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Abstract

This article is about some of the governmental experiences of the jurist/diplomat/minister M.C. Chagla, through which, it seeks to cast a certain light on the possibilities and limits of relations between a majority state and a minority individual, albeit of the privileged kind. Chagla's pre-eminent presence in Bombay's legal fraternity from 1922 and the High Court from 1941 bequeathed to him a sense of belonginess, which was largely untouched by the upheavals of 1947. His 11 years as Chief Justice, followed by five years as India's envoy in U.S./U.K., saw him being elevated to the central cabinet, but not without a question mark at his non-party and non-majority identity. His short ministerial stint till 1967 ended over two issues of identity politics—a domestic language policy and an international crisis—providing a prism to see the coming together of competence, concerns and convictions around cooperation across parties, classes and communities.

Keywords: *M.C. Chagla; India; partition; Jawaharlal Nehru; government policy; party politics*

1. Introduction

Muhammad Carim Chagla (1900–81) was a well-known Indian lawyer, judge, diplomat and minister, whose gentlemanly disposition, incorruptibility, investigatory skills and nurturing of institutions saw the historian Ramachandra Guha suggest him as a "patriot" to the author of a paper presented in the University of Mumbai sometime in 2007. Afterwards, in Guha's words, he was "set upon" by a gentleman thus: "Is it only because he was a Muslim that we have to add that qualifier 'patriot'? I object to this kind of patronizing labelling".[1] For in making his suggestion, Guha had—admittedly—"completely forgotten that Chagla's first names were Muhammad Carim".[2] This portentous anecdote from more than a dozen years ago provides the inspiration of this article, which attempts to re-trace certain aspects and interactions of Chagla's public life as a Muslim in a non-Muslim society, namely India.

Born, brought up and, later, earning his bread in the western Indian metropole of Bombay, where his well-off Ismaili Khoja mercantile community formed a significant part of that colonial city's famed cosmopolitanism, Chagla was such a Bombay*wallah*

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that in 1949, he declined "an offer to be elevated to the Supreme Court of India".[3] This seemingly unthinkable act, in the acquisitive tones of today, can be read as his rejection of a "penchant for seniority and hierarchy", in which "the status and prestige of a court cannot be measured in terms of its position in the system",[4] apart from it being a reflection of the rich life that he led in his beloved city. Recently, a PhD dissertation submitted in the Saurashtra University of Rajkot, Gujarat fittingly called his "a life lived from the centre to the circumference",[5] while comparing it with those of novelist Nayantara Sehgal and educationist K.M. Munshi. That Chagla is clubbed here with one of the nieces of India's first Prime Minister Jawaharlal Nehru and one of the disciples of India's first Deputy Prime Minister Vallabhbhai Patel, provides another pithy entry-point into his life's work, which can be employed as a prism to view the nationalist imaginations of India. But Chagla was nothing, if he was not international and any exploration of his public engagements must begin with acknowledging his arrival in Britain as a 19-year-old to study Modern History at Lincoln College, Oxford. Inspired by the 4-term 19th c. British Prime Minister W.E. Gladstone, Chagla joined the Oxford Union and the Liberal and Labour clubs, while at the university. In 1921, he became the president of the Oxford *Majlis*, the Indian students' debating society at the university, and returned to Bombay the next year, having been called to the Bar.[6] Thus, if he was one of those many colonial South Asians whose presence, words and actions contributed in *making* and *shaping* the British Nation between 1870 and 1950, then as a lawyer-academic at Bombay from 1922 to 1941, he was verily one of the many "nationalists" or "Congress Muslims", whose dilemmas laced the interwar years of Indian nationalism.[7] As a colleague of Dr. B.R. Ambedkar at Government College, Bombay and as an apprentice under Muhammad Ali Jinnah, two of the most acute and formidable opponents of Nehru, Patel, their mentor Mohandas Gandhi and their organisation, the Indian National Congress, Chagla found himself at the centre of these still-concentric circles in the 1920s-30s. His personal and political "parting of ways" with Jinnah came with his publication of the pamphlet, *Muslims and the Nehru Report* (1929). 34 years later, in a personal communication to Syed Anisur Rahman, a politician from the state of Bihar who edited the publication *Parcham-e-Hind*, Chagla explained his expectations from "Muslims in India", at some length, in some timeless terms:

> [They] should give up completely their separatist attitude and outlook. They should look upon themselves as Indians, as much as the Hindu, Sikh, Christian and Parsi citizens of India and they should eschew the label "Muslims" as a political label. Under a democratic form of Government and in a country where all citizens have the same rights and where there is no official religion, no community is entitled to consider itself a political minority … Muslims have every right to preserve their religion and there is nothing to prevent them from doing so under the Constitution, but it is time that we learnt to look upon religion as a private affair, and not something … to be brought as an issue on every considerable subject. So long as the Muslims look upon themselves as a political minority, they have no future in the country.[8]

Parts of this extract have evolved into telling tropes today, when the national mainstream and much of its citizenry are insistent upon making Muslim participation in the public sphere of the country a matter of zero-sum game. Chagla, a prolific writer, would weigh in on the social contract between *the individual and the state* (1961) and the cultural thread tying *education and the nation* (1966), speak about his ambassadorial experience (1962) and pen the official Indian position on the Kashmir dispute (1965),

before signing off with an autobiography titled, fragrantly, *Roses in December* (1973). His five-fold life has prompted thoughtful commentary on its different phases. Most often, he has been memorialised in histories of the colonial Bombay High Court.[9] Most recently, he has been recalled in a narration of "education in early postcolonial India".[10] In-between, he finds a place in a description of India's first resolution at the United Nations (UN) in 1946.[11] Next, his representing India abroad (1957–63) feeds the account of *India and the World*.[12] Lastly, his departure from government in 1967 deepened debates on "Indian bilingualism".[13]

