
THE

LEGEND OF
nani palkhivala



M. R. PAI

The legend of Nani Palkhivala

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The legend of Nani Palkhivala

Pai, M. R

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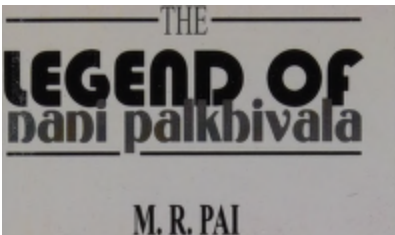
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The Legend of Nani Palkhiuala is a heartfelt tribute from a person who followed the courtroom giant like a virtual shadow throughout his public life. The author, M. R. Pai, who was closely associated with Palkhivala's varied public activities, gives a complete account of the legend's qualities of head and heart, and his contribution to public education through budget meetings, lecture tours and published work.

The book encapsulates Palkhivala's relentless struggle for public causes in the courts of law; analyses reasons behind his stupendous success in these battles; lists little known facts about his contribution to the corporate world and his deep involvement with voluntary service organisations despite a hectic daily schedule.

The book throws light on certain information about Palkhivala, hitherto unknown. Like for instance, why Palkhivala agreed to be the Indian Ambassador to United States of America ? Why did he accept former Prime Minister, Indira Gandhi's brief in her battle in the Supreme Court against the Allahabad High Court judgement on election petition? His interaction with key players across the spectrum of Indian politics and how all the major political parties had tried to woo him to fight the battle of the ballot. The book also describes Palkhivala's method of operation, which

contributed in large measure to his success as a professional and a public figure.

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M. R, Pai



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Dedication

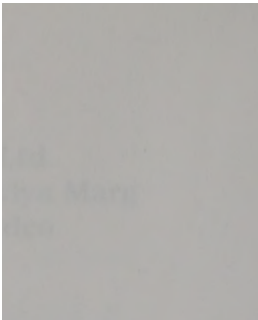
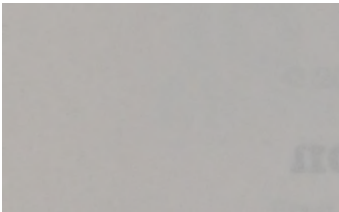
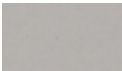
This book is dedicated to the memory of

NARGESH NANI PALKHIVALA

a lady of simplicity, humility and grace;

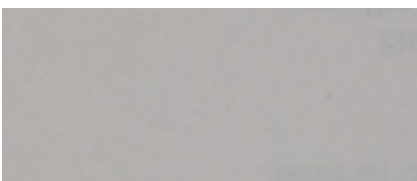
a charming hostess; a quiet social worker;

and, above all, one who gave her husband full support in his public activities as an understanding wife.



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Introduction

Nani Palkhivala became a legend in his lifetime. Thousands of people from all walks of life who attended his celebrated budget lectures, read his articles and books, and heard of his relentless fight for democratic freedom, adored him as the Conscience of the Nation. However, human memory is short, and, we in India, have a poor sense of history. There is hardly any documentation of events and of the lives of great men. Hence this book, *The Legend of Nani Palkhivala*, is an attempt to record Palkhivala's great achievements. More importantly, to inspire the large number of youngsters by presenting to them a role model for the twenty first century in India.

This is not a biography. The only authentic record of his life appears as a brief 'Profile' in the book *Nani Palkhivala: Selected Writings*, coauthored by L.M. Singhvi, former Indian High Commissioner in London, S. Ramakrishnan, Director, Bhartiya Vidya Bhavan, and myself. The profile was approved by Palkhivala. Some day a detailed biography needs to be written of this great man who, as I see it, was in the twentieth century India what Dadabhai Naoroji was in the nineteenth. As Rajaji put it in his inimitable way, "Nani is God's gift to India."

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It was my great good fortune to be associated closely with him in his public life for over four decades from 1957, starting with his first appearance on a public platform on December 2, 1957. From close quarters, I could witness many important public events in which he played a dominant part, and could share his thinking in those eventful days.

Nani Palkhivala never spoke about his own achievements. In fact, he rarely spoke about himself. Yet, I could gather some crucial information on a few very important occasions, such as the reason why he stopped his budget lectures, or the reason why he accepted Mrs. Indira Gandhi's brief. Fortunately, I had also recorded the information immediately so that over a period of time it would not fade away from memory.

In writing and producing this volume, I have been assisted by many, and I am grateful to all of them. Particularly, I would like to record my gratitude to Mr. S. Divakara, the dedicated Secretary of Forum of Free Enterprise, and Mr. D. Swaminathan who laboriously typed many drafts.

In view of Palkhivala's great admiration for the late G.R. Bhatkal, founder of Popular Book Depot, it is only appropriate that this book should be published by Popular Prakashan. I am grateful to G.R. Bhatkal's grandson Harsha for his cooperation.

23 / 11/2001

M.R. Pai

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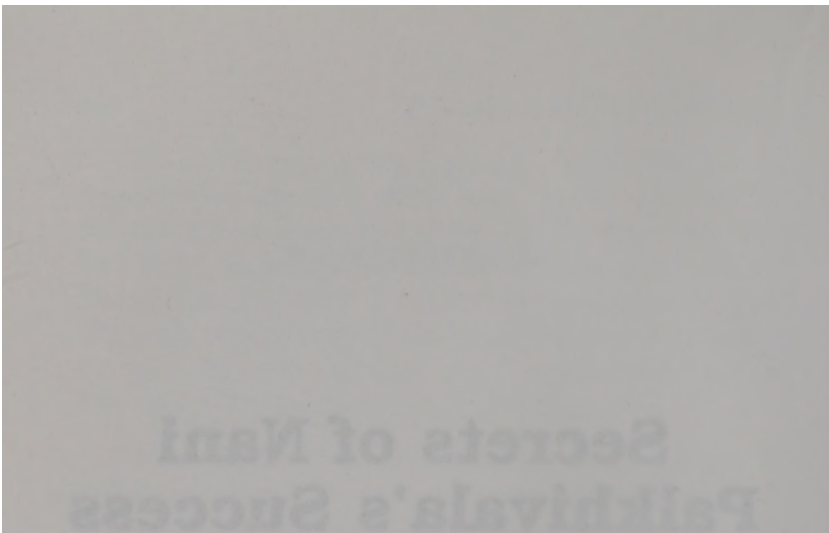
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Secrets of Nani Palkhivala's Success and Greatness

-Rajaji

“Nani is God's gift to India”



His Qualities of Head &

Heart

On the night of August 1, 1994, there was a disastrous fire, which completely burnt down the heritage 'Eruchshaw Building' on Dr. Dadabhai Naoroji Road in Mumbai. Only the outer shell remained. The adjacent building, 'Piramal Mansion' (now renamed 'Peninsula House'), was also slightly affected. The fire brigade ruled that no one was to enter the building till an inspection of the safety of the structure was complete and the debris of the burnt down building was cleared. The offices of the Forum of Free Enterprise were located on the second and the third floors of the rear portion of 'Piramal Mansion'. There was total confusion. The Secretary, Mr. S. Divakara, wanted to ascertain that there was no damage to the Forum furniture and files. He also wanted to remove some important papers. He approached the fire officer. The moment Divakara mentioned that Nani Palkhivala was the President of the Forum of Free Enterprise, his face lit up. He said that he held Palkhivala in very high regard. The fire officer personally accompanied Divakara to the Forum office to inspect and allowed him to remove whatever papers he wanted!

The people of Mumbai know how difficult it is to get office premises in the city. When the news of relocating the Forum office from 'Piramal Mansion' appeared, no less than five offers of temporary space for Forum functioning were received! Eventually, the office was temporarily shifted to Dadar and for nearly two years the landlord did not even charge a single Rupee as rent. He considered it a privilege to be of service to the Forum, an organisation of which Nani Palkhivala was the President!

At various levels Nani Palkhivala evoked such spontaneous admiration. I remember a time when, in the old days of phonograms, he wanted an urgent phonogram to be sent and when I dictated it to the telegraphic clerk and mentioned the sender's name — Nani Palkhivala — at the end, he jumped up and said it was a privilege to send a telegram from such an important person. He was very excited about it.

At one district headquarters, Palkhivala was to address a public meeting, arriving earlier by car from another place and then we were to catch a flight to Mumbai. The District Collector made special arrangements for a police escort for his car so that he could complete his public lecture and reach the airport in time. The IAS officer said it was a privilege to render this small service to such a great man. Another touching incident took place in one of the holiest places in India where Palkhivala had gone to address a

meeting. There he was to call on a saintly person. As this holy person lived in a temple complex, a question was raised by some whether Palkhivala being a non-Hindu, could enter the place. The great saint is said to have remarked: "If a man like Palkhivala cannot enter this place, nobody else in this world can enter."

A list of such instances is endless. He became a living legend attracting huge audiences and evoking admiration wherever he went. The secret of Palkhivala's phenomenal success and greatness according to me, is undoubtedly the qualities of his head and heart. From years of close association with him I found that his life was based on those ancient and eternal values for which this land is renowned.

First and foremost, was his sense of integrity. In the Income Tax Department, for instance, he was respected at all levels not only because of his complete grip over the law and practice of income tax, and his outstanding success in fighting cases but also because of his personal integrity. It was known that he never accepted any professional payment without issuing a receipt and his income tax return reflected truly what was deemed at that time to be a fabulous income as a professional. Palkhivala recorded his income fully, never deviated from the law in fulfilling his tax obligations, while he was highly critical of the

extortionate tax rates, which went up to ninety eight per cent at one time.

The second great quality of Paikhivala was a basic concept of Indian life, viz., the personal debt one owes to various persons in life. It may be broadly described as loyalty, or moral debt.

On long journeys by car, he was fond of listening to various stories and incidents from epics and philosophical books. Once on such a journey, I narrated the well-known story from the Mahabharat in which the five Pandava brothers and their wife Draupadi trudge up to the Himalayas in the last phase of their life. One by one, they fall dead and ultimately only Yudhishtira, the eldest, and a dog, which was following them, survived. At that point, a heavenly vehicle sent by Yama, the Lord of Death, comes down. The servants of Yama ask Yudhishtira to get into the heavenly vehicle to go to heaven. The Pandava King asks the dog to get in first. Yama's servants object to this saying that the vehicle has been sent for him and not for the dog. Yudhishtira refuses to go to heaven unless the dog is also allowed to accompany him. He says that the dog is following him faithfully and at this stage he cannot abandon him because he has a moral obligation to take care of it! The King is adamant, and says that if the dog is not allowed, he also does not wish to enter heaven! At this point, the dog transforms itself into

Yama, the Lord of Death, and announces that this is the final test for Yudhishtira, which he has successfully passed! When Palkhivala heard this story he was so moved by it, that he asked me to repeat it. He had great powers of listening and telling him anything once, was more than enough. But for the first time, he asked the story be repeated. Then he was very quiet for some time obviously absorbing the story. He kept saying, that it was a beautiful story. In fact, this quality of loyalty or sense of moral obligation was one of the hallmarks of Palkhivala's character. For him life was a one way street, in which he considered that he had to fulfil his obligations to others, but never to seek anything for himself. He was loyal to his parents, teachers, wise people, employees, to society at large, and the country.

He was so devoted to his mother and father that whenever there was a reference to them his eyes would become moist. In an interview in Bombay Chartered Accountants' Society Magazine (September 1982), this has been particularly noted. "The great influence in my life has been my father's and my mother's (virtually in tears) who, by their character and their own example, showed me how a human being should live a useful life," he told the interviewing team comprising Narayan Varma, B.V. Dalai and Ajay Thakkar.

Palkhivala said that he owed so much to his parents that he could never repay his debt

of gratitude to them. In his house there was a particular seat on which his late father used to sit in the morning and say his prayers. When the house was being redone, he told the interior decorator that he could make whatever changes he considered desirable but he should not touch the seat where his father used to sit and pray. It was a sacred spot for him.

A lawyer friend once mentioned an incident, which brings out Palkhivala's great attachment to his parents. One client of this lawyer friend wanted to consult Palkhivala on some tax matters. The lawyer told him that Palkhivala was not available even for big corporations as he was extremely busy and if he approached him for an individual tax problem he may not succeed. The client told him not to bother about it but to meet him at Palkhivala's office next evening. The lawyer went there with great scepticism. The moment his client sent in his slip, Nani Palkhivala came rushing out of his cabin to receive him most cordially. The lawyer friend saw in amazement how Palkhivala set aside all his other work and gave careful attention to this humble client. When he came out, the stunned lawyer was told by this client that he and Palkhivala's father were great friends and they started their lives together, and Palkhivala respected him as much as he respected his own father. Palkhivala's doors were always open to his father's friend. There was no need for an appointment!

He had great respect for his college professors as well. Once when we went to Dharwad, he came to know that one of his old Professors in St. Xavier College had settled down there after retirement. Though the stay was very brief, yet he found time to call on him at his residence for a few minutes to pay his respects to him.

Palkhivala respected the wise and saintly persons. For instance, the Paramachaiya of Kanchi, Sri Aurobindo and Mother of Pondicherry, Dilipkumar Roy and Rajaji were held in profound respect and admired by him. Palkhivala was greatly attached to Bhagvan Satya Saibaba.

This concept of loyalty was also extended to his old clients. In February 1974, he went on a lecture tour of Vidarbha. When it became known that he

would be visiting Amaravati for a public lecture, the Chairman of a small transport company came to Mumbai to request him to visit their office. Although the stay at Amaravati was only for a couple of hours to address a meeting and thereafter we were to leave immediately for the next destination for another lecture engagement, Palkhivala asked me to provide for a few minutes in the programme for a visit to this office. Subsequently, I found out that in the early days of his practice he had fought their case and saved the company from liquidation. He never forgot that they were among the few who gave

briefs to him in the early years of his life. When we went to the company, all its shareholders were present and Palkhivala was profusely garlanded. The Chairman said they were happy to have Palkhivala's darshan and express their gratitude personally to a man "because of whom we and our children are eating a full meal and are not on the street." Palkhivala was deeply moved by their gesture. He mentioned to me later how the sense of gratitude and behaviour of these humble people in a small town contrasted with the attitude of directors of nationalised banks. The Bank Nationalisation Act was challenged by Palkhivala on a matter of principle. None of the banks or bank directors was prepared even to lend their name as the petitioner. He had incurred all expenses himself. Fourteen banks secured additional compensation of Rupees forty eight crores because of this fight. Only two banks had the courtesy to pass a resolution thanking him!

Two upcountry professionals were very close to him. One was Mataldinni, a well-known Chartered Accountant of Hubli, and Mahesh Joshi of Indore. He felt that they were the people who approached him in the early days of his practice in Mumbai. In the city, his senior Sir Jamshedji Kanga was a formative influence on him, and he adored him. Another person whom he held in high regard was the one who gave him his first brief, R.A. Gagrati. When a edition of The Law and Practice of Income Tax was published in 1950, Palkhivala gave a copy

to R.A. Gagrati with the inscription: 'To my dear Rustom, the first attorney to brief me. With kindest regards and grateful feelings, from Nani 24/10/50.'

This concept of loyalty or moral obligation was also extended to those who worked for him. Once when he visited Manipal for a lecture, the next day, the local Kannada daily Udayavani carried a box item with a photograph showing Nani Palkhivala affectionately hugging an old person. He turned out to be a servant in his household who had retired some years ago. When the servant became old, Palkhivala asked him to go back to his native village near Manipal and spend the rest of the days with his children. Palkhivala used to send the same salary and other benefits to servants who retired as if they were in service.

Another touching instance occurred a few years ago. While we were returning from a Forum meeting, I casually mentioned to him that a few days earlier I had met one of the persons who used to work for him and that person had mentioned a serious illness in the family. Palkhivala's immediate reaction was: "Do you think he will accept any money from me to take care of at least a part of his expenses and would it be possible for you to arrange to send the cheque?" Next day he had sent a cheque for a hefty amount.

His close friends also always felt the unique quality of his loyalty. S. Ramakrishnan, Director

General of Bharatiya Vidya Bhavan, who was close to him, has recorded his experience of personal interest Palkhivala took in him when he suffered a major heart attack. He personally went to London to discuss with the surgeon about the treatment, and care of Ramakrishnan.

Even small requests were met by him. Once when he went to Jaipur in 1986 for a Forum session, Dharmendra Bhandari, a local Chartered Accountant known to him, made a request that his newborn child should be named by Palkhivala. He accepted the invitation and visited Bhandari's house, where many people had gathered, and named the child as Savitri.

Another outstanding quality of Nani Palkhivala was his innate and spontaneous compassion towards one and all. Whenever food was served to him he set aside a small portion for his servants. There was an incident behind it. When he was a little boy, he was given a plate of almonds and as he was about to eat it, his father told him not to forget the poor boy next

door. He spontaneously gave the entire plate to him and from that day onwards whenever food was served, he would keep aside some portion for the servants. Every month he would disburse substantial amounts to his old teachers, servants and a number of deserving causes. All this he would do without seeking any publicity. The public came to know

only through the press from an independent source that he had donated Rs. two crores to Sri Sankara Netralaya of Chennai, which he considered as “the best run charitable institution in India” serving the poor. S.S. Badrinath, Chairman of Sri Sankara Netralaya Trust, and his colleagues had gone to see Palkhivala least expecting such a big donation. Palkhivala told me subsequently: “I wanted to have the satisfaction of giving some money to this great institution during my lifetime.”

It is said that one of the hallmarks of a truly great person is that he never speaks about • himself nor does he speak ill of others. I had spent hours and hours with Nani Palkhivala, sometimes meeting him twice or thrice a day, in ‘Bombay House’, or while travelling with him in different parts of the country. I do not recollect a single occasion when he had spoken in praise of himself, or spoken ill of anyone. He hardly spoke about himself except in those contexts when he was asked to say something.

Once he explained in a certain context that if he had to say anything critical about any person, he always said it in front of the person. For instance, when in a corporate matter he was particularly critical of the style of functioning of a certain person, he called the person for a frank discussion in front of the* concerned chief of the organisation and explained his views and why he held them. Palkhivala always wanted the person to have #

- an opportunity to reply to such criticism.

