Conflicts in the Gray Zone: A Challenge to Adapt May 9–10 2017, Budapest, Hungary

Lazar Berman and Yaniv Friedman The Suppressed Sword: Legitimacy Challenges in Gray Zone Conflict

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ABSTRACT: In the national security realm contemporary concepts and assumptions face increasing irrelevance when they meet reality on the battlefield. As a consequence powerful states frequently fail to respond effectively to persistent and dangerous adversaries, who found a way to counteract Western military advantages, and to render them largely irrelevant. The word that surfaces repeatedly in the literature is "ambiguity." The term's frequency reveals a lack of confidence in defining the challenge and applying clear concepts to it. A lot of thinking and knowledge development must be done in order to come up with relevant concepts and doctrine to face the problem. This paper seeks to address this issue. It intends to apply rigorous theoretical thinking about gray zone conflict that is also useful to military leaders. It will explore the challenges of legitimacy in gray zone conflict, and will offer approaches for addressing those challenges.

INTRODUCTION

In recent decades, Western powers have struggled to make sense of the world around them. This is especially true in the national security realm, where contemporary concepts and assumptions face increasing irrelevance when they meet reality on the battlefield. This is no mere rhetorical problem. It has real world consequences, as ostensibly powerful states fail to respond effectively to persistent and dangerous adversaries.

The "gray zone" idea is an attempt to bring Western military thought in line with challenges these countries are already facing without adequate concepts and tools. While competition in the space between war and peace is certainly not new, the term itself has gained prominence as an uneasy understanding sets in that we face something that does not fit into our current conceptual and operational toolkit. Our adversaries have found a way to counteract Western military advantages, and to render them largely irrelevant. Iran, Russia, and China all present complex challenges in a potential future conflict, and few in the West are confident that they possess the concepts and ideas to emerge the decisive victor.

The word that surfaces repeatedly in the literature is ambiguity. But the challenge is not inherently more ambiguous than other types of competition. Instead, the term's frequency reveals our own lack of confidence in defining the challenge and applying clear concepts to it. It is easier, it seems, to label the problem "ambiguous" and not perform the challenging and often frustrating task of defining the challenge accurately. Indeed, there is much thinking and knowledge development that needs to be done in order to come up with relevant concepts and doctrine to face the problem.

Israel- and to a significant extent the United States and other Western powers- struggles to use its considerable military might against weaker actors because it lacks the international and internal legitimacy to do so. Gray zone conflict presents even more challenges around legitimacy because of the difficulties of assigning responsibility for hostile acts, and the non-military nature of much of the activity. In addition, there is a perception that the challenge demands a law enforcement response, rendering the use of military might against attacks typical of gray zone conflict extremely problematic. We have not seen any discussion of this issue in the literature, and we see this as a problem that can potentially stand between success and failure if not studied and prepared for properly.

Despite ongoing legitimacy challenges, Israel has found certain ways to deal with new, potent threats without resorting to conventional warfare in the past, and continues to do so today. Sometimes it responds with traditional military tools, sometimes with other tools of national power.

This paper will explore the unique challenges associated with legitimacy – and by extension deterrence- in gray zone conflict. It will then look to the Israeli experience in order to provide operational, conceptual, and force design recommendations for Western powers confronting enemies that operate in the gray zone.

This study takes two important theoretical discussions and combines them to address the issue. It will first discuss Israel's legitimacy challenge in general, and will examine it more deeply through several case studies. It will then combine this insight with theory on the gray zone in order to come to an understanding of the unique challenges around legitimacy brought about by gray zone conflict.

DEFINITIONS

Unfortunately, there is significant confusion and disagreement over basic concepts around gray zone warfare, including around core definitions. These definitions are crucial to any focused treatment of this issue. But authors have been inconsistent and untidy with their definitions. Many articles on gray zone conflict tend to conflate gray zone warfare with other types of unconventional conflict, especially with hybrid warfare. "Monikers such as irregular warfare, low-intensity conflict, asymmetric warfare, Military Operations Other Than War (MOOTW), and Small Wars have all been employed to describe this phenomenon in the past," reads the United States Special Operations Command White Paper "The Gray Zone."1 NATO's OPEN publications study," The Effectiveness of DIMEFIL Instruments of Power in the Gray Zone" explicitly equates hybrid and gray zone warfare. "Hybrid conflict, also called 'Gray Zone' conflict, lies between 'classic' war and peace..." the study reads.² If it just the latest trendy name for a problem we were discussing five or ten years ago, there is no reason to invest significant resources in thinking about an old problem with a new name.