For a career that hit high notes with Chagla's appointment as Chief Justice, Bombay High Court in 1947, and as an *ad hoc* Judge, International Court of Justice, The Hague in 1957, and saw him become the republic of India's envoy to America (with accreditation to Mexico and Cuba) in 1958 and to Britain in 1962, it was capped at the centre in New Delhi with his successive appointments as Nehru's last Minister of Education in 1963 and his daughter Indira Gandhi's first External Affairs Minister in 1966. This article, in side-stepping this well-tracked trajectory of Chagla's life's work, is interested instead in spotlighting some of those political relationships and personal moments that enable us to engage with Gyanendra Pandey's question: "Can a Muslim be an Indian?"[14] For on both the bureaucratic and the nationalist imperatives of post-1947 India, Chagla embodied an answer in the affirmative. While he stood above the fray of the "long partition" and indeed substantively contributed to the making of modern India in its aftermath,[15] Chagla could not quite remain untouched by the new questions of legitimacy, citizenship and loyalty exercised in an old state. Drawing upon the *selected works of Jawaharlal Nehru*, *select correspondence of Vallabhbhai Patel, 1945–50*, and two instalments of Chagla's personal papers, which include his communications with Prime Minister Indira Gandhi, and casting the chronological net from the late-1920s to the late-1960s, this article attempts to capture the shifting sands of Chagla's social contract with these personifications of the political Indian state. In doing so, it shows the different layers in which this change was registered and throws a less than flattering and more than complimentary light on Chagla's interactions with these interlocutors of his.

2. Prologue

M.C. Chagla's feted appointment as the successor to Sir Leonard Stone, Chief Justice of Bombay High Court, the notice of which appeared on the day of the *transfer of power* in British India, was accompanied by a false note which was a microcosm of the faultline at the heart of the Congress *duumvirate* to whom this power was transferred by the departing rulers.[16] This appointment contained a supersession, that of K.C. Sen, an Indian Civil Service Judge, and thus concerned Vallabhbhai Patel's Home Department. Patel was informed that Sen had taken this "matter to heart" and "should either be taken into the Federal Court or should be transferred to another High Court";[17] neither course being possible for a person superseded in his parent cadre. Moreover, the "papers to show why Sen [was] superseded" were not shared with Patel by Viceroy Lord Mountbatten and Nehru, and he had to find out from the Bombay Premier B.G. Kher that both Stone and Kher considered that Chagla was "the better of the two". An unimpressed Patel made his reluctance clear in that he would have "preferred to have looked more into the merits of the case" impinging upon the colonial *steel frame* of which he was now the patron,[18] but since Nehru and Mountbatten had "already agreed to the appointment, [he] had no alternative but to concur".[19] More so, given

that a communique announcing this had already issued in the *Times of India* of 14 August 1947, bypassing the Minister, Home and undercutting his central role and procedural style in Indian politics. This episode gives away a glimpse of both Chagla's supporters and detractors in both Bombay and New Delhi, whose communalism and secularism respectively are much documented.[20] Interestingly, both Vallabhbhai Patel and K.C. Sen appear conspicuous by their relative absence in Chagla's memoirs.

Despite having the better of a political appointment here, Chagla was very mindful of the difficult mix between politics and judiciary, especially when it came to inter-governmental processes paving the way for the division(s) of 1947. In September, when the government of Pakistan protested against the awards of the Punjab Partition Tribunal,[21] describing them as "unjust, unfair and political", Chagla was among those quick to convey to H.J. Kania, one of the four judges of that tribunal, that as Chief Justice of India, Kania "should not be a member of the tribunal [whose] work [was] no longer judicial in character".[22] This time, both Nehru and Patel demurred in one voice and assured Kania that he should continue without worrying about what Jinnah said. It was a year later, in November 1948, that the first of many such incidents would occur, which would pitchfork Chagla repeatedly in this judicial versus political predicament, to the displeasure of the political party, to whom he owed his judicial appointment. During a visit to Jalgaon, Chagla was reported to have spoken publicly against the Bombay government's policy on prohibition. When this reached Patel, he conveyed his personal sentiments and political understanding to Kania thus:

> Whatever the position of the Chief Justice of the High Court may be … his public conduct should be in keeping with government policy. If this is not done, both the judiciary and the government are bound to be brought into public ridicule, and should there be any breach of the law, the position would be most embarrassing.[23]

In reply, when Kania expressed his helplessness, because of lacking any constitutional powers of supervision under the 1935 Government of India Act on High Court judges,[24] Patel, who knew well the formal position, suggested to him to informally "drop a hint" to Chagla[25]; laying down the political lines clearly, not to be publicly trespassed by the judiciary, a thin end of the wedge that would widen out in a breach around freedom of speech and civil liberties in the early post-1950 constitutional experience, culminating in the Constitution (First Amendment) Bill.[26] Chagla's early exchanges with Nehru, on the other hand, were marked with cordiality and mutual respect, which would deepen into affection as is evident throughout his memoirs. Putting on his judicial hat, he had commented on two of Nehru's cases from his legal practice years (1912–20) fondly that while in themselves the cases were "not important, but they disclose the extraordinary industry and love of research of the young lawyer".[27] Fittingly, it was Chagla who —decades later as India's Education Minister—would be "keen that the [second university to be set up in the nation's capital] be named after India's first prime minister" though Nehru "himself shot down the idea".[28] Equally so, Patel's son Dayabhai Patel, an opposition MP by now, charged Chagla in the parliament, with "spreading personality cult".[29]

