

Nani Palkhiwala

(1920-2002)

Just a few months ago (9th December, 2002), our country had the misfortune of losing one of its greatest sons - Nani Palkhiwala. He was the one person who advocated most assiduously the safeguarding of the rights and welfare of the people and wanted them to be associated with the formulation and implementation of policies and not remain puppets in the hands of ministers and civil servants. He felt that democracy in the country had degenerated to such an extent that there is a real risk of losing our hard-won freedom or worse even disintegration of the country. Values preserved for over 3000 years as foundations of Indian culture, such as - respect for older people, politeness, good manners, hospitality, integrity and



honesty, and cleanliness are being steadily eroded in preference to the glittering life-style of our metros modelled on western mores and culture.

He was particularly struck by the way Israel had developed in recent years and held it up as a shining example to follow. That tiny country, hardly the size of one of our districts in India, virtually a barren desert, had transformed its wasteland into a blossoming garden through adoption of new technology. His laudatory remarks have been previously highlighted in the *Journal (JGSI, 1994, pp.601-603)* and it is a great pity that his suggestions and recommendations have not even been considered, let alone implemented.

Palkhiwala was particularly taken up with their Kibbutz institution where property is jointly owned and each person receives what he needs for the common prosperity and

income of the Kibbutz. This has some resemblance to the joint family system which prevailed in India till recently.

A keen advocate of friendly relations with our neighbours, Palkhiwala wanted India and Pakistan to set aside their arrogance, and instead of misguiding and exploiting the 'mass man', bring them together for common development. His recollection of the words of General Omar Bradley are worth repeating: 'Ours is a world of nuclear giants and ethical infants. We know more about war than we know about peace, more about killing than we know about living. We have grasped the mystery of the atom and rejected the Sermon on the Mount.'

Palkhiwala was a giant and towered head and shoulders above his contemporaries. How we wish those who are in seats of power have the time to read the writings of this wise man and also the time to think, deliberate and take action.

He believed in the higher power that rules our destiny and recalled that at certain points in his life when he would have made wrong decisions, he felt as if his will was perceptibly bent by some higher power saving his life from wrong action.

He was a great story teller regaling his audience with humorous episodes from his vast legal experience. His story about Evershed addressing the Australian Bar is worth repeating. Seeing a very large number of women in the audience he said some of the ladies would address the Supreme Court of their respective States. There was a great cheer. Then he proceeded to predict that one day at least one woman would sit on the Bench of the High Court of Australia. There was tremendous applause particularly from female members of the Bar. And then he added 'Thank god, by that time I shall be dead.'

It seems, the great scholar of Greek and Latin once failed in the papers in these very languages at the Oxford University. His biographer wrote - 'The nightingale got no prize at the poultry show.'

These are instances of his humour.

Palkhiwala was a great legal luminary and admired the Indian Constitution as originally framed by the early visionaries of independent India. This Constitution had seen many changes at the hands of ignorant politicians. He fought against the amendments, especially the 42nd amendment which he termed a 'monstrous outrage'. In association with M.R. Pai, he formed a 'Forum of Free Enterprise', travelled

all over India and spread his message of liberating Indian industry from the License-Permit-Quota Raj.

Many momentous cases of 1960s and 1970s were argued by him in the Supreme Court. The most famous one with which his name is associated is the Golaknath Keshavanand Bharati which aimed at empowering the Parliament to amend the inviolable Fundamental Rights. Palkhiwala fought against this amendment in a masterly way and won the case. Generations of Indians to come would be beholden to this great advocate of justice for protecting their rights. His biggest criticism of the Constitution was its adoption of 'adult franchise' which had allowed criminals and dacoits to sit in legislatures and in Parliament and left the singularly gifted and enterprising nation among the ranks of the poorest on earth.

Speaking as Chairman at one of the annual general meetings of Associated Cement Companies, he pictured the present condition of Indian democracy governed by self-deluded, self-intended and self-important politicians as rudderless. He felt that the threat of disintegration still stalked the land and graftocracy had replaced bureaucracy. He termed the Public Sector Units of India as the biggest money guzzlers - black holes in the Indian economy. As company executive he was not so much interested in capital block, turnover and profits, facts highlighted in financial papers. He laid importance on the identification of new skills, discipline and human resources generated which according to him formed the most valuable assets of the company, which does not appear in the accounts. Same thing can be said of the annual reports of our scientific establishments which aim at listing their achievements!

He was highly critical of the functioning of the Indian government. According to him there was too much government and too little administration, too many laws and too little justice, too many public servants and too little public service, too many controls and too little welfare.

We may incidentally recall the comments of John Galbraith, Professor of Economics at Harvard and Ambassador to India at the time of J.F. Kennedy, who

declared that India after 50 years of Independence was a • 'fully functioning anarchy'. Palkhiwala would say 'we are collectively foolish despite being individually intelligent*.

Such was Palkhiwala, who is no more. I had seen him deliver one of his annual budgetary speeches at the Gokhale Institute at Bangalore. D.V.G., founder of the Institute was alive and introduced the speaker to the audience which had overflowed into the street and his personality stands before me as I write these words of appreciation. He was truly a great Indian and Rajaji, in his own inimitable way, characterized this great son of India as 'God's gift to India'.

Palkhiwala had witnessed the dawn of independence and had entertained great hopes about India, which, were never fully realised. He gave expression to his anguish: 'Those of us who have lived through the earlier days of free India, when the entire nation was looking forward with zeal and fervour and with a feeling of national pride to the future, cannot but look back upon the present times with deep anguish and distress. Adult franchise, allowing population to double, not educating people (incredible irresponsibility on the part of government), insulating from their ancient culture, making no efforts among the people to inculcate national identity and lack of discipline, according to him were the six fatal mistakes which the government did to bring the country to this state.

Despite all his criticisms, he still felt that India had the potential to be the light of Asia and had tremendous faith in the future of India. In his words:

'We have hardly tapped the immeasurable potential for growth. Immense man power, superb skills and enterprise arc to India what oil is to the Middle East. The only difference is that the oil will be depicted one day, but our human resources will never.'

How we wish we could share his optimism.

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