While terrorism has emerged as one of the most widely debated subjects in the field of International Relations; especially since the terrorist attacks on the symbols of the US economic and military prowess on 11 September 2001, it still defies attempts to precisely define this term and tie down its connotations. Terrorism, like romance and beauty, has indeed emerged as one of the most emotive and subjective words in the English language. It is a value judgement in itself.1 Louis Farrakhan, the African-American leader of the Nation of Islam, rightly observed in the context of eulogising the Libyan leader, Colonel Gaddaffi, "Terrorism is like beauty; it is in the eye of the beholder."2

Exactly ten years prior to this, during the Cold War era and in the wake of the bombing incident at the East Berlin disco frequented by American servicemen, President Ronald Reagan, in his news conference, called Gaddaffi the "mad dog of the Middle East".3 Before this and long thereafter, Gaddaffi remained steadfast as

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2 Time, 28 October 1996. All references to Time are to its Asian edition published from Hong Kong.

3 Ibid., 21 April 1986.
the most open supplier of money, weapons, training and refuge to the terrorist
groups around the world. He was always President Reagan’s number 1 enemy. The
President repeatedly called him a terrorist and a barbarian and used to proudly sport
a T-shirt that ridiculed his favourite enemy with the legend KHADDAFFY DUCK—
MAD DUCK OF THE MIDEAST.\(^4\) George Shultz, Reagan’s Secretary of State was
already determined “to put Gaddaffi in a box and close the lid”.\(^5\)

To many in the Middle East, smarting from their defeat at the hands of Israel
in 1967 war, Gaddaffi seemed to provide an image of Arab pride. Gaddaffi’s idea of
revolution was based on three slender volumes of his own self-taught philosophy
titled, \emph{The Green Book}, his equivalent of Mao’s \emph{Little Red Book}. With a kind of
adolescent romanticism, he used to think of himself as a Bedouin Byron. “I am a
poet,” he told a German interviewer. “From time to time I weep, but only when I
am alone.”\(^6\) Terrorism and the support of revolutionary movements were tenets of
Gaddaffi’s foreign policy then. And Gaddaffi’s foreign policy enjoyed the blessings
and support of the Soviet Union. Every time the US flexed its military muscle to
discipline the high priest of global terrorism, Soviet leaders from Brezhnev to
Michael Gorbachev reacted and branded the US military action as State Terrorism.

This made President Reagan, in his State of the Union Address on 16
February 1985, to proclaim thus: “We must not break faith with those who are

\(^4\) Ibid., 16 January 1989.

\(^5\) Ibid., 14 May 1984.

\(^6\) Ibid., 21 April 1986.
risking their lives on every continent from Afghanistan to Nicaragua to defy Soviet-supported aggression and secure rights which have been ours from birth....Support for freedom fighters is self-defence...." It would mean that overt and unashamed American support was available to anyone fighting communism in any manner anywhere in the globe.

The Reagan Administration denounced Salvadoran guerrillas for blowing up power stations and attacking villages, while at the same time it supported Nicaraguan guerrillas, who were doing the same thing only a few miles away. In Salvador, the rebels wanted to overthrow the President, a Christian Democrat. In Nicaragua, the rebels wanted to overthrow the President, a Marxist-Leninist. The then US Secretary of State, George Shultz, declared, “It is not hard to tell, as we look around the world, who are the terrorists and who are the freedom fighters... The contras in Nicaragua do not blow up school buses or hold mass executions of civilians.”

To judge rebels by who they are and what they fight for, and against, thus is not only a simple logic, but also a political morality of convenience and can turn out to be embarrassing even during the Cold War as it did in the instant case.

The essential conflict in the American position has been most acutely focused by the revelations in 1984 that the US Central Intelligence Agency (CIA) had produced and distributed a Freedom Fighter’s Manual in Spanish for the beneficial use

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8 Ibid.
by Nicaraguan contras. The English translation of this booklet subtitled, "Practical Guide to Liberating Nicaragua from Oppression and Misery by Paralysing the Military-industrial Complex of the Traitorous Marxist State without having to Use Special Tools and with Minimal Risk for the Combatant," was published by Grove Press of New York. At the very least, the document undercut Reagan's moral pronouncements condemning state-sponsored terrorism by such nations as Libya, Syria and Iran.

But that was not to be the least; Nicaragua decided to bring a lawsuit in the World Court in The Hague, the highest international court. Nicaragua's contention was that the actions of the United States of America in support of the 'covert war' were violative of, among other things, the Charter of the United Nations, which prohibits the threat or use of force against the territorial integrity or political independence of any state. On the eve of Nicaragua's case being filed, on 6 April 1984, the US State Department announced that it was withdrawing US acceptance of the 'compulsory jurisdiction' of the court for matters relating to any Central American country for two years, with immediate effect. Significantly, the 1946 US declaration accepting the court's jurisdiction required the US Government to give six months' advance notice before terminating the declaration. However, this was sought to be overcome by the plea that the threatened legal proceedings was with a view to abuse the court's jurisdiction for political purposes. In the light of America's

intermittent commitment to the court’s value, many critics in the USA and beyond argued that the most flagrant abuse lay at the door of the US Government itself.\textsuperscript{10}

The Soviet Union disintegrated and with that ended the bipolar politics of the Cold War era. Gaddafi survived and is still in saddle, subdued. On the anniversary in the year 2002 marking the 1969 coup in which he came to power, Gaddafi spoke: “In the old days, they called us a rogue state. They were right in accusing us of that. In the old days, we had a revolutionary behaviour.... We acted like an independent state and we put up with the consequences of our action.”\textsuperscript{11}

Terrorism has not just survived, but has adapted well to the changing times and has flourished. Brian Jenkins, a Rand Corporation terrorism expert, had predicted in 1985 the pattern of future terrorism thus: “If you (the terrorist) want to stay in the headlines and exercise coercive power over Governments, you have to do novel things.”\textsuperscript{12} William Casey, the Director of the CIA, was forthright in his views on the future of global terrorism in a published interview in 1985: “Terrorists are pretty quick learners; they are smart, sophisticated people, believe me. They will come back and hit us again....There is no one person, there is no one capital in the world that controls terrorism....So the entire structure is very mixed up and highly complicated.... This is a war without borders, without clear enemies.”\textsuperscript{13} Subsequent events proved both Jenkins and Casey right.

