

International Organizations

Luis Nixon



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by Lynn Walls

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Chapter 1

Introduction

International Security and organization

International security

International security, also called global security, refers to the amalgamation of measures taken by states and international organizations, such as the United Nations, European Union, and others, to ensure mutual survival and safety. These measures include military action and diplomatic agreements such as treaties and conventions. International and national security are invariably linked. International security is national security or state security in the global arena.

With the end of World War II, a new subject of academic study focusing on international security emerged. It began as an independent field of study, but was absorbed as a sub-field of international relations. Since it took hold in the 1950s, the study of international security has been at the heart of international relations studies. It covers labels like "security studies", "strategic studies", "peace studies", and others.

The meaning of "security" is often treated as a common sense term that can be understood by "unacknowledged consensus".

The content of international security has expanded over the years. Today it covers a variety of interconnected issues in the world that affect survival. It ranges from the traditional or conventional modes of military power, the causes and consequences of war between states, economic strength, to ethnic, religious and ideological conflicts, trade and economic conflicts, energy supplies, science and technology, food, as well as threats to human security and the stability of states from environmental degradation, infectious diseases, climate change and the activities of non-state actors.

While the wide perspective of international security regards everything as a security matter, the traditional approach focuses mainly or exclusively on military concerns.

Concepts of security in the international arena

Edward Kolodziej has compared international security to a Tower of Babel and Roland Paris (2004) views it as "in the eye of the beholder". Security has been widely applied to "justify suspending civil liberties, making war, and massively reallocating resources during the last fifty years".

Walter Lippmann (1944) views security as the capability of a country to protect its core values, both in terms that a state need not sacrifice core values in avoiding war and can maintain them by winning war. David Baldwin (1997) argues that pursuing security sometimes requires sacrificing other values, including

marginal values and prime values. Richard Ullman (1983) has suggested that a decrease in vulnerability is security.

Arnold Wolfers (1952) argues that "security" is generally a normative term. It is applied by nations "in order to be either expedient—a rational means toward an accepted end—or moral, the best or least evil course of action". In the same way that people are different in sensing and identifying danger and threats, Wolfers argues that different nations also have different expectations of security. Not only is there a difference between forbearance of threats, but different nations also face different levels of threats because of their unique geographical, economic, ecological, and political environment.

Barry Buzan (2000) views the study of international security as more than a study of threats, but also a study of which threats that can be tolerated and which require immediate action. He sees the concept of security as not either power or peace, but something in between. The concept of an international security actor has extended in all directions since the 1990s, from nations to groups, individuals, international systems, NGOs, and local governments.

The Multi-sum security principle

Traditional approaches to international security usually focus on state actors and their military capacities to protect national security. However, over the last decades the definition of security has been extended to cope with the 21st century globalized

international community, its rapid technological developments and global threats that emerged from this process. One such comprehensive definition has been proposed by Nayef Al-Rodhan. What he calls the "Multi-sum security principle" is based on the assumption that "in a globalized world, security can no longer be thought of as a zero-sum game involving states alone. Global security, instead, has five dimensions that include human, environmental, national, transnational, and transcultural security, and therefore, global security and the security of any state or culture cannot be achieved without good governance at all levels that guarantees security through justice for all individuals, states, and cultures."

Each of these five dimensions refers to a different set of substrates. The first dimension refers to human security, a concept that makes the principle referent object of security the individual, not the state. The second dimension is environmental security and includes issues like climate change, global warming, and access to resources. The third substrate refers to national security, defined as being linked to the state's monopoly over use of force in a given territory and as a substrate of security that emphasizes the military and policing components of security. The fourth component deals with transnational threats such as organized crime, terrorism, and human trafficking. Finally, the integrity of diverse cultures and civilisational forms tackles the issue of transcultural security. According to this multi-faceted security framework all five dimensions of security need to be addressed in order to provide *just* and *sustainable* global security. It therefore advocates cooperative interaction between

states and peaceful existence between cultural groups and civilizations.

Traditional security

The traditional security paradigm refers to a realist construct of security in which the referent object of security is the state. The prevalence of this theorem reached a peak during the Cold War. For almost half a century, major world powers entrusted the security of their nation to a balance of power among states. In this sense international stability relied on the premise that if state security is maintained, then the security of citizens will necessarily follow. Traditional security relied on the anarchistic balance of power, a military build-up between the United States and the Soviet Union (the two superpowers), and on the absolute sovereignty of the nation state. States were deemed to be rational entities, national interests and policy driven by the desire for absolute power. Security was seen as protection from invasion; executed during proxy conflicts using technical and military capabilities.

As Cold War tensions receded, it became clear that the security of citizens was threatened by hardships arising from internal state activities as well as external aggressors. Civil wars were increasingly common and compounded existing poverty, disease, hunger, violence and human rights abuses. Traditional security policies had effectively masked these underlying basic human needs in the face of state security. Through neglect of its constituents, nation states had failed in their primary objective.

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In the historical debate on how best to achieve national security, writers like Hobbes, Macchiavelli, and Rousseau tended to paint a rather pessimistic picture of the implications of state sovereignty. The international system was viewed as a rather brutal arena in which states would seek to achieve their own security at the expense of their neighbors. Inter-state relations were seen as a struggle for power, as states constantly attempted to take advantage of each other. According to this view, permanent peace was unlikely to be achieved. All that states could do was to try to balance the power of other states to prevent anyone from achieving overall hegemony. This view was shared by writers such as E.H. Carr and Hans Morgenthau.

More recently, the traditional state-centric notion of security has been challenged by more holistic approaches to security. Among the approaches which seeks to acknowledge and address these basic threats to human safety are paradigms that include cooperative, comprehensive and collective measures, aimed to ensure security for the individual and, as a result, for the state.

To enhance international security against potential threats caused by terrorism and organized crime, there have been an increase in international cooperation, resulting in transnational policing. The international police Interpol shares information across international borders and this cooperation has been greatly enhanced by the arrival of the Internet and the ability to instantly transfer documents, films and photographs worldwide.

Theoretical approaches

In the field of international relations, realism has long been a dominant theory, from ancient military theories and writings of Chinese and Greek thinkers, Sun Tzu and Thucydides being two of the more notable, to Hobbes, Machiavelli and Rousseau. It is the foundation of contemporary international security studies. The twentieth century classical realism is mainly derived from Edward Hallett Carr's book *The Twenty Years' Crisis*. The realist views anarchy and the absence of a power to regulate the interactions between states as the distinctive characteristics of international politics. Because of anarchy, or a constant state of antagonism, the international system differs from the domestic system. Realism has a variety of sub-schools whose lines of thought are based on three core assumptions: groupism, egoism, and power-centrism. According to classical realists, bad things happen because the people who make foreign policy are sometimes bad.

Neorealism

Beginning in the 1960s, with increasing criticism of realism, Kenneth Waltz tried to revive the traditional realist theory by translating some core realist ideas into a deductive, top-down theoretical framework that eventually came to be called neorealism. *Theory of International Politics* brought together and clarified many earlier realist ideas about how the features of the overall system of states affects the way states interact:

- "Neorealism answers questions: Why the modern states-system has persisted in the face of attempts by certain states at dominance; why war among great powers recurred over centuries; and why states often find cooperation hard. In addition, the book forwarded one more specific theory: that great-power war would tend to be more frequent in multipolarity (an international system shaped by the power of three or more major states) than bipolarity (an international system shaped by two major states, or superpowers)."

The main theories of neorealism are balance of power theory, balance of threat theory, security dilemma theory, offense-defense theory, hegemonic stability theory and power transition theory.

Liberalism

Liberalism has a shorter history than realism but has been a prominent theory since World War I. It is a concept with a variety of meanings. Liberal thinking dates back to philosophers such as Thomas Paine and Immanuel Kant, who argued that republican constitutions produce peace. Kant's concept of Perpetual Peace is arguably seen as the starting point of contemporary liberal thought.

Economic liberalism

Economic liberalism assumes that economic openness and interdependence between countries makes them more peaceful than countries who are isolated. Eric Gartzke has written that economic freedom is 50 times more effective than democracy in creating peace. Globalization has been important to economic liberalism.

Liberal institutionalism

Liberal institutionalism views international institutions as the main factor to avoid conflicts between nations. Liberal institutionalists argue that; although the anarchic system presupposed by realists cannot be made to disappear by institutions; the international environment that is constructed can influence the behavior of states within the system. Varieties of international governmental organizations (IGOs) and international non-governmental organizations (INGOs) are seen as contributors to world peace.

Some believe that these international institutions lead to neotrusteeship, or postmodern imperialism. International institutions lead to an interconnectedness between strong and weak or post-conflict nations. In a situation such as a collapsed, weak-nation without the means of autonomous recovery, international institutions often lead to involvement by a stronger nation to aid in recovery. Because there is no definite international security policy to address weak or post-conflict

nations, stronger nations sometimes face “mission-creep,” a shift from supplying and aiding nations to an escalation of mission goals, when aiding weaker nations. In addition, there is some debate due to lack of testing that international intervention is not the best institution to aid weak or post-war nations. Possible mission-creep, as well as inefficiencies in international intervention, creates debate as to the effectiveness of international institutions in peacekeeping.

Comparison between realism and liberalism

Realist and liberal security systems			
Theoretical base		Realist (alliance)	Liberal (community of law)
<i>Structure of the international system</i>		Material; static; anarchic; self-help system	Social; dynamic; governance without government
<i>Conceptions of security</i>	<i>Basic principles</i>	Accumulation of power	Integration

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	<i>Strategies</i>	Military deterrence; control of allies	Democratization; conflict resolution; rule of Law
<i>Institutional features</i>	<i>Functional scope</i>	Military realm only	Multiple issue areas
	<i>Criterion for membership</i>	Strategic relevance	Democratic system of rule
	<i>Internal power structure</i>	Reflects distribution of power; most likely hegemonic	Symmetrical; high degree of interdependence
	<i>Decision-making</i>	Will of dominant power prevails	Democratically legitimized
<i>Relation of system to its environment</i>		Dissociated; perception of threat	Serves as an attractive model; open for

			association
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Constructivism

Since its founding in the 1980s, constructivism has become an influential approach in international security studies. "It is less a theory of international relations or security, however, than a broader social theory which then informs how we might approach the study of security." Constructivists argue that security is a social construction. They emphasize the importance of social, cultural and historical factors, which leads to different actors construing similar events differently.

Women in international security

As stated previously on this page, international and national security are inherently linked. U.S. Secretary of State Hillary Clinton has been prominent in highlighting the importance of women in national and thus international security. In what has been referred to as "the Hillary Doctrine", she highlights the adversarial relationship between extremism and women's liberation in making the point that with women's freedom comes the liberation of whole societies. As states like Egypt and Pakistan grant more rights to women, further liberation and stability within such countries will inevitably ensue, fostering greater security throughout the international realm. Along the same lines, Secretary of State John Kerry stated that "no country can get ahead if it leaves half of its people behind. This is why the United States believes gender equality is critical to our

shared goals of prosperity, stability, and peace, and why investing in women and girls worldwide is critical to advancing US foreign policy". Elevating women to equal standing internationally will help achieve greater peace and security. This can be seen in both developmental and economic factors, as just two examples among many. Built into American foreign policy is the idea that empowering women leads to greater international development due to their increased ability to maintain "the well-being of their families and communities, drive social progress, and stabilize societies." Female empowerment through economic investment, such as supporting their participation in the workforce, allows women to sustain their families and contribute to overall economic growth in their communities. Such principles must be propagated nationally and globally in order to increase the agency of women to achieve the necessary gender equality for international security.

There is much consideration within feminist international relations (IR) surrounding the importance of female presence to international security. The inclusion of women in discussions surrounding international cooperation increases the likelihood of new questions being asked that may not be given consideration in an otherwise masculine-dominated environment. As a renowned theorist within Feminist IR, J. Ann Tickner points out questions that women would likely be more inclined to ask in regards to war and peace. For example, why men have been the predominant actors in combat, how gender hierarchies contribute to the legitimation of war, and the consequences of associating women with peace. In general, the main issue of concern to feminists

within IR is why in political, social, and economic realms, femininity remains inferior to masculinity, as they see the effects of this transcendental hierarchy both nationally and internationally. Such considerations contribute significant perspective to the role that women play in maintaining peaceful conditions of international security.

Despite acknowledgment of the importance of recognizing women's role in maintaining international security by Clinton, Kerry, and conceivably many others, the fact remains that women are disproportionately presented as victims, rather than actors or leaders. This can be derived by looking at information and statistics presented in Joni Seager's book *The Penguin Atlas of Women in the World*. For example, in combat zones, women face heightened risks of sexual assault, and their familial responsibilities are complicated by reduced access to necessary resources. In terms of governmental presence, (to support their role as leaders), women have not yet achieved equal representation in any state, and very few countries have legislative bodies that are more than 25% female. While prominent female politicians are becoming more frequent, "women leaders around the world like those who become presidents or prime ministers or foreign ministers or heads of corporations cannot be seen as tokens that give everyone else in society the change to say we've taken care of our women". This statement by Clinton reiterates the necessity to confront such on-going challenges to female participation, making such issues pertinent to international security.

Human security

Human security derives from the traditional concept of security from military threats to the safety of people and communities. It is an extension of mere existence (survival) to well-being and dignity of human beings. Human security is an emerging school of thought about the practice of international security. There is no single definition of human security, it varies from "a narrow term of prevention of violence to a broad comprehensive view that proposes development, human rights and traditional security together." Critics of the concept of human security claim that it covers almost everything and that it is too broad to be the focus of research. There have also been criticisms of its challenge to the role of states and their sovereignty.

Human security offers a critique of and advocates an alternative to the traditional state-based conception of security. Essentially, it argues that the proper referent for security is the individual and that state practices should reflect this rather than primarily focusing on securing borders through unilateral military action. The justification for the human security approach is said to be that the traditional conception of security is no longer appropriate or effective in the highly interconnected and interdependent modern world in which global threats such as poverty, environmental degradation, and terrorism supersede the traditional security threats of interstate attack and warfare. Further, state-interest-based arguments for human security propose that the international system is too interconnected for the state to maintain an isolationist international policy.

Therefore, it argues that a state can best maintain its security and the security of its citizens by ensuring the security of others. It is need to be noted that without the traditional security no human security can be assured.

Traditional vs Human Security			
Type of security	Referent	Responsibility	Threats
Traditional	The state	Integrity of the state	Interstate war, nuclear proliferation, revolution, civil conflict
Human	The individual	Integrity of the individual	Disease, poverty, natural disaster, violence, landmines, human rights abuses

UNDP human security proposal

The 1994 UNDP Human Development Report (HDR) proposes that increasing human security entails:

- Investing in human development, not in arms;

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- Engaging policy makers to address the emerging peace dividend;
- Giving the United Nations a clear mandate to promote and sustain development;
- Enlarging the concept of development cooperation so that it includes all flows, not just aid;
- Agreeing that 20 percent of national budgets and 20 percent of foreign aid be used for human development; and
- Establishing an Economic Security Council.

The report elaborates on seven components to human security. Tadjbakhsh and Chenoy list them as follows:

Components of human security as per the HDR 1994 report		
Type of security	Definition	Threats
Economic security	An assured basic income	Poverty, unemployment, indebtedness, lack of income
Food security	Physical and economic access to basic food	Hunger, famines and the lack of physical and economic access to basic food

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Health security	Protection from diseases and unhealthy lifestyles	Inadequate health care, new and recurrent diseases including epidemics and pandemics, poor nutrition and unsafe environment, unsafe lifestyles
Environmental security	Healthy physical environment	Environmental degradation, natural disasters, pollution and resource depletion
Personal security	Security from physical violence	From the state (torture), other states (war), groups of people (ethnic tension), individuals or gangs (crime), industrial, workplace or traffic accidents
Community security	Safe membership in a group	From the group (oppressive practices), between groups (ethnic violence), from dominant groups (e.g. indigenous people vulnerability)
Political	Living in a	Political or state repression,

security	society that honors basic human rights	including torture, disappearance, human rights violations, detention and imprisonment
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Military power

Military power may refer to:

- War might, as all means and methods of war available to a particular sovereign entity, capable of declaring and waging a war (polity, state, military alliance, etc.) Does not refer to armed forces only, but to its mobilization potential, war-related segments of national economy and its military-industrial complex as well
- The armed forces of a nation (in a narrow sense) or in the wider sense, the capabilities of a group such as a fire team, squad, etc.
- A great power, in a military context
- Military power (jet engines), the maximum power setting of a military jet aircraft without the use of afterburners

Terrorism

Terrorism, in its broadest sense, describes the use of intentionally indiscriminate violence as a means to create terror or fear, in order to achieve a political, religious or ideological aim. It is used in this regard primarily to refer to violence against civilians or non-combatants.

The terms "terrorist" and "terrorism" have been used since the late 18th century, have gained popularity during the U.S. Presidency of Ronald Reagan (1981–89) and again after the attacks on New York in September 2001 and on Bali in October 2002.

Nevertheless, there is no commonly accepted definition of 'terrorism'. While several definitions agree that terrorism can or does consist in deliberately killing or trying to kill civilians, they disagree as to whether that violence should also aim at some political effect in order to qualify as 'terrorism': yes, said for example U.S. Professor Walzer in 2002 and says the United States Code since 1983; no, says for example the present law of France and said UN Secretary General Kofi Annan in 2005. Another discrepancy between definitions is: do the killing targets need to be noncombatants, or is it enough if they are civilians?

Having the moral charge in our vocabulary of 'something morally wrong', the term 'terrorism' is often being used, both by governments and non-state-groups, to abuse or denounce opposite groups. Broad categories of political organisations have

been claimed to have been involved in terrorism in order to further their objectives, including right-wing and left-wing political organisations, nationalist groups, religious groups, revolutionaries and ruling governments. Terrorism-related legislation has been adopted in various states, regarding "terrorism" as a crime. Debates are held over whether "terrorism" in some definition should be regarded as a war crime.

According to the Global Terrorism Database by the University of Maryland, College Park, more than 61,000 incidents of non-state terrorism, resulting in at least 140,000 deaths, have been recorded from 2000 to 2014.

The Latin verb *terrere* means: to frighten. The English word 'terror', just like the French *terreur*, derives from that Latin word and means from of old: fright, alarm, anguish, (mortal) fear, panic. Oxford English Dictionary reportedly states that the word 'terrorist' (French: *terroriste*) was invented in the year 1794, during the French Revolution. The first meaning of the word 'terrorist' was then: adherent or supporter of the Jacobins. Apparent from the context given in an article in *the Guardian*, the indication 'Jacobins' in that Oxford definition bears on the group around Maximilien Robespierre, also called 'Montagnards', that after 1794 were held responsible by some commentators for the repressive and violent government over France between June 1793 and July 1794, a period analogously labeled 'Reign of Terror' by commentators. The given definition in Oxford Dictionary shows, the term 'terrorist' in its first use was meant

as abusive term for someone's political or historical ideas or allegiances, not as description of his personal actions.

In December 1795, Edmund Burke used the word "Terrorists" in a description of the new French government called 'Directory': *"At length, after a terrible struggle, the [Directory] Troops prevailed over the Citizens (...) To secure them further, they have a strong corps of irregulars, ready armed. Thousands of those Hell-hounds called Terrorists, whom they had shut up in Prison on their last Revolution, as the Satellites of Tyranny, are let loose on the people."*

Clearly, in this case, Burke used 'Terrorists' as disparaging labeling of armed troops hired by a government he loathes.

French historian Sophie Wahnich distinguishes between the revolutionary terror of the French Revolution and the terrorists of the September 11 attacks:

- Revolutionary terror is not terrorism. To make a moral equivalence between the Revolution's year II and September 2001 is historical and philosophical nonsense... The violence exercised on 11 September 2001 aimed neither at equality nor liberty. Nor did the preventive war announced by the president of the United States.

Definitions

U.S. American political philosopher Michael Walzer in 2002 wrote: "Terrorism is the deliberate killing of innocent people, at

random, in order to spread fear through a whole population and force the hand of its political leaders". This meaning can be traced back to Sergey Nechayev, who described himself as a "terrorist." Nechayev founded the Russian terrorist group "People's Retribution in 1869.

In November 2004, a Secretary-General of the United Nations report described terrorism as any act "intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act". Alternatively, responding to developments in modern warfare, Paul James and Jonathan Friedman distinguish between state terrorism against non-combatants and state terrorism against combatants, including 'Shock and Awe' tactics:

- "Shock and Awe" as a subcategory of "rapid dominance" is the name given to massive intervention designed to strike terror into the minds of the enemy. It is a form of state-terrorism. The concept was however developed long before the Second Gulf War by Harlan Ullman as chair of a forum of retired military personnel.

But defining terrorism has proven controversial. Various legal systems and government agencies use different definitions of terrorism in their national legislation. Moreover, the international community has been slow to formulate a universally agreed, legally binding definition of this crime. These difficulties arise from the fact that the term "terrorism" is politically and

emotionally charged. In this regard, Angus Martyn, briefing the Australian parliament, stated,

- The international community has never succeeded in developing an accepted comprehensive definition of terrorism. During the 1970s and 1980s, the United Nations attempts to define the term floundered mainly due to differences of opinion between various members about the use of violence in the context of conflicts over national liberation and self-determination.

These divergences have made it impossible for the United Nations to conclude a Comprehensive Convention on International Terrorism that incorporates a single, all-encompassing, legally binding, criminal law definition of terrorism. The international community has adopted a series of sectoral conventions that define and criminalize various types of terrorist activities.

Since 1994, the United Nations General Assembly has repeatedly condemned terrorist acts using the following political description of terrorism:

- Criminal acts intended or calculated to provoke a state of terror in the public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

U.S. Code Title Section 2656f(d) defines terrorism as: "Premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience".

Bruce Hoffman, an American scholar, has noted:

- It is not only individual agencies within the same governmental apparatus that cannot agree on a single definition of terrorism. Experts and other long-established scholars in the field are equally incapable of reaching a consensus. In the first edition of his magisterial survey, 'Political Terrorism: A Research Guide,' Alex Schmid devoted more than a hundred pages to examining more than a hundred different definitions of terrorism in an effort to discover a broadly acceptable, reasonably comprehensive explication of the word. Four years and a second edition later, Schmid was no closer to the goal of his quest, conceding in the first sentence of the revised volume that the "search for an adequate definition is still on". Walter Laqueur despaired of defining terrorism in both editions of his monumental work on the subject, maintaining that it is neither possible to do so nor worthwhile to make the attempt.

Hoffman believes it is possible to identify some key characteristics of terrorism. He proposes that:

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- By distinguishing terrorists from other types of criminals and terrorism from other forms of crime, we come to appreciate that terrorism is:
 - ineluctably political in aims and motives;
 - violent – or, equally important, threatens violence;
 - designed to have far-reaching psychological repercussions beyond the immediate victim or target;
 - conducted either by an organization with an identifiable chain of command or conspiratorial cell structure (whose members wear no uniform or identifying insignia) or by individuals or a small collection of individuals directly influenced, motivated, or inspired by the ideological aims or example of some existent terrorist movement and/or its leaders; and
 - perpetrated by a subnational group or nonstate entity.