Jawaharlal Nehru had first crossed paths politically with Chagla, when the young Bombay barrister was one among the many counsels "engaged" by the defence in the Meerut conspiracy case, 1929–32;[30] a colonial episode of Indian "Trade Unions on Trial".[31] Here too, within three months, Chagla "had to leave because many of the accused from Bombay did not want him. Also, because the funds at the disposal of the defence were limited".[32] This reflected the tensions within the trade unions

between the *reformists* and the *revolutionaries*, which were worsened by the case, causing a permanent split soon. Chagla, certainly not the latter,[33] would rise to become a judge in the Bombay High Court in 1941, in which capacity, Nehru as Member, External Affairs of the *Interim* Government, formed in September 1946,[34] would send him to the UN in an Indian delegation, whose members reflected his composite understanding of India, headed as it was by his sister Vijayalakshmi Pandit, and consisting as it did of Chagla, Raja Sir Maharaj Singh of Kapurthala princely state, Frank Anthony of the All-India Anglo-Indian Association and Nawab Ali Yavar Jung Bahadur, then-Vice-Chancellor of Osmania University, Hyderabad. However, the partitioned *interregnum* of 1946–49 could not usher in the Indian Republic—in the making through the 1950s—while its Nehruvian Democracy would truly emerge after the universal franchise-based first general elections of 1951–52.[35]

3. As a Judge

Within 9 months of the Congress party's resounding all-India victory in these, which in Bombay state saw Morarji Desai form his ministry on 21 April 1952, Chagla got drawn in a public argument with him. Desai, a veteran party man from Patel's Gujarat and a disciple of his now-deceased patron, had been a powerful Home Minister in the 1937–39 and 1946–52 ministries and prohibition had been his Gandhian policy-nod that Chagla had commented adversely on, back in 1947. All accounts of this incident that reached the Prime Minister, including those published by the left weekly *The Current* brought out by D.F. Karaka[36]—Chagla's fellow Lincoln College alum—not likely to favour the right-wing Chief Minister, who personified the overlaps within *Hindu Nationalism and Indian Politics*,[37] indicated that Chagla had "initiated this argument and continued it in spite of every effort of [Desai's] not to discuss". The occasion was "a private dinner party given by a leading merchant on the marriage of [Desai's son]" and the context was the Bombay High Court's "judgement [about] the Bombay Sales Tax", declaring it to be *ultra vires* that very day. Given that the merchants would be "naturally interested" in the affair, quite apart from the merits of the case, the occasion was "particularly inappropriate" for a public spat. Yet, Chagla criticised Desai's government strongly, speaking with "some heat on the matter". Nehru was left to rue this "very embarrassing" spectacle and, while it seemed "an extreme case", it came at the back of many such reports previously received of "remarks being passed by some of the judges of the Bombay High Court derogatory to the Bombay government". Echoing Patel, it was now Nehru's turn to stress to the Union Home Minister K.N. Katju—his fellow Kashmiri Pandit who studied at Allahabad and was Chagla's fellow counsel in the Meerut conspiracy case—against unsavoury controversy vis-à-vis the judiciary and to request Katju to draw the attention of the Chief Justice of India M. Patanjali Sastri of Madras, to this matter so that "this tendency [could be] checked".[38]

When Chagla was informed by Sastri that Nehru was "extremely irritated", he wrote to the Prime Minister "not as Chief Justice … but … as one who has given you the most unswerving *loyalty*" [emphasis added],[39] before going on to defend himself. His version of this unfortunate incident was that Desai was "obviously smarting under it and gave vent to his feelings in language, which was both intemperate and insolent". But Chagla did not deem Desai's words as an attack on him personally, instead, to him it felt like "an attack on the High Court … made in the presence of about 40 people who represented different sections of the public in Bombay" and he therefore felt duty-bound "to repel the attack", from a person with whom he had chequered relations over at least 30 years, which

are scattered throughout his autobiography and its appendices. Thus, after starting on a personal note, Chagla sought Nehru's support institutionally, because as the Prime Minister, the latter was "even more interested in the prestige of the High Court than … its Chief Justice [himself]". For the personal was institutional in those early independent days, when Congressmen having formed electorally mandated governments would bristle at the colonial apparatuses, most notably the judiciary, deciding against any policy. This fault-line between "unconstitutional" legislation and "defective" interpretation would become a running sore in Indian body politic, most spectacularly on question of the fundamental right to property,[40] but also surrounding "moments in a History of Reservations".[41] The only way to bridge it was for both sides to "understand and appreciate the difficulties of the administration" but Chagla drew the line on becoming "a partisan of Government on the bench"; a political expectation that would be operationalised under Indira Gandhi in the early-1970s.[42]

For the moment, Chagla and his High Court were being incredibly "tainted with the virus of communism", if not communalism, and he refused to look upon himself as having ceased to be a member of society because he had accepted "judicial office". He and his colleagues reserved to themselves "the right of giving expression to views on social, cultural, educational and international matters", and Chagla brought up his "political past", before asking Nehru in telling terms, "am I to … seclude myself and go behind a *Purdah* … ?" Above all though, Chagla was prepared to face "any hostility" from Desai's government but not with Nehru doubting his "loyalty" to him, thereby ending his explanation as he had begun, on a personal note. The Prime Minister therefore began his reply reassuring Chagla on this question, before admitting, however, that he had "gathered the impression [of] a continuing conflict between [Desai] and [Chagla]". Nehru was not referring to any judgements as such but "rather to other statements or even casual talk", which was undoubtedly unhealthier. While mutual interference between the Executive and the Judiciary was bad, more distressing was a state of "continuing tension and dislike".

Nehru did somewhat defend Desai in mentioning that the Chief Minister had "seldom spoken" to him about the Bombay High Court and the impressions he had gathered were from "other people". Desai had definitely said nothing about "the virus of communism" and Nehru anyway "would not have believed it" about Chagla, but the Prime Minister did caution him "to be more careful than a politician in regard to what he says because he occupies a position where … it is not enough for him to be impartial, but other people should also think him so".[43] Six months later, Chagla "surprised and distressed" the Prime Minister again, when in mid-June 1953, at a time when Nehru was abroad, the *Times of India* reported that in a political meeting organised by the India-Africa Council in Bombay, Chagla had declared that "judicial conscience was shocked" at the atrocities committed on Africans in Kenya.[44] While fully agreeing with Chagla's sentiments, Nehru asked "how far it [was] desirable for a Judge of a High Court to participate publicly in a matter of this kind", when he himself had to employ "somewhat guarded language [and speak] privately in England with everybody", because of his official position. As an independent nation, India's politics had to be "different from those of a dependent country". As its Prime Minister, he could not "publicly criticise the internal happenings in other countries".[45] After all, he "would resent such criticism" from elsewhere about matters Indian.

