Chapter 6

Conclusion
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The biggest preoccupation of students of terrorism has been the task of distinguishing between terrorism and liberation struggle. It is this inability to draw the definitive line between the two that has beleaguered the international community from reaching any conclusive agreement on the definition of terrorism. In fact, since the end of World War II any debate on terrorism customarily has raised the legitimate linkages of between the two. Although in 1994, the UN General Assembly declared and unequivocally condemned “all acts, methods and practices of terrorism, as criminal”, the world body continues to be under siege from the two main differing and distinct voices. Neither side is unable to agree to the extent and nature of a violent political act that can be legitimised as independent struggle or be termed as terrorism.

The problem of defining terrorism thus remains the most baffling task in discussing international terrorism. As Walter Laquer maintains terrorism will always mean different things to different people. Changing national interests have also made it that much more difficult to pin down an exact definition of terrorism. In the absence of well-defined parameters, even legal definitions have been misleading. States tend to define and proscribe movements as terrorists depending upon narrow political interests and considerations; for example, India, which banned numerous outfits as terrorists, took a different view vis-à-vis the National Socialists Council of Nagaland, which also indulges in activities that otherwise, would have been termed terrorist. Likewise, due to national interest considerations, the Terrorism Watch list published by the US State Department, excludes groups engaging in terrorism or states, which sponsor international terrorism.
Notwithstanding the difficulties surrounding the definition of terrorism, it is possible to infer some of the basic characteristics of international terrorism. The most obvious and striking feature is its violent nature. Whether it actually causes or not, the purpose of terrorism is its intention to cause violence. Its political motivation distinguishes terrorism from other forms of vandalism and criminal activities. Irrespective of its target, each terrorist outrage is directed towards achieving a political goal or a public declaration of the same. Another feature that makes it different from other forms of combat is its targeting of civilian victims.

Terrorism by its very nature follows no rules of war and unlike other forms of political violence like guerrilla warfare or insurgency, its target includes civilian population. Civilians continue to remain the primary and the most noticeable target of all terrorist attacks. Despite its apparent mindless violent nature, terrorist attacks are never devoid of a strong rationale underpinning. The entire game plan of a terrorist rests on his/her ability to instil a fear and impact on the intended target. It is this desire that makes a terrorist seeks not only unconventional but also daring and even high visible targets.

The psychological impact of a terrorist attack is vital towards the realisation of its objective. Terrorism has also been defined as the weapon of the weak. Its necessarily surreptitious nature can only be attributed to the fact that it fights from a level of the weakness unable to rise to the level of its stronger opponents. To be successful, terrorism needs a vast support system at all levels, especially for financial, operational and logistical needs. A sustained campaign of terrorism is not possible without its support base amongst the masses too, for future recruitment.
The most noticeable trait of modern day terrorism is its transnational nature. Terrorism has graduated from a national phenomenon to an international one. Its theatre of operations has shifted from domestic to international arena. Irrespective of the nature of the player, whether non-state or state supported, present day terrorism has spread its network far and wide and is able to conduct operations in locations far from immediate area of operations. Modern terrorist groups have transcended the confines of national borders and all prominent terrorist groups have operations that spread across wide sections of states and continents.

Terrorism during the Cold War can easily be distinguished by the primacy of its ethnic or national identity. This was pivotal in raising its sense of grievance, which found expression in terrorism acts. At the height of the Cold War, the US employed religious especially Islamic fervour to undermine and humble the Soviets. During the Afghan War, it poured billions in small arms and weapons training to young Afghan Mujahideen and portrayed them as freedom fighters. Scores of Muslim youths waged a jihad against infidel communist. This religious fervour did not end with the Soviet withdrawal from Afghanistan and those who survived the decade long war diverted their attention to other troubled spots and ushered in an Afghan Arab caravan.

Another noticeable feature has been the decline in the state sponsorship of terrorism. Increased awareness, effective counter-measures, growing international disapproval and high political costs have lessened erstwhile enthusiasm of the states to pursue terrorism as a means of furthering national interests. The disintegration of some states and the weakening of the central authority in others have further eroded state-sponsored terrorism.
As the state has receded from active involvement in promoting terrorism, individuals and groups have begun occupying primacy in the post-Cold War terrorism. Not governed by international treaty or regime, they are immune from restrictions that the international system imposes upon the state. Not only terrorist groups have proliferated but they also operate independent of the state authorities or any regulating mechanism. As actors driven by their narrow individual agenda, the terrorist groups forge common cause with organised criminal elements both inside and outside their respective countries and establish a network of finances, arms and logistical support. The narcotic trade that flourishes in Afghanistan sustains the operations of various religious extremist and criminal elements in this region.