Another great quality of Nani Palkhivala was his willingness to be corrected when he was proved to be wrong. To cite only three such instances: In one case he had given an opinion on an excise matter and normally the corporate world unquestioningly accepted his opinions. In this particular case, in a public organisation of which he was the President, one of the assistants in the secretariat dealing with excise matters pointed out that Nani Palkhivala’s views were not correct. The Secretary of the organisation

hesitatingly told Palkhivala about it. He immediately sent for the assistant and asked him the reasons why he held a different view. When the assistant explained the reasons, Palkhivala was convinced. He accepted the assistant's view and thanked him for correcting him. Another well-known incident concerned one of the controversial provisions of the Union budget, which greatly affected the corporate sector. Palkhivala had given a particular opinion, which was quoted by everyone. At one meeting of the professionals, Y.H. Malegam, eminent Chartered Accountant, gave another interpretation of the Section. When Palkhivala heard of the same, he called Yezdi Malegam for a discussion and accepted his interpretation as being correct. At the next opportunity, speaking from a public platform Palkhivala mentioned that while he had held a particular view of the budget provision earlier, he had come across a different interpretation by Malegam and after discussions he was convinced that Malegam's view was correct, and his own earlier one was not.

Even with regard to any public activity, he would correct himself if convinced that he was wrong. Once after a function, he mentioned about a particular matter to which I replied saying that his views did not seem to be correct.

I recollect that both of us argued about it while he was waiting for his car at the Oberoi. He insisted that he was right. Early next morning he phoned me at home and said he had thought over our discussions and come to the view that what I said was correct. It is this great quality, which marked him from many others who from an eminent position never accepted their mistakes.

The qualities of humility and courtesy were • a part and parcel of Nani Palkhivala's personality. His opponents and people jealous of his eminence criticised him for a gesture of courtesy when he bent down to retrieve the shoes of the old mother of President Carter in U.S.A. when he was Ambassador. Being courteous to people was a part of his life. For instance, everytime somebody went to him he would stand up to greet him. Before leaving his cabin, he would always ask whether I had transport. Whenever he wanted me to meet him he would always ask when I would be free to see him.

Basically, Palkhivala followed an internal • guideline of being fair to all. He was firm in his • views, but not dogmatic. On one of the rare occasions when I differed with him in a certain matter, we argued for a while. He tried to

understand my viewpoint, but could not accept it. At the end of it, he said politely, “Pai, I do not accept your viewoint, but you may be right”.

Hospitality with a capital ‘H’ was # characteristic of Palkhivala. Before any committee meeting, he would ensure that proper tea/coffee arrangements were made. At home, when he gave dinner parties, with a mixture of guests from different walks of life, he would personally attend to every guest, serving some item or other. He and his wife Nargesh would shower attention on every guest. When the dinner was over, he would insist on coming down from the sixth floor to the road to see off every guest. This he continued to do even when age crept on him and made easy movements difficult. Patriotism was a virtue, which shone • through his acts. He never wore his patriotism on his sleeve, but felt deeply for the country, its people and heritage. The way he argued India’s case against Pakistan on the Rann of Kutch and the civilian aircraft overflying India, will go down in legal jurisprudence. In the World Court at the Hague, where every word of counsels matter, Palkhivala stunned everyone by his brilliant oral advocacy, without reading from a written text as is the practice of all other counsel. Palkhivala was a deeply religious person in private life. His * respect for all religions was an article of deep faith with him. The Sarva Dharma Maitri Pratisthan at Bharatiya Vidya Bhavan, of which he was Chairman, was an activity close to his

heart. This had been set up at the instance of Swami Ranganathananda of Sri Ramakrishna Math to foster interfaith understanding and friendship. At the Lahore Congress, the reception Committee Chairman had said to President elect Dr. Dadabhai Naoroji, that he was “the greatest gift the Parsis have bestowed on India”. The Grand Old Man of India replied:

“I am a Hindu, a Muslim, a Parsi but above all an Indian first”. This sentiment was hundred percent applicable to Nani Palkhivala as well.

While Palkhivala's qualities of the heart won him many admirers and thus contributed in a large measure to his success in life, other aspects of his personality enhanced this success. These aspects had more to do with his self cultivation and self-development. In a * rare moment in some context, he mentioned that one of his guiding principles in life was constant self-development. By virtue of such a motivation, he cultivated a number of qualities. First, he was totally dedicated to his duty, and had an exceptionally strong work * ethic. He found enormous joy in work. In his • work, he always sought to excel. For him, excellence was a non-negotiable issue. For • instance, he was careful to avoid even a single spelling mistake or printing error in his writings and books. He himself was very good in proof reading. Once he explained that in his early days of legal practice, there was plenty of time at his disposal, which he devoted to study and reading proofs of his book. He never wasted a

single moment. Palkhivala valued every minute 0 and utilised his time in the best possible manner. When we planned a lecture tour, he would carefully study the route map, time for alternative modes of transport and routes, and see how a few hours or even a few minutes § could be saved.

He was a master of time management. C.K. • Daphtary, whom he and the entire Bar and Bench venerated, once told me how time was an obsession with Palkhivala. Both of them were travelling to London, and en route there was a flight delay, and they were held up at an airport. Immediately Palkhivala took a book out of his brief case. "I quietly took it from his hand, kept it aside and told him Nani learn to relax." But for Palkhivala, his relaxation was in his work!

One way in which he utilised his time to the fullest was in prompt disposal of his work. * He never allowed any work to pile up. Most of the letters, he would dispose of on receipt by sending an appropriate reply. His memory was so good that unless copies were required for legal purposes or for record, he would not even keep a copy of his reply. He told his P.A. once, "Don't keep any copies. I keep everything in * my mind." For compiling the book Nani Palkhivala - Selected Writings, co-author L.M. Singhvi suggested that we should study his personal files. There were only a few files available in his office, and hardly four or five

confidential files at his residence. For a lifetime of active life, there would normally have been a room full of files.

Prompt disposal of correspondence did not mean he was casual or hasty in his approach to work. Before he did anything, he carefully • thought over the matter. When he appeared for his law examination, because of writing cramps, he had got permission to have a writer. That person recalled many years later, what had happened in the examination hall. When the question paper was distributed to the candidates, Palkhivala went through it and for# full ten minutes, he was staring at it. The writer thought that the candidate did not know the replies and was unable to dictate the answer. However, once he began, it was just a # continuous flow of words. In this context, an interesting incident is worth recording. When Palkhivala passed his law examination, the examiner is said to have written on his paper, “Frankly, this candidate knows much more than I do.” This was verified by me years ago by speaking to knowledgeable persons. Therefore, in the brief profile of Palkhivala in the book Nani Palkhivala - Selected Writings, this was mentioned, along with many other laudable instances from his life. The authors (L.M. Singhvi, S. Ramakrishnan and myself) had a very tough time in finalising the ‘Profile’, because he insisted on deleting many of these references because it appeared to him that they glorified him. After the draft was approved and

as we were about to send it to the press, he called me and said that the reference to his examiner’s remarks should also be deleted. I insisted that it should be retained as it only presented one of his achievements in life. After a good deal of argument, he asked “Can you prove this in a court of law?” While I pointed out that there would not be any occasion to prove in a court of law, what I had verified as true from knowledgeable sources, Palkhivala said: “In that case it should be deleted”. This incident brings out his great sense of humility, and inherent desire to avoid praise, even when deserved.

In his method of work, there was one special quality, which is to be found in all great persons who are achievers. He knew the art of • concentration. He took up one thing at a time and concentrated on it to the exclusion of all other thoughts. Once he advised me, whenever there is something important, forget everything else and concentrate on it. That way it is easy to

tackle any problem. In concentration, he was aided by the ability to go to the heart of any problem. This is a rare quality, and Palkhivala was blessed with it.

He cultivated very carefully some skills, which helped him. One was his photographic * memory. This faculty was developed to a phenomenal extent. Hence his ability to speak for hours on a public platform without a piece of paper in his hand. He read a great deal of literature and history till age of twenty two, “With #

great application of mind and, I have retained what I had read... I have cultivated the power of memory, which is called the power of recall... This power which is a matter of habit and discipline and cultivation has now continued with me.” (BCA Journal interview). In this context Palkhivala recalled a story told to him by his senior, Sir Jamshedji Kanga who had an exceptionally good memory. Bhulabhai Desai, an outstanding lawyer, was once working in the High Court library and taking down notes. Inverarity, who was considered as one of the greatest lawyers who ever practised in India, who was passing by, knowing that Bhulabhai had a good memory, took up the sheets, tore them up and said, “Young man always make notes in your memory, never on paper.” Palkhivala said that this story about Bhulabhai made him realise that in public speaking one’s speech is much more effective if notes are not used.

If some papers were placed before him, he would quickly glance through them, absorbing the contents. He had learnt rapid reading or # speed-reading. If he stopped at any page, it meant he was memorising it. In the law court, for instance, he would quote a page number of the brief, and while other counsel were trying to locate the page, Palkhivala would quote the relevant passage on that page from his memory! He was, like Lord McCaulay, in this respect. It * was said of Lord McCaulay that he used to scan page after page of a book and absorb its contents, and that he had such a fabulous

memory that even if all copies of Milton’s classic Paradise Lost were destroyed, Lord McCaulay could reproduce from his memory the entire poem, canto by canto, line by line, comma by comma. Nani Palkhivala had a similar memory, which he had carefully cultivated.

He was well organised not only mentally, but also in his surroundings. Everything was arranged neatly on his table, and side shelf. Every book, report and paper had a specific place. Before starting any discussion, he would take out the specific file. Whenever I met him, first I would report to him on various organisations and activities. He would carefully listen and give his reactions or directions. Then he would ask, “Have you finished your papers?” Thereafter, he would take out his file and proceed with the discussion of his papers. If it took half an hour for other persons to deal with some matters, Palkhivala could complete them in five minutes, thanks to his meticulous organisation, good memory and ability to grasp and respond with proper solution to any problem. Nature had generously endowed him with fabulous brainpower and memory, and he himself had carefully developed it and fine tuned it to produce excellent results.

I

Throughout his active career, Palkhivala practised Swadhaya - self-development. He believed that every moment of his life should • be spent in learning. As a boy, he used to



The guiding light in Palkhivala’s life — his father, the late Ardeshir Nanabhoy Palkhivala and mother, Sheherbanoo.

Soulmates — Palkhivala and wife, Nargesh cut cake on the occasion of the former's 75 th birthday as Minoo Masani, freedom fighter, M. R Pai, author, M. A. Rane, advocate, Rajsingh Dungarpur, CCI chairperson and J. R. Gagrath, solicitor (both standing behind) look on.



Achievements and accolades — President of India, K. R. Narayanan awards Palkhivala with the coveted Padma Vibhushan in recognition of the legal luminaiy's meritorious services.

Palkhivala presents his credentials as the Indian Ambassador to the U. S. President Jimmy Carter. Also seen is wife Nargesh.



browse for hours in Popular Book Depot on Lamington Road, near his house. He once mentioned that he would be the last person to leave the shop, and the kindly proprietor, the well-known G.R. Bhatkal, would allow him to

complete the book he was reading. Palkhivala never forgot this generosity. When he was a celebrity with every moment of his life fully occupied and was turning down many requests for public lectures, when G.R. Bhatkal's sons Sadanand and Ramdas approached him to deliver the G.R. Bhatkal centenary lecture, he told me, "Somehow I should accommodate this request." He did, and delivered a beautiful lecture on the Art of Reading. At the meeting he paid G.R. Bhatkal well-deserved rich tributes and added that had "he been alive < (« today, I would have touched his feet to show my reverence to him."

While every one eagerly took in Palkhivala's wisdom when he gave his public lecture, very few knew how carefully he gathered the enormous database. He never went to sleep unless he read some good book at least for half an hour. In an era where most people cease to read anything new at all, here was a person constantly in search of new knowledge. Whenever he came across anything exceptionally interesting or worth using, he would get it typed, and carefully file it for reference, in addition to storing it in his fabulous memory. Whether he spoke for an

hour or a few minutes, he would carefully select every thought, choose appropriate words, and link those sentences logically. Sometimes, he would struggle to find the right word or idiom, and was not content until he had

found it. He believed that every thought could be presented in the best possible manner only in a certain 4 arrangement of appropriate words.

Once when I wanted to contact him, his personal assistant M.R. Narayan told me, “This evening it is not possible. He has asked me not to disturb him. He is preparing his presidential remarks for the meeting to be addressed by Sir Arthur Lewis, the eminent economist.” That evening Palkhivala spoke for ten minutes from the presidential chair, and the audience felt that he should have continued forever. The speech was designed and delivered in such an entrancing manner. He had spent about an hour and a half to prepare that ten minute talk.

In a country where many speakers gather their thoughts at the last moment and ramble on, Palkhivala was an exception. He never * appeared on a public platform without careful preparation, even if it were only for a couple of minutes. When he presided over a meeting, if the prepared text was not available, he would carefully note some points or highlights of the talk and quickly arrange them in his mind and give his presidential remarks. The audience would wait anxiously for his views.

A catalogue of Palkhivala’s qualities of head and heart, which made him an all-time great would be incomplete without a reference to the care he took of his health. He was regular in * his physical exercise. After every meal, he would brush his teeth because he said that it was necessary to keep them in good condition.

As regards food itself, he was careful. While he enjoyed good food, I found that he avoided eating in excess. He rested on journeys whenever he was tired. Earlier he was a nonstop worker, resuming work immediately after lunch. Once J.R.D. Tata advised him to take some rest after lunch, and Palkhivala followed that advice, resting briefly after lunch. It is worth noting that though working under great pressure, day after day, without any respite, Palkhivala had the rare ability to go to sleep at will, and get up at the predetermined time. He never used the alarm clock to wake him up even for early morning flights. Truly did he enjoy the sound sleep of the honest and the good. He took good care of his health, which enabled him to function efficiently and at the peak of his energies. Except for a bad cold once in a way, I do not recollect Palkhivala down with any illness. When he

was past seventy seven or seventy eight , his system showed signs of slowing down. His success and greatness in life was the result of a disciplined life, a well- * cultivated mind, and scrupulous practice of * India's ancient values.

Nani Palkhivala in the Court of Public Opinion

“Where did you find this young man?

Bring him more often on Forum platform.”

-A.D. Shroff,

Founder-President, Forum of Free Enterprise



» •

The Legendary Budget Meetings of Nani A. Palkhivala

When the Forum of Free Enterprise was set up in 1956, to educate the public on market economy, it began by organising public meetings on current economic issues. A few of the stalwarts like A.D. Shroff, founder President, whose vision resulted in setting up the organisation, Murarji Vaidya, a co-founder, Minoo Masani, veteran public figure, N. Dandekar, the then Managing Director of ACC, M.A. Master, S.N. Haji, both known as shipping magnates, R.V. Murthy, one of the senior most economic journalists, A.A. Jasdanvala, well-known industrialist, were some of the speakers who appeared on the Forum platform. It was difficult to get new speakers or eminent persons even to preside over meetings. There was an atmosphere of fear of offending the Government, which was riding high on the socialism wave. Public opinion was also strongly in favour of socialist measures like nationalisation. Free enterprise was a concept, which few dared to espouse in public.

One day when I approached A.D. Shroff to preside over a Forum meeting, he said: “Pai,

get new people, and preferably younger ones. We are always there. Forum should encourage and build up younger persons.” So, a search started for new and young speakers.

Taxation was a hot subject in those days. With the Second Five Year Plan drawn under inspiration of P.C. Mahalanobis, inspired by Soviet comprehensive centralised planning, the state was diverting most of the available resources to the Government for its massive investment in the Public Sector. Also, taxation was considered as a tool to reduce gross inequalities in society.

A friend mentioned: “There is a brilliant young lawyer on taxation in Bombay High Court Chambers. His name is Nani Palkhivala.” I wrote and he promptly responded, asking me to see him on November 11, 1957. When I met him, he was thirty seven years old, and had made a mark as a tax expert. He was briefed about the Forum, and requested for a talk. He immediately noted in his diary December 2, 1957, Forum of Free Enterprise, “Recent Changes in Tax Structure”.

That was the beginning of Nani Palkhivala’s public life, and within a few years he became, the leading voice on taxation, budgets, and also constitutional issues. For me, it was the beginning of a highly rewarding personal relationship in the public life of a man whom I looked upon as the Dadabhai Naoroji of the twentieth century.

On March 27, 1958, Palkhivala gave the first of his celebrated annual budget lectures at Green’s Hotel, Apollo Bunder. The place, now part of Taj Mahal Hotel, was a popular venue for such lectures. A.D. Shroff, Founder President, Forum of Free Enterprise, presided. He was so impressed by Palkhivala’s analysis of the Budget and oratory, that the next day he asked me: “Pai, where did you find this young man? Bring him more often on the Forum platform.” These lectures continued at Green’s till 1964 when the hall was found to be inadequate. The entrance door had to be closed and people turned away. Some of those who could not get in at that budget meeting were so frustrated that promptly I received a message on the dais

that there was a phone call. The person at the other end used the typical Indian trick of a bomb scare, thinking that if he could not attend the talk, others should neither! The false alarm was ignored, and the meeting continued. However, this incident led to the shifting of the venue the following year to a larger hall, the renowned Sir Cawasji Jehangir Hall, opposite the Museum. Even this hall, then considered to be the largest in South Mumbai, proved inadequate. A.D. Shroff was delighted at the public response.

For the first time, the impact of Palkhivala's budget lectures was noted. The Illustrated Weekly of India commanded an enormous readership at that time. One of its popular column was by "Bahurupee" commenting on current issues. Later his identity was known.

"Bahurupee" was Gangadhar Gadgil, eminent economist, educationist, literary figure and a leader of the consumer movement. The column commented with admiration the response to Palkhivala's lecture on a dry subject like budget which drew "an overflowing audience" in the largest hall of South Bombay. This comment proved prophetic because Palkhivala popularised economic education. He particularly made budget an item of household discussion because the audience comprised not only of businessmen, but housewives, students, white collar workers, academicians and people from all walks of life.

From Hall to Open Air Venue

In 1966, the first open air budget lecture was delivered by Palkhivala on CCI East Lawns. The preparation here was elaborate, as it was an open ground and the large number of chairs got filled up in no time, a couple of rows being reserved with great difficulty for Forum donors and Palkhivala's prominent guests.

In the three years (1971, 1977 and 1980) when the Budget was presented in the monsoon owing to general elections, the meetings were held in Shanmukhananda Hall in Sion. That big hall, with a capacity of over three thousand seats at that time, proved inadequate, and loudspeakers had to be installed outside for the benefit of those who could not get in. In 1991,

Palkhivala did not speak on the subject due to a heart surgery which he had undergone around the Budget time.

