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Chettur Sankaran Nair: A Jurist's Defiance and Constitutional Legacy in Colonial India

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Abstract

This paper presents a critical reappraisal of Sir Chettur Sankaran Nair (1857–1934), one of colonial India's most prominent jurists and political dissenters, whose intellectual rigour and national pride set him apart from both colonial administrators and dominant nationalist currents. Drawing upon autobiographical accounts, parliamentary records, and contemporary commentaries, the article explores Nair's deep engagement with Indian legal and cultural traditions, his confrontations with racialised colonial bureaucracy, and his principled opposition to Mahatma Gandhi's endorsement of the Khilafat movement. As a member of the Viceroy's Executive Council and later a vocal critic of colonial excesses, most notably during the aftermath of the Jallianwala Bagh massacre, Nair advocated for constitutionalism, legal reform, and self-governance grounded in civilisational continuity. The article traces his contributions to the Ibert Bill debates, the Montagu-Chelmsford reforms, and his influential dissent that shaped British India's transition towards responsible governance. Nair's legacy is intricately tied to significant discourse on nationalism, communalism, and the advancement of legal modernity. This study foregrounds his unique vision of Indian nationalism, rooted in cultural confidence, legal clarity, and democratic principles and calls for renewed scholarly attention to his contributions to India's freedom struggle and constitutional thought.

Keywords: Chettur Sankaran Nair, Colonial India, Constitutionalism, Indian Nationalism, Legal Reforms

1. Introduction

Chettur Sankaran Nair was deeply rooted in the rich Indian culture and traditions. He had an opportunity to learn Sanskrit and master the fundamental texts like *Amarakosam*, which is a lexicon in verse that can be committed to memory. One who master's it becomes proficient in Sanskrit, which is the essential connection with the treasure house of Indian traditions. Having gained proficiency in Sanskrit, he had access to rich Indian traditions that have indefeasible moral and ethical foundations strong enough to bear the weight of modernity as represented by the West. Thus, even at the height of his political career, he remained essentially an Indian who was proud of his heritage. Besides his abstemious habits, regular practice of yoga, etc., helped him maintain robust health and alert mental faculty. He qualified in law from Madras Law College, and his record of 100 percent score in civil jurisprudence was unsurpassed for quite a long period. The European concept of law is at least two millennia behind the Indian *Dharmasastras*. He had, therefore, as a jurist, an advantage over the Europeans that earned him a reputation as an eminent jurist of his time. He was unapologetic about his traditions, which were a source of embarrassment for the educated, and was rather proud to tell the Englishmen that he had at least a four-millennium-old civilisation to boast of.

By the third decade of the twentieth Century, Indians conferred leadership on a personality whose overt simplicity concealed skilful political manoeuvre. He was quite the opposite of Chettur Sankaran Nair. Latter was a copybook jurist for whom constitutional morality was supreme. Gandhi, on the other hand, though a London-educated Barrister, was an epitome of simplicity that suited him to don the mantle of saintly authority. He was nonviolent by conviction, but an anarchist in political tactics. He could raise a storm in

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many teacups simultaneously. For Gandhi, legitimacy is the nuance rather than constitutionality. Norms of legitimacy are variable between societies and therefore debatable on occasions. Sankaran Nair, therefore, parted company with the Congress and by the time he retired from active politics, despite remaining the most authentic voice of India for the past two decades, was almost forgotten by his compatriots.

2. Early Life and Legal Scholarship

Chettur Shankaran Nair was a proud Indian and was unwilling to concede racial superiority to the white. He brooked no affront to his dignity, be it from the European or English bureaucrats. Being unusually bright, he was a favourite of his teachers. Once Justice Hollowy, his professor, had commented that the English were the only people who had never been conquered. Nair denied it and said that this honour could be claimed by my people (the Nairs) alone. He argued that the only European race that fought with the Nairs was the Portuguese. "We vanquished them, and the English have never conquered us, whereas according to the French historian, no nation of theirs has suffered a defeat like the English as the Normans of the French Duchy, conquered and enslaved them." Professor replied, "There was an ignorant fellow, and he had failed to notice that the Normans and Saxons both came from the same stock". Prompt was Nair's reply: If that were so, we were all descended from the same stock". Professor commented, "Nair was conceited and impertinent". (CSN P/7). Though a student, he was historically correct. The State of Travancore had convincingly defeated the Dutch in the battle of Kulachel. They also defeated Tipu on the banks of the Periyar River. Zamorin could not defend his domain against the Mysore forces for various reasons. However, when they got the weapons and leadership from the Company at Tellecherry, they fought back, and Mysore forces were ousted from Malabar by 1798. It is conceded that till the 10th century AD, the Chera Empire (Kerala) was under a ruler (Perumal) who was being elected by an assembly of 600 Nair chiefs. This tradition of democracy, though in a primitive form, antedated the Magna Carta of Britain. Nair, though still a student and too green to argue with senior professors, was strong on historical facts and had the strength of conviction to express his pride in his ancestry and heritage. That made him distinct from the Congressmen of the day and made him the enemy of the Anglo-Indian community.

3. Conflict with Colonial Bureaucracy

The Anglo-Indian and European communities were well entrenched, and they had the temerity to plot the kidnapping of the Viceroy, who wanted to reform the biased judicial system. They planned to kidnap Lord Rippon and put him on board any vessel sailing to London, because they resented his plan to pass a legislation known as the Ibert Bill in 1883-84(2). This legislation sought to reform the criminal justice system. Under the existing law, Europeans, Anglo-Indians and military Officers were not amenable to the criminal jurisdiction of Indian judges. As they would lose the privilege they hitherto enjoyed, they were furious. So Justice Nair came into conflict with the non-official European lobby and the Anglo-Indians. When they came to know that Mr Nair was the choice for the post of Public Prosecutor and Advocate General, they objected. Their objection was on the ground that an Indian should not be entrusted with this job, which entails a lot of interaction with the Government and its policies. The Governor sought the opinion of the Chief Justice Sir Arthur Collins who replied that" though he had nothing to say about the policy of the appointment of an Indian to that post, he was quite satisfied that the Government could entirely rely upon Nair and there was no reason for not appointing him"(CSN.P/35)

