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**A Structural Explanation of State Fragility - Theorising the Causal Pathways**

*'[V]ery frequently the "world images" that have been created by "ideas" have, like switchmen, determined the tracks along which action has been pushed by the dynamic of interest'*
(Weber, cited in Eastwood, 2005: 90).

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*Any global structure comprises the practices and underpinning ideas. To put the idea into practice, members of the global community formulate rules and regulations and marshal resources to build capacities and institutions that can affect states. Although the effects of the global structures on state fragility are increasingly being recognised, the pathways through which they can affect states contributing to its fragility or strengthening its resilience have been rarely theorised. This paper fills the void in the literature by offering a structural explanation of state fragility. The post 9/11 structure of the Global War on Terrorism (GWoT) has been taken as a proxy theorise the pathways. It argues that the ideational and material factors of the GWoT operate through: (i) the cognitive pathway shaping states' thinking, interpreting and reasoning process (ii) the regulatory pathway creating demand for policy coordination, cooperation and compatible legal and procedural instruments for counter terrorism (CT) and their compliance (iii) the capability pathway shaping state's coercive capability, institutions and CT alliance building. The paper shows that these three pathways of the GWoT can impact state's legitimacy and capacity dimensions contributing to the increase or decrease of state fragility. The pathways are illustrated through schematic diagrams to facilitate their tracing in individual case studies. Finally, the paper makes comparative analysis of the cognitive, regulatory and capability pathways highlighting their relationship and relative significance.*

**Key Words: State Fragility; Global Structure; Global War on Terrorism; Fragile States**

## 1. Introduction

Any global structure comprises the practices and underpinning ideas. To put the idea into practice, members of the global community formulate rules and regulations and marshal resources to build capacities and institutions. Concerns over the use of terrorism as a means of achieving a political goal were raised much before the 9/11 (Reuter, 2006; Horowitz 2008; A/879l/Add.1).[1] However, formulating and agreeing to a set of rules and resource mobilisation to build a global structure to fight terrorism remained scanty (Roach, 2012; Byers, 2010) until the terrorist act of 9/11. Consequently, the declaration of the GWoT fundamentally altered the post-modern history and ushered in a new framing of terrorism and a renewed demand for a

[1] See A/879l/Add.1 for the statement by the UNSG flagging this problem in 1972. See Reuter (2006) for a critical historical account of the suicide attack. Horowitz (2008) suggests thinking of suicide terrorism as an example of a military innovation for non-state actors.

global response to terrorism in general and international terrorism in particular. [2] Implicit to this demand was the need to define the underpinning rules, regulations and norms to fight terrorism that created a global structure connecting the global to the local.[3] The discourse of the GWoT became a novel interpretive tool for the states and societies to define problems, diagnose causes, make moral judgements and suggest remedies.[4] The discourse continues to offer a powerful organising principle, shaping the choices and actions of the states – in particular, the fragile states, because of their unique position in the system.

Fragile states, arguably even more so than other states, remains subject to the ideational and material influences of the dominant global actors. The margins drawn by these actors regarding rules, norms and practices together with the provisions to provide incentives or impose penalties compels the fragile states to act in certain ways to survive and prosper (Sorenson 2008:8). The structure of the GWoT emerged through a process in which the powerful actors, operating through the UNSC defined the rules, norms and practices to fight terrorism. However, the persistent influence of global ideational and material factors to shape the state's preferences and actions is not a straightforward issue. The weak institutional capacity, corruption, contested legitimacy, legacies of high inequality, violence and instability enables such global ideational and materials factors to mutate and multiply in fragile conditions producing unexpected consequences and unanticipated trade-offs. Such links between the structure of the GWoT and its ability to produce unintended consequences, like the fragmentation of state-society relation, human rights abuse, sovereignty norm violation, adopting a lesser evil doctrine is rarely examined in the debate on fragile states.

## 2. The Ideational and Material Factors of GWoT

Ideas are defined as 'subjective claims about descriptions of the world', the 'causal relationships' based on which actors claim the 'normative legitimacy of certain actions'

[2] The era of GWoT is far from being over. While President Bush's era is described as a 'war on terror presidency', Obama did not end the GWoT, rather 'bounded' the U.S. action to a 'series of persistent, targeted efforts to dismantle specific networks of violent extremists' (The White House, 2013).

[3] Norris et.al. (2003) among others argues that the event of 9/11 has led to the emergence of a 'new macro' frame of GWoT, with the propensity to link local events/conflicts with global ones. The implication and use of this new macro frame on the governments, non-state actors and media has also been highlighted by others such as Reese (2007), Ruigrok and Van Atteveldt, (2007), Ryan, (2004) to justify actions and explain political and military strategies, especially while dealing with terrorism.

[4] The argument is drawn from Entman (1993:52), one of the early proponent of 'framing theory' who states: 'Frames, then, define problems – determine what a causal agent is doing with what costs and benefits, usually measured in terms of common cultural values; diagnose causes – identify the forces creating the problem; make moral judgments – evaluate causal agents and their effects; and suggest remedies – offer and justify treatments for the problems and predict their likely effects.'

(Parsons, 2002:48). An idea empowers the actor(s) through the discourse and becomes a reality only through the actor's ability 'to intervene in the real world or to refrain from such intervention, with the effect of influencing a specific process or state of affairs' (Giddens, 1984:14). The ideas define the meaning and the purpose of the material power (i.e. capability); hence they are the 'starting point' to interpret the social world (Tannenwald, 2005: 19, Wendt, 2000). Ideational forces work through a process of interaction and learning, facilitated by global and local institutions and agencies, influencing states' identities and interest (Wendt 1992:394). Central to the process is the production and reproduction of shared knowledge. Such knowledge is transmitted through interactions of the states and their societies shaping our *cognitive domain* and developing a mutual and equal sense of supporting an issue, act or agenda especially from the perspective of the policy elites in a country and the citizens in general. [5] The process of such collective learning and cognitive evolution helps to institutionalise the knowledge, practices and discourses (Adler, 2001: 102). It is in these senses that we need to view the ideational factors of the GWoT and how they become relevant and a novel interpretive tool for the regimes in the fragile states and their societies to assess its impact. However, the cognitive domain of a global structure does not exist in a material vacuum.[6] The material capabilities along with the ideas and institutions constitute the context within which the actions by the states or any other actors take place. The material factors– in particular, state's coercive capabilities, is crucial for its behaviour (Waltz, 2000, Mearsheimer 1995). The structure of GWoT has an overwhelming focus on state's coercive capacity building that can affect the power balance, not just between the states, but also within the state. In sum, the ideational and material factors of the GWoT contributes in producing a set of mutual expectations, rules and regulations, organisational plans, energies and material commitments for the war on terror which limits and constitutes the conduct of the states and its societies. But how can we dissect the ideational and materials factors of the GWoT to theorise their causal pathways?

[5] The neoclassical realists recognise that the perceptions of policy elites can impact states' foreign policy. However, others pay no attention to domestic factors (Glenn, 2009:523–4; Rose, 1998; Wohlforth, 1993).

[6] The relist claims that 'the distribution of material capabilities among states is the key factor for understanding world politics' (Mearsheimer 1995: 91). For relists 'the centre of attention is on forces of destruction (i.e. military capabilities) rather than forces of creation' Sorenson (2008: 8).

## 3. The Cognitive, Regulatory and Capability Domain of the GWoT

Drawing clear distinction between ideational and materail factors is difficult.[7] The ideational factors are intersubjective and can bring *change* in state-society's behaviour in combination with the material factors (Wendt 1999:114; Jacobs, 2015; Weber, cited in Eastwood, 2005:90). Sorensen (2008:14) divides the global ideational and material factors in terms of power and norms (i.e. economic power, political-military power, and international norms) while Cox's (1996:98) conceptualisation of the 'historical structure' is a combination that brings together thought, material conditions and institutions. We argue that the structure of the GWoT has cognitive, regulatory and capability domain and each domian operates through a distinct pathways that can contributing to the increase or decrease of state fragility (See figure 1).

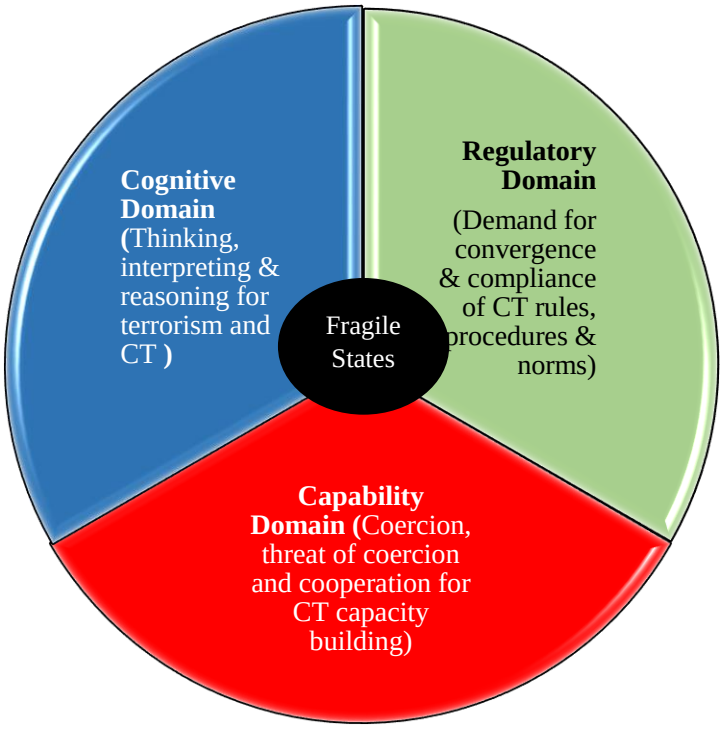



Figure 1: Three Domains of the Ideational and Material factors of GWoT

First, the framing of the GWoT and the production and reproduction of knowledge reinforcing such framing and the norm socialisation process shapes our *cognitive domain*. It generates new meanings of terrorism and how states and societies should understand and interpret terrorism.

[7] As Sorensen argues quoting Keohane (984: 18–31): 'politics and economics are two sides of the same coin…it will often be difficult to draw a clear distinction between economic power and political power.' Cox (1996: 85–123) also asserted that 'historical structures, should not be considered in terms of their need for equilibrium maintenance, but more dynamically, in terms of identifying the contradictions and conflicts within them which create the possibility for transformation of the framework for action.'

Second, the global norms and practices to fight terrorism shape the *regulatory domain* suggesting states to (re)act in a certain way; it defines the boundaries within which the states must act to fight the war on terror. Third, the material factors of GWoT and the corresponding focus on enhancing the coercive capability of states shape the *capability domain* – defining the use of coercive forces. Together they become a unique and interdependent structure affecting fragile states. [8] Each domain operates through their respective pathways – discussed next.

**3.1 Cognitive Pathway**. Cognitive pathway refers to the underlying mental processes people use to make sense of information. It generates meaning involving three interdependent processes: first, comparative thinking, that process' information by identifying how bits of data are alike and/or different; second, a symbolic representation process that helps to transform information into culturally acceptable coding systems and finally a reasoning process that uses the abstract thinking strategies to systematically process information to generate meaning (Garner, 2007:1-30, Hollis 1995:144). In short, the cognitive pathway involves a *thinking- interpreting- reasoning* process. The 'us' versus 'them' framing of the GWoT helps in creating a meaning of the discourse – facilitating the states to claim normative legitimacy in this global war. Indeed, as we will examine, the particular framing of the GWoT by the authoritative actors as well as by the violent extremist groups have challenged the liberal values and norms such as civil liberty, freedom and human rights and the culture of respecting sovereignty norm, – all contributing to state fragility.

**3.2 Regulatory Pathway**. The regulatory pathway of GWoT is a logical extension of the cognitive pathway to make the fight against terrorism *actionable* by states. It consists of formal and informal policies, norms and practices. Powerful and legitimate global and regional actors influence to formulate and sustain the regulatory framework. It includes a renewed emphasis on, and the introduction of CT conventions, protocols and resolutions, and domestic legislation aimed at policy convergence and coordination to achieve rule consistent behaviour by the states in the fight against terrorism. The functioning of such a formal regulatory domain helps to stabilise and perpetuate the 'meaning' of the discourse of GWoT in general and terrorism in particular.

[8] For example, regulatory pathway merges 'power and interest' of the international institutions and powerful actors with 'ideas and norms' (of social agency and process) and become effective with the material support. Together they create a shared meaning and 'context' within which the state and the society acts.

**3.3 Capability Pathway.** The material factors create the capability pathway of the GWoT. It enables an actor to exercise or threaten to use coercive power hreat of coercion and capacity building assistance to enhance states coercive capability in general and to fight against terrorism in particular. State that harbours transnational terrorist groups posing a threat to international security is subjected to coercion or threat of coercion while willing partners of the war on terror often receive increased assistance for the coercive capacity building. The capability domain includes the dynamic protective and destructive technologies, specialised forces and resources that a state needs to acquire or aspires to acquire. The process may involve increased security spending, cooperation and assistance, border security and immigration control, availability of particular CT assets, functional adequacy of those capabilities, induction of new institutions or elite forces to fight terrorism (Meyer and Strickmann, 2011:70).

