

DOI: <https://doi.org/10.71317/kjard.2.6.2026.453>

The Kashmir Journal of Academic Research and Development

Journal homepage: <https://rjsaonline.org/index.php/KJARD>

The Sovereignty Loophole: Securitization, State-Sponsored Terrorism, and the Discursive Construction of the Iranian Threat

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ARTICLE INFO	ABSTRACT
Received: May 14, 2026 Revised: May 28, 2026 Accepted: June 12, 2026 Available Online: June 26, 2026 Keywords: <i>State Sponsor of Terrorism (SST); Foreign Terrorist Organization (FTO); Securitization Theory; Critical Terrorism Studies; Sovereignty; Sovereignty Loophole; Iran; Counter-Terrorism; U.S. Foreign Policy; Critical Discourse Analysis; Operation Epic Fury; Operation roaring lion; U.S.-Iran Relations</i> Corresponding Author: Hafiz Faheem Hassan Email: Faheemhassanhafiz@gmail.com	How do states legally and ethically justify the use of counter-terrorism warfare against sovereign Westphalian states? Traditional national security ethics, anchored in Just War Theory, struggles to accommodate the "State Sponsor of Terrorism" (SST) designation, frequently accepting it as an objective description of material reality. Intervening in Critical Terrorism Studies (CTS), this article introduces the concept of the "Sovereignty Loophole." Utilizing Securitization Theory and Critical Discourse Analysis (CDA), it demonstrates that the SST label functions not as an empirical fact, but as a highly weaponized, discursively produced speech act. By examining U.S. discourse surrounding Iran between 1984 and 2026, this study traces how the unprecedented designation of the Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization (FTO) blurred the legal boundaries between sovereign statecraft and non-state terrorism. Furthermore, it examines transnational audience acceptance through allied counter-terrorism designations in Australia and Europe. The article argues that this discursive hybridity creates a normative space where the language of counter-terrorism is mobilized to bypass traditional inter-state constraints (<i>jus ad bellum</i> and <i>jus in bello</i>), legally sanitizing the targeted assassination of state officials and the devastation of state infrastructure. Ultimately, this article reveals how SST discourse enables hegemonic powers to unleash the destructive capabilities of conventional inter-state warfare while claiming the legal and ethical impunity of global counter-terrorism.

Introduction

The ethical and legal architecture of global security traditionally operates on a strict Westphalian binary. In this conventional framework, state violence is categorized into two areas. The first is inter-state conflict, which is strictly regulated by international law, constitutional war powers and the traditional principles of Just War Theory (*jus ad bellum* and *jus in bello*). The second domain is asymmetric counter-terrorism, a very deregulated paradigm, where states often resort to pre-emptive drone strikes, extraterritorial assassinations and emergency executive powers against stateless actors. But the growing geopolitical dependence on the "State Sponsor of Terrorism" (SST) label fundamentally breaks this binary. A recognized and sovereign state that is officially labelled a terrorist state enters a legal and ethical liminal zone.

This presents a profound research question: How can a sovereign Westphalian state be legally and ethically brought under the asymmetrical and unregulated violence of a non-state terror network? Moreover, how do hegemonic powers manage to circumvent the United Nations Charter and the domestic constitutional war powers in conducting large-scale kinetic operations without prior attack against a legitimate government?

The puzzle is often presented as a problem-solving exercise in orthodox national security scholarship, which is based on a positivist epistemology. Traditional analysts agree that the SST designation is an objective, empirical description of a state's hostile behavior, and concern is only that whether or not military responses are strategically effective or proportional. However, Critical Terrorism Studies (CTS) questions these assumptions by showing that "terrorism" is not simply a material reality, but a highly charged socially and politically constructed term. Critical approaches question the construction of threat designations, how they become internationally accepted, and what exceptional state violence they are utilized to sanitize.

The article asks How does the "State-Sponsored Terrorism" rhetoric help a hegemonic power to evade Westphalian sovereignty and international and domestic legal restrictions in kinetic conflict?

To fill this gap, this article suggests that the U.S. State Sponsor of Terrorism (SST) and Foreign Terrorist Organization (FTO) designations create a hybrid security discourse in which Iran can be simultaneously depicted as a state and a terrorist object. This discursive hybridity generates what this article calls a "Sovereignty Loophole": a political and normative space in which the language of counter-terrorism can be activated in parallel with the legal language of interstate self-defense. This paper shows how, through the Copenhagen School's Securitization Theory, this loophole can be used to combine the devastating military force of conventional inter-state war with the highly permissive, extra-legal ethics of global counter-terrorism.

This article empirically illustrates this mechanism by studying the securitization of the Islamic Republic of Iran by the United States. At the outset, it is important to note that this analytical framework does not negate the fact that Iran has advanced military capabilities, uranium enrichment, or is actively involved in regional proxy networks. The existence of these capabilities is a material reality. But the material properties of things do not necessarily define their political or moral significance. Instead, this article examines how official U.S. discourse actively constructed those capabilities as an existential threat, thereby effectively eroding normal legal constraints.

This study follows the sedimentation of the Iranian threat in a longitudinal Critical Discourse Analysis (CDA) of the official texts from the first designation of SST in 1984 to the unprecedented military escalations of August 2026. It examines the ways in which the U.S. executive branch secured intersubjective acceptance of its actions by allied nations, thereby legally and ethically cleansing its actions. In particular, it illustrates the use of the Sovereignty Loophole in the 2026 military operations (Epic Fury and Roaring Lion) to justify bypassing the U.S. Congress, ignoring the UN Security Council, and assassinating the officials of sovereign states in the name of counter-terrorism.