\textsuperscript{10} Ibid., p. 146.

\textsuperscript{11} The Hindu (Chennai), 2 September 2002. Gaddafi’s attempt appears to reposition himself as the leader of Africa: “If any country now snubs Libya, it snubs the whole Africa.”

\textsuperscript{12} Time, 21 October 1985.

\textsuperscript{13} Ibid.
Perceptions vary; perspectives differ; people change and so do power equations and political ideologies. Today the state-centric world no longer predominates.... The sovereignty-free actors of the multi-centric world consist of multinational corporations, ethnic minorities, sub-national Governments and bureaucracies, professional societies, social movements, trans-national organisations, and the like.14 Where population has led to the crowding of geographic space, technology has fostered the narrowing of social and political space: physical distances have been narrowed, and economic barriers have been circumvented. Revolution in rapid mass transportation and real time communications and news coverage has added to the in-built anarchy of the international system. Violence for political ends, which is as old as man and politics and has always had a romantic aura about it, has to evolve in order to remain relevant. The disconnected events and unequal personalities in the foregoing narration bear testimony to all these and expose the hypocrisy, duplicity and doublespeak that confound the confusion. What was inevitable in that evolutionary process of political violence is the complexity ‘terrorism’ has come to acquire as a political phenomenon. One thing about terrorism that has not changed and stays robustly relevant today is the old, cliché “one man’s terrorist is another man’s freedom fighter.” Though the world-wide revulsion against terrorism after the September 11 incident has led to a broad consensus, especially in the United States,

about the unjustness of violence against non-combatants, certain countries still justify such acts on several grounds. And because of this dichotomy fundamental to its concept, terrorism as a political phenomenon, defies universally acceptable definition.

The foregoing narration also underscores the fact that the term 'terrorism' as it has been understood in the Cold War era or thereafter is not a synonym for political violence in general. Political violence of the traditional kind, like war both conventional and guerrilla variety, rural insurgency, political assassinations and street fights continued even during the Cold War period with reduced efficacy and vastly diminished publicity. In the era of deterrence and mutually assured destruction (MAD), the conventional wars and, to a lesser extent, insurgencies had to lose its teeth and gradually go into hibernation or confine to quiet, easily forgotten corners of earth. The nuclear revolution thus had the ironic consequence of depriving states of the military option, one of the prime instruments for pursuing and defending their interests.

This vacuum in political violence globally has been effectively filled by the new kind of amorphous violence drawing sustenance both from the guaranteed liberal freedoms of the democratic order and from the growing anarchy of the international system. Therefore, the new form of terrorism has to be understood as a special kind of violence designed to create a climate of fear among a far wider target group than its immediate victims and for political ends. Terrorism has thus emerged
as "a kind of appropriate technology for the warfare"\textsuperscript{15} suited to our times. It has proved itself to be a low-cost, low-risk, potentially high-yield method of struggle for all kinds of people with an agenda.

The terms 'terrorism', 'international terrorism' and 'trans-national terrorism'\textsuperscript{16} are substantially interchangeable. Support and assistance from outside the country's borders or ramifications beyond its frontiers is an essential ingredient of 'terrorism' as it is understood today, the only exception being the terrorism of the Cults whose political ends could be nebulous - anarchist or utopian.

Terrorism is difficult to sustain unless there is foreign support and unless it finds articulation in a territory inhabited by a separate ethnic, religious or linguistic group, and particularly if that territory borders a hostile neighbour.\textsuperscript{17} One country's internal domestic problem is another's external problem, and they may adopt a sharply different political approach to deal with the problem. Thus while it is easy to identify terrorism and distinguish it from other forms of violence, the simplicity about terrorism ends here. For political reasons, any definition of terrorism can hardly achieve universal agreement about this complex phenomenon.


\textsuperscript{16} Brian Cozier had coined the term 'transnational terrorism' in his treatise, \textit{The Rebels: A Study of Post-War Insurrections} (London: Chatto and Windus, 1960).

\textsuperscript{17} Vijay Karan, \textit{War by Stealth: Terrorism in India} (New Delhi: Viking, 1997), p. 76.
India's first Prime Minister, Pandit Jawaharlal Nehru, was one of the earliest thinkers to articulate the most perspicuous thoughts on terrorism. The kind of terrorism prevalent then was the terrorism of the revolutionary kind especially in Bengal. As the leader of the national movement, Nehru was the ardent practitioner of Gandhiji's principles of non-violence. Despite this, Nehru had the time and inclination to understand and analyse the motivations behind revolutionary terrorism. Nehru came to have a healthy respect for 'terrorists,' though he did not approve of at all their violent ways. Nehru was aware of the disproportionate share of publicity those stray incidents of terrorism were getting then and was likely to get in the emerging era of faster communications. Some of Nehru's observations on the likely trajectory of terrorism as a future weapon of political action turned out to be prophetic.

