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COMMENTARY

US visa denials: Revival of cold war paranoia?

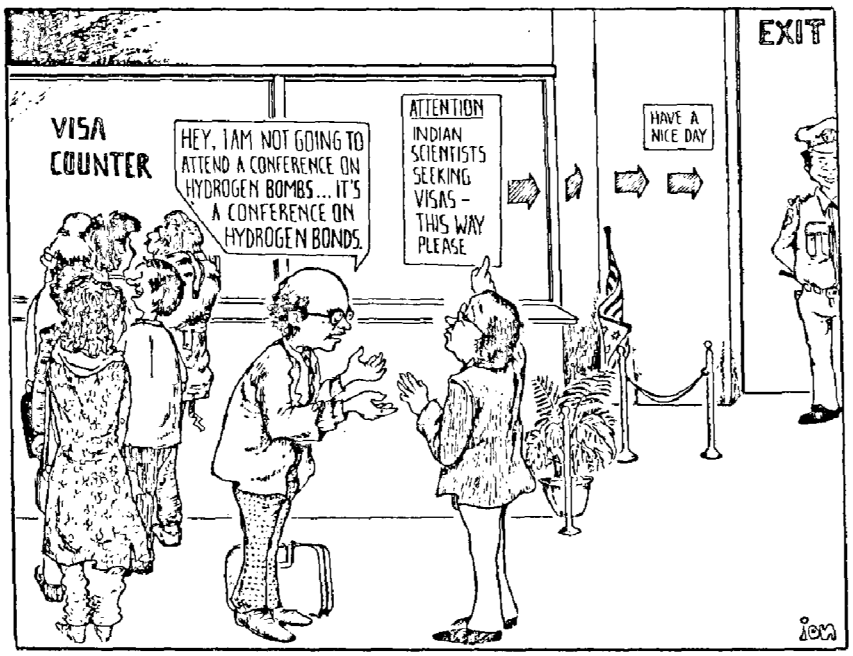
R. Ramachandran

The issue of denials of US visas to some Indian scientists in the wake of the Indian nuclear tests in May has sparked considerable controversy. The obsession of the US with non-proliferation – only horizontal – in recent times has been such that some of the elements of its legislative and executive measures, ostensibly 'to prevent proliferation', have been mindless. The post-Pokhran denials of visas, denying Indian scientists entry into US government labs where they have been regular visitors for years, winding up collaborative projects which have nothing to do with nuclear science and asking Indian scientists working in these to pack up and leave clearly border on the extreme. (The Pakistani scientific community too is likely to have been subjected to similar restrictions.) Perhaps only at the height of the Cold War such embargoes were put on scientists from the Soviet Bloc. Indeed, some of the measures that have been invoked recently is a throwback to those times.

The episode would perhaps have not generated so much media and public interest had it not been for the fact that R. Chidambaram, Chairman, Atomic Energy Commission, was one of those affected by these embargoes. But from the perspective of academic freedom and unfettered pursuit of science, the Indian scientific community should view this development more seriously than is evident because of its implications for the future. In fact, there has been a greater supportive reaction from the US scientific community than from here. Unless the issue is addressed at the appropriate international fora, such actions by governments could become more common.

As is by now well known from media reports, Chidambaram was to attend a meeting of the Executive Committee of the International Union of Crystallography (IUCr), a wing of the International Council of Scientific Unions (ICSU)[1], during 15–17 July at Arlington, Virginia. Chidambaram happens to be the Vice-President of the Executive Committee. On 29 June, Chidambaram applied for a visa along with his 'diplomatic passport' at the US Consulate in Mumbai. In normal circumstances, it is learnt, issuance of visa against diplomatic passport is automatic and usually takes a day. In this case, while the visa was not refused, the passport and the application, along with the visa fee, were returned on 8 July. (The public statement by the US authorities that Chidambaram withdrew his application is untrue according to an AEC spokesman.)