A definition proposed by Carsten Bockstette at the George C. Marshall European Center for Security Studies, underlines the psychological and tactical aspects of terrorism:

- Terrorism is defined as political violence in an asymmetrical conflict that is designed to induce terror and psychic fear (sometimes indiscriminate) through the violent victimization and destruction of noncombatant targets (sometimes iconic symbols). Such acts are meant to send a message from an illicit clandestine organization. The purpose of terrorism is to exploit the media in order to achieve maximum attainable publicity as an amplifying force multiplier in

order to influence the targeted audience(s) in order to reach short- and midterm political goals and/or desired long-term end states.

Each act of terrorism is a "performance" devised to affect many large audiences. Terrorists also attack national symbols, to show power and to attempt to shake the foundation of the country or society they are opposed to. This may negatively affect a government, while increasing the prestige of the given terrorist group and/or ideology behind a terrorist act.

Terrorist acts frequently have a political purpose. This is often where the inter-relationship between terrorism and religion occurs. When a political struggle is integrated into the framework of a religious or "cosmic" struggle, such as over the control of an ancestral homeland or holy site such as Israel and Jerusalem, failing in the political goal (nationalism) becomes equated with spiritual failure, which, for the highly committed, is worse than their own death or the deaths of innocent civilians.

Their suffering accomplishes the terrorists' goals of instilling fear, getting their message out to an audience or otherwise satisfying the demands of their often radical religious and political agendas.

Some official, governmental definitions of terrorism use the criterion of the illegitimacy or unlawfulness of the act, to distinguish between actions authorized by a government (and thus "lawful") and those of other actors, including individuals and small groups. For example, carrying out a strategic bombing

on an enemy city, which is designed to affect civilian support for a cause, would not be considered terrorism if it were authorized by a government. This criterion is inherently problematic and is not universally accepted, because: it denies the existence of state terrorism; the same act may or may not be classed as terrorism depending on whether its sponsorship is traced to a "legitimate" government; "legitimacy" and "lawfulness" are subjective, depending on the perspective of one government or another; and it diverges from the historically accepted meaning and origin of the term.

According to Ali Khan, the distinction lies ultimately in a political judgment.

An associated, and arguably more easily definable, but *not equivalent* term is violent non-state actor. The semantic scope of this term includes not only "terrorists", but while excluding some individuals or groups who have previously been described as "terrorists", and also explicitly excludes state terrorism.

U.S. president Barack Obama, commenting on the Boston Marathon bombings of April 2013, declared that "[a]nytime bombs are used to target innocent civilians, it is an act of terror". Various commentators have pointed out the distinction between "act of terror" and "terrorism", particularly when used by the White House. 18 U.S.C. § 2331 defines "international terrorism" and "domestic terrorism" for purposes of Chapter 113B of the Code, entitled "Terrorism":

"International terrorism" means activities with the following three characteristics:

Involve violent acts or acts dangerous to human life that violate federal or state law; Appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and Occur primarily outside the territorial jurisdiction of the U.S., or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

Pejorative use

Having the moral charge in our vocabulary of 'something morally wrong', the term 'terrorism' is often being used to abuse or denounce opposite parties, either governments or non-state-groups. Those labeled "terrorists" by their opponents rarely identify themselves as such, and typically use other terms or terms specific to their situation, such as separatist, freedom fighter, liberator, revolutionary, vigilante, militant, paramilitary, guerrilla, rebel, patriot, or any similar-meaning word in other languages and cultures. Jihadi, mujaheddin, and fedayeen are similar Arabic words that have entered the English lexicon. It is common for both parties in a conflict to describe each other as terrorists.

On whether particular terrorist acts, such as killing non-combatants, can be justified as the lesser evil in a particular circumstance, philosophers have expressed different views: while, according to David Rodin, utilitarian philosophers can (in theory) conceive of cases in which the evil of terrorism is outweighed by the good that could not be achieved in a less morally costly way, in practice the "harmful effects of undermining the convention of non-combatant immunity is thought to outweigh the goods that may be achieved by particular acts of terrorism". Among the non-utilitarian philosophers, Michael Walzer argued that terrorism can be morally justified in only one specific case: when "a nation or community faces the extreme threat of complete destruction and the only way it can preserve itself is by intentionally targeting non-combatants, then it is morally entitled to do so".

In his book *Inside Terrorism* Bruce Hoffman offered an explanation of why the term *terrorism* becomes distorted:

- On one point, at least, everyone agrees: *terrorism* is a pejorative term. It is a word with intrinsically negative connotations that is generally applied to one's enemies and opponents, or to those with whom one disagrees and would otherwise prefer to ignore. 'What is called terrorism,' Brian Jenkins has written, 'thus seems to depend on one's point of view. Use of the term implies a moral judgment; and if one party can successfully attach the label *terrorist* to its opponent, then it has indirectly persuaded others to adopt its moral viewpoint.' Hence the decision to call someone or label

some organization *terrorist* becomes almost unavoidably subjective, depending largely on whether one sympathizes with or opposes the person/group/cause concerned. If one identifies with the victim of the violence, for example, then the act is terrorism. If, however, one identifies with the perpetrator, the violent act is regarded in a more sympathetic, if not positive (or, at the worst, an ambivalent) light; and it is not terrorism.

The pejorative connotations of the word can be summed up in the aphorism, "One man's terrorist is another man's freedom fighter". This is exemplified when a group using irregular military methods is an ally of a state against a mutual enemy, but later falls out with the state and starts to use those methods against its former ally. During World War II, the Malayan People's Anti-Japanese Army was allied with the British, but during the Malayan Emergency, members of its successor (the Malayan Races Liberation Army), were branded "terrorists" by the British. More recently, Ronald Reagan and others in the American administration frequently called the mujaheddin "freedom fighters" during the Soviet-Afghan War yet twenty years later, when a new generation of Afghan men were fighting against what they perceive to be a regime installed by foreign powers, their attacks were labelled "terrorism" by George W. Bush. Groups accused of terrorism understandably prefer terms reflecting legitimate military or ideological action. Leading terrorism researcher Professor Martin Rudner, director of the Canadian Centre of Intelligence and Security Studies at Ottawa's Carleton

University, defines "terrorist acts" as unlawful attacks for political or other ideological goals, and said:

- There is the famous statement: 'One man's terrorist is another man's freedom fighter.' But that is grossly misleading. It assesses the validity of the cause when terrorism is an act. One can have a perfectly beautiful cause and yet if one commits terrorist acts, it is terrorism regardless.

Some groups, when involved in a "liberation" struggle, have been called "terrorists" by the Western governments or media. Later, these same persons, as leaders of the liberated nations, are called "statesmen" by similar organizations. Two examples of this phenomenon are the Nobel Peace Prize laureates Menachem Begin and Nelson Mandela. WikiLeaks editor Julian Assange has been called a "terrorist" by Sarah Palin and Joe Biden.

Sometimes, states that are close allies, for reasons of history, culture and politics, can disagree over whether or not members of a certain organization are terrorists. For instance, for many years, some branches of the United States government refused to label members of the Provisional Irish Republican Army (IRA) as terrorists while the IRA was using methods against one of the United States' closest allies (the United Kingdom) that the UK branded as terrorism. This was highlighted by the *Quinn v. Robinson* case. Media outlets who wish to convey impartiality may limit their usage of "terrorist" and "terrorism" because they are

loosely defined, potentially controversial in nature, and subjective terms.

History

Depending on how broadly the term is defined, the roots and practice of terrorism can be traced at least to the 1st-century AD. Sicarii Zealots, though some dispute whether the group, a radical offshoot of the Zealots which was active in Judaea Province at the beginning of the 1st century AD, was in fact terrorist. According to the contemporary Jewish-Roman historian Josephus, after the Zealotry rebellion against Roman rule in Judea, when some prominent Jewish collaborators with Roman rule were killed, Judas of Galilee formed a small and more extreme offshoot of the Zealots, the Sicarii, in 6 AD. Their terror was also directed against Jewish "collaborators", including temple priests, Sadducees, Herodians, and other wealthy elites.

The term "terrorism" itself was originally used to describe the actions of the Jacobin Club during the "Reign of Terror" in the French Revolution. "Terror is nothing other than justice, prompt, severe, inflexible," said Jacobin leader Maximilien Robespierre. In 1795, Edmund Burke denounced the Jacobins for letting "thousands of those hell-hounds called Terrorists... loose on the people" of France.

In January 1858, Italian patriot Felice Orsini threw three bombs in an attempt to assassinate French Emperor Napoleon III. Eight bystanders were killed and 142 injured. The incident played a

crucial role as an inspiration for the development of the early terrorist groups.

Arguably the first organization to utilize modern terrorist techniques was the Irish Republican Brotherhood, founded in 1858 as a revolutionary Irish nationalist group that carried out attacks in England. The group initiated the Fenian dynamite campaign in 1881, one of the first modern terror campaigns. Instead of earlier forms of terrorism based on political assassination, this campaign used modern, timed explosives with the express aim of sowing fear in the very heart of metropolitan Britain, in order to achieve political gains.

Another early terrorist group was Narodnaya Volya, founded in Russia in 1878 as a revolutionary anarchist group inspired by Sergei Nechayev and "propaganda by the deed" theorist Pisacane. The group developed ideas—such as targeted killing of the 'leaders of oppression'—that were to become the hallmark of subsequent violence by small non-state groups, and they were convinced that the developing technologies of the age—such as the invention of dynamite, which they were the first anarchist group to make widespread use of—enabled them to strike directly and with discrimination. Modern terrorism had largely taken shape by the turn of the 20th century.

Types

Depending on the country, the political system, and the time in history, the types of terrorism are varying.

In early 1975, the Law Enforcement Assistant Administration in the United States formed the National Advisory Committee on Criminal Justice Standards and Goals. One of the five volumes that the committee wrote was titled *Disorders and Terrorism*, produced by the Task Force on Disorders and Terrorism under the direction of H. H. A. Cooper, Director of the Task Force staff.

The Task Force defines terrorism as "a tactic or technique by means of which a violent act or the threat thereof is used for the prime purpose of creating overwhelming fear for coercive purposes." It classified disorders and terrorism into six categories:

- Civil disorder – A form of collective violence interfering with the peace, security, and normal functioning of the community.
- Political terrorism – Violent criminal behaviour designed primarily to generate fear in the community, or substantial segment of it, for political purposes.
- Non-Political terrorism – Terrorism that is not aimed at political purposes but which exhibits "conscious design to create and maintain a high degree of fear for coercive purposes, but the end is individual or collective gain rather than the achievement of a political objective."
- Quasi-terrorism – The activities incidental to the commission of crimes of violence that are similar in form and method to genuine terrorism but which nevertheless lack its essential ingredient. It is not the

main purpose of the quasi-terrorists to induce terror in the immediate victim as in the case of genuine terrorism, but the quasi-terrorist uses the modalities and techniques of the genuine terrorist and produces similar consequences and reaction. For example, the fleeing felon who takes hostages is a quasi-terrorist, whose methods are similar to those of the genuine terrorist but whose purposes are quite different.

- Limited political terrorism – Genuine political terrorism is characterized by a revolutionary approach; limited political terrorism refers to "acts of terrorism which are committed for ideological or political motives but which are not part of a concerted campaign to capture control of the state."
- Official or state terrorism – "referring to nations whose rule is based upon fear and oppression that reach similar to terrorism or such proportions." It may also be referred to as Structural Terrorism defined broadly as terrorist acts carried out by governments in pursuit of political objectives, often as part of their foreign policy.

Other sources have defined the typology of terrorism in different ways, for example, broadly classifying it into domestic terrorism and international terrorism, or using categories such as vigilante terrorism or insurgent terrorism. One way the typology of terrorism may be defined:

- Political terrorism

- Sub-state terrorism
- Social revolutionary terrorism
- Nationalist-separatist terrorism
- Religious extremist terrorism
- Religious fundamentalist Terrorism
- New religions terrorism
- Right-wing terrorism
- Left-wing terrorism
- State-sponsored terrorism
- Regime or state terrorism
- Criminal terrorism
- Pathological terrorism

Motivations of terrorists

Attacks on 'collaborators' are used to intimidate people from cooperating with the state in order to undermine state control. This strategy was used in Ireland, in Kenya, in Algeria and in Cyprus during their independence struggles.

Attacks on high-profile symbolic targets are used to incite counter-terrorism by the state to polarize the population. This strategy was used by Al-Qaeda in its attacks on the World Trade Center and the Pentagon in the United States on September 11, 2001. These attacks are also used to draw international attention to struggles that are otherwise unreported, such as the Palestinian airplane hijackings in 1970 and the South Moluccan hostage crisis in the Netherlands in 1975.

Abrahm suggests that terrorist organizations do not select terrorism for its political effectiveness. Individual terrorists tend to be motivated more by a desire for social solidarity with other members of their organization than by political platforms or strategic objectives, which are often murky and undefined. Additionally, Michael Mousseau shows possible relationships between the type of economy within a country and ideology associated with terrorism. Many terrorists have a history of domestic violence.

Some terrorists like Timothy McVeigh were motivated by revenge against a state for its actions against its citizens.

Sylvie Vermeulen, practitioner psychotherapy, suggested that Islamic terrorists are unconsciously driven by a desire of revenge for their own circumcision.

Democracy and domestic terrorism

The relationship between domestic terrorism and democracy is very complex. Terrorism is most common in nations with intermediate political freedom, and it is least common in the most democratic nations. However, one study suggests that suicide attacks may be an exception to this general rule. Evidence regarding this particular method of terrorism reveals that every modern suicide campaign has targeted a democracy—a state with a considerable degree of political freedom. The study suggests that concessions awarded to terrorists during the 1980s and 1990s for suicide attacks increased their frequency. There is

a connection between the existence of civil liberties, democratic participation and terrorism. According to Young and Dugan, these things encourage terrorist groups to organize and generate terror.

Some examples of "terrorism" in non-democratic nations include ETA in Spain under Francisco Franco (although the group's terrorist activities increased sharply after Franco's death), the Organization of Ukrainian Nationalists in pre-war Poland, the Shining Path in Peru under Alberto Fujimori, the Kurdistan Workers Party when Turkey was ruled by military leaders and the ANC in South Africa. Democracies, such as Japan, the United Kingdom, the United States, Israel, Indonesia, India, Spain, Germany and the Philippines, have also experienced domestic terrorism.

While a democratic nation espousing civil liberties may claim a sense of higher moral ground than other regimes, an act of terrorism within such a state may cause a dilemma: whether to maintain its civil liberties and thus risk being perceived as ineffective in dealing with the problem; or alternatively to restrict its civil liberties and thus risk delegitimizing its claim of supporting civil liberties. For this reason, homegrown terrorism has started to be seen as a greater threat, as stated by former CIA Director Michael Hayden. This dilemma, some social theorists would conclude, may very well play into the initial plans of the acting terrorist(s); namely, to delegitimize the state and cause a systematic shift towards anarchy via the accumulation of negative sentiments towards the state system.

Religious terrorism

Terrorist acts throughout history have been performed on religious grounds with the goal to either spread or enforce a system of belief, viewpoint or opinion. The validity and scope of religious terrorism is limited to an individual's view or a group's view or interpretation of that belief system's teachings.

According to the Global Terrorism Index by the University of Maryland, College Park, religious extremism has overtaken national separatism and become the main driver of terrorist attacks around the world. Since 9/11 there has been a five-fold increase in deaths from terrorist attacks. The majority of incidents over the past several years can be tied to groups with a religious agenda. Before 2000, it was nationalist separatist terrorist organisations such as the IRA and Chechen rebels who were behind the most attacks. The number of incidents from nationalist separatist groups has remained relatively stable in the years since while religious extremism has grown. The prevalence of Islamist groups in Iraq, Afghanistan, Pakistan, Nigeria and Syria is the main driver behind these trends.

Four of the terrorist groups that have been most active since 2001 are Boko Haram, Al Qaeda, the Taliban and ISIL. These groups have been most active in Iraq, Afghanistan, Pakistan, Nigeria and Syria. 80% of all deaths from terrorism occurred in one of these five countries. In 2015, the Southern Poverty Law Center released a report on terrorism in the United States. The report (titled *The Age of the Wolf*) found that during that period,

“more people have been killed in America by non-Islamic domestic terrorists than jihadists.” The "virulent racist and anti-semitic" ideology of the ultra-right wing Christian Identity movement is usually accompanied by anti-government sentiments. Adherents of Christian Identity believe that whites of European descent can be traced back to the "Lost Tribes of Israel" and many consider Jews to be the Satanic offspring of Eve and the Serpent. This group has committed hate crimes, bombings and other acts of terrorism. Its influence ranges from the Ku Klux Klan and neo-nazi groups to the anti-government militia and sovereign citizen movements. Christian Identity's origins can be traced back to Anglo-Israelism. Anglo-Israelism held the view that Jews were descendants of ancient Israelites who had never been lost. By the 1930s, the movement had been infected with anti-Semitism, and eventually Christian Identity theology diverged from traditional Anglo-Israelism, and developed what is known as the "two seed" theory. According to the two-seed theory, the Jewish people are descended from Cain and the serpent (not from Shem). The white European seedline is descended from the "lost tribes" of Israel. They hold themselves to "God's laws," not to "man's laws," and they do not feel bound to a government that they consider run by Jews and the New World Order.

Israel has also had problems with Jewish religious terrorism. Yigal Amir assassinated Israeli Prime Minister Yitzhak Rabin in 1995. For Amir, killing Rabin was an exemplary act that symbolized the fight against an illegitimate government that was prepared to cede Jewish Holy Land to the Palestinians.

Perpetrators

The perpetrators of acts of terrorism can be individuals, groups, or states. According to some definitions, clandestine or semi-clandestine state actors may also carry out terrorist acts outside the framework of a state of war. However, the most common image of terrorism is that it is carried out by small and secretive cells, highly motivated to serve a particular cause and many of the most deadly operations in recent times, such as the September 11 attacks, the London underground bombing, 2008 Mumbai attacks and the 2002 Bali bombing were planned and carried out by a close clique, composed of close friends, family members and other strong social networks. These groups benefited from the free flow of information and efficient telecommunications to succeed where others had failed.

Over the years, much research has been conducted to distill a terrorist profile to explain these individuals' actions through their psychology and socio-economic circumstances. Others, like Roderick Hindery, have sought to discern profiles in the propaganda tactics used by terrorists. Some security organizations designate these groups as *violent non-state actors*. A 2007 study by economist Alan B. Krueger found that terrorists were less likely to come from an impoverished background (28% vs. 33%) and more likely to have at least a high-school education (47% vs. 38%). Another analysis found only 16% of terrorists came from impoverished families, vs. 30% of male Palestinians, and over 60% had gone beyond high school, vs. 15% of the populace. To avoid detection, a terrorist will look, dress, and

behave normally until executing the assigned mission. Some claim that attempts to profile terrorists based on personality, physical, or sociological traits are not useful. The physical and behavioral description of the terrorist could describe almost any normal person. However, the majority of terrorist attacks are carried out by military age men, aged 16–40.

Non-state groups

Groups not part of the state apparatus or in opposition to the state are most commonly referred to as a "terrorist" in the media.

State sponsors

A state can sponsor terrorism by funding or harboring a terrorist group. Opinions as to which acts of violence by states consist of state-sponsored terrorism vary widely. When states provide funding for groups considered by some to be terrorist, they rarely acknowledge them as such.

State terrorism

- Civilization is based on a clearly defined and widely accepted yet often unarticulated hierarchy. Violence done by those higher on the hierarchy to those lower is nearly always invisible, that is, unnoticed. When it is noticed, it is fully rationalized. Violence done by those lower on the hierarchy to those higher is unthinkable, and when it does occur it is regarded with shock,

horror, and the fetishization of the victims.—*Derrick Jensen*

As with "terrorism" the concept of "state terrorism" is controversial. The Chairman of the United Nations Counter-Terrorism Committee has stated that the Committee was conscious of 12 international Conventions on the subject, and none of them referred to State terrorism, which was not an international legal concept. If States abused their power, they should be judged against international conventions dealing with war crimes, international human rights law, and international humanitarian law. Former United Nations Secretary-General Kofi Annan has said that it is "time to set aside debates on so-called 'state terrorism'. The use of force by states is already thoroughly regulated under international law". However, he also made clear that, "regardless of the differences between governments on the question of the definition of terrorism, what is clear and what we can all agree on is that any deliberate attack on innocent civilians [or non-combatants], regardless of one's cause, is unacceptable and fits into the definition of terrorism." State terrorism has been used to refer to terrorist acts committed by governmental agents or forces. This involves the use of state resources employed by a state's foreign policies, such as using its military to directly perform acts of terrorism. Professor of Political Science Michael Stohl cites the examples that include the German bombing of London, the Japanese bombing of Pearl Harbor, the British firebombing of Dresden, and the U.S. atomic bombing of Hiroshima during World War II. He argues that "the use of terror tactics is common in international relations and the

state has been and remains a more likely employer of terrorism within the international system than insurgents." He also cites the first strike option as an example of the "terror of coercive diplomacy" as a form of this, which holds the world hostage with the implied threat of using nuclear weapons in "crisis management" and he argues that the institutionalized form of terrorism has occurred as a result of changes that took place following World War II. In this analysis, state terrorism exhibited as a form of foreign policy was shaped by the presence and use of weapons of mass destruction, and the legitimizing of such violent behavior led to an increasingly accepted form of this behavior by the state.

Charles Stewart Parnell described William Ewart Gladstone's Irish Coercion Act as terrorism in his "no-Rent manifesto" in 1881, during the Irish Land War. The concept is also used to describe political repressions by governments against their own civilian populations with the purpose of inciting fear. For example, taking and executing civilian hostages or extrajudicial elimination campaigns are commonly considered "terror" or terrorism, for example during the Red Terror or the Great Terror. Such actions are also often described as democide or genocide, which have been argued to be equivalent to state terrorism. Empirical studies on this have found that democracies have little democide. Western democracies, including the United States, have supported state terrorism and mass killings, with some examples being the Indonesian killings of 1965–66 and Operation *Condor*.

