

Terrorism – the ‘Grey Zone’ of Chaos

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Introduction

The requirement of having some rules and laws under which war should be conducted emerged consequent to the Geneva Convention of 1864 which was basically about the “Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field”. It was only in the 1899 Hague Conference that codification of the laws of war on land, as the “Hague Conventions 1899” was undertaken. The wars post that convention used the rules that emerged, to interpret the “*Jus in Bello*” concept or the “Just way to wage war”. While these were infringed many times, however, the laws did rein in truant states and permitted trials of war criminals. In a short period of less than a century since the laws emerged, countries and organisations had learnt to circumvent the rules in the form of proxy wars and terrorism. In this milieu conflict is waged in a zone where the rules can be twisted and misinterpreted or waged in a manner that neither do they follow the law, nor (legally) do they infringe it. Conflict is no longer black or white, it is opaque, it is in the “Grey Zone”.

The Changing Shape of Conflict and Security

Between 1648 (when the Treaties of Westphalia were signed) and 1949,¹ written international law gradually brought in rules to wage war. These included restrictions upon persons who were not uniformed members of armies from taking part in wars.² If the people took up arms it was an insurrection. Those who did not wear uniforms and participated in war were treated as criminals (or terrorists) who could be killed without compunction. Conversely, those in uniform could expect quarter as per the laws of war. Only the State had the right to use organised violence. However, violent acts by non-state enemies are classic terrorist

actions. Here, the enemy does not wear uniforms, has no rigid organisation, operates within the population and does not adhere to the laws of war. Nowadays, more states in the world are fighting terrorists than ever before. These enemies can be religious zealots (ISIS, Al Qaeda, Al Shaabab, Boko Haram, etc.), separatists (various Pakistan sponsored groups in Kashmir, Chechens, Kurdish groups, Ukrainian groups etc.), revolutionaries (Naxalites, FARC, etc.) or just criminal gangs (Mexican, and South American drug cartels). The last two conventional wars – 1991 and 2003 wars in Iraq, were also not so ‘conventional’ as they were totally one-sided wars.³

Some describe conflict in the Grey Zone as “competitive interactions among and within states and non-state actors that fall between the traditional ‘war’ and ‘peace’ duality”.⁴ Conflict in this region is characterised by ambiguity about the nature of conflict, opacity about the parties involved and uncertainty about the relevant policy and legal frameworks within which the war should be fought. One example of the ambiguity of conflict in the Grey Zone is India and Pakistan who since their last major conventional war in 1971 have had a recognised international border where they are at peace and a Line of Control (LoC) which is not a demarcated border on which they are at war. This is the sort of paradoxical situation that exists in the Grey Zone, a situation which the Indian Army officially refers to as NWNP (No War No Peace), not quite war and not quite peace.

Another example is the “Little Green Men”⁵ in Ukraine. They were clearly part of a State army but denied being that. By circumventing this distinction, they could wage a proxy war enabling a secessionist non-state to have an army. The ISIS was another manifestation of conflict in the Grey Zone, a terrorist organization which unlike previous similar groups was also a proto-state. Grey Zone conflicts are not a new phenomenon. They have existed in the past in the form of various manifestations and our interpretations of it. Guerrilla war, Low Intensity Conflict (LIC), Irregular War, Unconventional War, Asymmetric War, 4GW, Military Operations Other Than War (MOOTW), Unrestricted War and Hybrid War are all in various measures, in the Grey Zone. Presently, all of these forms can be identified by the overarching

term “terrorism”. Terrorism is not only used by non-state actors, it is also used by state actors, contrary to the accepted laws of war. Formal declarations of war are considered essential in traditional war as they make ‘the prosecution of war a shared responsibility of both the government and the [.....] people.’⁶ Terrorism in the Grey zone enables war without a formal war. If the spectrum of conflict ranges from peaceful interstate competition on the far left to nuclear war on the far right, Grey Zone [...] fall(s) left of center.⁷ A terrorist does not announce his presence by the traditional markers of armies or a uniform. He wages war in the guise of the population. He has injected chaos in the ordered environs of war regulated by the Rules of War.

Operating in Terrorism’s Grey Zone

Responses to wars in the Terrorism’s Grey Zone are increasingly being recognised as resting on political and police coordination and a coordinated interagency response. The military may not be the ideal instrument to fight terrorism, as terrorists take recourse to Grey Zone conflicts because they want to circumvent traditional military power. Yet military capabilities will remain an essential part of the response, because success for the proponent of Grey Zone War is based upon being superior to the police forces. Police forces, therefore, need to be made superior to the terrorists through backing by military power.