On enquiry, the AEC was informally told by the consular official that as one of the key scientists involved in the



Pokhran tests, it was not appropriate time for Chidambaram to go to the US! When the issue became public and controversial, the US authorities, in their bid to clarify, stated that the visa had not been denied but the case had been referred to the State Department in Washington. As far as Chidambaram was concerned, this technicality made no difference. As a result of their stalling, he could not attend the meeting.

Somewhat less publicized is the similar treatment meted out to Krishan Lal, a senior scientist at the National Physical Laboratory (NPL) of the Council of Scientific and Industrial Research at New Delhi, whose area of specialization is far removed from nuclear science. His proposed trip to the US had also to do with the IUCr. As a member of the Programme Committee of the IUCr for the forthcoming Crystallography Congress in 1999, he was to attend its meeting during 14–16 July, also in Arlington. The application for visa, which he made to the US Embassy in New Delhi through the Ministry of External Affairs (MEA) along with his 'official passport' on 10 July, was likewise returned on the same day.

Again, technically speaking, visa was not refused and the embassy official orally informed that the process of referral to Washington would take three weeks time. Therefore, he too had to cancel his visit to the US. Interestingly, however, as a member of the editorial board of the IUCr, G. M. Desiraju, Professor in the School of Chemistry, University of Hyderabad, had been invited to attend yet another meeting of the IUCr during 20–23 July. He was granted a US visa against his application made to the US Consulate in Chennai with his 'personal passport' and he could go.

There have been other similar cases of denial involving scientists from the department of atomic energy's Indira Gandhi Centre for Atomic Research (IGCAR), Kalpakkam, the Tata Institute of Fundamental Research (TIFR) and the Institute of Physics, Bhubaneshwar. The TIFR case is particularly interesting. Mohit Randheria, a theoretical physicist and whose specialization again is not nuclear science, was scheduled to visit Argonne National Laboratory (ANL), an institution under the US Department of Energy (DOE). He is a 'Green Card' holder and, therefore, did not require a visa. But before his departure, the Pokhran tests took place. He got a message from ANL saying that even if he came, he would not be allowed into the laboratory. His collaborators made this outrageous suggestion that he should station himself in Illinois University and scientists from ANL could visit him for discussions. The interesting thing about this incident is that the scientist was not an unknown person to ANL. He had worked in that laboratory for over eight years before joining the TIFR. Naturally, he decided not to go. Take this equally curious incident. S. M. Chitre, a senior astrophysicist from the TIFR was already in the US and his itinerary included a lecture at NASA. But, while he was in the US elsewhere, he was intimated that he would not be allowed into the institute and the scheduled lecture was cancelled.

The technology alert list

On the face of it, one would fail to discern any logic in these visa rejections and restrictions. But there does seem to be a certain 'method in the madness'. While, as part of implementing the sanctions pursuant to the US Nuclear Proliferation Prevention Act of 1994 (equivalently, Section 102 of the US Arms Export Control Act called The Glenn Amendment), there appears to be a ban on visits of scientists from Indian government labs, particularly those under the DAE, the DRDO and the ISRO, to US government labs, there is no such restriction on university scientists as of now[2]. This is also evident from the fact that two scientists from the Inter-University Nuclear Science Centre at Delhi are already there in ANL but, as yet, they have neither been asked to leave nor have their (project-related) visas been curtailed.

But information and documents that have become available now seem to suggest that this may not be for very long. All scientists – irrespective of their institutional affiliation in India – are likely to be subjected to this embargo if their field of study/research happens to be part of the 'Technology Alert List (TAL)' which the US drew up in January 1998 to restrict entry of scientists from countries which are under its non-proliferation control list or which 'sponsor terrorism'[3]. The non-proliferation component of this new TAL regime had not been enforced till India and Pakistan conducted their nuclear tests. Now it is expected to be fully implemented with regard to India and Pakistan. Already post-doctoral fellows and students from across the country have begun to be affected by these wide-ranging visa controls under TAL.