Connection with tourism

The connection between terrorism and tourism has been widely studied since the Luxor massacre in Egypt. In the 1970s, the targets of terrorists were politicians and chiefs of police while now, international tourists and visitors are selected as the main targets of attacks. The attacks on the World Trade Center and the Pentagon on September 11, 2001, were the symbolic epicenter, which marked a new epoch in the use of civil transport against the main power of the planet. From this event onwards, the spaces of leisure that characterized the pride of West, were conceived as dangerous and frightful. Maximiliano E. Korstanje argued that terrorism represents a dialectic of hate, between a group of insurgents whose interests have been placed outside the electoral system and the state which is unable to anticipate the next blow. Historically, tourism and terrorism have inextricably intertwined. As enrooted in the capitalist ethos, terrorism rests on the logic of violence and extortion, where outsiders are used to achieve the in-group's goals. Similarly, Luke Howie explains that the actions of terrorists are not aimed at effacing entire civilizations, as the media portrays, but in administering an extreme fear so that their claims will be accepted. Terrorists are usually psychologically insensitive to the suffering of others. Using extortion as a main tactic, the media lays a fertile ground which amplifies the effects of terrorism on the society. Likely, one of the main problems of terrorism seems to be the need to capture the attention of an audience. To some extent, terrorists appear to jolt the society, however, the western audience

experiences a gradual process of desensitization. This result leads these groups to innovate more cruel and violent strategies.

Funding

Terrorism financing refers to activities that provides financing or financial support to individual terrorists or terrorist groups. A government that maintains a list of terrorist organizations normally will also pass laws to prevent money laundering being used to finance those organizations.

Laws against money laundering and terror financing are used around the world. In the United States, the Patriot Act was passed after the September 11 attacks, giving the government anti-money laundering powers to monitor financial institutions. The Patriot Act has generated a great deal of controversy in the United States since its enactment. The United States has also collaborated with the United Nations and other countries to create the Terrorist Finance Tracking Program.

Laws created attempted to thwart the financing of terrorism (CFT) and money laundering. Initially the focus of CFT efforts was on non-profit organizations, unregistered money services businesses (MSBs) (including so called underground banking or 'Hawalas') and the criminalisation of the act itself. The Financial Action Task Force on Money Laundering (FATF) made nine special recommendations for CFT (first eight then a year later added a ninth). These nine recommendations have become the global

standard for CFT and their effectiveness is assessed almost always in conjunction with anti-money laundering.

The FATF Blacklist (the NCCT list) mechanism was used to coerce countries to bring about change.

Money laundering

Often linked in legislation and regulation, terrorism financing and money laundering are conceptual opposites. Money laundering is the process where cash raised from criminal activities is made to look legitimate for re-integration into the financial system, whereas terrorism financing cares little about the source of the funds, but it is what the funds are to be used for that defines its scope.

An in-depth study of the symbiotic relationship between organised crime and terrorist organizations detected within the United States of America and other areas of the world referred to as crime-terror nexus points has been published in the forensic literature. The Perri, Lichtenwald and MacKenzie article emphasizes the importance of multi-agency working groups and the tools that can be used to identify, infiltrate, and dismantle organizations operating along the crime-terror nexus points.

Terrorists use low value but high volume fraud activity to fund their operations. Paramilitary groups in Northern Ireland are using legitimate businesses such as hotels, pubs and taxi operators to launder money and fund political activities. Even beyond Ireland, terrorists are buying out/controlling front-end

businesses especially cash-intensive businesses including in some cases money services businesses to move monies. Bulk cash smuggling and placement through cash-intensive businesses is one typology. They are now also moving monies through the new online payment systems. They also use trade linked schemes to launder monies. Nonetheless, the older systems have not given way. Terrorists also continue to move monies through MSBs/Hawalas, and through international ATM transactions. Charities also continue to be used in countries where controls are not so stringent.

Suspicious activity

Operation Green Quest, a US multi-agency task force established in October 2001 with the official purpose of countering terrorism financing considers the following patterns of activity as indicators of the collection and movement of funds that could be associated with terrorism financing:

- Account transactions that are inconsistent with past deposits or withdrawals such as cash, cheques, wire transfers, etc.
- Transactions involving a high volume of incoming or outgoing wire transfers, with no logical or apparent purpose that come from, go to, or transit through locations of concern, that is sanctioned countries, non-cooperative nations and sympathizer nations.
- Unexplainable clearing or negotiation of third party cheques and their deposits in foreign bank accounts.

International Organizations

- Structuring at multiple branches or the same branch with multiple activities.
- Corporate layering, transfers between bank accounts of related entities or charities for no apparent reasons.
- Wire transfers by charitable organisations to companies located in countries known to be bank or tax havens.
- Lack of apparent fund raising activity, for example a lack of small cheques or typical donations associated with charitable bank deposits.
- Using multiple accounts to collect funds that are then transferred to the same foreign beneficiaries
- Transactions with no logical economic purpose, that is, no link between the activity of the organization and other parties involved in the transaction.
- Overlapping corporate officers, bank signatories, or other identifiable similarities associated with addresses, references and financial activities.
- Cash debiting schemes in which deposits in the US correlate directly with ATM withdrawals in countries of concern. Reverse transactions of this nature are also suspicious.
- Issuing cheques, money orders or other financial instruments, often numbered sequentially, to the same person or business, or to a person or business whose name is spelled similarly.

It would be difficult to determine by such activity alone whether the particular act was related to terrorism or to organized crime.

For this reason, these activities must be examined in context with other factors in order to determine a terrorism financing connection. Simple transactions can be found to be suspect and money laundering derived from terrorism will typically involve instances in which simple operations had been performed (retail foreign exchange operations, international transfer of funds) revealing links with other countries including FATF blacklisted countries. Some of the customers may have police records, particularly for trafficking in narcotics and weapons and may be linked with foreign terrorist groups. The funds may have moved through a state sponsor of terrorism or a country where there is a terrorism problem. A link with a Politically Exposed Person (PEP) may ultimately link up to a terrorism financing transaction. A charity may be a link in the transaction. Accounts (especially student) that only receive periodic deposits withdrawn via ATM over two months and are dormant at other periods could indicate that they are becoming active to prepare for an attack.

Germany

In July 2010, Germany outlawed the Internationale Humanitäre Hilfsorganisation (IHH), saying it has used donations to support projects in Gaza that are related to Hamas, which is considered by the European Union to be a terrorist organization, while presenting their activities to donors as humanitarian help. German Interior Minister Thomas de Maiziere said, "Donations to so-called social welfare groups belonging to Hamas, such as the millions given by IHH, actually support the terror organization Hamas as a whole."

Australia

In 2009, an investigation carried out by the Australian Transaction Reports and Analysis Centre (AUSTRAC) and other agencies, determined that funds were being sent from Australia for use by the Somalia-based terrorist group, al-Shabaab. Money was remitted, with false names used to obscure the money trail. This investigation led to the ultimate arrest of the suspects on charges of conspiring to commit a terrorist attack on an Australian army base.

In 2014, Australian authorities feared that money being transferred from Australia could be used for terrorism in Somalia. In 2015 Australian banks ceased providing money-transfer facilities to Somalia.

Tactics

The tactics of terrorism are diverse. As important as the actual attacks is the cultivation in the target population of the fear of such attacks, so that the threat of violence becomes as effective as actual violence.

While advancements in technology, modernization, and globalization have helped many states prosper over the course of history, they have also opened terrorist groups to new tactics and weaponry. The different tactics that terrorist groups utilize can be very simple to extremely complex. In his book, *Why Terrorism Works: Understanding the Threat, Responding to the Challenge*,

Harvard Law Professor Alan M. Dershowitz states that before the dawn of dynamite and automatic weapons, killings conducted by terrorists had to be done on a one-on-one basis. Dershowitz also describes how the introduction of new weapons and technology has enabled terrorists to kill more efficiently and in greater amounts:

- "The weapons of choice for earlier terrorists were the dagger, the noose, the sword, and the poison elixir. The introduction of the hand-thrown bomb and the pistol, and more recently the machine gun and plastic explosives, enabled terrorists to kill much more efficiently. Now weapons of mass, or 'wholesale,' destruction allow terrorists to 'leverage' their personnel, as proved by the events of September 11, 2001, in which a relatively small number of highly trained individuals armed with primitive box cutters and prepared to give up their own lives were able to use passenger jets as weapons of mass murder."

Terrorist tactics tend to favor attacks that avoid effective countermeasures and exploit vulnerabilities. As such, terrorist groups have the potential to utilize many different types of terrorism tactics depending on the circumstances and the perceived likelihood of success. Some tactics are more conventional and widely used in the operations of many terrorist groups. These tactics include shootings, hijackings, kidnappings, bombings, and suicide attacks. Other tactics are seen more unconventional and have only been used in a few instances, if at

all. However, these unconventional tactics are perceived by government officials and experts alike as serious potential threats. Some types of unconventional terrorism tactics commonly recognized by terrorism experts are bioterrorism, agroterrorism, nuclear terrorism, and cyberterrorism.

Bombings

As a consequence of globalisation, the relative ease of access to the chemicals used to make explosives has made improvised explosive devices (IEDs) increasingly prominent. This has the dual effect of increasing the available firepower of terrorists who are generally far weaker than their targets as well as assuring the publicity necessary to attract sympathisers to their cause.

These may be implanted in automobiles to make a car bomb, planted on the roadside to detonate near target vehicles, or even strapped to the bodies of individuals for suicide attacks. From a tactical perspective, each of these methods have positives and drawback, for instance car bombs act as their own delivery mechanisms and can carry a relatively large amount of explosives with weights of up to and over 1000 pounds (450 kg), while a suicide vest has a much smaller payload but may allow the wearer access to spaces and individuals that vehicles cannot.

Suicide attacks

Suicide terrorism is the most aggressive form of terrorism, pursuing coercion even at the expense of losing support among

terrorists' own community. What distinguishes a suicide terrorist is that the attacker does not expect to survive a mission and often employs a method of attack that requires the attacker's death in order to succeed (such as planting a car bomb, wearing a suicide vest, or ramming an airplane into a building). In essence, a suicide terrorist kills others at the same time that he kills himself. Usually these tactics are used for a demonstrative purposes or to targeted assassinations. In most cases though, they target to kill a large number of people. Thus, while coercion is an element in all terrorism, coercion is the paramount objective of suicide terrorism.

The number of attacks using suicide tactics has grown from an average of fewer than five per year during the 1980s to 180 per year between 2000 and 2005, and from 81 suicide attacks in 2001 to 460 in 2005. These attacks have been aimed at diverse military and civilian targets, including in Sri Lanka, in Israel since July 6, 1989, in Iraq since the US-led invasion of that country in 2003, and in Pakistan and Afghanistan since 2005.

Between 1980 and 2000, the largest number of suicide attacks was carried out by separatist Liberation Tigers of Tamil Eelam of Sri Lanka. The number of attacks conducted by LTTE was almost double that of nine other major extremist organizations.

In Israel, Gaza and the West Bank, suicide bombings are an anti-Israel strategy perpetrated generally by Islamist and occasionally by secular Palestinian groups including the PFLP.

Rocket and mortar attacks

The use of rocket and mortar attacks had been widely used from 1982–2012, in the example of the middle east rocket attacks against cities and settlements had been carried out by political entities such as Hizballa and Hamas (not counted as state terrorism) and to non political organization such as Islamic Jihad, Islamic Jihad Movement in Palestine, al-Qaeda and many others.

The number of attacks using explosive projectiles has grown after decrease in suicide attacks as can be seen in Palestinian rocket attacks on Israel, according to the reports somewhere between 800000 people to million and a half are being in direct danger of mortar and missile range. In research published in 2011, 15,000 people had been treated or need treatment for PTSD and 1,000 people are being treated in psychometric facilities due to reasons directly to mortar (*qassam*) and rocket attacks (Grad).

Vehicle-based attacks

In the 2000s, there have been a number of vehicle-based attacks in which terrorists used earthmovers or other motor vehicles to run over pedestrians or to attack vehicles. Some examples of such attacks include the 2008 Jerusalem bulldozer attack and the Omeed Aziz Popal SUV rampage.

Compared to suicide-bomb attacks, using vehicles as weapons is easier to plan and carry out without detection. The tactic does

not require acquiring explosives. The weapon, a standard street-legal vehicle, is readily available in the target country and can be used without raising suspicion. According to a report by Strat for global intelligence, using a vehicle as a terrorist tactic is nearly as effective, yet not as destructive as a suicide bombing.

In 2016, two deadly terrorist vehicle-based attacks occurred in Europe: the July attack in Nice, France, that killed 86; and the December attack in Berlin, Germany, that killed 12. This was followed by two other similar attacks in 2017: one in Jerusalem in January that killed four, and another in London in March 2017 that killed three. Other terrorist attacks of a similar M.O. have occurred intermittently in Western countries since 2014, though these produced no fatalities.

Aircraft attacks and hijackings

In the failed 2002 airliner attack, shoulder-launched surface-to-air missiles were fired at an airliner while taking off.

Aircraft hijacking is also employed as a terrorist tactic. On September 11, 2001, 19 al-Qaeda terrorists hijacked American Airlines Flight 11, United Airlines Flight 175, American Airlines Flight 77, and United Airlines Flight 93 and crashed them into the Twin Towers of the World Trade Center, the southwestern side of the Pentagon building, and Stonycreek Township near Shanksville, Pennsylvania in a terrorist attack, killing 2,977 victims, most of them American citizens.

Chemical and biological weapons

Bioterrorism is the deliberate release of viruses, bacteria, or other germs (agents) used to cause illness or death in people, animals, or plants. Biological agents are typically found in nature, but it is possible that they can be changed to increase their ability to cause disease, make them resistant to current medicines, or to increase their ability to be spread into the environment. Biological agents in the hands of terrorists pose serious threats to states' security because they can be easily spread through the air, through water, and through food. Biological agents can also be difficult to detect and often do not cause illness for several hours to several days. A prominent example of a bioterrorist attack on the United States is the September 2001 anthrax attacks. On September 18, 2001, several letters containing anthrax were sent to media outlets and the U.S. Congressional offices of Senator Thomas Daschle and Senator Patrick Leahy. Five Americans died from anthrax inhalation as a result of contact with the contaminated mail. While the 2001 anthrax attacks were relatively small-scale, the United States government has taken several steps since 2001 to pass legislation and initiatives aimed at better protecting the United States against biological attacks, improving the United States' public health system, and improving the United States ability to respond to biological attacks.

The use of chemical weapons includes that by Aum Shinrikyo, a Japanese "new religious movement", which in 1995 carried out the Sarin gas attack on the Tokyo subway. Ian Davison, a British

white supremacist, and neo-Nazi who was arrested in 2009 for planning terrorist attacks involving ricin poison. In 2011 the United States government discovered information that terrorist groups were attempting to obtain large amounts of castor beans for weaponized ricin use.

Agro-terrorism

A subset of bioterrorism, agroterrorism refers to the deliberate introduction of an animal or plant disease for the purposes of generating fear, causing economic losses, or undermining social stability. The ultimate goal of agroterrorism in killing livestock and plants and contaminating food is to cause economic crises in the agricultural and food industries, social unrest, and loss of confidence in the government. Many experts believe that the United States' agricultural sector and food supply are among the most vulnerable and least protected of all potential targets of attack, and they believe that terrorists have taken note of this. After American and allied forces overran some Al-Qaeda's refuges in caves in eastern Afghanistan in 2002, they found U.S. agricultural documents and Al-Qaeda training manuals on targeting agriculture among thousands of other documents.

Analysts have identified a number of characteristics of the United States' agricultural system that make it very vulnerable to agroterrorism. Given that agriculture generally demands large expanses of land, farms are geographically dispersed in environments that are difficult to secure. Also, livestock are usually concentrated in confined locations, which allows diseases

to infect more animals quickly. Although many experts believe the United States is susceptible to agroterrorism, they have never suffered from a large scale agroterrorism related attack. Many political scientists have identified the 1984 salmonella attack in The Dalles, Oregon as a small-scale example of an agroterrorism attack in the United States. A religious cult intentionally contaminated ten restaurant salad bars with salmonella in an attempt to influence a local election, sickening more than 750 people. Even though the United States has not experienced a large-scale agroterrorism attack to date, similar to its anti-bioterrorism initiatives, the United States government has passed several pieces of legislation and started initiatives over the past few decades to better secure its agricultural system and prepare for potential attacks.

Nuclear weapons

Concerns have also been raised regarding attacks involving nuclear weapons. It is considered plausible that terrorists could acquire a nuclear weapon. In 2011, the British news agency, the *Telegraph*, received leaked documents regarding the Guantanamo Bay interrogations of Khalid Sheikh Mohammed. The documents cited Khalid saying that, if Osama Bin Laden is captured or killed by the Coalition of the Willing, an Al-Qaeda sleeper cell will detonate a "weapon of mass destruction" in a "secret location" in Europe, and promised it would be "a nuclear hellstorm".

While no terrorist group has ever successfully acquired and used a nuclear weapon, many political scientists and prominent

government officials consider nuclear terrorism to be one of the single greatest threats in global security. There is strong evidence that terrorist groups like Al-Qaeda are actively seeking to acquire nuclear weapons, and the plutonium or highly enriched uranium (HEU) needed to produce them. Another serious concern is that weaknesses in many states' nuclear security apparatuses have left them susceptible to theft or loss of HEU or plutonium. According to the International Atomic Energy Agency's (IAEA) Illicit Trafficking Database (ITDB), there have been 18 incidents of theft or loss of HEU and plutonium reported in ITDB's participating states. Given these serious concerns, the United States, its allies, and international organizations like the United Nations have established several international agreements and initiatives to ensure that all states' nuclear security standards are adequate and effective, and to secure all vulnerable and unprotected nuclear stockpiles around the world over the next few years.

Cyberterrorism

In the developing age Information Technology, many political scientists and prominent government officials have become increasingly concerned about the ability of terrorist groups to execute cyber attacks and states' vulnerabilities to these attacks. Cyberterrorism could potentially become an increasingly desirable tactic for terrorist groups given that they can be executed thousands of miles away from the target and are difficult to trace back to the perpetrator. In an October 2012 speech, United States Secretary of Defense Leon Panetta

described the seriousness of a cyber attack on the United States: “A cyber attack perpetrated by nation states or violent extremists groups could be as destructive as the terrorist attack of 9/11. Such a destructive cyber terrorist attack could paralyze the nation.” The term “cyberterrorism” was first coined by Barry Collin, a senior research fellow at the Institute for Security and Intelligence in California, in the 1980s. The Center for Strategic and International Studies defines cyberterrorism as “the use of computer network tools to shut down critical national infrastructures (such as energy, transportation, government operations) or to coerce or intimidate a government or civilian population.” Many experts believe that new vulnerabilities will be created as nations and their critical infrastructures become more dependent on computer networks for their operation.

While concern is growing, cyberterrorism attacks still largely remain hypothetical, especially in the United States. In his report for the Center for Strategic and International Studies, James A Lewis writes that so far cyberterrorism has meant little more than propaganda and intelligence collection, and that no critical infrastructures have ever been shut down by cyber terrorist attacks. Lewis also describes how terrorist groups like Al-Qaeda have made significant use of the Internet, but only as a tool for intra-group relations, fundraising, and public relations. An Al-Qaeda training manual entitled “Military Studies in the Jihad Against the Tyrants” explicates that explosives are the preferred weapon of terrorists because “explosives strike the enemy with sheer terror and fright.” While explosions are dramatic, strike fear into the hearts of opponents, and do lasting damage, cyber

attacks, like some other types of terrorism tactics, simply do not have the same dramatic and political effect that terrorists seek. Some political scientists, like Lewis, argue that terrorist organizations like Al-Qaeda might use cyber attacks to disrupt emergency services in order to reinforce and multiply the effect of a physical attack.

Conventional firearms

Despite the popular image of terrorism as bombings alone, and the large number of casualties and higher media impact associated with bombings, conventional firearms are as much if not more pervasive in their use. For example, in the second part of the 2011 Norway attacks 68 people were killed by a man with two guns. The 2008 Mumbai terrorist attacks were done partly by guns and partly by bombs. Also, one Transportation Security Administration officer was killed and few others injured by a man with an assault rifle in the 2013 Los Angeles International Airport shooting. In 2004, the European Council recognized the "need to ensure terrorist organisations and groups are starved of the components of their trade," including "the need to ensure greater security of firearms, explosives, bomb-making equipment and technologies that contribute to the perpetration of terrorist outrages."

Secondary attacks

Terrorist groups may arrange for secondary devices to detonate at a slightly later time in order to kill emergency-response

personnel attempting to attend to the dead and wounded. Repeated or suspected use of secondary devices can also delay emergency response out of concern that such devices may exist. Examples include a (failed) device that was meant to release cyanide-gas during the February 26, 1993 World Trade Center bombing; and a second car bomb that detonated 20 minutes after the December 1, 2001 Ben Yehuda Street Bombing by Hamas in Jerusalem.

Training

There are and have been training camps for terrorists. The range of training depends greatly on the level of support the terrorist organization receives from various organizations and states. In nearly every case the training incorporates the philosophy and agenda of the groups leadership as justification for the training as well as the potential acts of terrorism which may be committed. State sanctioned training is by far the most extensive and thorough, often employing professional soldiers and covert operatives of the supporting state.

Cover

Where terrorism occurs in the context of open warfare or insurgency, its perpetrators may shelter behind a section of the local population. Examples include the intifada on Israeli-occupied territory, and insurgency in Iraq. This population, which may be ethnically distinct from the counter-terrorist

forces, is either sympathetic to their cause, indifferent, or acts under duress.

Communications

Even though older communication methods like radio are still used, the revolution in communication technology over the past 10–15 years has dramatically changed how terrorist organizations communicate. E-mails, fax transmissions, websites, cell phones, and satellite telephones have made it possible for organizations to contemplate a global strategy. However, too great a reliance on this new technology leaves organizations vulnerable to sophisticated monitoring of communication and triangulation of its source. When Osama bin Laden found out that his satellite phone conversations were being intercepted, he ceased using this method to communicate.

Fear

The primary weapon of terrorism is fear, destruction and killing are not an end in and of itself, but a tool to create fear and terror in the minds of the enemy. In an asymmetric situation an enemy who cannot be defeated militarily may be defeated psychologically, that they may come to fear attack and its consequences so much they may become willing to forgo a superior military position in order to be free of the cause of that fear. If a terrorist group can carry out enough credible attacks then "coded warnings" or planted electronic chatter, designed to be intercepted, can cause as much disruption as a genuine attack

or bomb. As long as the supposed attacks are plausible and they are supported by the occasional genuine attack, the authorities will be forced to expend resources to combat non-existent devices, dummy bombs and plain fictions, disrupting the lives of citizens, and feeding the public's fear.

Responses

Responses to terrorism are broad in scope. They can include re-alignments of the political spectrum and reassessments of fundamental values.

Specific types of responses include:

- Targeted laws, criminal procedures, deportations, and enhanced police powers
- Target hardening, such as locking doors or adding traffic barriers
- Preemptive or reactive military action
- Increased intelligence and surveillance activities
- Preemptive humanitarian activities
- More permissive interrogation and detention policies

The term "counter-terrorism" has a narrower connotation, implying that it is directed at terrorist actors.