In order to support this argument, the article continues in the following manner. In section 2, the existing literature is reviewed from both orthodox strategic studies and Critical Terrorism Studies, in order to identify the theoretical gap concerning the securitization of Westphalian states. In Section 3 and 4, the theoretical framework and methodology are presented, combining Securitization Theory and the sociological concepts of sedimentation and intersubjectivity. Section 5 presents the empirical analysis, operationalizing the four core variables of securitization across the 43-year U.S.-Iran timeline up to August 2026. Finally, the applicability of the Sovereignty Loophole in current international relations is discussed in Section 6, and the need to re-orient critical security research is summarized in the concluding remarks.

Literature Review: Orthodox Strategizing to the Sovereignty Loophole

In order to place the idea of the Sovereignty Loophole, one must examine the theoretical gap in the current security literature. There are two competing academic discourses on state sponsored terrorism, one that sees terrorism as an objective material reality, and one that challenges the political and discursive production of the terrorism label. These literatures, combined with theory of securitization, create a clear theoretical gap on the use of the "terrorist" label for Westphalian states.

Orthodox Terrorism Studies, Just War, and the Objectivity of Threat

The traditional ethical and legal framework of international relations is based on a state-centric positivist approach. The foundation of this paradigm is Westphalian sovereignty, which is based on an international order made up of autonomous, legally equal states (Krasner, 1999). In this context, state violence is assessed in terms of Just War Theory (jus ad bellum and jus in bello), which provides objective ethical standards (e.g. proportionality, legitimate authority, self-defence) for inter-state armed conflict (Walzer, 1977).

In this traditional context, Orthodox Terrorism Studies (OTS) sees the "State Sponsor of Terrorism" (SST) designation as a material problem solving exercise. OTS scholars make the assumption that state sponsorship of proxy violence is an objective,

measurable fact that can be countered through strategic policy (Jackson, Breen Smyth, & Gunning, 2009). For instance, Wilner (2018) adopts a rationalist, strategic perspective to define state sponsorship of terrorism as "extended deterrence," a strategy in which states such as Iran use non-state actors to project power and protect themselves from conventional threats. In this materialist logic, researchers like Wang, Shen, and Han (2019) treat the SST classification as an empirical baseline and quantify the impact of economic sanctions on targeted regimes' strategic retrenchment by decreasing the number of proxy attacks. In this orthodox paradigm, the SST label is seen only as a diagnostic tool and ethical inquiry is restricted to the question of proportionality of coercive measures (sanctions, military action) to the objective threat.

The Hegemonic Conception and Critical Terrorism Studies

CTS challenges the positivist assumptions of OTS. The traditional "problem-solving" approach does not take into account that "terrorism" is not an objective ontological reality, but rather a highly loaded, socially and politically constructed label (Jackson et al., 2009). Jackson (2007) shows how the official narrative of the "War on Terror" was carefully crafted to de-legitimize political violence by non-state actors and to normalize and ethically cleanse the massive violence of the state.

The subjectivity of the word "terrorism" is very much apparent in the Middle East. As Malakoutikhah (2020) points out, Western countries consider Hezbollah and Hamas to be terrorist organizations, whereas Iran considers them to be national liberation movements. This duality is a reminder that the SST designation is not a consensus, but a political framing. Indeed, even prominent mainstream policy scholars concede that the U.S. SST list is "dated, politicized, [and] analytically muddy" (Byman, 2022). This analytical confusion is, importantly, "by design," giving the executive branch vast discretionary authority, Byman (2022) notes.

On this basis, critical scholars claim that the ambiguity of the concept of terrorism enables it to be used as a "hegemonic conception" (Cavusoglu, 2020). Through this instrumentalization, powerful states shape the discourse on terrorism to their geopolitical ends. Beavers (2024) masterfully explains the implications of this hegemonic power, explaining how the U.S. terrorism designation lists are used not only to monitor threats, but also to ensure domestic ideological compliance, to silence civil society dissent, and to deprive people of legal immunities under the Foreign Sovereign Immunities Act (FSIA). Likewise, Al-Kassimi (2019) states that the militarized pedagogy of counter-terrorism enables the state to assume that civilians are a threat to national security, effectively "ejecting them from the body politic."

Securitization, Intersubjectivity, and the State of Exception

CTS often uses Securitization Theory to explain the hegemonic power of the terrorism label. Securitization is a performative "speech act" (Buzan, Wæver, & de Wilde, 1998) pioneered by the Copenhagen School. When a political actor uses the term "security" or "terrorism", he or she is trying to define an issue as an existential threat that necessitates the suspension of normal democratic and legal processes (Wæver, 1995).

Securitization, however, is not a unilateral act. In their sociological critiques of the Copenhagen School, Balzacq (2005) and McDonald (2008) contend that the speech act is highly context, identity and discourse dependent. Securitization is an intersubjective process, a threat is only actionable when the audience accepts the securitizing actor's narrative. Floyd (2019) then developed the idea of "Just Securitization" and the importance of critically assessing these securitizing actions, cautioning that the creation of existential threats is often used to circumvent human rights and proportionality.