Restrictions by other countries

In moves similar to the US, some of its allies too have put restrictions on visits by Indian scientists. The episode of visa denials to Placid Rodriguez, Director, IGCAR, and Baldev Raj, a senior scientist from IGCAR, by the UK government is known. As editors of the respective chapters of their fields of specialization in a forthcoming encyclopaedia on material sciences and technology, the two were to attend a meeting of 60 such editors at Oxford between 10 and 12 July. Rodriguez had applied against his 'diplomatic passport' and Raj against his 'official passport'. Technically speaking, here too there was no outright denial but an unusual delay in the processing of the visa applications. The two had to cancel their trips because of the stalling. The visas were apparently granted well after the meeting was over. The UK restrictions do not seem to be only against government research labs. An industry scientist from Hindustan Insecticides was denied a British visa to attend a pesticides conference under the ICSU banner of the International Union of Pure and Applied Chemistry (IUPAC). On the other hand, some mathematicians from the TIFR, a DAE institution, have been able to go to Berlin to attend the International Congress of Mathematics of the International Mathematical Union (IMU), an activity under the ICSU, between 18 and 27 August.

The move by Canada would seem to be in violation of international norms under the charter of the United Nations. Apparently, the Canadian government has sent a notice to the International Atomic Energy Agency (IAEA), the Vienna-based UN body, that it will not allow any scientist from India and Pakistan for any IAEA-sponsored conference/meeting in Canada[4]. 'It is no big deal; no one is dying to go to Canada,' says Chidambaram. While that may be true, the fact of a member country of a multilateral UN agency taking unilateral action against another member country is a serious

matter and deserves to be taken up at the highest level. The DAE, the nodal agency for IAEA activities in India, has not yet thought about how to react to this.

The US law and the Mantis Programme

In every country, the law for visas gives power to visa-issuing authority to refuse visas without giving any reason. But here the cases of denials/delays pertain to senior scientists of the country who are frequent visitors to these countries and not anyone who is engaged in unlawful activities. While the domestic laws under which the British and the Canadian governments restrict the entry of such people are not known, the US has very specific laws and regulations which govern such actions.

The relevant US law is Section 212 (a)3(A) of the Immigration and Nationality Act (INA) which describes 'classes of aliens ineligible for visas' on 'security and related grounds' and sub-clause 212 (a)3(A)(i) has been invoked in the recent visa denials for visiting Indian (and Pakistani) scientists. It states: 'Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally ... in any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information.' Section 221(g) of the INA vests authority with the consular officer to deny a visa if there is information or reasons to believe that the applicant is an 'ineligible alien' as described above or by any other provision of US law.

The basis for determining what constitute 'goods, technology and sensitive information' prohibited for export from the US under the above law is now provided by the Critical Fields List (CFL) contained in the January 1998's TAL. Actually, TAL had been used maximally during the height of the Cold War (in the sixties) to maintain US technological superiority over the Warsaw Pact countries under what was known as the 'Mantis Programme'. It targeted individual scientists from the Soviet Union and other communist countries intending to study in specific fields. In the post-Cold War era, this programme had become inoperational. The US department of state has now revived the Mantis Programme[5] to target countries that support terrorism or are developing nuclear weapons. The January 1998 order, in effect, has broadened the applicability of the TAL to include cases that may fall under INA Section 212 (a)3(A).

The CFL includes fourteen categories of disciplines including nuclear and missile technology, aerospace engineering, chemical and biotechnology engineering, remote sensing and reconnaissance, advanced computer and microelectronics technology, information security, materials technology, lasers, marine technology and robotics. The January order requires a security check by the consular official on persons seeking to enter the US to study or research a discipline listed in the CFL by requesting from Washington a Security Advisory Opinion (SAO). Given that the CFL covers almost every engineering and physical sciences field[6], most scientists applying for a US visa could face problems.