Chagla's point of view on this meeting, when it came, seemed to obfuscate the line between domestic "controversial politics" and international "all-party meeting"; with judges staying away from the former but "supporting a cause about which there is no

controversy in the country". He then pointed out that the speech he had "delivered at this meeting was practically on the same lines as the one delivered at the UNO in support of the Indian cause in South Africa" in 1946, omitting that back then India was not independent. And then, perhaps ingeniously for someone who would soon be a diplomat, Chagla claimed that he "was not conscious of … offending the proprieties of diplomatic procedure by presiding over this meeting".[46]

Anyhow, for the moment, he was joining Nehru in feeling "proud to belong to a country" where a democratic experiment at a "vast scale" had again proved successful with the second general elections of 1957;[47] that is excluding the areas of *exception* like Kashmir on whose denial of self-determination, Chagla was as glib as Nehru. What had also risen exceptionally in this decade of democracy was corruption, with the outbreak of the Life Insurance Corporation (LIC) scandal, later that year, taking the scalp of none-other-than the Union Finance Minister T.T. Krishnamachari, given allegations of corrupt investments by the LIC, which came under Krishnamachari's ministry.[48] Krishnamachari was a business professional and another belated politician, from Madras, who had founded his TTK group in 1928, entered the provincial assembly in 1937 as a representative of the Southern Indian Chamber of Commerce and joined Congress, afterwards. His enforced departure came at the hands of party MPs, who—in the absence of an effective opposition in the country—had become the "chief critic of the executive".[49]

But not before the latter appointed in Chagla, a one-man judicial commission of enquiry in January 1958 to look into certain transactions of the LIC involving the "purchase of shares in the British India Corp. Ltd. (Kanpur) and five other companies controlled by Haridas Mundhra", reportedly, "at a higher price than the market price".[50] Chagla gave a colourful account of the intense public interest in his proceedings in his autobiography,[51] and his report, finding Krishnamachari guilty was tabled in the parliament on 13 February. Chagla's scrupulous and swift conduct in the affair impressed even the Prime Minister's inveterate opponents like Master Tara Singh, the other chief challenger of the Congress on minority politics since colonialism,[52] who was still struggling for Sikh *Subah* and demanding that "specific charges against Kairon [Congress' Punjab Chief Minister, Partap Singh] be referred to Chagla".[53]

Before this could happen, in March 1958, Chagla became the chairman of a committee organised by Indira Gandhi to celebrate the 60th birthday of the African-American activist-artist Paul Robeson, who was considered pro-Soviet by Washington, which prohibited his performances.[54] This involvement occasioned an interesting exchange with American Consul-General in Bombay, who cautioned Chagla that this would be taken as another "piece of evidence that [India was] heading for the Communist camp", asking provocatively, what would New Delhi think "if America were to celebrate the 60th birthday of [Kashmiri nationalist] Sheikh Abdullah"? Chagla poured scorn that "if Americans thought that Sheikh Abdullah was a great artist and a great humanist",[55] they were welcome to go ahead. By August 1958, America was where Chagla himself was headed to, as Nehru asked him if he would be prepared to leave his beloved Bombay for Washington; "of the highest importance in our foreign missions".[56] Ten years since Asaf Ali, a quintessential old *Dilliwala*, left it as united India's first/last Ambassador, the United States was to be sent another "nationalist Muslim", reflecting that united imagination, if not identity anymore. Fittingly, Chagla was to leave Bombay on 2 October, Gandhi's birthday.

4. As an Envoy

However, it was neither the Soviet Union nor Pakistan that presented itself to Chagla as the first matter of some concern, as a diplomat. It was the Portuguese Catholic conclave of Goa, where a freedom movement had been on since the mid-1950s, whose rather "demoralised delegation" met him, urging to get the American administration and Cardinal Francis Spellman, Archbishop of New York, to get America's NATO-ally Portugal as well as the Vatican, to agree to Goa's self-determination.[57] Chagla was told by these Goans that on the question of whether Portugal or India, the majority would decide for the former but on the question of whether Portugal or autonomy/independence, they would vote for the latter whereupon it was certain that "within a short time, Goa would merge with India". Spellman was influential with the Vatican and said to be supportive of such a plebiscite, which, of course, was like garlic to vampire when came to New Delhi. For as Chagla hastened to add to Nehru, there was "no analogy whatever" between Kashmir and Goa, as Kashmir had constitutionally merged with India, while Goa had not. Moreover, the "various circumstances which make plebiscite in Kashmir impossible" do not exist in Goa. This was not assuring enough for the Prime Minister, who replied plainly that his government should not and would not "suggest a plebiscite in any form, nor discuss an independent administration of Goa". Their line was that the Portuguese administration of Goa was "authoritarian, oppressive", that India could "never agree to a foreign foothold" in the country and its patience should not be taken as its weakness. There were, after all, "Catholics in the rest of India and they [had] no complaints"; plus, the "*majority* in Goa [were] not Catholics". Nehru did not understand "why the Catholic Church, in the name of non-interference, encourages the maintenance of status quo [for] the ultimate solution [could] only be close association with India, with possibly internal autonomy".[58] There were some fascinating echoes here of minority-majority, nation-territory and self-other varieties, one of whose variations had, of course, played out in the Pakistan movement.

