labelling

and interpretations, it is generally understood that Grey Zone operation is an unconventional military response to achieve strategic aims without a military conflict. Consequently Grey Zone tactics are “ambiguous, belligerent, and coercive actions” because they do not adhere to the “traditional black-or-white dichotomy of war and peace; instead, they fall somewhere in the undefined middle.”

Furthermore “The power of grey-zone activities comes from skilfully arranging grey tactics in a coherent campaign that fulfils a strategic end. Grey-zone campaigns include these characteristics: (a) lack of boundaries; (b) maximal use of resources across the nation; (c) operational artistry of the campaign; (d) inherent unity of the deception plan and the operational plan; (e) risk management; avoidance of escalating to war, and (f) achieves strategic aims.”

The contending sides remain conscious that the operations are conducted short of the actual attack or state of combat by employing regular and irregular forces, platforms, weapons, swarm (drone) attacks, cyber threats and unconventional tactics-maneuvers-tools such as deliberate collision, hull bouncing, sinking, using water cannon, etc., to maximize impact.

Maritime Grey Zone: Actors, Platforms and Weapon, Operations, Technologies

The Grey Zone literature suggests that multiple actors belonging to diverse professions and trade can be mobilized to conduct operation. These are not limited to just the navies, coast guards, maritime law enforcement agencies, maritime militia, but non-military actors and stakeholders such as fishermen, crews of marine scientific research vessels, civilian

pilots flying private aircraft, personnel employed by private marine security companies, to name a few, are mobilized-deployed.

Ships, fishing boats, aircraft and now autonomous vessels (discussed in subsequent sections) are part of the toolkit. These belong to the State (navies, coast guards, maritime law enforcement vessels; military aircraft, unmanned surface, air and sub-surface platforms) and occasionally civilian aircraft or liners.

Depending on the configuration, these platforms are fitted with both lethal and non-lethal weapons and sensors which are put to use against their opponents who in most cases are poorly armed or unarmed to offer any resistance or even minimal deterrence. The tool kit is quite diverse and could even include high end weapons such as military grade lasers, or low level water cannons depending on who the competitors are.

It has been noted that “Non-lethal weapons (NLWs) can play a critical role in military operations. Diverse systems that emit long-range sounds, create dazzling glare, disable engines, entangle propellers or cause heating sensations can enable mission success in a variety of non-combat contexts. When facing gray-zone confrontations with rival powers, such as standoffs at sea, non-lethal capabilities can push back against an encroaching force while managing the risk of escalation.”

At least three types of tactics have been observed during Grey Zone operations. The military vs military gray zone tactics involve aggressive manoeuvres (buzzing by naval boats, aircraft helicopters) which in most cases cross the internationally accepted legal

safety distances. These have been labelled as “risky and unprofessional” and have attracted firing of warning shots.

The military vs non-military gray zone tactics are a one-sided approach and non-military vessels are generally at the receiving end and can even be hit or the crew lives could be endangered. For instance, in one case, the actions were condemned as “in wanton disregard of the safety of the people on board and in violation of international law.” The non-military vs non-military gray zone tactics generally involve swarm of fishing boats against a ‘lone boat’.

Among the non-kinetic ways, cyber-attacks further complicate Grey Zone operations. It has been argued that Grey Zone can be “associated predominantly with cyber operations but can include information warfare, disinformation, and many typical, temporary or reversible attacks or interferences with space systems, such as jamming or spoofing a signal, or dazzling or blinding an Earth observation satellite”. Furthermore, “Cyber operations are highly effective grey-zone tactics because they are often difficult to attribute to an author, and they can have desired effects with limited impacts in the physical world.”

The classic role of fisheries vessels is purely commercial-benign; however such vessels have, and are used for intelligence-gathering for the State. This is clear evidence of “inseparability of civilian and military spheres” resulting in “situational ambiguity,” which states utilize to their advantage. There is now evidence of increasing use of fisheries vessels to assert EEZ claims, and these dual types of operations have been aptly described as i.e. “fishers on Monday,

harassers on Tuesday” which results in “legal opacity”

As regards the naval technological transformation is concerned, 4th Industrial Revolution (4IR) technologies, of which Artificial Intelligence, Machine Learning, Bigdata analytics are important component, have made debut in naval operations. These can potentially transform sea based Grey Zone operations practiced hitherto with enhanced information dominance, superior situational awareness, improved decision-making, high tempo of operations with autonomous and remotely controlled platforms and systems.

Many navies are investing in 4IR technologies and pursuing competitive strategies with the goal of battle space dominance that will potentially transform the political and technological character of Grey Zone operations. Naval commanders and military leaders would have to necessarily not only comprehend as also prepare for a future marked by high degree of uncertainty in the maritime security landscape.