The SAO process seems to be a lengthy one[5] which could involve several federal agencies in the US. The State Department may also gather further information about the field of study from the school or research centre that the applicant plans to visit. If there are no objections, the State Department will clear the case. This whole process could take four to six weeks. The order makes it clear that the consular officers themselves cannot deny a visa on the basis of their own interpretation of the TAL but can give a provisional denial under Section 221(g) of INA which limits the applicant's ability to apply for a visa at another consulate while the security check is on. The statements by the US officials that 'visa has not been denied but the case been referred to Washington' perhaps refers to this provisional denial pending the lengthy SAO process[7]. Even for the likes of Chidambaram, the visa officer is bound by this paranoid bureaucratic directive to seek an SAO simply because the fields of research happen to be mentioned in the CFL. However, according to a State Department memorandum[8] of August 1997, the consular officer is expected to inform the applicant why an SAO has been sought (unless when classified information is involved). But this does not seem to be happening. Perhaps the scientists too have not been demanding an explanation.

ICSU and 'free circulation of scientists'

There is an irony in the visa denial for Chidambaram to attend the IUCr meeting. In the charter of ICSU is 'Universality of Science and Freedom of Pursuit of Science'. In order to promote and to assist in the solution of specific problems that arise over the free passage of scientists and free collaboration among scientists, ICSU created in 1963 a Standing Committee on Free Circulation of Scientists (SCFCS)[9]. The ICSU statement on free circulation of scientists specifically calls for free movement of scientists like Chidambaram involved in ICSU activities[10].

One of the functions of the SCFCS is to consider individual cases of restrictions, which include visa denials and inordinate delays in issuance of visas. Wherever ICSU's interventions have failed or there is no scope for its efforts, ICSU publicizes such acts of restrictions among the scientific community and sometimes even withdraws sponsorship of the meeting/conference. When during the apartheid era India had required that visiting South African scientists declare that they are opposed to apartheid for a visa to be granted, the ICSU had come down harshly on Indian scientific community. The pressure on India seems to have been intense when the Swedish scientist O. G. Tandberg was the Executive Secretary of the SCFCS. Indeed, an ICSU-sponsored conference on Hyperfine Interactions in 1986 was under the threat of being cancelled on this issue. The Indian stand was that South Africa, by practising discrimination against black scientists, was violating ICSU's other charter of 'non discrimination'. Similar problems have arisen with regard to Indian visas to Israeli scientists before India recognized Israel. But in most of these cases, the Indian National Science Academy (INSA), the nodal agency in India for ICSU activities, had always arranged for Indian visas to be issued in Rome. According to Peter Schindler, the Executive Secretary of the SCFCS, only once the ICSU had to resort to withdrawal of an ICSU conference from a scheduled venue on account of visa problems. The 1988 ICSU

General Assembly was moved from Japan to Beijing for reasons of the Japanese government demanding anti-apartheid declaration from South African scientists for issuance of visa[11].

Listless Schindler and politization of the issue

With regard to the cases of Chidambaram and Lal, the ICSU seemed to have acted but could not influence the State Department enough. On being denied visas, both Chidambaram and Lal informed M. H. Dacombe, the Executive Secretary of the IUCr, their inability to attend the meetings. Dacombe, in turn, informed Schindler who activated the Committee on Human Rights of the US National Academy of Sciences (NAS). But, according to Schindler, the time available was too short – in the case of Chidambaram one week and in the case of Lal only a day – for the SCFCS and the NAS to intervene effectively.

Also, Schindler points out, ICSU's charter requires that, while promoting free circulation and non-discrimination, it should fully respect national laws and 'proper regard must be paid to matters of national security'[12]. To quote Schindler: 'The second reason, complicating the first one (of paucity of time), is that Chidambaram seems (sic) to be the Chairman of the Indian Atomic Energy Commission. It is not unreasonable for the US Department of State to assume that the AEC and, with it, its chairman were involved in the recent nuclear tests. It is legitimate for the US authorities to look into this aspect, in particular Chidambaram's role in the purchase of two Russian reactors capable of producing plutonium.' The last remark is uncalled for and clearly amounts to politicizing the issue. It is an unreasonable point of view for a scientific body like the ICSU particularly when, as a scientist, Schindler should be aware that all nuclear reactors produce plutonium and, in any case, these reactors are under the IAEA safeguards.