In short, the international terrorism since end of the Cold War has certain discernible trends: terrorism is less ideological than before; much of the post-Cold War terrorism is anchored on religious hatred; states have gradually receded in actively sponsoring terrorism and left the field for individual groups and criminal elements; and the easy availability of weapons and lethal technology have ushered in catastrophic terrorism.

Terrorism, by nature, is different from any other known forms of threats to security and given the problems associated with the definition and demarcation of acts of terror, the existing international framework of laws and institutions is not sufficiently developed to address the challenge. At the same time, the proliferation of terrorist activities and their international character, have led to the creation of national legislation and international regimes for counter-terrorism.
The absence of a strong bi-polar structure that characterised the Cold War period has exacerbated the problems posed by terrorism. Some states such as Israel and the US view the fight against terrorism as a paramount national responsibility, are unlikely to cede their sovereign authority to combat terrorism and would use all national means including force. Other states, particularly the smaller ones with less counter-terrorist capability, would insist on a more legalistic multilateral approach.

The continuing problem of terrorism and the absence of an international mechanism for military action have generated new interests in a number of countries towards finding a middle ground. When an effective mechanism is in place, unilateral counter-terrorist actions might become politically costlier when compared to a multilateral response. In the meantime, more states are seeing an advantage in building a multilateral consensus around their own counter-terrorism polices and through multilateral forums, enforcement actions can be broadened, amplified and strengthened.

The difficulties inherent in the evolution of a security regime and the inadequacy of that regime have compelled states such as United States, to develop a national regime on terrorism. The State Department maintains a watch list, which includes states suspected of supporting terrorism leading to certain, economic as well as political and trade restrictions between the US and the targeted country. Likewise, at regular intervals US bans various terrorist groups from operating from the US soil and thereby trying to curtail these movements from conducting terrorism against US and its allies elsewhere. Taking cue from these, in 2001, Great Britain introduced legislation proscribing various terrorist groups from operating from the British Isles. Of late, other countries have resorted to bilateralism to evolve a regime on terrorism.
Counter-terrorism has evolved as a key agenda in India's foreign policy and diplomatic manoeuvres and for example, concerns over terrorism occupy a prominent position in India's foreign relations.

The evolution of the regime on terrorism was made possible when a large number of states within the international system, led by the great powers, reached a common understanding that terrorism is needed to be countered. As indicated earlier, in the modified structural realist view states co-operate to secure pareto optimal outcome and avoid sub-optimal outcomes, which would accrue from individual efforts in addressing terrorism. The process of defining these unacceptable behaviour or acts of terrorism has set in and is leading to the formulation of a legal framework, which bestows certain obligations upon the member states. To be effective the signatories have to codify these obligations into the domestic laws and external treaties.

A loose regime however, is now in place. Eventually, the efficacy and the efficiency of a regime on international terrorism thus, depend not only upon its ability to define the norms of behaviour but also its willingness to enforce that behaviour.

Unilateral actions against terrorism have often generated enormous political controversies both domestically and externally. Moreover, the events of 9/11 have had immense impact on the evolving regime on terrorism. The United States campaign for the greater evolvement of the regime involved a three pronged concerted effort; strengthening of domestic legislations, greater regional cooperation and concerted international effort. The entire campaign to strengthen the regime on terrorism was based on the narrow fundamental belief that states were either with or against the US
in its effort to fight terrorism. Every major regional forum from NATO, EU, OAS, ASEAN have all been drawn in towards the common platform of the war against terrorism. Despite the initial show of support, the regional organisations have largely remained declaratory without follow-up measures.