In light of these three pathways of the GWoT, we now connect the evidence to theorise their causal links to the capacity and legitimacy dimensions of state fragility.

## 4. Theorising the Effects of the Cognitive Pathway of GWoT

The scope and magnitude of the 9/11 attack changed the dominant understanding of war and politics that privileges a consequentialists approach. First, the 9/11 attack was more akin to an act of war, traditionally understood in the west as 'a continuation of policy by other means' by *state* actors. But the attackers were non-state actors, demanding a radically different world order based on the transcendental truths, grounded in their misinterpretation of Islam (Behnke and Hellmich, 2012:2-6). Second, the event reflected a complete indifference to human cost. The terrorists' aim of seeking nothing but a violent transformation of an 'irremediably sinful and unjust world' through the means that are indifference to human cost, is *incompatible* with the political reality which considers the threat of death as the ultimate sanction for maintaining political order. Consequently, democratic states in the post 9/11 era are confronted with the dilemma of whether or not terrorism can have *any justification* whatsoever.[9]

[9] Writing immediately after 9/11 in *The Washington Post*, Will (2001) opined that the idea that an 'extreme action can have justification in the social environment' is 'bad sociology' and the idea that terrorism 'can and should be eliminated by appeasement tarted up as reasonableness' is 'bad philosophy.'

Such a context privileges a *consequentialist approach* over deontological approach in the fight against terrorism (See tabe 2). The consequentialist motivation of the GWoT invokes the idea of performing what is 'most good' – the end that benefits 'the most' justify the means (Alexander and Moore, 2016; Cox, Levin and Newman, 2009). This results in choosing a path of, according to Ignatieff (2004:18), 'lesser evil'. However, in the context of GWoT, the lesser evil doctrine tends to view the act of terrorism performed by non-state actors as *pure evil* and accords greater margin for the state to use force against such actors. [10] Such measures culminate in 'othering' the non-state actors to justify waging a global war.[11]

Table 2: Framing the GWoT: deontological versus consequentialist approach

| | Deontological Approach | Consequentialist Approach |
|---|---|---|
| **Motivation** | To perform what is intrinsical right. The means must be 'right' to achieve an end. | To perform what is 'most good'. The end that benefits the most justifies the means. |
| **Ethical & Moral focus** | Ethical conduct involves always doing the right thing: never failing to do one's duty. Seeks to achieve moral consistency. | Ethical conduct is the action that will achieve the best consequences. Seeks to achieve moral balancing. |
| **View on terrorists** | No scope to take a position on 'terrorist'. Focuses only on 'act' and own 'duty' to implement rules. | Offers scope to define the 'terrorists'. Promotes 'outcome-based' rules. |
| **Nature of Rules promoted** | Regulative and constitutive rules, norms and practices that frame taking 'right' actions by all actors. | Regulative and constitutive rules, norms and practices based on consequential consideration, influenced/favouring the dominant actors and or majority. |
| **Justice and rights** | Considerations of justice override considerations about consequences and a person's inviolability rights cannot be trumped by considerations of utility. | Choice of 'best' consequences can triumph individual rights and inviolability claims. |
| **Limitations** | Rigid and impersonal. Offers no insight to proceed when facing a situation in which two or more duties conflict. | Flexible and pragmatic. Conflicting priorities are resolved in utilitarian terms. Considers heinous actions may also bring a good outcome for the majority, hence ethical. |
| **Outcome** | Liberal values are protected without being tainted. | Liberal values risks being tainted and coloured. |

[10] As Ignatieff (2004:18) cautions, 'the path of lesser evil is not 'indefinite', at some point – when we have to destroy the village in order to save it – we may conclude that we have slipped from the lesser to the greater (evil).

[11] The 2017 report by the U.N. Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism observes that some states and prominent NGOs do not accept that non-state armed groups are subject to international human rights obligations.

The cognitive pathway of the GWoT imbues a culture of *fear* and *othering* and works as an *echo chamber* for the states and the societies. Before 9/11, the accepted global norm for applying instruments like Responsibility to Protect (R2P) was aimed at creating a consensus around the right to intervene *only* when states were not fulfilling their obligations to protect their citizens (UK Parliament 2013, ICISS, 2001). However, the GWoT brought a new focus to identify 'states at risk' promoting a doctrine of unilateral pre-emption that undermines the long-held sovereignty doctrine.[12] The shift in the strategic cultures is based on painting the fragile states as an exporter of vices and the urgency of taking pre-emptive actions to prevent the vices from reaching the stable and wealthy western states and has little or no regards to the underlying causes of fragility (Iyengar, 2015).

The cognitive pathway also brings back the state as the central player ignoring the society-focused approaches of development.[13] It allows overlooking the fact that the state itself can be a source of the fragility. The regime can adopt and use the 'us' versus 'them' narrative of the GWoT in the domestic context and embark on discrediting groups that are in variance with the regime's ideology and rule as 'terrorist'. Several deeply rooted conflicts such as in Chechnya, Myanmar, Mali, Uzbekistan, Kashmir, Philippines, Palestine, some parts of Syria have been redefined and repackaged by the state actors using the discourse of the GWoT (HRW, 2012: 6, Dudout 2011: 4). In post-conflict fragile states, this may also lead to excluding important domestically legitimate actors out of peace agreements, increasing the chances to relapse into conflict.[14] Indeed since 9/11, international actors have increasingly perceived all non-state armed groups as 'terrorist organisations' (OECD 2012: 42). The framing of the GWoT allows states to adopt a broad and vague definition of terrorism. As a result, it empowers states to not

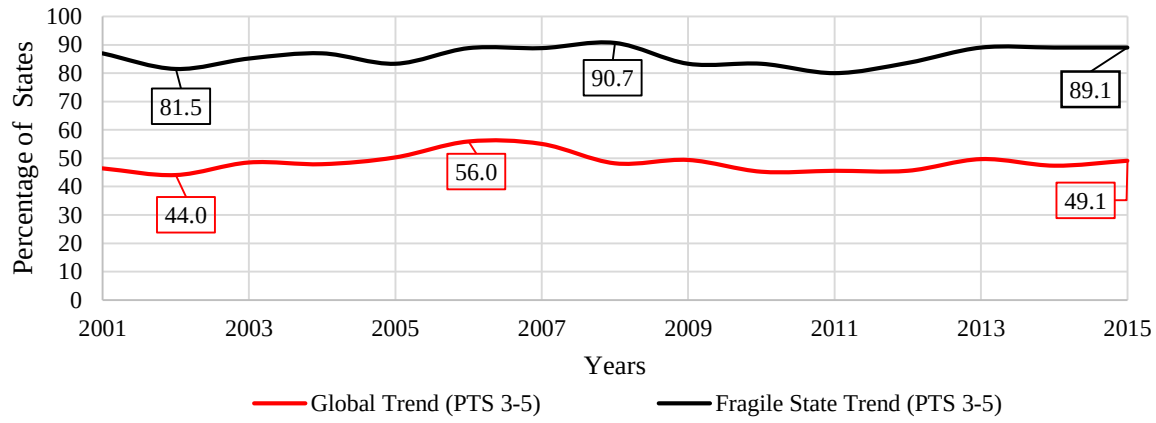
[12] The 2002 National Security Strategy of the U.S outlines this doctrine in most clear terms as it states: 'given the goals of rogue states and terrorists, the US can no longer solely rely on a reactive posture as we have in the past ... we cannot let our enemies strike first. As a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed' (White House, 2002: 14). It is important to note that the R2P document *has not changed* the legal position on intervention which is based on three important principles: first, international community has a responsibility to protect populations when *their government doesn't*. Second, it limits the application of R2P to situations of war crimes, crimes against humanity, genocide and ethnic cleansing. Third, UNSC remains the gatekeeper to any such intervention.

[13] For example, Fukuyama (2004) highlights that 'the 11 September attacks underlined the fact that the lack of governance in poor and troubled parts of the world … could have profound security consequences' and warns against 'excessive zeal in pursuing a *society centric* 'neo-liberal' agenda' as it undermines state, calling for 'bring back the state in.'

[14] Dudouet (2011) points out that the proscriptions of actors in countries like Sri Lanka, the Philippines, Turkey, Palestine and Nepal took place at a time when they were demonstrating their readiness to engage in dialogue and considering non-violent political strategy, resulting in their re-radicalization.

only to curb legitimate dissent but also to selectively apply the state's coercive power against political oppositions leading to increased societal violence. The post 9/11 global trend in political terror (PTS) [15] and societal violence (Centre for Systemic Peace) as plotted in figure 3 &4 provide evidence to that effect.

Figure 3: Global and Fragile States Trend in Political Terror 2001-2015



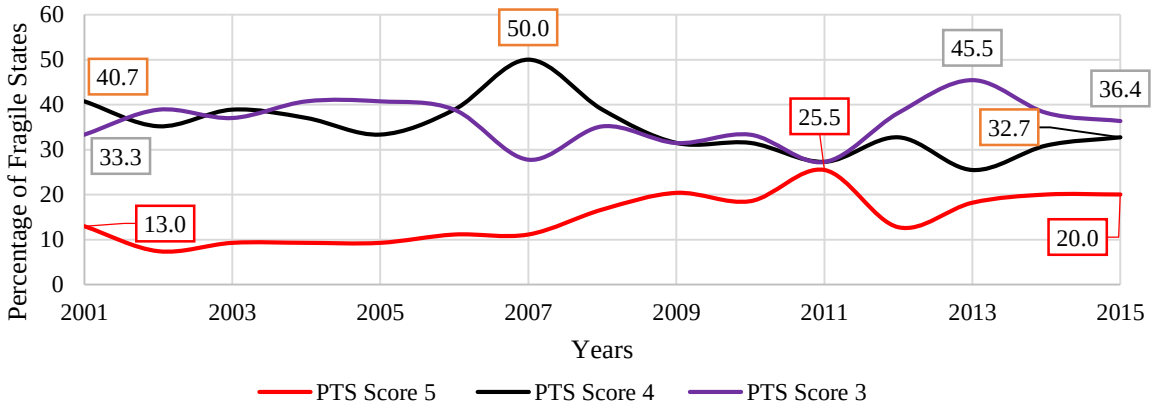

Source: Author's compilation from Gibney et al. (2016)

Figure 5.3 plots the trend in political terror as measured by PTS for the period 2001-2015. Since 2001, globally there has been a steady increase in the percentage of countries[16] with a PTS score of 3 and above (see figure 3). The percentage of fragile states that are traditionally fraught with political terror has also increased during this time except in 2011. Figure 5.4 plots a more nuanced picture of political terror in the context of 55 fragile states. It reveals that the increase in extreme political terror (i.e. score 5) in the context of the fragile states had jumped from 13 per cent in 2001 to 25.5 per cent in 2011 and had stabilised around 20 per cent of countries in 2015. This evidence tends to suggest that the discourse of GWoT has empowered states to abuse the state's coercive means terrorising its population including curbing political freedom in fragile states.

[15] Focusing on state violence along three dimensions: scope, intensity and range, the PTS measures actual violations of physical integrity rights and political repression on a scale of 1 (countries under a secure rule of law, people are not imprisoned for their views, and torture is rare or exceptional and political murders are extremely rare) to 5 (countries where murders, disappearances, and torture are part of life and has been extended to the whole population).

[16] Percentage of states instead of absolute number of states is used as the number of states varies between 2001-2016 from 168-17 (for global trend) and 54-55 for FS trend.

Figure 5.4: Frgaile States Trend in Political Terror 2001-2015




Source: Author's compilation from Gibney et al. (2016).

Similarly, the global trend of societal violence as recorded by the Centre for Systemic Peace in summed magnitudes[17] of all Major Episode of Political Violence (societal MEPV)'[18] provides broad evidence relating to the effects of the cognitive pathway. Figure 5.5 shows that the global trend (2001-2016) of societal violence had a little increase[19] while the fragile states experienced most of the violence reaching 47.3 per cent of states in 2015. Figure 5.6 provides a more nuanced picture of the fragile state's societal violence by disaggregating the summed magnitudes into its corresponding scales. It shows that the extreme form of societal violence (i.e. magnitude 7-10) has remained stable.[20] However, societal violence in the magnitude of 6 and above has increased in fragile states indicating damage and distortions of social networks, increased area and scope of death and destruction, population displacement, environmental degradation, infrastructure damage and resource diversion.

