

Countering Terrorism

Role of Intelligence and Investigative Agencies

Radha Vinod Raju

Former Director General, National Investigation Agency (NIA), India

Intelligence agencies provide the most sensitive protective security shield for a country. They mostly operate in shadows, develop sources and penetrate the enemy to prise out information that could be vital for the very survival of a country. They have many successes, and the best among them have their share of failures. Sadly, the successes never get reported, to protect sources and ongoing operations, but their failures are always projected in the media to their detriment. Investigation, on the other hand is a process that takes place after an event, and therefore mostly a post mortem of the incident.

If the investigation has been professionally done, and the case vigorously prosecuted, the case ends in conviction, bringing laurels to the agency. But is this the only true picture? Are Intelligence agencies always at a disadvantage vis-à-vis Investigation agencies? Do Investigating agencies produce intelligence that can be used in operations prior to an event? Do Intelligence and Investigating agencies work closely, sharing vital information? Do Intelligence agencies across the world always share information that is vital for each other's country?

HEADLEY SAGA: RECENT DISCLOSURES

The above issues have become important in the wake of recent disclosures in the US media that the CIA and the FBI had been warned by the wives of Headley about Headley's association with the Lashkar-e-Taiba and the ISI, and his India visits. A reading of some of these reports would show that Headley was arrested by the FBI just as he was to about to embark for Pakistan on way to target a Danish newspaper that had published cartoons of the prophet of Islam, implying that targeting India was not given the same priority. Headley's American wife had complained to

authorities in 2005 that she believed him of being a member of the Lashkar-e-taiba, which was then being seen as a threat to India, had trained extensively in their camps in Pakistan, and was shopping for night vision devices and other equipment. He had also bragged of being a paid US informant while working for the Lashkar. The American wife had approached the authorities with a complaint of domestic violence. Headley was jailed briefly for domestic assault, but not charged, for reasons not known. According to Federal officials, the FBI did look into the tips given by Headley's wife, but declined to say what action was taken. According to anti-terror officials, federal officials are deluged with tips and warnings about suspected extremists.

Headley's Moroccan wife, Faiza Outalha, who was a medical student in Pakistan, visited him in April-May, 2007, in Mumbai. The couple stayed in the Taj and the Oberoi, as proved by documents. Outalha, after quarrelling with Headley, went to the American embassy in Islamabad less than a year before 26/11, and complained that Headley had many friends known to be members of the Lashkar-e-Taiba, that he was passionately anti Indian and that he travelled to India several times for business deals that never seemed to amount to much. She said that she told the authorities that Headley assumed many identities, as Daood, a devout Muslim in Pakistan and as David Coleman, an American playboy in India. She also showed the authorities a photograph of herself with Headley taken at the Taj Mahal Hotel and told them that he was either a terrorist or that he was working for them. According to Outalha, this was dismissed lightly by the Americans.

According to reports in the western media, Mumbai has joined the list of cases where the plotters had caught the attention of authorities beforehand, that include the 9/11 attacks, the Madrid train

bombings in 2004, and the London train bombings in 2005. They characterize advance warnings as part of the landscape of counter-terrorism. Facing many threats and scarce resources, the authorities have to make hard choices depending on priorities of the time. There are times when they succeed, and neutralize threats, without any publicity. There are also times when they fail to connect the dots correctly, ending in major tragedies and public censure. Terrorism, according to them, is not always preventable. This is the wrong way to look at terrorism.

It is now known that Headley was caught in the US by the Drugs Enforcement Agency for using drugs in 1988 and again in 1997. On both occasions he cooperated with the agency and got light sentences. In the late nineties, he became an informant for the DEA dealing with Pakistani drug rings. He helped the Department of Drugs Enforcement to infiltrate the very close-knit Pakistani narcotics dealing community in New York. He also visited Pakistan to develop intelligence on Pakistani drug traffickers. He was sentenced to 19 months in prison, but was let off on probation in less than a year. It is also reported that a federal court discharged him from probation in December, 2001, well before the scheduled date in 2004, and within months of the discharge, he was training with the Lashkar-e-taiba in Pakistan. There is no confirmation whether Headley was then working for Federal officials, including the DEA and the FBI. According to Enforcement officials, he was later dropped as an informant as he did not produce any valuable information.

It was after 9/11 that Headley became enamoured of Islamist ideals and joined the Lashkar in 2002. He had extensive training in Lashkar camps and became a prized agent for the Lashkar, especially after changing his name from Daood Gilani to David Coleman Headley in February, 2006, in Philadelphia. He could now visit India on an American passport with an American name, without causing any suspicion. His looks confirmed this identity.