The audience intersubjectively accepts the terrorism speech act and the consequence is the formation of what Agamben (2005) calls the "state of exception". In the state of exception, the sovereign power suspends the normal rule of law, in the name of national survival. The one designated as a "terrorist" becomes homo sacer, who is deprived of legal and political rights and subject to absolute violence, but not to a legal crime or to an act of war (Agamben, 2005).

The Sovereignty Loophole: Identifying the Gap

Synthesizing these literatures reveals a profound theoretical gap. The literature on CTS and Securitization has well developed the concept of the state of exception as a response to non-state and sub-state actors. For instance, Cavusoglu (2020) examines the securitization of the Palestinians and the Muslim Brotherhood, and Al-Kassimi (2019) and Beavers (2024) explore the use of counter-terrorism against civilians and activists at home.

The securitization of non-state actors, however, is much more theorized, and the literature is less developed in terms of how this discursive mechanism is scaled up to target recognized Westphalian states. While strategic scholars such as Wilner (2018) recognize that states use non-state proxies, critical theory has not yet fully captured the discursive counter-maneuver: How does a hegemonic power use the counter-terrorism paradigm to wage war against another sovereign state removing it from westhalian immunities and inter-state war ethics?

Existing Critical Terrorism Studies (CTS) have been able to demonstrate that 'terrorism' is a securitizing speech act (Cavusoglu, 2020) that is intentionally and politically ambiguous (Byman, 2022); however, the literature has been primarily limited to the study of non-state actors and domestic civil liberties (Beavers, 2024; Al-Kassimi, 2019). The current scholarship has not yet imagined what would occur if this hegemonic speech act is directed at a recognized Westphalian state in kinetic military conflict. The concept of the 'Sovereignty Loophole' is therefore the original contribution of this article. This article extends the non-state paradigm of CTS by showing how the SST speech act is specifically used to address a military-legal constraint problem for the hegemonic state. It illustrates the way in which the deliberate ambiguity of the SST label allows the attacking state to remove the Westphalian immunity from a sovereign opponent, thus legally cleansing the decapitation of leadership (*jus in bello*) and the circumvention of constitutional war powers (*jus ad bellum*) by the permissive ethics of global counter-terrorism.

Theoretical Framework: Securitization, Sedimentation, and the Sovereignty Loophole

The theoretical framework of this article is based on the Copenhagen School's Securitization Theory (Buzan, Wæver, & de Wilde, 1998) and supplemented with sociological theories on threat construction.

The Speech Act and the State of Exception: Core Securitization Theory

Traditional positivist security studies see a threat as an objective, material reality, independent of the observer. The basic premise of Securitization Theory is that security is a socially constructed and performative practice. Wæver (1995) argues that security is a speech act: When a political leader says "security" or "terrorism" he is not just describing a pre-existing state of affairs, but is actually creating a new political reality.

The classical securitization process is based on four variables:

1. **The Securitizing Actor:** The person or group (typically a state leader or government body) who claims that there is a threat.
2. **Referent Object:** The object or thing that is supposedly being attacked and must be defended in order to survive (e.g., the state homeland, national identity, or "global civilization").
3. **The Existential Threat:** The presentation of the opponent as not only a competitor, but as a threat that will destroy the referent object if it is not stopped immediately.
4. **Extraordinary Measures:** The final step in the securitization process. The securitizing actor convinces the public that the referent object is about to be destroyed, and thus justifies the suspension of the normal, democratic, and legal rules of politics to neutralize the threat.

If a securitizing actor succeeds in passing through this process, he or she produces what Agamben (2005) calls a "state of exception. The normal rule of law is suspended in the name of survival, and the targeted entity, now called a "terrorist," loses its legal rights and protections, and is subjected to absolute violence, which is not legally defined as a crime or a violation of traditional Just War ethics.

Inter-subjectivity and Audience Acceptance

But a speech act does not automatically give permission to take extraordinary measures in isolation. Securitization is a very contextually and negotiated process, as Balzacq (2005) points out in his sociological critique of the Copenhagen School. Securitization is essentially intersubjective.

The securitizing actor must gain the acceptance of the audience to be ethically and politically legitimate. The relevant audience—whether that is the domestic legislature (e.g., the US Congress), the general public, or international allies—must be convinced by the speech act and agree that the extraordinary measures are necessary. If the audience does not accept the framing, the securitization does not work, and the actor is still subject to the traditional laws and ethics.

Longitudinal Securitization: Sedimentation and Institutionalization

Classical Securitization Theory is good at explaining sudden crises (e.g., the immediate aftermath of 9/11), but it is not a theory that can be applied to the 2026 US-Iran conflict. The military campaigns of 2026 were not the result of a sudden, overnight speech act. In order to overcome this, this framework includes two advanced developments in Critical Security Studies: Sedimentation and Institutionalized Securitization.

The sedimentation of threat discourses over decades is the basis of highly successful securitizing moves, as Balzacq (2005) points out. A population does not simply accept the unilateral bombardment of a recognized Westphalian state overnight

without being discursively dehumanized over time until it becomes a cultural fact that the target state is illegitimate. Once this sedimented discourse is institutionalized in permanent law, like the US "State Sponsor of Terrorism" (SST) list, it becomes institutionalized securitization (Buzan and Wæver 1998). The state of exception is no longer a temporary emergency but rather becomes a permanent, bureaucratic norm.

The Conceptual Model: The Sovereignty Loophole

This article combines classical securitization, intersubjectivity and sedimentation to present its main conceptual model: the Sovereignty Loophole.