As an envoy, Chagla was never short of proposals—whether it was starting a refugee fund for Tibetans in America, post-escape of the Dalai Lama to India in March 1959, or setting up an "over-all surveyor [an] Ombudsman" for India,[59] or supporting a clinical trial of an oral contraceptive developed by an American biologist in India.[60] In February 1960, he suggested changing from lakhs and crores to millions and billions,[61] given Nehru's "international approach to most problems",[62] and in May, he recommended transfer of artificial insemination technique from Kansas State University, where "10 pedigree bulls serviced 200, 000 cows".[63] In July 1960, he recommended an NBC project for a film titled *The World of Jawaharlal Nehru*,[64] while in September, he would visit the world of Fidel Castro's Cuba, balancing it out with paving the way for the visits of American Business International and John Kennedy's Peace Corps to India in April 1961.[65]

But Chagla was never entirely happy abroad, or "in exile", as he put it even to his old detractor, Morarji Desai, in 1959, now Union Finance Minister. A taciturn Desai "did not quite know what to write" to Chagla's note that he felt "isolated from the *mainstream* of *national* life" [emphasis added];[66] throughout the keywords for Chagla's locked political-judicial life and by June 1960, he was pleading with the Prime Minister to let him return. With the Indo-American relations thawing, following the frozen 1950s,[67] Chagla felt his usefulness had come to an end. More than that, he felt that he could "serve much more usefully at home". Above all, he left it to any plans that Nehru may have, given his "deep sense of loyalty" to him.[68]

The Prime Minister did not, perhaps could not, oblige him; at least immediately, for it was "not an easy matter to find a suitable person for Washington" for him but, in that typically ambiguous manner, Nehru planted the possibility of "entering the political field [the parliament]" in the mind of Chagla.[69] Among its merits was the fact that the next general elections were due in spring-1962 and this meant that Chagla could continue at Washington till autumn-1961. Chagla agreed eagerly, claiming that "politics was always [his] first love" and revealing that he had accepted judiciary and diplomacy as a "prelude to entering politics".[70] To assuage his concern that being away from the cut-and-thrust of Congress politics in India would not prejudice his chances, when the time came, Nehru wrote to the then-party president, N. Sanjiva Reddy and then-Chief Minister of Bombay/Maharashtra, Y.B. Chavan, in confidence that "Chagla is anxious to come back to India with a view to entering politics … parliament … a great acquisition to us. I have told him that he need not come back soon … you might keep this in mind".[71]

Before a vacancy could be created for Chagla in the Indian National Congress, in February 1961, a vacancy emerged on the International Court of Justice, with which Chagla had been intimately involved since 1957 and about which he had first alerted Nehru in 1959,[72] so that a suitable Indian candidate could be put up. Soon after though, Chagla read from an old acquaintance of his, Sir Muhammad Zafrulla Khan. Khan, having been Pakistan's fiery Foreign Minister between 1947 and 1954, was then locked in a triangular contest with India's Radhabinod Pal of the post-WWII Tokyo Trials' fame and Kotaro Tanaka of Japan for the election to the Court. He wrote to Chagla to apprise him that he had "more support" than Pal, but that Tanaka has "even more". The contest between them was for two seats, one held by Khan since 1954 and the other held by Enrique Armand Ugon, the Uruguayan judge. With the Latin American block having its own candidates in the running, to Khan it looked that if he and Pal contested, then the seats would "go to Tanaka (Japan) and a Latin American [and] the Asiatic position on the Court will not [be] better". Because he was ahead of Pal, though even he risked losing, Khan set out a suggestion in words, which are both implausibly fascinating and poignant to behold, in the backdrop of his furious and famous advocacy of the Pakistani case on the Kashmir dispute: "You have known my work on the Court. If I continue … India can feel that it is also represented on the Court. It cannot have that feeling [about] Dr Tanaka or a Latin American".

Khan urged Chagla to let Nehru know of his approach and request that "Ceylon may be requested to vote for me, and Mr Krishna Menon may be advised not to press Dr Pal's candidature", without a formal withdrawal. He concluded by sharing some personal predicaments namely that "having done only six years on the Court, [he was] entitled only to a little more than the minimum pension", that he could not revert to practising law and wished to "avoid for several reasons … public office". The Ahmadi in Sunni Pakistan,[73] Zafrulla Khan was also mindful of the embarrassment or the inadvisable awkwardness in which he was putting the Ismaili Chagla in Hindu India and asked him to "tear up this letter and think no more about it",[74] if so. Otherwise, time was of the essence as the elections were being held on 9–10 November 1960. It is a measure of Chagla's confidence in himself and faith in Nehru that he despatched a telegram on 4 November to the Prime Minister, only to receive a terse reply, the very next day: "We have no intention of withdrawing Pal's name from this contest *whatever the results might be*" [emphasis added].[75]

This was not the only occasion when his stint at The Hague caused some discomfort to Chagla, which curiously like the Vatican/Goa episode above does not seem to merit a mention in his memoirs. In June 1961, the Finance Ministry—now headed by Morarji Desai—produced a note, which purported to show that Chagla "continued to draw his

[ambassador's] salary while he was at The Hague [September-November 1959, in connection with the Portuguese claim to passage from Daman through India to Dadra and Nagar Haveli] … was also paid $ 35 dearness allowance and $ 20 subsistence allowance per day by the ICJ … for the period of his stay",[76] and so he should either be retrospectively taxed or refund the amounts concerned. An unimpressed Prime Minister intervened, as his External Affairs Ministry had invited Chagla to serve on India's behalf on this case, and describing The Hague an expensive place, refused to term Chagla's emoluments as fees, to be forgone now.