The other complicating factor that has prevented the INSA from making a formal protest, according to S. Varadarajan, President INSA, is ICSU's instruction to scientists that they should apply for visas 'to appropriate authorities not less than three months before the date of the meeting' so that the visa status becomes clear at least a month before for the SCFCS to take action if required. 'ICSU does not and cannot challenge the procedures of national authorities,' says Schindler. It is true that no one applies that far ahead. In this case, however, unexpected developments have led to the US government putting in place a lengthy process for the issuance of a visa, and the consequent impasse, but that does not absolve the US authorities of the mindlessness of the entire procedure in the name of non-proliferation. Whether the INSA makes a formal representation on visa denials to the ICSU, it would do well to point out the impropriety of the SCFCS trying to politicize the issue.

Reactions of the US scientific community

Barring a few remarks by some, the Indian scientific community, the academies included, has not, by and large, reacted to these developments. Indeed, some have taken a stance of 'not annoying America' for fear of collapse of Indo-US collaborations. The US scientific community, on the other hand, seems to have taken a fairly supportive stand. The Committee of Concerned Scientists issued a statement soon after the controversy broke out. Bruce Alberts, President of the NAS, has apparently taken up the issue in the Inter-Academy Panel. Also, very soon the NAS is to meet the Staff of the US Office of International Affairs to discuss the issue of visa restrictions.

The influential New York Academy of Sciences (NYAS), which has a large number of Indian members, has taken a similar stand. Josph L. Birman, Chairman of Committee on Human Rights of Scientists of the NYAS, wrote a letter to President Bill Clinton[13] on 21 July which said: 'As scientists, we are disturbed that our government is interfering with free collaboration and free circulation among scientists, as stated in the Statues of the International Council of Scientific Unions, a statute to which the United States has adhered since 1931. In the darkest days of the US–Soviet confrontation when missiles were aimed at one another, we allowed Soviet scientists to enter the US for bona fide scientific meetings. Even such well-known American hard liners as Edward Teller, 'The father of our H-Bomb', strongly supported open scientific exchanges including open exchanges with his opposite number Andrei Sakharov. This openness contributed to the development of scientific thought and the reduction of tensions.

'We do not believe that denying these scientists the opportunities to exchange views will slow the dissemination of dangerous technologies. Instead, open and free circulation is needed so that scientists may have the opportunity to exchange views and concerns about issues of mutual security. Movement such as this has proven to be beneficial to our country as well as to the progress of the scientific community and mankind in general.

'US policy makers should reassess their policy and promote a dialogue aimed at reducing tensions. As scientists, we believe that free circulation of scientists is one way to improve American relations with South Asia. Therefore, we urge that this wrong decision be rescinded and that these visas will be issued in the immediate future.'

A copy of this was also sent to the Vice President, Al Gore, the Secretary of State, Madeline Albright, the Deputy Secretary, Strobe Talbott, the Under Secretary of Arms Control and International Security Affairs, John D. Holum, and the US Ambassador to the UN, Richard C. Holdbrooke. The NYAS also wrote a similar letter to the *New York Times* of 29 July pointing out that the step amounted to violation of international protocol and agreements and said: 'While we can oppose the proliferation of nuclear weapons, excluding a distinguished crystallographer like Chidambaram is no way to achieve that goal.'

In response to these, E. Gibson Lanpher, Acting Assistant Secretary of State for South Asian Affairs, has said that in cases if the applicant is ineligible for a visa under the 'technology transfer' provision under INA 212 (a)3(A), 'visa must be denied unless the State Department recommends, and the Justice Department grants, waiver. Waivers are only issued under certain circumstances, however, such as when the issuance of the visa is determined to be in the interest of the US government. In addition, it may be possible that some visa applications will be denied on other grounds.'

It is not even clear whether the Indian scientific community has taken up the issue with the MEA so that the matter is raised in the ongoing Jaswant Singh–Talbott talks.

If not, it is time that academies woke up to this need before matters precipitate.