It is important that in this war some conventional military units must be organized, equipped and trained to conduct military operations at the lower end of the conflict spectrum. So far within the military the best force for that are the Special Forces which have high efficiency and a light footprint. In counter-terrorism operations in the Grey Zone, boots on the ground are also an essential component. You need numbers. Therefore, a larger force which combines the functions of the army and the police is required for this war. The French Gendarmerie and Italian Carabinieri exemplify this concept as they are military forces with police powers.

Other Factors

Nuclear Weapons. Nuclear weapons have made it nearly impossible for nuclear weapon armed states to fight with each other or for non-nuclear weapon states to dare to fight nuclear weapon armed states. If fighting is to take place, then it can only be with Grey Zone terrorist actions with its cloak of plausible deniability.

Private Security. The State has had a monopoly in providing security both through the army and police. As the requirement of security has increased; governments have been unable to provide all encompassing security. As a result, private security providers have stepped in, with the government getting involved only after a serious security situation occurs which is beyond the capability of the private security providers. Certain figures in respect of USA are illustrative of the growth of private security. In 1972 the ratio between US spending on armed forces and private security was 7:1; in 1999 it had declined to 5:1 and is still going down.⁸ Presently in some countries personnel engaged in private security have exceeded the numbers of the police or the military. According to a US Department of Justice study, 46 per cent of personnel providing private security services in USA were guards (2008 figures). In numbers that was more than a million personnel of whom 110,000 were armed⁹. In India the private security industry was expected to cross a worth of INR 40,000 crore in 2015¹⁰. This is approximately six billion US dollars. The private security guards of Hotel Taj were the first ones to encounter the terrorists during the 26/11 Mumbai attacks. Many security experts have opined that had the guards been trained and armed to face the situation, the story would have been much less tragic.

Police or Army?

Often terrorists are the nationals of the country that they are fighting against. Since they can effectively hide within the population, use of the military against them results in collateral damage. This makes it more suitable to use police forces against them, with “softer-hard-power”. However, in a world awash with automatic weapons (there are more than 100 million AK-47 rifles alone in the world),¹¹ police forces often find themselves

outgunned if asked to operate against terrorists. This has resulted in a militarization of the police all over the world. Most countries especially when afflicted by terrorist activities have seen the police becoming more akin to the army. Nowadays a common sight in urban areas is police in camouflage fatigues more suitable to blend with the background in tropical jungles than in an urban environment.

When a conflict is intra state, intelligence to differentiate the adversary from among the population should be excellent. Local/beat (state/provincial) police forces are to that extent more important than the Central Armed Police Forces (CAPFs) and State armed police forces as they can provide the best grass roots intelligence. They are the foundation on which the complete security structure in counter-terrorism in the Grey Zone must rest. The employment methodology of the CAPFs is based on being placed at the disposal of the local police in sub units. This facilitates their integration in the local police's chain of command, but it leaves CAPF commanders above the company level with no command responsibility.¹² This also means that the sub unit commanders have no authority and consequently no accountability. This is a serious shortcoming because organisations in the dynamic Grey Zone conflict situations are most effective when they are fully integrated with the same operational culture and have leaders who have the training and authority to take initiative and act upon fleeting opportunities.

The attack at Mumbai on 26/11 of 2008 showed glaring shortcomings in civil-military integration which is an imperative in Grey Zone conflict. The angst of this shortcoming is clearly visible in the writing of the noted columnist Vir Sanghvi in the introduction to a compilation of writings on 26/11 where he derides the lack of coordination and the confusion which prevailed regarding responsibilities in a Grey Zone situation.¹³ The role of the armed forces becomes ambiguous in the Grey Zone and hence accusations against their ineptitude surface during conflict situations. In the same introduction Vir Sanghvi writes 'armed forces chiefs [...] were responsible for so many of the screw-ups'.¹⁴ His views would be no different from most Indians who miss out that constitutional and governmental controls do not allow Service chiefs from taking initiative in a conflict situation like

26/11. In India's federal structure, Public Order a responsibility of the states which make up the Union of India. In counter-terrorist operations, the affected State (province) must ask for assistance which will need to be agreed to by the Union government. Or alternately, the Governor of the state can "with the consent of the Government of India, entrust either conditionally or unconditionally to that State Government or to its officer's functions in relation to any matter to which the executive power of the State extends"¹⁵. This was not done during 26/11.