To Nehru, terrorism was "the call of the detective story." A number of young men and women were really attracted to it by the glamour of secret work. Secrecy and risk had always an appeal for the adventurous type of youth. The strain of romanticism in terror and violence was nothing new and it lingers strongly now than ever before. The explanation of the term 'terrorism' in The Encyclopaedia of Social

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18 For Nehru's views on terrorism, see his, An Autobiography (London: John Lane The Bodley Head, 1939 edn.)
19 Ibid., p. 482.
Sciences includes the comment: "The psychology of terrorism is that of romantic messianism."\(^{20}\)

Terrorists, Nehru observed, flourished in India, of and on, for nearly thirty years, and at no time, except in the early days in Bengal, did any of them attain a fraction of that popularity which came to Bhagat Singh. Terrorism, Nehru believed, usually represents the infancy of a revolutionary urge in a country. That stage passes, and with it passes terrorism as an important phenomenon. They have, very largely, ceased to believe in individual violence and terrorism but many, no doubt, still think that a time may come when organized, violent methods may become necessary for gaining freedom, as they have often been necessary in other countries. "That is today an academic issue which time alone will put to test; it has nothing to do with terrorist methods."\(^{21}\)

Nehru had the premonition about the terror the religious fundamentalists can bring in to create havoc with our fragile nation-building process. He writes:

Terrorism had been condemned from many points of view.... But one of its possible consequences had always especially frightened me, and that was the danger of sporadic and communal violence spreading in India.... When people murder in the name of religion, or to reserve a place for themselves in Paradise, it is dangerous a thing to accustom them to the idea of terrorist violence. Political murder is bad. And yet the political terrorist can be reasoned with and won over to other ways, because presumably the end he is striving for is an earthly one, not personal but national. Religious murder is worse, for it deals with things of the other world, and one cannot even attempt to reason about such matters. Sometimes the dividing line between


\(^{21}\) Nehru, n. 18, p. 175.
the two is very thin and almost disappears, and political murder, by a metaphysical process, becomes semi-religious.22

Nobody else could foresee the unfortunate sectarian violence during partition of the subcontinent and the fundamentalist terror stalking across the world today as vividly as Nehru could in 1936.

Nehru, who never shied away from meeting and talking to ‘terrorists’ of his day like Bhagat Singh, Jatin Das, Chandrasekhar Azad and a host of nameless, faceless others, had always had a healthy respect for their commitment and dedication though he could not agree with the violent means they employed. He remarked:

I did not abuse the Terrorists, nor did I call them ‘dastardly’ or ‘cowardly’, after the fashion of some of countrymen who have themselves seldom, if ever, yielded to the temptation of doing anything brave or involving risk. It has always seemed to me a singularly stupid thing to call a man or woman, who is constantly risking his life, a coward.23

About the pathology of terrorism, Nehru wrote: “Terrorist acts..., it is patent enough, are not a disease but the symptoms of a disease. It is futile to treat the symptoms and not the disease itself.”24 Booker-winning Indian novelist and activist Arundhati Roy seems to have a contrary view when she wrote nearly six decades after Nehru: “Terrorism is not the symptom, but the disease. Terrorism has no country. It’s trans-national, as global an enterprise as Coke or Pepsi or Nike. At the

22 Ibid., p. 315.
23 Ibid., p. 315-16.
24 Ibid., p. 482.
first sign of trouble, terrorists can pull up stakes and move their 'factories' from
country to country in search of a better deal. Just like multinationals.  

It may not be out of place to indicate here the cruel irony of fate in the
manner by which terrorism, a topic close to Nehru's heart touched his personal life
and family during his lifetime and beyond. First it was the assassination of Gandhiji
in 1948. The hands that pulled the trigger that killed the Father of the Nation and
Prime Minister Nehru's 'Bapu' belonged to no ordinary criminal but to a misguided
Hindu. It was an act of 'terrorism' as the term was understood at the time of its
occurrence and hence a "crime of logic". The assassination of Mahatma Gandhi
was an attempt on the part of a misguided individual to caution the peoples of India
with regard to the secular politics of Gandhi. Both in terms of objective and the
method used, the act was akin to terrorism. After Nehru's death, when his
daughter, Mrs. Indira Gandhi, became India's Prime Minister, Palestine Liberation
Organisation (PLO) burst out across Europe in 1969 with its bold new brand of
terror. The term 'terrorism' as it is understood today thus got currency. In 1979 Lord
Mountbatten, British India's last Viceroy and independent India's first Governor-


26 See Albert Camus, *The Rebel*, (Middlesex: Pelican, 1970) Albert Camus makes a distinction
between the ‘crimes of passion’ and the ‘crimes of logic’. If a person kills another due to
sexual jealousy or due to some sudden provocation arising out of a quarrel, it is a murder of passion.
If someone ‘takes refuge in a doctrine’ and chooses to murder another because the other is a landlord
or a tyrant, then there is an element of impersonality in the murder. The murderer thinks that he is
doing justice by ‘executing’ the tyrant or landlord. The very language changes; it is not a 'murder' but
an 'execution.' Also see K. Aravinda Rao, *Naxalite Terrorism: Social and Legal Issues* (Madras: East-West

27 Rajesh Gupta, "A Comparative Perspective on the Causes of Terrorism", *International Studies*
General, with whom Nehru had a congenial personal friendship died in a bomb explosion while holidaying in Donegal Bay in Ireland. That was an act of terrorism by the Irish Republican Army (IRA). In 1984, Mrs. Indira Gandhi was shot dead by her Sikh security men and became the high profile victim of Punjab terrorism. In 1991, Rajiv Gandhi, the only living second generation Nehru and India’s former Prime Minister was killed in a suicidal bombing near Chennai during the general elections. The killers were established to be members of the dreaded Liberation Tigers of Tamil Eelam (LTTE) of Sri Lanka. And with that the detective story called terrorism Nehru started talking about in 1936 came full circle.