Presiding over the budget lecture of 1982 on CCI East Lawns, Vijay Merchant, who was also the President of the Cricket Club of India, noted the overflowing crowd with every inch of the open ground being occupied by the masses. He suggested in his presidential remarks that from next year, the venue be shifted to the Brabourne Stadium. Thus from March 4, 1983, till Palkhivala's last public lecture on the Budget on March 6, 1994, he delivered the lecture at the Brabourne Stadium. Since test matches were no longer played on the CCI pitch, this elicited the quip that the grounds could be put to no better use than Palkhivala's budget talk, drawing crowds larger than at cricket matches!

One incident nearly put an end to the use of CCI. One day CCI authorities received a show cause notice from the Collector of Bombay as to why the ground lease should not be cancelled as the lease terms had been "violated" by giving the ground for nonrecreational purposes. Chandrakant Mehta, senior partner of Gagrath and Company, and CCI Solicitor, phoned me and asked whether we could meet Palkhivala for drafting a suitable reply. Though he was extremely busy in those days, the moment he heard of this new threat to the use of the ground, he called us

immediately. Before entering his office Mehta said, "I do not see how we can give a satisfactory reply as the notice has been well worded and it seems difficult to defend our position".

Palkhivala read through the notice, called his steno and dictated a reply to the effect that there was absolutely no violation of lease terms as "recreation" meant not only physical recreation, but also "intellectual recreation", for which the ground could be used. Therefore, use of the CCI grounds for lectures was within the ambit of the original lease terms. That was the end of the matter.

New Challenges in Organising Open Air

Meetings

Organising meetings in a hall, where the dais, mike and chairs are all available, is relatively simple. However, moving to an open ground presented a totally new challenge. Fortunately, CCI authorities extended their full cooperation and support. From all CCI Presidents, like the cricket legend Vijay Merchant to Madhav Apte to Rajsingh Dungarpur, to the ground staff, Forum of Free Enterprise got the fullest support which made the task easy.

The general public has no idea of the organisational efforts required for a major event like Palkhivala's budget lecture. CCI had about two thousand solid wooden chairs, which had to be supplemented by hired ones. Since lorry

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movement in the downtown area is banned during day time, they had to be brought previous night to the venue. It took several hours to arrange them. The height of the stage had to be correct to enable people at the back to see the dais, while those in front did not have to crane their necks to look up too high. In later years, in the stadium, CCI staff was busy for nearly a week cleaning the galleries. Backdrops had to be in a pleasing colour. In the event of a electricity failure, the meeting would have ended in a chaos. In Brabourne Stadium, the power requirement was large because of numerous floodlights, and special arrangements for extra mike had to be made. Since nothing could be left to chance, power was drawn from two different BEST substations to ensure that in the event of failure of one, the other would be available. In addition, a generator was kept as standby to light the stage and activate the mike if BEST power failed totally. The huge audience was briefed of & these standby arrangements in advance so that there was no panic even if power failed and the venue was plunged in total darkness.

The sound system became a matter of great worry when the meeting was shifted to Brabourne Stadium. Because of the height of the gallery roofing, the speaker's voice would bounce back after a few seconds. Palkhivala was very worried about this and several sound experts were consulted. B.P. Godrej, a great

admirer of Palkhivala, who used to attend the meetings regularly, even consulted Philips Headquarters in Europe, but no solution was found. At that stage, Roger Drego, who had the latest sophisticated sound system, became available. He considered it a matter of prestige to cater to Palkhivala's meeting and did his best, including placing his men with walkietalkies in several places on the huge ground. Just after Palkhivala started to speak, they would report to Drego at the Central control that he was audible, and the sound would be fine tuned. However, the echo problem persisted for a year and suddenly a solution emerged. The dais which was near the cricket pitch facing the stadium galleries, was shifted to the west (sea side) slightly at an angle where the voice would not hit the gallery roof but drift away through an open space in between the gallery and CCI main building. One of the big hospitals in the city had a charity musical programme where this new arrangement had been proposed. Palkhivala was so delighted that he asked whether he could see the arrangements on the day of the charity programme to check the sound system during the programme. When the Trustees of the hospital came to know that Palkhivala was visiting the venue, the Chairman and trustees made suitable arrangements to receive him. Such was the great regard in which he was held. In those days, Palkhivala's every second was precious, and yet so great was his concern for his audience that he came to CCI grounds late at night to see the new sound

arrangement when the musical programme was on in order to repeat it for his meetings and eliminate the echo problem. The new arrangement was made for the subsequent budget meetings. However, many hassles were involved in crowd regulation which posed bigger and bigger challenges year by year as the crowds increased.

The primary cause of all problems was an attempt to hold a mass meeting when an elite audience also had to be handled with care. If the topmost echelons of business and industry came five minutes before the starting time of 6.15 p.m., thousands would start converging on the CCI venue from 3.30 p.m. itself. In fact, main gates were opened only at 5 p.m. Thereafter, as the people came in waves, the entry points had to be regulated, and people had to be directed to various sections such as enclosure for Forum members, for general public and VIPs such as Forum donors. High Court

Judges, income-tax and other top Government Officers, Palkhivala's guests and prominent citizens.

Barricading these sections became essential to prevent crowds from encroaching on the reserved seats, though once the meeting was about to start anxious public was allowed to come forward and squat right up to the dais. Many welcomed such an opportunity and did not mind squatting on the ground: their main concern was to see and listen to their hero Nani Palkhivala. He also liked this arrangement — so great was his love for the common man.

Barricading brought its own problems. Once a person trying to jump over it broke his leg and was writhing in pain. Volunteers came to the dais with this information, and I had to rush him to the hospital. When Palkhivala was told of this incident, he immediately wrote him a letter expressing his anguish about his injury. Such was Palkhivala's concern for every member of the audience. Another time, as a person had some heart problem, a doctor had to be identified and the person had to be rushed to the hospital. In view of these problems, an ambulance, a doctor and para- # medical team were always kept ready at the meeting site to take care of such contingencies.

Security was another aspect. As * Palkhivala's voice became more and more dominant in public affairs, there was danger of the meeting being disrupted by mischievous elements. Though the entire crowd was well behaved, yet a group of determined people could disrupt the meeting. Once there was a unsubstantiated report that such an attempt might be made. So, a security agency was hired, and about a dozen persons of that agency were planted in different sections of the audience to keep a watch and prevent any untoward incident.

Drinking water became another necessity with people arriving early on a hot summer day, ® in the first week of March, when the lecture was held. All these arrangements required a



The legend addresses one of the very first budget meetings. A.D.Shroff, President of the Forum of Free Enterprise and M. R. Pai, then Secretary, are present.

Delivering the presidential address at a meeting of Forum of Free Enterprises. Justice H. R. Khanna of the Supreme Court of India (extreme left) was the chief speaker.



Token of gratitude — seen (4 th from left) at the Ganesh Ramrao Bhatkal Birth Centenary Celebrations along with Padmaja Phenany, singer, Ramdas Bhatkal, Managing Director of Popular Prakashan, Suma Chitnis, former

Vice Chancellor of SNDT University, and Sadanand Bhatkal, Chairperson of Popular Prakashan.

Galaxy of great men — At a seminar organised by Leslie Sawhny Programme (LSP). Seen from 1 to r are M. S. Gore, then Vice Chancellor of Mumbai University, Palkhivala, LSP Chairman, JRD Tata, noted industrialist and Minoo Masani, LSP Vice Chairman.

huge volunteer force. Palkhivala's name was * like a magnet which attracted dedicated volunteers. About a hundred to one hundred and fifty persons came as volunteers by 4.30 p.m. They were served coconut water and food packages as they had to stand and move around till 8.30 p.m. They were briefed on their various responsibilities, and posted to different parts of the meeting site. Their enthusiasm, some of them taking a day's casual leave from their offices, was to be seen to be believed. They considered it a rare privilege to be volunteers at Palkhivala's meeting. After winding up the meeting, those who were able to stay behind were taken to a nearby restaurant for dinner. Eventually an unofficial y corps of Palkhivala meeting volunteers, with a group mind and crowd handling expertise evolved. But for their total dedication, such a huge meeting could not be held so smoothly.

Traffic became another major problem. •' Even Palkhivala found it difficult to reach the venue from his nearby house as the traffic in the entire Churchgate area went into a snarl.

A solution was found with the cooperation of P.S. Pasricha, in charge of traffic police. The entire Marine Drive pavement was reserved for parking of cars, and a large posse of traffic police was mobilised. Their cooperation was excellent. Since it was difficult for his car to reach the Brabourne Stadium main gate on Veer Nariman Road because of the huge traffic

jam, special arrangements were made for getting Palkhivala's car from CCI front gate on Dinsha Wacha Road, which was open only to CCI members, and he would make his entry to the meeting venue from a hidden cloth door behind the dais, just a few minutes before the meeting.

The meeting would always start on time, the meeting President, Palkhivala and others climbing on to the stage, to the huge applause of the eagerly waiting crowds, a couple of minutes earlier. Only one year it started five minutes late as the car of that year's President, Field Marshal Sam Manekshaw, staying in Oberoi Hotel nearby, was caught in the traffic jam created by Palkhivala's meeting!

Choosing a President for the Budget meeting became a matter of importance because of the huge crowds who had high expectations. They came primarily to listen to Palkhivala and would not like a commentary on his speech. There were many aspirants for this honour but Palkhivala gave considerable thought and months in advance of the meeting we would discuss possible names. In some years, there was considerable excitement when a glamorous celebrity was chosen as President. For instance, when Vijayalakshmi Pandit presided over the meeting in 1975 or the legendary freedom fighter Achyut Patwardhan came out of his self-imposed exile from Varanasi, in 1984, there was added interest to the Budget lecture.

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Lord Roll of Ipsden from U.K. was to be in Bombay during one Budget lecture period, and he readily agreed to preside over the meeting in 1986. He said he had never witnessed such a meeting in his life .

The Presidents were briefed about the meeting and crowd profile well in advance. The CCI President or his representative from the Managing Committee was always given the privilege of welcoming the huge audience. The profile of the audience was interesting. In sharp contrast to political rallies where crowds, sometimes hired, would be taken in lorries to build up an audience, Palkhivala attracted crowds like a magnet. There were students, white collar workers, executives, directors of companies (some companies adjusted their board meetings to enable up-country directors to attend this meeting), traders, stock-brokers, housewives, students, professors and even trade union leaders. Some people came regularly to Bombay specially for his lecture. For instance one person came every year from Kumbakonam in the South to listen to Palkhivala.

The front rows would be filled up by celebrities. J.R.D. Tata, Naval Tata, Darban Seth and other Tata Directors attended some of the meetings. When J.R.D. came to a meeting in Brabourne Stadium, there was great excitement and loud applause. Ramnath Goenka came one year. M.P. Birla came one year, and Aditya Birla more than once. Palkhivala's close friend S.R.

Vakil and Natubhai Ambani were regular in attending his budget lecture. H.T. Parekh, Minoo Masani, Ramakrishna Bajaj, S.P. Godrej, and B.P. Godrej, music celebrity Pankaj Udhas, were regular in attending the meeting. In early 1960s, Dhirubhai Ambani used to visit a restaurant named Bristol Grill on Sir P.M. Road with N.K. Kamath, the Chief Manager of nearby branch of Syndicate Bank, where Reliance had an account. In those days, he was not well known and was in trading. Kamath introduced him to me, and we came to know each other well. Dhirubhai was interested in attending Palkhivala's meeting and every year I would send him a special card for the front row and reserve a seat for him. Dhirubhai had great regards for Palkhivala and attended the meeting regularly.

There is nothing like the experience of hearing Palkhivala at a public meeting, which is why requests used to pour in from other cities. Eventually, a lecture circuit was evolved. The first talk would always be in Mumbai, followed by an analysis of the Finance Bill on the following day at a meeting arranged at the CCI venue by the Western India Regional Council of the Institute of Chartered Accountants of India. Then Palkhivala would go to Chennai where the Southern India Regional Council of the Institute of Chartered Accountants arranged the meeting, and Bangalore where it was arranged by the Federation of Karnataka Chambers of Commerce as main sponsor at the huge Vidhan Soudha Banquet hall. There would be talks at several

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other places. At Calcutta, Netaji Subhash Auditorium would be full, with C.R. Irani of Statesman making all the arrangements. At Delhi, at Siri Fort, the local chapter of the Institute of Chartered Accountants arranged it. In Ahmedabad, the Gujarat Chamber of Commerce, and at Pune, L.R. Bhojwani arranged it under the auspices of Rotary and other organisations.

In Hyderabad, Shantilal Daga would arrange a meeting. Everywhere there would be huge audiences.

The Magic of Palkhivala's Budget Lecture

As early as December, various organisations used to inquire about the date for Palkhivala's Budget lecture in the subsequent March in order to avoid keeping their Budget meetings on that day. In one year, a couple of them had arranged the meeting the same day and found empty halls. Even their office-bearers were absent. They would be at Palkhivala's lecture. Hence this precaution.

There were several reasons why Palkhivala's lecture was a major attraction. Palkhivala insisted on careful planning and immediately after the big event, we used to have a review session and discuss improvements in arrangements. Palkhivala insisted on maximum advance press and other publicity for the meeting, and that his talks should be open to the public. His reasoning was that everyone who is interested in the subject should know the date and other details. "My meeting will

be considered successful only when that unknown little man who is interested in it comes to know of it and is enabled to attend it. Who knows? One day, he may become the Prime Minister of India". This approach of educating the public obviously paid off over the years, as a generation was brought up on Palkhivala's approach to economic policy. One instance was a Chief Minister of Karnataka, Mr. Veerappa Moily. Presiding over Palkhivala's budget lecture in Bangalore, he said, "I used to attend his budget lecture as a student. He has not changed his view over the years, but I have".

Palkhivala went into every detail to see that the arrangements were designed for the convenience of the audience. It is this great respect for the audience which in turn generated audience respect for him. Then there was his mastery over the subject. Before Palkhivala arrived on the scene, there were a few public lectures on the budget. Public interest was limited. The talks were mostly confined to the tax aspect. Palkhivala went beyond that and found that tax rates by themselves had not much meaning unless their impact was studied in conjunction with the Finance Bill provisions. It is in

this area that the bureaucracy took away with one hand, a benefit given by the other. Over the years, in his practice, Palkhivala had studied every section of Income Tax Act, and his mastery over Finance Bill implications helped him to interpret the subject as nobody else could.

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It was amusing to see in the papers the day after the Budget, “instant reactions”, but not Palkhivala’s. The stock market also reacted to the Budget on its “apparent tenor”. After Palkhivala addressed the public and explained the true significance and impact of the Budget, there would be a correction in stock prices. In addition to all this, he brought an overall view. As one professor, who differed from Palkhivala’s ideology, but never missed his budget lecture said: “What I like most about his lecture is the cosmic view he brings to bear on this subject. Palkhivala’s wide reading of history, political science, philosophy, science and other noneconomic subjects added to the value of his budget analysis. His first love was English literature in which he was well versed and the vast range of quotations from English classics, prose as well as verse, added to the value of his budget analysis. On top of all this was his touch of subtle humour. Excepting one year when he read a small passage from a slip of paper, he always spoke extempore, without referring to even a bit of paper. The way he reeled off statistics was an amazing phenomenon.

Another important characteristic of his budget as well as all other public speeches was his utter lack of malice. He never referred to public officials or bureaucrats by name when he criticised any measure, but generally praised them by name when appreciating any

good point beneficial to public interest. For instance, he complimented V.P. Singh for his first budget as Finance Minister. He praised S.R.K. Rao and A. Seshan of Reserve Bank of India, for their masterly study of public debt burden and possibility of a debt trap.

He had the rare ability to simplify complex budgetary issues and economic policies and bring them to the level of the ordinary person. No longer was the Budget either a dry subject or a mystery. Palkhivala put budget education on the menu of public interest topics, and rendered Indian

democracy meaningful in terms of public understanding of economic policies.

Media Response

While the public was responding in ever increasing measure to Palkhivala's annual budget lectures, media response was not so quick. In late 1980's, foreign journals took note of these mass meetings on a dry subject like Union Budget. Only thereafter, some of the Indian dailies noted the event. The Indian language papers were reporting the meeting prominently, and so did a few English dailies. The Afternoon of Bombay was exceptionally sensitive to the public interest in Palkhivala's budget lecture. It would run interesting news stories and photos on Palkhivala's budget talk when the Budget fever started in the city a few weeks before actual presentation on the last day of February.

The electronic media, Doordarshan (DD) in its early years, with its monopoly status, ignored the meeting altogether. That was in line with the undemocratic practice of ignoring whatever was even remotely construed as criticism of Government policies. This total ban was slightly relaxed after some time when several letters appeared in the papers roundly criticising DD for blacking out such a major event as Palkhivala's budget lecture. A big change came with private T.V. stations. Zee TV came with a proposal to telecast the entire event on its domestic as well as its forty foreign stations, in the first year. That was in 1994, which turned out to be the last public lecture on the Budget. The telecast proved so popular in India and abroad, that the station repeated it three times.

After the public lecture was discontinued, in 1995 both DD and Zee TV came with proposals to telecast an interview. Unfortunately, we decided on DD because it reached the entire country, while Zee TV was confined then to metros and over forty foreign stations. DD messed up the much awaited Palkhivala budget talk. There were several advertising interruptions. What was worse, some crucial portions of the pre-recorded interview were deleted, apparently the DD censor's fingers were itching to perform some work. It was a total disappointment to Palkhivala's fans all over the country. Apparently Doordarshan with its partisan attitude could not care less.

Local cable operators were far more responsive to the market. Some years earlier, when video recording facility became available, Forum had made arrangements for the video tape of the entire event to be available on actual cost basis to its upcountry members and service organisations like Rotary and Lions which replayed the videotape at their meetings. Cable operators would get hold of a copy and relay it to their subscribers. Thus thousands of people who could not attend the meeting got the benefit of the entire event.