Instead, in October 1961, in another case of simultaneous charge, Nehru appointed Chagla to the Punjab Commission "to enquire into Sikh grievances" along with Sir C.P. Ramaswamy Aiyar, the last Diwan of Travancore princely state (1936–47) and S.R. Das, Chief Justice of India (1956–59).[77] The *Kayastha* from Bengal, the *Brahmin* from Madras and the *Ismaili* from Bombay would disappoint the Sikhs, when in its report of 31 October 1961, their commission concluded that "no formal complaint of discrimination against the Sikhs in the Punjab has been placed before it" by Master Tara Singh and his Akali Dal and held that "on the materials before it, no case of discrimination has been made out".[78] The latter of the three—the youngest—would move on soon, when in March 1962, he was chosen by Y.B. Chavan, Maharashtra's Chief Minister, for a seat to the (indirectly elected) upper house of the central parliament from the state. At long last, Chagla seemed headed to the political centre, only for the Prime Minister to think of him as India's High-Commissioner to Britain. The colonial metropole was "still important", and Nehru wanted "to send a non-official" there but, given their past correspondence, he did not, rather could not, sound Chagla directly and asked Chavan to do so and let him know how he "feels about it".[79]

Chagla, meanwhile, was feeling "rage, insult" at having been told by the Congress to "stand from Aurangabad where the majority population was Muslim"![80] Opposed to separate electorates since forever, he had agreed to a Bombay seat but, standing—and winning—from Aurangabad was more community politics than anything else and Chagla declined though he should not have been surprised at the Congress offer; consistent with its electoral behaviour since at least 1937. Anyway, regardless of how resentful and reluctant, respectively, he felt at these goings-on, especially as he had recently lost his wife, Chagla accepted the post in late-March 1962 and Nehru sweetened the pill by leaving it to him "to judge … for how long [he] will stay there",[81] thereby providing "the one ray of hope".[82]

Instead, it was there that he had a conversation of *total recall*, with Sir Learie Constantine—the cricketer-turned-High-Commissioner for Trinidad and Tobago from 1961. When Constantine drew Chagla's attention to the "unfortunate role that the representatives of the Indian community" were playing in the then-ongoing constitution-making for his country, Chagla's mind went back 25 years. The Indian community constituted 36% of Trinidad and Tobago and, on that basis, they were emphasising their "separateness, service representation, going to the length of claiming a partition, a separate homeland for Indians"! If all this was too reminiscent of his former boss Jinnah, then—to him—the role played by the British in both cases was "the same—rally[ed] the minorities—[thus] strengthened, they now feel that they have a stake in the country, which is *as important* as that of the majority community" [emphasis added].[83] Chagla told Constantine that there was no question of India supporting the Indians in Trinidad so that they could have a partition, supported—in turn—by Nehru, who did not really need to reiterate his opposition "to these *minority claims*, separation etc" [emphasis added].[84]

By the autumn of 1962, as India's China relations moved towards a war, the aftermath of which, it was widely anticipated that Pakistan, if not the Anglo-Americans, would attempt to "take advantage" of,[85] Nehru and Chagla stiffened each other with the essence of India, namely its secularism, which was once shattered by the Two-Nation theory and now shaken again in Kashmir. To both, there was no other "final solution [there] except that of the status quo with possibly minor adjustments";[86] ironically, in effect, Two-Kashmirs.

Just before the outbreak of this war, Chagla's paths crossed yet again with Desai's. This time the issue was American historian Stanley Wolpert's fictionalised account of Gandhi's 1948 assassination titled *Nine Hours to Rama*. Outraged by its portrayal of "the murderer in a good light", Desai had led the outcry for its banning in India, against with Chagla protested. The Prime Minister agreed in principle with his lawyer-envoy but promised no more than forwarding his letter to the politician, Desai. He had not read the book but had been told that it was "well-written", with the above-mentioned caveat. But its mere report of publication in the West had "created such a furore" that, even for Nehru, it was "difficult now to undo what [was] done".[87] By now, an ageing Prime Minister, who had looked east for long and was finding it difficult to turn west in the last full-year of his life,[88] could only slowly demur Chagla's enthusiasms like "Roy Thomson [owner *Sunday Times* being] very keen on setting up television in India"![89] He was not about to encourage television, as "in present circumstances, it will only be taken advantage of by richer people in the cities. Even radio is only slowly seeping into the villages".[90] With the question *after Nehru who?* seemingly on every lip,[91] the infamous Kamaraj Plan was put into motion in August 1963, which saw six cabinet ministers and six chief ministers of states resign from their posts and re-join the Congress party organisation in the name of strengthening its unique "system".[92]

This list included Chagla's *bete noire* Desai and stemming Chagla's ever-increasing desire "to come back", Nehru urged him to wait till October as there was "a feeling of uncertainty here about various matters".[93] Be that as it may, there was certainly an uncertainty about Chagla in the minds of lots of Nehru's fellow party-men, one of whom plainly wrote to him—after a discussion—that "non-Congress MPs should not be made ministers [as] to make ministers of outsiders is a clear sign of lack of confidence among party members". Mentioning Chagla by name, Nehru was informed that indulging him was "unpalatable to Congressmen", at a time, when the Kamaraj Plan was "sending Congress ministers to party organisation to strengthen it".[94] This communication from Mahavir Tyagi was infamous enough for the sensitive Chagla to include it in the appendix of his autobiography, because it was shared with him by the Prime Minister, as was his reply to Tyagi, which is a document worth pondering over in some detail.

Nehru had been told some time ago about the "feeling among party members" about his "taking people from outside the party into the government". In fact, he was cautioned about "a resolution being prepared about this matter" and was forced to list such "special cases" from the past: "Gopalaswami Ayyangar, Shyama Prasad Mukherjee, Shanmukham Chetty, and CD Deshmukh". In the next breath, he took recourse to the claim that these early cabinets were "largely constituted with the advice of Sardar Vallabhbhai Patel and it was at his suggestion that most of these persons were taken"; a measure at once both of Patel's strength in the organisation and Nehru's weakness vis-à-vis it. But there was no tiptoeing around Chagla's name, who unlike Hafiz Muhammad Ibrahim of Uttar Pradesh or Dr. Syed Mahmud of Bihar,[95] had "not been a member of the Congress", though Nehru tried to blur this fact by bringing in Chagla being "a Judge, Chief Justice, Ambassador to America and High-Commissioner in London" for

the last 25 years, i.e. therefore "he could not possibly be a member of party during this period". Then came the ultimate certificate to Chagla's "views on politics and otherwise … very largely in consonance with the Congress views" because,