Response in the United States

According to a report by Dana Priest and William M. Arkin in The Washington Post, "Some 1,271 government organizations and

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1,931 private companies work on programs related to counterterrorism, homeland security and intelligence in about 10,000 locations across the United States."

America's thinking on how to defeat radical Islamists is split along two very different schools of thought. Republicans, typically follow what is known as the Bush Doctrine, advocate the military model of taking the fight to the enemy and seeking to democratize the Middle East. Democrats, by contrast, generally propose the law enforcement model of better cooperation with nations and more security at home. In the introduction of the *U.S. Army / Marine Corps Counterinsurgency Field Manual*, Sarah Sewall states the need for "U.S. forces to make securing the civilian, rather than destroying the enemy, their top priority. The civilian population is the center of gravity—the deciding factor in the struggle.... Civilian deaths create an extended family of enemies—new insurgent recruits or informants—and erode support of the host nation." Sewall sums up the book's key points on how to win this battle: "Sometimes, the more you protect your force, the less secure you may be.... Sometimes, the more force is used, the less effective it is.... The more successful the counterinsurgency is, the less force can be used and the more risk must be accepted.... Sometimes, doing nothing is the best reaction." This strategy, often termed "courageous restraint," has certainly led to some success on the Middle East battlefield, yet it fails to address the central truth: the terrorists we face are mostly homegrown.

Terrorism research

Terrorism research, also called terrorism and counter-terrorism research, is an interdisciplinary academic field which seeks to understand the causes of terrorism, how to prevent it as well as its impact in the broadest sense. Terrorism research can be carried out in both military and civilian contexts, for example by research centres such as the British Centre for the Study of Terrorism and Political Violence, the Norwegian Centre for Violence and Traumatic Stress Studies, and the International Centre for Counter-Terrorism (ICCT). There are several academic journals devoted to the field.

Mass media

Mass media exposure may be a primary goal of those carrying out terrorism, to expose issues that would otherwise be ignored by the media. Some consider this to be manipulation and exploitation of the media.

The Internet has created a new channel for groups to spread their messages. This has created a cycle of measures and counter measures by groups in support of and in opposition to terrorist movements. The United Nations has created its own online counter-terrorism resource.

The mass media will, on occasion, censor organizations involved in terrorism (through self-restraint or regulation) to discourage further terrorism. However, this may encourage organizations to

perform more extreme acts of terrorism to be shown in the mass media. Conversely James F. Pastor explains the significant relationship between terrorism and the media, and the underlying benefit each receives from the other.

- There is always a point at which the terrorist ceases to manipulate the media gestalt. A point at which the violence may well escalate, but beyond which the terrorist has become symptomatic of the media gestalt itself. Terrorism as we ordinarily understand it is innately media-related.—*Novelist William Gibson*

Former British Prime Minister Margaret Thatcher also famously spoke of the close connection between terrorism and the media, calling publicity 'the oxygen of terrorism'.

Outcome of terrorist groups

Jones and Libicki (2008) created a list of all the terrorist groups they could find that were active between 1968 and 2006. They found 648. of those, 136 splintered and 244 were still active in 2006. Of the ones that ended, 43 percent converted to nonviolent political actions, like the Irish Republican Army in Northern Ireland. Law enforcement took out 40 percent. Ten percent won. Only 20 groups, 7 percent, were taken out by military force.

Forty-two groups became large enough to be labeled an insurgency; 38 of those had ended by 2006. Of those, 47 percent converted to nonviolent political actors. Only 5 percent were

taken out by law enforcement. 26 percent won. 21 percent succumbed to military force. Jones and Libicki concluded that military force may be necessary to deal with large insurgencies but are only occasionally decisive, because the military is too often seen as a bigger threat to civilians than the terrorists. To avoid that, the rules of engagement must be conscious of collateral damage and work to minimize it.

Another researcher, Audrey Cronin, lists six primary ways that terrorist groups end:

- Capture or killing of a group's leader. (Decapitation).
- Entry of the group into a legitimate political process. (Negotiation).
- Achievement of group aims. (Success).
- Group implosion or loss of public support. (Failure).
- Defeat and elimination through brute force. (Repression).
- Transition from terrorism into other forms of violence. (Reorientation).

Databases

The following terrorism databases are or were made publicly available for research purposes, and track specific acts of terrorism:

- Global Terrorism Database, an open-source database by the University of Maryland, College Park on terrorist

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events around the world from 1970 through 2015 with more than 150,000 cases.

- MIPT Terrorism Knowledge Base
- Worldwide Incidents Tracking System
- Toc search (dynamic database)

The following public report and index provides a summary of key global trends and patterns in terrorism around the world

- Global Terrorism Index, produced annually by the Institute for Economics and Peace: The following publicly available resources index electronic and bibliographic resources on the subject of terrorism
- Human Security Gateway: The following terrorism databases are maintained in secrecy by the United States Government for intelligence and counter-terrorism purposes:
 - Terrorist Identities Datamart Environment
 - Terrorist Screening Database

Jones and Libicki (2008) includes a table of 268 terrorist groups active between 1968 and 2006 with their status as of 2006: still active, splintered, converted to nonviolence, removed by law enforcement or military, or won. (These data are not in a convenient machine-readable format but are available.)

Chapter 2

The Nature and Development of International Law

International Organizational laws

Public International Law is composed of the laws, rules, and principles of general application that deal with the conduct of nation states and international organizations among themselves as well as the relationships between nation states and international organizations with persons, whether natural or juridical. Public International Law is sometimes called the “law of nations” or just simply International Law. It should not be confused with Private International Law, which is primarily concerned with the resolution of conflict of laws in the international setting, determining the law of which country is applicable to specific situations. In researching this field of law the researcher must also be aware of Comparative Law, the study of differences and similarities between the laws of different countries. Comparative Law is the study of the different legal systems in existence in the world, *i.e*; common law, civil law, socialist law, Islamic law, Hindu law, and Chinese law.

As there is no central international body that creates public international law, research in this field requires the use of a wide variety of sources. In the U.S., a good starting point for research

in this area is the *Restatement of the Law, the Foreign Relations of the United States* as it explains how international law applies in the U.S. This guide is intended as an introduction to the topic and to help researchers find the most used sources and materials in the area with a primary focus on electronic research.

Major Players

Generally speaking, the representatives of nation states are the primary players in the creation of public international law. These representatives of the nation states include not only the heads of state, such as Presidents, Prime Ministers or Kings but also the bureaucratic bodies involved in foreign policy *e.g.*: State Departments, Foreign Ministries, or the military. Inter-Governmental Organizations (IGOs), such as the United Nations or the European Union, have also developed as primary fora for the creation of public international law through the codification of customary law by way of international treaties. The University of South Carolina School Of Library and Information Science maintains a comprehensive list of IGO web sites. These IGO web sites offer a vast array of information on how IGOs work and, in most cases, act as archives where organization documents and materials are stored.

United Nations

The UN is the largest and most complicated of the IGOs and acts as the umbrella organization for many other special subject oriented organizations. The UN develops, creates and enforces

international law in many levels. The UN homepage is an excellent place to get an idea of how the organization functions. The About the UN page details the structure and function of the organization. There is also a page with links to all UN Departments with a subpage dedicated strictly to International Law.

Subject Oriented Organizations

The UN serves as an umbrella for many subject oriented organizations. These specialized agencies of the UN coordinate world wide activities in specific subject areas. They are organized in different ways with varying amounts of power and structures. They are the result of treaties and sometimes serve to coordinate additional treaties in the same subject area.

Most of them produce some sort of legislation-like materials and have a form of representative body. Some have adjudicative bodies with of limited jurisdiction but all produce documents such as treaties, records, regulations and decisions. The UN does not coordinate the publishing or distribution of these documents which can become a challenge for the researcher. However, the UN maintains an Official Locator for UN Systems Organizations which makes finding some of these documents a little easier.

Subject oriented organization web sites include:

- Food and Agriculture Organization
- International Civil Aviation Organization

International Organizations

- International Labour Organization
- International Monetary Fund
- UNESCO
- World Health Organization
- World Intellectual Property Organization

European Union

The EU consists of 27 member countries, with 3 candidates waiting for admission. EU rules and decisions have a direct effect on the citizens of the member states. Originally the EU was organized for economic coordination and development of the member states, but it has evolved into social issues as well. The rule making and judicial systems of the EU are tied in to a co-decision system involving the European Commission, the Council of the European Union, and the European Parliament. Everything you ever wanted to know, but were afraid to ask, about the EU can be found in the European Navigator, a very useful and informative site.

Council of Europe

The Council of Europe was founded in 1949 with the aim to develop common and democratic principles based on the European Convention on Human Rights. It has 47 member states and 5 observer countries: the Holy See, the United States, Canada, Japan, Mexico. It is organized into three main bodies: the Committee of Ministers is the Council's decision-making body, and is composed of the Foreign Ministers, or the Permanent

Representatives, of the 47 member states; the Parliamentary Assembly, grouping 636 members from the 47 national parliaments; and the Congress of Local and Regional Authorities, a consultative body representing local and regional authorities.

Sources and scope of Public International Law

Public international law has three principal sources: international treaties, custom, and general principles of law. In addition, judicial decisions and teachings may be applied as “subsidiary means for the determination of rules of law”. International treaty law comprises obligations states expressly and voluntarily accept between themselves in treaties. Customary international law is derived from the consistent practice of States accompanied by *opinio juris*, *i.e.* the conviction of States that the consistent practice is required by a legal obligation. Judgements of international tribunals as well as scholarly works have traditionally been looked to as persuasive sources for custom in addition to direct evidence of state behaviour. Attempts to codify customary international law picked up momentum after the Second World War with the formation of the International Law Commission (ILC), under the aegis of the United Nations. Codified customary law is made the binding interpretation of the underlying custom by agreement through treaty. For states not party to such treaties, the work of the ILC may still be accepted as custom applying to those states. General principles of law are those commonly recognized by the major legal systems of the world. Certain norms of international law achieve the binding force of peremptory norms as to include all states with no

permissible derogations. Public international law establishes the framework and the criteria for identifying states as the principal actors in the international legal system. As the existence of a state presupposes control and jurisdiction over territory, international law deals with the acquisition of territory, state immunity and the legal responsibility of states in their conduct with each other. International law is similarly concerned with the treatment of individuals within state boundaries. There is thus a comprehensive regime dealing with group rights, the treatment of aliens, the rights of refugees, international crimes, nationality problems, and human rights generally. It further includes the important functions of the maintenance of international peace and security, arms control, the pacific settlement of disputes and the regulation of the use of force in international relations. Even when the law is not able to stop the outbreak of war, it has developed principles to govern the conduct of hostilities and the treatment of prisoners. International law is also used to govern issues relating to the global environment, the global commons such as international waters and outer space, global communications, and world trade.

Whilst municipal law is hierarchical or vertical in its structure, international law is horizontal in nature. This means that all states are sovereign and theoretically equal. As a result of the notion of sovereignty, the value and authority of international law is dependent upon the voluntary participation of states in its formulation, observance, and enforcement. Although there may be exceptions, it is thought by many international academics that most states enter into legal commitments with other states out of

enlightened self-interest rather than adherence to a body of law that is higher than their own. As D. W. Greig notes, “international law cannot exist in isolation from the political factors operating in the sphere of international relations”. Breaches of international law raise difficult questions for lawyers. Since international law has no established compulsory judicial system for the settlement of disputes or a coercive penal system, it is not as straightforward as managing breaches within a domestic legal system. However, there are means by which breaches are brought to the attention of the international community and some means for resolution. For example, there are judicial or quasi-judicial tribunals in international law in certain areas such as trade and human rights. The formation of the United Nations, for example, created a means for the world community to enforce international law upon members that violate its charter through the Security Council. Traditionally, sovereign states and the Holy See were the sole subjects of international law. With the proliferation of international organizations over the last century, they have in some cases been recognized as relevant parties as well. Recent interpretations of international human rights law, international humanitarian law, and international trade law have been inclusive of corporations, and even of certain individuals.

Conflicts between public international law and national sovereignty

The conflict between international law and national sovereignty is subject to vigorous debate and dispute in academia, diplomacy,

and politics. Certainly, there is a growing trend towards judging a state's domestic actions in the light of international law and standards. Numerous people now view the nation-state as the primary unit of international affairs, and believe that only states may choose to voluntarily enter into commitments under international law, and that they have the right to follow their own counsel when it comes to interpretation of their commitments. Certain scholars and political leaders feel that these modern developments endanger nation states by taking power away from state governments and ceding it to international bodies such as the U.N. and the World Bank, argue that international law has evolved to a point where it exists separately from the mere consent of states, and discern a legislative and judicial process to international law that parallels such processes within domestic law. This especially occurs when states violate or deviate from the expected standards of conduct adhered to by all civilized nations.

A number of states place emphasis on the principle of territorial sovereignty, thus seeing states as having free rein over their internal affairs. Other states oppose this view. One group of opponents of this point of view, including many European nations, maintain that all civilized nations have certain norms of conduct expected of them, including the prohibition of genocide, slavery and the slave trade, wars of aggression, torture, and piracy, and that violation of these universal norms represents a crime, not only against the individual victims, but against humanity as a whole. States and individuals who subscribe to this view opine that, in the case of the individual responsible for

violation of international law, he “is become, like the pirate and the slave trader before him, hostis humani generis, an enemy of all mankind”, and thus subject to prosecution in a fair trial before any fundamentally just tribunal, through the exercise of universal jurisdiction.

Though the European democracies tend to support broad, universalistic interpretations of international law, many other democracies have differing views on international law. Several democracies, including India, Israel and the United States, take a flexible, eclectic approach, recognizing aspects of public international law such as territorial rights as universal, regarding other aspects as arising from treaty or custom, and viewing certain aspects as not being subjects of public international law at all. Democracies in the developing world, due to their past colonial histories, often insist on non-interference in their internal affairs, particularly regarding human rights standards or their peculiar institutions, but often strongly support international law at the bilateral and multilateral levels, such as in the United Nations, and especially regarding the use of force, disarmament obligations, and the terms of the UN Charter.

Interpretation

Where there are disputes about the exact meaning and application of national laws, it is the responsibility of the courts to decide what the law means. In international law interpretation is within the domain of the protagonists, but may also be

conferred on judicial bodies such as the International Court of Justice, by the terms of the treaties or by consent of the parties. It is generally the responsibility of states to interpret the law for themselves, but the processes of diplomacy and availability of supra-national judicial organs operate routinely to provide assistance to that end.

Insofar as treaties are concerned, the Vienna Convention on the Law of Treaties writes on the topic of interpretation that:

- “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.” (article 31(1))

This is actually a compromise between three different theories of interpretation:

- The textual approach, a restrictive interpretation, which bases itself on the “ordinary meaning” of the text; that approach assigns considerable weight to the actual text.
- The subjective approach, which takes into consideration
- The idea behind the treaty,
- Treaties “in their context”,
- What the writers intended when they wrote the text.
- A third approach, which bases itself on interpretation “in the light of its object and purpose”, *i.e.* the

interpretation that best suits the goal of the treaty, also called “effective interpretation”.

These are general rules of interpretation; specific rules might exist in specific areas of international law.

Enforcement

Since international law exists in a legal environment without an overarching “sovereign” (*i.e.*, an external power able and willing to compel compliance with international norms), “enforcement” of international law is very different than in the domestic context. In many cases, enforcement takes on Coasian characteristics, where the norm is self-enforcing. In other cases, defection from the norm can pose a real risk, particularly if the international environment is changing. When this happens, and if enough states (or enough powerful states) continually ignore a particular aspect of international law, the norm may actually change just as to concepts of customary international law. For example, prior to World War I, unrestricted submarine warfare was considered a violation of international law and ostensibly the *casus belli* for the United States’ declaration of war against Germany. By World War II, however, the practice was so widespread that during the Nuremberg trials, the charges against German Admiral Karl Dönitz for ordering unrestricted submarine warfare were dropped, notwithstanding that the activity constituted a clear violation of the Second London Naval Treaty of 1936.

Enforcement by States

Apart from a state's natural inclination to uphold certain norms, the force of international law comes from the pressure that states put upon one another to behave consistently and to honour their obligations. As with any system of law, many violations of international law obligations are overlooked. If addressed, it is almost always purely through diplomacy and the consequences upon an offending state's reputation. Though violations may be common in fact, states try to avoid the appearance of having disregarded international obligations. States may also unilaterally adopt sanctions against one another such as the severance of economic or diplomatic ties, or through reciprocal action. In some cases, domestic courts may render judgement against a foreign state (the realm of private international law) for an injury, though this is a complicated area of law where international law intersects with domestic law. It is implicit in the Westphalian system of nation-states, and explicitly recognized under Article 51 of the Charter of the United Nations, that all states have the inherent right to individual and collective self-defence if an armed attack occurs against them. Article 51 of the UN Charter guarantees the right of states to defend themselves until (and unless) the Security Council takes measures to keep the peace.

Enforcement by International Bodies

Violations of the UN Charter by members of the United Nations may be raised by the aggrieved state in the General Assembly for

debate. The General Assembly cannot make binding resolutions, only 'recommendations', but through its adoption of the "Uniting for Peace" resolution (A/RES/377 A), of 3 November 1950, the Assembly declared that it has the power to authorize the use of force, under the terms of the UN Charter, in cases of breaches of the peace or acts of aggression, provided that the Security Council, owing to the negative vote of a permanent member, fails to act to address the situation. The Assembly also declared, by its adoption of resolution 377 A, that it could call for other collective measures—such as economic and diplomatic sanctions—in situations constituting the milder "threat to the Peace".

The Uniting for Peace resolution was initiated by the United States in 1950, shortly after the outbreak of the Korean War, as a means of circumventing possible future Soviet vetoes in the Security Council. The legal significance of the resolution is unclear, given that the General Assembly cannot issue binding resolutions. However, it was never argued by the "Joint Seven-Powers" that put forward the draft resolution, during the corresponding discussions, that it in any way afforded the Assembly new powers. Instead, they argued that the resolution simply declared what the Assembly's powers already were, just as to the UN Charter, in the case of a dead-locked Security Council.

The Soviet Union was the only permanent member of the Security Council to vote against the Charter interpretations that were made law by the Assembly's adoption of resolution 377 A. Alleged violations of the Charter can also be raised by states in the

Security Council. The Security Council could subsequently pass resolutions under Chapter of the UN Charter to recommend the “Pacific Resolution of Disputes.” Such resolutions are not binding under international law, though they usually are expressive of the Council’s convictions. In rare cases, the Security Council can adopt resolutions under Chapter of the UN Charter, related to “threats to Peace, Breaches of the Peace and Acts of Aggression,” which are legally binding under international law, and can be followed up with economic sanctions, military action, and similar uses of force through the auspices of the United Nations.

It has been argued that resolutions passed outside of Chapter can also be binding; the legal basis for that is the Council’s broad powers under Article 24(2), which states that “in discharging these duties (exercise of primary responsibility in international peace and security), it shall act in accordance with the Purposes and Principles of the United Nations”. The mandatory nature of such resolutions was upheld by the International Court of Justice (ICJ) in its advisory opinion on Namibia. The binding nature of such resolutions can be deduced from an interpretation of their language and intent.

States can also, upon mutual consent, submit disputes for arbitration by the International Court of Justice, located in The Hague, Netherlands. The judgements given by the Court in these cases are binding, although it possesses no means to enforce its rulings. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make

such a request. Some of the advisory cases brought before the court have been controversial with respect to the court's competence and jurisdiction.

Often enormously complicated matters, ICJ cases (of which there have been less than 150 since the court was created from the Permanent Court of International Justice in 1945) can stretch on for years and generally involve thousands of pages of pleadings, evidence, and the world's leading specialist public international lawyers. As of June 2009, there are 15 cases pending at the ICJ. Decisions made through other means of arbitration may be binding or non-binding depending on the nature of the arbitration agreement, whereas decisions resulting from contentious cases argued before the ICJ are always binding on the involved states.

Though states (or increasingly, international organizations) are usually the only ones with standing to address a violation of international law, some treaties, such as the International Covenant on Civil and Political Rights have an optional protocol that allows individuals who have had their rights violated by member states to petition the international Human Rights Committee.

International legal theory

International legal theory comprises a variety of theoretical and methodological approaches used to explain and analyse the content, formation and effectiveness of public international law

and institutions and to suggest improvements. Some approaches center on the question of compliance: why states follow international norms in the absence of a coercive power that ensures compliance. Other approaches focus on the problem of the formation of international rules: why states voluntarily adopt international law norms, that limit their freedom of action, in the absence of a world legislature; while other perspectives are policy oriented: they elaborate theoretical frameworks and instruments to criticize the existing norms and to make suggestions on how to improve them. Some of these approaches are based on domestic legal theory, some are interdisciplinary, and others have been developed expressly to analyse international law. Classical approaches to International legal theory are the Natural law, the Eclectic and the Legal positivism schools of thought.

Natural Law

The natural law approach argues that international norms should be based on axiomatic truths. 16th century natural law writer, Francisco de Vitoria, a professor of theology at the University of Salamanca, examined the questions of the just war, the Spanish authority in the Americas, and the rights of the Native American peoples.

Eclectic or Grotian School

In 1625 Hugo Grotius argued that nations as well as persons ought to be governed by universal principle based on morality and divine justice while the relations among polities ought to be

governed by the law of peoples, the *jus gentium*, established by the consent of the community of nations on the basis of the principle of *pacta sunt servanda*, that is, on the basis of the observance of commitments. On his part, Emmerich de Vattel argued instead for the equality of states as articulated by 18th century natural law and suggested that the law of nations was composed of custom and law on the one hand, and natural law on the other. During the 17th century, the basic tenets of the Grotian or eclectic school, especially the doctrines of legal equality, territorial sovereignty, and independence of states, became the fundamental principles of the European political and legal system and were enshrined in the 1648 Peace of Westphalia.

Legal Positivism

The early positivist school emphasized the importance of custom and treaties as sources of international law. 16th century Alberico Gentili used historical examples to posit that positive law (*jus voluntarium*) was determined by general consent.

Cornelius van Bynkershoek asserted that the bases of international law were customs and treaties commonly consented to by various states, while John Jacob Moser emphasized the importance of state practice in international law. The positivism school narrowed the range of international practice that might qualify as law, favouring rationality over morality and ethics. The 1815 Congress of Vienna marked the formal recognition of the political and international legal system based on the conditions of Europe.

Modern legal positivists consider international law as a unified system of rules that emanates from the states' will. International law, as it is, is an "objective" reality that needs to be distinguished from law "as it should be." Classic positivism demands rigorous tests for legal validity and it deems irrelevant all extralegal arguments.