Conclusion

Civil control over the armed forces is widely accepted as a key constitutional principle for a modern liberal democracy¹⁶. The same is the case in India. The military and police establishments are subject to constitutional and statutory limits on their powers. However, in the chaotic situation in the Grey Zone, the same civilian control becomes a stumbling block for speedy response in conflict situations. Writing about 26/11, Sanghvi also writes, "the NSG¹⁷ is the one force which emerged with credit from the crisis"¹⁸. Again, the common man is not expected to know that the two most potent and proactive units of the NSG which are its essence are the 51 and 52 Special Action Groups (SAGs). These are composed entirely of army personnel on deputation. In their operational chain of command only the Director General is a police officer. During the Mumbai attacks 51 SAG meant for counter terrorist operations formed the spearhead for the elimination of the terrorists. To that extent the NSG is a unique CAPF which has both militarised police and a constabularised military, wearing the same uniform. This may be a model for the nature of armed forces to operate in the Grey Zone. This article believes that Grey Zone counter-terrorist operations require either a militarised police or a constabularised military. The former is the better instrument for gaining actionable intelligence, while operating within the population. The latter is the better instrument for bringing in destructive firepower. As the world sees more of Grey Zone conflicts, it is inevitable that the size of the conventional army will decrease while at the same time the nature of their weapons will become more precise and more destructive. Conversely, the size of the police forces and private security

providers will increase. However, in this construct the army with its organisation which breeds ethos, discipline, unit cohesion, esprit de corps and élan will continue to remain the sword arm of the nation, the “Ultima Ratio Regis”— the ‘Kings Final answer’.

Endnotes

¹ The fourth Geneva convention was signed in 1949.

² Martin Van Creveld, *The Transformation of War* (The Free Press, New York, 1991) p. 193.

³ Combatant casualties First Gulf War: Coalition – Killed 292, wounded 776. Iraq Killed 20,000 to 30,000, wounded 75000+ . Second Gulf War: Coalition – Killed 196+, wounded 551. Iraq- Killed 13500 to 45,000, wounded- NK. All figures from Wikipedia.

⁴ *The Grey Zone*. White paper published by the US SOCOM, 15 Sep 2015.

⁵ *Little Green Men* is the stereotypical portrayal of extraterrestrials. In this context this is a colloquial expression used by the media while referring to masked unmarked soldiers in green army uniforms wielding Russian military weapons and equipment within Ukraine. Clearly, they appeared to be Russian military but it could not be legally proved.

⁶ Col Harry Summers, *On Strategy: A Critical Analysis of the Vietnam War*, (Ballantine Books, New York, 1982) p. 22.

⁷ David Barno, and Nora Bensahel, Fighting and Winning in the “Grey Zone”. 19 May 2015. *Fighting on the Rocks*. <http://archive.fo/nQ94Z> Accessed 21 Aug 2018.

⁸ Martin Van Creveld, *The Rise and Decline of the State*, (Cambridge University Press, Cambridge, 1999) p. 404.

⁹ Kevin Strom, Marcus Berzofsky, Bonnie Shook, Kelle Barrick, Crystal Daye, Nicole Horstmann and Susan Kinsey, *The Private Security Industry: A Review of the Definitions, Available Data Sources, and Paths Moving Forward*. Report Prepared for the US Department of Justice by RTI International, North Carolina, Dec 2010. Available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/232781.pdf> . Accessed on 10 Aug 2018.

¹⁰ FICCI Report. *Private Security Industry in India*. Available at http://www.ficci.com/sector/91/Project_docs/PSi-profile.pdf. Accessed 12 Aug 2018.

¹¹ Phillip Killicoat, (April 2007). “Weaponomics: The Global Market for Assault Rifles”. (World Bank Policy Research Working Paper 4202, Post-Conflict Transitions Working Paper No. 10). *Oxford University*. p. 3. http://www.wds.worldbank.org/servlet/WDSCContentServer/WDSP/IB/2007/04/13/000016406_20070413145045/Rendered/PDF/wps4202.pdf. Accessed on 01 Aug 2018.

¹² Rostum.K Nannavatty, *Internal Armed Conflict in India*. (Pentagon Press, New Delhi, 2013).

¹³ Vir Sanghvi, 26/11 The Attack on Mumbai (*Penguin Books India New Delhi, 2009*), pp. v- xii.

¹⁴ *Ibid.* p. ix.

¹⁵ *Article 258A of the Constitution of India.*

¹⁶ Sudhir Krishnaswamy & Madhav Khosla, *Military Power and the Constitution*, Seminar. http://www.india-seminar.com/2010/611_sudhir&_madhav.htm, Accessed 12 Aug 2018.

¹⁷ The National Security Guards (NSG) is one of the CAPFs – others being CRPF, BSF, ITBP, SSB, RPF, CISF and the SPG.

¹⁸ Sanghvi, op sit, p.xii.

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