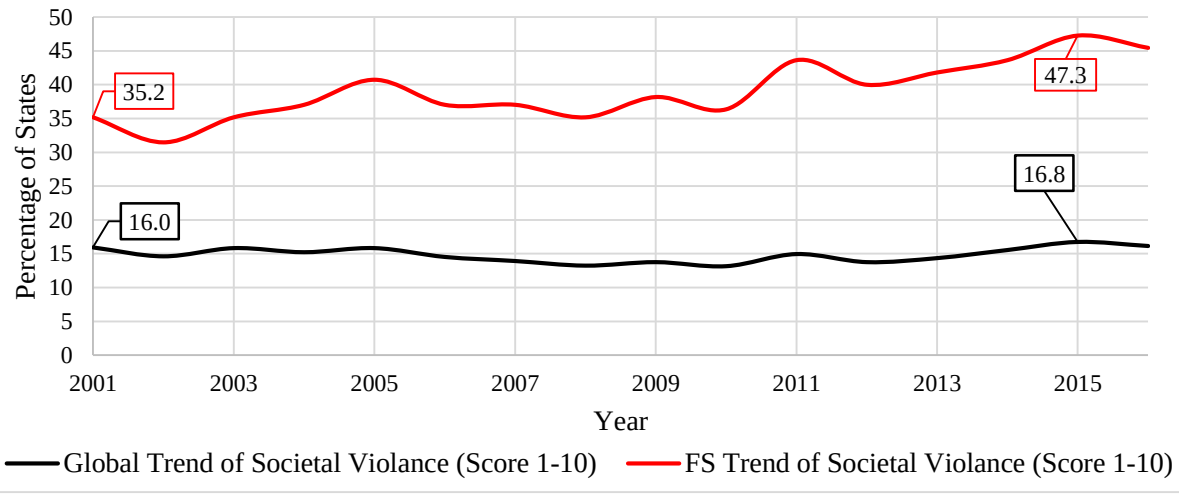
[17] The magnitude score is based on a scale of 1 (lowest) to 10 (highest) for each MEPV reflecting the destructive impact/magnitude of the episode on the directly-affected society or societies. Magnitude scores are based on multiple factors including state capabilities, area and scope of death and destruction, population displacement, and episode duration. See the Codebook (MEPVv2016) for details.

[18] The total summed magnitudes of all societal MEPV (CIVTOT) includes country-year data on the magnitude score of episodes of ethnic warfare, ethnic violence, civil warfare and civil violence. Author recommends CIVTOT data as a more valid aggregate of societal violence (Marshall 2017: 2).

[19] The meagre increase needs to be viewed in the context of restrictive methods applied to measure the magnitude of MEPV. Each MEVP reflects at least 500 'directly-related' fatalities and the violence have to reach a level of intensity in which political violence is both systematic and sustained. For example, between 1946-2016, a magnitude 10 score in total societal violence (CIVTOT) has been assigned only in five occasions, the most recent one being the Rwandan genocide in 1994. (Marshall 2017a)

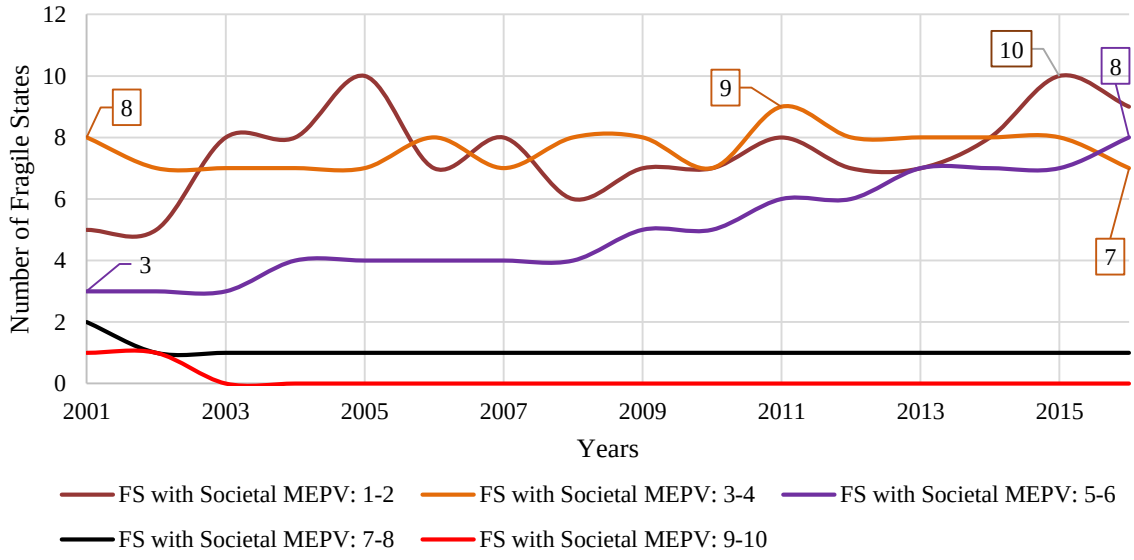
[20] There were only 19 occurrences of MEVPs with magnitude of 7-10 during this period out of which 16 were in India while one in Afghanistan and two in Angola.

Figure 5.5: Trend in Societal Violence (Global and Fragile States) -2001-2016




Source: Author's compilation from Marshall (2017)

Figure 5.6: Fragile States Trend in Societal Violence - 2001-2016




Source: Author's compilation from Marshall (2017)

Based on the discussions, we can now draw how the cognitive pathway of GWoT impacts fragile states (see figure 5.10). At the heart of this pathway lies a *culture of fear and othering* and a *global echo chamber* producing new norms and practices for states and societies. The culture of fear and othering can manifest through identity politics, instilling a sense of insecurity, social fragmentation, violence and instability and thereby creating a fragile situation. A global echo chamber can empower the state to become more authoritarian which may or may not culminate into a fragile situation. The condition under which fragile states may not slip into more fragility is when the state is prudent in the application of its coercive means,

or the opposition/right group/civil society is weak or lacks support to challenge the authority. The channel through which the culture of fear and othering operates can directly reach societies without the need to mediate through state institutions. Leveraging the modern communication facilities, it can trigger the othering process, reignite or strengthen identity-based politics, radicalisation by exploiting local socio-political and economic cleavages. Again, if the state takes a consequentialist approach to terrorism, the culture of fear and othering can mediate through state institutions and result in undermining physical integrity rights, media freedom, moral and liberal values contributing to more fragility.

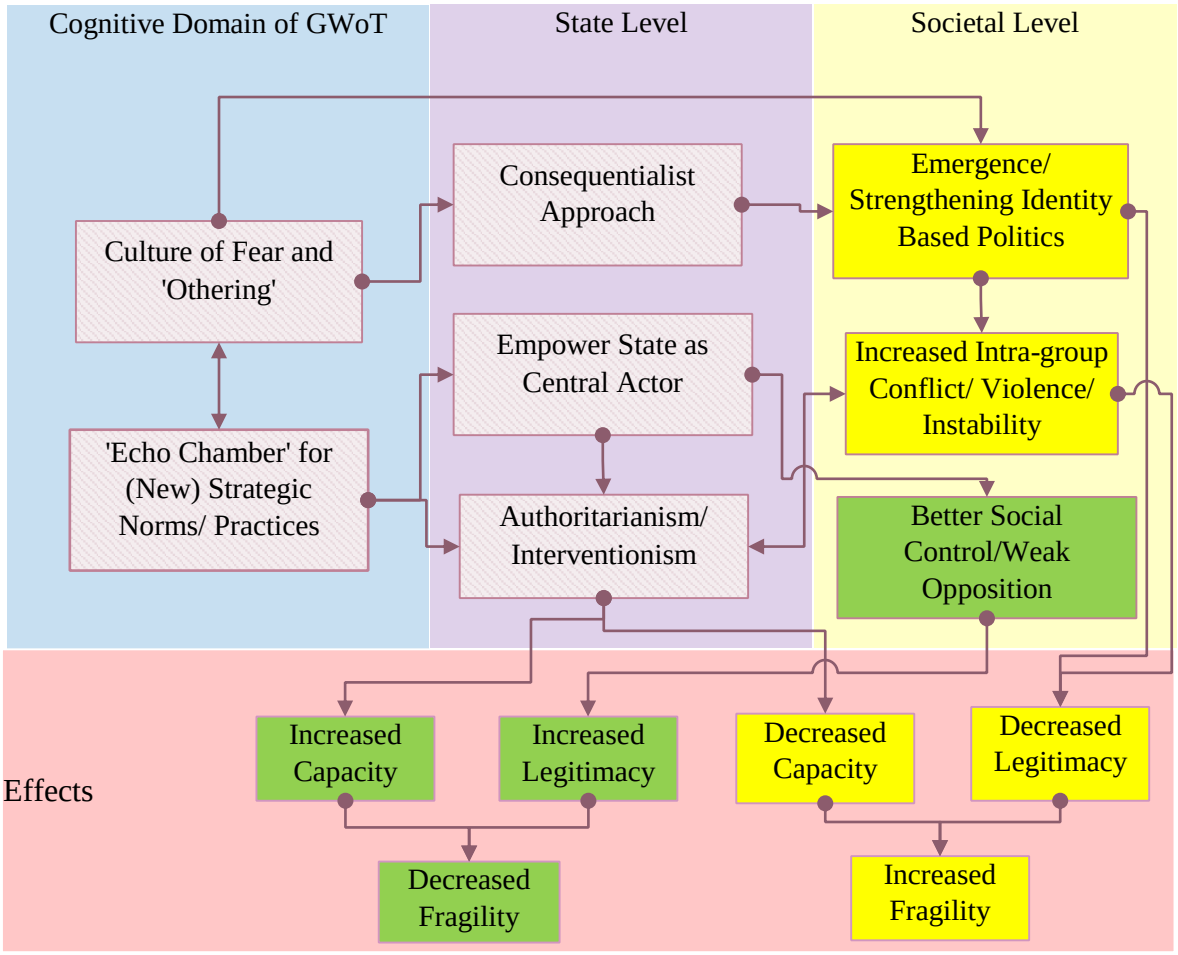



Figure 5.10: The Cognitive Pathway of GWoT Affecting State Fragility

In contrast, the global echo chamber mediates through state institutions to become causally effective. The new strategic norms and practices empower the fragile states to fight not only terrorism but also use its coercive power for achieving regime security instead of national security through exclusionary and selective practices. For powerful states, it provides normative legitimacy to pre-emptive attack and intervention, regime change, sanctions, tighter

border and immigration control. In sum, the cognitive pathway of GWoT shapes the process of thinking-interpreting-reasoning at the international level that mediates through states institutions and penetrates the society leading to the increase or decrease of state fragility. The cognitive pathway sets the foundation for the global community to formulate the regulatory pathway of GWoT– examined next.

## 5. Theorising the Effects of the Regulatory Pathway of GWoT

The regulatory pathway of GWoT refers to the voluntary and binding instruments, such as conventions, protocols, resolutions, laws and practices for states to fight terrorism. Considering the broad array of such instruments, we focus on the core UN-based documents that lie at the heart of the CT regulatory regime. As of December 2019, there are 12 UN CT convention and seven protocols (see annexe 5A) that criminalise specific acts of terrorism. Once ratified by the states, these instruments provide a legal framework for multilateral actions against terrorism. [21] It is worth noting that out of 12 CT conventions,[22] only two were introduced after 9/11. Despite being available for ratification for long, majority of the states remained reluctant, and the ratification trend of CT instruments *declined* before 9/11. However, the event of 9/11 resulted in speedy ratifications of these instruments marking a global convergence on CT legislation.[23] Table 5.11 reflects the ratification trend[24] of the ten pre-9/11 conventions on a scale of three years interval.[25] As evident, ratification of all the conventions except three had a sudden increase after 9/11. The declining trend of ratifying the convention on diplomatic agent and hostage, introduced in 1973 and 1979 respectively also increased after 9/11. New conventions on terrorist financing (1999), bombing (1997), plastic explosive (1991), were also quickly ratified by the states after 9/11.

[21] 'Ratification' provides an insight into the 'mind' of the state actors as it reflects a tacit willingness and endorsement of the state to a global instrument. It is higher than 'signature'. Many signatory states have never ratified a treaty.