IV

Terrorist acts and campaigns have two levels of objective. Tactically, the goal is publicity, and recognition of a problem or claim. For the terrorist with a cause to promote, the advertisers’ adage holds true: all publicity is good, and bad publicity is better than none. Terrorism without publicity is a weapon firing only blanks.28 At the strategic level, the goal is absolute change – freedom, independence or revolution which the practitioners of the black art of terror are sure that they will not be alive to see, which imparts the halo of romanticism around them. The dispossessed, powerless and unelectable fragments of political opinion in otherwise orderly democracies have to have a platform to get noticed. Terrorism – both the event and the state response to it – does offer the needed platform, it does deliver an international audience, and it does communicate a message beyond national

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28 Segaller, n. 9, p. 11.
boundaries that is probably heard by no other means. It is admittedly the only weapon, yet a very potent one, available to those for whom the political process is discredited, or too slow to deliver. The category of people constrained to take recourse to terrorism is on the increase. That is exactly why terrorism has such a profoundly unnerving effect upon the governing classes. Terrorism kills moderation, trust, courage; it poisons society and invites the response of repression, which can breed further wanton violence.29

The global character of modern communications systems enables the more politically sophisticated terrorist to aim his propaganda campaign not merely at his host population but at wider audiences – foreign Governments, sympathetic groups in other countries and world opinion.30 This was exactly what the PLO was set out to achieve by unleashing terror mainly aimed at airline industry across Europe in 1969. The very next year PLO had their first spectacular global show. On 6 September 1970 Leila Khaled and Patrick Arguello of People’s Front for the Liberation of Palestine (PFLP) tried to hijack an El Al jumbo jet but were foiled by Israeli ‘Sky Marshals’. Arguello was fatally wounded and Khaled was imprisoned in London after the jumbo had made an emergency landing at Heathrow Airport. In order to force her release, other PFLP teams then hijacked a Trans World Airlines (TWA) Boeing 707 and a Swissair DC-8 and ordered them to land at Dawson’s Field, a former Royal Air Force (RAF) desert landing strip near Amman. A British Overseas Airways

29 Time, 7 January 1985.

Corporation (BOAC)\textsuperscript{31} VC-10 en route from London to Bahrain was also forced to land at the strip. The hostages were released from the aircraft and the planes were spectacularly blown up. International news media reported these events with a lot of prominence and the drama of the destruction of the magnificent flying machines was reproduced in colour on the cover of all glossy news magazines. This became the first visual of international terrorism to capture the imagination of people across the globe and the Palestinian problem got the widest publicity. Terrorism thus produces results — it gets issues into the public consciousness, and draws attention to the policies, which provoke terrorism as a reaction. Terrorists almost always get some concession.

Coming back to the propaganda-value of terrorism, it is distinctly out of proportion to the actual physical damage caused or the numbers killed, and above all out of proportion to the success achieved by the terrorists. The massacre of Israeli Olympic athletes at Munich on 5 September 1972 by the Palestinian terrorist group ‘Black September’ was a watershed in modern terrorism and turning point in the state’s response to it. Munich was terrorism as theatre, watched by 900 million TV viewers in 100 different countries. “The photograph of the hooded Palestinian on the balcony of the Olympic village became the symbol of international terrorism as the world suddenly woke up to a threat that had scarcely impinged on its emotions before.”\textsuperscript{32} Similar was the theatre when Bobby Sands, the IRA prisoner in British jail and elected to Parliament during internment died after 66 days of fasting in May

\textsuperscript{31} BOAC is the forerunner of the British Airways.
1981. An estimated 50,000 people turned out for his funeral, the largest gathering ever for an IRA activist. "If you took the whole of the British Government information budget for past ten years, it would not pay for the publicity the Provisional IRA has received this week." Critical of the media for sensationalising terrorist incidents, Mrs. Margaret Thatcher as British Prime Minister used to refer to it as the "food of publicity". After the 1984 IRA bombing of the Brighton hotel where Mrs. Thatcher and some of her cabinet colleagues narrowly escaped death, she improved her metaphor as the "oxygen of publicity".

If the ultimate pointer to terrorist success in a democracy is the degree of public support, which it attains, there is an inevitable interest in how the media portrays both terrorists and the State. Government influence over the reporting and analysis of events is normally pervasive and effective owing to the general reliance of reporters upon official sources for their copy. This may not be true in the case of a Government that is given to repression and censorship as measures to contain terrorism and is generally distrustful of the media. Media would be right in disbelieving the versions of such a Government. Terrorist events are too big to hide from the public and there is no empirical evidence to suggest that terrorism would stop if there were no publicity. On the contrary, a major element within the whole structure of counter-terrorism initiatives is psychological indoctrination, which

32 Segaller, n. 9, p. 5.

33 John Hume of the Catholic Democratic and Labour Party as quoted in Newsweek, 18 May 1981. All references to Newsweek are to its Pacific edition published from Tokyo.

simply means public relations. Democratic Governments fighting terrorism have to have the backing of popular support and favourable public opinion for which freedom of the media is a necessary pre-requisite.

Instances may not be rare when the media coverage goes overboard to dramatise the terrorist events with a view to sensationalise them and to portray the terrorists as heroes. Very often than not, such instances are when the official censorship is legally clamped or when unofficial attempts are made on behalf of Governments to filter the truth from going to the media. There are reported instances of reporters themselves getting subjectively involved with terrorists they were reporting on. Against irresponsible journalism, the following objective observation by Lord Chalfont is unimpeachable: “The media of the free world should re-examine their attitude to subversion and international terrorism. They should realise that their freedom is conditional upon the larger freedom of the society in which they exist; when their larger freedom is destroyed, their own will disappear with it. It is important to persuade our press and media to recognise that they have clear and unequivocal responsibility on one side of this confrontation.”

The print media within Punjab realised this bitter reality during the days of the Sikh terrorism in the state.

Due to the terrorist-freedom fighter dichotomy and also because of the drama and romanticism associated with violence, terrorists tend to become highly

conscious of their image and the image of their outfits. The last thing any terrorist likes being called is a ‘terrorist’. Therefore anyone, be in a person, state or an NGO (non-Governmental organisation) dealing with him on a psychological plain has to choose his words well, lest he offends the terrorist. Determined as he was to finish them with military might, President Julius Jayewardene made sure that he referred to the LTTE and its leadership only as ‘terrorists’ and their ways as ‘terrorism’ till about the time Sri Lanka signed the Accord with India in July 1987. For the same reason India took care to use words other than terrorist and terrorism to refer the Sri Lankan Tamil ‘militants’ or ‘rebels’. Jayewardene’s successors, without any exception, scrupulously avoided these words as they kept the option to negotiate with the LTTE open. Words are well known to be, by themselves, very imperfect means of communication, and are often understood in a variety of ways. When there is a conscious effort at using imprecise words, the whole vocabulary gets corrupted as it happened in the case of ‘terrorism’. Terrorism does not have only contempt for civil society, its institutions and morality, but also for its language. Martyrdom and “Shibadat” are words, which have undergone the greatest perversion during this half a century of terrorism. The press and the media assiduously use the terms thrown at them by the terrorists. If they wish to be called militants, only those who want to offend them and thereby earn their wrath will call them ‘terrorists’.