The Sovereignty Loophole is a description of the particular way in which a hegemonic power is able to legally and ethically cleanse inter-state violence. The model works as follows: the securitizing actor attaches the highly ambiguous term of "terrorism" to a sovereign state over decades (sedimentation) and the target's Westphalian legitimacy is slowly undermined. The target state is permanently discursively transformed if the domestic and transnational audiences accept this institutionalized speech act (intersubjectivity). It becomes no longer a rational, sovereign equal subject to Just War ethics, but rather a legally demoted illegitimate terror network.

This transformation establishes the Sovereignty Loophole. It gives the attacking state the linguistic and legal ambiguity it needs to evade international institutions (like the UN Security Council) and domestic constitutional checks (like Congressional war declarations) so it can carry out extraordinary violence (like the decapitation of its leaders, the destruction of its infrastructure) under the very broad and lax legal umbrella of global counter-terrorism.

Methodology: A Longitudinal Critical Discourse Analysis

This article applies Critical Discourse Analysis (CDA) to empirically show how the Sovereignty Loophole is built and applied. CDA is very useful for the analysis of the construction of threat identities in official discourse and the legitimization of exceptional policies, as it is based on the premise that language is not a neutral medium but a social practice that influences political and legal reality (Fairclough, 2013). CDA is a tool that can be used in Critical Terrorism Studies (CTS) to track the linguistic construction of "terrorism" and the systematic shift in the ethical parameters of state violence (Jackson, 2005).

Operationalizing the Variables

This methodology aims to test the theoretical model presented in Section 3 in a rigorous way by operationalizing the core variables of Securitization Theory and intersubjectivity. The corpus was systematically coded with three analytical nodes:

The Speech Act and the Referent Object: Texts were coded to examine how the securitizing actors (U.S. executives and defense officials) created the existential threat. This included monitoring the use of "de-statification" rhetoric, which removed the sovereignty of Iranian actors and merged them with non-state terror groups (such as Al-Qaeda, ISIS). At the same time, text was coded for the referent object that was threatened (civilization, the democratic order, homeland security, allies, middle east etc.).

Audience Acceptance (Intersubjectivity): The speech act must be accepted by the audience. The corpus was coded to monitor the intersubjective validation of the U.S. threat narrative by domestic and international audiences, namely the U.S. Congress and allied nations updating their domestic criminal codes to include Iranian state organs as terrorists.

Extraordinary Measures (The Sovereignty Loophole): Texts were coded for instances of legal substitution. This is the extent to which officials explicitly used counter-terrorism authorities (including the 2001/2002 AUMF) to circumvent the usual rules of inter-state war (jus ad bellum and jus in bello). This node examines the direct authorization of the exceptional violence of 2020 and 2026 by this speech act.

Longitudinal Phasing (The Sedimentation Timeline)

The Sovereignty Loophole is based on the sedimentation of discourse over time, which means that classical models of securitization of events are not enough. Thus, the data span 43 years of U.S.-Iran relations and are examined along a continuum of escalation, divided into three phases:

- **Phase 1: Foundational Sedimentation (1984-2018):** This phase sets a historical baseline. It maps the first SST designation in 1984 and the early executive rhetoric that began the discursive de-statification of Iran, shifting the threat from a temporary emergency to a bureaucratic norm.
- **Phase 2: Institutional Climax and the Precedent (2019-2020):** This phase examines the Trump administration's April 2019 designation of the Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization (FTO). It is a test

of initial audience acceptance of this shift and an analysis of the first major extraordinary measure, the assassination of Major General Qasem Soleimani, in January 2020, as a "proof of concept" for the Sovereignty Loophole.

- **Phase 3:** The Apex of the Exception (March-August 2026): The speech act continues to drumbeat at the top of its volume. This phase examines the discursive and legal underpinnings of the massive military campaigns of 2026 (Epic Fury and Roaring Lion) that were made possible by 43 years of continuous threat construction.

Data Corpus

The empirical data consists of a official primary source documents from 1984 to August 2026. Purposive sampling was used to secure the most authoritative institutional speech acts that set the legal and ethical boundaries of the conflict.

The corpus includes:

Executive and Defense Discourse (U.S.): Presidential addresses to the nation, White House press releases, War Powers Resolution notifications to Congress, and Department of Defense/CENTCOM operational summaries.

Transnational Audience Discourse: Official statements from the Australian government, the Canadian government, and the European Union's foreign ministry, all accepting the U.S. narrative.

This methodology does not try to resolve the empirical, material realities of the ground war, nor does it challenge the existence of Iran's military capabilities by mapping the Copenhagen School's variables across this longitudinal data. Instead, it highlights and reveals the discursive structure—the intentional, 43-year use of the word “terrorism” to justify the United States' extraordinary military actions—that enabled the United States to legally and ethically cleanse its military actions.

Empirical Analysis: Building the Sovereignty Loophole

This Critical Discourse Analysis (CDA) is an empirical analysis of how the United States legally and ethically securitizes inter-state violence through the counter-terrorism paradigm over the course of 43 years of U.S.-Iran relations, ending in the conflict of 2026.

The Speech Act: Sedimentation, Institutionalization, and Escalation

Securitization is not an overnight process; it builds on the past development of threat discourses (Balzacq, 2005). The U.S. speech act against Iran was a discursive strategy that was continuous, escalating and divided into three phases:

Sedimentation (1984–2018)

The basic speech act took place in 1984 when the US State Department officially labelled Iran a State Sponsor of Terrorism (SST). After the bombing of the U.S. Marine barracks in Beirut in October 1983, Secretary Shultz formally declared Iran under Section 6(j) of the Export Administration Act of 1979 to be a country that "has repeatedly provided support for acts of international terrorism" (Congressional Research Service [CRS], 2000).