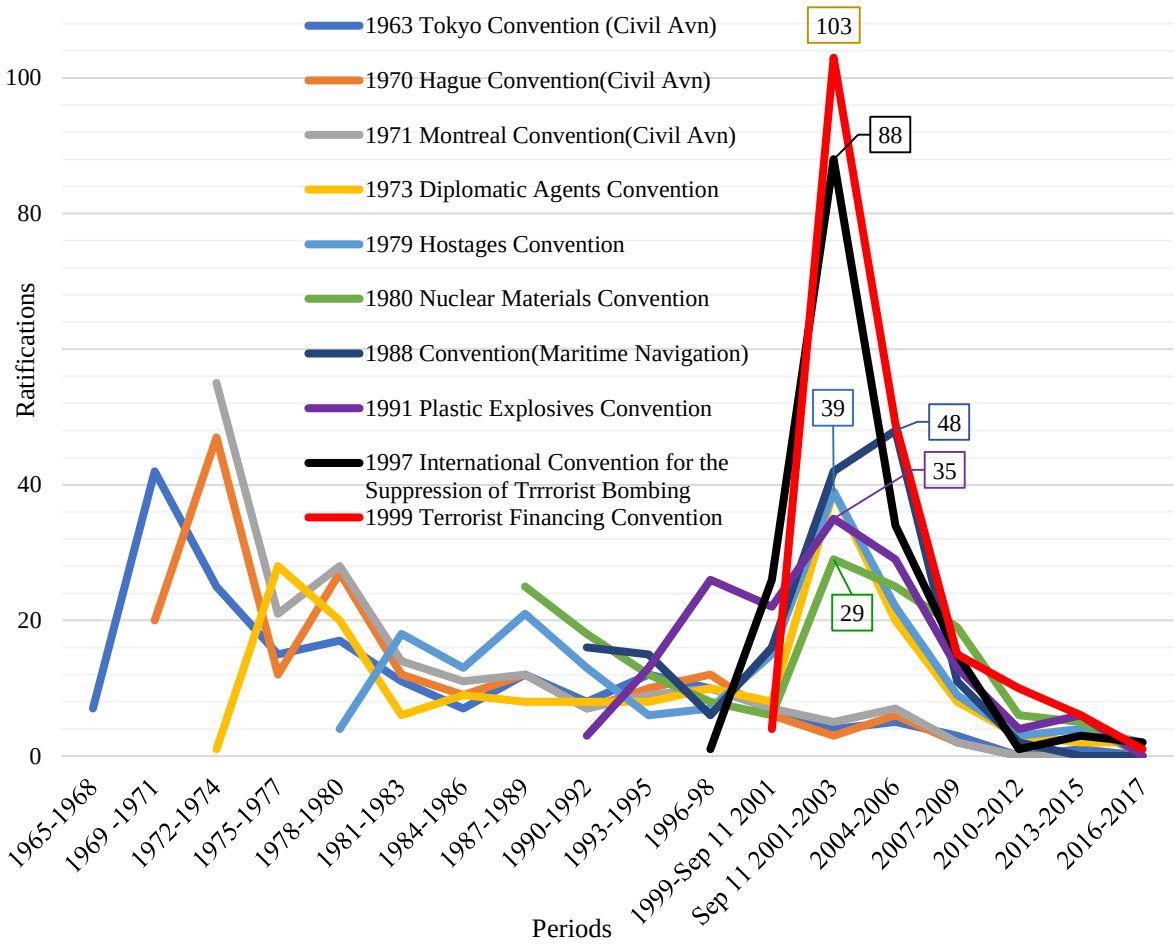
[22] Two post 9/11 CT conventions includes the 2005 convention on nuclear terrorism and 2010 convention unlawful act on international civil aviation.

[23] The call to ratify the UN CT instruments were made in many documents including UNSC Resolution 1368 (2001) which asked member states to 'redouble' their efforts, 'increase cooperation' and 'full implementation of the relevant international anti-terrorist conventions'. See S/RES/1368 (2001)

[24] Ratification figures include approval/acceptance/accession (i.e. approval after the treaty has entered into force) / succession (i.e. successor new state continues to maintain approval of the convention), all of which bears same legal effect as ratification See UN glossary of terms.

[25] The three years interval reflects the general duration taken by the states for ratification.

Figure 5.11 Ratification Trend of CT Conventions-1965-2017
(Total Ratifications/Period)



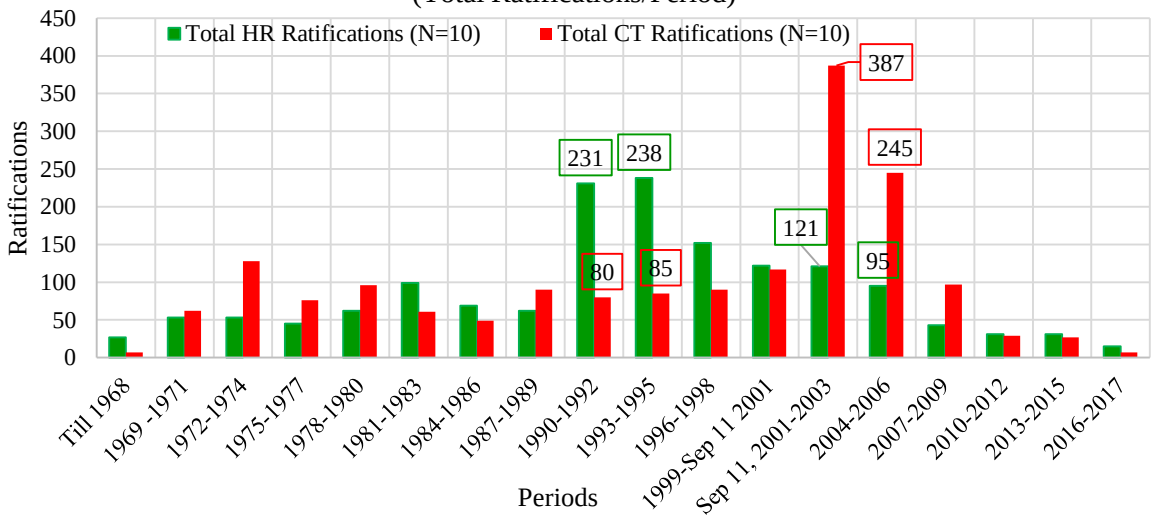

Source: Author's compilation from the UN Treaty Collection Database

The post 9/11 'mind' of the state actors becomes much more apparent when the ratification trend of CT instruments are compared with the UN human rights (HR) instruments that were also available for ratification during the same period. Figure 5.12 compares the ratification trend of 10 CT and HR conventions.[26] The HR ratification trend reached its peak during 1990-1995, coinciding with the second wave of democratisation; before 9/11, there were 1,213 ratifications of the ten HR instruments compared to 941 ratifications of the ten CT instruments.

[26] The comparison is based on same number of pre-9/11 HR conventions (N=10) available for ratifications by the states since 1965. These are 1965 Convention on the Elimination of Racial Discrimination (CERD), 1966 Covenant on Civil and Political Rights (CCPR), 1966 Convention on Economic, Social, and Cultural Rights (CESCR),1979 Convention on the Elimination of Discrimination Against Women (CEDAW), 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons (CCW), 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), 1989 Convention on the Rights of the Children (CRC), 1990 Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (CMW), 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and 1998 ICC Statute.

However, within three years of 9/11 attack, CT conventions ratification trend were 3.20 times higher compared to HR. By 2017, the total ratification of CT conventions reached 1733 compared to 1549 for the HR conventions. A disaggregated comparison of the ratification speed (see figure 5.13) for each convention illustrates the demand for regulatory convergence on CT after 9/11. Thus, the regulatory pathway of the GWoT converged and consolidated only after the event of 9/11 – buttressed by the actions of apex UN bodies - the UNGA & UNSC.

Figure 5.12: Comparison of CT and HR Conventions Ratification - 1968-2017
(Total Ratifications/Period)



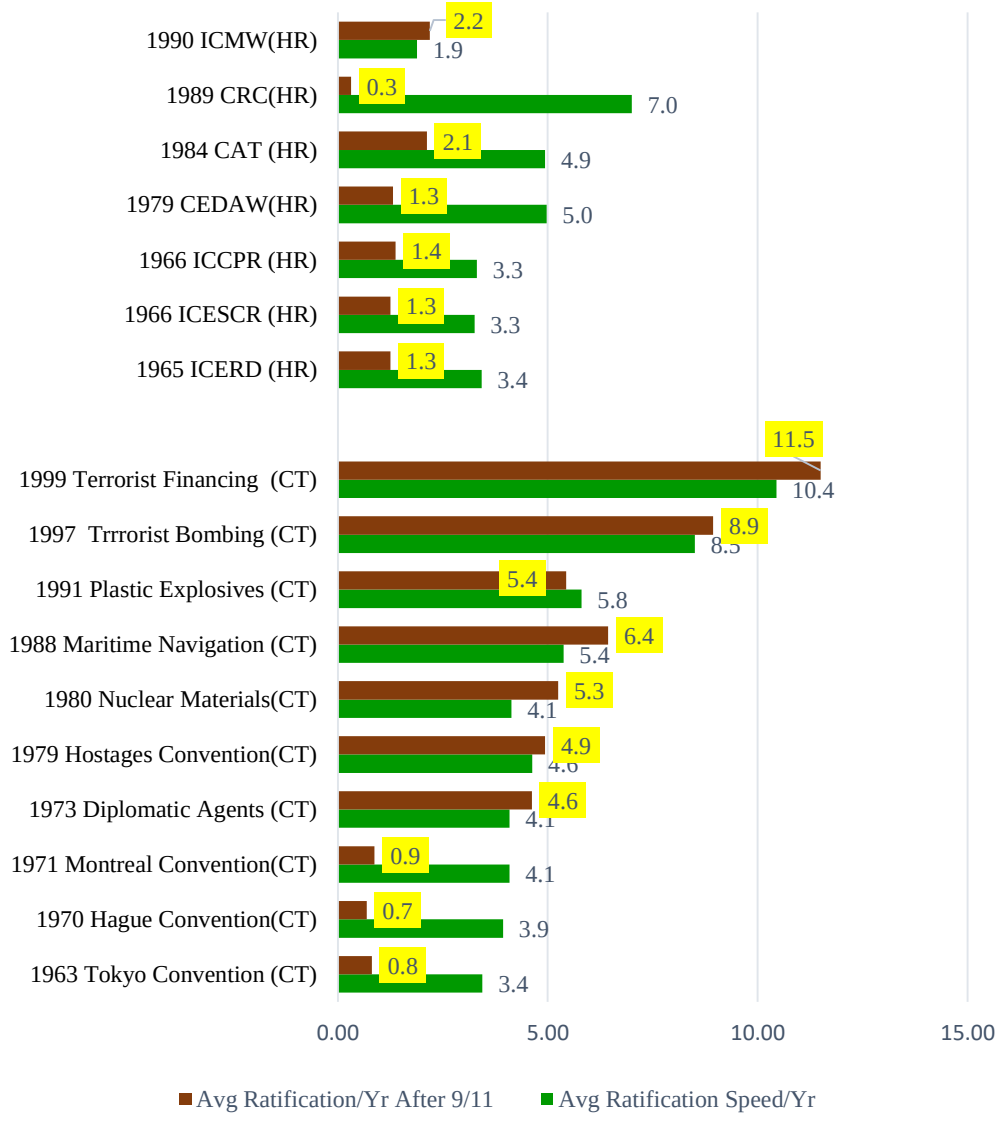

Source: Author's compilation from the UN Treaty Collection database (for CT Ratification data) and UN Office of Legal Affairs (for HR Ratification data).

Between September 2001 - July 2017, the UNGA passed 57 resolutions relating to terrorism as opposed to only 24, passed between 1972- Sep 2001. The UNGA also adopted the Global Counterterrorism Strategy that emphasises human rights and the rule of law in the fight against terrorism (see annex B). [27]However, analysing the texts of pre and post 9/11 resolutions on terrorism provides important insights. The 1972 UNGA Resolution (A/RES/3034(XXVII)) on '*Measures to Prevent International Terrorism*' expressed that the Assembly is 'deeply perturbed' and 'concerned' over increasing frequency of terrorism and its effects; and at the same time, it also reaffirmed 'the inalienable rights of self-determination and independence of all people' and explicitly upheld the 'the *legitimacy of their* struggle, in particular, the struggle

[27] The strategy is based on four pillars: (i) addressing the conditions conducive to the spread of terrorism, (ii) measures to prevent and combat terrorism, (iii) measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard, (iv) measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism. In September 2008, all 192-member states confirmed their commitment to the principles of this strategy and pledged to pursue its implementation.

for national liberation movement (p.119).' By 1988, such expressions in UNGA resolutions changed, and by 1995, the mention of the inalienable rights of self-determination and conferring legitimacy to the national liberation movement were drooped (A/RES/49/60).[28] Instead, the resolutions held the view that the act of terrorism is 'unjustifiable.' in *any circumstances*, regardless of the 'considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature' (A/RES/49/60, p.4, A/RES/54/110).

Fig 5.13: Comparison of UN CT and HR Convention Ratification Speed (Before and After the 9/11)




Source: Author's compilation

[28] A separate resolution on 'Human Rights and Terrorism' started from 1995.

Between September 2001 - July 2017, the UNSC adopted 41 resolutions[29] expressing 'strong and unequivocal' condemnation of terrorism 'in all its forms and manifestations, committed by whomever, wherever and for whatever reasons.' By adopting new resolutions under Chapter VII of the UN Charter[30] the UNSC essentially started to legislate against terrorism and made the task of implementing executive action against terrorism a universal concern (Szasz 2002; Norman 2004). The U.N.-based regulatory regime came into fruition through the reporting regime introduced by resolution 1373 (2001) and 1624 (2005).[31] Between 2001 -2007, member states have submitted 743 reports under UNSC resolution 1373(2001) and 110 reports under resolution 1624(2004).[32] The report covers various issues including actions taken by the states against sanctioned entities/individuals and capacity building efforts/needs for the fight against terrorism. Several sanctioning, monitoring and accountability regimes are also in place to facilitate rule-consistent behaviour by the states. As of 30 March 2017, the UN sanction list included 640 individuals and 367 entities (mostly non-state actors like Al-Qaida, ISIS, and Taliban) against whom the member states are required to take punitive measures including arrest, asset freeze, ban on travel and restrictions. The origin and operating areas of almost all these entities are in fragile states[33] putting these states in focus for global security.