A couple of days before his appointment, Mr Nair happened to visit the Governor. The Governor wanted to know his views as to who is more suitable for the post of Public Prosecutor and Advocate General. Nair replied, "I should be appointed" (Ibid. P/25). When the governor questioned him for the reason for self-promotion, his reply was characteristic of his self-confidence and honesty: "All my seniors were too old for the appointment, and as to my juniors, there was no reason to pass me". Thus, as a Jurist, he was no doubt exceptionally competent and was daring to challenge the well-entrenched critics in the interest of justice and fair pay. For non-official Europeans and Anglo-Indians, he was their ill-wisher. They were, of course, waiting for an opportunity to strike. What better opportunity

could they get than the infamous libel suit Dwyer Vs Nair. Sir Michael Dwyer represented the aristocratic English bureaucrat who cared two pins for the Indian sentiments. Nair, on the other hand, represented the Indians who are proud of their tradition and cultural superiority in comparison to the white snobs.

4. Role in Congress and Political Ideology

Nair was the choice for the presidency of the Congress Party in 1897. That year was very bad for the country. The country was seething with famine. Pune was under the grip of a devastating plague. Nair was critical of the Government's handling of these two issues: "Famine at certain intervals of time is becoming a normal condition of things in India. In 1877 and again this year, the loss of life has been terrible. Each succeeding famine finds the staying power of the masses, particularly in the rotary (agricultural) districts, reduced. Is this state of things to continue forever? Are we not entitled, are not those who generously come to our help, entitled to ask the responsible Government, whether any steps have been taken to prevent a recurrence of the famine? In a fertile country with every variety of climate capable of producing every variety of produce, with a population thrifty and hardworking, if the produce is not sufficient for the population, it must be due to some defect in the system of administration which does not protect the fruits of industry but scare the capital from the land" (CSN, P/300). He ruled out overpopulation as the reason for famine. "The flippancy that dismisses the entire problem from consideration with the remarks that all this is due to overpopulation and is irremediable is as dangerous as is the deep-rooted belief that distress is a visitation of providence for the sins of our rulers" (P/300, CSN)

Sankaran Nair criticised the administration for high-handedness in combating the plague. Their tactless action antagonised the natives. The Englishmen were not sensitive to the customs and habits of the Indians. Forcible shifting of the families affected by plague, forcing them to abandon their homes and livestock, and entering households without respecting the sensibilities of womenfolk, etc., antagonised the locals. The press who criticised, including Tilak and the Natu brothers, were prosecuted and deported to Burma. "Mr Tilak and the editors of two vernacular papers were prosecuted, and punitive force was imposed on the Poona Municipality. The arrest of the Natu brothers was and must remain a great blunder. It recalls the worst days of irresponsible despotism." Perhaps, this was the first assertion of India, which is courageous and conscious of itself. Sankaran Nair was destined to voice it. "The newspaper Mahratta complained: Plague is more merciful to us than its human prototypes now reigning in the city" (CSN, P/303,304). Sankaran Nair states that Englishmen are not welcome in caste Indian households, as in other countries in the American or African continents. Caste Hindu households, due to differences in habits and customs, consider the Englishmen impure and their touch as pollution. Not knowing the native mind, they exaggerate the importance of trifles which only ruffles the surface of the native feelings (P/304 ibid). Surely, Sankaran Nair was not addicted to sycophancy rather aggressively and proudly an Indian. In the presidential address, he also criticised wasteful expenditure for maintaining a military to campaign in neighbouring countries and forcing India to defray expenses for the campaigns of Britain. He also criticised how partial the administration was in devising rules and practices to deny equal opportunity to Indians in the civil service.

5. Sankaran Nair and Montagu-Chelmsford Reforms

As there was an unbridgeable gap between the reform proposal of the Viceroy and the dissenting note of Chettur Sankaran Nair, as well as the alternative proposal of the elected legislature of India, Montagu, who was the Secretary of State for India, visited India for reconciliation. Montagu wrote in his diary, "that Sir C P Ramaswamy Iyer had warned me that it was necessary to get him (Sankaran Nair) on my side, for Sankaran Nair wielded more influence than any other Indian". (KPS P/85). He continued: "Nair also told me that he did not wish to be egoistical but anything he commended to the Indians, the Indians would accept, but if this was not done, nobody else could make them accept it" (P/85 supra). Subsequent events, including the Chelmsford-Montagu reform, proved that the visiting Englishman was merely conceding the wide acceptability of Sir Nair as a political leader with a strong commitment to constitutional morality.

