

Visa power that gives no credit to civil society

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Prime Minister Manmohan Singh's contradictory statements on Pakistan make one wonder exactly what course he proposes to follow hereafter. On January 18, he elevated two local incidents of beheading on the Line of Control, on January 6 and 8, as a matter of "national honour and our national interest," as if it was another Sarajevo of 1914. On January 15, he declared "after this barbaric act, there cannot be business as usual with Pakistan." The Bharatiya Janata Party leader, Sushma Swaraj, rightly called it an "echo of the tough measures we have demanded."

The echo continued. From amends honourable for a solitary "barbaric act," he made a far-reaching demarche on March 8: "There can't be normalisation of relations between the two countries unless and until the terror machine, which is still active in Pakistan, is brought under control."

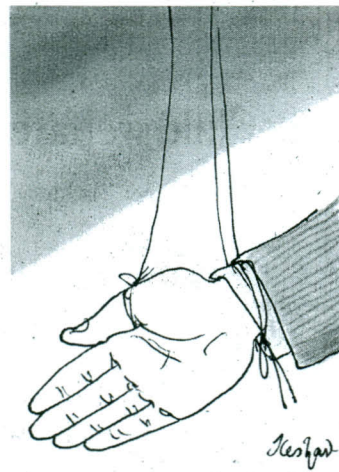
NDA policy

This is in the good BJP tradition. Its government (NDA) moved the goalpost thrice. On Kargil, a justified demand for total withdrawal was raised to dismantling that "machine" prior to any talks. Having aborted the Agra summit, it first said the talks would be resumed from where they had ended, only to demand an end to the "machine." After the attack on Parliament House, L.K. Advani's list of demands increased.

Ironically, on the very same day, March 8, the Prime Minister claimed that "people to people contacts have gone up." Apart from the factual error, it is an implausible claim. Such contacts diminish once the relations deteriorate. Since 26/11, India's visa policy, never too liberal, became very restrictive thanks to Home Minister P. Chidambaram. The stark truth is that both India and Pakistan seek to control "people to people contacts" to prevent an independent, organised and powerful constituency challenging its foreign policy from developing in either country; especially if it be one critical of its hard line. On this, as on much else, the honours are evenly divided; except that they thoroughly expose India's claim of being a liberal democracy. Even Pugwash was refused permission to hold a conference in India. Bar a few India-Pakistan seminars in India — generally organised by safe pairs of hands, not excluding some close to the intelligence services — most are held in capitals of neighbouring countries.

Successive governments in India have followed this restrictive, if not repressive, policy, regardless of their political affiliation. On September 1, 2000 the Indian Home Ministry issued an Office Memorandum containing "Revised Guidelines for Security Clearance for Holding International Conferences/Seminars/Workshops/Etc. in India". It was in supersession of similar Memos of 1986, and is presumably in force now in all its draconian sweep: "It would be necessary to

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obtain prior approval/clearance of MHA for holding an international conference/seminar/workshop etc., if: (i) the subject matter of the conference being organised is political, semi-political, communal or religious in nature, or is related to human rights; or (ii) the conference includes participants from Afghanistan, Bangladesh, China, Pakistan or Sri Lanka." So much for support to SAARC.

"It would also be necessary to obtain the prior clearance from MHA for holding an international conference, etc., if (i) the subject matter of the conference has a bearing on external relations; and (ii) the conference includes participants from Afghanistan, Bangladesh, China, Pakistan or Sri Lanka." Thus, approval from both, the Home Ministry and the MHA, was required if participants from the neighbouring countries were invited. The Home Ministry's tentacles reached further. They even controlled matters "semi-political" or those "related to human rights."

As for the grant of visa, "A foreigner participation should not be generally considered (sic) to attend conferences of political, semi-political, communal or religious nature or those related to human rights or sensitive technical subjects which can be utilized as a platform for any particular line of propaganda or where the subject matter of the conference is of a purely national or local character." The guidelines were sent to universities, deemed universities, "sports/academic Federations/Associations" and

"voluntary organisations" besides our missions abroad. This, in the land of Gandhi and Tagore.