The provisions of the UNSC resolutions together with the reporting regime also allows to classify the fragile states into various stages,[34] identify the entry point of assistance by external actors to empower states' legislative and executive machinery through a systematic process of capacity building. Such a process fits into the larger scheme to 'bring back the state' as argued

[29] Most of these resolutions were condemnations of terrorist attacks. See annex B for a full list.
[30] Chapter VII allows the UNSC to take obligatory form of action 'with respect to threats to the peace, breaches of the peace, and acts of aggression,' rarely used against non-state actors in the past.
[31] In the 2001 report, the CTC Chair noted that 'Resolution 1373 has created 'formal obligations' to all 191 UN Member States in the fight against international terrorism, and with the ambitious task of raising 'the average level of government performance against terrorism all over the world' ( S/2004/70: 4).
[32] Based on available country reports in CTC website and includes additional/revised/corrections submitted by the member states. Country reports beyond 2007 is not made public. Author's e mail to obtain the post-2007 country reports for the case studies received no positive response from the CTC.
[33] Countries are : Afghanistan, Algeria, Bangladesh, Bosnia Herzegovina, Central African Republic, Congo D.R., Egypt, Indonesia, Eritrea, Ethiopia, India, Iraq, Iran, Jordan, Kenya, Kuwait, Lebanon, Liechtenstein, Libya, Mali, Malaysia Mauritania, Morocco, Netherland, Niger, Nigeria, North Korea, Pakistan, Philippines, Russia(Chechnya),Switzerland, Sudan, Somalia Syria, Saudi Arabia, Tunisia, Turkmenistan, Uganda, Uzbekistan, UAE, USA, United Kingdom, West Bank and Gaza, Yemen
[34] The CTC classify states into three discrete prioritised stages. Stage A: requires ensuring that states have effective CT legislation in all areas of activity related to resolution 1373; Stage B: requires strengthening the executive machinery of the state for implementation of the CT legislation. The final stage is to mop-up outstanding areas of the Resolution (CTC 2003)

before. The CT norm socialisation process through the UN-based instruments also resonates in the regional and sub-regional level strengthening the regulatory pathway of GWoT. However, what implications does such amass ratifications of CT Conventions and reporting and reviewing mechanism bear on fragile states and what are their consequences?

The consequences of the regulatory pathway of GWoT in the context of fragile states can be inferred from several global surveys, periodic reports and assessments.[35] First, the regulatory pathway of GWoT works as a stimulus to elevate terrorism as a national security threat. [36] Such elevation can be problematic in fragile states where the notion of national security is often conflated with regime security. National definitions of terrorism often exceed the scope by alleging to harm national security or constitutional order, without further elaboration. While the strategy of 'zero-tolerance on terrorism' is applauded by external actor, a selective application of the CT law may exacerbate the already poor human rights conditions in fragile states in the name of fighting terrorism and divert the much-needed resources from providing core state services that lie at the heart of state fragility.

Second, the regulatory pathway encourages and assists states to introduce/amend CT legislation with a focus on preventive actions. [37] Before 9/11, approximately 51 countries had CT laws. However, since 9/11, more than 140 governments have passed CT legislation and revised existing criminal codes (HRW, 2012). The worldwide diffusion of CT laws was either crisis-driven or in response to the pressure from powerful countries (HRW 2012:3). [38] More importantly, criminalising terrorist acts using a *preventive framework* allows the law enforcing

[35] These includes reports like CTED Global survey of the implementation of Security Council resolution 1373 (2001) by Member States (CTED 2016), Human Rights Watch Report ''In the name of security – Counter Terrorism Laws Worldwide since September 11'' (HRW 2016), The European initiative for democracy and human rights report on ''Terrorism, counterterrorism and torture international law in the fight against terrorism'' published by The Redress Trust (EU 2004).

[36] The CTED Global Report observes such a shift of emphasis in CT strategy from 'mitigating' impact, assisting victims, and restoring public order to develop and pursue 'preventive' capacity and measure in light of threats to national security (CTED Global Report 2016: 114).

[37] UN has issued Technical guide to the implementation of Security Council resolution 1373 (2001).

[38] For example, Indonesia enacted its CT law within weeks of the Bali bombing in 2002 that killed more than 200 people. However, attempt to apply the law retroactively to the Bali incident was declared unconstitutional by Indonesia's Constitutional Court (Roach 2010:10). EU's counter-terrorism agenda has been to a large extent 'crisis-driven' - influenced by several major attacks: 9/11, Madrid and London bombings, the rise of the ISIS, terrorist attacks in France of 2015 etc.

agencies to go 'fishing' for offences without full respect for several criminal law principles[39] and fair treatment, resulting in human rights abuse. In particular, efforts to regulate cyberspace to counter violent extremism or stop recruitment by a terrorist organization are often selectively used against the journalist, opinion holders and media houses to stifle free speech (Human Rights Watch, 2012, Global Network Initiative, 2016). [40] Third, despite the call for increasing cooperation, international judicial cooperation for extraditing and prosecuting terrorism-related offences to allow due process has been slow (CTED 2016). The CTED's research reveals that 43.8 per cent of states has not designated any specific central agency for this – the necessary first step for judicial coordination amongst states. The absence of such a formal mechanism partly contribute to the ad-hoc practices like extraordinary renditions and opening black site as discussed.

In summary, the discourse of GWoT has been quickly universalised through the U.N. creating binding regulations and voluntary implementation for the states. The regulatory pathway of the GWoT empower states to enact laws, adopt strategies, implement measures and selectively apply those that can undermine human rights, ignore due process, and prioritise regime security over national security – all of which contribute to the heightened state of fragility and fragmenting social cohesion. The lack of normative integration and mainstreaming of the closely related issues like human rights, civil liberties, conflict resolution and the rule of law, provide a permissive environment to use the regulative pathway of the GWoT as a tool to serve regime security instead of national security in fragile states.

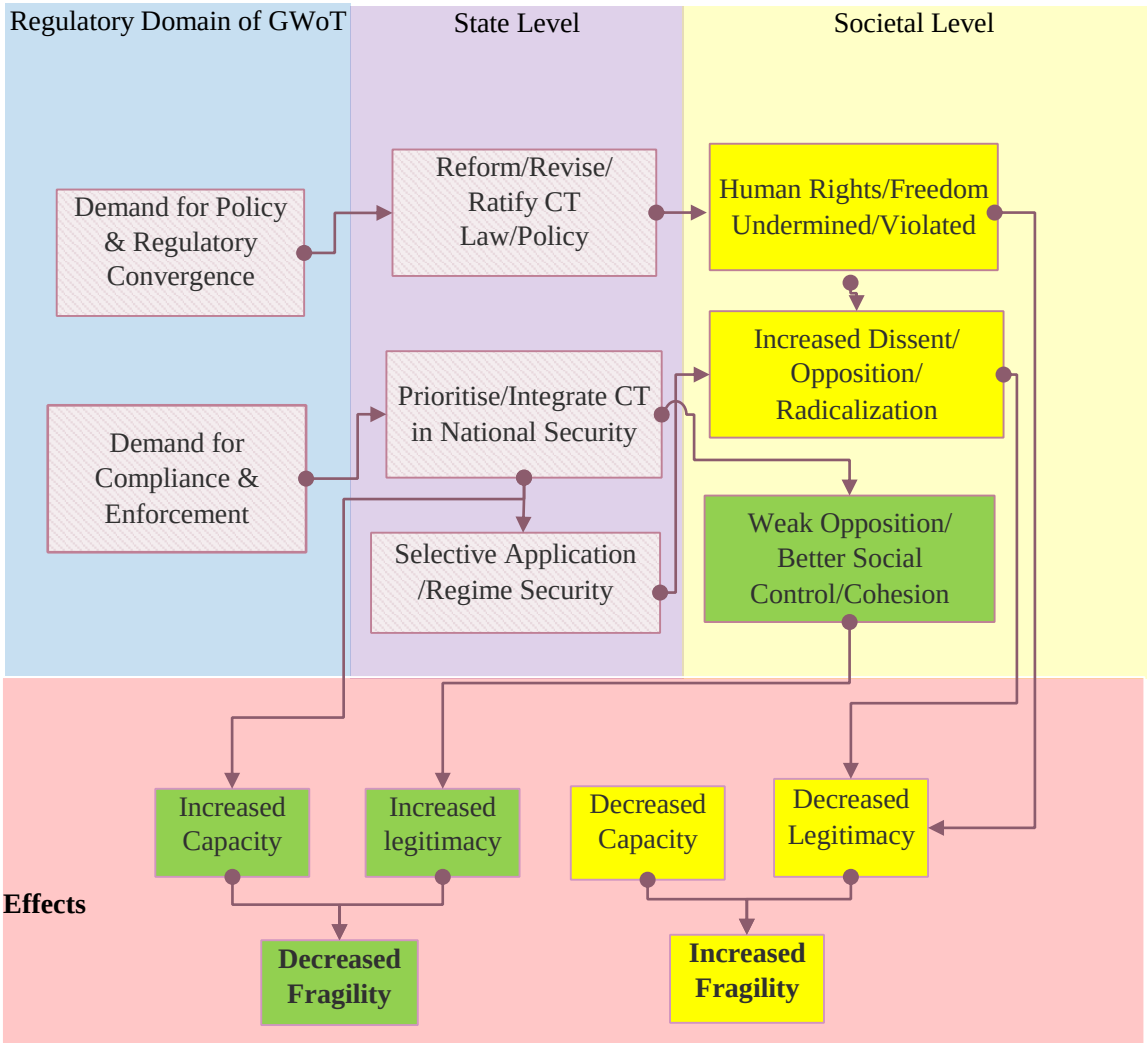
The analysis of evidence lead us to arrive at the causal pathways of the regulatory domain as depicted in figure 5. There are two principal drivers at the global level. First, the emphasis on ratifying U.N. based conventions, and resolution contributes towards creating a demand for

[39] The particular principles mentioned includes the principle of legality that entails the principle of certainty (i.e., that the law is reasonably foreseeable in its application and consequences). CTED concludes that state's compliance to the preventive provisions of CT regulatory pathway are 'partial' (CTED Report 2016: 111).

[40] According to the policy brief by the Global Network Initiative (2016) several countries have introduced laws and policies that may have 'serious consequences for human rights without necessarily providing effective strategies to counter violent extremism or stem recruitment by terrorist organizations.' State parties have also established new mechanisms to use the content policies of ICT companies to request the removal of content through the companies' own mechanisms for alleged violation of companies' terms of reference. Such type of government referrals 'could set precedents for extra-judicial government censorship' without adequate access to remedy, accountability, or transparency for users and the public.

fragile states not only to ratify those instruments but also to reform/revise domestic laws. This, in turn, can *mutate* in fragile states to curb human rights, leading to increasing dissent, opposition, and radicalisation, contributing to more fragility. Second, the global demand for compliance and enforcement encourages states to prioritise and elevate terrorism legislation as a national security threat, declaring zero-tolerance policy. This, in turn, could be applied selectively for regime security instead of national security and thereby contributing to increased dissent, opposition and radicalisation in the society leading to decrease legitimacy of the regime and increased state fragility. However, if the opposition is weak, the state can achieve better social control and may not slip into more fragility. The regulatory domain of GWoT sets out the broad areas for material assistance for capacity building -- which we examine next.

Figure 5.15: The Regulatory Pathway of GWoT Affecting the Fragile States



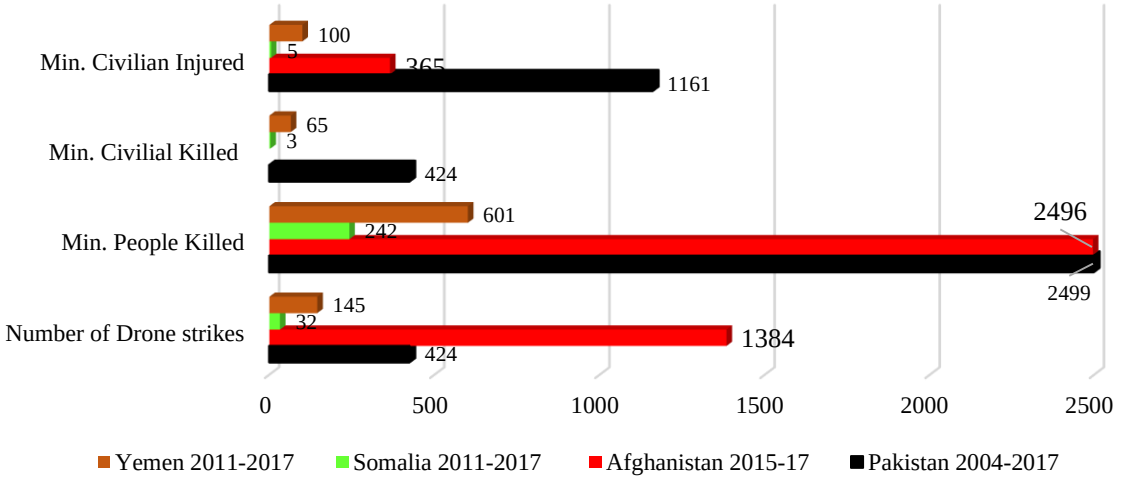
## 6. Theorising the Effects of the Capability Pathways of GWoT

As alluded to before, material factors constitute the capability pathways contributing to states' coercive ability guiding its interest and action in the fight against terrorism. The capability pathways manifests through the exercise of coercion or threat of coercive actions (i.e. full-scale intervention to selective/surgical strikes using drones/Special Forces, sanctions and proscriptions of groups, individuals and entities), and capacity building assistance (i.e. security sector reform, aid, technical assistance, intelligence sharing, and building new CT institutions). Most fragile states are situated at the receiving end of such manifestations of the capability pathways, either as a willing or as an unwilling and unable partner of the GWoT.