Unfortunately, for India, Lord Chelmsford, who took over as Viceroy after Lord Hardinge, was a reactionary to the core. He was not in favour of any substantial measure of reforms towards self-government. Liberal and progressive views of Sir Nair came into conflict with those of the new Viceroy. Latter was cold and a reactionary who believed that India at the material time was not ready to absorb the democratic institutions of England. On the other hand, Sir Nair was convinced that we have a four millennia old civilisational heritage and was the mother of democracy. Therefore, we can take modern democracy as a duck to water. Therefore, India deserves to be granted self-governance or dominion status. In those days, the Central Government was engaged in drafting reforms, and Nair smelt the attempts of too many English cooks in the Indian kitchen, spoiling the dishes intended for the very survival of the natives. The measures under their consideration included reversing the Lucknow pact to replace it with measures that are more favourable to Muslims, consequently, invidious to national unity. In his autobiography, Sankaran Nair states: That Hindus and Mohammedans agreed among themselves as to their respective claims. The Government, however, in their report wanted to upset that agreement to favour the Muslims. I was unable to agree". (CSN, /P/173). He therefore decided to submit his minutes of dissent. The Viceroy was shocked and deputed one after many to coerce Sir Nair to withdraw the dissenting note. He did not relent. The official considered Nair's action as an affront to the collective responsibility of the council. For Nair, in his role as an Indian representative in the council, national interest was supreme. Simultaneously, he approached Sir B.N. Sarma and Bhupendranath Basu to draft an alternative proposal. They drafted one and got it signed by all elected members of the legislative council, including Jinnah. Viceroy decided not to forward it. However, as the dissenting note and alternative proposal from elected members of the council had wide coverage in the newspapers, the Secretary of State for India called for the report. When they got it, they found that the official version is grossly inadequate to meet the Indian aspirations. Eventually, Sir Montagu, who was then the Secretary of State for Home, decided to visit India. However, Montagu had friendly relations with Nair; the latter spoke plainly. Sankaran Nair pre-empted all pretensions of the white rulers being sympathetic to the lower classes. His biographer quotes: "We Indian politicians had tried our best to assist the lower classes; it was the Government that stood in our way. We wanted to introduce civil marriage law; it was the Government that opposed it. We wanted a law for free, compulsory education; it was the Government that opposed it. These two laws would have removed all obstacles, all caste disabilities and enabled the lower classes to assert themselves. It is therefore unscrupulous to bring forward the arguments based on the existence of the caste system and lower classes against conferring responsible Government. I do not exactly remember all that I said. But I certainly was not polite or courteous to Mr Montagu or Lord Chelmsford" (KPS, P84-85). A few days later, they again discussed reforms during lunch. Sankaran Nair told Montagu "That he would be satisfied if India could have diarchy at once, she should not be put off again with promises. To this, Montagu agreed. He would give up the idea of the probationary period for India as suggested by the viceroy and agreed to the introduction of responsible government in certain subjects in the provinces at once. Mr Montagu could not help but be happy for the simple reason that the discussion with Sankaran Nair was productive. Nair expressed his determination to continue to fight his cause but would accept what is offered for the time being. Thus, Sankaran Nair fought for diarchy and responsible Government in the provinces, limited of course to certain subjects. These measures were more than halfway to the goal of dominion status and self-rule. However, these measures of constitutional reforms were not an unalloyed blessing for India. The white bureaucracy created as much mischief as possible. Within a week of notifying reforms in Mar 1919, the Government declared the Rowlett Act. This was an unprecedented measure of repression. That prompted Congress to agitate, and the Punjab Government responded by imposing martial law and repressive measures, leading to the Jallianwala Bagh massacre on 13-4-1919. There were even statements from responsible quarters justifying the firing on an unarmed mob, killing 400 as per official estimates and injuring several others. Chettur Sankaran Nair, the proud Indian he was, could not suffer the humiliation of being part of an executive council headed by such a Viceroy. C F Andrews told Nair that the Viceroy was "in a state

of fury, that he could scarcely restrain himself and that he asked Andrews whether Indians now realised what it meant to touch an Englishman". (P/104 Supra). This is not merely vindictiveness but racial arrogance of the worst type. Nair, therefore, decided to resign the much-coveted appointment and the knighthood. The other Indian to do so was the poet laureate Rabindranath Tagore. That only enhanced his popularity. His son-in-law Sir C Madhavan Nair states: "His arrival in Madras was kept a secret, as he wanted it to be private; but the secret had leaked out and people knew that he would be arriving on a particular day by morning train. From the early hours of that day, people began to gather at the Central Station. There was a huge crowd on the arrival platform of the Calcutta Mail". (P/105 SUPRA). Sensing a stampede, the Railways had detached his coach at Basin Bridge and towed it to the Central station only when the arriving traffic of the Calcutta mail emptied. The People shouted, "Long live Sankaran Nair" and Vandhe Matharam. The spontaneity of the people's welcome was evident. That hour was, I think, the most glorious and golden hour of Sankaran Nair's life. His star never shone brighter". (P/106 supra)

Sankaran Nair's resignation forced the Punjab administration to relax press censorship and to lift martial law. Sankaran Nair sailed for England to rouse public opinion against the Punjab atrocities so that the Jallianwala Bagh would not be repeated. On board the ship were Justice Mullick and Justice Fletcher of the Calcutta High Court and the Bishop of Lahore. In their hearing, a Major General said that "the British had taught Indians a lesson which they would not forget for a hundred years". Immediately, quipped Sankaran Nair: "In six months, he and men like him would be wishing that India and the world would forget it all. But the people of the Punjab would never forget the martial law regime, and the Sikhs would perpetuate the memory of Jalianwala Bag in one form or the other. "Shocked, the Bishop of Lahore said to Justice Mullick that Sankaran Nair should not have spoken in that strain". (P/108 SUPRA). By nature, Nair was outspoken and spoke plainly, regardless of what others felt. Sankaran Nair correctly predicted what was in store for the perpetrators of the Jalianwala Bagh massacre. The General suffered the humiliation of being deprived of the command. By the time Udham Singh, who wanted to avenge the massacre, reached England, he had died. However, he got Sir Michael Dwyer, who was also responsible for atrocities in Punjab as Lt. Governor, including the Amritsar massacre, as a target in Caxton Hall on 13 Mar 1940. Two decades earlier, another Punjabi, Madan Lal Dingra, had assassinated an India Baiter, in the same hall. Dwyer died on the spot, and Lord Zetland, who was the Secretary of State for India and the organiser of the function, escaped with injuries. Thus, Nair had correctly cautioned the bishop. We should also remember that this Bishop had testified before the Commission that Dyers' prompt action prevented another 1857. The European community largely justified the military action. The European families staying in the plains and hill stations collected contributions for General Dyer. In addition, later events proved Nair right. The proud Punjabis (Sikhs) trailed the perpetrators of the holocaust and settled the accounts. Jallianwala Bagh massacre exposed the hollowness of the British claim to rule of law. He briefed the officiating editor of Westminster Gazette about Amritsar massacre and also asked him to take special notice of the statement of General Dyer, in the course of which "he had admitted, and taken pride in, the fact that he had used force not simply to meet a local emergency but to produce a moral effect throughout Punjab". (KPS, P/108). The confession of an unpardonable criminal conduct of the military commander upon an unarmed mob that too without a warning, resulting in 400 casualties, was an explosive material for any journalist. As it was through the horse's mouth, its credibility cannot be questioned. We must also remember that the Indian member, C M Sitalwad, himself a lawyer, tactfully elicited this answer from the offender. The editor published the material under the title "The Amritsar Massacre". It shocked the conscience of England. Thus, having roused the popular and liberal opinion of the common public, Nair won a major battle on behalf of his suppressed compatriots. He had also published a book titled "Gandhi and Anarchy "in which he had criticised Gandhi for his non-cooperation movement in support of Khilafat and Sir Michael O" O'Dwyer, who was the Lieutenant Governor, for the atrocities committed by the martial law administrators. Nair contended that the Governor cannot abdicate his responsibility for the misdeeds of the military that were merely executing his orders. The Governor, to maximise recruitment, which was limited to a single community, had applied such coercive measures. Dwyer sued for