Later, the executive discourse systematically blurred Iran's Westphalian identity. In July 1985, President Reagan's speech made it clear that state sponsors of terror were not "sovereign governments," but instead "a new, international version of Murder, Incorporated" (Reagan, 1985). The U.S. rhetorically likened a known state to an illegal criminal syndicate, and thus began a 43-year process of "de-statification," which helped to embed the notion that Iran is beyond the limit of civilized statecraft.

The securitizing logic was legally compounded during the Clinton administration. President Clinton stated that the actions and policies of the Government of Iran "involve support for international terrorism, efforts to undermine the Middle East peace process, and the acquisition of weapons of mass destruction... are an extraordinary and unusual threat to the national security, foreign policy, and economy of the United States" (Clinton, 1997). Through the lens of CDA, Clinton's calculated use of the term "extraordinary and unusual threat" is a textbook example of securitizing; it is a formal transition between the traditional statecraft and Agamben's state of exception, and it is a formalization of the terrorism label as a justification for emergency executive powers.

The discursive sedimentation culminated in the Bush administration's 2002 State of the Union speech, in which he referred to an "Axis of Evil. President Bush threatened: "Iran aggressively pursues these weapons, and exports terror, while an unelected few suppress the Iranian people's hope for freedom. States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world" (Bush, 2002). Theologically, the "axis of evil" concept is an analytical construct that fundamentally takes Iran out of the rationalist framework of inter-state diplomacy and introduces a binary of good versus evil. Moreover, the term "exports terror" locates the sovereign state as a host for a global contagion. This speech act

was sedimented over more than 43 years and it was able to interpellate Iran as an illegitimate actor, not a traditional geopolitical competitor, but one that exists outside of the parameters of civilized statecraft.

Institutionalization of Securitization (2019)

The sedimentation transformed into Institutionalization of securitization when US imposed new sanctions with the use of the following words. "As part of the maximum pressure campaign against the Iranian regime – the world's worst state sponsor of terrorism – the United States and our partners imposed new sanctions on Tehran and its proxies. The regime has been directly responsible for plotting terrorism, including in recent years in North and South America, Europe, the Middle East, Asia and Africa" (U.S. Department of State, 2020).

This discourse culminated on April 8, 2019, when the Trump administration declared the Islamic Revolutionary Guard Corps (IRGC) a Foreign Terrorist Organization (FTO). "This unprecedented step... acknowledges the fact that Iran is not only a State Sponsor of Terrorism, but that the IRGC actively engages in... terrorism as a tool of statecraft" (Trump, 2019). The U.S. has formally recognized the blurring of state and non-state identities by designating a formal unit of a sovereign military as an FTO, a term previously used only for stateless actors such as Al-Qaeda.

The "Tester" and the Boosted Speech Act (2019–2026)

This institutionalization allowed a "tester" event: the January 2020 targeted assassination of Major General Qasem Soleimani. The U.S. used the FTO label to rhetorically downgrade Soleimani from state official to "terrorist mastermind" and it worked, pushing the envelope of international law. Following this, the speech act was vastly boosted.

By early 2026, U.S. discourse continuously framed Iran, by using the apocalyptic language of counter-terrorism, as the "the rogue Iranian terrorist regime", "murderous terrorist" and the "world's leading state sponsor of terrorism," conceptually merging the existential dread of non-state groups like Al-Qaeda with the material capabilities of a Westphalian state (The White House, 2026d). President Trump said "we're ensuring that the world's number one sponsor of terror can never obtain a nuclear weapon... And finally, we're ensuring that the Iranian regime cannot continue to arm, fund, and direct terrorist armies outside of their borders (Trump, 2026)." Vice President Vance furthered the framing by Iran as "the worst people in the world to have a nuclear weapon" and to prevent them having that is the "The most important American national security objective" (Vance, 2026)."

The Referent Object: The Security Umbrella is being expanded

The successful speech act must have a referent object, an entity of supreme value whose existence is threatened by the violation of rules, which must be preserved through the violation of rules (Buzan, Wæver, & de Wilde, 1998). The referent object in traditional securitization is normally the territorial homeland. The U.S. discourse, however, systematically expanded the referent object, making it more and more global and geopolitical, and more and more vital to the survival of the global geopolitical order, over the course of four decades of the Sovereignty Loophole's expansive use.

In the wake of Iran's first SST designation, early speech acts focused on the physical nature of the referent objects: diplomatic assets, regional peacekeepers, and American hostages in Lebanon threatened by state-backed subversion (U.S. Department of State, 1984; Reagan, 1986). This local focus, however, was expanded in a conscious discursive manner. President Clinton expanded the referent object to include the "institutional" "national security, foreign policy, and economy of the United States" (Clinton, 1995), and President Bush later to homeland survival and global peace against the proliferation of weapons of mass destruction (Bush, 2002). This expansion even reached the legislative arena, culminating in Congress's securitization of the integrity of the international financial architecture against illicit proxy networks (Comprehensive Iran Sanctions, Accountability, and Divestment Act [CISADA], 2010).