The authors posit that gray zone warfare is distinct in meaningful ways from other types of subconventional warfare, including hybrid warfare. Hybrid warfare, for instance, uses conventional and other means, including terror, guerilla warfare, civilians, and more within the same battlespace. It is clearly war. An especially problematic aspect of gray zone strategies is that they remain below the threshold of conventional conflict. Though it is not a new phenomenon in history, it still demands it own analysis and discussion, of which this study is one piece.

This work uses the following definition:

A strategy by which an actor attempts to change the status quo through means short of conventional military methods, in order to achieve goals

¹ The Gray Zone. White Paper, United States Special Operations Command. September 9, 2015.

² OSKARSSON, Katerina. «The Effectiveness of DIMEFIL Instruments of Power in the Gray Zone.» NATO Open Publications, Winter 2017.

typically gained through conventional campaigns. This gradual strategy is chosen in order to avoid provoking a way in the gray zone actor would be at a disadvantage.

An example of a goal referenced above is capturing territory. Traditionally, territory is seized by conventional methods, especially ground maneuver. But Russia and China have both seized territory without resorting to such means.

The Challenge for Israel

The gray zone strategy is uniquely problematic for Israel. This challenge can be illustrated through an examination of Israel's National Security Concept as it meets a gray zone strategy.

The National Security Concept has three plus one pillars: Deterrence, Early Warning, and Operational Decision, plus Defense, a recent addition. A gray zone strategy is problematic for each one of these pillars.

Israel is a small country, in terms of both population and territory. As such, it seeks to maintain the status quo and avoid war. When fighting does occur, it must win quickly, as it relies on its reserve force, meaning the economy grinds to a standstill as tens of thousands of working age men go off to fight. It must keep the fighting away from its population and industrial centers, which lie close to hostile borders.

Israel relies on its deterrence, which rests on its military might and past successes, to prevent war. Should deterrence fail, it relies on capable and advanced intelligence services to provide an early warning of potential war, to give the country time to use diplomacy to prevent war, or to call up the reserve army that represents its maneuver force.

Should war break out in the end, Israel classically has tried to gain a speedy operational decision, using its reserve formations to take the fighting to enemy territory through dominant ground maneuver. This shortens the war and moves the fighting off of Israeli territory.

In recent years, a fourth pillar has been added, that of defense. In times of war, defense improves Israel's ability to move the fighting to enemy territory, and improves Israel's deterrence – after all, if enemies understand they cannot harm Israel's homefront, why pay the price of war?

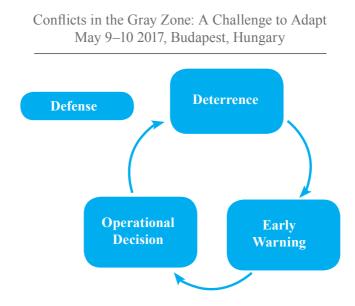


Figure 1. The four pillars of Israel's National Security Concept

But gray zone strategies challenge every single one of these pillars. Gray zone strategies are meant to stay just below the red line that a country protects through deterrence, and eventually erode those red lines, damaging deterrence.

Moreover, the gradual gray zone strategy, over many years, is not the kind of threat that the early warning system is designed to identify.

There is often no clear military force to defeat on the battlefield. The mix of locals, militias, cyber, propaganda, etc, is not a challenge our maneuver forces are designed to defeat on the battlefield.

And Israel's defense is largely geared to protect against kinetic threats (and cyber) and not gradual campaigns like gray zone strategies. As such, gray zone strategies are especially problematic for Israel and its classic security concept.

Though Israel has its own unique set of challenges when facing a gray zone strategy, it also faces the same overall problem as other conventional militaries. Though gray zone challenges are not only a military problem, the military is unquestionably one of the key actors, and plays a role in potential solutions.

The broad military problem revolves around red lines. Gray zone actors seek to avoid military conflict – in which they see themselves at a disadvantage – and thus are careful not to cross our red lines. However, they do carry out actions that fall just short of triggering our military response. Over time, they even succeed in pushing those red lines further back by identifying and exploiting the areas we ultimately fail to defend, eroding our deterrence and credibility.