> He quarrelled with Jinnah and left him when Jinnah started talking of Pakistan. Ever since then … he has given expression to strong nationalist views in keeping with those of the Congress … His ability and broad-mindedness are well-known. He is the kind of person who brings credit wherever he may be placed … More particularly when Hafiz*ji* left us, I was anxious to have some nationalist Muslim in his place … This has remained in my mind for these years … Everyone [in the cabinet] to whom I talked of it seemed to approve … of his progressive outlook, apart from his undoubted ability and position in India … I do not remember or know whether he was, at any time, an actual member of the Congress … This could only have been in the thirties … but, even in those days, he was closely associated with many of us in public affairs and was well thought of by us … Gandhi*ji* had a good opinion of him. I have seldom come across a person who is less communal than he is … When I mentioned this matter to the President [Radhakrishnan], he was also strongly in favour of Chagla.[96]

There it was, "the hard struggle that Nehru had with his own party men in his effort to induct Chagla" about which he would learn "only later".[97] Everybody from Jinnah to Gandhi to everything from Hafiz Ibrahim's absence to Radhakrishnan's affirmation was employed by the Prime Minister to appoint Chagla was Minister of Education in November 1963, thereby making him a beneficiary of the Kamaraj Plan.[98] It was a piquant moment that reveals the gap between the meta-narratives of Nehruvian secularism and the micro-language of Hindu nationalism in the party-politics of early post-colonial India,[99] following from its Partition, often filled by minority concerns.

5. As a Minister

Inside the cabinet, Chagla came into his own with the advent of Indira Gandhi, as Prime Minister in 1966, with the unsettled years of 1964–65 seeing him represent India on the Kashmir question at the UN Security Council. More than India's *peace-making* in the then-burgeoning Vietnam war,[100] it was the prospect of India being forced to sign the Nuclear Non-Proliferation Treaty that was on the minds of the Congress parliamentary party. In May 1967, he asked to attend a meeting on foreign policy and found that there was "almost unanimity" that India "should not sign the NPT",[101] nor should it entangle itself in "any security or guarantee [pact] from any foreign power". It was a well-attended occasion and led to an agitated discussion, after which Chagla was "solemnly assured that it was strictly private" and his views would be treated as "strictly confidential". Within hours, the Press Trust of India was "giving a complete report of what transpired" and an aghast Chagla asked the Prime Minister, as to how then was "it possible for a Minister to speak frankly to members of the Party?"[102] Exactly a month later, on 5 June 1967, the Arab-Israel war broke out and Chagla found himself put on spot in two rather different ways.

Internationally, there was the Soviet proposal to take the UN discussion of it out of the Security Council and into a special session of the General Assembly, in the hope of mustering support from the Afro-Asian world for the Arab side. But, with the "African continent divided on the issue [given] Israel's influence", no resolution was likely to

be passed with "any dramatic or even significant majority". Chagla wished to support the Soviet Union in this initiative but, Indira Gandhi was suggesting probing the Soviet Union and finding out "what precisely they think we would all gain by agitating the matter in the General Assembly and what the consequences would be if we [fail]? What political advantage would be gained in seeing the world community evenly divided?" Finally, there were "the implications [for] a possible transfer [of] the Kashmir question [similarly]".[103] More seriously, internally, the conflict caused "great agitation" in the Indian parliament, with great support for the Arabs bar the Hindu nationalist Bharatiya Jana Sangh and the right-wing Swatantra Party, who said that "the Arabs had not supported India during its war with Pakistan" in 1965. Chagla's first statement on the floor of the house "added fuel to the fire since it explicitly mentioned Israel as the aggressor",[104] forcing Gandhi to intervene and assuage any ruffled feathers both inside her own party and outside it.

Afterwards, pointedly, 10 Muslim MPs, gratefully wrote to the Prime Minister, shoring up "the strong support given to the cause of oppressed Arab victims of Israeli aggression", by her government, as "a matter of pride and satisfaction" in the face of "the hullabaloo raised by the reactionaries", especially as it came right in the middle of the "great all-party campaign [for the] protection of the cow"![105] They separately remarked their "great satisfaction" that Foreign Minister Chagla, creditably "supported the Arab cause in UN, in keeping with the best Indian traditions" and concluded with assuring Gandhi that their "services shall always be at [her] disposal for the just cause of Arabs".[106] In this backdrop, it came as little surprise that when Chagla resigned from his post on 5 September 1967, "there was speculation that his unequivocal stance on the Arab-Israeli conflict had cost him his job" although he himself "was at pains to point out that he had quit because of the government's policy on the medium of instruction in universities".[107]

Either way, his exit was rather precipitous. He conveyed his intentions to the Prime Minister on 31 August 1967, following which she asked him to wait before making any irrevocable public pronouncement, but, on 5 September, he released his letter of resignation to the press. Indira Gandhi was sorry, seemingly more of this manner of their parting than the merits of the case at the core of it. In her view, his "inferences and assumption about education policy undermining the unity of country [was] not valid".[108] More than that, she felt that whatever his difficulties, he "might have given more time for discussion before taking this step" and tried "hard to dissuade" him.[109] She knew that she was losing an "esteemed and valued" colleague, with an "unquestioned integrity" and an old-school "sense of dedication" in a period of inter-generational transition—if not *turning point*—in contemporary Indian history.[110]