This decades long discursive magnification peaked during Operation Epic Fury in 2026. The immediate referent object was U.S. homeland security and the deployment of CENTCOM forces, but official narratives strategically linked these assets to systemic, existential thresholds: the global nuclear non-proliferation regime, international maritime transit, and the sovereign survival of regional Arab allies and the State of Israel (Rubinstein, 2026; U.S. Department of War, 2026). The U.S. securitizing actors' analytical construction of the Iranian network as an apocalyptic threat to "civilization" itself imposed an unassailable moral imperative on the March 2, 2026, launch of Operation Epic Fury, as Secretary of War Pete Hegseth argued that the Iranian military apparatus must be destroyed to ensure "Iran will never possess a nuclear bomb." (The White House, 2026c). This rhetoric was integrated into the very object of reference, which was the security of Arab allies and the State of Israel. The U.S. had set up the Iranian state network as an apocalyptic threat to Middle Eastern stability and global non-proliferation, thereby establishing a moral imperative: the threat was too great to be contained.

Audience Acceptance: Internal and Transnational Intersubjectivity

Securitizing speech acts are not politically active without intersubjectivity, that is, when the threat narrative is accepted by the necessary audiences (Balzacq, 2005). The Sovereignty Loophole was used by the U.S. and depended on the acceptance of both the internal and external audience.

The Historical Struggle for Intersubjectivity

In the past, U.S. attempts to securitize Iran have often been unsuccessful in securing transnational intersubjectivity. Early threat framings were accepted by a broad audience, but President Reagan's 1986 Iran-Contra speech led to harsh criticism from Congress and lost him the backing of European allies (Reagan, 1986; Katzman, 2021). In 1995, President Clinton broadened the embargo story, and the European Union strongly opposed the extraterritorial application of U.S. laws, passing the Blocking Statute and initiating WTO disputes (European Commission, 1996; Katzman, 2021). Likewise, President Bush's 2002 "Axis of Evil" speech was clearly rejected by European leaders as counterproductive, and it led to a counter-securitization campaign in Iran that strengthened hardliners (Takeyh, 2006; Patten, 2002).

But by 2010-2012, the audience dynamics had changed. The U.S. used structural hegemony, not diplomacy, to coerce the global financial system and European partners into accepting the secondary threat framings in order to keep them in the U.S. dollar markets (Katzman, 2021; Nephew, 2017). The securitization of Iran's state apparatus penetrated transnational law enforcement architectures by the time the Trump administration declared the IRGC a Foreign Terrorist Organization in 2019, when the discourse was immediately validated by Israeli and Gulf objectives, though it faced European pushback and provoked formal Iranian counter-securitization of CENTCOM as a terrorist entity (The White House, 2019; Takeyh, 2006). As documented in the U.S. Country Reports on Terrorism 2019, European audiences intersubjectively validated the U.S. threat narrative: Albania, Denmark, and France severed or reduced diplomatic relations in explicit response to what the U.S. framed as "regime-backed terrorism" (U.S. Department of State, 2020). This transnational audience acceptance was quickly institutionalized in the U.S.-led Countering Transnational Terrorism Forum (CTTF) and the U.S.-Europol Law Enforcement Coordination Group (LECG). The international audience effectively criminalized Iran's foreign policy by bringing together prosecutors, financial practitioners and law enforcement officials from more than 25 countries to view Iranian state activities as illegal terror networks. This institutional acceptance put in place the intersubjective foundation for the use of the Sovereignty Loophole, which de-statified Iran. More proof of international audience acceptance come from the Australian Government which formally listed the Islamic Revolutionary Guard Corps (IRGC)—a formal branch of a sovereign state's military—as a terrorist organization under its Criminal Code legally adopting the US narrative that Iran's military was a stateless terror group (Australian Government, 2025).

The Constitutional Bypass (2026)

In the 2026 joint U.S.-Israeli campaigns (Operation Epic Fury and Operation Roaring Lion), the executive branch operationalized the "Sovereignty Loophole" by getting internal audience acceptance on its threat framing. Article I, Section 8 of the U.S. Constitution grants Congress the exclusive power to declare war, but the administration avoided the formal approval of Congress by considering the campaign a targeted counter-terrorism effort against the designated IRGC and Iranian regime, not a traditional interstate war. The administration's justification for its authority in official War Powers notifications to Congress was based on Article II of the Constitution, which grants inherent Commander-in-Chief self-defense powers, as well as on statutory provisions in the 2001 and 2002 Authorizations for Use of Military Force (AUMF) (The White House, 2026b).

Importantly, the U.S. Congress and media establishment actively participated in this discursive framing, not invoking the War Powers Resolution and effectively authorizing the domestic state of exception. The CDA of domestic political rhetoric shows how politicians validated language. Senator Lindsey Graham called the "mothership of terrorism" dead, and Senator Ted Cruz defended the move by calling Iranian leadership a "murderous dictator. Likewise, the referent object was structurally validated by influential media and commentators, with the Wall Street Journal calling the strikes "necessary" to stop the "world's foremost promoter of terrorism" and former Secretary of State Mike Pompeo stating that the operations were "necessary to preserve Western civilization" (The White House, 2026a). This hyperdomestic intersubjectivity cleansed the executive's usurpation of war powers from the constitution.

Transnational Audience Acceptance: The Westphalian Ejection (2026)

Audiences responded transnationally, with a split along operational lines, but with a common political legitimacy to remove Iran from the Westphalian order. The U.S. defense establishment and Israeli leadership were virtually one in their discursive approach, whereas European partners were torn between the need to comply with the maritime blockade and their concern

about economic instability, and Gulf Arab states were characterized by “cautious pragmatism” out of fear of proxy retaliation (Katzman, 2021; Rubinstein, 2026; U.S. Department of War, 2026).