International Law

Legal dynamics associated with Grey Zone operations have received attention in recent years. International law, 1982 UNCLOS and national maritime zones acts, and safety and security regulations are often cited and invoked; and in some cases Grey Zone operations go beyond the above legality i.e. the competitors attempt to leverage legal ambiguities. In particular, some navies and maritime law enforcement agencies have engaged in objectionable tactics thus curtailing the legal and peaceful uses of the seas.

Further, some of the Rules of Engagement amount to coercion notwithstanding initiatives such as the 2014 Code for Unplanned Encounters at Sea (CUES) under the Western Pacific Naval Symposium or bilateral 'incident at sea' agreements which aim to reduce the chance of untoward tensions. In essence, Gray Zone operations are "designed to exploit or create legal (and other) uncertainties for a military or strategic advantage"

From a legal prism, at the apex level, Article 2(4) of the UN Charter "prohibits the threat or use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States".

The 1982 UNCLOS spells out entitlement of various maritime areas; but States have chosen to pronounce excessive maritime claims which has resulted in numerous disputes and curtailed fair use of the seas. The 1982 UNCLOS provides for dispute settlement mechanism; yet some States prefer to disregard it due to respective national interpretations and interests.

There are instances of fishing vessel crews, which under normal circumstances would engage in commercial activity, are receiving quasi-military training to conduct specific operations during peace time making them indistinguishable from regular navy or law enforcement agency. Under such circumstances the "right of protection" is questionable.

Under Article 58 of the UNCLOS, States have the right of freedom of "navigation and overflight...laying of submarine cables and pipelines, and other internationally lawful uses of the seas related to those

freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and [which are] compatible with the other provisions of the Convention". As many as 30 countries "purport to regulate or prohibit foreign military activities in the EEZ by saying that the whole spirit behind the UNCLOS, particularly the Article 88, is that "The high seas shall be reserved for peaceful purposes."

States have deployed marine scientific research vessels for Grey Zone operations which presents newer challenges. Although Article 238 (Right to conduct marine scientific research), Article 239 (Promotion of marine scientific research) and Article 240 (General principles for the conduct of marine scientific research) of the 1982 UNCLOS provide clear guidelines; such vessels are suspected of collecting data meant for underwater naval operations.

Closely associated is the autonomous research platforms meant for marine scientific research including marine mapping, observation and survey sampling, the vessel can undertake sea patrols for surveillance, intelligence gathering and many other tasks under Gray Zone operations. Similarly, there is a tendency to convert civilian vessels to conduct military operations making them prima facie targets.

Concluding Thoughts

It is evident from the above narrative that States have diverse and even expansive understanding of the concept of Grey Zone which presents political and strategic challenges particularly for the navies and law enforcement agencies.

It is fair to argue that Grey Zone operations, in most

cases are sanctioned by the State (either out of choice or inevitability) therefore are part of the statecraft and “state-attributable”. Consequently security agencies acquire-build competency to conduct of Gray Zone activities.

Furthermore, in this new era of aggressive geopolitics, “frequency and intensity” of Gray Zone activities is not only increasing but is getting more intense necessitating greater understanding of the politico-strategic and legal dynamics (a clear, communicated, and pre-emptive legal position) of the issue and those associated with it which can potentially help moderate the outcomes of both ‘deliberate’ or ‘inadvertent’ Grey Zone activities.

A few suggestions are appended below:

- (a) Develop a clear understanding of the concept of Grey Zone.
- (b) Build legal capacities to interpret Grey Zone operations.
- (c) Conduct workshops on maritime Grey Zone operations (Operations and Legal) at national, sub regional and regional levels.
- (d) Address Grey Zone operations as part of bilateral Naval/Maritime CBMs.
- (e) Include Grey Zone in national security policy formulations.

Azad, T. M., Haider, M. W., & Sadiq, M. (2023). Understanding Gray Zone Warfare from Multiple Perspectives. World Affairs, 186(1), 81–104. <https://doi.org/10.1177/00438200221141101> (accessed 08 August 2023).

Abhijit Singh, “Deciphering Grey-Zone Operations in Maritime-Asia”, https://www.orfonline.org/wp-content/uploads/2018/08/ORF_SpecialReport_71_Grey-Zone_3N.pdf (accessed 08 August 2023).

See [https://en.wikipedia.org/wiki/Grey-zone_\(international_relations\)](https://en.wikipedia.org/wiki/Grey-zone_(international_relations)) (accessed 08 August 2023).

For more details see Grey Zone Project <https://www.csis.org/programs/gray-zone-project>

Cited in Anthony Robertson, “What is Grey Zone confrontation and why is it important? <https://cove.army.gov.au/article/what-grey-zone-confrontation-and-why-it-important#:~:text=The%202020%20Defence%20Strategic%20Update,of%20trade%20and%20economic%20levers.%22> (accessed 12 August 2023).