Though gray zone strategies seek to remain below the threshold of conventional conflict, they do not do so indefinitely. By gradually eroding red lines, damaging our credibility, and calling into question alliances and policies, a gray zone actor positions himself to be at an advantage if conventional conflict does indeed occur. By taking control of islands in the South China Sea, China is in a better position should it be forced to deny access to a Western invading force, and it has created dilemmas for the US-led alliance system in the process.

Another ongoing challenge conventional militaries face is in force design. Our militaries are structured around services that correspond to domains – land, air, sea, and soon space. Each is organized around certain groups of challenges. But the challenges in a gray zone conflict–restive local populations, propaganda, militias, "private" companies – don't fit into our service model. All of our effort creating exceptional services to handle problems in their domains does not meet the problem created by gray zone actors.

The exception in this case if the cyber threat, an important component of gray zone strategies, especially that of Russia. Conventional militaries have begun to create significant organizations to meet the cyber challenge. The United States created the Cyber Command within its Strategic command in 2009, and Israel decided to boost its cyber defense unit into an operational command within the Computer Service Directorate.

LEGITIMACY

What do we mean by the term "legitimacy?"

In this context, legitimacy refers to the authority in the eyes of others to exercise power, in this case, military force.

There is more than one type of legitimacy, and a country can have one type without the others. Fundamental legitimacy is the right to exist, meaning the right to use military force in self-defense in general. This is long-term strategic legitimacy.

Moving down a level, there is legitimacy to engage in a specific military campaign – Lebanon in 2006, for instance, or an operation against Hamas in Gaza. One could think that could that a country has a legitimate right to self-defense, but could claim it has no right to pursue a particular campaign. This is somewhat parallel to jus ad bellum from the world of military ethics, the moral right to engage in a particular war.

In legitimacy, as in the ethics of war, even if you have the standing to engage in the campaign, that does not mean that every action within that campaign has legitimacy. There is situational legitimacy, in which certain tactics and munitions might be seen as illegitimate, in the midst of a campaign that does enjoy legitimacy.

It is important to note that "legal" and "legitimate" are not identical, although there is significant overlap. Still, the world of legal military actions is generally much larger than that of the legitimate. There are numerous legal military capabilities and activities that a Western military could use, but chooses not to because it lacks the legitimacy to do so. For example, white phosphorus is illegal to use against personnel, but is entirely legal to use as a smokescreen to mask military movements. Some militaries have chosen to refrain from even legal uses of white phosphorus because of legitimacy challenges. For instance, after Operation Cast Lead in Gaza in 2008/9, the IDF deputy chief of staff said that the "big buzz in the media" – not legal issues – led to an order during the operation to stop using such munitions. "These shells were used only to create smokescreens, in keeping with international law," he emphasized.³ At the same time, there are even some cases where something is seen as legitimate but is not legal.

One might think that this is only a problem for the spokesmen and public relations staff. Why should the IDF care whether other think it is justified in using military force?

Legitimacy challenges have a clear effect on the military. Though the IDF is an extremely capable and advanced organization, it loses the ability to use many of the important tools at its disposal when it lacks legitimacy to do so. This obviously has a direct effect on the course and outcome of campaigns, on the safety of soldiers and civilians, and much more.

A lack of legitimacy – or an anticipated lack – also has the effect of deterring Israel at all levels of war, strategic, operational, and tactical. It has been forced to change its preferred course of action because of legitimacy problems. Of course, like any deterrent, if the interests are great enough, Israel will act regardless, but it is certainly a consideration at all levels of Israeli planning.

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FRENKEL, Sheera. «Israel backs down over white phosphorus.» The Times, April 23. 2009.

ISRAEL'S LEGITIMACY CHALLENGES

Israel's freedom of action can be significantly constrained by legitimacy challenges. This work will present three examples in which Israeli tactics, operations, and strategy were forced to change because of a lack of legitimacy.

In June 2006, IDF corporal Gilad Shalit was kidnapped by Hamas terrorists inside of Israel's border with Gaza. Two week later, Hezbollah attacked an IDF convoy inside Israel's border with Lebanon, killing three and kidnapping two reservists. In response to both incidents, Israel wanted to strike at mixed-use civilian-military infrastructure in order to pressure Hamas in Gaza and Hezbollah in Lebanon to return the soldiers.

In Gaza, Israeli planes struck an electricity plant. The Bush Administration, however, would not accept the damage to Gaza's infrastructure, and pressured Israel to stop, which it did.