damages, and in the Privy Council, Justice McCardie allowed the suit with damages amounting to 7500 pounds. The public, the common person and the House of Commons were critical of the observations of the Judge. The following comments appeared in one of the leading newspapers reflect their mood:" Sir Sankaran Nair is an eminent Jurist and citizen of Southern India. He has been a judge of the Madras High Court and a member of the Viceroy's cabinet. In politics, he is a conservative constitutionalist, a stern opponent of all nationalist extremes, in particular an anti-Gandhist so convinced that non-cooperation is for India, the road to ruin" (CS Nair, P/289). Every word of these comments is true, for Sir Nair graduated in law from Madras Law College, scoring 100 per cent marks in the paper on the Civil Procedure Code. He got an appointment as Advocate General and later as Judge of the Madras High Court despite opposition from the European and Anglo-Indian community. Nair, in his article in the Contemporary Review, had criticised the existing law that favoured the Anglo-Indian and European community. The existing law prohibited an Indian Judge from trying Europeans and Anglo-Indians on criminal charges. The white men on the bench normally acquitted the Anglo-Indians, accused of committing atrocities against the natives. A case in point was the one that happened in Travancore State. An Englishman killed a coolly, but he was acquitted by the Madras High Court. Justice Boddam was biased. After the trial, there was an application for a sanction to prosecute the Travancore officials and witnesses. That application came before Chettur Sankaran Nair and Sir Subramanian Ayer. They rejected the application and also maintained that the accused in this case should not have been acquitted." (CSN, P/38)

In 1883, Chettur Sankaran Nair was a member of the Malabar Land Revenue Committee. Sir T Madhav Rao was the Chairman. The Committee had recommended fixity of tenure, which was not accepted by the Governor on the advice of the Chief Justice. A couple of years later, the reformed council formed after the Reforms of 1919 legislated to grant fixity of tenure to tenants. A bill to prevent maladministration and misappropriation of Temple funds also had to wait for the reforms. During his reign, Lord Rippon wanted to undo the privileges Anglo-Indians and Europeans enjoyed, as they were not within the criminal jurisdiction of an Indian Judge.

Any educated Indian who is proud of his heritage and committed to rendering meaningful service to his compatriots would question the sincerity of the white bureaucrat towards the underprivileged. Sankaran Nair, whose pride in his heritage is proverbial, could not ignore their attempt to don the mantle of their saviour. The white racist Civil servants conveyed their opinion on administrative reforms, grossly disparaging the educated Indians who form only a microscopic minority. It adds: "their aspirations are genuine and ought to be satisfied. However, the Government has been unable to associate them to any material extent, mainly because the latter are not in sympathy with the masses whose interests will suffer at their hands". (CSN, P/166). We can see through the sinister designs of the bureaucracy to play upon the sentiments of the lower classes and to pretend themselves as their saviours. We should also compare the remarks with those of Sir Dwyer in his memorandum on reforms submitted a year before. We shall be shocked to see that the Civil servants intend to don the mantle of saviours of the masses who were being harassed by the affluent Indians: "Throughout, we have to keep before us the solid interests of the masses of the people. They have not spoken yet. Till they are in a position to speak, i.e., after they have acquired such modicum of political intelligence and acumen as will enable them to understand the broad issues, and till they know what they want and by what measures they propose to get it, we are not, in my humble opinion, entitled to commit ourselves to far- reaching and irrevocable political changes". (Supra). Nair was therefore bound to clash with such a racist reactionary. When Nair says that he roused public opinion in England against the Amritsar massacre, he is not exaggerating. He has quoted a contemporary news report: "Uproarious scenes were witnessed at the Brotherhood Church in North London yesterday when Sir Michael Dwyer rose and attempted to give an address on India. Members of the audience stood up, shouted and Sir Michael, realising the futility of the proceedings, left the platform." CSN, P/294). We should compare the outcome of this libel suit with that of Tilak filed against Sir Valentine Chirol. Chirol, in his book Indian Unrest, alleged an attempt by nationalists to impose Brahmin supremacy. Tilak spent a fortune on this suit. It was dismissed. The point is that whether as a respondent or a plaintiff, an Indian cannot succeed

in any suit adjudicated by the Privy Council, which is the den of unemployable aristocracy.

In those days, educated Indians, including scholars of repute, missed no opportunity to ingratiate the Englishmen. If we recall them today, it will leave our mouths sore from sycophancy. It was so prevalent that in those days, even notable scholars and social reformers believed that British rule was for the ultimate good of India. Noted Brahmosamajist Keshab Chandra Sen went to the extent of praising "British rule was a divine dispensation". (BND P/134). Many Indians believed that "the Indians would be the vanishing aboriginal race, and the Eurasians (present day Anglo-Indians) were going to be future Indians. Even a High Court Judge, Saradacharan Mitra, had such a distrust of his race that he preferred the British Royal family to rule India. His suggestion was to settle one such member in India as a ruling monarch, to be assisted by a ruling class which would be the aristocracy" (P/135 ibid). No doubt, such crazy ideas of educated Indians boosted the white-man's snobbery and his claim to superiority. The self-confident who were proud of their heritage and civilisation came to be disliked by the conservative ruling class.