Front line fragile states that are *unable and/or unwilling* to participate in the GWoT may be subjected to direct coercive actions, often disregarding the sovereignty norms.[41] The scope and nature of coercive action against such fragile states has gradually shifted from full-fledged invasion (such as in Afghanistan in 2001, Iraq in 2003) to surgical strikes using drone, Special Forces, and private security forces (Mazzetti, et.al. 2016, The White House, 2013). Figure 5.16 documents the trend of U.S. drone strikes and associated causalities in Afghanistan, Pakistan, Somalia and Yemen between 2004-2017. These strikes were conducted with or without the consent of the host nations (Serle and Purkiss 2016, Mueller et al. 2006).

[41] The sovereignty principle is addressed in the U.S. Report on the legal and policy frameworks guiding the use of military force and related national security operations. It outlines the 'standards' for U.S. military to conduct such interventions to ''ensures respect for the sovereignty of other States'' (The While House 2016:10). However, the UN human rights commission notes that such (national) standards, may lack international legitimacy, transparency and accountability (A/HRC/34/61, p. 12).

Figure 5.16: U.S. Drone Srtikes and Casualities 2004-2017




Source: The Bureau of Investigative Journalism (2017a)

Countries like Israel, India, Kenya and Syria have also used coercive force against their respective 'unwilling' neighbours in the name of fighting terrorism. The Israeli security forces conducted *Operation Pillar of Defence* (14-21 November 2012) using remotely piloted aircraft in Gaza, some of which caused civilian casualties and destruction (A/HRC/22/35/Add.1). In 2016 the Indian military claimed to have conducted a surgical strike inside Pakistan territory in response to the terrorist attack, allegedly linked to a group based in Pakistan in one of its military bases in Uri.[42] Similar attacks against alleged insurgents were also carried out by India inside Myanmar in 2015, raising regional tension (Iyengar, 2015; Majumdar 2015).

The increasing use of drones and Special Forces to fight terrorism reflects the quest for adopting a 'lesser evil' doctrine enshrined in the consequentialist approach as mentioned. The ability to provide near-real-time video feeds, loiter and gather intelligence for long periods before a strike and the use of precision-guided munitions, is often cited as the positive advantage of drone strikes from a humanitarian law perspective (A/68/389, p.7).[43] However,

[42] The Indian Director General of Military Operations claimed that India conducted an overnight 'surgical strike' along the Line of Control in Pakistan on 29 September 2016 against 'seven terror launch pads' inflicting 'significant casualties' on terrorists (The Indian Express, 2016). In June 2015, India also claimed to have lunched a rare cross-border strike against 'insurgents' just over the border with Myanmar, ''inflicting significant casualties.'' However, both claims were contested by the respective governments and very little about the operation has been confirmed. Parameswaran (2015).

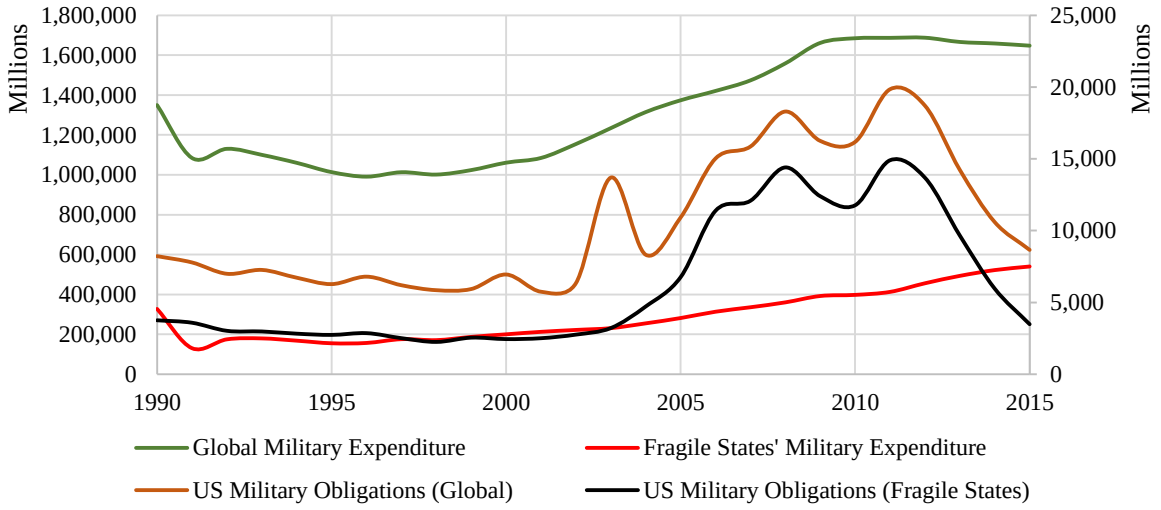
[43] According to the International Committee of the Red Cross (ICRC 2013), 'any weapon that makes it possible to carry out more precise attacks and helps avoid or minimise incidental loss of civilian life, injury to civilians, or damage to civilian objects, should be given preference over weapons that do not'.

the legal ground for using drones,[44] the processes of obtaining a states' consent,[45] transparency about the targeting and the civilian casualties due to drone attack remains contested. Such coercive actions against 'associated' or 'co-belligerents' forces in non-consenting states may prompt protests from the local population creating social friction, straining domestic legitimacy and exacerbating state fragility. According to the 2014 Pew Research Centre survey (p.11) in Pakistan, 67 per cent of respondents opposed drone attacks.[46] Several UN HRC Reports have also concluded that the use of a drone in extraterritorial lethal CT operations violates international laws demanding to limit their use (A/HRC/34/61, A/68/389, A/HRC/25/29). In sum, the lack of transparency and accountability of drone strikes and the reality of being subjected to such coercive actions reverberate in the mind of the fragile states and societies.

For the *willing* participants of the GWoT, the capability pathway involves domestic resource mobilisation, and external assistance focused on the coercive capacity building. Figure 5.17 plots the trend of global and fragile states' military expenditure for the period 1990-2015[47] and the U.S. military assistance[48] for the same period. It indicates that, despite a gradual decrease after 1990, both domestic and external resource mobilisation towards coercive capacity building by all states in general and the fragile states in particular, started increasing after 2001. The annual growth rate[49] of military expenditure by the fragile states increased from - 4 per cent between 1990 -2001 to +7 per cent in the era of GWoT (2002-2015). A similar trend is evident in U.S. military assistance to the fragile states as it increased by six percentage point for the same period of observation. Such an emphasis on the coercive capacity building in fragile states often comes at the expense of dispensing the provisions of other core services by the state resulting its capacity deficits.

[44] The thematic areas for legal contestation include the 'consent' of host nation, purview of drone attack in 'self-defence' against a 'unable or unwilling' state and defining the 'imminence' of the treat.
[45] Host nation's consent for drone strikes often bypass the legitimate channel. There are 'strong evidence' to suggest that the Pakistan military and some government officials were "quietly acquiesced' about the U.S. drone strikes in Federally Administered Tribal Areas between 2004 -2008. Amidst such revelations, Pakistan's parliament unanimously adopted revised terms of engagement with the U.S. NATO and ISAF regarding drone strikes in 2012. It restricted the Government or any of its component entities to lawfully enter into *verbal agreements* with any foreign Government or authority allowing such strikes inside Pakistani territory and also declared that any such agreements previously entered into should forthwith cease to have effect. (BBC, 2013; The Dawn 2016, A/68/389, p.15).
[46] The respondents opined that drone attack kills too many innocent people. Some however suggests that the 'drone blowback in Pakistan is a myth.' (Shah, 2016).
[47] The data is from SIPRI (2017) Military expenditure database expressed in constant (2014) US$ m and has several missing data on fragile states.
[48] The data is from US Overseas Loans & Grants 2016 in terms of 'obligations' (Constant 2015 $US).
[49] The formula for the Compound Annual Growth Rate is ((End Value/Start Value) ^ (1/Periods) -1.

Figure 5.17: Global and Fragile States Military Expenditure and US Militatry Assistance 1990-2015




Source: Author's compilation from SIPRI 2017 and US Overseas Loans & Grants (Green Book).

However, the increased military spending and the scope of security cooperation did not alter the global balance of power but created unique regional and sub-regional polarisation and alignments. Leveraging the new capabilities and the demand created by the regulative and cognitive pathways of GWoT, fragile states' approach to addressing its own (in) security dilemmas mutates in seeking and building unique bi-lateral and multi-lateral alliance and cooperation. Three such examples of alliance building and cooperation amongst the willing participants of GWoT in the ME, South Asia and Central Asia are worth analysing.

In 2015, Saudi Arabia - a leading member of the Gulf Cooperation Council (GCC) ventured beyond the region to form the Islamic Military Alliance (IMA) to 'protect Muslim countries from all terrorist groups and terrorist organizations irrespective of their sect and name' (Shah and Stancati 2017).[50] However, regional states like Iraq and Syria who are at the forefront of the CT fight were not invited to join the IMA, presumably due to their alliance with the Shia

[50] The 34 nation Islamic counter terrorism coalition includes Saudi Arabia, Bahrain, Bangladesh, Benin, Chad, Comoros, Djibouti, Egypt, Gabon, Guinea, Ivory Coast, Jordan, Kuwait, Lebanon, Libya, Malaysia, Maldives, Mali, Morocco, Mauritania, Niger, Nigeria, Pakistan, the Palestinians, Qatar, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Turkey, United Arab Emirates and Yemen.

dominated Iran. [51] Thus, the IMA is seen as a move to isolate Iran (Fitch and Stancati 2016). Despite the U.S. and the UK's support (White House 2016, UK Foreign Office, 2016), the alliance remains susceptible to the sectarian and regional rivalries, reducing the IMA as an exercise to draw legitimacy and isolate Iran. Following the 2017 IMA summit – that added greater legitimacy to the kingdom, Saudi Arabia, along with Egypt, Bahrain and the UAE imposed a blockade on Qatar accusing her of supporting terrorist entities in the region and made a 13-point demand. Unsurprisingly, the number one demand was to scale down Qatar's diplomatic ties with Iran by closing down the Iranian diplomatic missions in Qatar (Al Jazeera, 2017). Notwithstanding Qatar's alleged flirting with the terrorist groups, the Saudi action signified how the alliance building technique could be used to address own insecurity under the rubric of the GWoT triggering regional polarisation and potential de-stabilising situations.

The second example relates to the well-touted arrival of Russian troops (a traditional ally of India) in Pakistan (an arch rival of India), for the first time in September 2016 for a 'regular' exercise with an anti-terror focus.[52] However, the arrival of the Russian troops in Pakistan coincided with heightened Indo-Pak tension where India accused Pakistan of the recent terrorist attack in Uri and was in a diplomatic offensive to isolate Pakistan including a refusal to attend the SAARC summit scheduled to be held in Islamabad that was later postponed (Mohan 2016, Karim 2016). Even if one accepts that the exercise was planned a year before – as claimed by the authorities, it is hard to justify why the Russians did not reschedule it and avoid being played into the regional power game. The ability to get the Russian troops in its soil at a time of their choosing reflects how a state can exploit the CT cooperation framework secured through the capability pathway of GWoT that can contribute to amplifying the regional enmity instead of resolving it – feeding state fragility.