In Lebanon, Israel went into the war intending to embark on a campaign with a similar logic. But the campaign in Gaza, along with American concern for the stability of the government in Lebanon, led the Bush Administration to oppose strikes on mixed-use infrastructure from the start. Israel was forced to change the entire strategic logic of its campaign from pressuring the Lebanese government to one of harming Hezbollah's capabilities.

During the campaign against Hezbollah in 2006, legitimacy challenges had widespread effects at the operational level. Israel carried out an airstrike on buildings in the village of Qana from which Katyusha rockets were launched against the city of Haifa. Sometime after the strike, a building in Qana collapsed, killing 28 civilians in the rubble. Israel was roundly criticized by the international community for not doing more to avoid collateral damage, and in response to the outcry, Israel decided to halt most of its airstrikes for 48 hours. This move had obvious operational effects, as it released pressure on Hezbollah and gave the organization time to regroup.

LEGITIMACY CHALLENGES IN GRAY ZONE CONFLICTS

Having demonstrated the effects on all levels that legitimacy challenges have posed for Israel, this work will now examine how these problems could manifest themselves specifically in situations where a conventional Western military, like the IDF or US Armed Forces, face a gray zone challenger. Legitimacy is especially tenuous in gray zone conflicts for several reasons. First, there is a challenge for the conventional military to identify the gray zone actor carrying out a campaign of seemingly uncoordinated actions, and then proving to both the world and to your own public that this actor is behind the hostile campaign. Without this proof, legitimacy to act, especially militarily, is hard to come by.

Second, the whole idea of gray zone strategies is built around avoiding the use of conventional force. But our militaries are heavily built around the use of conventional tools. It is always problematic to find legitimacy for the use of conventional forces challenges that are not conventional, and might not even seem military at all.

Third, we hope to prevent wars through deterrence. If an adversary crosses our red lines, he knows we will extract a cost that is too high for him. But gray zone strategies intentionally seek to remain just below our red lines, and to push our red lines back. The lack of legitimacy to act erodes our deterrence, emboldening our gray zone adversaries.

Fourth, many state actors rely on alliances in order to deter adversaries and defend themselves if deterrence fails. NATO is an especially important example of such an alliance. Allies are unlikely to agree to join a campaign against gray zone actors, who intentionally hide their activities and avoid open military actions. This alliance issue further weakens deterrence.

Fifth, our legal structures form an important source of legitimacy for military action. But the legal framework is designed primarily around conventional conflicts, and certainly around military conflicts. It is not designed to provide guidance for state actors against gray zone adversaries, and as such, it is harder to achieve legitimacy for military actions that do not have a clear legal framework.

Finally, legitimacy is an outcome of the war of narratives. Gray zone strategies are designed to erode the narrative of the state actor, damaging its legitimacy to act and use military force.

TOWARDS A SOLUTION

After having presented a worrying picture of the challenges of legitimacy in general and in gray zone conflicts in particular, this work will now turn toward possible approaches to address the challenge. First, it will present cases in which Israel succeeded in building legitimacy for military action, outside of specifically gray zone campaigns. It will then apply those lessons to legitimacy challenges in gray zone conflicts.

Karine A

In 2002, Israel was in the midst of a multi-year terror campaign by a variety of Palestinian groups, including Islamist organizations like Hamas and secular ones like Tanzim. Israel was in search of a solution to the string of suicide bombings in its cities and shooting attacks on its roads. But as long as PA president Yasser Arafat was seen as a legitimate leader, Israel would not enjoy international support for a badly needed anti-terror military campaign, which would include measures like re-entering Palestinian cities.

Israel undertook three major lines of effort. First, it prepared its military for a complex operation against Palestinian terror. Second, it worked to build legitimacy among the Israeli public for the operation. Third, it worked to build legitimacy among European states and the US government for the operation. The second and third rested on finding evidence that Arafat was involved in the planning of terror.