6. Member Viceroy's Executive Council.

On 14th May 1915, Chettur Shankaran Nair got an offer from the Viceroy to join his executive council as a member of education. This post is analogous to the Union Cabinet Minister these days. He got the opportunity because the Viceroy Lord Harding was a liberal and might have observed the conduct of Shri Nair as High Court Judge and as President of several societies, including Society for Prevention of Cruelty against Animals. Lady Nair was looking after several abandoned cows before leaving Madras. Sir Nair distributed them free of cost to the needy with a direction not to sell them for slaughter. What is relevant here is that behind the façade of official formality and an air of dignity, there was a human being who was concerned with not only abandoned animals but also orphaned children. In those days, having presided over the Congress session of 1997, one would expect him to be active in the Congress programmes of the city. It was not like that. Madras Congress was then dominated by Brahmins who considered the "Nair Community" as *Sudra*, which means the lowest of the four Varna. In north India, *Sudra* meant scheduled castes who are kept separately by the village society. The Nair community is not *Sudra* in that sense, and they were the erstwhile rulers of the Kerala coast. Naturally, Sir Sankaran Nair resented the attitude of the Tamil Brahmins in the Congress. Still, he did not revolt like Dr T M Nair. Dr Nair, unfortunately, was defeated in an election from the Mylapore constituency by a Brahmin candidate. Brahmins dominated this constituency. Frustrated, he left Congress and formed the Justice Party. From 1916 to 1927, this party had electoral success. Their motto, being a continuation of British rule, the Raj was also happy. Fortunately, for India, even in those days, the Madras presidency did not accept Dravidian separation, and the Justice Party was thoroughly defeated in the 1927 elections. When convincingly defeated, the Secretary of State for India appointed him to his Office as local leader. On the contrary, Chettur Sankaran Nair did not abandon the nationalist space on such extraneous grounds.

Soon after Sir Sankaran Nair joined the Viceroy's executive council, Sir Michael O'Dwyer invited him to Tea. Nair had revulsion for his host. His pet dog was sniffing around Nair. He disliked the dog and its master. Characteristically of him, he did not conceal his dislike. Lady Dwyer said, "You Indians preach about kindness to animals and so on, but I can see that you do not like dogs". "Quite so", quipped Sir Nair: "We do not like them as much as you do. We have moved away from them in four thousand years of civilisation" (KPS Menon, Tribune dated 18-7-76). This is a loaded comment. Sir Nair frankly reminded his host that Indians had a civilisation at least four thousand years old, whereas the white men, until 400AD, were living on hunting. A dog is an essential help for hunting. In those days, it was unusual for an Indian to assert his cultural superiority before an Englishman.

7. Impartial Administrator

Sir Nair is remembered for his decision to hand over a relic of Buddha to the Mahabodhi Society only with a simple condition that the society should build a suitable *Vihara* to house it. The MBS of Ceylon and SE Countries greatly appreciated the Indian gesture. His biographer

and Son-in-law, KPS, recollected that when Nair was spending retired life with them in Candy, he had taken to lessons in Pali, only to understand Buddhism from its source. He had also met the founder of the Baha'i sect before her execution. What is relevant to note is that Nair was open to new ideologies. The non-sectarian attitude of Sir Nair came to the fore when the Viceroy wanted an instruction to be issued to all schools and institutions to administer a prayer thanking the British Church for the victory in World War I. Nair refused to sign such a sectarian direction. His secretary brought it to the notice of Lord Chelmsford. Viceroy took over the ecclesiastical department from Sir Nair. When the order was issued, Bishop of Shimla, who was a Roman Catholic, commented in his letter to the Statesman that: "He would prefer ecclesiastical affairs to be in the charge of a cultured Hindu rather than a bigoted Protestant". (KPS, P/61). Indirectly, it is an acknowledgement that cultured Hindus are far above the Europeans. Kumaranasan, the poet laureate of Kerala, explicitly stated in his editorial of the journal Vivekodayam of June-July 1915 that Chettur Sankaran Nair is a rare personality amongst Officers and administrators, for he is even-handed towards all Indians without consideration for caste and religion. Sir Nair spoiled Lord Curzon's plan to reduce Indian Universities to a level of certificate-issuing offices for clerical jobs. He restored the research departments, and we owe it to Sir Nair for making our universities autonomous. Nair himself had once rejected the proposal of Banaras Hindu College, suspecting sectarian motives like the Anglo Mohemedan Oriental College Aligarh. However, when Annie Besant and Pandit Malavya explained the position, it was accepted, and they rendered all help within their power.

With Lord Chelmsford as Governor General, Sir Nair was not feeling comfortable at all, and the Jallianwala Bagh massacre on 13 Apr 1919 was a catalyst for his sudden resignation and exit from the council. Nair felt very bad when he learnt from C. F. Andrews that the Viceroy "could scarcely restrain himself and asked him whether Indians now realised what it was to goad an English man"(CSN, P/251). Nair was unwilling to serve under such an administrator who holds the Indians with utter contempt. However, the Anglo-Indian non-official Europeans lobby, and on their prompting, Tory elements were after Nair; he had well-wishers in London, especially in the House of Commons and the press. Montagu placed him in the council of the Secretary of State for India. His intervention with the press and the liberal politicians prompted the Secretary of State to direct the Governor General to concede the Congress's demand for an enquiry into the atrocities committed in Punjab. In the council of the Secretary of State, he strongly objected to their attempt to recover 50 million pounds from the Indian exchequer towards expenses on rations of Indian soldiers. Nair objected and asked the British Government to finance it out of the profits earned from the ration supplied to the allies in the Middle East. These ration items were procured from India at a nominal fixed cost and supplied to the allies at a profit. Profits are not shared with the Indian government. We must compare it with the British policy of procuring rations for the entire allied forces from Bengal, exposing that province to recurrent famines in 1943 and 1944. In those days, there was no one like Sankaran Nair who dared to challenge the Willy Prime Minister Winston Churchill.