Third, the Organisation for Security and Cooperation in Europe (OSCE) undertook SSR programmes for combating terrorism in several authoritarian states in Central Asia (OSCE 2001).[53] However, most SSR initiatives have failed to achieve their objectives and in certain

[51] Saudi Arabia has long expressed concern over the Iranian influence in the region. these are evidenced by the mention of the 'occupation' of the three islands: the Greater and the Lesser Tunbs and Abu Musa belonging to United Arab Emirates by Iran in several GCC Final Communiqué (GCC, 1998, 2009).
[52] The exercise was arranged uner the 2014 Military Cooperation Pact. The Russian president stated that 'it[the exercise] is good for India because of their anti-terror focus (The Dawn, 2016a, 2016b).
[53] The Bishkek declaration in December 2001 triggered the SSR initiatives by the OSCE. The countries included Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan, and Tajikistan.

cases 'may have had a negative impact on the OSCE's credibility' (Lewis 2011: 103). Interestingly, the regime in Uzbekistan signed the MoU with OSCE to train its police force at a time when the country was under external pressure for an international investigation into the killings of protesters by the security forces in Andijan in 2005. The MoU also did not have any mention of human rights training, issues of democratic oversight or any reference to the involvement of civil society (Lewis 2011: 109). [54] It reflects that the framework of cooperation under the capability pathway of GWoT can be exploited by the fragile state to deflect external pressure. More controversially, some OSCE members were alleged to have been selling small arms and light weapons (SALW) destined for ISIS. According to the reports, at least 68 cargo flights from four OSCE member states[55] have carried SALW to Saudi Arabia, the UAE and Jordan, destined for the Syrian rebels (The Guardian, 2016, BIRN and OCCRP 2016). Thus, it was no surprise to see that the OSCE 2016 Ministerial Declaration emphasised renewed determination 'to prevent, combat and eradicate the use of SALW and conventional ammunition for terrorism and transnational organised crime' (OSCE 2017: 55).

The evidence hints at several consequences of the capability pathway of GWoT. First, the capability pathway of the GWoT feeds into the dynamics of regional amity/enmity allowing the fragile states to use the demand for joining and cooperating in the fight against terrorism to isolate the (regional) rival. External support in such context amplifies and (re)transmit the rivalry instead of solving or containing it. Second, the juxtaposed actions by the OSCE at the individual and collective levels, and the legacy of OSCE's SSR programmes in the authoritarian regimes tend to suggest that the CT cooperation can also be used by fragile states to deflect external pressure. Third, it demonstrates that the position of the fragile states in the lower spectrum of the international hierarchy does not deter them to leverage from the capability pathway of the GWoT. The external actors often remain happy with the willingness of the regime to cooperate in the GWoT, viewing it as a 'breakthrough' and ignoring that fragile states true transformation depends on the development of in-country state capacity (Lewis 2011:117).[56] Viewed this way, fragile states' willingness to join the GWoT can be a mere

[54] David Lewis contends that OSCE's assistance for SSR in authoritarian regimes was particularly difficult in absence of any ''parallel process of political democratisation''. The complex relationship between state security forces and organised crime also pose additional challenge (Lewis 2011: 103-05).
[55] Countries include Serbia, Slovakia, Bulgaria and Czech Republic.
[56] Lewis (2011) conclusion is based on Tajikistan, Uzbekistan and Kyrgyzstan. However, a 'narrow' definition for external aid/assistance delivery may also originate from the donor end. For example, UK's overseas aid through Conflict, Stability and Security Fund (CSSF) and the Prosperity Fund is led by the

tactical concession to address internal insecurity dilemmas, defecting external pressure, reducing such external assistance for capacity building to a mere instrument for survival.

The growing number of global, regional and state institutions aimed at CT capacity building is also part of the capability pathway of GWoT. Considering the large numbers of such entities a brief description of the major institutions together with their role and programs for fragile states' capacity building, merits mentioning to emphasise the immensity of this post 9/11 global governance architecture of the GWoT.

In 2001, the UNSC established the CTC signalling a new approach to fight international terrorism. The CTC operates through its Executive Directorate (CTED) and is tasked to implement the policy decisions, conduct expert assessments of each member state and facilitate CT technical assistance in light of the relevant resolutions. The CTC also has several partner organisations[57] and working relations with regional and sub-regional organisations.[58] The Counter-Terrorism Implementation Task Force (CTITF) (established in 2005) and the UN Counter-Terrorism Centre (UNCCT) (established in 2011 within the CTITF) assist to meet member states capacity-building needs and to strengthen their CT expertise.[59] CTITF consists of 38 entities and 12 thematic working groups,[60] covering all major aspect of the CT. The

National Security Council (NSC) instead of DfID. This has raised doubts whether NSC will prioritise poverty reduction over a narrow definition of the national interest, making its accountability and transparency a matter of particular concern. (House of Commons 2016: 16)

[57] CTC's partner organization includes Financial Action Task Force (FATF), the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO), the International Criminal Police Organization (INTERPOL), International Organization for Migration (IOM); the Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), World Customs Organization (WCO), World Bank.

[58] CTC maintains working relations with African Union (AU), the Association of Southeast Asian Nations (ASEAN), the European Union, the League of Arab States (LAS), the Organization of Islamic Cooperation (OIC), the North Atlantic Treaty Organization (NATO), the Organization of American States (OAS), and the Pacific Islands Forum (PIF)

[59] The CTITF Office/UNCCT is tasked by the General Assembly.

[60] Twelve thematic working group of CTITF includes: Border Management and Law Enforcement relating to Counter-Terrorism, Countering the Financing of Terrorism, Foreign Terrorist Fighters (FTF), National and Regional Counter-Terrorism Strategies, Preventing and Responding to WMD Terrorist Attacks, Preventing Violent Extremism and Conditions Conducive to the Spread of Terrorism, Promoting and Protecting Human Rights and the Rule of Law While Countering Terrorism, Protection of Critical Infrastructure Including Internet, Vulnerable Targets and Tourism Security, Supporting and Highlighting Victims of Terrorism, Legal and Criminal Justice Responses to Terrorism, Gender Sensitive Approach to Preventing and Countering Terrorism (in formation), Working Group on Communications (in formation).

working groups develop best practices and capacity-building projects in areas where cooperation among states can add value to the implementation of the global CT strategy adopted by the UNGA. The establishment and functioning of these UN agencies signify that the post 9/11 approach to international terrorism has moved from norm socialisation to norm implementation – strengthening the capability pathway of the GWoT.

The U.S. has also established and introduced programmes and commissioned CT institutions after the 9/11, strengthening the capability pathway of GWoT (Lum, 2006, 2008; Vaughn, 2010; Patrick and Brown, 2009). The U.S. Department of States (DoS) initiated several programmes relating to counter international terrorism, violent extremism, terrorism financing, screening and interdiction. [61] The Antiterrorism Assistance program (ATA), alone delivered CT training to more than 90,000 law enforcement personnel from 154 countries since its inception.[62] The increasing emphasis on CT capacity building is also evidenced by request for Counter-Terrorism Partnership Fund (CTPF) – an initiative by the US President that kicked off in 2014. The 2016 request for CTPF amounts to $2.1 billion to facilitate the U.S. to respond to 'evolving terrorist threats' most notably from the Levant, Yemen, Lake Chad basin, East Africa region, populated by fragile states. [63] The US military is also actively engaged in the CT capacity building. The objectives of the U.S. military's African Command (AFRICOM), established in 2007, includes the 'prevention of terrorist attacks against U.S. interests, security of the global economic system, and protection of our citizens abroad' (AFCOM 2015:1). It also provides various CT training to the regional forces.

Similarly, NATO, as a key player in the GWoT, has introduced CT policy guidelines and established several platforms for cooperation with non-member states including fragile states.

[61] The US DoS programmes include: Antiterrorism Assistance (ATA), Countering Violent Extremism (CVE), Countering the Financing of Terrorism Finance (CFT), Counterterrorism Partnerships Fund (CTPF), Foreign Emergency Support Team (FEST), Global Counterterrorism Forum (GCTF), International Security Events Group (ISEG) Regional Strategic Initiative (RSI), Technical Support Working Group (TSWG), Terrorist Screening and Interdiction Programs (TSI), Trans-Sahara Counterterrorism Partnership (TSCTP), Partnership for Regional East African Counterterrorism (PREACT). Mentionable that some of these initiatives, such as ATA predates the event of 9/11.

[62] ''Anti-Terrorism Assistance 2012'', U.S. Department of States, Bureau of Diplomatic Security.

[63] The objective of the partnership fund is to support a transition to a more sustainable and partnership-focused approach to counterterrorism with a flexible mechanism allowing U.S. DoD to respond more nimbly to evolving terrorist threats from South Asia to the Sahel. Office of the Under Secretary of Defense (Comptroller) (2016).

These include the NATO/Russia Council (NRC),[64] the Partnership Action Plans against Terrorism (PAP-T)[65] , the Mediterranean Dialogue[66] and the Istanbul Cooperation Initiative (ICI) [67] for 'practical cooperation including efforts to build capacity, enhance resilience, and support the fight against terrorism' (NATO 2017: 54). NATO's Defence Against Terrorism Program of Work (DAT POW), introduced in 2004 is its primary programme for CT capacity building efforts in non-NATO countries. It includes providing expertise across a range of topics including military engineering for route clearance, countering Improvise Explosive Devices (C-IED), explosives ordnance disposal (EOD), Non-Lethal Capabilities (NLC), cultural familiarisation, network analysis and modelling (NATO 2012, 2017).[68] NATO troop are also deployed in Afghanistan[69] and Kosovo[70], while NATO ships are deployed at sea conducting CT, counter-piracy, the proliferation of weapons of mass destruction operation and tackling illegal migrants and human trafficking. [71]

[64] NATO's involvement in CT has expanded since it first (and only time) invoked the 'collective defence clause' (Article 5) after 9/11. Key priorities of NRC include: regular exchanges of information, consultation, joint threat assessments, civil emergency planning for terrorist attacks, and efforts to explore the role of the military in combating terrorism. This was reinforced in 2004 by adopting an Action Plan against Terrorism to coordinate practical cooperation aimed at enhancing NATO and Russian capabilities to act individually or jointly in preventing terrorism, combating terrorist activities, and managing the consequences of terrorist acts.

[65] PAP-T is an element of NATO's Partnership for Peace (PfP) programme, later expanded to include NATO's Mediterranean Dialogue partners and other interested countries, on a case-by-case basis.

[66] Dialogue countries include Algeria, Egypt, Israel, Jordan, Mauritania, Morocco and Tunisia.

[67] ICI countries includes Bahrain, Kuwait, Qatar and the United Arab Emirates.

[68] Though primarily oriented towards Allied priorities, several DAT POW such as C-IED, EOD and NLC training are open to non-NATO members. According to NATO secretary General's 2016 Annual Report, 29 percent of capacity building training were EOD/C-IEDs/ Military Engineering followed by Joint Intelligence Surveillance and Reconnaissance (JISR) (NATO 2017: 56)

[69] Around 13,000 NATO troops were deployed in Afghanistan in 2016 as part of operation 'Resolute Support'. Operation Enduring Partnership is NATO's ongoing capacity building programme including professional military education for Afghan military (NATO 2017: 52).

[70] The NATO led Kosovo Force (KFOR) was deployed in 1999 under UNSC Resolution 1244. In 2016, approximately 4,500 NATO troops were in KFOR to uphold a safe and secure environment in Kosovo, and to maintain freedom of movement for all its citizens and communities.

[71] NATO's maritime operation in the Mediterranean was initiated following the 9/11 starting with Operation Active Endeavour. It was followed by Operation Sea Guardian launched in 2016. Tasks included ''maritime situational awareness, freedom of navigation, maritime interdiction, countering the proliferation of weapons of mass destruction, protecting critical infrastructure, countering terrorism at sea, and maritime security capacity building''. However, Operation Sea Guardian is now increasingly engaged in tackling illegal migrants and human trafficking in the Aegean Sea. NATO's counter-piracy operation 'Ocean Shield', ended on Dec 2016.

OSCE's CT strategy focuses on addressing the 'conditions' that fosters and sustains terrorism and pledges to strengthen states' capacities to prevent and combat terrorism (OSCE 2012: 3).[72] The programmes include SSR, criminal justice, law enforcement, border security and management, within a framework based on the 'rule of law and respect for human rights' (2012:4). The Department for Addressing Transnational Threats/Action against Terrorism Unit (TNTD/ ATU) is OSCE's focal point and works as a primary interface with the UN. The human rights dimension is addressed through the Office for Democratic Institutions and Human Rights (ODIHR). As highlighted, OSCE has undertaken SSR programmes in fragile states in Central Asia.

INTERPOL is one of the most important non-military entities, integral to combat terrorism. INTERPOL's 'notices and diffusion' program circulates alerts on terrorists, dangerous criminals and weapons threats while its 'Special Notice' alerts on individuals and entities associated with the U.N. Al-Qaida and the Taliban sanction list helping member countries to implement the asset freeze, travel bans and arms embargoes. Its databases on personal criminal history data, stolen/lost travel documents and associated notices are crucial for the border management efforts. In the event of a terrorist attack, INTERPOL also provides a deployable Incident Response Team (IRT) for a range of investigative and analytical support services (INTERPOL 2015, 2017).