Branches of public international law

- Consular law
- Diplomatic law
- International aviation law
- International criminal law
- International environmental law
- International human rights law
- International humanitarian law
- International space law
- International trade law
- Law of state responsibility
- Rule just as to higher law
- United Nations Convention on the Law of the Sea
- Use of force continuum

History of public international law

Beginning with the Peace of Westphalia in 1648, the 17th, 18th and 19th centuries saw the growth of the concept of the sovereign "nation-state", which consisted of a nation controlled by a centralized system of government. The concept of nationalism

became increasingly important as people began to see themselves as citizens of a particular nation with a distinct national identity. Until the mid-19th century, relations between nation-states were dictated by treaty, agreements to behave in a certain way towards another state, unenforceable except by force, and not binding except as matters of honour and faithfulness. But treaties alone became increasingly toothless and wars became increasingly destructive, most markedly towards civilians, and civilized peoples decried their horrors, leading to calls for regulation of the acts of states, especially in times of war.

Perhaps the first instrument of modern public international law was the Lieber Code, passed in 1863 by the Congress of the United States, to govern the conduct of US forces during the United States Civil War and considered to be the first written recitation of the rules and articles of war, adhered to by all civilized nations, the precursor of public international law. Part of the Code follows:

- “Military necessity, as understood by modern civilized nations, consists in the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful just as to the modern law and usages of war. Military necessity admits of all direct destruction of life or limb of armed enemies, and of other persons whose destruction is incidentally unavoidable in the armed contests of the war; it allows of the capturing of every armed enemy, and every enemy of importance to the hostile government, or of

peculiar danger to the captor; it allows of all destruction of property, and obstruction of the ways and channels of traffic, travel, or communication, and of all withholding of sustenance or means of life from the enemy; of the appropriation of whatever an enemy's country affords necessary for the subsistence and safety of the Army, and of such deception as does not involve the breaking of good faith either positively pledged, regarding agreements entered into during the war, or supposed by the modern law of war to exist. Men who take up arms against one another in public war do not cease on this account to be moral beings, responsible to one another and to God. Military necessity does not admit of cruelty—that is, the infliction of suffering for the sake of suffering or for revenge, nor of maiming or wounding except in fight, nor of torture to extort confessions. It does not admit of the use of poison in any way, nor of the wanton devastation of a district. It admits of deception, but disclaims acts of perfidy; and, in general, military necessity does not include any act of hostility which makes the return to peace unnecessarily difficult.”

This first statement of the previously uncodified rules and articles of war led to the first prosecution for war crimes—in the case of United States prisoners of war held in cruel and depraved conditions at Andersonville, Georgia, in which the Confederate commandant of that camp was tried and hanged, the only Confederate soldier to be punished by death in the aftermath of

International Organizations

the entire Civil War. In the years that followed, other states subscribed to limitations of their conduct, and numerous other treaties and bodies were created to regulate the conduct of states towards one another in terms of these treaties, including, but not limited to, the Permanent Court of Arbitration in 1899; the Hague and Geneva Conventions, the first of which was passed in 1907; the International Court of Justice in 1921; the Genocide Convention; and the International Criminal Court, in the late 1990s. Because international law is a relatively new area of law its development and propriety in applicable areas are often subject to dispute.

Chapter 3

Principles of Governmental Organization and Administration People's Participation in Administration

In a parliamentary form of democratic government, the public administration is responsible to the people through their representatives in the legislature. Although, the people are ultimate sovereigns, it is difficult to imagine a situation in which each and every people of public will act as the master of each and every civil servant. The influence of public on the administration has therefore to be channeled in some organized ways. Ultimately, people are not capable of exercising any definite or specific control over administration. Richard Warner has observed that, "The people are, indifferent to questions of Government machinery save when the machinery works in such a way as to outrage public opinion".

The people are generally ignorant and unorganized and are therefore incapable of exercising any regular and definite impact over public administration. However, Warner goes on to say that in spite of ignorance of the people they ultimately determine what the public administration is going to be. He, observed, "In the

least resort, the final words remain with the public in all democratic countries, since they are the electorate by whom the whole mechanism of the Government must be set in motion.

Indirectly, therefore in the long run, the p-public controls public administration absolutely and completely". The influence and control of the people over the administration has to be channeled in some sort of an organised way. It is very rare that an unorganized mass of people are able to influence the administration to any significant extent. In this Stage, we propose to study the various means of people's participation in administration. In other words, we would explore the manner in which the people are able to influence the administration.

Modes of Public Influence on Administration

The public influence on administration is mostly in an indirect and informal manner. There are formal modes of influencing the administration.

These are:

- System of election;
- System of Recalls;
- Advisory and Consultative Committees;
- Pressure Groups.

We would discuss in brief as to how these modes of influence operate in actual practice.

System of Elections

The highest officials of the State namely, the political executives are always elected by the people directly/indirectly. The top administrations are appointed by the political executives and are responsible to them. The influence of the people on the administration is therefore through the political executives who are responsible to the people. Since the political heads have to seek re-election after a fixed period of time they have to take care of the problems of their constituency. The people are, therefore, able to influence the political executives in his functioning.

They are able to bring pressure on them by virtue of their voting power. The political executives have to listen to them as they have to return to them periodically for their election. However, in practice, the system of elections has not been very effective instrument of the exercise of people influence over administration. The elections are held at long intervals say once in five years. After getting elected to their administration, the Ministers can afford to ignore their electorate for a considerable period of time. In some countries, there is also a system of electing the administration officials. The Canton Government in Switzerland and some States in the USA and local government have elected officials. The system is had from the administrative point of view, but ensures direct and close control and influence of people over administration. However, it leads to favouritism and patronage. The system is also impracticable in a large country where elections for a large body of administrators are not possible. The system has therefore fallen into disuse. Most of the

modern democratic have appointed administrators rather than elected ones.

System of Recall

This system of recall of officials is a corollary to the system of election of officials. It is based on the premises that the whole of democracy is more democracy.

Under this system, the officials have to retire from his office even before the expiry of his term of office, if he is defeated in a recall poll. The system of recall is as rare as the system of elected administrative officers. In any big democracy this type of system is impractical.

Advisory Committees

The methods of people's influence over administration are a general nature. In these methods individual citizens hardly find an opportunity of being able to sue their wisdom and knowledge to influence the decisions of the Government. The most important mode of exercising peoples influence on demonstration is that provided by advisory committees. In India, the Advisory Committees are generally a post independence innovation in administration. In 1957, there were not more than dozen advisory committees in existence. Moreover the committees that exist do not have the distinct complexion that such bodies under democratic set up normally acquire. Moreover, the colonial government has very few development function sot perform. There

was therefore not much need to have advisory committees. With the advent of independence the government took upon itself a large number of functions requiring policy initiatives in many new directions. Since these policies were meant for the development of the people, their participation was considered essential in the successful implementation of these policies.

A number of committees have therefore multiplied enormously after independence. There are a number of such advisory committees in each ministry. The Ministries are not even able to indicate the exact number of advisory committees they have. A tentative list of advisory committees in 1961 indicates there were more than 500 such committees in Government of India.

Types of Advisory Committees

The advisory committees may be classified into the following types:

- Representative advisory committees
- Expert Committees
- Advisory Committers for independent administration
- Territorial advisory committees
- Zonal Committees.

The most important of these committees are the territorial committees and expert committees. A representative advisory committee is an extension to the democratic principle. It provides representatives to the various interests and this enlists the

participation of concerned people in the administrative process, broadening thereby the democratic base.

Since modern democracies deny having been representative, the representative advisory committees provide the government an opportunity of ascertaining the connected people with the decision making process. For this reason, the use of representative advisory committees is becoming more and more widespread in public administration.

The expert committees as their names suggest enable the government to associate various experts in professional bodies with the decision making in areas where their advice may be useful. For example, Planning Commission appoints a number of panels of experts from outside the government. Some of the reports of these expert committees have been found very useful to the Government in framing policies in complicated technical areas.

The advisory committees may be really useful if their function remains only advisory. Otherwise, there is a danger of public responsibility being impaired. It is also necessary that the members of these committees have a broad and representative perspective of their function rather than a narrow and personal use. On the other hand, the system of advisory committees also requires that their suggestions and advice should be given due weight and consideration by the Government. Their members should be appointed with great care and attention. If their influence and advice is not given proper consideration, no self-

respecting people will join these advisory bodies. Even those working on these advisory committees will lose all interests if they know that their advice carried no weight with the administration. It may also lead them to make irresponsible suggestions in the belief that the government is not serious about the implementation of the advice rendered by the committees. If properly used, the system of advisory committees can prove as the most effective one for ensuring people's participation in administration. It is true that the system does not give an opportunity for each and every citizen to participate in the decision making process, nor does it appear possible to do so.

Pressure Groups

Another method of exercising peoples influence over public administration is through the operation of pressure groups. "Pressure Group" is an American term, which means a part of people organized and active in the pursuit of some special interests which its members join to promote. Usually, they are groups of industrialists, traders, businessmen with organized commercial interests. The various chambers of commerce and industry, trade unions, caste and religious groups etc, belong to the category of pressure groups. Although the pressure groups are more prominent in the United States they also exist in other countries and influence the public policy to varying extent. Some people have criticized pressure groups for promoting their narrow interest.

However, if properly organized, the pressure groups may also serve that following useful functions:

- To put its own point of view of the policy making organizations of the Government that is legislature and the administrative agencies.
- To keep its members informed about the new rules and regulations etc., framed by the Government about its activities.
- To resist unduly restrictive policies of the Government which may have an adverse effect on the economic activities pursued by the group.
- To explain to the people the view point of the group so that favourable opinion is formed about their activities.

However, sometimes the pressure groups may employ unlawful means for securing official favour. This may give rise to various malpractices in administration like corruption and favouritism. In many cases, the pressure groups are important instruments in ensuring people's participation in the administrative process. The advice can be used both for legitimate and illegitimate purposes. It is for the administration to interact with it and channelize it in the right direction.

Public Opinion

Besides the organized methods of people's participation in public administration, there are some informal methods also. One such

method is the formation of public information which is expressed through various publicity media like press, television, radio etc. while in India, radio and television are government controlled, press is an important independent medium through which people can exercise their influence on public administration. This is done through various means like giving press statements, writing letters to the editors etc. The government can also interact with people through its public relations machinery which explains to the people the Governments policies and programmes in a constructive way.

They can also use the various media for their interaction with the people. For example, the Government may organize an open national debate on important issues concerning public administration. One may recall the issue of Parliamentary versus Presidential form of Government which was widely discussed in the newspapers.

The newspaper discussion did appear to have made a lot of impact on the Government about this question. In any democratic government people's participation in the public administration is very important from the point of view of making Government policies, a success. Even the best of programmes launched by the Government cannot be successful unless people participate in them willingly. It is also the endeavor of the Government to ensure people's participation because most of their programmes are meant for the benefits of the people. Without active cooperation and participation of the beneficiaries, the Government programmes cannot be effectively implemented. It is

therefore necessary for the Government to associate the people with the decision making process in the Government by various forms of informal ways.

Relationship between Political and Permanent Executives

The Parliament form of Government postulates the political executive to be a part of the legislature. The highest decision making level in the Government is the Minister who is a part of the parliament and is jointly and individually responsible to it. The minister being a political person does not have the time or the expertise to run the day-to-day affairs of the Government. In this function he is assisted by the permanent executive headed by the Secretary. Besides finding the best methods of carrying out the policies laid down by political executive, the secretary provides the necessary information and analysis to enable the Minister to formulate the policy. The policy formation is, therefore, also a collective process in which the political executives as well as the permanent executive *i.e.*

Minister and the secretary jointly participate. The relationship between the Minister and the secretary is a very crucial one for the effective functioning of the Government. Both compliment each other's functions and none probably could do without the other.

The minister is a professional politician who brings to his office knowledge of what people expect from the Government and what

they would not stand. He has to credit legislative experiences and may be some governmental experiences also. The secretary on other hand is a permanent civil servant, who possesses wide administrative experience. In a normal and healthy functioning of the Government both of them should supplement each other.

Further, when any one of them tries to over-step his limits, the conflicts are bound to occur. Such conflicts have risen in the past and they continue to recur in the functioning of the government from time to time. In this stage, we propose to study some of the important aspects connected with the relation between the political executive and the permanent executive *i.e.* between the Minister and his Secretary.

Historical Perspective

Historically, the politician-Minister in the present form appeared on the Indian scene in 1921 when the Montague Chelmsford reforms of 1919, established the system of hierarchy. Under the system some of the transferred subjects were placed for the first time under the elected Ministers. The relationship did not come off entirely without friction and conflict.

Generally, the permanent executive *i.e.* Secretaries tried to adjust to their new role of serving the political masters who were till recently adversaries. A number of civil servants who could not adjust to the new situation did seek retirement and went away to England. The remaining ones; however, made a remarkable job of adjusting with the new situations. Still there were many

instances of strained relations between the two. L.K. Rushbrock William contemplated that “despite the general harmony which seems to have marked the relationship between the Ministers and the permanent officials of the department under their control, the position has not been free from difficulty and there is reason to believe that some Ministers have considered themselves unduly upset”.

It may be noted that C.Y. Chiatamani, who was holding the portfolio of Education in the United Provinces, resigned on the issue of having been by passed in a certain matter which was directly communicated to the Governor. The Government of India Act 1935 established the provincial autonomy under which fully responsible government was provided in the provinces. This brought to fore very prominently the question of relationship between the Secretary and the Minister.

The Committee on Organization and Procedure set up in 1937, under the Chairmanship of R.M. Maxwell, examined the question of proper relationship between them. It pointed out that the Minister has a right to accept advice based on widest administrative experience available under the department, and furthermore, the Secretary was the only officer in the department qualified by experience to render such advice. The Minister, who was naturally not in a position to attend to the day-to-day business of administration, expected the Secretary to carry on this work efficiently. The Secretary should, therefore, be consulted by the Minister in regard to the administrative matters in the Ministry/Department. The committee also held that the

Minister had the freedom to consult experts or other department officers on technical or even administrative questions, but, the Secretary was to be invariably associated with such consultations, and final decisions should not be taken without consulting the Secretary.

The Maxwell Committee also recommended that in view of the political, parliamentary and public pre-occupations the Minister, the matters of major importance should be referred to the Minister for his decisions. With this in mind, the committee suggested the following classes of business to be submitted to the Minister.

- Cabinet cases;
- Business which is likely to have political repercussions;
- Parliamentary business;
- Patronage
- Any other class of business which in the opinion of the Secretary is sufficiently important to be submitted to the Minister.

Obviously, the committee was in favour of giving maximum, possible discretion to the Secretary in running the affairs of the department. He was supposed to refer to the Minister only the cases of dispose off most of the business which he thought he could dispose off. The Committee also felt that for efficient functioning of the Government, it was necessary that the relationship between the Secretary and the Minister must run

smoothly. This relationship must be characterized by mutual confidence and trust.

After Independence

Even after the independence, the intransigence of some of the civil servants caused awkwardness in the relationship between the political and permanent executives. Shri Prakash, the former High Commissioner of India in Pakistan, recalled the difficulties he had encountered in getting his instructions implemented by an ICS officer who was his deputy in the High Commission.

He also narrated an instance of being told by Prime Minister, Pandit Nehru of similar experience of having difficulties with the ICS officers. It has been pointed out by many that at least during the early days of independence some of these officers had entertained somewhat strange view about their own position in the newly emerging administrative set up and found it rather difficult to act in complete harmony and cooperation with the political elements in the Government *i.e.* the Ministers. There were a number of cases of open rift between the Ministers and their Secretaries. One such case was about the purchase of shares of certain private companies by the nationalized Life Insurance Corporation. Finance Minister Mr. T.T. Krishnamachari's disowning responsibility for a decision taken by him after an oral decision by him with the Finance Secretary, Mr. H.M. Patel erupted into a great controversy. Justice Vivian Bose enquiry commission found the working relationship between the two rather strange.

As a result of the controversy, Mr. T.T. Krishnamachari had resigned and Mr. Patel sought voluntary retirement. In 1966 another important case of ministers-secretary conflict was noted. Mr. Gulzizari Lal Nanda, the Home Minister, complained to the Prime Minister that he was not getting full cooperation from his secretary, Mr. L.P. Singh. The Prime Minister did not change the Secretary and the Minister resigned. Another almost comic case of minister- secretary conflict, occurred in 1971, Mr.K. Hanumanthayya, Railway Minister did not see eye to eye with the Chairman of the Railway Board, Mr. Ganguli.

The Minister created an ugly situation by refusing the tour programme of the chairman and got his bogie detached from the railway train. Mr. Ganguli also created a scene by continuing to sit in his bogie. However the government terminated the services of Mr. Ganguli who claimed that the reason for the wrath of the Minister was Mr. Ganguli's attack on some vested interests. Equally comic was the recent conflict between railway minister Mr. Ghani Khan Chaudhary and the Chairman of the Railway Board.

Reasons for Conflict

The most important reason for conflict between the Ministers and the Secretaries is that either one or both of them wish to transgress their limits. Usually, the Minister being a political figure cannot give detailed attention to the government work. The Minister, therefore, should give the secretary full freedom to advice on the policy and decision making. The Secretary should

ideally be left free to express whatever opinion he wishes to express on any matter he placed before the Minister.

The ultimate decision has to be taken by the Minister as he alone is responsible to the legislature, this relationship has to be reinforced by the loyalty of the Secretary to his Minister. The Secretary should appreciate the concerns of the Minister which arise from his being a political person. He has to ensure that the decisions of the Minister do not make him unpopular on account of remaining within the four corners of the legal and constitutional provisions.

The Minister on the other hand has to give full freedom to the Secretary to express his views and take decisions just as to his likes. The Secretary then has to execute the orders of the Minister even if they are contrary to his advice. It is the responsibility of the Minister to defend the Secretary and the administrative machinery below him for their actions in executing the policies laid down by him.

He has to act as their leader and inspire them to perform their jobs, in a most efficient and motivated manner. This is more or less the ideal relationship that should exist between the Minister and his Secretary.

However, the ideal conditions do not always prevail and the conflict between the Minister and the Secretary occasionally comes to surface.

The main reasons for this conflict are:

- The Minister does not, remain satisfied with his policy making functions. He wants to interfere in the day-to-day working of the department. He takes interest in even petty transfers and postings leaving the Secretary and the head of the department with no control over their subordinates. At times, he interferes even in the disciplinary matters affecting the normal disciplinary control of the permanent executive.
- The Minister does not permit the Secretary to express his views freely. He wants the Secretary to tender the advice which is palatable to him. Ministers like Pandit Jawarhalal Nehru and Sardar Patel appreciated their Secretaries to express themselves freely and had the courage to take decisions contrary to their advice. Today's Ministers desire that the advice of the Secretary should be just as to their liking so that they can hold the Secretary responsible for every decision.
- Being political persons many Ministers want their Secretaries to take decisions which are contrary to laws, rules and regulations. Sometimes they do not even take responsibility for these decisions. This tendency of the Ministers to distribute patronage against the rules, and norms laid down by the Government is often resented by the Secretaries who are responsible for the observance of these rules and norms.

- On the other side, it has also been observed that many Secretaries do not coordinate with the Minister and do not comply with the orders lawfully passed by him. If their advice is rejected they tend to sabotage its implementation through the machinery which they also control. No Minister would be able to appreciate this situation.
- Some Secretaries do not give their undivided loyalty to their Ministers. In coalition governments or even in one party government where factionalism prevails, some Secretaries tend to play one Minister against the other, or a Minister against the Chief Minister, etc. It means that they depart from their role of neutral bureaucrats, advising the Minister without fear or favour.

Some of the Secretaries often adopt a very rigid attitude and do not take a human view of various situations. They tend to follow the rules and regulations blindly without regard to the effect it has on human beings. The Minister being the representative of the people cannot adopt and appreciate such an attitude. The biggest cause of conflict between the Minister and the Secretary appears to be this charge of redtapism against the bureaucracy.

Minister and the Field Officers

The Minister-Secretary relationship is not the end of relationship between political and permanent executives. It should include the relationship between the Minister and head of the department as well as relationship between the Minister and the district and

divisional level functionaries. Here again the problem arises for not following the norms of proper conduct. Very often, the Ministers bypasses a Secretary and deals directly with the head of the department or even a district or divisional officer.

The conflict cannot be one sided. Some of the heads of departments and the divisional level officers try to build direct relationship with the Minister over the head of their Secretary, if these informal relationships are used for the purposes of patronage and personal gains.

The Minister wishes the head of the department and lower functionaries to carry out his wishes against the rules and regulations etc. These officials in turn take advantage of the patronage of the Minister giving him in return some undue favours.

This type of relationship is specially detrimental to the functioning of the parliamentary democracy like ours. The relationship between the political and the permanent executive is a delicate one. It requires an understanding of their respective role by both of them. Usually, no conflict should arise if they perform their roles within the norms expected of them.

Generalists vs. Specialists

The controversy about the respective role of generalists and specialists in administration is age-old. The question has, however, acquired new dimensions due to the increasing role being played by science and technology in all walks of life. For

example, fifty years back the department of Space or Ocean Development of Atomic Energy would have not even been thought of.

But, today developments in these fields are simply overwhelming. The role of specialists in administration has, therefore, acquired a new significance. At the same time even the traditional roles of maintaining communal harmony and peace and order are also acquiring new dimensions. There have, therefore, been attempts to redefine the roles of generalists and specialists in different countries.

For example, Fulton Committee of England has made wide-ranging recommendations on the subject. Similarly, Administrative Reforms Commission of India (1966-69) has also examined the question at length and made a series of recommendations on the subject. In this stage we propose to begin by attempting to define the terms “generalists” and “Specialist”. We would then examine the important arguments for and against both and see if any reconciliation of the two views is possible.

Definition of Generalist

There is no precise definition of the term Generalist. Usually, it is taken to mean a public servant who does not require any specialist qualification for entry into the service. He is supposed to have had a liberal education in classics, literature and humanities. He is supposed to be an all-round man who can

perform jobs of managerial class. It means that he performs the usual POSDCORB functions. In the USA, a generalist is a person who rises from early specialization to broad administrative assignments in later years.

Definition of Specialist

On the contrary a specialist is an officer who requires some practical professional or vocational knowledge for entry into service. His professional and vocational qualifications are to be certified by a University degree or some other recognized training course. He usually performs a job in which his specialist knowledge is required. Again specialist is a very relative term.

For example, a general medical practitioner is a specialist by profession. However, when it comes to more specialized fields in the medical profession like Orthopedics, Gynecology, etc, a general medical practitioner becomes almost a Generalist in comparison. Administrative Reforms Commission of India distinguished between professional services in the field from those in the laboratory. They called the specialist services in the field as functional services. In this definition of functional services, they also included those services where officers have to specialize after joining the service. For example, the officers joining services like Income Tax, Audit and Accounts, Defence Accounts, etc. do not require any specialized degree at the time of entry. However, over a period of time in their service they tend to specialize in their particular fields. Fulton Committee used the term specialist administrators for those whose career provides

opportunities for the exercise of their specialist skills. The IIPA Conference on Public Administration attempted a detailed definition of the term “Generalist Officer”, and “Specialist or Technical Officer”. They defined the Generalist Officer as a bright young man who has received a liberal college education in any subject.