It is characteristic of Sir Nair to call a spade a spade. He had an honest view on Punjab atrocities: "It is true that the House of Lords unfortunately took a view which, if it had stood by itself as an expression of the will of the English people, may have justified Gandhi's non-cooperation. But the House of Commons and the cabinet are the real representatives of the English people and not the House of "Lords" (CSN, P/255). The cabinet and the House of Commons condemned the atrocities and punished the culprit, i.e. Brigadier General Dyer. He was acting under the orders and authority of Lt Governor Sir Michael Dwyer. Therefore, Nair was critical of Lt Governor for not exercising proper control over the martial law administrator. Abuse of power, like indiscriminate arrests, canning, humiliating the well-placed men of the society and above forcing civilians by using aircraft in Amritsar, Gujranwala and Lahore are the bad deeds of the military, for which the Lt Governor should also share the blame. We should also concede that when, at least, the British Government in India was pressurised to order an enquiry and constituted the Hunter Committee, and Gandhi decided to boycott it because the witnesses were in jail. This is debatable. Anyhow, this decision helped Sir Dwyer to extricate himself.

His book "Gandhi and Anarchy "was meant to be a pamphlet explaining the government's stand, given

the agitations and when the Prince of Wales was to visit India. The provisional Governments provided him with the data. The author expressed his honest views. We cannot blame him for the simple reason that the institution of the Khilafat was redundant for the Muslim world, except for a few fundamentalist Indian Muslims whose hidden agenda was Pan-Islamism. We should also note that when Gandhi rejected the offer of the Viceroy for provisional autonomy and the requests for co-operation, rank communalists like Prince Agakhan and Sir Fazli Hussein called on the viceroy at Shimla. They did not consider the issue of the incarceration of some Khilafat leaders as anything repugnant to the interest of the Muslim community. Khilafat was, after all, a cover, and the real agenda was Pan-Islamism. Nair was also aware that the Punjab Government, right from 1914 when Ghadar activists reached Punjab, with the help of the informers, hunted them down and awarded them ruthless punishments, including the death penalty. The trials were through special courts with no opportunity for appeal. The convict who is expecting the noose can submit a mercy petition to the Viceroy. Nair was entrusted with the task of examining these verdicts in his capacity as a member of the Executive Council. He quotes an instance when a young man who had been awarded the death penalty refused to submit a mercy petition despite an assurance from Nair to consider it positively. The convict maintained that he wanted no mercy from this Government; rather would die on the rope and take rebirth to fight them once again. This indicated how acrimonious the relationship between the Government and the Hindu-Sikh population was. Just on the heels of the Gadhar movement, there were dacoities in South West Punjab. The looters were Muslims, and the victims the Hindu-Sikh population. The government constituted a special board under a Muslim and allowed the majority to evade penalties. In a question from Pt Jaga Narain, Sir O Dyer testified the following. "In the Danda *Fauj* case, one of the men said he was a subject of the German Emperor, and why should he not be considered rebellious. Those dacoits were committed by thousands of persons, where it was openly declared that they were black or red Germans and they had got an order from the German Emperor to loot these villages as "they were subjects of the German and were under the British Raj." To a further question as to why it should not be considered rebellious, Dwyer answered: "I do not think that besides two scoundrels, one of whom claimed to be German Emperor and another his son". In short, the Government was acquiescing to Muslim lawlessness. Nair knew that the British Raj would go to any extent of condoning unpardonable crimes, including treason, simply for the reason that they wanted to cut off the Punjab from the rest of India to contain a Hindu India. Therefore British conspiracy to divide India was a sequel to Gandhi's attempt to enlist Muslim co-operation, even by supporting Khilafat. Having been privy to such records of British involvement, he rightly warned the Congress of sponsoring Khilafat and the non-cooperation movement. The most ancient Hindu codes, beginning with *Manusmruti*, assert a cardinal principle of law. Dharma (law) protects the protector (King). The common people are not philosophers. Persistent violence from the Police may upset the common man to retaliate if necessary. At that stage, it might be difficult to control them, and the power of mass politics will only hurt the cause for want of proper preparation for a final and ultimate challenge. The course of events, beginning with civil disobedience against the Rowlett Act in Punjab, culminated in the Jallianwala Bagh massacre. The worst was to happen in Malabar. The Muslim fanatics deliberately derailed the Khilafat movement in Malabar. They committed atrocities against Hindus comparable in scale to those of Bartolommeo in August 1572, in Paris. Sir Nair and other constitutionalists, including Jinnah, Munshi, Jaykar and Gokhale, had resented this move and parted company. Nair belonged to South Malabar and was witness to numerous rebellions in the form of 'Halilukkam" (or frenzied jihads). Gandhiji, perhaps, was not aware of the political history of this part of Malabar. On the contrary, fears of Sankaran Nair were genuine and were based on facts. The Khilafat resolution of July 18, 1921, "declared allegiance of the Muslim population to his Majesty the Sultan of Turkey, the Commander of the faithful". Indirectly, by supporting this resolution, Congress conceded Muslim separatism and undermined national homogeneity. Therefore, Sankaran Nair correctly observed that "such non-co-operation would have a chance of success only amongst a homogeneous nation or if all classes and castes were united in their action. It was obvious that in India, there was no chance of any such co-operation" (CSN, P/256). Nair further explained, "It was soon

discovered that non-violence was only skin-deep, it was passive non-violence of helplessness, not the enlightened non-violence of resourcefulness". Therefore, it failed miserably, causing disastrous consequences to the Hindu community of South Malabar and irreparably damaging Hindu-Muslim unity. Even the most flamboyant leader, Annie Besant, had opposed it on the ground that "the open breaking of laws hitherto obeyed must inevitably stimulate disorder which would culminate in riot" (New Light on Punjab Disturbances/1015 Vol II).