Following the GWoT, several regional bodies like Asia-Pacific Economic Cooperation (APEC), Association of Southeast Asian Nations (ASEAN)[73], ASEAN Regional Forum (ARF), Shanghai Cooperation Organization (SCO), South Asian Association for Regional Cooperation (SAARC)[74] have developed and implemented CT capacity building strategies. These organisations routinely conduct joint CT exercises involving their security forces, conferences, workshops on preventive and management of major terrorist attacks, counter-

[72] The OSCE has 57 participating States from Europe, Central Asia and North America. Its CT efforts dates back to the Bucharest Plan of Action adopted in December 2001 followed by the 2002 Charter, revised time to time and reflected in many OSCE Ministerial Council Declarations. The 2012 document decision no. 1063, provides OSCE's consolidated framework for the fight against terrorism.

[73] ASEAN adopted the declaration on transnational crime to combat terrorism in 1997. It was reinforced by an action plan in 1999. However, the 9/11 event added new impetus to ASEAN's CT drive resulting in the 2007 formulation of the ASEAN Convention on CT (ACCT) that came into force in May 2011 and has been ratified by all members.

[74] SAARC States signed a Convention on Mutual Legal Assistance in 2008, the Convention is not yet in effect because it has not been ratified by all members.

radicalisation and cyber terrorism. ASEAN has also developed a CT Action Plan (CTAPs) checklist –a self-assessment measure by states regarding their CT capabilities facilitating external assistance.[75] However, success within the SAARC countries on CT cooperation has remained limited mainly due to India-Pakistan rivalry.

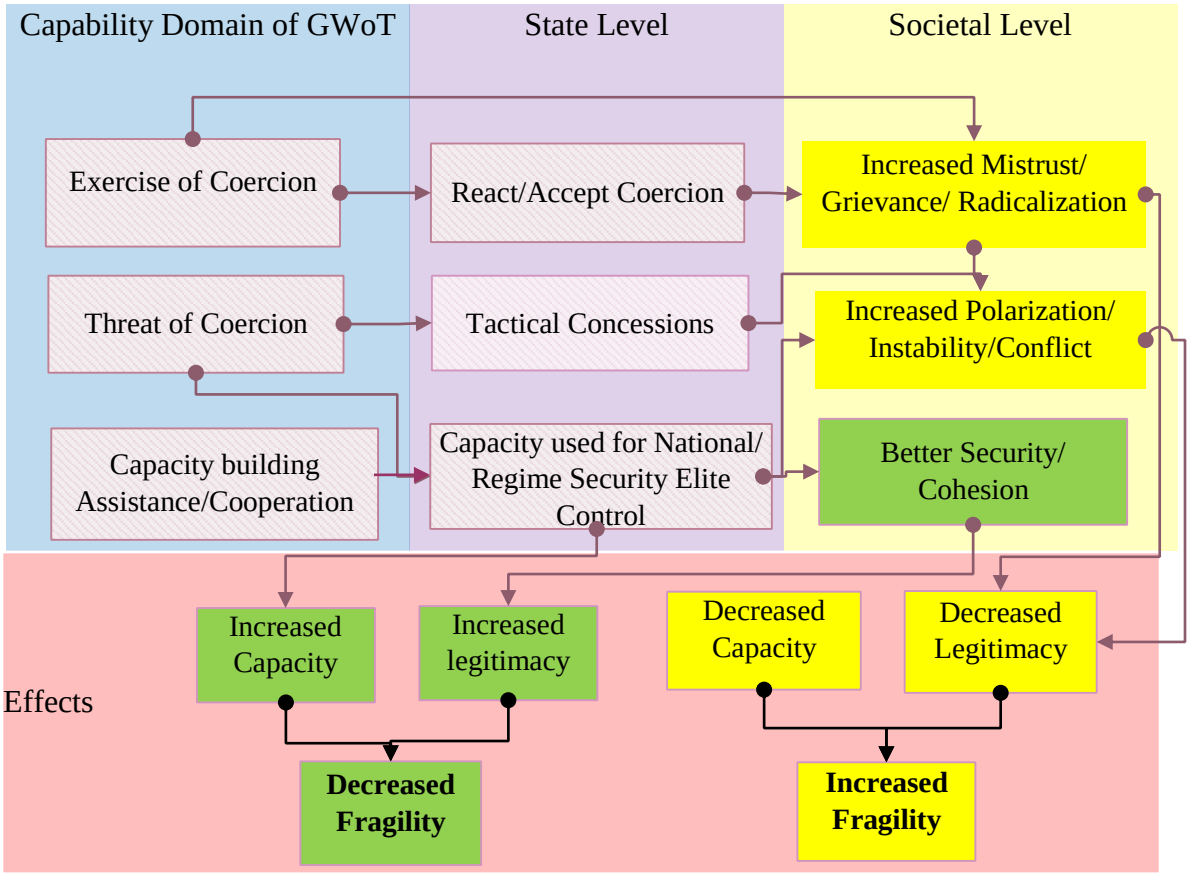



Figure 5.18: Capability Pathway of GWoT affecting State Fragility

In sum, the proliferation of post-9/11 CT institutions and their functioning signifies the capability pathway. The pathway manifests itself through the exercise of coercion, the threat of coercion and physical assistance to fight international terrorism affecting fragile states and its societies as depicted in figure 5.18. The manifestation of the capability pathway results in subjecting the unable and unwilling fragile states to coercive actions such as drone/surgical strikes by external actors, often in violation of the sovereignty norms. Such actions affect the domestic power structure, feeding resentments, creating group grievances, mistrust of the government that may spiral into questioning the legitimacy of the ruling regime and increase

[75] The stated objective of CTAP is to ''self-assess progress against APEC Leaders' and Ministers' counter-terrorism commitments, and to identify capacity building needs to assist the CTTF to identify priority areas for future cooperation.''

fragility. It also sets precedence for sovereignty norm violation feeding regional instability and lack of trust, leading to militarisation and arms race that drains out fragile states' resources from providing core services.

The willingness of fragile states to join the GWoT could also mean a mere tactical concession to *deflect* the external pressure and to *secure* external assistance and legitimacy. Faced with its own unique (in) security dilemma, the regimes in fragile states often embark on optimising the capability pathway of the GWoT to make new alliances and prioritise coercive capacity building. Such alliance building is often aimed at isolating the rival states while within fragile states the coercive capacity is often used as a tool to strengthened regime security and elite control of the society. The discourse of the GWoT accord relative ease to the regime to divert the much-needed material resources, sidelining more pressing issues. Externally, the demand for joining the GWoT backed by material assistance feeds into the regional polarisation that continues to amplify the dynamics of (regional) enmity. Thus, the structure of the GWoT in such a condition becomes a necessary evil, and the coercive capability pathway becomes an instrument to furthering regimes interest and agendas.

## 7. Comparative Analysis of Cognitive, Regulatory and Capability Pathways

We have argued (in chapter 4) that the elements of a global structure have their own emergent causal power, and together they become one *irreducible whole* affecting the change in fragile states. To become one irreducible whole, the emergent causal power of the cognitive, regulatory and capability pathways should interact with each other. As can be seen from the schematic diagrams (figure 5.10, 5.15, and 5.18), there are differences in the origins and channels of operations of the three pathways. However, they all lead to the same outcome – an increase or decrease in state fragility. The impact of all three pathways can empower the state and contribute to increased authoritarianism, elite control and capture of the state. At the societal level, all three pathways can affect social cohesion that may or may not lead to increased fragility depending on the strength of the opposition and the measures taken by the state. But what are their differences and how can we characterise the relationship and the relative importance of the three pathways?

The cognitive pathway is distinct from the regulatory pathway as the latter needs the state institutions to operate while the former can directly interact with society. It is intersubjective in nature, highly contextual and involves defining the 'us' and 'them'. An increasing trend in

the regulatory and capability pathways (such as a large number of countries conforming global CT rules and increasing CT capacity building) can only become meaningful when viewed through the cognitive pathways – i.e. who is the 'other' in a particular context? The cognitive pathway can mutate, to include, not only those who are globally proscribed as a terrorist, but also those whom the regime wants to label as terrorist such as the opposition, minorities or groups in variance with the regime's ideology. Thus, one could argue that the cognitive pathway holds greater significance.

Although the incubation process for policy formulation, institutions and capacity building starts at the cognitive domain, the action against terrorism cannot happen in a material vacuum – i.e. the capability domain. The motive of taking actions originates in the cognitive domain, and the boundaries within which it will be performed is defined by the regulatory domain. This, however, does not make the latter two pathways subordinate to the cognitive domain. For example, in *1972* the UNSG recognised that the 'scope of terrorist activity had become increasingly international', creating a 'climate of fear from which no one is immune' and required *collective action* (A/879l/Add.1). However, the idea for taking collective action remained dormant for over three decades. After the 9/11, it took only a few years for the member states to converge on the UN-based CT instruments, devise plans, strategies, technical guidance and, more importantly, provide financial and material assistance to fight terrorism – theorised as the regulatory and capability pathways. The three pathways are interdependent and the interaction and relationship amongst the pathways are determined by the 'tracks along which action has been pushed by the dynamic of interest' (of powerful actors).

The interdependence among the agents of cognitive, regulatory and the capability pathways and their actions, as well as the positions they occupy in the system suggest two layers of relationship. The first layer involves the agents in fragile states and the global actor (s) demanding the state to act and cooperate in a certain way to fight terrorism. Fragile states cannot ignore the global normative culture and practices of fighting terrorism. Thus, the functioning of the three pathways in this layer is largely informed by the global discourse on terrorism, professed by the powerful actors at the loci of the international system. States are required to take punitive actions, send reports, monitor the proscribed terrorist groups and their associates as identified by global institutions/powerful actors or face consequences.

The second layer of the relationship is between the state and the society within which the capacity building and action against terrorism take place. At this layer, the influence of the wider normative culture and practices are far from being in full agreement with the global norms.[76] In an environment where the legitimacy of the government is low, and the internal process of decision making is not accountable and transparent, the global echo chamber and 'othering' (i.e. the cognitive pathway) may easily prompt regimes to reform and revise its CT policy to earn external legitimacy and allure more resources for coercive capacity building.[77] In other words, there can be a mismatch in the thinking, interpreting and reasoning process (cognitive pathway) creating frictions. Endorsing the global CT regulations and norms, in such context, could simply be a part of the CT diplomacy and material help. Conversely, in an environment where the government is legitimate, transparent and accountable, the frictions created by the cognitive, regulatory and capability pathways of the GWoT can be resolved through a rule-governed, participatory and evidence-based mechanism. It tends to suggest that internal legitimacy deficit reinforces the cognitive, regulatory and capability pathways of the GWoT. In sum, there is a complex web of causal inter-relationships and interdependence amongst the three pathways. The relationship is highly contextual and selecting cases based on diverse context could be useful to reveal their impact better.

**Conclusion**

In sum, the theorisation of the cognitive, regulatory and the capability pathways of the GWoT signifies that state fragility is as much a matter of the structure of the GWoT as it is of the state actors and its societies. The cognitive pathway creates a condition to (re)ignite and reinforce identity-based politics shaping the mind of the state and the societies in terms of 'us' versus 'them'. It also creates a global echo chamber that empowers fragile states to fight not only terrorism but also selectively use the state's coercive power to achieve regime security instead of national security. The regulatory pathway of the GWoT creates demands to legislate, cooperate and coordinate actions against terrorism to achieve rule consistent behaviour. It induces the fragile state to elevate CT as a national security threat. In the process of containing

[76] The need for evidence-based research on terrorist trends and CT policies to inform UN based policy responses and to tailor technical assistance and capacity-building projects has been stressed by many including the current Assistant Secretary General of the UNCTED. See CTED (2018:15).

[77] As Elder-Vass (2015: 166) highlights, organisation may draw on wider social culture by adopting practices and values such as honesty, working hard, punctuality and politeness; yet in cultures that encourage nepotism or corruption, the same organisation may well undermine the purposes or functioning of the organisation

the threat of terrorism and conforming to the demand of rule consistent behaviour, fragile states often adopt broad and vague CT regulations that could be used not only against terrorism but also against political opponents, insurgency, non-violent actions considered as a threat to the regime and not national security. Finally, the capability pathway of the GWoT involves the exercise of coercion, the threat of coercion and physical assistance for CT capacity building. The increased cooperation and assistance primarily contribute to increasing fragile state's coercive capability which in turn can produce a mixture of outcomes depending on the motive for cooperation. It can lead to increased/ decreased fragility, feed and amplify regional enmity and polarisation. Thus, the process of arriving at fragility originates and survives due to the structure of the GWoT. The cognitive, regulatory and capability pathways of this global structure involve a criss-cross process that originates in the international dimension and mediates through the states and its societies. While the intensity of the effects of these pathways of the GWoT is highly contextual, it is aptly evident that all of them can affect fragile states' capacity and legitimacy dimension. In the subsequent chapters, we will trace the cognitive, regulatory and capability pathways using individual case studies to validate or reject our theory, starting with the Bangladesh case.

Annexes:

Annexe A: List of UN CT Conventions and Protocols
Annexe B: List of CT Related Resolutions Adopted in the UNSC 2001-2017
Annexe C: List of CT Related Resolutions Adopted in the UNGA 1972-2017