Mirosław Banasik “Unconventional war and warfare in the Gray zone. The new spectrum of modern conflicts”, <https://go.gale.com/ps/i.do?id=GALE%7CA466290285&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=20689403&p=AONE&sw=w&userGroupName=anon%7Ed482d451&aty=open-web-entry> (accessed 12 August 2023).

“Pfluger, Bera introduce bipartisan Gray Zone Defense Assessment Act”, <https://pfluger.house.gov/news/documentsingle.aspx?DocumentID=885> (accessed 10 August 2023).

Matthew H. Ormsbee “Gray Dismay: A Strategy to Identify and Counter Gray-Zone Threats in the South China Sea” <https://smallwarsjournal.com/jrnl/art/gray-dismay-strategy-identify-and-counter-gray-zone-threats-south-china-sea> (accessed 10 August 2023).

“Grey Zone Activities and the ADF”, https://theforge.defence.gov.au/sites/default/files/2020-10/Grey%20Zone_0.pdf (accessed 10 August 2023).

Remarks at the Shangri-La Dialogue by Secretary of Defense Lloyd J. Austin III (As Delivered), June 11, 2022 available at <https://www.defense.gov/News/Speeches/Speech/Article/3059852/remarks-at-the-shangri-la-dialogue-by-secretary-of-defense-lloyd-j-austin-iii-a/> (accessed 08 August 2023). Also see Renato Cruz De Castro “Addressing China’s gray zone operations in WPS: Role of Civil Maritime Security Agency” <https://www.philstar.com/news-commentary/2023/03/25/2254401/addressing-chinas-gray->

zone-operations-wps-role-civil-maritime-security-agency

(accessed 08 August 2023).

"Philippines Slams China for Use of Water Cannon on Boat", <https://thewire.in/world/philippines-slams-china-for-use-of-water-cannon-on-boat> (accessed 13 August 2023).

Scott Savitz & Krista Romita Grocholski, "Why DoD Needs Greater Focus on Non-Lethal Weapons" https://www.realcleardefense.com/2023/08/10/why_dod_needs_greater_focus_on_non-lethal_weapons_971992.html (accessed 11 August 2023).

"Philippines Slams China for Use of Water Cannon on Boat", <https://thewire.in/world/philippines-slams-china-for-use-of-water-cannon-on-boat> (accessed 13 August 2023).

"International Humanitarian Law in the "Grey Zone" of Space and Cyber", <https://www.cigionline.org/articles/international-humanitarian-law-in-the-grey-zone-of-space-and-cyber/> (accessed 08 August 2023).

"Gray-zone Conflict Management: Theory, Evidence, and Challenges", <https://www.airuniversity.af.edu/JEMEAA/Display/Article/2213954/gray-zone-conflict-management-theory-evidence-and-challenges/> (accessed 09 August 2023).

Rob McLaughlin, "The Law of the Sea and Grey Zone Operations in the South China Sea", <https://www.rsis.edu.sg/wp-content/uploads/2022/04/IP22025.pdf> (accessed 10 August 2023).

Vijay Sakhujia *Fourth Industrial Revolution Technologies: Maritime and Naval Operations* (New Delhi: Pentagon Press, 2021).

Rob McLaughlin "The Law of the Sea and PRC Gray-Zone Operations in the South China Sea", <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/law-of-the-sea-and-prc-grayzone-operations-in-the-south-china-sea/9F88D3DC696AEACFD63A557FB2A92502> (accessed 10 August 2023).

For more details see

[https://www.un.org/securitycouncil/content/purposes-and-principles-un-chapter-i-un-charter#:~:text=B.-,Article%20%20\(4\)%20%2D%20Prohibition%20of%20threat%20or%20use%20of,political%20independence%20of%20other%20States.](https://www.un.org/securitycouncil/content/purposes-and-principles-un-chapter-i-un-charter#:~:text=B.-,Article%20%20(4)%20%2D%20Prohibition%20of%20threat%20or%20use%20of,political%20independence%20of%20other%20States.) (accessed 10 August 2023).

"How 'Imperfect Laws of Sea' Have Put QUAD Allies India & US on a Collision Course", https://www.eurasiantimes.com/how-closest-allies-india-us-now-on-collision-course-due-to-imperfect-laws-of-sea/#google_vignette (accessed 12 August 2023). (Bangladesh, Brazil, Myanmar, China, India, Indonesia, Iran, Kenya, Malaysia, Maldives, Mauritius, North Korea, Pakistan, the Philippines, Portugal, Syria, Thailand, Uruguay, and Vietnam)

Vijay Sakhujia, "Drone Motherships Make Debut" https://www.defstrat.com/magazine_articles/drone-motherships-make-debut/ (accessed 09 August 2023).
Ibid.