1. At the recently concluded meeting of the ICSU General Committee and Extraordinary General Assembly, it has been decided to rename ICSU as the International Council for Science (ICS).
2. 'Guidance on Indian and Pakistan Sanctions', Memorandum from Federico Pena, US Secretary of Energy, dated 16 June 1998, (what has come to be called the Pena Memorandum) provides an interim list of institutions under the DAE, the DRDO and the ISRO with which all US Department of Energy sponsored activities are to be suspended. As a consequence, for example, Indian scientists participating in the prestigious D-Zero collaboration at Fermilab have been asked to go back and apparently even the Indian flag there has been brought down. Judging from the termination of collaborative (material science) projects at the National Institute of Standards and Technology (NIST), an institution under the US Department of Commerce, and the subsequent termination of the non-immigrant visa status of the Indian scientists involved in them, it is likely that similar memoranda have been issued by other departments too.
3. Cable dated 28 January 1998, from the US Secretary of State to all US diplomatic missions titled 'Using Technology Alert List: Help Take a Byte out of Crime'.
4. In response to a DAE scientist's application in June to an IAEA Technical Workshop related to nuclear safety in Ontario, Canada, the IAEA, refusing his application, quoted this from Canada's notification to it: 'In light of India's testing of nuclear explosive devices, the government of Canada does not welcome the participation of nuclear experts from India in meetings in Canada until further notice.'
5. NAFSA.news 3.28, 31 July 1998.
6. The complete TAL may be obtained from the author or can be downloaded from http://www.NAFSA.org/retrieve/3.24/324.1.txt.
7. According to NAFSA.news 3.24, 26 June 1998, as of 19 June, about 30–40 SAOs had been sought on Indian and Pakistani scientists. How many were finally denied is not known. Based on this figure, the total number of SAOs till date could be about twice the number.
8. Siskind's Immigration Bulletin, August 1997, http://www.visalaw.com/~gsiskind/bulletin.html.
9. Now renamed Standing Committee on Freedom in the Conduct of Science (SCFCS).
10. *Universality of Science*, Handbook of SCFCS (called the Blue Book).
11. Peter Schindler, private communication.
12. Para 9 of the Blue Book.
13. Private communication from Svetlana Kostic-Stone, Spokesperson for NYAS.

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OPINION

Biswamoyopterus biswasi (Saha 1981) or *Ichthyophis tricolor* (Annandale 1909)?

Ajith Kumar

The recent publication of suggested common names for Indian reptiles by Indraneil Das[1] prompted me to write this note. I am neither a layman nor a taxonomist, but somebody who does ecological studies on animals. People like me are, unlike the layman, interested in identifying species that we find in the forest or elsewhere, as easily as possible. This is easy in the case of well-known mammals and birds, a few of the reptiles and amphibians. For many of the not so well-known species, I would like to depend on the common names and scientific names to provide a reasonable description of the species, which would help to identify the species. This is where the problem lies if we examine the recent trends in naming species. In the recent years, Indian taxonomists have been naming species either after people (either to please or to respect) or after localities from where the type specimens were obtained. I have attempted to analyse this trend using information I have on amphibians and reptiles. I divided the recent past into four periods, pre-1900, 1901 to 1950, 1951 to 1980 and after 1980. I then examined whether there had been any trend in naming species after person, place or some feature of the species. The last of these would be of value in identifying the species, and could be a name that describes some distinguishing morphological feature of the species, or its habit. The results are given in Table 1.

Table 1. Number of species described and the percentage of these which has been named after a person, place or some feature of the species such as morphology and habit

Time periods	No. of spp. described	Percentage named after		
		Person	Place	Spp. feature
Amphibians				
< 1900	93	15.1	16.1	68.8
1901–50	46	17.4	37.0	45.7
1951–80	39	25.6	38.5	35.9
> 1981	17	35.3	47.1	17.1
Reptiles				
< 1900	388	27.6	16.2	49.4
1901–50	46	34.2	14.6	39.0
1951–80	22	57.1	33.3	9.5
> 1980	14	58.3	16.7	25.0