This book also contained vehement criticism of the Lieutenant Governor. "We must face the fact that the obstinacy of Sir Michael Dwyer completes the disaster initiated by Gen Dyer at Amritsar". "Passages strongly condemnatory of the conduct of Sir O'Dwyer. I felt it necessary for this purpose to show that undoubted extraordinary recruitment of Mohammedans in the Punjab was not due to any promise made by Lloyd George but to the coercive methods adopted by Sir Michael O'Dwyer"(P262 CSN). Evidence to substantiate this allegation could not be adduced during the trial. Volumes VI and VII of the Punjab Disturbances Enquiry report, which contained the statements of witnesses, were untraceable until 1964. The Bureaucracy dominated by the British had a role in misplacing the reports. One henchman of the Lt Governor, namely Major Malik Sir Umar Hyat Khan KCIE, testifies: "Because my lord, in Al-Quran:' *innal murikuna nnajassun*', that the Hindus are so unclean that their entry into the mosque would defile the mosque. In another place in Al Quran, it is said that you can never make Hindu friends as they are idol worshippers". We must concede that his testimony is more an assertion of communal hatred than bare facts. Incidentally, this gentleman had given 3 different statements on record so that the Government can utilise the best that suits them. The Punjab civil servants of British origin frankly admitted "as to the need of teaching the people a lesson that they could not forget, using wholesale shooting and bombs from the air. It heard General Benyon's opinion that flogging is an appropriate penalty for Indians; and from Col Frank Johnson, who was in military command at Lahore, a terrible affirmation upon the lengths to which he was prepared to go for the maintenance of the British Raj"(CSN, P/290). Such hatred for the Indians openly expressed in court can only result in violent, widespread rebellion. India too reacted on the expected lines, and the result was that slowly the youth in Punjab and Bengal took the way of revolution of Hindustan Revolutionary Association and Hindustan Revolutionary Army of Sachindra Sanyal and his deputy Sardar Bhagat Singh.

8. Clash with Gandhi: Khilafat and Constitutionalism

Gandhi had a free run in the Congress after the premature death of Tilak. Constitutionalists like Gokhale, Ranade, and Surendranath Banerjee, etc. receded into the background. Gandhi could persuade the Congress to accept his line of action, supporting the Muslim demand of Khilafat, albeit shelving the Swaraj demand for one year. This was a political error of the Congress. Khilafat is a sectarian demand limited to the Muslim community. The majority of the Indian community had nothing to do with it. Swaraj, on the other hand, is a political demand of the Indians and is universal. We, however, have to concede that Gandhiji, by championing the cause of Khilafat, hoped to win over the Mohammedans and to build Hindu- Muslim unity from the grassroots. He told Durga Das," There was a fundamental difference in his approach to the issue of freedom from that of Jinnah and others who wanted to build the movement from the top. He, on the other hand, wanted to build from below. (D. Dass, P/88). Soon, Gandhi realised his folly. Gandhiji lamented that" his efforts to win over the Muslims were of no avail: that neither he nor his colleagues, Ajmal Khan, Ansari and Azad had made a worthwhile impact on Muslims. That he said to me was mainly because the British were continuously dangling before the Muslims a carrot in the shape of greater privileges and concessions." (DDP/117). On the other hand, Nair knew the historical background of Moplahs. Moplahs are the descendants of Arab merchants who had a cosy and mutually comfortable relationship with the Zamorin. Zamorin permitted them to marry Hindu women and procreate. He got mosques constructed for them and also encouraged Hindu boys to join prayers in the mosque. Even then, at the first opportunity, they deserted their King and joined hands with the invading Army of Mysore. During the Mysore interlude, Moplahs got the property of Hindus who had escaped to Travancore State to save themselves from forcible

conversion. With Tipu's ouster, the original Hindu owners returned, causing considerable heartburn to the Muslim usurpers. The new rulers admitted claims of the Hindus, provided documents were produced. This was the real grievance of the Muslim community against their Hindu neighbours. Nair was aware of this historical background and therefore, he rightly opposed the Khilafat movement and non-violent co-operation.

9. Legacy and Historical Appraisal

The last political activity for which Sankaran Nair earned brickbats from the Congress Party was as Chairman of the Central Committee to interact with the Simon Commission. Labour members of the Simon Commission consulted Nair, who influenced them in framing their recommendations. Sankaran Nair also demanded a written assurance from the Commission that the views of the Indian legislatures shall also be part of the main report (SCB, P/204) Finally, the Viceroy Lord Irwin declared that "he had been authorised by his Majesty's Government to state that clearly in their judgement, it is implicit in the declaration of 1917, that the natural issue of Indian's constitutional progress as there contemplated, is the attainment of Dominion status. (P/235 supra). He had enough reason to be satisfied that he could bargain for the Diarchy in 1917 and got a promise for Dominion status a decade later. Unfortunately, for India, the right-wing Tori politicians entrusted Jinnah with the veto power and spoiled the fair game for more than a decade. Sankaran Nair had expressed regrets for his association with the Lucknow pact, which for the first time conceded minority safeguards. However, Muslim demands for safeguards increased over the years. When he got an invitation for the round table conference in London, he declined, saying, "I do not want to assist in the funeral of Indian Nationalism". (KPS, P.127)

Biographer and son-in-law of Sankaran Nair recollects: Nair, then on retirement from active politics, was staying with his youngest daughter. Son-in-law K P S Menon was an ICS Officer posted in Kandy (Sri Lanka). Nair told him: "Had it not been for me, the reformed councils would not have come into existence, at any rate in their present form. Yet the Congress would not even give me a constituency for me to get into them. I am a reactionary, because I crossed Gandhi's path" (KPSM, P/112). A true nationalist he was, he did not voice the frustration in public and only confessed to his immediate family. Nair wanted the colonial government not to be concerned with the difference of opinion at home. That apart, it was unpardonable for the Congress organisation to treat him callously simply for the reason that he had a difference of opinion with Gandhiji. Not only Chettur Sankaran Nair, all who were active in the Home Rule League, left the organisation when Gandhiji, in his capacity as President of the league, amended its constitution. Gandhiji proposed to name the Home Rule League as Swarajya Sabha and substitute in the "aims of the society "with the words "peaceful and legitimate means for constitutional means". Jinnah moved an amendment, "Swaraj means responsible government within the Empire". This amendment motion was defeated. A similar amendment proposed by K M Munshi was also defeated. Munshi further states: "When Gandhiji forced Jinnah and his followers out of the Home Rule League and later the Congress, we all felt, with Jinnah that a movement of unconstutional nature sponsored by Gandhiji with the tremendous influence he had acquired over the masses, would inevitably result in widespread violence, barring the progressive development of self-governning institutions based on partnership between educated Hindus and Muslims" (KMM, P, 17&18). Subsequently, Gandhiji alienated all old guards to take the Congress organisation to the forbidden tract of Khilafat. We must also see how Netaji Subhash Chandra Bose was forced out of Congress and what he had to say about Gandhiji. "The leader of the Congress is Mahatma Gandhi, who is the virtual dictator. The Working Committee, since 1929, has been elected according to his dictation and no one can find a place on that committee who is not thoroughly submissive to him" (NSB P/44). Gandhiji, of course, was dictatorial, and no wonder Chettur Sankaran Nair, who brooked no affront to his status from any quarter, walked out of the Congress.