More importantly, a wide range of global leaders embraced the U.S. language of de-statification, discursively denying Iran's sovereign legitimacy. Australian Prime Minister Anthony Albanese and Canadian Prime Minister Mark Carney both made it public that the Iranian regime is the “principal source of instability and terror” (The White House, 2026a). Albanian Prime Minister Edi Rama called for “Terrorism to be named” and Ukrainian President Volodymyr Zelensky “conceptually demoted” the sovereign state to “global criminals”. The Saudi Arabian Foreign Ministry denounced Iranian “aggression” and Kosovo's President Vjosa Osmani described the strikes as the liberation of the Iranian people. Support went beyond the Western alliances, with the Saudi Arabian Foreign Ministry calling Iranian “aggression” and Kosovo's President Vjosa Osmani describing the strikes as the liberation of the Iranian people. The dismantling of the “clerical military dictatorship” (The White House, 2026a) was unanimously supported by even domestic opposition figures, including Canadian Conservative Leader Pierre Poilievre.

Intersubjective securitization is the ultimate expression of this global chorus of support in an analytical sense. The terrorism framework and the concept of terrorism as a universal phenomenon, in effect, conceptually transformed a sovereign nation into a criminal enterprise, and thus legally and ethically protected the United States. This international consensus sealed the Sovereignty Loophole, enabling the U.S. to launch conventional warfare and the world to cheer it as international counter-terrorism.

Extraordinary Measures: The Apex of the Sovereignty Loophole

The speech act was constantly reinforced, the referent object was continually specified, and the audience was intersubjectively accepting the threat, until the ultimate extraordinary measures were implemented: Operation Epic Fury and the parallel Israeli campaigns in early-to-mid 2026.

It is here that the Sovereignty Loophole becomes empirically visible. The U.S. conducted the kinetic equivalent of a conventional war on a sovereign state, and treated it as a counter-terrorism operation, a basic law violation in international relations. This loophole was expressed in three ways, each of which was legal and ethical violations that were sanitized by discourse:

The Counter-Terrorism Operations on a Sovereign State (Bypassing Jus ad bellum)

According to traditional inter-state ethics (Article 2(4) and Article 51 of the UN Charter, 1945), war is justified only in case of UN Security Council authorization or direct armed attack (Walzer, 1977). The U.S. avoided these requirements by substituting languages. In an official memorandum, State Department Legal Adviser Reed Rubinstein justified Operation Epic Fury by discursively framing the strikes as “collective self-defense” and the continuation of an “ongoing international armed conflict” against Iranian state-sponsored networks (U.S. Department of State, 2026). But legal experts point out that this permissive approach does not meet the UN Charter's requirement of an “armed attack” and leaves the campaign vulnerable to being considered a “manifestly illegal use of force” under classical inter-state law (Finucane, 2026). The Sovereignty Loophole was a discursive hybrid that the executive branch used to avoid this obvious legal shortcoming. The terrorism label was an extraordinary legal solvent because it rhetorically replaced the need for a traditional state-on-state attack with the constant need for fighting global terrorism. It completely removed the limitations of the traditional jus ad bellum, thereby shielding the hegemonic power from international responsibility for an unauthorized war of choice.

The killing of Leadership (Bypassing Jus in bello)

The prohibition on the targeted assassination of foreign heads of state is one of the cornerstones of Westphalian sovereignty and Customary International Humanitarian Law (IHL). However, the 2026 operations were clearly aimed at Iranian leadership, culminating in the February 28 decapitation attack on Ayatollah Ali Khamenei (Al Jazeera, 2026). The U.S. and Israeli rhetoric rhetorically reduced the sovereign leader to a “terrorist mastermind” by using the 2020 targeted killing of Qasem Soleimani as a precedent in the law and in discourse (Schmitt, 2020). In his post-strike tweet, President Trump defended the decapitation as “justice for Iran, but for all great Americans”. “Khamenei, one of the most evil people in the history, is dead” (Trump, 2026b). The linguistic trick brought the highly permissive, deregulated ethics of drone warfare, which are usually reserved for stateless groups such as ISIS, into a sovereign conflict, effectively eliminating diplomatic immunity.

Infrastructure and Civilian Destruction (The Minab School Incident)

The military operations led to the systematic destruction of Iran's energy networks, naval ports and civilian infrastructure. In traditional Just War ethics, such tragedies are assessed in the light of the principle of distinction and proportionality. But U.S. and allied rhetoric systematically ignored these principles by referring to Iranian state property as dual-use terrorist facilities.

This sanitized discourse culminated in May 2026, when a U.S. airstrike killed more than 150 Iranian girls in a primary school in Minab, which was targeted at an alleged IRGC underground base (Human Rights Watch, 2026). The U.S. defense apparatus did not recognize a violation of *jus in bello*, but instead relied on the context of state-terrorism. In a subsequent comment, the White House press secretary Karoline Leavitt, arguing that "while the Department of War is currently investigating this matter, the Iranian regime targets civilians and children, not the United States of America" (Leavitt, 2026). The securitization of an enemy as an "absolute evil" significantly increases the acceptable level of collateral damage (Beavers, 2024). The attacking forces, by legally branding the "terrorist" label on the sovereign state, set the moral tone for the devastation of the nation's civil society and the killing of mass civilian casualties as discursively denied and then projected as collateral damage of the "counter-terrorism" measures.