Guinness Book of Records and Palkhivala's Meeting

I made several attempts to get this rare event, the world's largest ever meeting historically or contemporaneously on an economic subject, recognised and listed in the Guinness Book of Records. Unfortunately, its editor took a different view and did not consider it worthy of mention, while all sorts of inconsequential items like persons living on top of a pole, or walking backwards got an easy mention. Fortunately, India's own Limca Book of Records recognised the importance of Palkhivala's budget talks, and publicly honoured him at the Budget lecture in 1993, and prominently mentioned this event as follows:

“Eminent tax expert and lawyer Nani Ardeshir Palkhivala has the unique record of holding an annual public dissection of the

Union Budget for almost three decades under the auspices of the Forum of Free Enterprise. He started his annual budget speech in 1958 at Green's Hotel in Bombay and it was attended by about 800 people. When the hotel was pulled down, the venue was shifted to the Cowasji Jehangir Hall. As the annual affair started attracting more and more people, the venue was again shifted in 1966 to the Cricket Club of India Lawns which can accommodate 3,000 people. Since 1982, the venue has been the sprawling Brabourne Stadium which seats 60,000 people. The stadium has drawn full crowds every year. He lectures in different cities including Delhi and Bangalore”.

“His analysis on March 3, 1992 saw over 100,000 in attendance.”

Concentrated Efforts to Prepare the Talk

Very few people are aware of the enormous labour which went into the preparation of the sixty to ninety minute budget lecture delivered by Palkhivala. Only one year, in 1989, he spoke for about hundred and ten minutes and, as usual, the huge audience was spellbound by his budget analysis and oratory. He would carefully study the large number of letters on budgetary policies which business associations, chartered accountants, tax counsels and ordinary citizens sent to him in the months prior to Budget presentation in the hope that if he took cognisance of their suggestions and supported them publicly.

the authorities would take note of the same. In addition, round the year he would study tax cases and policies in Financial Times, and a number of foreign dailies and journals so as to be up to date in budgetary and tax matters in different countries of the world. This information would be useful to him for comparative purposes.

Once the Budget was presented to the Indian Parliament, he would get a copy of the entire set of budget papers and study all of them in detail. As regards tax measures, Palkhivala would study models of impact of those measures on specific industries. In the meantime, he would relate all this data to the changes taking place in the Indian and world economic scene. His budget analysis brought to life the economic panorama of the world at large, and India in particular.

The rule was that nobody should disturb him from 28th or 29th February evening to the time of his budget lecture at Brabourne Stadium. If he wanted any information, he would contact the concerned person. Palkhivala was so meticulous that after preparing his entire speech, with every word, phrase and sentence, well-crafted like a master sculptor sculpting a magnificent monument from marble, he would check for accuracy of any point in doubt. For instance, once he phoned to find out how “Meghalaya” was pronounced. On the morning of the meeting he would want me to report if all arrangements had been made properly to attend to public requirements. He would check the time when he

should reach the venue and the gate of entry at CCI where special arrangements were made for his car to come. He respected his audience and gave his best in every way, and it is no wonder that the audience in turn

respected and adored him. Saint-poet Samarth Ramdas has described an assembly of people as a place where God is to be found in his most delightful form. For Palkhivala, his audience was supreme.

In 1994, Palkhivala addressed one of the largest ever Budget meetings on Brabourne Stadium. General S.F. Rodrigues, retired Chief of ' Army Staff, was in the Chair. That turned out to be Palkhivala's last open air budget lecture, and an end of the journey which began from Green's Hotel hall in 1958. As the 1995 budget presentation date approached, there were several inquiries on the date of Palkhivala's annual lecture. There was all-round disappointment when it was announced that he would not be giving his usual lecture. Various attempts to persuade him failed. No one knew the real reason except Palkhivala and myself. The decision had been taken in 1994 itself.

Why did Palkhivala Discontinue his Budget

Lecture?

On November 2, 1994, he phoned me in the morning asking me whether I could see him. When I met him he said we were to discuss an important matter in absolute confidence. He said that on all major issues in

his life, he had been guided by an inner voice which he would hear at night. He would be suddenly woken up from his sleep, and while he sat on his bed, the inner voice gave him directions. He obeyed it. The previous night at 2.30 a.m., he had a similar experience. The voice told him repeatedly that from next year he should not give his annual budget lecture. Was it right to stop it? As one who was with him from the very beginning, arranging his budget talk, did I share this view? I told him that there would be a hue and cry from the large number of his admirers if he stopped the lecture. But if he wished to follow the inner voice which guided him on major decisions in his life, he should abide by it. "You have served the country exceptionally well in educating the public on economic and constitutional affairs, and popularised the Budget as a subject of public interest. What Dadabhai Naoroji did in the nineteenth century, you have done in twentieth century", I told him. He was happy that I concurred with his decision.

Then we decided that this decision would be kept under wraps, and nobody was to know it till the Budget date approached. This is why the momentous decision of stopping his famous budget lectures was taken.

Public Education through Countrywide Meetings

With ever-growing crowds at Palkhivala's budget meetings, and his fame not only as an authority on budgets and taxation, but also as a patriotic orator par excellence, a large number of requests for him to address meetings started pouring in. These were from universities, educational institutions, government training institutions like National Defence College or Lai Bahadur Shastri Academy at Mussoorie, chambers of commerce, professional organisations like the Institute of Chartered Accountants of India, social service organisations like Rotary, Lions, Giants and Jaycees, and others.

These requests were carefully considered, and when an immediate response was not required, a reply would be sent that he would keep the request in mind and when he visited that part of the country he would accept it. The requests were bunched together and either when he had to visit the place or a nearby place for some professional work, or over the weekends, a series of meetings were planned.

A.D. Shroff, Founder-President of the Forum, had always emphasised that if you wish to market an idea in India it could not be done sitting in Mumbai, but you had to go to people in different parts of India. In fact, after starting the Forum in 1956, till his death in 1965, he visited several cities to address meetings. It helped to build up the Forum. Murarji Vaidya who succeeded him continued the tradition. Palkhivala, as Forum President, followed in their footsteps.

Among the places Palkhivala visited were: Ahmedabad, Ahmednagar, Akola, Amravati, Atul (Gujarat), Agra, Aurangabad, Bangalore, Baroda, Bardoli, Bijapur, Bhavnagar, Belgaum, Chennai, Coimbatore, Coonoor, Chandigarh, Cochin, Calcutta, Delhi, Dehra Dun, Dharwad, Dharmasthala, Hubli, Hyderabad, Indore, Jamnagar, Jamshedpur, Jodhpur, Jaipur, Kolhapur, Kanpur, Ludhiana, Mangalore, Mussoorie, Miraj/Sangli, Margao,

Madurai, Mount Abu, Manipal, Nagpur, Panaji, Pune, Rajkot, Surat, Tirupati, Thane, Trichur, Wellington, Whitefield, and Warrangal. After seeing the enthusiasm of people, Palkhivala was keen on visiting district headquarters and smaller towns.

The theme everywhere was freedom and democracy, a rational economic policy which liberated and encouraged the initiative and creative abilities of the people to build up the national economy, and the need for public morality based on India's traditional values.



Time management — checks his watch before the budget speech. Also present are Vijayalakshmi Pandit, who presided over the function and M. R. Pai.

In August company — with the eminent freedom fighter, Achyut Patwardhan, who presided over one of his budget speeches.



Meeting ground — exchanging notes with Field Marshal Sam Maneckshaw (on the extreme left). Lord Roll of Ipsden, who presided over the meeting, Madhav Apte, CCI President and the late Vijay Merchant, just before the beginning of a budget meet.

Warming up — getting ready for a budget speech. Madhav Apte and Minoo Masani are also seen.

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He came to be considered as the Conscience Keeper of the Nation, and as one who dared to speak the truth however bitter it was to the rulers, and the Establishment. On occasions, he spoke on Adi Sankaracharya, Sri Aurobindo, Mahatma Gandhi, Sardar Patel, Pandit Nehru and other great Indians.

Reeling statistics, quoting great English poets, narrating incidents from history and with a touch of humour, with a cascade of elegant English prose — all without a single piece of paper in hand — Nani Palkhivala held audiences spellbound wherever he went. The word went round that he was not a mere orator, but a phenomenon. In one place, a handful of communist students tried to disrupt a convocation address. The slogan shouting students were led away by the police. One of them explained why they were protesting: “If you hear Palkhivala once, you will be converted to his views for the rest of your lifetime. Even we will be converted to his views.”

Thousands of his booklets were distributed at these meetings, and people grabbed them. I learnt one valuable lesson in Jamnagar. The organiser had been informed that five thousand copies of Palkhivala's booklet were to be distributed free to members of the audience. After the talk, he made an announcement that all interested persons may take a copy each of Palkhivala's booklet by paying ten paise each. Upset, I asked him why the audience was asked

to pay for these free publications. His answer was an education in human psychology: "Never give anything free. There will be no appreciation. People will grab five or six copies if they are free and may not even read the booklet. Now that they have to pay a nominal ten paise, they will carefully go through every line and keep the booklet!"

Whenever Palkhivala addressed a public meeting, he created a traffic jam! Once the traffic chaos on Anna Salai (earlier known as Mount Road) in Chennai was such that it took over an hour for the traffic to become normal. Fortunately, his car was parked near a gate on the side street, and he could rush to airport in time to catch the flight after the meeting.

He also created a crisis in chair hire market. For instance, once in Bijapur in Karnataka, the audience was so large, people having come from all over the district to hear him, the organisers could not provide enough seats by hiring locally available chairs. They had hired all available chairs not only from the city, but all neighbouring towns!

Palkhivala always went to his meetings on time. He was very particular that the correct time was announced on the invitation and the advertisement instead of the usual Indian practice of giving an earlier time to allow a margin for leisurely audiences and taking the speaker to the meeting place late. Only once

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he was late because fog delayed the flight from Mumbai to Mangalore. The meeting time had to be changed from 9 a.m. to 1 p.m., and people who had assembled from all over the district dispersed to assemble again after four hours, since they were so eager to listen to him. At the end of an eloquent

speech, one man reflected the general view: “What if we had to come again after four hours. We heard the speech of a lifetime. Every word of his should be carved in a stone like Ashoka Edicts.”

An Australian guest at the UPASI (United Planters’ Association of Southern India) annual meeting heard him in Coonoor. He opined: “It was worth coming all the way from Australia just to listen to Mr. Palkhivala.”

There were some lighter moments as well at a few meetings. For instance, in one city, the enthusiastic meeting organisers wanted to present him on the stage dramatically. So all went on to the dais by the side door and were seated. Then the curtain was drawn aside by pressing the stage switch. The curtain opened to the great applause of the jam-packed hall. Apparently, there was a short circuit because the curtain again closed in, and started opening up again to the great amusement of the audience. Then the curtain had to be manually operated!

The biggest problem at many of these meetings was to keep the stage free of

busybodies who wanted to be on the dais to be seen and photographed with Palkhivala! He always insisted that his talk should be open to the public and there should be no charges. Only in one place the organisers cleverly made some money without his knowledge. Wherever he addressed a meeting, the hall would be overflowing, every single seat occupied, the aisles crowded and enthusiastic listeners even squatting on the stage! However, I saw that there were a few empty seats in the huge auditorium. On inquiry, I learnt that more people were anxious to listen to Palkhivala, but the organisers had made his talk one in a series, and charged a huge fees for attending the entire series!

His speeches all over the country built up an intellectual infrastructure for democratic values and the liberalisation of the economy in 1991. They stalled the battering of the constitution, and helped in the preservation of India’s democratic values of individual freedom and fundamental rights. They cut down the arrogant politicians and bureaucrats to size by enabling the public to judge them against basic values, and expected performance. Nani Palkhivala became the one man army and with his courage,

conviction, erudition, oratory and above all great sincerity and patriotism, he aroused the nation to new heights of democratic fervour.

The demand for Palkhivala as a speaker was so great and insistent, that the various

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organisations which generally guarded their little territories zealously, agreed to all his conditions. Several organisations came together on one common platform. In one place twenty nine of them co-sponsored the meeting and a Vice-Chancellor who presided noted that the magic of Palkhivala had brought together so many of them; the meeting should be widely advertised to enable every interested person to come to know of it, and attend it; it should not be only for the elite, but for everyone; the meeting should have the minimum of formalities; the announced time and starting time should be the same; the sound system should be good; and proper facilities should be provided to the Press. •

He asked for the time allotted to the speaker, and at all places though there was no time limit, he spoke for a specific time. He never exceeded his time as a speaker. Before visiting any town for the meeting, generally I visited it first and discussed all these details. Unlike many speakers, Palkhivala knew the crucial importance of organisational details, including the need for a good sound system. I had to report to him that all details had been attended to and give a profile of the audience, and their level of understanding of English. He rated audiences in Chennai and Bangalore as among the best in terms of knowledge of English and appreciation of subtle points. Many inquired whether he could address meetings

in Hindi. It was his great regret that he had not studied that language. It was to the advantage of the Indian politicians, because had he been an orator in Hindi, after listening to Palkhivala, the Hindi belt would have become a hot spot for politicians who thrived on public ignorance.

Interestingly, Palkhivala tried his skill in speaking in Gujarati on a weekend tour of Rajkot, Jamnagar and Bhavnagar. At the first meeting, he spoke for fifty eight minutes in English and seventeen in Gujarati. At the

next meeting, he spoke for twenty five minutes in English, and had gained confidence to speak for thirty minutes in Gujarati. At the last meeting, he spoke for seven minutes in English and fifty in Gujarati.

He was a perfectionist. He had appointed a Gujarati tutor, and studied the Gujarati equivalent of economic terms. However, when he addressed a huge rally of farmers in South Gujarat, he found that while he had painstakingly learnt and used Gujarati words, farmers would use English words like “levy” in day to day language! This farmers’ rally, to which they came in trucks and trailers, was one of the biggest meetings he had addressed in rural India and he felt proud that he had an opportunity to speak to them.

It is amazing how much energy was packed into these trips. They involved considerable physical strain. One typical trip: Palkhivala

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finished heavy Supreme Court work in Delhi and retired to bed around midnight. About four hours later he got up to catch the early morning flight from Delhi to Chandigarh. There he attended a small party at a lawyer’s house, addressed a meeting of the bar at noon and then drove to Ludhiana to address a public meeting. There was a huge audience waiting for him in that place. After a speech which thrilled them, there was a dinner, and a long car trip back to Chandigarh. Early next morning, he left by car to Dehra Dun and Mussoorie.

One of the places which Palkhivala visited every year was National Defence Academy at Wellington near Coonoor, which invited him. On the way, his friend G.K. Sundaram, wellknown industrialist, a remarkable person who was close to Rajaji and was courageous and intensely patriotic, would invite Palkhivala to address a meeting in Coimbatore. These meetings attracted huge audiences. G.K. Sundaram was such a great admirer of Palkhivala’s selfless service to the nation, that he named a hall in one of the schools with which he was associated as Nani Palkhivala Hall .

It is only appropriate that one of the largest meetings he addressed was in Chennai in 1971, at the Loyola College Hall, with the venerable Rajaji

presiding. The organisers had thoughtfully put loudspeakers outside the hall, as the huge audience could not be

accommodated inside. It heard in rapt attention Rajaji and Palkhivala defending the constitution. Rajaji used this occasion to praise Palkhivala for his tireless efforts to defend democracy and promote a free market economy. Several years later, T.S. Gopal who looked after Madras Centre of the Forum at that time found a tape recording of this mammoth meeting. The late G. Narasimhan of The Hindu had recorded the proceedings for his personal collection. With permission of N. Murali, Joint Managing Director of the Hindu Group of Companies, N. Ram and N. Ravi, Forum of Free Enterprise made copies of the cassette available to its members. The cassette is a collectors item today, recording the views of two of India's greatest champions of democracy. Rajaji was fond of Palkhivala and appreciated his brave fight for freedom and free enterprise. Rajaji once described him in a few select words: "Nani is God's gift to India."

Only a person who possessed intense love for the country and its people, and who felt strongly about basic values like human dignity and freedom, and saw the wastage inherent in a system of state socialism and how the creative energies of the people were suppressed, could have undertaken these lecture tours. Nani Palkhivala was a man of destiny (Yugapurusha) who aroused the country to its greatness through a sustained campaign over a period of years.

Public Education through Publications

Everyone concerned with taxation is familiar with the book *The Law and Practice of Income-Tax* by Kanga and Palkhivala. It is the standard reference book on Taxation. Even income tax authorities respect its authoritative contents. Chief Justice M.C. Chagla referred to it as “The Book”.

Once I had to meet an income tax officer with regard to an assessment of a Trust as a trustee. He said, “Mr. Pai, I know that the Chairman of your Trust is none else than India’s leading income tax authority, Mr. Nani Palkhivala. According to his standard book of reference what you are saying is right. I also agree with him personally. But my department takes a different view.” When I reported the matter to Palkhivala, in his typically pragmatic manner he said: “Pay the small amount, but with a letter saying that the assessment is unjustified. However, in order to avoid litigation involving a great deal of wastage of time and money of a public charitable trust, which could be fruitfully used for promoting its objective, the amount is paid under protest.”

There is a well known incident about the book. When the second edition of the book was in the press, one person in Chennai took Palkhivala to the Court saying that it is a plagiarised work. During the cross examination, which lasted several days, Palkhivala cited from memory case after case, the page number on which the judgment was found, and demonstrated that he had gone through all original works. After the judge heard Palkhivala’s brilliant defence, he is said to have remarked, that but for the fact Palkhivala’s book was published later than the complainant’s book, he would have said that the complainant would have copied from Palkhivala, and not vice versa.

The book went into eight editions, each one of them receiving his meticulous attention to details. Even spelling mistakes were avoided.

Palkhivala had an obsession with perfection and excellence. Once he mentioned that in early years of practice he had plenty of time on hand, and he used to spend most of it on writing the book, and reading the proof. When the seventh edition was published in 1977, the Emergency had just ended. As a noble gesture, Palkhivala gave the entire profit of the book (Rs. 5,37,000) to a new trust he set up in honour of his close friend Loknayak Jayaprakash Narayan. It was named the 'Jayaprakash Institute of Human Freedoms', and as its name indicated, the amount was to be used to propagate and defend human freedom, the theme of Jayaprakash Narayan's public life.