The difference of opinion because of the Khilafat movement was bound to crop up. Was not Gandhiji, by supporting Khilafat, undermining the homogeneity of the Indian nation and indirectly accepting Muslim separatism or the obnoxious two theory? Congress resolution on Khilafat passed at Karachi reads: "The meeting of the All India Khilafat Conference declared allegiance of the Moslem population to his majesty

the Sultan of Turkey, the Commander of the Faithful, and gives him an assurance that they would not rest content until they have secured complete fulfilment of the Khilafat demand". Spiritual allegiance of Muslims to the Khalifa, be it the Sultan of Turkey or anyone else, is understandable. How can we concede political allegiance without jeopardising the national integrity of this country? No wonder, having indirectly conceded Muslim separatism, Congress facilitated the British policy of partition of the country.

Another crucial question was the Congress's demand for taking action against those responsible for the atrocities in Punjab. Sankaran Nair maintained that the Government of India (Army Council) removed the military commander, and the House of Commons unequivocally condemned the conduct of the military. The House of Commons represent the British nation and not the House of Lords. On prodding from the Secretary of State, the Government of India also constituted an Inquiry Commission to probe into the declaration of martial law and atrocities committed by the military. It was perhaps an error of judgement on the part of the Congress not to cooperate with the Commission, thereby allowing the Lt Governor, Michael Dwyer, to extricate himself. The cunning bureaucracy managed evidence in such a manner that General Dyer was alone responsible. Allegations of coercive recruitment could not be sustained, simply for the reasons that they managed to obtain evidence as favourable to them and damnable to the agitators, e.g. Honorary Major Sir Umar Hyat Khan had given three different signed statements for the bureaucracy to choose and take on record. By mistake, all three statements were appended to the report. An unexpurgated copy of the statement available with Nair was withdrawn, alleging breach of trust, thereby weakening his defence. The report came out in the open only in 1964. Our negligence helped Michel Dwyer to get away and left Sankaran Nair defenceless in the libel suit.

10. Conclusion

In any case, from the very beginning of his career, Nair conflicted with the Anglo-Indian community and the Civil Service. He refused to concede racial superiority to the white. Montagu himself records in his diary a note on Indian Civil service allegedly forwarded to him by the President of the US: "when he described the Indian civil servant, as being so subtle and clever and they would put into a shade a syndicate composed of Machiavelli, Li Hung Chang and Abdul Hamid"(CSN,P/127). They are known respectively for skill in political manoeuvre, diplomacy and the latter for annihilating nearly one million Armenian Christians, for which the British Prime Minister Gladstone called him the great assassin. The comparison indicates how political leaders of the world over considered the Indian civil service. Nair had difficulty with this lot in his capacity as a member of the Viceroy's Executive Council and as a politician as well. Sir Sankaran Nair had, of course difference of opinion with Gandhiji at home, but never did he voice it before the English authorities or rulers. He told Montagu "that the Government were responsible in effect for the caste system; that they imposed Hindu law upon all Hindus by legislation, even upon those who did not want it and had refused to submit to it. So long, it is there in the statute, the courts had to administer Hindu law, they had to enforce the caste system. The Government, therefore, alone was responsible for it. We Indian politicians have tried our best to assist the lower classes; it is the government that stood in our way. We wanted to introduce civil marriage law; it was the government that opposed it. We wanted a law for free compulsory education; it was the government that opposed it. These two laws might have removed all obstacles to all cases of disabilities and enabled the lower classes to assert themselves. (CSN, P/148). Was he not voicing the concern of all Indian politicians? Nair had specifically brought to the notice of Montagu the agitations sponsored by Gandhiji, like Champaran in Bihar, Kairana and Bardoli in Gujarat. He had taken the wind out of the sails of white bureaucracy and wanted to claim the credit for helping the lower classes and peasantry. So long as the brothers keep a united opposition against the alien opponent, what is the harm in expressing dissent at the home front? Therefore, it is time to reappraise the role of Chettur Sankaran Nair.

11. Notes

1. Ibert bill: Earlier, Indian judges could not try a European or Anglo-Indian. The Viceroy Lord Rippon wanted to end this practice and got the bill drafted. The bill is named after the person who drafted it. It could not be passed because strong objections of the Europeans and Anglo-Indians

2. Rowlett Act: India was fervently hoping for a reward from the empire for her contribution to British war efforts in Europe. Britain won the war with Indian money and Indian blood. The reward was this piece of legislation that gave unlimited power to the Bureaucracy to suppress the citizens.
3. Bartolomeo: In 1526 in Paris, at a marriage feast of the Princess of France, Catholics, with the active encouragement of the queen, assassinated the Admiral, who was a Protestant, which triggered a massacre of Protestants gathered there in large numbers, but also in the districts. Considering the extent of the Moplah rebellion of 1921 in South Malabar, Dr Ambedkar compared it to the Bartlomeo incident.
4. Halilukkam: Prompted by fanatic Mullahs (preachers), poor, illiterate Muslims in a mood of frenzy and with a spirit of *jihad* attacked Hindus and desecrated Hindu temples, only to be shot dead by the Police. This strange behaviour is known as Halilukkam in Malayalam.

12. References

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