Keki N. Daruwalla, “Terrorism and the Rending of Language”, The Hindu, 11 February 1996. Not many would know that Keki N. Daruwalla, one of the best-known Indian poets in English is also a top security expert who had some time headed the intelligence infrastructure in the country. His published writings on security matters are indeed rare.
Terrorism, like lightning, does not strike at the same place twice. Like the moving finger, terrorism, having hit, moves on. The terrorist can strike anyone, anywhere, at any time. Terrorism has characteristics, which distinguish it from all other forms of violence. It is indiscriminate in its effects in that nobody is sacrosanct, and this helps to create an atmosphere of fear and helplessness. Terrorists do not recognise any rules or conventions of war for combatants, non-combatants or the treatment of prisoners. No Government can protect everything and everyone, everywhere and constantly. Pre-emptive measures, while widely practised in totalitarian regimes, are unacceptable in a democracy. The initiative lies therefore with the terrorist and Governments are from the start thrown on to the defensive. Hence, the simple tactical advantage that the terrorists retain is that they can choose their targets from almost an unlimited range while modern Governments can only protect selectively; act reactively and curtail democratic freedoms only at its peril. Hence nothing will totally eliminate terrorism; eradicating it will be a pipedream. The security dimension of terrorism in law and order management, which is enormous and growing, has therefore come to stay for good. It is a serious error to underrate the terrorists’ will to succeed and their destructive capabilities. The gravest internal dangers posed by terrorism to liberal democracy are thus the weakening of national security, the erosion of the rule of a law and the undermining of Government authority.

37 Burton, n. 31, p. 7.

The irony of anti-establishment, anti-authority position of the terrorist group is that it is always an extremely authoritarian unit in itself. There are both psychological and tactical reasons for this: there is immense pressure within the group to maintain a consistent, predictable, and stable emotional environment; for reasons of survival and security it has to remain united and single-minded about both its goals and its tactics. The pressure of the idea that acts of violent terrorism are the raison d'être of a terrorist group tends to make all members feel a sense of complicity and a strong leader will exploit his personal reputation for ruthlessness by threatening to use the same violence against dissenters or potential traitors. On the LTTE's (Liberation Tigers of Tamil Eelam) method called "green boat" of dealing with its traitors, it was reported: "The offender was taken to a beach, executed, and the body dumped out at sea with the stomach cut open so that it would not float."

The focus for the public leaders in a despotic society is on compliance with top-down directives and checking up on people. There was little need to worry about building consensus because the state is so powerful that no real opposition can be mounted. Nor is there any real need to worry about maintaining one's legitimacy as a public leader because, again, the state is so powerful that legitimacy cannot be effectively and publicly questioned.

Terrorism is unpredictable and arbitrary, and is as an attempt to exercise a peculiar kind of tyranny over its victims. It is more frequently the outcome of a

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39 *Far Eastern Economic Review* (Hong Kong), 12 September 1991

military strategy in support of political change when two preconditions prevail. First, the group's political objectives cannot be met by direct military action and second the group sees no point in pursuing democratic means. These conspicuous asymmetries make terrorism 'the weapon of the weak'.

Terrorism is identified as a behavioural stage in the life history of an extremist movement, a phase in which an organisation is ready and willing to use unconventional violence against the Government's agents. It is a common but elementary mistake to equate terrorism with guerrilla warfare in general. Terrorism proper, through the use of bombings, assassinations, massacres, kidnaps and hijacks can and does occur without the benefit of guerrilla war. Assuming these two conditions are met, terrorism can also be employed as one strategy in a much wider liberation enterprise as in the case of the LTTE. Historically rural guerrilla war was largely waged without resort to terrorist tactics, although today urban and rural guerrilla movements do employ terrorism.

In Maoist theory, terrorism is an early stage in guerrilla warfare and becomes increasingly relevant as rebel forces grow. Alternatively, terrorism could be a constant military tactic combined with guerrilla operations and political agitation. Che Guevara believed terrorism to be a measure that is generally indiscriminate and ineffective in its results, since it often makes victims of innocent people and destroys a large number of lives that would be valuable to the revolution. He also claimed it

41 Like the term 'transnational terrorism', the coinage of the phrase 'weapon of the weak' for terrorism is to the credit of Brian Cozier, n. 16.

42 Gupta, n. 28, p. 42.

43 Wilkinson, n. 42, p. 5.

could turn a people against a revolutionary movement and may provoke police repression, hindering the revolutionary movement and its communication with the masses. Regis Debray, the radical French journalist, who spent time with Che Guevara in the Bolivian jungle attempted to assimilate terrorism and guerrilla warfare. If terrorism is subordinated to the fundamental struggle in the countryside, Debray felt, it has a strategic value from the military point of view; it immobilises thousands of enemy soldiers in unrewarding tasks of protection in the city. Debray thus emphasised the usefulness of terrorism primarily as a diversionary device. The urban guerrilla theorist Carlos Marighela defined terrorism as “an action usually involving the placement of a bomb or explosion of great destructive power.... It is an action the urban guerrilla must execute with the greatest cold-bloodedness....”

He sees it as a necessary adjunct to the urban guerrilla's repertoire, but he offers little guidance as to the appropriate tactical objectives for terrorism.