The PA turned to Iran for weapons to use against Israel, while Iran was on the search for a foothold in the West Bank. On December 11, 2001, Israeli intelligence discovered a ship filled with Iranian military aid, the Karine A, sailing toward the Gaza Strip. In January 2002, Israeli commandoes intercepted the ship, and passed documents implicating Arafat to the Bush Administration. In addition, journalists were invited to document the captured weapons. The capture led to a change in the American attitude toward Arafat, and gave Israel legitimacy for a broad military campaign against Palestinian terror centers. Vice-President Dick Cheney was asked during an interview whether Arafat's role in the affair means he participated in a "terrorist mission", Cheney replied, "That's correct...In my mind and based on the intelligence we've seen, the people that were involved were so close to him it's hard to believe he wasn't."4 President Bush himself was no less harsh: "I am disappointed in Yasser Arafat. He must make a full effort to rout out terror in the Middle East. Ordering up weapons that were intercepted on a boat headed for that part of the world is not part of fighting terror, that's enhancing terror. And obviously we're very disappointed in him."5

⁴ SATLOFF, Robert «The Peace Process at Sea,» National Interest, Spring 2002,

⁵ La GUARDIA, Anton. «Bush says Arafat is backing terrorism.» The Telegraph, January 26., 2002.

The Flotilla Challenge

As part of a campaign to break Israel's blockade on the Gaza Strip, or to force it into a costly mistake, the Free Gaza Movement organized a series of flotillas to Gaza starting in 2008. They carried nominal medical aid, but the real purpose was to either reach the Strip and weaken the blockade, opening the door for the unrestricted flow of goods- including weapons and terrorists into Gaza, or force Israel to stop them, embarrassing Israel on the international stage and possibly even removing the possibly of using force in the future.

In 2010, the Free Gaza Movement partnered with the Turkish Humanitarian Relief Foundation (IHH), which is banned in Israel and has been investigated for ties to terror groups in the West. It organized a flotilla of six ships that set sail on May 30, 2010. The following morning, IDF naval forces ordered the Mavi Marmara flagship to turn back. When it refused, Israeli naval commandoes boarded the ship. But a group of activists on the Mavi Marmara attacked the soldiers with knives, pipes, and possibly pistols. In the raging battle on board, nine Turks were killed and ten IDF commandoes injured.

International condemnation was swift and furious. "Let me be clear," thundered British Prime Minister David Cameron. "The Israeli attack on the Gaza flotilla was completely unacceptable."⁶

It appeared the activists had won an important victory, and the flotilla problem would only worsen for Israel, which could not risk being blamed again for the loss of life. But – surprisingly – Israel managed to put together a range of actions that caused the problem to dissipate. The next flotilla organized by the NGO in 2011 never even got out of port. Israel managed to create broad international opposition to the flotilla. Actors from the UN and the Quartet to Canada and France took public positions against the voyage. Even Turkey's foreign minister said that the organizers should reconsider, now that the Gaza- Egypt border was open. The Obama Administration reportedly ordered a Middle East peace conference in Ankara in exchange for its help in stopping flotilla.

Israel's quiet diplomacy had other effects. The Greek government, in whose ports most of the ships were docked, forbade them from setting sail for Gaza.

Israeli NGOs engaged in lawfare against the flotilla, warning maritime insurance companies that they could be held responsible for terrorist attacks that made use of any materials carried by the ships.

⁶ Berman, Lazar. «Bibi the Strategist.» Commentary, August 16., 2016.

They did the same for maritime communication companies whose services the flotilla needed in order to set sail. Israel NGO Shurat HaDin gave its account of its successful legal campaign against the flotilla: "Inmarsat, based in the UK and the US, is the main provider of maritime communication services, a crucial tool which enables vessels to reach their destinations. After sending a warning letter to Inmarsat for aiding and abetting terror organization, Shurat HaDin commenced a civil action against Inmarsat in Florida State Court on behalf of Michelle Fendel, a resident of the Southern Israeli town of Sderot. Among other things, the lawsuit sought a permanent injunction against Inmarsat which would require it to cease provision of all services to any Flotilla ship on the grounds that the provision of such services constituted aiding and abetting terrorism in violation of US law."⁷

By early July, most of the activists had simply given up and gone home. Israel easily intercepted the one solitary vessel that managed to sail toward Israeli waters, with no violence or international opprobrium. A subsequent flotilla attempt in 2015, with an Israeli parliamentarian and a past president of Tunisia onboard, was easily intercepted by Israel with no cost in blood or diplomatic standing. Israel even taunted the participants over megaphones, and prepared flyers reading, "Perhaps you meant to sail somewhere else nearby – Syria, where Assad's regime is massacring his people every day, with the support of the murderous Iranian regime."⁸

Through a broad, diverse campaign – diplomacy, lawfare, military force, and other actions – Israel recovered quickly from a mistake that seemed to imperil its legitimacy to act against flotillas. I managed to build up its legitimacy to prevent flotillas, and succeeded in stopping them in practice.