Nor is this all. The Institute of Social Sciences convened a seminar on "Indian Federalism at Work" at Srinagar from August 25-27, 2006. "Political clearance" for the seminar was sought in January 2006. Half way through the event, if not at the fag end, the institute's director, Dr. George Mathew, received a letter dated August 25 from the Joint Secretary (Coord.) of the MHA. It said "Approval for holding of (sic) this Conference is given subject to the following conditions." Quite apart from the sheer stupidity of an approval so belated as to be worthless, the conditions betrayed the mindset of its author in New Delhi. N.N. Vohra, then Special Representative of the Government of India for the J & K Dialogue and now the State's highly respected Governor, had given his approval to the seminar at the very outset as an "extremely useful" endeavour. As if to undercut him, the letter stipulated that his association "with this initiative is at a personal level." Mr. Vohra's speech at the seminar was highly appreciated. Other conditions were: "Participation would be limited to those who have proven track record on issues relating to federalism — the theme of the conference; participation of those espousing violence and militancy to change the status quo should be absolutely avoided; preferably the choice of the venue should be other than Srinagar."

One would have thought that Srinagar was the perfect venue to bring home to Kashmiris the working of India's federalism. This writer was glad to note that academics and students from Kashmir University thronged the venue. It is a pity that there are not more of such exchanges. That is the best way to engage Kashmiris. Distinguished Pakistanis like I.A. Rehman and Mubashir Hassan participated. Only one who prefers repression would balk at this idea and send that letter of August 25, 2006. Its last line was a giveaway. "This issues" with the approval of Prime Minister's Office. "Who is in the PMO pray? For, on January 13, 2006 an official in the PMO itself had accorded a warm approval to the proposal. The PMO's official who inspired the letter of August 25, 2006 sought to reverse that decision.

This episode, revealing in itself, should invite attention to two larger issues. One is the offensive Office Memo on all international visas. The other is refusal of visas to foreign intellectuals. This violates the Indian citizen's fundamental right to freedom of speech which includes the right to know.

On July 17, 2009 the U.S. Court of Appeals for the Second Circuit found that the First Amendment rights of Americans are at stake when foreign scholars, artists, politicians and others are excluded. It relied on a 1972 Supreme Court ruling in *Kleindienst v Mandel* (408 U.S. 753) that the citizens have a First amendment right to "hear, speak, and debate with a visa applicant."

Professor Tariq Ramadan was invited to teach at the University of Notre Dame in 2004 but the U.S. government revoked his visa, citing a statute that applies to those who have "endorsed or espoused" terrorism. In January 2006, the ACLU and the New York Civil Liberties Union filed a suit challenging his exclusion. The American decision is useful as a basis on which to mount a challenge in the light of our needs.

The Court of Appeal ruled only that Ramadan should have been heard in his defence. It was bound by the U.S. Supreme Court's ruling in the *Mandel* case. That was a split decision. The majority upheld the government's case but rejected its argument that since *Mandel's* writings were available, he need not come. "This argument overlooks what may be particular qualities inherent in sustained face-to-face debate, discussion and questioning."

"Thought control"

What help us are the powerful dissenting judgments which are strikingly relevant to our situation. Justice William Douglas remarked: "Thought control is not within the competence of any branch of government. Those who live here may need exposure to the ideas of people of many faiths and many creeds to further their education."

Justice Thurgood Marshall wrote a vigorous dissent in which Justice Brennan joined. He recalled tellingly that the earlier case dealt with the rights of aliens. "At least when the rights of Americans are involved, there is no basis for concluding that the power to exclude aliens is absolute." There must be a "compelling" public interest to justify exclusion — national security, law enforcement, public health, etc. He added, "The progress of knowledge is an international venture."

But, then, what can you expect of a state which takes over "an unofficial and non-political body... to encourage and facilitate the scientific study of Indian and International Affairs" and degrades it to the status of an appendage of the MHA? The Indian Council of World Affairs was founded by Sir Tej Bahadur Sapru in 1943. Two superior intellectuals pushed through Ordinances (enacted as an Act) to destroy its autonomy — Inder K. Gujral (1990) and Jaswant Singh (2000). Great minds think alike.

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