A civil war is not terrorism. The difference can be underlined by the fact that in the range of violent tactics in a civil war situation, terrorism may be just one. Acts of terrorism trigger a vicious cycle of terror and counter-terror, which can soon develop into bloody and debilitating civil war and exacerbate international relations. Terrorism as a weapon of psychological warfare helps to create a climate of panic, to destroy public confidence in Government and security agencies and to force communities and terrorist cadres into obeying the movement's leadership. As "propaganda of the deed," it is widely used to advertise a movement and its cause, to

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inspire followers and sympathisers to further acts of terrorism or insurrection, and as a signal or catalyst for revolution.\textsuperscript{47}

VI

While the concept of terrorism as is understood today is fundamentally a Cold War era phenomenon, terrorism did not disappear with the bipolar world order. On the contrary, terrorism has grown deadlier and a lot more menacing mainly because many of the world’s simmering and intractable conflicts took to terrorism like duck to water. Their conventional methods of protest like rural insurgency and guerrilla war acquired urban terrorism fronts to effectively leverage their protest and struggle.

The separatist terrorism of the Irish or the Basque nationalists or the Tamil Tigers does not fit in well with the Cold War logic. While the Irish nationalism, where propelling force is religion, is a century old and had its highs and lows, both Basque and Tamil separatist movements, concerned more with language and culture, predate the Cold War and show no signs of fatigue more than a decade after the meltdown of the Soviet Union. Likewise, the terrorism of the religious fundamentalists has also become more apparent and alarming in the post-Cold War era.

Ethnicity consists of subjective, symbolic or emblematic use by a group of people of any aspect of culture, in order to differentiate themselves from other groups. The cultural markers may be language or dialect, distinctive dress or diet or custom, religion or race. Ethnicity is to ethnic category what class consciousness is to

\textsuperscript{47} Wilkinson, n. 42, p. 6.
class. The ethnic conflicts arising out of the fear of the future lived through the past are thus a "pre-modern primordial anachronism". By adding the low-cost, high voltage terrorism to their repertoire of violent protest, ethnic crises have become a serious threat to world peace now than ever before.

The received wisdom in dealing with ethnic crises is that the status quo must be maintained and the crisis defused gradually by good offices or mediation. And outside intervention should be avoided in the resolution of an ethnic conflict as far as possible. Since a vast majority of countries are multi-ethnic and one or more ethnic groups usually live outside their borders in the neighbouring countries, there is a distinct possibility of an ethnic crisis in one country spilling over to another country. An ethnic crisis is generally considered to be an internal affair of a country and the international community or international organizations are not involved in the resolution of such a crisis, until it becomes a bilateral or multilateral problem between two or more states and the assistance of the international community is sought for in resolving it. There are no universally accepted criteria in respect of outside intervention to an ethnic crisis in a country. The international intervention in an ethnic crisis is generally justified on the ground of humanitarian consideration and not for settling competing claims over identity or territory. In fact, all outside

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Interventions in ethnic crises are fraught with innumerable complications and cannot follow the same pattern; therefore they are not always crowned with success.49

Ethnicity, as research studies in sociology indicate, represents an effort by the deprived groups (real or perceived) to use a cultural mode for political or economic advancement or share. However, in many instances, inequality in terms of power between two ethnic groups need not per se invoke conflict. The pre-conditions for such conflict seem to be: (a) a socially mobilized population; (b) the existence of symbolic past connoting its distinctiveness; (c) the selection, standardization and the transmission of such symbol pools to the community by the leadership; and (d) a reference group in relation to whom a sense of relative deprivation (real or imaginary) is aggregated. Some observers think that ethnicity is being used primarily as an instrument in resource competition. Resource competition explanation is based on the belief that ethnic cleavage generally acts as a façade for deeper socio-economic cleavages. Politicized ethnicity is, therefore, not the expression of some form of primordial attachments, but rather an instrument in the struggle for power, directly linked to the process of modernization.50

Nationalism is today one of the most powerful forces in the world, and that the national state has been for a century at least, and continues to be, the cornerstone

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of international politics. Nationalism provides the sole legitimization of states the world over, including the many polyethnic and federal ones. It is also the most widespread and popular ideology and movement, and it comes as no surprise that many of the world’s most intractable conflicts are either ethno-national conflicts or possess a strong nationalist component.\textsuperscript{51}

Ethnic nationalism regards the nation as a community of genealogical descent, vernacular culture, native history and popular mobilization. The civic kind of nationalism is a nationalism of order and control, and it suites the existing national states and their dominant ethnies. But it has little to offer the many submerged ethnic minorities incorporated into the older empires and their successor states. So they and their intelligentsia turn to ethnic nationalism and try to reconstruct their community as an ethnic nation. Theirs is the politics of cultural revolt: revolt not only against alien rulers but against ‘the fathers’, the passive older generations, and guardians of ancestral traditions and notables of a traditional order. To achieve their cultural evolution, they must thrust their ethnic communities into the political arena and turn them into political nations. Here is the deeper, inner source of so many ethnic and national conflicts today.\textsuperscript{52} This is an irony of history that when efforts are being made to integrate the world through economic and political means, especially in Europe where integration even on security is also being attempted, disintegrating


\textsuperscript{52} Ibid., p. 41.
trends erupted along ethnic fault-lines that tease and defy the geo-political boundaries.\textsuperscript{53}

VII

For the internal criminal justice administration of any country, a simple legal definition of 'terrorism' is always workable and such a legal definition should form the basis of the rule of law. Every act of terrorism is a crime, may be a "crime of logic" but a crime, nevertheless. The attractive myth that terrorism is a basic law-and-order problem involving a few people and amenable to tough, simple measures may be adequate for the security agencies and courts to grapple with it. Terrorism is a special kind of crime, and it involves a special kind of criminal. The motivations and political motives of terrorism and its unmistakable trans-border links and international ramifications place terrorist crimes on a different pedestal and no political executive can afford to ignore it as its difficult solution, if at all found, has to be political.