The attacks of 9/11 were a defining moment in the evolution of the regime. Within twenty-four hours, the UN Security Council met and unanimously adopted resolution 1368, which for the first time expressed its desire of the UN to combat by all means threats to the international peace. For the first time UN was sanctioning unilateral actions by states to fight terrorism. In its reposing greater power and sanctions in a handful number of powerful states, it also opened up a Pandora’s Box. At the same time, the efforts of the UN once again stirred up and revived the polemical debate on terrorism, especially the political motivation and justification behind terrorism perpetrated by certain groups. Clearly, terrorism a politically motivated violence has been an issue of many subjective and varying perceptions. Given the present context and tenor of international relations, lack of consensus that would bridge the basic perceptual differences on terrorism is a fallacy.

Clearly all states are unable to agree to what exactly terrorism is or its precise nature in defining terrorism. While the legal regime of international conventions on terrorism has been an attempt to go beyond mere declaratory, it has nevertheless been of limited value. International conventions by themselves are applied in varying degrees in different countries. The international forums that sponsor them have no powers to enforce them. In fact, more often than not conventions are also not ratified by all states and thus their domestic legislation does not reflect the commitments of states towards international conventions that they had signed.
International response was largely limited to routine formal verbal support without any collective action. Common strategies of the regime are yet to be drawn up. The unilateralism of United States has inhibited the international community to form a part of the coalition against terrorism. At the same time, the lack of an effective regime works in favour of American unilateralism.

Apart from the political considerations, operational limitations affect the sustenance of a regime. More pertinently, a regime will draw its strength not only from independent states but also from the international organisations and institutions.

Any moves towards strong unilateral actions without a serious attempt to carry along the international opinion would limit the regime’s evolution. The regime’s purpose is to isolate terrorist groups and states sponsoring terrorism and to develop international co-operation against international terrorism. It has been observed that three types of political measure are necessary for the growth and development of the regime; namely, long term political measures to address the roots causes of grievances that lead to terrorists activities, immediate diplomatic measures that make possible bilateral and multilateral cooperation and sustained effort by states to incorporate their commitments to international conventions into domestic legislations.

The regimes stability depends on its ability to uphold and further the national interests of all. Domestic calculations inhibit a common platform and policy. In addition, the contradictory forces at work in domestic arena adversely affect the regime’s ability to function and vice-versa. A key element of the regime has been the extradition treaties. Nevertheless, even between the staunchest allies, ratifying the treaty often becomes a long exercise due to domestic compulsions. Conflicting
political interests work as a major constraint in the efficacy of the regime. Yet the sanctions against terrorism have been too weak. States’ response to terrorism is often tempered with various national policy interests that run contradictory to each other. While in most cases the broad principles have been agreed upon, lack of consensus on specific matters have led to a weak regime.

Some international lawyers advocate the application of laws of war as possible solutions to the dilemma of definitions. Rather than trying to negotiate new treaties on terrorism that are likely not to be enforced, they suggest, that states should apply the laws of war which have acquired universal recognition and acceptance. Terrorist should be dealt with as soldiers who have committed atrocities in international armed conflicts. Even here, there are problems. While United States was formalising its counter terrorism measures as a war on terrorism it was on the other hand refusing to give the captive al-Qaida members the status of prisoners of war.

Since early 1990s, India has been at the forefront advocating a unified institutional response to terrorism and has been developing a network of international arrangements to deal with the issue. It has established bilateral treaties with several important countries like US, UK, Israel, Canada, Germany, UAE and Russia. It has actively worked towards the adoption of various resolutions by the UN Security Council as well as SAARC. It’s latest effort being the submission of a draft-working document on the comprehensive UN convention on international terrorism.

The purpose of the thesis was to examine whether a regime exists or not. Having examined the prevailing circumstances and the difficulties in the creation of a regime, it concludes that since the adoption of the Tokyo Convention in 1963, a loose
international regime on terrorism has been in place. Over the years, the UN has initiated a number of initiatives that gave further impetus. The political costs of unilateral actions compelled nations to look towards international and multilateral mechanism. However, it was only after the events of 9/11 that a serious attempt was made towards evolving a better-defined and structured regime. The forefront of this effort is the US. Herein also, lay the problem. On one hand, United States has used the regime to justify its unilateral action and on the other hand, the presence of a strong the regime is an essential precondition to curtail unilateralism. And despite the general international consensus on the need for an international regime on terrorism, what exists at present is a weak, loose, non-enforcing and non-enforceable regime whose future revolves around the willingness and ability of great power to relegate power and authority.