While Palkhivala's classic on the law and practice of taxation was popular in corporate and tax circles at all levels, his enormous contribution to public education through the written word deserves great appreciation. He has left for future generations a legacy of noble thoughts. It is noteworthy that he did not derive any personal monetary benefit from these public service publications. The first such work which literally shook the Establishment and opened the eyes of the educated was his *Highest Taxed Nation*. By citing facts and figures he demonstrated that India was the highest taxed nation, and that hurt not only taxpayers, but also the economic development of the country because it destroyed individual initiative and enterprise. His theme was that by raising taxation to such high levels, the honest rich were being destroyed while the dishonest were being encouraged. He pointed out that when tax rate reached 97.5 per cent, human nature asserted itself because it was easier to conceal thirty Rupees rather than earn one thousand Rupees and pay the Government nine hundred and seventy five Rupees. The book was like a bombshell. As one of his great critics, an economist from London School of Economics, who propagated the idea of heavy taxation, wrote: "The most conservative of all Government departments was made to change its thinking as a result of this book".

The *Highest Taxed Nation* created publishing history. The first edition of five thousand

copies published on January 17, 1965, was sold out within a day. The second edition of five thousand copies published was also sold out within three weeks. There was countrywide demand for it. The publisher gave

three file copies to Palkhivala, but subsequently, not a single copy was available even with Palkhivala. Quite accidentally I came across a copy somewhere and gave it to him for his records.

For sceptics, this book is an illustration of the power of ideas to change the hard realities of life. Neither the Government, nor the socialist apologists could refute either the facts or arguments in this book.

Palkhivala's stature as an authority on taxation, already well established by his *The Law and Practice of Income-tax* and a volume on Indian tax laws in the prestigious Harvard Tax series, went up still higher. The public started looking up to him as their saviour against the inequities of Government's tax rates and administration. Important as tax justice was, his greater contribution was in the preservation of democratic values by defence of the constitution, particularly the fundamental rights and liberty of the citizens. The first salvo was through a popular booklet, "The Constitution and the Common Man". Sadanand Bhatkal and his brother Ramdas Bhatkal, sons of G.R. Bhatkal to whom Palkhivala felt deep gratitude and reverence for allowing him as a boy to browse through

books in Popular Book Depot at Lamington Road, published this manuscript as a public service. It was nominally priced at two Rupees just to cover the cost of printing and distribution. It was a brilliant recall of the drafting of the Indian Constitution and how glorious a document it was. I came across one important trait of Palkhivala's personality in this context — total self-effacement. He was against publishing a brief note on the author on the last cover. It was after many days of argument that it was not meant to publicise him but was a publication necessity that finally he allowed the publishers to put a small note on the author.

While authoritarian forces, under the banner of state socialism, were busy eroding various democratic institutions, Palkhivala's writings effectively defended public interest. This was the first work in that series.

A Judiciary Made to Measure was a spontaneous and vigorous response of protest by virtually the entire bar against what has come to be known as the 'supersession of judges' episode. Prime Minister Indira Gandhi took the unusual step of superseding Justice J.M. Shah, Justice K.S. Hegde and

Justice A.N. Grover in favour of Justice A.N. Ray as the Chief Justice of the Supreme Court of India. Members of the Bar all over India boycotted spontaneously the court on that black day, and protest meetings of the bar were held. Perhaps the biggest public meeting was in Bombay on

CCI East Lawns on May 4, 1973 under the leadership of Palkhivala. A huge crowd heard the speakers with rapt attention. These included M.C. Setalvad, former Chief Justice M. Hidayatullah and J.C. Shah, C.K. Daphtary and H.V.R. Iengar, ICS (Retd.), and Nani Palkhivala. What was interesting was that for the first time the official monopoly telecaster Doordarshan came to record the meeting. Subsequently, it was learnt that it was really an exercise to show the proceedings to the Prime Minister in Delhi! This meeting apparently shook the authorities. Palkhivala felt that the views expressed should reach a wide public through a publication. The result was the compilation of a book *A Judiciary Made to Measure*.

With a lead article *An Earnest Appeal* by Jayaprakash Narayan, published by Indian Express (of 16/5/1973), and two more articles by former Chief Justice K. Subba Rao and eminent lawyer and columnist A.G. Noorani, and a joint statement issued on April 26, 1973 by M.C. Setalvad, M.C. Chagla, J.C. Shah, K.T. Desai, V.M. Tarkunde and N.A. Palkhivala, the proceedings of the Bombay protest meeting were published under the title *A Judiciary Made to Measure*. In order to reach the book, at an affordable price to the largest number of people, instead of getting it published by any commercial publishers, I became the publisher. The cost of production was one Rupee and twenty paise. Keeping eighty paise

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as commission for booksellers, it was priced at two Rupees. While the first edition was published in June 1973, within three months there was such countrywide demand for it that several editions totalling twenty five thousand copies were printed and sold! In the first week,

I covered all booksellers, and stalls in downtown Bombay, walking from shop to shop. The response of even the smallest streetside shop was enthusiastic. However, I realised for the first time how crass commercial interests do not care for larger issues facing the country. One prominent

bookseller in Fort would have nothing to do with the book in spite of its topicality and eminence of authors. For him, it was not worth selling a book at eighty paise profit margin per copy. Incidentally, it is no wonder this shop closed down after a few years. What is very surprising is that a number of requests for this book came from different parts of the country over the years, long after the stocks were exhausted. Even a few months ago, there was one such request. I had retained a few personal copies, and Palkhivala was happy that these could be given with his compliments to seekers of knowledge.

Another publication was Privilege of Legislatures commenting on the Supreme Court's opinion in President's Reference. Popular Prakashan published it at two Rupees as a public service booklet.

A book which literally shook the establishment was Our Constitution — Defaced

and Defiled. First published in December 1974 by Macmillans, it went into several editions.

The theme of the book as stated in the Introduction was “1947 and 1973 are the key dates in India's twentieth century history. The first marked the end of the struggle for winning freedom. The second saw the beginning of the struggle for preservation of freedom... Politicians have been able to get away with virtual destruction of our fundamental rights simply because of the ignorance and apathy of the people... Freedom cannot be inherited in the blood stream. Each generation will have to defend it and fight for it — then alone will it survive to be passed on to the next.”

The book is a scholarly review of basic human rights, Rule of Law, the power of the judiciary. Parliament's power to amend the constitution, what had happened to the India's noble constitution, and how in the Fundamental Rights case the law of the land was finally laid down. Whenever Palkhivala addressed a meeting after its publication hundreds of copies were eagerly snatched by audience as the book had been modestly priced, only to cover the cost of production and distribution. As with his other books, Palkhivala did not derive any monetary benefit, and M.G. Wasani of Macmillans considered it a privilege to serve this great cause by pricing it nominally.

The book literally immobilised the rulers as it built up an impregnable fortress of



New beginning — Palkhivala's first public meeting in 1957, under the auspices of the Forum of Free Enterprise. N.Dandeker, ICS (retd), then Managing Director of ACC presided.

Welcoming M.C.Chagla, former Chief Justice of the Bombay High Court, who delivered the A.D. Shroff Memorial lecture. The author is also seen.



Waxing eloquence — Palkhivala, Naval Tata, eminent industrialist and the author at a public meeting.

Perfect host — seen with F. S. Mulla, founder Treasurer of the Forum of Free Enterprise and S. P. Godrej, noted industrialist.

arguments in favour of democratic freedom, and upheld the glory of the Indian constitution as originally adopted in 1950. The Government spokesman had no answer to this book. A feeble attempt was made to defend the rulers by a politician lawyer, but it did not click. That book was hardly noticed.

Exactly a decade afterwards appeared another magnificent book, a compilation of selected articles by Palkhivala under the title *We, the People*. The genesis of this book is interesting.

For years, I had been urging him to write the story of his life, a proposition he did not accept. It was suggested that as he was reluctant to write an autobiography, he should at least record the major cases he had fought. Even this he would not agree to. His view was that he would have to reveal many things about several persons on the Bench, Bar and the Government and he had no desire to hurt anyone. He was not willing to write at all unless it was the truth as he saw it. Palkhivala did not agree even to write it for posthumous publication. Such was his concern for truth on the one hand, and adherence to his principle in life of not hurting anyone by telling the truth. While rejecting the pleas for an autobiography or a book on historic cases he had fought, Palkhivala agreed for a compilation of his important works. The result was a magnificent compilation, *We, the People*, which any

publisher would have been glad to publish. It was, however, published and marketed by a non-conventional publisher, a bookseller who out of his regard and admiration of Palkhivala broke his rule of not going into publishing line, Strand Book Stall of Bombay. T.N. Shanbhag, Proprietor of Strand Book Stall, was a great admirer of Palkhivala. He was a shrewd businessman, but unlike many other booksellers one with a broad perspective. He had made Strand Book Stall a name to reckon with because, besides being a book lover himself, he was a lover of all booklovers. He

built up a reputation as a friend of booklovers by offering the maximum discount.

His clientele included celebrities like Pandit Jawaharlal Nehru, Chief Justices of India, High Court Judges, leading businessmen and bureaucrats and editors, professors, in short, all book lovers. He was a person committed to liberal philosophy, and said that if Nani Palkhivala was to compile a book of his writings, he would publish it at cost, and on top of it spend on advertising the book.

The book was a best seller from the time it hit the markets, and ran into several reprints. The introduction and a personal note of this book is noteworthy. For the first time, Palkhivala wrote something about himself — his belief in destiny, and his eternal gratitude to his parents. The last paragraph of his personal note was touching: “I can hope for no

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greater reward than that young readers with their life before them may find in this volume something to inspire them with an earnest and unflagging zeal for renewing the youth of the State.” Exactly after a decade, he published another book, a sort of companion volume, under the title *We the Nation — the Lost Decades*. It was collection of his articles on various subjects — with comments on great Indians like Dadabhai Naoroji to political subjects like dismissal of a Governor, to budgets and musings on life. It showed the vast range of Palkhivala’s reading, and considered views on men and matters. Published by UBS Publishers’ Distributors Ltd., in 1994, this book was also lapped up by the readers. By this time, Palkhivala commanded a big following of intellectuals as also common people.

Palkhivala’s interests extended beyond constitutional law, individual liberty, democracy, taxation and economic growth. He was greatly agitated by debates on current national issues. As a result of his vast reading, interactions with topmost leaders of different pursuits and deep thinking, he came to certain conclusions. These were expressed in two small but significant publications — *India’s Priceless Heritage* [1980) and *Essential Unity of All Religions* (1990). Published appropriately by Bharatiya Vidya

Bhavan, both books went into several editions. World renowned monk, great scholar and orator, Swami Ranganathananda

of Sri Ramakrishna Math, wrote a Foreword to the book India's Priceless Heritage, and explained why the little publication deserved wide publicity in India and abroad. Some of the Chapters were the Spirit, Brahma, Mother India, Quintessence of Indian Dharma and Culture, Karma and Reincarnation and Freedom and Tolerance. Palkhivala concluded by saying that C. Rajagopalachari observed: 'If there is any honesty in India today, any hospitality, any chastity, any philanthropy, any tenderness to the dumb creatures, any aversion to evil, any love to do good, it is due to whatever remains of the old faith and the old culture.' "The old faith and the old culture referred to by Rajaji is not merely for Hindus, not merely for India but for the whole world. Schelling, in his old age, thought the Upanishads were the maturest wisdom of the mankind. Today that wisdom is essential not only for the rebirth of the Indian nation but also for the re-education of the human race."

The booklet Essential Unity of All Religions contains Palkhivala's thought-provoking keynote address on October 1, 1990, at the inauguration of Sarva Dharma Maitri Pratisthan, a constituent of Bharatiya Vidya Bhavan. In his Foreword, Swami Ranganathananda said: "Some writers and some books sometimes voice not only their own thoughts, feelings and aspirations but also of many thousands of others in society too. This is what Sri Nani Palkhivala has done ..."

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In addition to these publications, many of Palkhivala's speeches were published as booklets of the Forum of Free Enterprise and distributed widely. He has, unlike many others, fully appreciated the importance of the recorded word. Ideas travel, and continue to form and influence public opinion. One of these booklets needs a special mention. He had delivered convocation addresses at Bangalore University in 1972 and at Karnataka University in Dharwar in 1974. In these convocation addresses, he had expressed his views on education, a subject very dear to him. Both were replete with scholarly quotations and profound thoughts. They were compiled in a small publication by the Forum of Free Enterprise under the

title Education and Youth in a Democratic Society. Every academic year about 10,000 copies are printed and distributed to students at A.D. Shroff Memorial and Walchand Hirachand Memorial Elocution Competitions conducted by the Forum of Free Enterprise in over hundred colleges all over India, and Muraiji Vaidya Memorial Elocution Competition at schools in Mumbai, and also at various meetings and seminars for students. The noble thoughts expressed in these literary masterpieces would have influenced thousands of students at an impressionable age.

It is appropriate that the best of Palkhivala's voluminous writings should be brought together in one volume. A suggestion to this

effect was made first by L.M. Singhvi, M.P., former Indian High Commissioner at London and well-known constitutional lawyer. A protege of the late K.M. Munshi, Singhvi shared Palkhivala's passion for democracy and India's eternal values. An admirer of Palkhivala, he agreed to edit this volume when S. Ramakrishnan, Director of Bharatiya Vidya Bhavan, urged him to do. A team of three, Singhvi, Ramakrishnan and myself was formed, with Palkhivala agreeing to help us.

Singhvi devoted considerable time in making a selection for the book and Ramakrishnan and I assisted him. In addition, I went through all the personal files of Palkhivala, including a few confidential ones, to select important correspondence for inclusion in the book. A very valuable part of this volume is a 'Profile' of Palkhivala, which was published for the first time, with his approval. The work on this was greatly facilitated by his brother Behram who has numerous clippings and rare family photos. After a draft was prepared, it was shown to some of those who had worked with him for several years for additional material and corrections, if required. Ramakrishnan negotiated with Penguin for a joint publication, for the first time between Penguin and Bhavans and painstakingly attended to all publication details. The end result was a significant book Nani Palkhivala: Selected Writings with L.M. Singhvi, S. Ramakrishnan and myself as editors.

It was released at a function in Mumbai a few weeks before Palkhivala's eightieth birthday. P.C. Alexander, Governor of Maharashtra and a great admirer of Palkhivala, broke the protocol to hold the function at a private

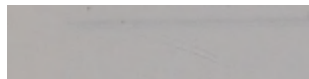
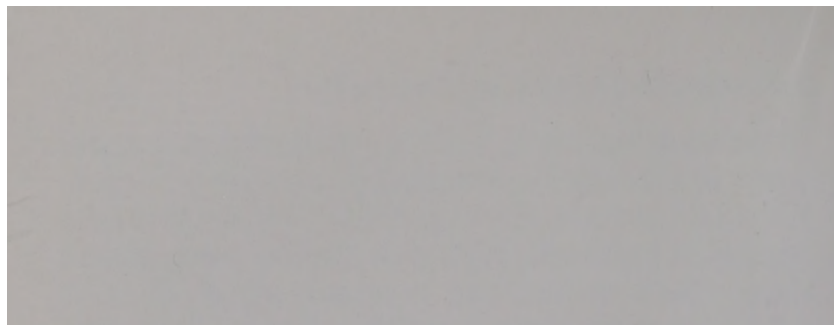
place. As Palkhivala was by this time confined to the house owing to an injury caused by a fall, he was unable to go out. Hence the venue of the release function was his residence. In front of a select distinguished gathering, including Ratan Tata, the book was released. This was a worthy tribute to Palkhivala, at the fag end of a distinguished public career. For the benefit of his numerous admirers and for generations to come, this was a preservation of lifelong efforts in educating the public by a patriotic Indian.

Nani Palkhivala in Courts of Law

“If a count were to be made of the ten topmost lawyers of the world, I have no doubt that Mr. Palkhivala’s name would find a prominent mention therein.”

—Justice H.K Khanna,

Supreme Court of India.





Nani Palkhivala & Courts

of Law

It was a sunny day in Indore and normally the place where the income tax tribunal is located would be a quiet area. But that afternoon, the compound and surrounding roads were full of all sorts of vehicles, from bicycles and scooters to cars and minibuses, as lawyers and chartered accountants had descended on Indore from all over Madhya Pradesh to see and hear Nani Palkhivala argue a case before the bench. Hence there was an unexpected traffic jam. It was an old client of Nani Palkhivala whose matter had come up before the tribunal for a hearing. As the news had spread earlier, people were anxious to see this nationally acclaimed advocate in action. The court room was full, and people had crowded by the windows to get a glimpse of what was happening inside. Even in Bombay High Court, if his name appeared on the Board, that court would be jam-packed with lawyers eager to watch Nani Palkhivala in action.

He became the cynosure not only of the legal profession, but also the general public in what is considered to be the most important case of

his career which left a lasting mark on Indian constitutional law as also polity. The Kesavanand Bharati case, popularly known as the Fundamental Rights case, led to the Supreme Court interpreting the “basic structure of the constitution”. A full Bench of thirteen judges, taking five months, is said to have given the longest time for any case which came up before the Supreme Court. When the case was being heard, there was countrywide excitement, and Nani Palkhivala became a household word.

As I was in Delhi for a few days when this case was being heard, one day I took a taxi to go to the Supreme Court to see Palkhivala argue this case. The moment I mentioned Supreme Court, the taxi driver asked in Hindi, “Are you going to hear Palkhivala Saab?” He added that he is a brilliant man who is fighting the Government on behalf of the people. This perception is also borne out from one of the numerous letters which Palkhivala received. It was from a peon of the Supreme Court. He said: “You are truly a great man. By the special grace of God, He has given you enormous wisdom. You are the true friend of the common people and the poor of this country. By exerting yourself very much for the last few months, you are trying to get justice for the common people. You will definitely succeed in your efforts. Whatever new laws are made by our Government or plans are started, they have all

proved useless. The common people are loaded with new and new taxes. But still the rulers do not understand the difficulties of the common people. I seek your pardon for writing this letter. I pray on behalf of the public of this country and myself to God that you win in your efforts. Otherwise, the people of this country will have to face very great difficulties. I pray to God to grant you great wisdom and continue to seek justice for the people.”
(translation from Hindi)

The Supreme Court was packed, every inch of space being occupied. The judges asked clarification or questions which Palkhivala replied immediately or would say “I shall come to it shortly”, as he had prepared his arguments in an orderly and logical manner. Immediately after that morning court session, he had asked me to join him for lunch at the Oberoi, with a few others. After lunch I went to his room to collect some papers. It was a revelation. In one of the big rooms of the suite were lined on the floor in rows, a large number of lawbooks, with paper flaps in them. In other words, years of his study of law and constitution of many countries of the world were coming to fruition now. Palkhivala, as usual, was thoroughly prepared for the case in hand, which he considered as a life and death battle for Indian democracy.