It was after 9/11 that Headley became enamoured of Islamist ideals and joined the Lashkar in 2002. He had extensive training in Lashkar camps and became a prized agent for the Lashkar.

II SHARING INFORMATION VS PROTECTING THE SOURCE: WHY DO INTELLIGENCE AND INVESTIGATIVE AGENCIES DIFFER?

Prior to 26/11, Headley visited India several times, the last in July, 2008. Sometimes he flew into India from Pakistan, and sometimes from other international ports. But each time he returned to Pakistan from India. This, as it now appears, was to brief the Lashkar and ISI handlers, of his trips to Mumbai, and the various targets that had been identified for the assault.

It is now known that the Americans had warned their Indian counterparts of a likely seaborne attack on Mumbai and that Taj Mahal Hotel, and places frequented by foreigners, and especially Americans, were potential targets. The media reports indicate that US warnings in September, 2008, caused Indian anti-terror officials to meet with management of the Taj, and beef up security. It is also reported that as late as on 18 November, 2008, the Americans advised their Indian counterparts about a suspicious vessel related to a potential maritime threat to Mumbai. Of course they did not identify the source of the information. It is also not clear whether this information was passed on the basis of inputs from Headley, his wives, or other sources or even a combination of these sources. There are two scenarios. Headley may have been working with the Americans, or they may have been tailing and following his correspondence with his handlers in Pakistan through telephone and email interceptions. In either case, it would be unfair to expect the Americans to share Headley's details with us. Had they done so after Outalha's warnings, it is possible that Headley would have been intercepted either during his April or July, 2008 visits to India. The publicity that such an action would have generated would have killed Headley's utility as a source for the Americans, with or without his knowledge. Would the Americans protect their source, in their strategic interest, or try and save lives that were likely to perish in the Lashkar's attacks on India? Can we find fault with the Americans for not exposing their operations, which are vital for their country? Are there any such earlier cases that can give us some clue as to how Intelligence agencies conduct such affairs?

One instance readily comes to mind. On 23 October, 1983, suspected Hezbollah terrorists planned a suicide operation by driving two explosives loaded trucks into two separate buildings housing the US Marines and French military forces which were members of the multinational forces deployed in Lebanon. 241 American personnel, including 220 Marines, 18 Naval personnel and 3 Army men, and 58 Paratroopers of the French Army were killed in these deadly attacks. This was one of the deadliest attacks against American forces on a single day, and one result was the withdrawal of the American forces by President Reagan. A former Mossad agent, Victor Ostrovsky, in his book 'By way of Deception', has detailed how the Mossad was aware of the impending attack, but kept quiet in order to protect their source, or for other strategic gains. And to think that the Israelis depend so much on American help for their survival! However, the Israelis and Americans continue to work together as if nothing has happened. The Israelis will try and protect their interest first, as would the Americans. We have to learn to protect our interests, instead of blaming others.

Do Intelligence and Investigation agencies share vital information pertaining to national security? An instance that comes to mind is the 9/11 assault on the twin towers of New York by the al-Qaeda. One of the finest accounts of this tragic incident is Lawrence Wright's 'The Looming Tower: Al-Qaeda and the Road to 9/11'. Wright has, after extensive and thorough research, established that there was failure in sharing crucial information due to entrenched agency cultures of the CIA and the FBI. According to Wright's account, had the CIA shared with the FBI vital information regarding whereabouts of several persons they were tailing, who finally participated in the 9/11 attacks, the tragedies may well have been prevented. And the FBI and the CIA are both agencies that are pledged to protect the United States of America and its people.

Was the non sharing of information a mistake, or due to other professional reasons is something that the Americans would have analysed and dealt with appropriately? But such incidents do happen all the time. Intelligence agencies would like to get the maximum out of their operations. They fear that sharing inputs prematurely would jeopardise their operations. They intrinsically dislike Investigation agencies which are open, and are accountable to the courts, leading to publicity. Getting entangled in courts is something that the Intelligence sleuths shudder at.

There is need to develop trust, respect and regard among officers of the Intelligence and Investigation agencies, with a healthy respect for each other's strengths and problems, if they are to work in tandem. And is that desirable? The answer would be 'yes'.

The power of arrest and interrogation under law is vested only with Investigating agencies. They can further go for extensive searches and unearth much more, and more quickly, than Intelligence agencies, and can be more effective. Intelligence agencies have to conduct their operations secretly, and this imposes severe restrictions on their capabilities. Probably there is need to share certain type of information at some level, in the national interest which is certainly above the interest of any one agency, in order to prevent such deadly attacks on the nation. Who is to decide the level, the type or class of information to be shared, and the exact time that such information needs to be shared, will have to be separately worked out.