One of the simplest legal definitions of terrorism was in the now-repealed British statute The Prevention of Terrorism (Temporary Provisions) Act 1989. It reads: "Terrorism means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of public in fear."\textsuperscript{54} It


\textsuperscript{54} Walker, n. 38, p. 7.
is a very limited description of the phenomenon and the words 'political ends' could be confusing for application beyond the rule of law. An intractable problem is that the emphasis on political motives of terrorist offenders could create problems with regard to extradition. The US Federal Bureau of Investigation (FBI) defines terrorism as “the unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives”\(^5^5\). A more comprehensive definition of terrorism is contained in a US army regulation, which states that terrorism is “the calculated use of violence or the threat of violence to attain goals, political, religious or ideological in nature. This is done through intimidation, coercion or instilling fear. Terrorism involves a criminal act that is often symbolic in nature and affects an audience beyond the immediate victim.”\(^5^6\)

Coming to the realm of international law, the earliest efforts to combat terrorism at the global level began soon after World War I, as there was an upsurge in terrorist activities then. A series of international conferences for the unification of penal law were convened under the auspices of the International Association of Penal Law, and the third to sixth of such conferences held between 1931 and 1935 specifically considered the issue of terrorism and adopted appropriate texts. The term ‘terrorism’, explicitly employed for the first time in the Third International Conference held in Brussels, was described as the deliberate use of means capable of

\(^{5^5}\) Segaller, n. 9, p. 223.

producing a common danger to commit an act of imperilling life, physical integrity or human health or threatening to destroy substantial property. The list of such acts included arson; explosion; flooding or submersion; ignition of asphyxiating or noxious substances; interruption of the normal operation of means of transport or communication; damage to or destruction of Government property and public utilities; pollution, fouling, or deliberate poisoning of drinking water or staple foods, causing or propagating contagious or epidemic diseases, any wilful act which endangers human lives and the community and so on.

The pressure of terrorist activities prompted the Council to set up a committee of experts to prepare a convention to assure the repression of conspiracies or crimes committed with political or terrorist purpose. These efforts of the League of Nations during its dying years culminated in the adoption of two conventions on 16 November 1937 at the Diplomatic Conference attended by 35 states, one on the Prevention and Punishment of Terrorism and the other on the creation of an International Criminal Court. As the two conventions failed to receive the required number of ratifications, they could not enter into force. The Convention on Terrorism, now a dead letter, was signed by 24 states, but received the sole ratification of India on 1 January 1941. "Acts of terrorism" were referred to, in terms of Article 1(2) of this convention, as "criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons, a group of persons or the general public". Article 2 provided an enumeration of such acts, with particular emphasis on "any wilful act causing death or grievous bodily harm or loss of liberty to: (a) heads of state, persons exercising the
prerogatives of the head of the state, their hereditary or designated successors; (b) the wives or husbands of the above mentioned persons; (c) persons charged with public functions or holding public position when the act is directed against them in their public capacity”. The convention not only included attempts but also conspiracy, incitement to offences, wilful participation and knowingly giving assistance.

In response to the modern trends in terrorism, manifested in a variety of forms, efforts were made within the United Nations to conclude a comprehensive convention, as universal as possible. In fact the subject of international terrorism had been a regular item on the agenda of the United Nations since the massacre of Israeli athletes at Munich in 1972. On 23 September 1972, the UN General Assembly, at the request of the Secretary-General, decided to include in its agenda and to allocate to the Sixth Committee (Legal Committee) the item to devise “measures to prevent international terrorism which endangers or takes innocent human lives or jeopardises fundamental freedoms” and to study the underlying causes of terrorism. On the recommendations of the Sixth Committee, the General Assembly on 18 December 1972, decided to establish an Ad hoc Committee to continue its work.

The deadlock in the Terrorism Committee proved that a comprehensive UN convention against international terrorism on a global basis was unattainable in the face of political realities. Therefore, the United Nations and interested states began to look for specific offences, which touched upon the essential interests of states. Suggestions, in fact had been made in the Terrorism Committee for the adoption of
a “piecemeal approach”, in the form of regulation of international terrorism by drafting several conventions each of which would prohibit a specific type of reprehensible terrorist activity. After almost a dozen conventions and protocols on various facets of international terrorism, the piecemeal approach is still on.

Difficulties in the formulation of an all-embracing, universal definition of international terrorism, as revealed in debates and the United Nations General Assembly, pertained to the basic questions concerning the perpetrators of terrorist acts, range of acts, the international components, motive, the targets and causes of terrorism. In the matter of the perpetrators of terrorist acts, the dispute was whether to include state terrorism also within the ambit of the definition. The Arab and other non-aligned states expressed support for the inclusion of state terrorism in the concept of terrorism, whereas the western states opposed it on the ground that adequate international law already restraints state violence, pointing to the prescriptions of the United Nations Charter, Geneva Conventions 1949, Genocide Convention 1948, Nuremberg Charter and so on. As regards the range of terrorist acts, the difference in opinion was whether or not it should be wide in the definition. The United States suggested to the Ad hoc Committee a narrower frame of reference so as to exclude the crimes against property. This approach was unacceptable to countries, which had been victims of attacks on property.

Opinions were divergent on what “international elements” should be included in the definition of international terrorism. A general criterion was that a terrorist act comes within the scope of “international terrorism” if it had distinct
international consequences. However, some states wanted to consider features like the nationality of the perpetrator and victim, the interstate ramifications of the crime, whether or not punishable under domestic law as ingredients of international terrorism.

The issue of "motive" as a component of the definition of international terrorism had been an emotive subject during UN debates. While a group of States led by a US bargained for the inclusion of "motive" as an essential ingredient in the definition of international terrorism, others wanted only the "internationality" to be made an essential ingredient and not motive. The issue of victims of terrorist acts has also proved to be controversial. The nationality of the alleged offender as the proposed criterion for deciding the international dimension of the terrorist act was found to be unduly restrictive by the majority of states.