At the unveiling of Palkhivala’s portrait in Mumbai High Court library in 2000, eminent counsel, Iqbal Chagla, one of the speakers, recalled an

incident in connection with this

case. It seems that on the first day of the Kesavanand Bharati case, there were many interruptions from the Bench, and Palkhivala mentioned to C.K. Daphtary, the doyen of the Bar, that at this rate it was impossible to carry on. His train of thoughts was being interrupted. C.K. Daphtary told him not to worry. That evening Daphtary called on Chief Justice Sekri, who asked him how the case was going on. In his inimitable diplomatic way Daphtary told the Chief Justice. “Veiy well. But I want to tell you something interesting. Many people are visiting the shrine of justice, and among them was an old man and his daughter. The girl after witnessing the court proceedings asked her father, “There are thirteen welldressed people who speak so nicely all the time, but who is that lone young man facing them and constantly interrupting them?” The Chief Justice smiled and said, “Daphtary, I get the point”. From next day, there were no interruptions!

Momentous as the Fundamental Rights case was, Palkhivala’s pinnacle of glory was when the Government sought to reverse this judgment in an appeal. He was like a man possessed when he opposed the Government petition. His written submission and arguments were such that something unprecedented happened: the Bench dissolved itself. Indian democracy was saved from the massive onslaught which had been mounted against it.

For students of Indian constitutional law and ardent lovers of democracy, it will be very rewarding if they go through his masterpieces *Our Constitution Defaced and Defiled* (Macmillan), *We, the People* (Strand Book Stall), and *We, the Nation — the Lost Decades* (UBS Publishers’ Distributors). These works are gripping. Once, F.C. Kohli, Deputy Chairman of Tata Consultancy Services, of which Palkhivala was Chairman for several years, took a well-known U.S. attorney to meet Palkhivala. Subsequently, Kohli gave him a copy of *We, the People*. After returning to U.S.A., this attorney told Kohli that he just opened the book on the flight back to U.S.A. and could not keep it down till he completed reading eveiy page of it!

While the Fundamental Rights case attracted national attention, there were others which were equally important from the viewpoint of preserving democracy. Well known Solicitor, the late S.R. Vakil, used to say that one of the earliest cases, the Golaknath case, was the thin thread by which the

sanctity of the constitution was preserved. Palkhivala fought every case to uphold the right of citizens. For instance, in the Privy Purse case, it was the sanctity of constitutional guarantee and in Bank Nationalisation case, the question of fair compensation.

Justice M.C. Chagla, for whom Palkhivala had immense respect bordering on reverence, wrote in his autobiography *Roses in December*.

“Today, Palkhivala is undoubtedly the most brilliant advocate we have in India. He has an unrivalled command over the language which he uses with mastery and skill and which he combines with vast knowledge of law and great powers of advocacy. Apart from being an outstanding authority on income-tax, on which he has written what is truly a monumental book, he has also acquired a mastery over the principles of constitutional law. Indeed, he can handle with consummate skill almost any aspect of law. And it must finally be said to his credit that with all this he has remained essentially modest and humble. Success has not gone to his head, something that is rare with human beings.”

Justice H.R. Khanna of the Supreme Court, who won international acclaim as a defender of human liberty, had this to say about Palkhivala:

“If a count were to be made of the ten topmost lawyers of the world, I have no doubt that Mr. Palkhivala’s name would find a prominent mention therein. There have been occasions when his advocacy has reached great heights, and long after we have heard him we find his words echoing in our memory and leaving a trail of pleasant remembrance. One such occasion was when a bench of thirteen judges was convened to consider the correctness of a majority view expressed in *Kesavanand Bharati*’s case that Parliament as



Murarji J. Vaidya, former President of the Forum of Free Enterprises, addresses a meeting as Pakhivala and the author look on.

Straight from the heart — complimenting journalist, Arun Shourie on bagging the prestigious Dadabhai Naoroji Award. Shourie is presently the Union Minister for Disinvestment,



Swan song — seen with General S. F. Rodrigues, PVSM VSM (retd.), who presided over his last budget meeting in Mumbai in 1994.

Welcoming Justice H. R. Khanna of the Supreme Court at a function at his residence. Wife Nargesh is also seen.

a result of the amendment of the Constitution cannot change its basic structure. The height which Mr. Palkhivala touched that day in his address has in my opinion been rarely reached, and I am glad to say that my opinion in this respect was shared by a number of my colleagues. After hearing Mr. Palkhivala the attempt to have the majority view reconsidered was given up and the bench was dissolved.”

In 1974, when I met in Coimbatore G.D. Gopal, son of well known industrialist G.D. Naidu, he mentioned his own experience with regard to his father’s complicated tax cases. His father was a close friend of V.V. Giri, President of India. What I recorded immediately after meeting G.D. Gopal shows how Palkhivala was rated by President V.V. Giri as the best lawyer in India.

“When G.D. Gopal, son of G.D. Naidu, met President V.V. Giri in Delhi, the latter suggested to him to meet N.A. Palkhivala saying that he was the best lawyer in the country and would help Gopal to sort out his father’s tax affairs.

“In Bombay, Gopal could meet him only at about midnight for about fifteen to twenty minutes. When Mr. Palkhivala glanced through the bulky file in fifteen minutes, Gopal was disappointed. But then, in a few minutes he summed up the main points and suggested what was to be done. Gopal was amazed at the way he had understood the complicated case in a few minutes and suggested proper action.”

Lawyers as well as the public were curious to know the secret of Palkhivala’s eminence and success in the profession. It was a combination of his extra-ordinary ability as a lawyer as well as personal qualities. Palkhivala had the highest respect for judiciary, and scrupulously followed some basic principles. Even in social and informal functions, he would address High Court or Supreme Court judges, many his junior in profession, as “Judge”. Chief Justice Sabharwal of Bombay High Court narrated a touching incident. He had assumed his new position as Chief Justice of Mumbai and phoned Palkhivala that he would like to call on him and pay

his respects to him. Though Palkhivala had serious problem of movement and health, he would not agree to it. “I have to call on you, as an advocate,” he insisted and went to Bombay High Court to see Chief Justice Sabharwal!

As a lawyer, Palkhivala’s great asset was his ability to master any aspect of law. It was not an overnight acquisition. Over the years, he had got a good grounding in the fundamentals, and with ever growing practice added to it the much needed dimension of case law. Many people are unaware of long years of study which brought him to this position. Once he mentioned that in the early years of practice, he had hardly any work and was busy most of the time writing and correcting proof of the work on income tax law. From his childhood, Palkhivala utilised every moment of life for acquisition of knowledge, and the enormous

database gave him a great advantage in his profession. In this, he was greatly helped by his prodigious memory which he fine tuned over several years. Once he mentioned to me that while dealing with any subject, he could arrange in his mind all points in an orderly, logical manner. Before he took up any brief, he would study it in depth. In very complicated cases with considerable paperwork, he would discuss the issues with other associates,, demarcate areas of study, and get a comprehensive view of it. For instance, there was one important income tax matter before a high court. He argued the matter for only five minutes and won the case involving several millions of Rupees. However, about a dozen top counsel and tax experts had formed a team under his leadership before this ultimate result was achieved.

His command of the English language and ability to put forward commonsensical arguments and telling phrases greatly helped him. For instance, once a point on a weighty matter was driven home by one sentence — “as sure as a mother’s love for her child”.

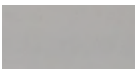
When Palkhivala stood before the Bench, the judges knew that while he was representing a client, at the same time he was fair to the other side. For instance, he would say “In this case there are twelve issues. Four are in favour of my client, three in favour of the other side. We need not argue on these if all agree. We

shall argue on the remaining five.” In fact, once he said that unless there are fifty one per cent chances according to him, he advised the prospective client against taking up the matter in a court of law. In other words, however lucrative the brief, he would not accept it if he thought that the litigation had no chance of success. Above all, what clinched the issue was his transparency and sincerity. In March 1976, I happened to meet him immediately on his return from the High Court after arguing a well known case. His comment on that case summed up, so to say, his approach to courts. If the advocate argued with fervour and courage, even a judge could be infused with courage. “In arguments or discussions, the courage and conviction of the person arguing a case can change the thinking of the audiences.” What helped him most in this was his ability to go to the heart of the matter and like a doctor’s clinical analysis lay bare the entire issue, thus giving a clear perspective to the judges.

Nani Palkhivala in Public Life

“We have not seen the ancient sages but we have seen a man of prodigy of learning like you whom I think is a sage in this modern age”

- A. student member of Forum of Free Enterprise from a West Bengal village.



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A Brush with Politics

A question asked very often in the 1970s and 1980s was why a person like Nani Palkhivala was not a part of the Government, or at least in the Parliament. His legal acumen, mastery over fiscal matters and stature as a great thinker, and above all unimpeachable integrity and sterling patriotism made it desirable that the nation should benefit from his contribution in politics.

Perhaps it is as well that he was not in politics, because, as a citizen, he did much more as the Conscience of the Nation than he could possibly have done as a politician. Palkhivala himself said that there was some destiny which pushed him to take the most important decision in his life. In an

interview to the Asian Age of July 27, 1997, he said: “In 1968 I was pressed to accept the office of the Attorney-General of India. After a great deal of

hesitation, I agreed. The announcement was to be made the next day. That night I couldn't

get sleep as I felt that my decision was erroneous. The next day I apologised to the Law Minister for changing my mind. In the years

immediately following, it was my privilege to argue on behalf of the citizens the cases which have shaped the Constitutional law of India. Thus the most momentous decision of my life was made by a force other than myself.” Palkhivala popularised economic education through his budget speeches, and saved the constitution from being completely eroded by his battles in the court of law, thus ensuring individual freedom, and saving Indian democracy. Possibly, we are too close to events to realise the enormity of his contribution. After another twenty or thirty years when many politicians will have been forgotten, or would remain as a footnote in history books, Palkhivala's name will be recalled with gratitude as the saviour of Indian democracy.

Though he never entered the political arena, he came close to it. First it was in his capacity as India's Ambassador to Washington between 1977 to 1979. On August 4, 1977, early morning he phoned me, asking me to see him urgently. Obviously, it was something very important because generally Palkhivala would inquire, in his courteous manner, when I would be free to see him, and never call me to see him at any scheduled time. He started by saying that the matter was absolutely confidential. He had been asked by Prime Minister Morarji Desai, who was leading the Janata Government, to go to U.S.A. as the Indian Ambassador. Foreign Minister Atal Behari Vajpayee had met



Palkhivala (third from the left) at a meeting of the Council of Management of Forum of Free Enterprises. Others seen are (from L to R) Y. A. Fazalbhoy, J. H. Doshi, Sanat P. Mehta, M. R. Shroff, Pratap Bhogilal and the author. Standing behind is R. V. Murthy.

Celebrations — M.A.Rangoonwala, President of the International Chamber of Commerce, at the silver jubilee function of the Forum Free Enterprises in 1982. Palkhivala, then President of Forum of Free Enterprises and the author are to his left.



J. H. Doshi, then President of the Forum of Free Enterprises, felicitates Palkhivala on his appointment as the Indian Ambassador to USA.

Holy connection- seen with Satya Saibaba of Puttaparti during the former's convocation address at the Satya Sai University.

him and urged him to accept the position. Palkhivala was not keen to go to the U.S.A. as the Ambassador, but Morarji and Vajpayee were very insistent. Their argument was that the nuclear treaty discussions between India and U.S.A. were in a crucial phase, and these negotiations involved legal intricacies which only a person of Palkhivala's legal acumen could deal with. His services were required for the nation. Palkhivala wanted to know my views.

My immediate reaction was that he should accept it because the nation required his services. In a note written that day, I recorded: "Urged him to accept it as he can do a lot of good to the country from that position, though his contributions in India are great. Being world power centre, will be able to influence international events. May eventually go to U.N. as Secretary-General or come back to India as President. Will also get time and opportunity to speak and write on constitution and other matters."

He accepted the offer, and in doing so made a great personal sacrifice. He was then fifty seven, and was a Director of Tata's, Chairman of some important companies, the ultimate guide of the corporate sector in taxation and company law and India's greatest authority on constitutional law. He was at the peak of his form, and the height of glory in the profession. By going to Washington, this link with the routine happenings in India was snapped.

In going to Washington as India's Ambassador, he was worried not about himself, but the organisations with which he was closely associated. For the Forum of Free Enterprise, he requested and the Committee agreed that J.H. Doshi, of Amritlal and Company and Amar Dye Chem., a past President of Indian Merchants' Chamber, who had taken a spontaneous interest in the Forum of Free Enterprise from its very inception, should look after it. J.H.

Doshi said he was not worthy of such a position but respected the wishes of Palkhivaia and the Committee. The Charity Commissioner said that there was no need for Palkhivaia to resign from the Chairmanship of the A.D. Shroff Memorial Trust and other trusts. In U.S.A., in addition to attending to his ambassadorial duties, Palkhivaia visited various universities and centres where Indians were largely concentrated and enthralled them with his oratory and vast knowledge of relevance to India's progress. He was truly India's Ambassador in more sense than one.

On another occasion, Palkhivaia came close to occupying a political post. On several occasions, Governor P.C. Alexander of Maharashtra described Palkhivaia as the best Finance Minister India did not have, meaning thereby that he was the most qualified candidate for that eminent cabinet post, but did not become one. Palkhivaia could have become a minister of law, had he only sacrificed his life's principles. One evening he called me

to discuss an offer he had received from Indira Gandhi, the Prime Minister, to be made the next law minister if he contested the forthcoming Parliamentary election on her party's ticket. He had also received an offer of a safe seat as an independent from some individuals who were interested in seeing him in action in Parliament as a chastening influence on the Government. The main opposition party had also sent word that he would be offered a safe constituency if he stood for election on its party ticket. Possibly this is one of the rare cases in Indian politics where everyone was wooing the same person, truly a tribute to Palkhivala's integrity and intellectual capabilities.

Palkhivala wanted my reaction, which was given as follows: As regards the late Indira Gandhi's offer, all his life he had opposed most of her economic and constitutional policies. As the law minister, presuming he got elected on her party platform, he would not be a free agent but required to argue and promote the Government line. In other words, he would be required to eat his own words and promote for the most part ideas he had constantly opposed. This would be repugnant to him. There was also a slim possibility he might lose the election, in which case also his image as a person who stood for certain ideals would be tarnished.

Would he be effective as an independent member or as an Opposition party M.P.? No.

From what I knew of Parliament's functions, as a regular visitor to Delhi for many years to meet M.P.s to give them Forum of Free Enterprise publications and interact with them, I explained to Palkhivala that in an eight hour debate on any major issue, time would be allocated to parties on the basis of their numerical strength. As an eminent lawyer of repute, the Speaker may give him more time. Yet, that would be insufficient, though he would be heard with respect as in the case of Minoo Masani whose budget speech in Parliament attracted a large attendance, and the Finance Minister as also the Prime Minister made it a point to attend the House when he was scheduled to speak. The real work in the Parliament was in the Committees which required enormous time commitment, a difficult proposition for a busy man like Palkhivala. The other effective platform was the Central Hall where one had to spend time with M.P.s of various opinions over tea, coffee, or ice cream and snacks. Spending so much time was beyond question in view of Palkhivala's personal style of working, utilising every second of time. His entry into Parliament would give him an opportunity to raise questions, but once again it required time to be present to ask supplementaries. The only advantage outside the House would be better coverage in the Press as an M.P. However, in his case it was superfluous as he already commanded media attention. On the balance, his entry into Parliament as a ruling party or

opposition or as an independent member would not be so useful as his present status. As a voice of citizens, from outside, he shook the policymakers and built up a powerful public opinion on all important economic and constitutional issues which no government could ignore. Palkhivala agreed with this analysis and dropped the idea of contesting elections.

In his interview in Bombay Chartered Accountants's Society, he has elaborated his decision why he did not wish to contest elections. "If I had a reasonable expectation that by entering Parliament as an independent, I could have an impact on the administration of the country, on the laws and the executive decisions of the Government, I would without any hesitation

contest a parliamentary seat. But my own feeling is that I would be less effective within Parliament, than I am outside. The reasons are these. First, it would mean a colossal slice of my time being taken away. I must canvass for votes, I must go to the people, I must listen to their complaints. If I am in Delhi and people come from my constituency I must talk to them, entertain them, etc. And, as I said, time is my arch-enemy. If I have to devote that much time to all these — canvassing of votes and looking after and nursing my constituency — I would not have that much time left for various activities which I am engaged in, and which, I think, are more fruitful.

Secondly, I would have to spend days to discharge my duty conscientiously as a Member of Parliament. When I speak in the different cities of India, I speak to audiences of thousands; but in Parliament I would be speaking to 30 or 40 MPs! Sometimes it would be difficult to get even that number of listeners in Parliament. When I speak in public, I have a most attentive and responsive audience and I speak without any interruptions at all. The contrast presented by debates in Parliament is truly pathetic. I have only 24 hours a day, like everyone else. And I ask myself the question — which is the most fulfilling and rewarding way in which I can spend my time in the service of the country? I am unable to give myself the answer that it would be as a member of Parliament.”

A description of Palkhivala’s brush with politics will not be complete without an analysis of his attitude to politics and various political and other related issues. From what I could make out in my association with him and periodic discussions, basically he was not a political person in the sense of one who would participate in active political process. He was not at all interested in political power for personal aggrandisement. He was a patriot par excellence who felt deeply for the nation, and welfare of his fellow countrymen. Poverty and illiteracy moved him and corruption and incompetence of politicians and bureaucrats

which perpetuated poverty and national degradation hurt him. Injustice to anyone, and disrespect to democratic values like individual freedom and dignity distressed him. This pattern of his thought is reflected in his various actions.

The episode of Palkhivala accepting Indira Gandhi's brief after the Allahabad High Court judgement and the widespread criticism of it is one illustration. One evening, shortly after he had returned from Delhi obtaining a conditional stay on the Allahabad Court order in the Supreme Court, he asked me to see him. Never have I seen Palkhivala in such deep distress as that evening. He explained that he had taken up the brief not because it was the Prime Minister's case, but because of the momentous issues involved. The case had not been handled properly in the lower court, as a result of which the Allahabad High Court reached an adverse decision on the basis of the information before it. It was a wrong decision because in effect it meant that if any functionary anywhere down the line and beyond the immediate control of the decision-makers did anything wrong, the person at the top was held guilty. If this legal principle was allowed to remain as the law of the land, the functioning of Indian democracy would become impossible. During a forty minute discussion that day, he explained that he had accepted the case as a professional, and it was of great constitutional importance; not for any favours. He was

concerned with letters and telegrams of protests and phone calls from friends and well wishers. "I would not mind being even permanently misunderstood as I was doing what I consider to be my duty," he said.