He is appointed at the middle level supervisory post for which no educational qualifications in technical or professional subjects is prescribed. He is appointed to higher administrative positions irrespective of his previous experience and training. The Specialist Officer is appointed to middle level supervisory post for which technical or professional educational qualifications are prescribed. He is excluded from posting in the areas where his specialized knowledge or training does not find direct application.

The Controversy

In performing various Government jobs, services of both the Generalists and Specialists are required. Their relative position has long been a matter of controversy among the scholars and administrators alike. We now study the views expressed in the favour of Generalists and Specialists and later consider ways of getting over this controversy.

Case for Generalist

Several arguments have been given in favour of the supremacy of the Generalists. Examples of such supremacy are usually drawn

from the UK and other countries influenced by the British connection.

The major arguments in favour of generalists are summarized below:

- In UK the Generalist administrative class always had a superior position. Its origin can be traced to the Northcote-Trevelyn Report (1853) on “organization of Permanent Civil Service” and Macaulay Report of Indian Civil Services (1844). The philosophy of those reports is that a person with liberal education and varied multi-functional experience is much better than the specialist who has deep knowledge of a very narrow field. The same traditions have been carried over to other countries like India, Canada, Australia, etc, which were connected with England. In India also the Generalists occupied superior positions during the British rule and to some extent even after that.
- The most important argument in favour of the Generalist civil service, as it developed in India, is that it established contact of higher echelons of Civil Service with the grass root administration. It is a unique system in which the Generalist administrative service is organised as an All India Service borne on the permanent cadres of the State Governments. These officers serve in the districts and come in contact with the people at grass root level. They are then moved to the various positions in the State Secretariat and get

an idea of the working of the State Governments. These very officers are deputed to the Government of India to man senior positions there. Lord Curzon introduced the tenure system in which these officers serve in the Government of India for a fixed tenure and go back to the State Government and to the Field. These officers serving at senior levels in Government of India have the advantage of vast experience of working at the State Headquarters and in the field. This gives a touch of realism and inter-connectedness to the entire system of administration. The vision provided by this kind of experience cannot be equaled by the limited technical experience of the Specialists.

- The administration in India is organised on area basis. Each area requires a generalized administrator to coordinate the activities of the various technical departments working in that area.
- By their education, training and experience the Generalists have a broad view of the problems facing the society. The Specialists, on the other hand, have a very narrow view of their own specialty. They tend to exaggerate the imports of their specialty in the whole scheme of things. If they were to occupy senior positions at the policy level, it would be difficult to reconcile the view points of various specialists. Appleby has emphasized this point when he said that parochialism is the price that he pays for specialization.

- In a Parliamentary Democracy like Britain and India the Ministers are usually amateurs and have to spend a lot of time in their political work. They have to keep contact with the legislators, their constituents and have to answer questions in Parliament. Apart from carrying out the administrative work, they have an overload of political work. They, therefore, need generalists to advise them on administrative and policy matters.
- At the senior levels, Government gets a greater flexibility in the placement of officers if these positions are manned by Generalists.
- It is well known that USA has a strong preference for specialists in their administration. Even there, it is being realised that too much of specialization is causing a lot of fragmentation and creating problems of integration. They are also feeling the need for coordinators who can make sense out of the myriad technical advice that is available from the specialists. The problem is less acute there because Ministers need not be politicians. They may be experts in their own lines. However, in practice they are also feeling the need for Generalist Coordinators.
- It has also been argued that it is wrong to call these senior administrators as Generalists. They are also professionals in their own field. To understand the general political and administrative situation to appreciate the aspirations of the people as expressed by their political masters as well as the legislature, to

advise the political executive in their policy formation functions are specialized tasks in themselves. Anybody performing these onerous tasks has to develop a professional expertise to become successful. These Generalists can in that sense be called administrative professionals.

- At higher levels of administration, very little technical knowledge is required. As would be clear to anyone with knowledge of management, the need for technical knowledge is highest at the operating level and lowest at the top-most level. The skills required at the top level are in the field of conceptualization, forming informed judgements etc. Very little technical knowledge is required for acquiring these skills.
- When the specialists are required to do the job of a Generalist, they lost both works. They neither remain specialists nor do they become good generalists.
- In any decision making process, technical inputs form only a small part. Other matters like financial, administrative, legal and political issues are of equal, if not more importance. The Generalists with a broad background of working in various departments is better suited to perform these jobs.
- In developing countries like India which have adopted a federal democratic constitution, the Generalist services provide an integrating force also. They are woven in the entire fabric of the administrative system and provide the necessary cohesion to its working.

Case for Specialist

The case of specialists starts with a grievance from their side that for no fault of theirs, they are excluded from the top policy making positions. It may be worthwhile to examine the argument given to substantiate these grievances.

- In the colonial period or even during early post-independence period the administrative tasks were relatively simple. The main functions of administration were maintenance of law and order, collection of taxes and revenues and providing a modicum community services. However, the tasks of the administration have now become very complex and cannot be given their due importance in performing these jobs from the highest to the lowest levels.
- Specialists feel that generalists are not required to intervene between them and the Ministers. In fact they have a better knowledge of their subjects and can explain it better to the Minister.
- The Generalists do not understand the implications of the technical proposals. There are inordinate delays in the clearance of the proposals submitted to them. They have, all the time, to depend on the advice of the specialists and in the absence of their expert knowledge are unable to make up their minds.
- Fulton Committee in England recommended greater role for the specialists in administration. The Committee also observed that to meet the challenge of

the scientific and technical developments, the specialists have to be given due place in the administration. The same arguments apply to the conditions prevailing in India.

- Administrative Reforms Commission of India (1969) recommended that the senior posts in functional areas should be held by the specialists in those functional areas. They also recommended that non-functional posts should be thrown open to all the cadres including the Specialists and the Generalists.
- In other countries like Sweden, USA, Australia, France, etc., the specialists and professional cadres are not precluded from occupying the top administrative posts. In fact, in most of the countries a large number of top positions are manned by technical people.

Scholars' View

After examining the views expressed on behalf of the Generalists and Specialists, it may be worthwhile to consider what the prominent scholars of public administration have to say about the question.

Braibanti feels that in the new States where national integration is still a very important matter, the proliferation of specialists in administration adds to the centrifugal forces that already exist.

He says that the functional expertise is needed in the administration to promote economic development. But he also

cautions that the generalist administrator has a critical coordinating role as well which should not be ignored. The developing countries need a generalist service to provide cohesion in the administrative framework of the country.

Joseph La Palombara also felt that it is not wise to give too much of importance to the specialist in administration. It may create the problems of control over the bureaucracy. In the developing countries who have adopted a democratic framework, the political control over the administration is likely to be weakened in the face of specialist bureaucrats. He cautioned that the new States who emphasize functional expertise in public administration often tend to ignore the possible political price that may have to be paid for such a system, sums up the argument by saying that one of the great dilemmas of many of the developing countries is that they tend to value economic development more than freedom.

F.M. Marx also thought that the growth of functional exercise in bureaucracy seriously weakened the integrating functions of the generalist administrators. The specialists do not have the knowledge of the whole organization. This results in the loss of spirit de corps. The specialist is insular in his outlook. He reveals in the techniques of his own specialty. The Government then gets involved with too many technical view points which become difficult to synthesize. The insularity of specialist limits his vision of the broader national problems and reduces his capacity to tender policy advice. It would thus be seen that the scholars have tended to emphasize the integrating role of the

Generalist and decry the narrow view promoted by the specialists.

The Way Out

The most important question now is as to what is the way out of this situation. No country can afford such a war going on among its generalist and specialist administrators. Some solutions have been suggested from time to time. A few of them are mentioned below.

- Better status may be ensured for the specialists by creating more All India Service and Class-I Central Services. Some new services like Indian Economic Service and Indian Statistical Service have already been created.
- Appointment to the top positions should not be denied to the specialists. It is not necessary to presume that all generalists will have a broad view and all specialists will have a narrow view. Such of the specialists who acquire the necessary breadth of vision should not be debarred from occupying senior most positions. To a great extent this is already being done in our country. More than 50 per cent of the posts of the level of Joint Secretary, and filled by the specialists or functional services.
- Creation of parallel hierarchy. This is a system prevalent in Australia where the Generalists and the

Specialists have a parallel hierarchy carry similar pay scales and status.

- It has also been suggested that some post in the senior most Generalist service should be filled up by lateral entries from other services. This will give all the services an opportunity to enter the senior most generalist service. To some extent such an opening has been provided in our country.
- Unified Civil Service. This is a radical suggestion of completely revamping the administrative system. At lower level the services should be organized on functional lines. Entry to the top positions should be opened for everyone by the process of selection. Such a change has already been affected in Pakistan Civil Service. However, it appears that it is too radical a suggestion to be implemented in our country immediately.

A Synthesis

If we could look at the administrative system prevailing in different countries, as suggested, find Britain at one extreme where Generalist Services predominate and the USA on the other extreme where specialization has reached extreme proportions. Both of them have realised that such a situation is not conducive for efficient functioning of the Government. The Fulton Committee in England has suggested a synthesis. They have argued that the Generalist administrators should now try to get more training and specialize in certain broad functional areas.

They have also argued that the specialist should be given training in broad general management principles. This should make it possible to have a happy expertise of the specialist in the USA. The second Hoover Commission pointed towards the need of greater coordination of the technical specialties. They had therefore, suggested that creation of Senior Executive Service which would be blend of both the Generalists and the Specialists.

The other countries can take a hint from the shift which is taking place in the UK and the USA from the extreme positions. Some sort of a middle path should be worked out where generalists and specialists should play a meaningful role in the national development.

Neutrality and anonymity of Civil Service

The twin concepts of neutrality and anonymity make sense in a democratic context. The concepts assume greater significance in the context of the assumption of welfare functions by the State. The functions assumed by the Government have proliferated so much that the citizen at every point in life comes in contact with the Government. But, with regard to discharge of its functions, the Government to the citizen must mean bureaucracy or civil service. When it comes to the provision of services or distribution of benefits, the civil servant has to be given a lot of discretion as not all the contingencies can be foreseen by the rule makers. In many laws, the civil servants have been given direct adjudicatory functions. It is natural for the citizens to expect that the civil servants will use their discretion without fear or favour. They

should neither be influenced by the partisan consideration on political grounds nor should they be guided by selfish motives, whether, for self or for relatives or friends. Ideally, therefore, the civil service should be impartial and neutral as between citizens always basing actions on the consideration of rule of law. In practice, however, this does not happen.

Neither the civil servants always remain neutral nor the citizens in totality always desire them to be so. What then is the concept of neutrality? What are its advantages and disadvantages? What are the conditions under which neutrality can prevail? These are some of the questions that arise while thinking about neutrality. We propose to study some of the answers to these questions attempted by some eminent scholars.

The concept of anonymity by and large goes with the concept of neutrality. Only some distinguishing features of the former will, therefore, be considered separately.

The Concept of Neutrality

The concept of neutrality was first developed by Max Weber. The bureaucrats/public administrators have to discharge impersonal official obligations. They have to be selected and promoted on merits. They have to act strictly just as to the rules and regulations. The bureaucracy consisting of such impersonal bureaucrats/administrators has obviously got to be politically neutral.

Positive and Negative Views of Neutrality

F.M. Max and others examined the positive and negative views of neutrality. Actually speaking the administrators should not pass on the problems to the political masters without making his own contribution. In other words the administrator does not have to indulge in an ostrich like behaviour.

Positively speaking the neutrality means working without reservation. It means working with devotion for the success of the political Government which the bureaucracy is serving. It is a two-way phenomenon involving the political executives as well as the bureaucracy. The political executive has to lay down the policy with the help of the expertise of the bureaucracy. The bureaucracy on its part has to execute the policy without reservation even if its views have not been considered and overruled.

British Concept of Neutrality

In practice, the concept of neutrality developed most in Great Britain. The British concept of neutrality was highlighted by Masterman Committee when it said. "The characteristic which has long been recognized in his impartiality and, in his public capacity, a mind unhinged by political pre-possession". Regarding the neutrality of civil service there is a consensus between the public, the Government, the political parties and the bureaucracy. Everyone is agreed that bureaucracy has to serve with impartiality whatever Government is in power. The personal

view of the bureaucrats has to be subordinated to the requirements of the constitution and the law.

In short, it is characterized by:

- The public confidence in the freedom of civil service from all political bias;
- Minister's confidence in obtaining loyal service;
- High staff morale based on confidence that promotions and other rewards do not depend upon their political views or partisan activities but on merit alone. These are the salient points of the British concept of Neutrality.

The American Concept of Neutrality

The US concept of neutrality has been highlighted by the Hoover Commission.

This involves the following:

- The civil servants should keep clear of all political activity. They have to keep a neutral posture in respect of policy matters.
- Civil servants have to avoid emotional attachments to the policies of any administration. This will come in their way of harmonizing their actions when a new Government comes to power and initiates new policies.
- Senior civil servants have to refrain from all political activities which may interfere with their work. There is

a tendency in the senior civil servants to identify themselves with the politicians with whom they work closely. This tendency has to be completely avoided.

- The senior civil servants should make no public or private statements to the press except those of a purely formal nature. They should not make any speeches of a political or controversial nature. It may be observed that the doctrine of anonymity has crept in above, meaning thereby that it is an integral part of doctrine of anonymity.

Rationale of Neutrality

Karl Marx rejected the idea of neutrality. He said that the civil service has to be an instrument of the ruling party. Similarly single party authoritarian states also accept the civil service to be an instrument of carrying out the will of the party. In fact, in these types of systems the party and the state become almost synonymous. The concept of neutrality has, however, been extolled in USA and Britain. It would thus be observed that neutrality of civil service is not a universally accepted concept. However, it has a tremendous appeal.

The basic assumptions behind this concept are:

- It is a product of the merit system and secures natural political public service.
- Advantages are permanence, continuity, reliability, professionalism. Disadvantages are conservatism,

devotion to routine and resistance to change. Obviously the advantages of neutral bureaucracy far out weight its disadvantages.

- Neutrality of bureaucracy appears to be an essential requirement of a multi-party system. If bureaucracy aligns itself with any particular party it may find it difficult to adjust with another party which may later come to power.
- The alternatives to the neutral bureaucracy are:
- Spoils system in which bureaucracy changes with every change in Government.
- A bureaucracy totally aligned to a particular party and perpetrating injustice on all those opposed to that particular party.

Obviously none of these alternatives is a better substitute for a neutral bureaucracy.

Traditional Concept Challenged

The traditional concept of the neutrality of bureaucracy grew in Britain and flourished in a favourable climate.

This probably happened because of the following reasons:

- The British concept of ministerial responsibility encompasses the neutrality and anonymity of civil service.

- In Great Britain power was shared between two political parties which were evenly matched in their strength. There was always a possibility of a change in Government by electoral verdict. The bureaucracy obviously had to keep a neutral stance between them.
- The political parties also realised that any attempt to draw the civil service towards their party may ultimately be counterproductive. When the other party came to power, things would go against them. Both the parties, therefore, thought it better to have an impartial or neutral civil service which acted just as to laws and rules set by the legislature and the Government of the time.
- The political parties, the members and the people in general were wedded to the democratic principles which meant that the Government was based on rule of law, rather than rule of an individual or party. There was general agreement that the parties in power had a right to change the policy as well as the rules but had no right to act on the personal whims of the individual leaders. There was an agreement on the role of the civil servants to follow rules and regulations.
- Backgrounds of the civil servants, legislators and the political executives were almost similar. They were highly educated and shared the same beliefs.
- The ultimate principles of action of bureaucrats were not in conflict with those of their political masters. There was a twoway acceptance of the principle of

neutrality of civil service in dealing with individual cases.

The same principles were implemented in Australia, Canada, India, etc. In India an added reason for keeping the principle of neutrality of civil service completely sacrosanct was that any kind of politicization could only be anti-Britain.

Other Countries

A lot theoretical and empirical work has shown that the same conditions do not prevail in other countries and bureaucracy is no longer remaining neutral in most of the countries.

Some reasons for this phenomenon are indicated below:

- The concept of neutrality of the civil service is based on politics-administration dichotomy which meant that the political executive lays down the general policy which the civil service executes impartially. The decision making now is well distributed all over the organization and no longer remains a prerogative of only the political executive. It is true that the final seal on the policy is put by the political masters, but the whole process of policy making involves so much of data gathering, expert analysis etc., that it has become a collective process involving political executives as well as civil service. The civil service is, therefore, getting more and more involved in the political process.

- The civil service in developing countries has to perform more of a leadership role. This obviously involves it in some sort of political process.
- Party politics is different from policy politics. The civil service has definitely to take part in the process of policy formulation which cannot avoid touching the political issues.
- The concept of neutrality is said to mean that civil servant should not have emotional attachment with any political party to such an extent that it cannot adjust itself to the change in the Government. However, when development issues are involved, how can a civil servant implement such programmes unless he has some sort of faith in them? The question often asked is that political attachment to party may be given up but what about professional and moral attachment to the development programmes?
- The performance appraisal of the civil servants at higher levels is done by the political executives. It is, therefore, difficult to avoid the political pressures, may be very subtle, on the civil servant.
- The whole upbringing and experience of civil servant can also not be ignored. Taking an extreme example of civil servant brought up in liberal democratic system may find it extremely difficult to work if a new government based on autocratic principles comes to take over.

- When the political parties of widely different views may make alternative governments, it may be difficult for the civil servants to make the necessary adjustments.
- The bureaucracy has ultimately to operate in a particular social and political milieu. While advising the political executives on policy matters the civil servant cannot keep himself aloof from the live issues of the time. Politicians and intellectuals desire change while the bureaucracy may resist it. This may create conflicts and may involve the civil service into politics.
- Sometimes the civil service develops its own vested interests and may dabble into politics to serve its interests.
- Individual bureaucrats attempt to tag on to a particular party or to a politician to serve their personal ends.
- Some people argue that the bureaucracy in the grab of neutrality wants autonomy. They, therefore, advocate that such a tendency should be curbed by the political executive. This explains the attitude of some politicians in trying to impose their will on civil servants often for their partisan ends.
- If carried to the extreme, neutrality may also lead to moral corruption. For example, a question can ultimately be asked whether a civil servant should serve the commands of a dictator like Hitler to annihilate his enemies by using criminal methods.

Politicization of Bureaucracy

Since the very concept of strict neutrality has been challenged, people have started talking of a politicized bureaucracy. It means the bureaucracy which is involved in or influences or is influenced to any degree consciously or unconsciously by overt or by covert actions in the stream of the politics of the day whether the party in power or of the party in opposition.

Such type of bureaucracy has been classified just as to the degree of politicization into the following categories:

- *De-politicized bureaucracy:* This is the usual neutral anonymous, a political bureaucracy. It is not at all involved in political activity.
- *Semi-politicized bureaucracy:* In this type, the political executives dominate the civil service to take decisions on party lines. There is some interference in personnel matters. The civil servants have a right to vote and can join a political party after resignation or retirement.
- *Committed bureaucracy:* Such a bureaucracy is committed to the programmes of the party in power. The public servants are allowed to become members of the political parties and participate in their meetings. There is a lot of interference in personnel matters. Public thinks such a bureaucracy to be corrupt and a stooge of the party in power.
- *Fully politicized bureaucracy:* Such a bureaucracy exists in a single party authoritarian structure. Such a

civil service is very powerful and serves its own ends while serving the party. There is a no difference between the party and the government.

Measures of Neutrality

While neutrality has been discussed by many, it has not been found easy to measure the extent of neutrality prevailing in any political system.

However, some measures of neutrality have been devised, which we mention below:

- The degree of influence in decision-making.
- The degree of segregation of the political executive from bureaucracy.
- The extent of political interference in the administrative work.
- The degree of its involvement in politics.
- The extent of confidence bureaucracy enjoys with the public.

Extent of Permissible Political Activity

The dilemma before a political system is that:

- A civil servant happens to be a citizen and as a citizen he has certain fundamental rights, which include the right to form association and taking part in political

activities. As a civil servant he is also supposed to maintain impartiality in his public dealings.

This is not compatible with his fundamental rights of forming association, freedom of expression and freedom to take part in political and social activities of the society. Joining a political party and taking part in its activities may commit a civil servant to a particular course of action.

This obviously compromises his impartiality in dealing with the citizens. Even if he acts impartially his commitment to a political party will not inspire confidence in public mind about the impartiality.

It leads us to the crucial question how to maintain a correct balance between the rights of the civil servant as a citizen and the need for impartiality in public work. Different countries have resolved this problem differently.

In U.K. the civil servants have been divided into three categories:

- Free;
- Intermediate,; and
- Restricted.

The civil servants of (a) category belong to lower levels of hierarchy and do not have much discretion in dealing with the public. They have been given full political rights to vote, to become members of the political parties, participate in political activities like contesting elections; etc. Civil servants of (b)

category are the middle level officials. They are subject to some restrictions.

They can vote and take part in the political activities, but cannot contest elections to Legislatures. The civil servants in (c) category are denied most of the political rights except for voting and passive party membership. Individual workers are not subjected to any restriction with regard to political activities. In spite of this liberalization, the civil servants in U.K have behaved in a discreet and restrained way and have not allowed their political activity to become an embarrassment for the Government. In USA the civil servants are not allowed to take part in any political activity except voting and restricted expression of opinion.

In India there is a total prohibition on the political activities of Government employees except that they can vote and that too without letting anybody knows about the preference exercised by them.

In Belgium and Switzerland the public servants are free to contest elections for Parliament by having to resign their seats if elected. France and Germany go a step further. There the civil servants have to resign their post only on their election to the Legislature. They can, however rejoin their post in case they cease to be members of Legislature.

This part is more or less a summary of the previous parts and tries to briefly describe to the changing concept of neutrality in relation to the changing political environment. The concept was probably first expounded during French Revolution where the

neutral bureaucracy suited the changing political power equations. A non-partisan bureaucracy emerged as a bulwark against the instable political conditions in the Western Europe.

In England a non-partisan civil service was created for preventing the monarch and aristocracy from manipulating the electoral system and official patronage against the Parliament. Thus by a different route Britain and Western Europe reached the same destination *viz.* a depoliticized and non-partisan civil service.

The merit system was gradually introduced to keep partisan politics out of the civil services. The process was aided by the complexity of administrative work introduced by modern technology as a part of the industrial revolution. The politicians could no longer handle the complex administrative problems which required full-time specialized attention. The concept of neutral bureaucracy, therefore, came to be supported by the political elite as well as the masses who were willing to pay the civil service well if they were prepared to work efficiently and stay neutral. This enlisted the support of the bureaucracy also to the concept of their neutrality.