In the end, Operation Epic Fury is proof of the Sovereignty Loophole. The textual and empirical evidence shows that the "State Sponsor of Terrorism" label is a highly weaponized speech act, which enables a hegemonic power to unleash the destructive power of inter-state warfare while enjoying the legal and ethical impunity of global counter-terrorism.

Discussion: Re-Orienting Critical Terrorism Studies

Securitization Theory and Critical Discourse Analysis (CDA) are applied to the U.S.-Iran conflict between 1984 and 2026, and the results show that the "State Sponsor of Terrorism" (SST) label is not a descriptive device, but a generative discursive device. This article provides some important interventions in the current security studies, by conceptualizing this mechanism as the Sovereignty Loophole.

The Materialist Counterargument

Critics from the orthodox security school and traditional legal theory may question the critical approach used in this article on the basis of the empirical facts of Iran's foreign policy. The conventional counterargument is that Iran actually supports proxy militias, that Iran actually pursues nuclear development, and that Iran actually attacks Western assets (Wang et al., 2019; Wilner, 2018). Thus, orthodox scholars contend that the U.S. response, including the devastating military campaigns of 2026, is a material necessity, and not a discursive construction, based on objective facts on the ground.

This article does not challenge the empirical reality of these military capabilities, nor does it deny the reality of Iran's asymmetric regional policies (Malakoutikhah, 2020). But in Critical Terrorism Studies (CTS) military means are not necessarily political or moral. As Jackson (2007) and Cavusoglu (2020) say, facts do not speak for themselves; they are interpreted through language. The CDA performed in this article illustrates how the U.S. discursively constructed those capacities as an existential, apocalyptic threat that demands exceptional, extra-legal measures. The problem is not to acknowledge that Iran is using proxies, but to reveal the U.S. use of the language of "terrorism" to legally cleanse itself of its own breaches of Westphalian sovereignty, *jus ad bellum*, and *jus in bello*.

The more widespread use of the Sovereignty Loophole

This article focuses on the 43-year securitization of Iran as its main case study, but the theoretical mechanism of the Sovereignty Loophole is of much broader applicability to CTS and international relations. This intersubjective mechanism, whereby the "terrorist" label is sedimented onto a state-like entity, the international audience accepts the label, the target loses sovereign legitimacy and exceptional inter-state violence becomes normalised, can be seen in several contemporary conflicts.

Likewise, the Sovereignty Loophole is important for understanding conflicts between territorialized non-state actors that act as states. This is the core of the international legal strategies adopted in relation to the Taliban government in Afghanistan, the Hamas administration in Gaza, or the political integration of Hezbollah in Lebanon. Hegemonic powers keep a permanent state of exception by designating entities as "terrorist" that exercise territorial sovereignty. This enables attacking states to conduct devastating conventional wars on entire governed territories, but still be able to claim the legal immunity and disproportionate targeting parameters of a counter-terrorism raid.

Re-Orienting the Field

Finally, this analysis calls for a reorientation of Critical Terrorism Studies. CTS has been successful in challenging the militarization of domestic law enforcement in the West, and the repression of domestic civil society, for more than 10 years,

under the guise of counter-terrorism (Al-Kassimi, 2019) and the suppression of domestic civil society (Beavers, 2024). But CTS has to shift its analytical focus to inter-state warfare. Future critical scholarship can better explain how the traditional Just War ethics are being used as rhetorical shields in contemporary geopolitical conflicts by understanding the ways in which hegemonic powers use the terrorism discourse to systematically undermine the legal principles of the Westphalian order.

Conclusion

How does a sovereign Westphalian state become legally and ethically subjected to the deregulated violence normally reserved for stateless terror cells? Traditional national security ethics, based on Just War theory, presupposes a stable international environment, in which there are objective threats, and there are proportionate, legally authorized responses. But this orthodox paradigm doesn't explain political alchemy of language.

This article has contended that the term "State-Sponsored Terrorism" is a hegemonic, securitizing speech act and not a legal objective classification. This study examined the official United States discourse from the time of the initial designation of the Islamic Republic of Iran as a state sponsor of terrorism in 1984 through the devastating military campaigns of early 2026 and how it systematically de-statified the Islamic Republic of Iran. The U.S. executive branch created an apocalyptic terror network by merging Iran's sovereign military into the same category as such networks, and by gaining the intersubjective endorsement of allied nations, it produced an ongoing state of exception.

The concept of this process as the Sovereignty Loophole is the original contribution of this article. The Sovereignty Loophole is an example of the discursive hybridity of terrorism as an extraordinary legal solvent. It was this loophole that allowed the U.S. to circumvent the international law of the UN Security Council and the domestic law of Congress in both Operation Epic Fury and Operation Roaring Lion. It enabled the attacking coalition to overcome the doctrine of sovereign immunity, morally cleanse the targeted killing of foreign state officials and provide a legal justification for the destruction of civilian infrastructure under the very broad rules of engagement of global counter-terrorism.

Finally, the role of critical theory is not to dismiss the material fact of geopolitical competition, but to make it a subject of intense ethical questioning. The principles of international law will be lost if the international community allows the uncritical use of the 'terrorism' term for sovereign entities. The weaponization of fear and the loss of global legal accountability can only be challenged through exposing mechanisms such as the Sovereignty Loophole.

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