When the Emergency was declared, he promptly returned Gandhi's brief, because of the attack on democracy, just as he had taken her brief to ensure the smooth functioning of democracy. It was an act of great courage and only a person of deep conviction like Palkhivala could have taken it. His press statement in Mumbai on June 26, 1975 explained the reason for his decision: "While I adhere to my views regarding the legal merits of the Prime Minister's Appeal against the Allahabad High Court's Judgment in the Election Petition against her, the measures taken by the Government this morning are such that, consistently with my lifelong convictions and the values I cherish, I have requested the Law Minister to convey to the Prime Minister my decision to withdraw as counsel from the appeal." I met Palkhivala just after he had issued this statement. He was very upset with the declaration of Emergency and mass arrests. "This is the danger I had predicted when Constitution was amended," he said. When I said that even he might be arrested, he said: "I do not mind even dying for the country".

Various other groups, irrespective of their "ideological or political colour, got Palkhivala's

help. When R.S.S. was under income tax scrutiny, Palkhivala saw it as an harassment arising from political considerations, and helped the organisation to defend itself. Once when we were in Bangalore for a public lecture, R.S.S. Chief Guru Golwalkar was also there and expressed a desire to meet Palkhivala to thank him for the assistance to R.S.S. Both of us met him late in the night as it was the only time available in Palkhivala's over crowded brief stay in city.

Kanshi Ram, leader of Bahujan Samaj Party, was at one time a union leader in an Ordnance Factory in Pune. He had forged an alliance of Scheduled Castes, Scheduled Tribes and other Backward classes and formed a federation, and wanted to push the idea further through a big meeting in Mumbai. Kanshi Ram wanted me to approach Palkhivala to preside over a meeting in city. I gave Palkhivala complete information on the new movement of Kanshi Ram. Palkhivala had great sympathy for the economically backward and socially oppressed classes and addressed a big rally arranged by Kanshi Ram in Cawasji Jehangir Hall in the city.

Minority institutions also got Palkhivala's help in a generous measure on a voluntary basis because he had empathy for such groups. For instance, the Konkani minority Dr. T.M.A. Pai Foundation, a trust running the wellknown Manipal educational institutions, was also a beneficiary of his sagacious advice.

Similarly Catholic minority institutions received his advice and guidance. In post Ayodhya discussions, Palkhivala studied various viewpoints and advocated Maulana Wahiduddin's formula. He took an active part in promoting Sarva Dharma Maitri (friendship between all religions) under the aegis of Bharatiya Vidya Bhavan. He appeared successfully in a court case to defend Akhil Bharatiya Vidyarthi Parishad student leaders in Delhi like Sriram Khanna and others who had been rusticated by the University.

It will be appropriate to sum up that basically Palkhivala was an apolitical person, who was concerned first and foremost with national interests, and justice and fair play for all. In politics as a party man or even as an

independent, he would not have been as effective, as he was as the Conscience Keeper of the Nation. One of the best descriptions of Palkhivala was by a student member of the Forum of Free Enterprise who wrote from a village in Bankura District of West Bengal, in February 1998, when Palkhivala was awarded Padma Vibhushan: We have not seen the

ancient Sages but we have seen a man of prodigy of learning like you whom I think is a Sage in this modern age also. I pray to God for your long and healthy life.”

Public Organisations

Mahatma Gandhi believed and Jayaprakash Narayan reaffirmed that voluntary activity is the foundation of democracy. Nani Palkhivala fully believed in this philosophy and repeatedly told his countrymen that while giving money for public causes was good, what was more important was to “give oneself”, i.e., one’s time and talent.

Many businessmen, executives and professionals engaged in their own vocation, profess their interest in public life, but at the same time express their regret that “I don’t have the time. If only I had time, I would like to do so many things for public causes.” Palkhivala felt that this was an excuse because if one wanted to do something in life, there was always time for it. But where will is lacking, lack of time is a standard excuse. Palkhivala’s life is a shining example to such people. Though his working time was measured not in days or hours, but minutes and seconds, he always found time for public causes.

The list of organisations he associated with is big: Forum of Free Enterprise, for public

education in market economy and constitutional issues having a bearing on economic issues; Leslie Sawhny Programme of Training for Democracy, a non-political and non-partisan organisation to train businessmen, executives, professionals, students, social workers, trade union leaders, politicians and others in good citizenship and leadership in democracy; Bharatiya Vidya Bhavan, devoted to Indian culture and education; Federation of Blood Banks Association; Sree Chitra Tirunal Institute of Medical Sciences and Technology, Trivandrum, an institution of national importance by Act of Parliament; Veda Rakshana Nidhi Trust set up by the Paramacharya of Kanchi; Bombay Chamber of Commerce and Industry; Maharashtra Economic Development Council; Income-tax Appellate Tribunal Bar Association; Chamber of Income Tax Practitioners’ Association; and various trusts like A.D. Shroff Memorial Trust, Lotus Trust, Dadabhai Naoroji Memorial Prize Fund, Jayaprakash Institute of

Human Freedoms, and Trusts in Tata Group. In addition, he was involved in the panel of Judges of B.D. Goenka Award for Journalism, and Sri Aurobindo Centenary Celebrations. He was a member of First and Second Law Commissions, a member of the Senate of Bombay University. One incident in the Bombay University Senate is worth recalling. At that time there were sharp divisions in the Senate and its meetings were full of

acrimonious discussions. At one such meeting, Palkhivala was asked to explain the legal implications of the University's constitution. As usual, he had asked for a specific time, which happened to be long after the meeting started. A newspaper report described the Senate meeting that started and ended with unruly scenes but how everyone became silent and behaved well during the twenty minute presentation by Palkhivala.

Palkhivala did not believe in merely lending his name to organisations, but threw himself heart and soul in the working of public organisations. He never sought to get any personal advantage from public organisations, either money or power or publicity. On the contrary, he gave his best to serve some public cause. Generally, he never allowed the organisations to spend any money on him, but combined some professional or company work with public activities so that travel and other expenses could be taken care of. When there was no company or professional work, he would pay personally for his travel and other expenses. Palkhivala did not interfere with the functioning of the secretariat of such organisations, though he would get a briefing from the secretary on the broad outline of their activities. If any advice or guidance was required, he would give it generously. When Palkhivala presided over a Committee meeting, it was a pleasure to attend it. Prior to the

meeting, he would get a briefing on the agenda items, and would run through the agenda in a businesslike manner. The meetings were brief, to the point, yet fully satisfying to committee members. He would ask for opinion of members in arriving at a decision. The committee would give only policy directions, review activities, and ensure financial viability of the organisations. There was no small talk, nor wasting of time on inconsequential matters. Palkhivala was very firm on some issues: First, there was no compromise with basic values. Second, there was no deviation

from the law of the land in running an organisation. He would not countenance any short cuts to get some advantage.

One great quality of Palkhivala was that he believed in strengthening an institution by building new leadership. He actively encouraged youngsters and talented persons to participate in public activities. Although Palkhivala was one of the busiest persons, he was always available for public causes. For instance, for Forum of Free Enterprise, an organisation to which he was devoted heart and soul, he always found time. I had access to him, at home or at office, on a twenty four hour basis.

His concern for the staff of these institutions is touching. When he found in an organisation a employee had completed twenty five years of service, Palkhivala called him to his office

and gave a personal gift as a matter of appreciation, in addition to the reward by the committee. He arranged through one of the trusts reimbursement of educational expenses of staff members because Palkhivala was a great believer in education.

The survey of his public activities is not complete without recording one great quality of Palkhivala: Not to waste time on nonessentials, but concentrate on the main objectives. For instance, as Chairman of a public trust, which was involved in property litigation, when the new chief executive reviewed the cases and suggested discussions with opponents for finding a compromise solution and to use that administrative time, energy and money for fulfilling the objective of the Trust, Palkhivala fully appreciated the proposal. The Trust came out of all litigation through a give and take policy within the parameters of overall interest of the Trust. Another point on which he had a firm view was on usefully spending all available income of a trust, excepting the portion saved for long-term projects. "Today when we have the power to put the money to good use, we should do so. One does not know what will happen in future", he used to emphasise. Palkhivala enriched public life by his active participation in public organisations.

In the Corporate World

The image of Palkhivala in the public mind was that of an eminent constitutional expert, an invincible lawyer, a great authority on taxation, a defender of citizens' rights, an orator par excellence, and above all as the Conscience Keeper of the Nation. There was another aspect to his personality which was not known: a leader in the corporate world.

In 1960, he was invited to join the Board of Tatas. The late J.D. Choksi who used to deal with corporate issues in Tatas told me once that with Nani Palkhivala on the Board of Tata Companies, they had found a successor to him in the areas handled by Choksi. Subsequently, he was invited to join the Board of a number of companies, in some of which, such as ACC, he was the Chairman. However, the first company Board he joined was SIFCO Ltd., (Swiss Indian French Company, a joint venture representing Favre Leuba of Switzerland, Jaz of France and an Indian holding). Basically, it dealt with products of the famous Swiss Watchmaker Favre Leuba, and alarm clocks of Jaz. Though it was a relatively small company, when he

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ceased to be on the Board of it in later years, Palkhivala was always fond of it, and would generously give it any advice or help it required.

Two companies under his leadership as Chairman reached great heights, though the public was unaware of his Chairmanship. One was Tata Consultancy Services Ltd., a Division of Tata Sons, and the other Tata Exports Ltd., now renamed Tata International Ltd. TCS with F.C. Kohli as Dy. Chairman became India's • largest software Exporter and a global player in the information technology field. Tata Exports with Syamal Gupta as the Managing Director, became India's first five-star export house. With both CEOs, he developed excellent working relations. Their assessment of his leadership as Chairman should provide guidelines to other company chairmen.

Kohli, who is referred to as the Father of the Software Industry in India, attributed the reason for his success in building up India's largest and most profitable software company to Palkhivala's leadership as the Chairman. According to him, Palkhivala was a person with a vision, and a good mentor. He never interfered in the details. It was sufficient that he was kept informed of all major developments and issues. He was always available to TCS for any advice or guidance they required. Palkhivala appreciated good performance. His great quality as Chairman, according to Kohli, was the confidence he had in him as a CEO,

and Palkhivala gave him great support at every step. Specially during time of any crisis, Palkhivala gave full backing to his CEOs. In Syamal Gupta's view, some exceptional qualities made Palkhivala a good corporate leader. Among them were his inexhaustible energy, an ability to grasp any issue quickly, an electronic eye to read, ability to listen patiently to the other person, a photographic memory, and a desire to keep on learning anything useful. One of Palkhivala's outstanding qualities was his simplicity and great sense of humility in spite of being a very eminent person, and an outstanding intellectual.

Palkhivala had a magnetic personality, and wherever he went he became the cynosure of public eyes. He always felt at home in any part of the world he visited. He was truly a global citizen. He believed in encouraging functional managers under him to be global in their vision and efforts.

On June 8, 1976, Palkhivala was given life membership by the Institute of Secretaries, which was a pioneering organisation of company secretaries built up by a dedicated individual, C.C. Sutaria, before the profession was organised under a statutory organisation, the Institute of Company Secretaries of India. H.T. Parekh, the then Chairman of ICICI, presided. In his acceptance speech, Palkhivala elaborated on what he considered as basic requirements for a successful executive. Noted as points, these can be said to summarise Palkhivala's views on this subject.

1. Clarity of thinking, which is to be distinguished from simplicity.
2. Quick decision making not only by himself, but also all those working under him right down the line.

3. The art of relaxed concentration to size up problems which arise from time to time.
4. The ability to develop individuals within the organisation for leadership, and institutionalisation, so that eventually he himself becomes dispensable.
5. The ability to motivate people towards common goals, realising that human beings are not always rational though they are intelligent.
6. The ability to take a cosmic view in order to take far-reaching decisions.

Organisations do not evolve by themselves. A lot of thinking has to be put in their successful running and evolution.

In retrospect, it can be said that Palkhivala himself practised all these essential qualities which made him a successful corporate leader. Palkhivala visualised progressive professionalisation of managements in both public and private sectors of India. One of his outstanding achievements as a corporate leader was that he helped to develop many eminently successful executives and gave a big push towards professionalisation of the corporate sector.

Appendices

1. Nani Palkhivala's philosophy of life.
2. Nani Palkhivala's Guiding Principles in life.
3. The best write-up in press on Nani Palkhivala
4. Written proposition in Kesavanand Bharati case which settled the "Basic Structure" of the Indian Constitution.
5. Nani Palkhivala's writings

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I

Nani Palkhivala's Philosophy of Life*

When I die

Give my sight to the man who has never seen a sunrise.

Give my heart to one who has known the agony of the heart.

Give my blood to a youth pulled from the wreckage of a car so that he might live to see his grandchildren play.

Let my kidneys drain the poison from another body.

Let my bones be used to make a crippled child walk.

Burn what is left of me and scatter the ashes to the wind to let the flowers grow.

If you must bury something, let it be my faults and my prejudices against my fellowmen.

Give my sins to the Devil.

Give my soul to God.

If you wish to remember me, do it with a kind deed or word to someone who needs you.

If you do all I've asked, I'll live forever.

*While compiling the book Selected Writings of Nani Palkhivala, I came across some correspondence. One was a letter from his friend Buji Chinoy. Palkhivala said that the poem in that letter also represented his own philosophy of life.

Nani Palkhivala's Guiding Principles in Life.

Creative Dissatisfaction

It is the creative dissatisfaction which makes me try harder all the time.

Total Concentration

It is only my habit of totally concentrating on whatever I am doing. It is the power of concentration which can be always developed and which can become a habit with you.

Power of Memory

I have cultivated that power of memory which is called the power of recall. This power which is a matter of habit and discipline and cultivation, has now continued with me.

Leading a Useful Life

The greatest influence in my life has been my father's and my mother's who, by their character and their own example, showed me how a human being should live a useful life.

Courage, Integrity and Huipility

I respect courage and integrity and

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The Legend of Nani Palkhivala

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humility. These three qualities, I think, are essential to make a likeable personality.

Dharma in Public and Private Life

To restore Dharmain our private and public life.

Humanity is one

...“the entire human race is one family”.

Nothing Sloppy nor Slipshod

My father insisted that there must be nothing sloppy, nothing slipshod, in anything that I did.

Striving for Excellence

The striving for excellence was something, which was inculcated in me even as a small boy.

Approach to Life

I believe in the profound truth — Pessimism of the intelligence, optimism of the will!

Take Life as it Comes

I just take life as it comes. I continue to do my work, and devoutly trust that I shall be guided to spend in the most useful way whatever few years remain for me.

(From an interview to Bombay Chartered Accountants' Journal, September 1982]

III

Best Article on Nani . Palkhivala

Nani Palkhivala was the darling of the Press. He would get frequent calls from journalists for his opinion on important national issues, and several requests for interviews on his life. He was very friendly to the Press, and, as a rule, tried to accommodate the journalists in spite of his relentless, crowded schedule.

On his eightieth birthday, Indian Express published an article on him by Aruna Chakravorty. Normally reserved in giving his opinion, in this case Palkhivala expressed his view to me that while there were many write ups on him this one was, in his view, the best one.

A man in full

Aruna Chakravorty holds a brief for Nani

Palkhiwala, jurist, scholar and man of conviction.

Where does one start writing about Nani Palkhivala? From the year 1957 onwards, when he began an annual appointment with the public with his budget analyses and spoke of liberalisation long before Narsimha Rao was

forced into it in 1991? Or from 1973, when he fought the historic Kesavanand Bharati v/s the State of Kerala case in the Supreme Court, where he single-handedly defined what amending the constitution meant and won the pronouncement that though the Parliament could amend the Constitution, it had no right to alter its basic structure?

Or maybe go back just a few months and write about how he suddenly decided to donate Rupees two crore to the Sri Sankar Nethralaya at Chennai. The money had been kept aside for years and he had been donating the interest on it every year, but, says his long time friend and confidante, S. Ramakrishnan, Palkhivala believes in the dictum that tomorrow may be too late, especially when you have decided to do something good.

Better still, from January 16, 2000 when the country stood up to salute the man — whom C. Rajagopalachari called “God’s gift to India” and Sankaracharya Chandrasekharendra Saraswati of Kanchi described as “Brahmin” in his simplicity, learning and humility — on his eightieth birthday.

Nani Ardeshir Palkhivala — the eminent jurist, the erudite scholar, the freelance journalist, the ever grateful student, the man of conviction, who fought for the late Indira Gandhi in her appeal against the Allahabad High Court judgement of 1975 but who could

- never forgive her for declaring the Emergency that year, the octogenarian who today might find it difficult to express himself, but who is mortified that the country might not remain united for long—is all this and more.

Meticulous, humble-to-a-fault, mesmerizing, brilliant are just some of the adjectives used to describe him as a jurist. Legend has it that the man who argued for five months before a 13 member-bench in the Kesavanand Bharti

case used to cast a spell on the judges by his arguments. And it is believed that judges waiting for the magic to wear off, would try not to dictate the judgement immediately, recalls senior counsel and state advocate general Goolam Vahanvati.

Vahanvati mentions three lawyers Palkhivala, Fali S. Nariman and Ram Jethmalani- with whom you could leave a point overnight, at a conference before the case comes up, who could overnight interpret that point brilliantly when arguing it, next day. And to think that Palkhivala, after completing his MA in English in 1943, would have opted for the Indian Civil Service were it not for his father's insistence that he study law.

Meticulous, the 80-year old Palkhivala, enduring severe physical difficulties after a stroke suffered some years back, even now displays his legendary concern and enthusiasm for people. Ramakrishnan, executive director

of the Bharatiya Vidya Bhavan, displays a letter written by Palkhivala last month where he has offered to defray the expenses of a Floridabased professor, V. Lakshmikanthan, who has written a book on India, The Origin of Human Fast, for a trip to Mumbai. The jurist excited about the book, wants to meet the author!

It is like Vahanvati's anecdote, when Palkhivala along with other lawyers was vacating the advocate's offices in the Bombay High Court annexe building. In 1946 Palkhivala had passed the advocates(Original Side) examination, first in every paper. Vahanvati's father, Essaji G. Vahanvati stood second. While clearing the office many years later to move out, Palkhivala who had preserved a small newspaper clipping of 1946 on the examination, came across it and immediately sent across it to Vahanvati, neatly encased in an envelope.