The condition were, however, different in USA where the spoils system prevailed for quite some time after the emergence of neutral and depoliticized civil service in Western Europe. However, public pressure for efficiency and integrity of civil service forced the demonstrative reforms that introduced merit system which ultimately established depoliticized and neutral civil service.

The concept of de-politicization and neutrality of civil service, very simply stated means that the politicians should lay down the policy and the bureaucracy should passively implement it. This presumes absolute loyalty to the political masters of the day. This no longer holds true.

Today the civil servant faces a conflict of loyalties some of which are:

- *Humanity:* Public bureaucracy should be an instrument to serve the entire humanity.
- Nation
- State of Polity
- Constitution
- Social Class, Tribe, Caste Etc.
- Party
- Trade Union
- Profession of Programme
- Clientele or citizens

Which one of the loyalties will dominate at a point of time is difficult to say. It may also be seen that all of them may not be reconcilable with each other. Moreover the public bureaucracies have become highly specialized and professionalized. They face a lot of challenges and have to act with drive and initiative and cannot act as more passive instruments of political power. Of course, most of the Governments have maintained some taboos on direct participation of public servants in partisan political activities to maintain public confidence in them. But, the

participation of public bureaucracies in the political process has been growing rapidly. The separation of the role of the politician and the public servant is no longer valid. There is a fusion of the two. For example, the politician never likes to feel that he only makes policies which others have to administer.

He wants to accept responsibility for policy making as well for policy implementation. No administrative matter is too small for them to interfere, because they feel that they have been elected by the people to represent them. The doctrine of Ministerial responsibility buttresses this claim of the politician. When the minister is responsible for every action of every subordinate, he may as well keep everything in view. The civil servant on the other hand is called upon to perform many political functions even while implementing policy decisions. While the politician does lay the policy, the civil servant has to provide the rationale for it.

He has to gather and analyses a lot of data and present before the politician for deciding policy. The politician is thus not so independent in deciding policy as he appears to be and similarly the public servant is not a docile passive implementer of decisions. The politician being busy with so much public contact does lean on the civil servant to advise him effectively about the pros and cons of various policy alternatives.

The civil servant is of course dependent on the politician for supporting his actions. There is thus a lot of intermingling. There are no clear cut lines of demarcation between the politics and

public administration. The former subsumes the latter, but cannot subsume it completely. The concept of de-politicization and neutrality of civil service has thus undergone a change over time.

Anonymity

The principle of anonymity flows directly from the doctrine of ministerial responsibility which is a feature of the Parliamentary democracy as prevalent in England. As is well known the doctrine of ministerial responsibility means that the Minister in-charge of a department is responsible for the actions of the civil service subordinates to him.

He has to defend their actions in the Parliament and before the general public. In case he cannot defend them he has to resign his post. This obviously means that the civil servants can neither address the Legislature nor the public through press to present their case. They have to act just as to the policy of the Minister impersonally and impartially. This impersonal exercise of power means that his name is not to be involved in any decisions. The decision is to be taken strictly just as to the rules and regulations and policies laid down by the political executive. Every civil servant is supposed to take the same action in similar circumstances. His name, therefore, does not have to appear anywhere before the public or the Legislature. His actions are the actions of the Government for which the Minister is responsible. The doctrine of anonymity fits well with the doctrine of civil service neutrality. The civil servant who is neutral is to act just

as to the impersonal application of rules and regulations and hence has to act anonymously.

Integrity in Public Administration

These days, we hear a lot about the lack of integrity in public life. Public administration is a part of the general social system and similar conditions appear to prevail there. The tax payer, out of whose money the public servants are paid expects them to do an honest job for the remuneration they receive. The Public Servants on the other hand complain that their emoluments have not kept pace with the rising prices. This acts as a tremendous pressure on their integrity specially when the severely controlled economy provides them with immense opportunities to make money on the sly. Corruption is no longer a peripheral phenomenon. It is so widespread that it threatens to eat into the vitals of the system. Everyone appears to be concerned, but no one appears to be able to do anything about it. What are the causes of this widespread lack of integrity in public administration? What can be done and what has been done to combat the problem of corruption. What kind of institutional arrangements are necessary to contain the evil of corruption? An attempt will be made here to answer these and some other related questions about corruption. This will only be an attempt as no one has been able to answer all the questions about corruption.

The dictionary meaning of integrity is “soundness of moral principles: character of uncorrupted virtue, uprightness; honesty; sincerity”. The concept of integrity is one of the fundamental

features of modern public administration. It is a natural outcome of the modern legal system based on "rule of law". In earlier societies favours from the Government were as a matter of rule obtained on payments or gifts etc. Anybody going to Government functionaries had to make some gifts with him. Favours were often given to the highest bidder. With the development of the modern concepts of state sovereignty and citizenship, this system started changing. The Government servants were to be compensated for government work by payment of salaries and not by receiving gifts from the citizens. The citizen on the other hand had to pay taxes to the Government to receive protection and other services. The taxes were to be imposed on the basis of laws and not in the form of gifts to the officials.

Gradually, this developed into the modern concept of the integrity of public servants just as to which they are not supposed to use their official position and status for obtaining any financial or other advantages for themselves or for their relatives or for their friends. If they are given any powers, these are meant to help them in discharging their duties towards the public and not for self-aggrandizement. In this modern concept of civil service integrity, it is also understood that the civil servants will be recruited on merit and will receive their salaries, promotions etc. on the basis of merit as long as they perform their functions just as to the laws, rules and regulations of the state with efficiency and honesty.

Those who do not do so violate the essential conditions of their service and render themselves liable for action. Integrity is a wide

concept which includes intellectual, honesty, courage, as well as cleanliness in pecuniary matters. Lack of integrity has, however, come to be mainly associated with corruption which by and large, means obtaining pecuniary benefits which are not sanctioned by the laws, rules and regulations or norms. The great Historian, Writer, Philosopher Edward Gibbon, when after completion of his famous book 'The Decline of Roman Empire' was confronted to reply in one word the reason for the decline of Roman Empire, he remarked—"Corruption".

The Corruption not only adversely affects the social, economical and political structure of the State, but destroys the democratic values and ideals. Corruption impedes the development and investments. In absence of the accountability and transparency corruption ultimately destroys the moral, social and political values of the civil society. When economic structure is polluted by corruption, the progress and development is largely effected.

A survey conducted by the Transparency International and ORG Mark India, reveals that in Corruption perception index, India is considered to be one of the corrupt nation of the world. It earned 2.7 marks out of 10 in honesty. It is the duty of the State and all its limbs as well as the people at large, to fight against this menace. Arbitrary, unjust, unfair, improper and selfish exercise of power by public servants who enjoy power, result into advantage to one and disadvantage to another. Corrupt public servants penalizes the honest person and encourage dishonest people. This become possible only because of the influence and power, a Public Servant holds. Corruption and mal-

administration are like twin sisters. Corruption results into mal-administration. Corruption creeps into administration when public servants enjoy unbridled, uncanalised and absolute power ignoring the laws and the rules.

When administration lacks accountability and transparency, corruption take its shape in various forms *e.g.* delays in movement of files, delays in decision making process, arbitrary, unjust and unfair actions.

Good governance requires accountability through transparency, right to information, proper check and balance, financial control, effective internal and external audit, official competency, free from corruption, nepotism and undue influence, impartial and just decision in accordance with laws and rules. Wherever any of the principle of good governance is eroded, corruption not only penetrates, but, ultimately wrecks the system.

A Consultation Paper on 'Probity in Governance' prepared the National Commission to Review the Working of the Constitution for generating a public debate and eliciting public response says the following on corruption:

Menace of Corruption in Public Life

Corruption is an abuse of public resources or position in public life for private gain. The scope for corruption increases when control on the public administrators is fragile and the division of power between political, executive and bureaucracy is ambiguous. Political corruption which is sometimes inseparable

from bureaucratic corruption tends to be more widespread in authoritarian regimes where the public opinion and the Press are unable to denounce corruption. The paradox of India, however, is that in spite of a vigilant press and public opinion, the level of corruption is exceptionally high.

This may be attributed to the utter insensitivity, lack of shame and the absence of any sense of public morality among the bribe-takers. Indeed, they wear their badge of corruption and shamelessness with equal élan and brazenness. The increase of opportunities in State intervention in economic and social life has vastly increased the opportunity for political and bureaucratic corruption, more particularly since politics has also become professionalized. We have professional politicians who are politicians on a full time basis, even when out of office.

India is rated at 73 out of 99 countries in the corruption perception index prepared by a non-governmental organisation, Transparency International. Corruption today poses a danger not only to the quality of governance but is threatening the very foundations of our society and the State.

Corruption in defence purchases, in other purchases and contracts tend to undermine the very security of the State. Some of the power contracts are casting such financial burden upon some of the States that the very financial viability of those States has fallen into doubt. There seems to be a nexus between terrorism, drugs, smuggling, and politicians, a fact which was emphasized in the Vohra Committee Report.

Corruption has flourished because one does not see adequately successful examples of effectively prosecuted cases of corruption. Cases, poorly founded upon, half-hearted and incomplete investigation, followed by a tardy and delayed trial confluence a morally ill-deserved but a legally inevitable acquittal. The acceptance of corruption as an inexorable reality has led to silent reconciliation and resignation to such wrongs. There needs to be a vital stimulation in the social consciousness of our citizens.

It is true that the present process of withdrawing the State from various sectors in which it should have never entered or in which it is not capable of performing efficiently may reduce the chances of corruption to some extent but even if we migrate to a free market economy, there has to be regulation of economy as distinct from restrictions upon the industrial activity. The requirements of governance would yet call for entering into contracts, purchases and so on. The Scandinavian economist-sociologist, Gunnar Myrdal, had described the Indian society as a 'soft society'. He also clarified what the expression 'soft society' means.

A soft society is: (a) one which does not have the political will to enact the laws necessary for its progress and development and/or does not possess the political will to implement the laws, even when made, and (b) where there is no discipline. In fact, he has stressed the second aspect more than the first. If there is no discipline in the society, no real or meaningful development or progress is possible. It is the lack of discipline in the society-which expression includes the administration and structures of

governance at all levels-that is contributing to corruption. Corruption and indiscipline feed upon each other. One way of instilling the discipline among the society may be to reduce the chances of corruption and to deal with it sternly and mercilessly wherever it is found. For this purpose, the inadequacies in the criminal judicial system have to be redressed. Corruption is also anti-poor. Take, for example, the Public Distribution System (PDS) and the welfare schemes for the poor including Scheduled Castes (SCs) and Scheduled Tribes (STs).

It is well-known that a substantial portion of grain, sugar and kerosene oil meant for PDS goes into black-market and that hardly 16 per cent of the funds meant for STs and SCs reach them—all the rest is misappropriated by some of the members of the political and official class and unscrupulous dealers and businessmen. The famous economist, Late Mehbub-Ul-Haq succinctly and poignantly set out the ill-effects of corruption in a South Asian country like ours.

He said:

- “Corruption happens everywhere. It has been at the center of election campaigns in Italy and the United Kingdom, led to the fall of governments in Japan and Indonesia, and resulted in legislative action in Russia and the United States. But, if corruption exists in rich, economically successful countries, why should South Asia be worried about it? The answer is simple: South Asian corruption has four key characteristics that

make it far more damaging than corruption in any other parts of the world.

- First, corruption in South Asia occurs up-stream, not down-stream. Corruption at the top distorts fundamental decisions about development priorities, policies, and projects. In industrial countries, these core decisions are taken through transparent competition and on merit, even though petty corruption may occur down-stream.
- Second, corruption money in South Asia has wings, not wheels. Most of the corrupt gains made in the region are immediately smuggled out to safe havens abroad. Whereas there is some capital flight in other countries as well, a greater proportion goes into investment. In other words, it is more likely that corruption money in the North Asia is used to finance business than to fill foreign accounts.
- Third, corruption in South Asia often leads to promotion, not prison. The big fish—unless they belong to the opposition—rarely fry. In contrast, industrialised countries often have a process of accountability where even top leaders are investigated and prosecuted. For instance, former Italian Prime Minister Bettino Craxi was forced to live in exile in Tunisia to escape extradition on corruption charges in Rome. The most frustrating aspect of corruption in South Asia is that the corrupt are often too powerful to go through such an honest process of accountability.

- Fourth, corruption in South Asia occurs with 515 million people in poverty, not with per capita incomes above twenty thousand dollars. While corruption in rich rapidly growing countries may be tolerable, though reprehensible, in poverty stricken South Asia, it is political dynamite when the majority of the population cannot, but to massive human deprivation and even more extreme income meet their basic needs while a few make fortunes through corruption. Thus corruption in South Asia does not lead to simply Cabinet portfolio shifts or newspaper headlines inequalities. Combating corruption in the region is not just about punishing corrupt politicians and bureaucrats but about saving human lives. There are two dimensions of corruption. One is the exploitative corruption where the public servant exploits the helpless poor citizen. The other is collusive corruption where the citizen corrupts the public servant by a bribe because he gets financially better benefits. Collusive corruption depends on black money.”

Mahatma Gandhiji had understood the gathering crisis of corruption and prophesied that the public would need to be in the forefront in exposing corrupt practices and taking to task those who were involved in them. As early as 1928 Mahatma Gandhi wrote in *Young India*, ‘Corruption will be out one day, however much one may try to conceal it; and the public can, as its right and duty, in every case of justifiable suspicion, call its servants to strict account, dismiss them, sue them in a law court

or appoint an arbitrator or inspector to scrutinise their conduct, as it likes.’

Just five months after Independence, Mahatma Gandhi had said, ‘Today politics has become corrupt. Anybody who goes into politics gets contaminated. The greater the inner purity, the greater shall be our hold on the people, without any effort on our part’. We have to cultivate ‘the inner purity’ at all levels-of the individual, of the society and of the nation-for enlisting people’s support for purging the system of corruption, inefficiency and sluggishness. While Lokayuktas and Uplokayuktas are of paramount importance in our daunting struggle for creating such an India of our dreams, we have to build a national movement and public opinion for hastening the process of ensuring probity in public life. I am confident that your Conference is a step in that direction and I have, therefore, great pleasure in extending my greetings and good wishes to all of you for your future success.”

Corruption had been defined in Section 161 of the Indian Penal Code which reads as follows: “Where being or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or to do any official act or for showing or forbearing to show in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person with the Central or any State Government or Parliament or the Legislature of any

State or with Local Authority, Corporation or Government Company referred to in Section 21 or with any public servant as such shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both”.

The Prevention of Corruption Act, 1947 calls it criminal misconduct and defines it as follows:

- If he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in Section 161 of the Indian Penal Code; or
- If he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration which he knows to be inadequate, from any person, whom he knows to have been or to be, or likely to be concerned in any proceeding or business transacted or about to be transacted by him or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so connected; or
- If he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other persons so to do; or

- If he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantages; or
- If he or any person on his behalf is in possession or has at any time, during the period of his office, been in possession, for which the public servant cannot satisfactorily account of pecuniary resources or property disproportionate to his known source of income.
- Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall be liable to fine. Provided that the court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than one year.

Forms of Corruption

The report of the Santhanam Committee identifies following forms of corruption: Securing pecuniary benefits: The Committee felt that the most common form of corruption was securing some kind of pecuniary or other material advantages directly or indirectly for oneself or family or relatives or friends by misusing one's official position. Another widespread form of corruption is "speed money". With the complexity of the modern welfare state, a number of laws, rules and regulations have come into force.

For example, for getting any services from the government or having any transactions which the government requires the observance of government procedures and formalities which take time; often the administrating officials cause deliberate delay in completing this process or charge some “speed money” for shortening it. Another form of corruption is embodied in the liaison men who try to cultivate close social relations with senior officers who are in a position to influence the government policies in their favour. Needless to say that tries to give a number of favours to win them over. A number of other forms of corruption have been pointed out in various reports of different committees and commissions which examined the question of corruption from time to time.

Some of them are indicated below:

- Donations by rich individuals and big companies to the political parties are a very important and widespread form of corruption. Since the major beneficiary is the ruling party, it influences the administrators in passing on some undue benefits to the donors.
- Sometimes the private companies offer jobs to retired officials. This may lead to corruption in as much as an officer may bestow undue favour to the company in the expectation of future employment. To some extent a remedy has been provided for this by prohibiting the government servants and their family members from taking up private employment within two years of their retirement.

- In all contracts of construction, purchases, sales and other regular business on behalf of the Government, there is a chance of money being passed on to the Government officers for showing some favours in relaxing the specifications, etc.
- Sometimes the corruption operates at lower levels also when money is demanded for helping a person in his service matters like promotions, transfers etc.
- At times, the performance evaluation of an honest officer is distorted for not meeting the pecuniary demands of the superior officers. The resulting damage on the moral of honest officers can be well-imagined.
- Then there are some minor forms of corruption like availing of the facilities of private guest houses, lavish expenditure during the tours of Ministers and senior officers, etc.

No list of mode of corruption can ever be complete. The methods give only a small sample. A dishonest officer can discover methods of corruption in almost any situation.

Harmful effects of Corruption

Corruption in high places affects the very fabric of the social system. It has many direct and indirect harmful effects.

Some of the important ones are described below:

- Corruption in high places reduces the faith of the people in the Government. The people expect high standards of morality from their rulers. When these standards are not met, it may result in the alienation of people from the Government.
- Corruption increases the effective cost of administration. The people who are in any case paying to the Government for its services in the form of taxes are unofficially required to pay more to its officers.
- The widespread corruption in the bureaucracy causes cynicism and social disunity. This may reduce the willingness of the people to make sacrifices for the economic development of the society.
- Corruption comes in the way of making decision on merits. When the decisions are made on the basis of pecuniary benefits to be obtained from the transactions, the merit naturally gets the second place. There is even a possibility of sacrificing the national interest for the sake of these benefits. This may for example, happen in case of purchase of sub-standard arms, which may not be effective during a battle.
- Corruption has a very adverse effect on the morale of the honest officers. In fact, it militates against the very basis of the principles of a pure bureaucracy. When the evaluation of work, placement and promotion are dependent on consideration other than merit, the whole system may be vulgarized and demoralized. Corruption

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has often resulted in a tremendous waste of national resources. For example, purchased goods not used for years result in the depreciation of goods as well as increase in inventory cost.

Chapter 4

International Trade and Global Financial System

International trade

International trade is the exchange of capital, goods, and services across international borders or territories. It is the exchange of goods and services among nations of the world. In most countries, such trade represents a significant share of gross domestic product (GDP). While international trade has existed throughout history (for example Uttarapatha, Silk Road, Amber Road, scramble for Africa, Atlantic slave trade, salt roads), its economic, social, and political importance has been on the rise in recent centuries.

Characteristic of global trade

Trading globally gives consumers and countries the opportunity to be exposed to new markets and products. Almost every kind of product can be found on the international market: food, clothes, spare parts, oil, jewellery, wine, stocks, currencies and water. Services are also traded: tourism, banking, consulting and transportation. A product that is sold to the global market is an export, and a product that is bought from the global market is an

import. Imports and exports are accounted for in a country's current account in the balance of payments.

Industrialization, advanced technology, including transportation, globalization, multinational corporations, and outsourcing are all having a major impact on the international trade system. Increasing international trade is crucial to the continuance of globalization. Without international trade, nations would be limited to the goods and services produced within their own borders. International trade is, in principle, not different from domestic trade as the motivation and the behavior of parties involved in a trade do not change fundamentally regardless of whether trade is across a border or not. The main difference is that international trade is typically more costly than domestic trade. The reason is that a border typically imposes additional costs such as tariffs, time costs due to border delays and costs associated with country differences such as language, the legal system or culture.

Another difference between domestic and international trade is that factors of production such as capital and labor are typically more mobile within a country than across countries. Thus international trade is mostly restricted to trade in goods and services, and only to a lesser extent to trade in capital, labor or other factors of production. Trade in goods and services can serve as a substitute for trade in factors of production. Instead of importing a factor of production, a country can import goods that make intensive use of that factor of production and thus embody it. An example is the import of labor-intensive goods by the

United States from China. Instead of importing Chinese labor, the United States imports goods that were produced with Chinese labor. One report in 2010 suggested that international trade was increased when a country hosted a network of immigrants, but the trade effect was weakened when the immigrants became assimilated into their new country.

International trade is also a branch of economics, which, together with international finance, forms the larger branch called international economics.

Timeline of international trade

The history of international trade chronicles notable events that have affected the trade between various countries. In the era before the rise of the nation state, the term 'international' trade cannot be literally applied, but simply means trade over long distances; the sort of movement in goods which would represent international trade in the modern world. In the 21st century, China, the European Union and the United States are the three largest trading markets in the world.

Ancient

- Records from the 19th century BCE attest to the existence of an Assyrian merchant colony at Kanesh in Cappadocia.

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- The domestication of camel allows Arabian nomads to control long distance trade in spices and silk from the Far East.
- The Egyptians trade in the Red sea, importing spices from the "Land of Punt" and from Arabia.
- Indian goods are brought in Arabian vessels to Aden.
- The "ships of Tarshish", a Tyrian fleet equipped at Ezion Geber, make several trading voyages to the East bringing back gold, silver, ivory and precious stones.
- Tiglath-Pileser III attacks Gaza in order to control trade along the Incense Route.
- The Greek Ptolemaic dynasty exploits trading opportunities with India prior to the Roman involvement.
- The cargo from the India and Egypt trade is shipped to Aden.
- The Silk Road is established after the diplomatic travels of the Han Dynasty Chinese envoy Zhang Qian to Central Asia, with Chinese goods making their way to India, Persia, and the Roman Empire, and vice versa.
- With the establishment of Roman Egypt, the Romans initiate trade with India.
- The goods from the East African trade are landed at one of the three main Roman ports, Arsinoe, Berenice or Myos Hormos.
- Myos Hormos and Berenice (rose to prominence during the 1st century BCE) appear to have been important ancient trading ports.

- Gerrha controls the Incense trade routes across Arabia to the Mediterranean and exercises control over the trading of aromatics to Babylon in the 1st century BC. Additionally, it served as a port of entry for goods shipped from India to the East. Due to its prominent position in the incense trade, Yemen attracts settlers from the fertile crescent.
- Pre-Islamic Meccans use the old Incense Route to benefit from the heavy Roman demand for luxury goods.
- In Java and Borneo, the introduction of Indian culture creates a demand for aromatics. These trading outposts later serve the Chinese and Arab markets.
- Following the demise of the incense trade Yemen takes to the export of coffee via the Red Sea port of *al-Mocha*.

Middle Ages

- The Abbasids use Alexandria, Damietta, Aden and Siraf as entry ports to India and China.
- At the eastern terminus of the Silk Road, the Tang Dynasty Chinese capital at Chang'an becomes a major metropolitan center for foreign trade, travel, and residence. This role would be assumed by Kaifeng and Hangzhou during the Song Dynasty.
- Guangzhou was China's greatest international seaport during the Tang Dynasty (618–907), but its importance was eclipsed by the international seaport of Quanzhou during the Song Dynasty (960–1279).