III SHARING INFORMATION & INTELLIGENCE: IS THAT DESIRABLE?

There is a need to develop trust, respect and regard among officers of the Intelligence and Investigation agencies, with a healthy respect for each other's strengths and problems, if they are to work in tandem. And is that desirable? The answer would be 'yes' to this question, on the basis of field experience.

Rajiv Gandhi's assassination could not be prevented. Investigation of the assassination was done by the special investigating team of the CBI. It was a blind case, and initially there were several suspects. However, diligent and scientific investigation soon established the manner in which the assassination was carried out by a human bomb, along with the nature of the improvised explosive device used. The role of the LTE in the assassination was soon established.

Tremendous efforts of the investigators were ably supplemented and complemented by our Intelligence agencies. The chase of the assassin squad became focussed when we started receiving real time inputs from clandestine wireless

communication between the leader of the squad, Sivarasan, and his boss, Pottu Omman who was based in Jaffna, from our Intelligence agencies. This communication subsequently became the best part of the evidence marshalled by the special investigation team of the CBI against the LTTE in the court of law, as it had material to establish the preparations the LTTE made to target Rajiv Gandhi in Chennai, and its subsequent efforts to smuggle Sivarasan and his core team out of India. It was the best evidence of the conspiracy hatched by Prabhakaran, the LTTE chief, and his intelligence chief, Pottu Omman, to assassinate Rajiv Gandhi. We were able to get this vital evidence, thanks to our Intelligence agencies.

Investigations were able to generate intelligence about the various moves of the assassin squad in and around Chennai, and later, Bangalore, where they were finally tracked down. But at one stage, the investigators came across a blank wall, as there were no leads forthcoming. There was constant pressure on the team to produce results, both in the media and in Parliament. We were trying to locate an LTTE cadre, a wireless operator going by the code name, Dixon. He was the person who had managed to link up with Sivarasan, who was confined in his hide-out in a remote part of Chennai due to our aggressive publicity, and had enabled his being taken out of Chennai by the LTTE and its few supporters. Thanks to our Intelligence agencies, we were able to procure a photograph of Dixon from their records, and the moment we published it, we started getting information from the public about Dixon's location in Coimbatore. Very soon, Tamil Nadu police were able to locate the LTTE's hideout, and then we were able to get further leads that eventually took us to Bangalore and Sivarasan's lair in Konanakunte where they committed suicide. The close, successful collaboration of the Intelligence and Investigation agencies in this case is a case in point.

Less than a year before the assassination of Rajiv Gandhi, on 19 June, 1990, in a violent, terrorist action using sophisticated grenades and AK-47 rifles, the LTTE massacred the EPRLF leader Padmanabha and 12 of his colleagues in the heart of Chennai. This was one of the unsolved cases that we looked at during the investigation of the Rajiv Gandhi case. After we made a breakthrough in our case, and made the first arrests on 11 June, 1991, Bhagyanathan, Nalini's brother, told us that Sivarasan was involved in the Padmanabha killing also, and that his LTTE code name was Raghuvaran. Our agencies, we

learned later, were on the trail of Raghuvaran, who they knew as one-eyed and belonging to the LTTE's intelligence group, in connection with the Padmanabha case. Even though Sivarasan @ Raghuvaran started visiting Chennai from September, 1990, while preparing for the Rajiv Gandhi assassination, and set up at least three hideouts in and around Chennai, he could not be located by the Intelligence agencies. Had the Padmanabha case been investigated on professional lines as was done in the Rajiv Gandhi case, with the Intelligence agencies supplementing the efforts of the Investigating agency, it should have been possible to establish the identity of the killers with a no-holds barred investigation involving arrests and searches. A successful investigation of the Padmanabha case would have stopped the LTTE in its tracks, and prevented the Rajiv Gandhi assassination.

Unfortunately, when such assassinations take place, the Intelligence agencies come under severe pressure, both from the authorities and the media, and try to take cover. There are instances when the Intelligence and Investigating agencies then get into a competition to prove who is better and more effective, to the detriment of both, and the national interest. This is the time when they have to pool their limited resources, and strike at the adversary decisively.

Synergy in professional dealings, invariably produce the best results. It has to be realized that professional investigation of sensitive cases impinging on national security is as vital as intelligence functions in securing the nation. This is the role of the newly established National Investigation Agency. But it is vital for overall success that the NIA and our Intelligence agencies work in close collaboration with each other in order not to miss out on vital leads that may help prevent an incident, or solve a case.

Views expressed are author's own.



**INSTITUTE OF PEACE AND
CONFLICT STUDIES**

B-7/3, Safdarjung Enclave, New
Delhi, India, 110029
Tel: 91-11-4100 1900