Yet, it is not just his brilliance with the brief that brought atleast 30 city organisations under the chairmanship of Governor P. C. Alexander together to felicitate him on Sunday. Alongwith his contributions to the country's economy, Palkhivala is credited with successfully guiding the premier corporate group, the House of Tata's. Palkhivala served on the boards of several companies for many years. It is said that the country's gain through him in business was its loss to the judiciary. It is rare that a country gets an

opportunity thus to honour a man of his standing, who blazed through the judicial

world as a Constitutional expert par excellence, brought credit to the country by being its Ambassador to the United States of America in 1979, was the foremost proponent of economic liberalisation before the advent of Manmohanomics.

Another facet of Palkhivala is his devout religiosity and spiritualism. He finds a unique similarity between Zoroastrianism and Hinduism, claiming that “Hinduism is as great as Zoroastrianism”. This makes it possible for him to quote the Vedas and Upanishads along with Arnold Toynbee, on the oneness of man, Adi Sankaracharya on the “accumulated treasures of spiritual truths that India is” and Rabindranath Tagore’s infallible belief in the splendour of India. His association with Bharatiya Vidya Bhavan spans 50 years.

There might, for instance, be very few Indians, leave alone Hindus who follow the vedic direction that one tenth of personal income should be spent for janakalyan (public welfare). But Palkhivala was so moved at a function held on the occasion of Mahatma Gandhi’s 125 th birth anniversary by the Bharatiya Vidya Bhavan in 1994 that he promised to send ten per cent of his annual income towards it. A cheque, says Rama krishnan, is sent by him by March 31 unfailingly. He is also the chairman of the ‘Veda Rakshana Nidhi Trust’, set up to give financial support to vedic scholars.

In one of his essays, Are We Masters of Our Fate, Palkhivala has written that after joining the Bar in 1944, he started reading briefs, “kept on reading them... past Diwalis, past Christmases, past Ramzan Ids, past long vacations... like the Rajdhani Express speeding past railway stations ...I believe that the journey will be over at the predestined hour, irrespective of the medical care that money can buy...” Considering that despite the debilitating effect of the stroke, he still sits at Bombay House from 11.00 a.m. to 4.00 p.m. every evening, one can only pray that the predestined hour is not near.

Courtesy- Indian Express

IV

Written Propositions in Kesavanand Bharati case which settled the “Basic Structure” of Indian Constitution.

Written Propositions filed by N.A. Palkhivala in the Supreme Court on November 10 and 11, 1975 in support of his plea that the Full Bench cannot, and in any event should not, proceed to consider the following question which was referred to it:

Whether the Power of amendment of the Constitution is restricted by the theory of basic structure as propounded in the Kesavanand Bharati’s case.

These written propositions and his eloquent arguments led to the dissolution of the Supreme Court Bench set up to review the Kesavanand Bharati case and settled the fundamental issue of the Basic Structure of the Constitution which is beyond the reach of a Parliament.

Propositions in support of the plea that the present Bench cannot overrule the decision in Kesavanand’s case.

It is obvious that the Supreme Court cannot hear an appeal from its own judgment and therefore it can never reverse its own ruling except on a review application. But in a different case, and subject to well-settled conditions, it can modify or overrule an earlier ruling.

The present application of the Government to have the judgement in Kesavanand’s case overruled cannot be considered at all so long as any of the six petitions in which that judgment was rendered is pending disposal. None of the six petitions were disposed of by the full Bench but they were all remitted to the Constitution Bench for disposal in the light of the judgement. In fact five out of the six petitions are pending disposal and they are hereinafter called “the earlier petitions”. For instance, the validity of the 26 th Amendment, which was directly in issue in two of the earlier petitions, was not dealt with by the Full Bench at all but was left to be decided by the Constitution Bench in the light of the Full Bench’s judgement.

The ruling in the earlier petitions has become res judicata as far as those petitions are concerned, and when they come up for hearing the Constitution Bench can dispose of them only in accordance with the ruling in Kesavanand's case (48 I.A. 187; (1960) 3 S.C.R.

590, 594). But at the same time the Constitution Bench, in disposing of the petitions listed today, would have to apply the rulings of the present Full Bench. The constitution Bench cannot apply two inconsistent ruling for disposal of cases hereafter.

Article 141 of the Constitution lays down that the law declared by the Supreme Court shall be binding on all courts (including the Supreme Court itself) within the territory of India. Two inconsistent rulings cannot possibly be the law of the land at any given point of time, and two contradictory decisions cannot be applied by the Supreme Court at the same time.

Assuming that Kesavanand's case can at all be validly overruled by this Bench of 13 judges and assuming further that it is overruled, the Constitution Bench will have the unstatable choice of applying in the earlier petitions either—

(a) the ruling of this Full Bench, ignoring the point of res judicata — which is legally impossible, or

(b) the ruling in Kesavanand's case after it has been overruled — which is equally impossible.

The correct position in law is that the Supreme Court cannot overrule its own decision so long as the proceedings in which it was rendered are still pending. A live case cannot be buried.

Propositions in support of the plea that if the first preliminary point is rejected the Supreme Court should not exercise its discretion in favour of reconsidering Kesavanand's case.

At the outset it is important to note the true effect of Kesvanand's case. In that case it has been expressly held that the right to property is not a part of the basic structure of the Constitution and therefore any amendment can be

made to the Constitution in disregard of the right to property. The judgement places a restriction on the amending power of the Parliament in that the power cannot be used to alter or destroy the basic structure or framework of the Constitution. In subsequent cases the Supreme Court can decide for itself whether a particular amendment alters or destroys the basic structure or framework of the Constitution. The rule of law, the right to personal liberty and freedom from arbitrai arrest and imprisonment, the right to dissent which implies freedom of speech and expression and a free press are, it is submitted, a part of the basic structure of a free democracy,* and it is these priceless human freedoms, which cannot be destroyed by the Parliament in exercise of its amending power. Thus Kesavanand's case ensures that tyranny and despotism shall not masquarade as constitutionalism. It is an astounding request from the Government that such a judgement should be overruled.

So far from there being a single compelling reason to reconsider Kesavanand, there are numerous cogent reasons why this Full Bench should not reconsider the judgement at all on merits.

(I) On behalf of the citizens three points were urged in Kesavanand's case :

(a) Golaknath's case was rightly decided and Parliament should be held not to have the power to abridge any fundamental right, having regard to Article 13 as it stood before the amendment. The 24 th Amendment which made Article 13 subject to the provisions of Article 368 is invalid.

(b) The whole of Article 31C which abrogates for certain purposes the fundamental rights in Articles 14, 19 and 31 of the Constitution is invalid.

(c) In any event Parliament in exercise of its amending power cannot alter or destroy the basic structure or framework of the Constitution so as to make the Constitution lose its identity, and the latter part of Article 31C which excludes judicial scrutiny is invalid.

In Kesavanand's case the Supreme Court ruled against the first two submissions but accepted the third. A request by a citizen to reconsider the judgement would have been, it

is submitted, rightly rejected; and the Government does not stand on any higher footing.

(II) According to well-established principles which govern the discretion of the court in reconsidering its earlier rulings, as laid down in

(1955) 2 S.C.R. 603, 622-33

(1967) 2S.C.R. 170, 176

(1974) 1 S.C.R. 1, 16

The Government's application for reconsidering Kesavanand's case must fail. The criterion to be applied is that of "manifest error" and "baneful effect on the general interests of the public" resulting from the earlier decision. The concept of "manifest error" is well established by a long series of judgements both of this Hon'ble Court and of other courts. Manifest error is what can be demonstrated to be an error on the face of the record without argument - e.g. overlooking a statutory provision or a binding authority. It would be a patent fallacy to urge that because some learned judges hold a different view, the view dissented from is vitiated by manifest error. It is unarguable that the majority view in Kesavanand's case suffers from a manifest error. As regards the other condition of baneful effect on the general interests of the public, the happenings in the country since Kesavanand's case leave no doubt that whereas the ruling in

that case is conducive to immeasurable public good, overruling of that judgement would have the most baneful effect on public interest, would prejudice the very survival of a free democracy and would threaten the integrity and unity of India.

(III) The election appeal of the Prime Minister was disposed of on November 7, 1975 and the relevant portion of the 39th Amendment was held invalid on the basis of Kesavanand's case. If Parliament's amending power is unlimited, the judgement in the case decided last week would have been altogether different. This Hon'ble Court would be stultifying itself and would cause grave misgivings in the public mind about the stability and continuity of the law if immediately after holding the relevant part of the 39

th Amendment invalid on the basis of Kesavanand's case it proceeds to hear arguments as to whether Kesavanand's case itself should be reconsidered. Judicial propriety cannot favour the highest court striking down a significant constitutional amendment on the ground that it went beyond the amending power and then proceeding to consider whether the amending power should be held to be limitless.

(IV) During the period of two and a half years, which has elapsed since Kesavanand's case, nothing has happened which would justify a reconsideration of that judgement, while many depressing and painful developments have taken place which would

totally justify the view that public interest imperatively demands that this Hon'ble Court should not reconsider that judgement. Since April 1973 not less than 58 Acts have been put in the Ninth Schedule with a view to excluding scrutiny by the court with reference to fundamental rights. A constitutional amendment has been made which, in the case referred to earlier, has been held by this Hon'ble Court to savour of despotism, to involve negation of the rule of law and to militate against the essence of a free democracy. Another amendment called "The Constitution (Forty-first Amendment) Bill" has already been passed by the Rajya Sabha in August 1975. That Bill represents the ultimate in contempt for the rule of law. It provides in substance the following:

i) No civil proceedings will lie against the President or the Prime Minister or the Governor of a state during his term of office in respect of any act done by him in his personal capacity whether before or after he entered upon the office. In other words, these dignitaries are placed above the civil law during their term of office in respect of their personal acts done before or after assuming office. A man may incur heavy debts or commit torts involving grave damage to fellow citizens but he has total immunity from civil proceedings during his tenure of

office although the office has nothing to do with the debts or the torts.

ii) Life-long immunity is granted to the same three categories of dignitaries in respect of any and every crime committed before assuming office or during the term of office. A man may commit the foulest of crimes, not

excluding murders of his political opponents, but if after such a criminal record he has sufficient political support to become the President or the Prime Minister or a Governor of a State, for any period of time however brief, gets total immunity for the rest of his life from all criminal proceedings whatsoever. Pending criminal proceedings for any crime cannot be continued after he assumes one of the three offices. Since Governorship is entirely within the patronage of the Executive, life-long immunity from criminal liability can be conferred on any individual, at a day's notice, by the party in power. This shocking piece of legislation has no parallel in civilized jurisprudence. It throws India back to the days of despotic feudalism and of tyrannical rulers of Indian States who put themselves above the law. If Kesavanand's case is overruled, the 41 st Amendment Bill would represent a valid exercise of the amending power.

(V) Kesavanand's case was heard by the largest Bench ever constituted upto last month; it took the longest time — 5 months - which any case ever occupied in this Court; and the vastest materials ever brought together in a single case formed the record. No case whatsoever has been made out for reconsidering a ruling which has been arrived at after the fullest and the most detailed consideration.

(VI) The present time is the most inopportune for reconsidering Kesavanand's case. Quite obviously, the framers of the Constitution intended that unwise amendments to the Constitution should be checked by opposition within and without the Parliament, since the fundamental rights secured such opposition. But today the fundamental rights stand abrogated. There is no effective opposition within Parliament, because the most important leaders of the opposition parties are languishing in jail indefinitely without a trial. The same sad fate has overtaken members of the ruling party, who had the courage of their convictions and dared to differ. There is no opposition outside Parliament at all, since the right to dissent no longer exists. No one can write or speak anything in public which is not acceptable to the Government. Any one can be put in jail without a trial and the barbarous law goes to the absurd extent of expressly enacting that,

apart from the total suspension of the fundamental right to liberty in the Constitution, no citizen can plead a right to liberty based on common law or

natural law or rule of natural justice. It rules that a Government official may not be permitted, leave aside compelled, to disclose even to the Court of law the grounds for indefinite detention of a person without trial. Even judgements and reports of judicial proceedings, including the proceedings in this very case, cannot be published, however accurate they may be, except in a form which is acceptable to the Censor. This constitutes gross contempt of court by the Executive. Likewise, proceedings within Parliament or the State Legislatures cannot be published, however truthful the account may be, except in a form which finds favour with the Censor. Such total denial of the right to personal liberty and freedom of speech would make it impossible for the people to oppose, or arouse public opinion against, any amendment of the Constitution. No judicial conscience can permit reconsideration of Kesavanand's case with a view to affirming the principle of unlimited amending power at a time of such despotism when the people are totally denied the right to discuss the pros and cons of any amendment.

(VII) If the present Full Bench decides to reconsider Kesavanand's case it would set an undesirable precedent and would have a pernicious effect on the continuity of the law.

Following the precedent set by this Full Bench, another full bench may be convened, at an equally short interval, to reconsider the judgement of the full bench. The process can be unending. Judicial propriety requires that no such precedent should be set particularly in a matter where the very future of freedom and of the rule of law and the very survival of the unity and integrity of India are at stake.

(VIII) The question of reconsidering Kesavanand's case is premature at this stage. This Hon'ble Court has not yet applied its mind to the question whether the constitutional amendments which are challenged in the petitions listed before this Full Bench are invalid on the footing that the basic structure of the Constitution has been altered or destroyed. It may well be that the Hon'ble Court may have no difficulty in disposing of all the listed petitions without any reconsideration of Kesavanand's case.

(IX) It is submitted that Kesavanand's case should not be reconsidered and the judgement should be allowed to stand. But if at all it has to be

reconsidered, in fairness to the citizens the question should be reframed so as to embrace those parts of the ruling in Kesavanand's case which were against the citizens.

The question should deal generally with the entire ruling in Kesavanand's case so that the citizens would be at liberty to argue that Golaknath's case was wrongly overruled and

Article 31C should be struck down in its entirety. As the question is framed it only permits the Government to attack that part of the ruling which they are aggrieved by but leaves no scope to the citizens to argue about the rest of the ruling which has gone in favour of the Government. If this Full Bench is to give the same adequate consideration to the entire case as was given by the earlier bench in Kesavanand's case, it is difficult to see how less time would be taken than was taken in the earlier case. To immobilise the highest court in the country for five months and prevent it from dealing with other important matters would be definitely prejudicial to public interest without achieving any public good. At the same time it would be less than fair to the citizens to seek to overrule Kesavanand's case without hearing full arguments.

(X) Without going into the question whether a Bench of 13 learned judges is competent, having regard to the past practice of this Hon'ble Court, to overrule a decision of an earlier bench of 13 learned Judges, it is submitted that in a matter of such immeasurable importance the traditions of this Hon'ble Court require that a Bench which is no larger should not seek to reconsider the judgement

(i) Extract from 94 L.Ed. 653 at 670 = 339 U.S. 56 at 86-United States of America v. Albert J. Rabinowitz.

Justice Frankfurter, whom Justice Jackson joined:

Even under normal circumstances the court ought not to overrule such a series of decisions where no mischiefs flowing from them has been made manifest. Respect for continuity in law, where reasons for change are wanting, alone requires adherence to Trupiano and the other decisions. Especially ought the court not reinforce needlessly the instabilities of our

day by giving fair ground for the belief that law is the expression of chance-
for instance, of unexpected changes in the court's composition and the
contingencies in the choice of successors."

(ii) Extract from 6 L. Ed. 2 d 1081 at 1102 = 367 U.S. 643 at 677 - *Dollree Mapp, etc. v. Ohio*.

Justice Harlan whom Justice Frankfurter and Justice Whittaker joined:

... It certainly has never been a postulate of judicial power that mere altered
disposition, or subsequent membership of the court, is sufficient warrant for
overturning a deliberately decided rule of Constitutional law."

N.A. Palkhivala's Writings

Palkhivala rendered great service to the public by sharing his thoughts with them through numerous press interviews, articles and the books, in addition to his public lectures. Every article is crafted in the most beautiful prose, and embellished with quotations from great thinkers.

While every book is a class by itself, the reading of the following is a must.

1. Our Constitution Defaced and Defiled (first published in 1974 by Macmillan)
2. We, the People (first published in January 1984 by Strand Book Stall)
3. We, the Nation - The Lost Decades (first published in 1994 by UBS Publishers Distributors)
4. Nani Palkhivala — Selected Writings — Selected and Edited by L.M. Singhvi, M.R. Pai and S. Ramakrishnan (first published in 1999 by VIKING Penguins and Bharatiya Vidya Bhavan).
5. India's Priceless Heritage (first published in 1980 by Bharatiya Vidya Bhavan.)
6. Essential Unity of All Religions (first published in October 1990 by Bharatiya Vidya Bhavan.)



M. R. Pai is a well-known consumer activist. A few years ago in their cover story, Reader's Digest called him the 'Champion of the Consumer'. Pai,

however, is all this and much more. He has authored many books and is an advisor to several topnotch companies. His educational programmes on Time Management are in great demand. His book on the subject has run into several editions. In addition, Pai has written several utility booklets on banking, telephones, consumer affairs, and career planning for students.

Pai is actively involved in several voluntary service organisations like Forum of Free Enterprise and All-India Bank Depositors' Association, Mumbai. He was the VicePresident of Mumbai Grahak Panchayat, country's largest consumer organisation.

Pai has a Master' s degree in Political Science and is a Candeth gold medalist of the Madras University. He also has a Master's degree in Journalism with first rank from University of California, Los Angeles. His forays into the world of words include a stint in The Times of India, Mumbai, as a sub editor, and in Carlsbad Journal in California as a news editor. He was a guest journalist in San Diego Union.

Pai's association with the legal luminary, Nani Palkhivala, dates back to more than forty years. From arranging his legendary budget meetings, traveling with him all over India, to getting involved in all his public activities, Pai followed Palkhivala virtually like a shadow. During this period, he was a witness to several important events in the legend's life and shared his thinking and confidence on many momentous issues. Palkhivala, too, had a great affection for the author. He once inscribed in his own hand the following words on a copy of his book, We, the People of India, which he had presented to Pai: “With affection, and admiration for his untiring work for the people”.

THE

LEGEND OF
nani palkhivala



M. R. PAI