- Merchants arriving from India in the port city of Aden pay tribute in form of musk, camphor, ambergris and sandalwood to Ibn Ziyad, the sultan of Yemen.
- Indian exports of spices find mention in the works of Ibn Khurdadhbeh (850), al-Ghafiqi (1150), Ishak bin Imaran (907) and Al Kalkashandi (14th century).
- The Hanseatic League secures trading privileges and market rights in England for goods from the League's trading cities in 1157.

Early modern

- Due to the Turkish hold on the Levant during the second half of the 15th century the traditional Spice Route shifts from the Persian Gulf to the Red Sea.
- In 1492 a Spanish expedition commanded by Christopher Columbus arrive in America.
- Portuguese diplomat Pero da Covilha (1460 – after 1526) undertakes a mission to explore the trade routes of the Near East and the adjoining regions of Asia and Africa. The exploration commenced from Santarém (1487) to Barcelona, Naples, Alexandria, Cairo and ultimately to India.
- Portuguese explorer and adventurer Vasco da Gama is credited with establishing another sea route from Europe to India.
- In the 1530s, the Portuguese ship spices to Hormuz.
- Japan introduced a system of foreign trade licenses to prevent smuggling and piracy in 1592.

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- The first Dutch expedition left from Amsterdam (April 1595) for South East Asia.
- A Dutch convoy sailed in 1598 and returned one year later with 600,000 pounds of spices and other East Indian products.
- The Dutch East India Company is formed in 1602.
- The first English outpost in the East Indies is established in Sumatra in 1685.
- Japan introduces the closed door policy regarding trade (Japan was sealed off to foreigners and only very selective trading to the Dutch and Chinese was allowed) 1639.
- The 17th century saw military disturbances around the Ottawa river trade route. During the late 18th century, the French built military forts at strategic locations along the main trade routes of Canada. These forts checked the British advances, served as trading posts which included the Native Americans in fur trade and acted as communications posts.
- In 1799, The Dutch East India company, formerly the world's largest company goes bankrupt, partly due to the rise of competitive free trade.

Later modern

- Japan is served by the Portuguese from Macao and later by the Dutch.
- Despite the late entry of the United States into the spice trade, merchants from Salem, Massachusetts

trade profitably with Sumatra during the early years of the 19th century.

- In 1815, the first commercial shipment of nutmegs from Sumatra arrived in Europe.
- Grenada becomes involved in the spice trade.
- The Siamese-American Treaty of 1833 calls for free trade, except for export of rice and import of munitions of war.
- Opium War (1840) – Britain invades China to overturn the Chinese ban on opium imports.
- Britain unilaterally adopts a policy of free trade and abolishes the Corn Laws in 1846.
- The first international free trade agreement, the Cobden-Chevalier Treaty, is finalised in 1860 between the United Kingdom and France, prepared by Richard Cobden and Michel Chevalier; it sparks off successive agreements between other countries in Europe.
- The Japanese Meiji Restoration (1868) leads the way to Japan opening its borders and quickly industrialising through free trade. Under bilateral treaties restraint of trade imports to Japan were forbidden.
- In 1873, the Wiener Börse slump signals the start of the continental Long Depression, during which support for protectionism grows.

Post-World War II

- In 1946, the Bretton Woods system goes into effect; it had been planned since 1944 as an international

economic structure to prevent further depressions and wars. It included institutions and rules intended to prevent national trade barriers being erected, as the lack of free trade was considered by many to have been a principal cause of war.

- In 1947, 23 countries agree to the General Agreement on Tariffs and Trade to rationalize trade among the nations.
- In Europe, six countries form the European Coal and Steel Community (ECSC) in 1951, the first international organisation to be based on the principles of supranationalism.
- The European Economic Community (EEC) is established by the Inner Six European countries with a common commercial policy in 1958.
- The European Free Trade Association (EFTA) is established in 1960 as a trade bloc-alternative by the Outer Seven European countries who did not join the EEC.
- Four important ISO (International Organization for Standardization) recommendations standardized containerization globally:
 - January 1968: R-668 defined the terminology, dimensions and ratings
 - July 1968: R-790 defined the identification markings
 - January 1970: R-1161 made recommendations about corner fittings
 - October 1970: R-1897 set out the minimum internal dimensions of general purpose freight containers

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- The Zangger Committee is formed in 1971 to advise on the interpretation of nuclear goods in relation to international trade and the Nuclear Non-Proliferation Treaty (NPT).
- 16 October 1973: OPEC raises the Saudi light crude export price, and mandate an export cut the next day, plus an Embargo on oil exports to nations allied with Israel in the course of the Yom Kippur War.
- The Nuclear Suppliers Group (NSG) was created in 1974 to moderate international trade in nuclear related goods, after the explosion of a nuclear device by a non-nuclear weapon State.
- The breakdown of the Soviet Union leads to a reclassification of within-country trade to international trade, which has a small effect on the rise of international trade.
- After expanding its membership to 12 countries, the European Economic Community becomes the European Union (EU) on 1 November 1993.
- 1 January 1994: The European Economic Area (EEA) is formed to provide for the free movement of persons, goods, services and capital within the internal market of the European Union as well as three of the four member states of the European Free Trade Association.
- 1 January 1994: the North American Free Trade Agreement (NAFTA) takes effect.
- 1 January 1995: World Trade Organization is created to facilitate free trade, by mandating mutual most favored nation trading status between all signatories.

- 1 January 2002: Twelve countries of the European Union launch the Euro zone (euro in cash), which instantly becomes the second most used currency in the world.
- 2008-2009: during the Great Trade Collapse, a drop of world GDP of 1% surprisingly caused a drop of international trade of 10%.

International trade theory

International trade theory is a sub-field of economics which analyzes the patterns of international trade, its origins, and its welfare implications.

Adam Smith's model

Adam Smith describes trade taking place as a result of countries having absolute advantage in production of particular goods, relative to each other.

Ricardian model

The Ricardian theory of comparative advantage became a basic constituent of neoclassical trade theory. Any undergraduate course in trade theory includes a presentation of Ricardo's example of a two-commodity, two-country model. For the modern development. The Ricardian model focuses on comparative advantage, which arises due to differences in technology or natural resources. The Ricardian model does not directly

consider factor endowments, such as the relative amounts of labor and capital within a country.

The Ricardian model is based on the following assumptions:

- Labor is the only primary input to production.
- The relative ratios of labor at which the production of one good can be traded off for another differ between countries.

Heckscher–Ohlin model

In the early 1900s, a theory of international trade was developed by two Swedish economists, Eli Heckscher and Bertil Ohlin. This theory has subsequently become known as the Heckscher–Ohlin model (H–O model). The results of the H–O model are that the pattern of international trade is determined by differences in factor endowments. It predicts that countries will export those goods that make intensive use of locally abundant factors and will import goods that make intensive use of factors that are locally scarce.

The H–O model makes the following core assumptions:

- Labor and capital flow freely between sectors
- The amount of labor and capital in two countries differ (difference in endowments)
- Technology is the same among countries (a long-term assumption)
- Tastes are the same

Applicability

In 1953, Wassily Leontief published a study in which he tested the validity of the Heckscher-Ohlin theory. The study showed that the United States was more abundant in capital compared to other countries, therefore the United States would export capital-intensive goods and import labor-intensive goods. Leontief found out that the United States' exports were less capital intensive than its imports. The result became known as Leontief's paradox.

After the appearance of Leontief's paradox, many researchers tried to save the Heckscher-Ohlin theory, either by new methods of measurement, or by new interpretations.

Specific factors model

In the specific factors model, labor mobility among industries is possible while capital is assumed to be immobile in the short run. Thus, this model can be interpreted as a short-run version of the Heckscher-Ohlin model. The "specific factors" name refers to the assumption that in the short run, specific factors of production such as physical capital are not easily transferable between industries. The theory suggests that if there is an increase in the price of a good, the owners of the factor of production specific to that good will profit in real terms.

New trade theory

New trade theory (NTT) is a collection of economic models in international trade which focuses on the role of increasing returns to scale and network effects, which were developed in the late 1970s and early 1980s.

New trade theorists relaxed the assumption of constant returns to scale, and some argue that using protectionist measures to build up a huge industrial base in certain industries will then allow those sectors to dominate the world market.

Less quantitative forms of a similar "infant industry" argument against totally free trade have been advanced by trade theorists since at least 1848.

The theory's impact

The value of protecting "infant industries" has been defended at least since the 18th century; for example, Alexander Hamilton proposed in 1791 that this be the basis for US trade policy. What was "new" in new trade theory was the use of mathematical economics to model the increasing returns to scale, and especially the use of the network effect to argue that the formation of important industries was path dependent in a way which industrial planning and judicious tariffs might control.

The models developed predicted the national specialization-by-industry observed in the industrial world (movies in Hollywood,

watches in Switzerland, etc.). The model also showed how path-dependent industrial concentrations can sometimes lead to monopolistic competition or even situations of oligopoly.

Some economists, such as Ha-Joon Chang, had argued that protectionist policies had facilitated the development of the Japanese auto industries in the 1950s, when quotas and regulations prevented import competition. Japanese companies were encouraged to import foreign production technology but were required to produce 90% of parts domestically within five years. Japanese consumers suffered in the short term by being unable to buy superior vehicles produced by the world market, but eventually gained by having a local industry that could out-compete their international rivals.

Econometric testing

The econometric evidence for NTT was mixed, and highly technical. Due to the timescales required, and the particular nature of production in each 'monopolizable' sector, statistical judgements were hard to make. In many ways, the available data have been too limited to produce a reliable test of the hypothesis, which doesn't require arbitrary judgements from the researchers.

Japan is cited as evidence of the benefits of "intelligent" protectionism, but critics of NTT have argued that the empirical support post-war Japan offers for beneficial protectionism is unusual, and that the NTT argument is based on a selective sample of historical cases. Although many examples (like

Japanese cars) can be cited where a 'protected' industry subsequently grew to world status, regressions on the outcomes of such "industrial policies" (which include failures) have been less conclusive; some findings suggest that sectors targeted by Japanese industrial policy had decreasing returns to scale and did not experience productivity gains.

History of the theory's development

The theory was initially associated with Paul Krugman in the late 1970s; Krugman claims that he heard about monopolistic competition from Robert Solow. Looking back in 1996 Krugman wrote that International economics a generation earlier had completely ignored *returns to scale*. "The idea that trade might reflect an overlay of increasing-returns specialization on comparative advantage was not there at all: instead, the ruling idea was that increasing returns would simply alter the pattern of comparative advantage." In 1976, however, MIT-trained economist Victor Norman had worked out the central elements of what came to be known as the Helpman–Krugman theory. He wrote it up and showed it to Avinash Dixit. However, they both agreed the results were not very significant. Indeed, Norman never had the paper typed up, much less published. Norman's formal stake in the race comes from the final chapters of the famous Dixit–Norman book.

James Brander, a PhD student at Stanford at the time, was undertaking similarly innovative work using models from

industrial organisation theory—cross-hauling—to explain two-way trade in similar products.

"New" new trade theory

Marc Melitz and Pol Antràs started a new trend in the study of international trade. While new trade theory put emphasis on the growing trend of intermediate goods, this new trend emphasizes firm level differences in the same industry of the same country and this new trend is frequently called 'new' new trade theory (NNTT). NNTT stresses the importance of firms rather than sectors in understanding the challenges and the opportunities countries face in the age of globalization.

As international trade is increasingly liberalized, industries of comparative advantage are expected to expand, while those of comparative disadvantage are expected to shrink, leading to an uneven spatial distribution of the corresponding economic activities. Within the very same industry, some firms are not able to cope with international competition while others thrive. The resulting intra-industry reallocations of market shares and productive resources are much more pronounced than inter-industry reallocations driven by comparative advantage.

Theoretical foundations

New trade theory and "new" new trade theory (NNTT) need their own trade theory. New trade theories are often based on assumptions such as monopolistic competition and increasing

returns to scale. One of the typical explanations, given by Paul Krugman, depends on the assumption that all firms are symmetrical, meaning that they all have the same production coefficients. This is too strict as an assumption and deprived general applicability of Krugman's explanation. Shiozawa, based on much more general model, succeeded in giving a new explanation on why the traded volume increases for intermediates goods when the transport cost decreases.

"New" new trade theory (NNTT) also needs new theoretical foundation. Melitz and his followers concentrate on empirical aspects and pay little interest on theoretical aspects of NNTT. Shiozawa's new construction, or Ricardo-Sraffa trade theory, enables Ricardian trade theory to include choice of techniques. Thus the theory can treat a situation where there are many firms with different production processes. Based on this new theory, Fujimoto and Shiozawa analyze how different production sites, either of competing firms or of the same firms locating in the different countries, compete.

Gravity model

The Gravity model of trade presents a more empirical analysis of trading patterns. The gravity model, in its basic form, predicts trade based on the distance between countries and the interaction of the countries' economic sizes. The model mimics the Newtonian law of gravity which also considers distance and physical size between two objects. The model has been shown to have significant empirical validity.

Ricardian theory of international trade (modern development)

The Ricardian trade theory was now constructed on many-country many-product basis in a form to include intermediate input trade for the most general case of many countries and many goods. Capital goods (comprising fixed capital) are treated as goods which is produced and input in the production.

Many countries, many goods

There were three waves of expansions and generalizations.

First phase: Major general results were obtained by McKenzie and Jones. McKenzie was more interested in the patterns of trade specialisations (including incomplete specializations), whereas Jones was more interested in the patterns of complete specialization, in which the prices moves freely within a certain limited range. The formula he found is often cited as Jones inequality or Jones' criterion.

Second phase: Ricardo's idea was even expanded to the case of continuum of goods by Dornbusch, Fischer, and Samuelson This model is restricted to two country case. It is employed for example by Matsuyama and others. These theories use a special property that is applicable only for the two-country case. They normally assume fixed expenditure coefficients. Third phase: Shiozawa succeeded to construct a Ricardian theory with many-country, many-commodity model which permits choice of

production techniques and trade of input goods. All countries have their own set of production techniques. Major difference with H-O model that this Ricardian model assumes different technologies. Wages determined in this model are different according to the productivity of countries. The model is therefore more suitable than H-O models in analyzing relations between developing and developed countries.

Traded intermediate goods

Ricardian trade theory ordinarily assumes that the labor is the unique input. This has been thought to be a significant deficiency for Ricardian trade theory since intermediate goods comprise a major part of world international trade. This deficiency is now wiped out by the new construction of the Ricardian trade theory.

McKenzie and Jones emphasized the necessity to expand the Ricardian theory to the cases of traded inputs. McKenzie (1954, p. 179) pointed that "A moment's consideration will convince one that Lancashire would be unlikely to produce cotton cloth if the cotton had to be grown in England." Paul Samuelson coined a term *Sraffa bonus* to name the gains from trade of inputs.

John S. Chipman observed in his survey that McKenzie stumbled upon the questions of intermediate products and postulated that "introduction of trade in intermediate product necessitates a fundamental alteration in classical analysis". It took many years until Shiozawa succeeded in removing this deficiency.

Based on an idea of Takahiro Fujimoto, who is a specialist in automobile industry and a philosopher of the international competitiveness, Fujimoto and Shiozawa developed a discussion in which how the factories of the same multi-national firms compete between them across borders. International *intra-firm competition* reflects a really new aspect of international competition in the age of so-called *global competition*.

Largest countries by total international trade

The following table is a list of the 21 largest trading nations according to the World Trade Organization.

Rank	Country	International Trade of Goods (Billions of USD)	International Trade of Services (Billions of USD)	Total International Trade of Goods and Services (Billions of USD)
-	<i>World</i>	32,180	9,415	41,595
-	<i>European Union</i>	3,821	1,604	5,425
1	United States	3,706	1,215	4,921
2	China	3,686	656	4,342
3	Germany	2,395	571	2,966
4	Japan	1,252	350	1,602
5	United Kingdom	1,045	520	1,565

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	Kingdom			
6	France	1,074	470	1,544
7	Netherlands	1,073	339	1,412
8	Hong Kong	1,064	172	1,236
9	South Korea	902	201	1,103
10	Italy	866	200	1,066
11	Canada	807	177	984
12	Belgium	763	212	975
13	India	623	294	917
13	Singapore	613	304	917
15	Mexico	771	53	824
16	Spain	596	198	794
17	Switzerland	572	207	779
18	Taiwan	511	93	604
19	Russia	473	122	595
20	Ireland	248	338	586
21	United Arab Emirates	491	92	583

Top traded commodities (exports)

Rank	Commodity	Value in US\$('000)	Date of information
1	Mineral fuels, oils, distillation products, etc.	\$2,183,079,941	2012
2	Electrical, electronic equipment	\$1,833,534,414	2012
3	Machinery, nuclear reactors, boilers, etc.	\$1,763,371,813	2012

International Organizations

4	Vehicles other than railway	\$1,076,830,856	2012
5	Plastics and articles thereof	\$470,226,676	2012
6	Optical, photo, technical, medical, etc. apparatus	\$465,101,524	2012
7	Pharmaceutical products	\$443,596,577	2012
8	Iron and steel	\$379,113,147	2012
9	Organic chemicals	\$377,462,088	2012
10	Pearls, precious stones, metals, coins, etc.	\$348,155,369	2012

Observances

President George W. Bush observed World Trade Week on May 18, 2001, and May 17, 2002. On May 13, 2016, President Barack Obama proclaimed May 15 through May 21, 2016, as World Trade Week, 2016. On May 19, 2017, President Donald Trump proclaimed May 21 through May 27, 2017, as World Trade Week, 2017.

International trade law

International Trade Law includes the appropriate rules and customs for handling trade between countries. However, it is also used in legal writings as trade between private sectors, which is not right. This branch of law is now an independent field of study as most governments have become part of the world trade, as members of the World Trade Organization (WTO). Since the transaction between private sectors of different countries is an important part of the WTO activities, this latter branch of law is

now a very important part of the academic works and is under study in many universities across the world.

International trade law should be distinguished from the broader field of international economic law. The latter could be said to encompass not only WTO law, but also law governing the international monetary system and currency regulation, as well as the law of international development.

The body of rules for transnational trade in the 21st century derives from medieval commercial laws called the *lex mercatoria* and *lex maritima* — respectively, "the law for merchants on land" and "the law for merchants on sea." Modern trade law (extending beyond bilateral treaties) began shortly after the Second World War, with the negotiation of a multilateral treaty to deal with trade in goods: the General Agreement on Tariffs and Trade (GATT).

International trade law is based on theories of economic liberalism developed in Europe and later the United States from the 18th century onwards.

International Trade Law is an aggregate of legal rules of "international legislation" and new *lex mercatoria*, regulating relations in international trade. "International legislation" – international treaties and acts of international intergovernmental organizations regulating relations in international trade. *lex mercatoria* - "the law for merchants on land". Alok Narayan defines "lex mercatoria" as "any law relating to businesses" which was criticised by Professor Julius Stone. and *lex maritima* - "the

law for merchants on sea. Alok in his recent article criticised this definition to be "too narrow" and "merely-creative". Professor Dodd and Professor Malcolm Shaw of Leeds University supported this proposition.

World Trade Organization

In 1995, the World Trade Organization, a formal international organization to regulate trade, was established. It is the most important development in the history of international trade law.

The purposes and structure of the organization is governed by the *Agreement Establishing The World Trade Organization*, also known as the "Marrakesh Agreement". It does not specify the actual rules that govern international trade in specific areas. These are found in separate treaties, annexed to the Marrakesh Agreement.

Scope of WTO:

(a) provide framework for administration and implementation of agreements; (b) forum for further negotiations; (c) trade policy review mechanism; and (d) promote greater coherence among members economics policies

Principles of the WTO:

(a) principle of non-discrimination (most-favoured-nation treatment obligation and the national treatment obligation) (b) market access (reduction of tariff and non-tariff barriers to trade)

(c) balancing trade liberalisation and other societal interests (d) harmonisation of national regulation (TRIPS agreement, TBT agreement, SPS agreement)

Trade in goods

The General Agreement on Tariffs and Trade (GATT) has been the backbone of international trade law since 1948 after the charter for international trade had been agreed upon in Havana. It contains rules relating to "unfair" trading practices — dumping and subsidies. Many things impacted GATT like the Uruguay Round and the North American Free Trade Agreement.

In 1994 the World Trade Organization (WTO) was established to take the place of the GATT. This is because the GATT was meant to be a temporary fix to trade issues, and the founders hoped for something more concrete. It took many years for this to come about however, because of the lack of money. The British Economy was in crisis and there was not much backing from congress to pass the new agreement.

The idea of these agreements (WTO and GATT) was to create an equal field for all countries in trade. This way all countries got something of equal value out of the trade. This was a difficult thing to do since every country has a different economy size. This led to the Trade Expansion act of 1962.

Trade and intellectual property

The World Trade Organization Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement required signatory nations to raise intellectual property rights (also known as intellectual monopoly privileges). This arguably has had a negative impact on access to essential medicines in some nation like least developed counters which their economy is not capable of producing more technical products

Cross-border transactions

Cross-border operations are subject to taxation by more than one country. Commercial activity that occurs among several jurisdictions or countries is called a cross-border transaction. Those involved in any international business development or international trade should be knowledgeable in tax law, as every country enforces different laws on foreign businesses. International tax planning ensures that cross-border businesses stay tax compliant and avoid or lessen double taxation.

Dispute settlement

Most prominent in the area of dispute settlement in international trade law is the WTO dispute settlement system. The WTO dispute settlement body is operational since 1995 and has been very active since then with 369 cases in the time between 1 January 1995 and 1 December 2007. Nearly a quarter of disputes reached an amicable solution, in other cases the parties to the

dispute resorted to adjudication. The WTO dispute settlement body has exclusive and compulsory jurisdiction over disputes on WTO law (Article 23.1 Dispute Settlement Understanding).

Free trade

Free trade is a policy followed by some international markets in which countries' governments do not restrict imports from, or exports to, other countries. Free trade is exemplified by the European Economic Area and the Mercosur, which have established open markets. Most nations are today members of the World Trade Organization (WTO) multilateral trade agreements. However, most governments still impose some protectionist policies that are intended to support local employment, such as applying tariffs to imports or subsidies to exports. Governments may also restrict free trade to limit exports of natural resources. Other barriers that may hinder trade include import quotas, taxes, and non-tariff barriers, such as regulatory legislation.

There is a broad consensus among economists that protectionism has a negative effect on economic growth and economic welfare, while free trade and the reduction of trade barriers to trade has a positive effect on economic growth. However, liberalization of trade can cause significant and unequally distributed losses, and the economic dislocation of workers in import competing sectors.