The views of the states differed on the issue whether the causes of terrorism should constitute an essential part of the proposed convention or this matter should be postponed in favour of adopting speedy measures to combat terrorism. The Western countries favoured the position of taking expeditious steps without waiting for the time consuming process of identification of causes. On the contrary, many developing countries, emphasising the significance of establishing a link between international terrorism and its causes, had categorically opted for the former position that the convention on eliminating terrorism must also include measures to remove its causes.
There are at present 12 major multilateral conventions and protocols concerning states' responsibilities for combating international terrorism. But many states are yet to become party to these legal instruments, or not yet started implementing them. In addition to these UN conventions and protocols specific to terrorism, other international legal instruments may be relevant in particular circumstances, such as bilateral extradition treaties, regional conventions, 1961 Vienna Convention on Diplomatic Relations, and the 1963 Vienna Convention on Consular Relations. Added to these are the Resolutions of the UN Security Council and General Assembly on international terrorism dealing with specific incidents.

The following is the list in chronological order of 12 conventions and protocols specific to various facets of international terrorism:


5. International Convention against the Taking of Hostages, 1979


The regional convention that is of relevance here is SAARC Regional Convention on Suppression of Terrorism signed at Kathmandu on 4 November 1987. (The full text of the SAARC Convention is Annexure I.) This convention is part of the regional group's efforts 'to take effective measures to ensure that the perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution'. All the member states duly ratified the convention and it came into force in August 1988.

The foregoing narration discloses that there are serious differences amongst states on many core issues concerning the adoption of a universal convention on international terrorism. The most important and fundamental obstacle is, no doubt, the conspicuous lack of consensus in the matter of the definition of the term "international terrorism". The classic exception of "political offence" in extradition treaties and laws has bedevilled treaty-making on terrorism as well. The European
Convention on the Suppression of Terrorism, 1977 established the “extradite or prosecute” formula and specified a whole set of grave offences which will not be regarded as political offences for the purpose of extradition. But it contains also the “persecution clause” which leaves a large measure of discretion to the state, which receives the request for the extradition of a terrorist.

It is not surprising that SAARC was rocked by disagreement on some fundamentals as it grappled with the problem. At the time of establishment of the SAARC in Dhaka summit in 1985 itself all the heads of the member Governments acknowledged the seriousness and urgency of the problem and arrived at a general agreement for concerted action against all forms of terrorism. Coming to the specifics later India and Sri Lanka could not agree on the definition of terrorism. Sri Lanka was for ignoring the political and human rights aspects while making acts of terrorism extraditable. India continued to find itself a minority, with Sri Lanka and Pakistan advocating tougher provisions. By then Pakistan’s aid to militants in Punjab had ceased to be a secret and India’s aid to the Tamil groups was getting known.

Finally when it is concluded, the SAARC Convention follows the spirit of the European Convention as regards listing offences, which will not be regarded as a political offence and also the ‘extradite or prosecute’ formula. The SAARC Convention has built-in safeguards for ensuring that in the name of curbing terrorist activity, a member-country does not seek from another member-country,
cooperation in checking legitimate activity by political dissidents. The member
country is not obliged to extradite in the event the request is "not being made in
good faith".

The terrorist attacks on the US on 11 September 2001 caused the
international community to focus on the issue of terrorism with renewed intensity.
Within the span of a few weeks, the Security Council unanimously passed resolutions
1368 (2001) and 1373 (2001), the General Assembly adopted resolution 56/1 by
consensus, and convened a special session. Each of these steps served to underline
the depth of shared international commitment to an effective, sustained and
multilateral response to the problem of terrorism. The Counter-Terrorism
Committee (CTC), a committee of the whole of the Security Council was established
pursuant to resolution 1373 (2001). The CTC monitors the implementation by States
of Council resolutions. In its unanimous adoption of resolution 1373 (2001) on 28
September 2001, the Security Council for the first time imposed measures not
against a State, its leaders, nationals or commodities, but against acts of terrorism
throughout the world and the terrorist themselves. It is one of the most expansive
resolutions with a focus on ensuring that any person who participates in the
financing, planning, preparation or perpetration of terrorist acts, or who supports
terrorist acts, is brought to justice, and that such acts are established as serious
criminal offences in domestic law and regulation with punishments that duly reflect
their seriousness.

57 T. S. N. Sastry, "The SAARC Convention on Suppression of Terrorism: A Relook" in V. T. Patil
To sum up the complexity and confusion surrounding the concept of terrorism and its lack of a consensual definition, perhaps, nothing could be more appropriate and contextual than to quote Indian Prime Minister, Rajiv Gandhi, from his 1986 interview by Pritish Nandy:

Well, it's all a question of definitions. When is terrorism a freedom movement? Where does terrorism versus human rights come in? These are the sort of grey areas, you know. We have the example of South Africa before us. We have others as well, where we are clear that the movement is a freedom struggle, not a terrorist movement. But others claim that these are terrorist movements. So, you know, these sort of things will have to be clarified here, where there is no movement as yet to define today but there well might be tomorrow. So whatever we do, it should not be such that we find ourselves in a mess. If you rush into it now, you know, it will pose a problem in SAARC later.... The UN hasn't been able to get to it as yet. Other bodies, too, have not been able to define terrorism in a proper satisfactory manner.58

When Rajiv Gandhi said this, the ethnic violence in Sri Lanka was on the ascendant. As India could not remain a silent spectator to the growing ethnic conflict in Sri Lanka that had a direct bearing for India's domestic stability and security, Rajiv Gandhi was obliged to make a serious effort to manage that strife in Sri Lanka leading to the signing of India-Sri Lanka Accord of 1987. When, however, the LTTE refused to abide by this Accord, New Delhi had to dispatch the Indian Peace Keeping Force (IPKF), to Sri Lanka. This infuriated the Sri Lankan terrorists so much that one of them finally killed Rajiv Gandhi in May 1991. We therefore now propose to investigate the causes of rise and development of Tamil militancy in Sri Lanka.

58 The Illustrated Weekly of India (Bombay), 12 January 1986.