Iran in Lebanon

In Southern Lebanon in the 1990s, Israel faced a legitimacy problem. Since it was seen as an occupier, it had limited legitimacy to act against Hezbollah and its patron Iran. Iran provided weapons and military training to Hezbollah. This aid allowed Hezbollah to grow dramatically as a fighting organization. But it also helped Hezbollah carry out terror attacks inside of Israel and against international Jewish and Israeli targets, including the Jewish community center in Argentina and the Israeli embassy there. Israel understood that it

^{7 &}quot;Sinking the Gaza Flotilla." Shurat HaDin – Israel Law Center. 16. July 2016 – http://israellawcenter.org/campaigns/sinking-the-gaza-flotilla/

⁸ Berman. «Bibi the Strategist.»

still had legitimacy to act to stop terrorism, and therefore chose to focus on incriminating Iran in supporting Hezbollah terror. Iran understood that being seen as supporters of terror would create significant problems for them, and strived as best they could to keep their activities hidden.

The IDF caught Iran-trained Hezbollah operatives on the way to carry out an attack on civilian targets in Israel, and Israeli diplomats passed the information to their European and American counterparts. It showed Iran funding, training, and directing terrorist attacks. The incriminating evidence not only helped Israel in its diplomatic campaign against Iran, but also expanded its military freedom of action in Southern Lebanon against Hezbollah.⁹

A model for a solution

The IDF experience suggests a possible model for dealing with legitimacy challenges specific to gray zone conflicts. Of course, there are many possible approaches to a solution, and this is one that the evidence in the Israeli experience points toward.

As we saw in the case of Yasser Arafat and Iran in Lebanon, incrimination is challenge and is of vital importance. Establishing the connection to hostile activities builds legitimacy for military escalation, if that is what we are seeking. At the same time, it creates urgency and purchase for your diplomatic efforts to counter the gray zone actor's hostile campaign. This is especially true if other countries are eager to prevent military escalation, and would prefer to support your diplomatic efforts instead.

⁹ BERGMAN, Ronen. The Point of No Return, Or-Yehuda: Kinneret, 2007; 159, 164, 198, 340, 349.

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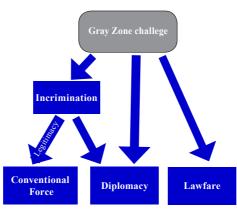


Figure 2. *Possible responses to Gray Zone challenges*

Of course, diplomacy should begin even before the difficult process of incrimination comes to a head. Some process is possible, but skepticism is likely without proof of hostile actions by the gray zone challenger.

In dealing with a challenge that is not primarily military, the importance of lawfare emerges, as was seen the flotilla success. This can be undertaken by NGOs, governments, or cooperation between the two. This effort can create serious complex and unexpected problems for the adversary.

Other tools in the state toolbox can also be components of a campaign, the contours of which depend on the specific context.

CONCLUSION

From the combination of gray zone theory, past Israeli legitimacy challenges, and successful Israeli cases, a number of important conclusions come to the surface.

First, a gray zone strategy is a distinct strategy, and should be thought of separately from other unconventional strategies and types of warfare, including hybrid warfare.

Moving to legitimacy in general, in our modern era of YouTube, smartphones, and increasing sophistication of international and local organizations, legitimacy challenges will continue to grow for democratic states with conventional militaries. More military actions will be documented and scrutinized online, and NGOs will be better organized and equipped to pounce on alleged missteps. Beyond broader legitimacy challenges, gray zone conflicts bring their own unique legitimacy challenges. Many of these are even more complex than in other contexts.

Still, there is hope. Looking at the past can offer approaches for dealing current and future threats. It is not enough to be reactionary. Just as we design military force and doctrine in order to meet terrorism challenges, cyber threats, and more, we must also create forces and doctrine to meet legitimacy challenges in the gray zone. Within this force, intelligence is crucial. Not only for early warning in terms of the threat itself, but also for incrimination and diplomatic efforts.

It appears that a new challenge has arrived. This challenge, gray zone strategies against conventional actors, will continue to confound leaders and planners for the foreseeable future. But if we learn from the past, understand the present, and anticipate the future, we can handle this problem as we have done with other complex challenges in the past.

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