Among the letters of congratulation that Chagla received, largely from the old Indian judicial/Indian civil service world, there was at least one that attributed this introduction of "regional languages for higher education and in law courts" to now-Deputy Prime Minister Morarji Desai's "infantile obstinacy"! This was a reference to the 1965 anti-Hindi agitation in Madras amidst which then-Prime Minister Lal Bahadur Shastri had to overcome Desai's (and others') pro-Hindi stance and reach out to the people in the south (and the east) through his public broadcasts.[111] Revealingly, the letter ended by assuring Chagla that "educated Indians, who are not in politics, will be behind you";[112] another kind of minority in a mass polity! It is interesting then to see at some length what it was that seemed to Chagla to threaten his "political philosophy—the maintenance of unity of India". Chagla was "all in favour" of Hindi ultimately replacing English in playing a "unifying role" but he was an equally strong votary of a "gradual

changeover from English to regional languages [and] till Hindi [took] the field [wanted] the teaching of English [to] be strengthened … to continue as an international language". This changeover was defined in the new policy as "5 years for undergraduate studies and 10 years for all stages"; it was this that seemed "hopelessly impractical and unrealistic" to Chagla. As he asked,

> What will happen to students whose mother tongue is different from the regional language? In many cities you have different media of instruction to cater for a multi-lingual society. They will be practically shut out from universities of the state which will be teaching in the regional language. What will happen to teachers who are not conversant with the regional language? Most universities recruit professors on an all-India basis … Are these to be turned out? And do we after 5 years make our universities purely regional with students/teachers only from the state?[113]

There were other issues viz. with the study of science and technology, but Chagla stayed with his "threat to unity" theme, emphasising English, "whether we like it or not", as having brought about that unity. With "the strong feelings prevailing in the South", Hindi could "take its place" only by slow persuasion and diffusion and not swift imposition, till it has been persuaded to accept the official language, indicated in the Constitution. But, in the meanwhile, "irreparable damage would have been done" by having "regional languages take the place of English and [snapping] the linguistic bond" and severely jolting administration. Chagla dramatically painted his "nightmarish visions of interpreters being needed in a high-powered conference to interpret what one Indian is saying to another". Lastly, not believing in criticism from within and believing in collective responsibility, Chagla resigned and with a prescient parting shot: "In most matters, Government policy, if mistaken, can be corrected. In education it cannot … and a whole generation may suffer because we were more concerned with present difficulties and did not look sufficiently ahead".

It is not as if, on this issue, Chagla was without any influential support. A month before his hasty resignation, Indira Gandhi's trusted secretary P.N. Haksar had written to the Prime Minister that the new policy being proposed by the Ministry of Education has no concomitant "plans and resources for the development of Hindi/English". Echoing Chagla, Haksar expressed his "fear that if we shall go ahead with regionalisation of university education, we shall fall seriously behind in the development of link languages. This will produce difficulties … of national integration". He recommended Gandhi "restoring a proper perspective by … ensuring a *pari-passu* growth of link languages". Indeed, it seems that "Gandhi took Haksar's advice, but Chagla was adamant and refused to take back his resignation".[114]

6. Conclusion

This article in tracing some of Chagla's tenures from the 1940s to the 1960s has tried to capture somewhat the still eclectic and miscellaneous—if not composite and secular—national political and governmental elite in India; miscellaneous insofar that it made space in the portals of power for expertise like Chagla's and not only purely party-political acumen. As the time for freedom-fighting ended, government comprised meritocratic —and not only majoritarian—appointments along non-party lines, although such ministers often lacked support from the party's rank-and-file; mass based as it was. This was as much because they lacked political base as because of strong party men such as Desai as

state ministers and cabinet colleagues. This ensured a conflict between party and government. This public sphere versus private space—with its pathos on the majority/minority question—contest was located within a political context of socio-cultural expectations versus political imperatives. In the rite of passage for Chagla, a concomitant hardening of party-lines saw a passing away of *consociational* power-sharing,[115] at the altar of his poignant political inheritance.

In a decade symbolising both the high noon of Nehru's India as well as its dimming lights, this period, as seen through the experience of this Nehruvian shows it ambiguities and fault-lines. It was a phase that showed "how a Government Party decays when Government swallows Party",[116] and ended in August 1963 with the Kamaraj Plan. It was a "grand gesture" that promised to re-establish "the importance of the [party in] the [Congress] system",[117] and yet, simultaneously, paved the way for Chagla's entry into government as his expertise was regarded highly by Nehru, and his cosmopolitan identity was a further asset. However, there remained a tension between the attempted "bossism of government leaders" and the party bosses,[118] which had its last *hurrah* in 1967 and saw Chagla's exit. This article, in eking out some of his interactions, with an intent to employ these as prisms for gleaning structural meanings about politics, personality and party in Nehru's India, has tried to tease out some of their tensions, softened by/for Chagla with his minority nationalism and cosmopolitan class.

While Chagla did not experience the discontents of the post-Partition hardening of "Indian Citizenship",[119] for his minority-ness was well-enveloped within his Indian-ness,[120] his colonial subjecthood did undergo a shift. Any contests on the nature of his belonging to the Indian nation had been settled by his political stances pre-1947 but the general questions placed against *Muslim Belonging in Secular India*,[121] did periodically touch upon his political prospects. These passages were perhaps symbolic of the fragility of the "holding" nature of that age of secularism;[122] finished long since then. Chagla's Bombay base, elite class background, place in the colonial state and "nationalist" position, protected him from the violence of 1947 and its lingering *afterlife*. But his political functioning would occasionally come under a certain spotlight, influential intervention to the contrary from Nehru notwithstanding.

Chagla was a nationalist Muslim *in* Indian politics[123]—although unlike the exemplar Maulana Abul Kalam Azad—and, to that extent, he did bear the legacy of a "Divided Nation".[124] His self-image of syncretism fitted in, indeed fed, the meta-narrative of Indian state secularism and so it was not a case of physical protection from persecution for him but rather, a matter of pragmatic preference from prejudice. If the partition of British India did not "solve" inter-communal relations but "inter-nationalised it",[125] then Chagla's inter-national career from 1957 to 1967 could not but bear some signs of this strain, as this article shows. While there were no clouds on the horizon for his ways of *being*, it was his ways of *doing* that could be minoritized. Forty years from his death, as his minority community in India is being re-marginalised, Chagla's experiences help place this change in some historical continuity.

NOTES

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