The Ideology of Taxation

N. A. Palkhivala

FORUM
OF FREE ENTERPRISE

"Free Enterprise was born with man and shall survive as long as man survives".

- A. D. Shroff
Founder-President
Forum of Free Enterprise

SHAILESH KAPADIA

(24-12-1949 – 19-10-1988)

Late Mr. Shailesh Kapadia, FCA, was a Chartered Accountant by profession and was a partner of M/s G.M. Kapadia & Co. and M/s Kapadia Associates, Chartered Accountants, Mumbai.

Shailesh qualified as a Chartered Accountant in 1974 after completing his Articles with M/s Dalal & Shah and M/s G.M. Kapadia & Co., Chartered Accountants, Mumbai. Shailesh had done his schooling at Scindia School, Gwalior and he graduated in Commerce from the Sydenham College of Commerce & Economics, Mumbai, in 1970.

Shailesh enjoyed the confidence of clients, colleagues and friends. He had a charming personality and was able to achieve almost every task allotted to him. In his short but dynamic professional career, spanning over fourteen years, Shailesh held important positions in various professional and public institutions.

Shailesh's leadership qualities came to the fore when he was the President of the Bombay Chartered Accountants' Society in the year 1982-83. During his tenure he successfully organized the Third Regional Conference at Mumbai.

Shailesh was member, Institute of Fiscal Studies, U.K.; member of the Law Committee and Vice-Chairman of the Direct Taxation Committee, Indian Merchants' Chamber. He was also a Director of several public companies in India and Trustee of various public Charitable Trusts.

He regularly contributed papers on diverse subjects of professional interest at refresher courses, seminars and conferences organised by professional bodies.

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INTRODUCTION

To pen few words of preface to a publication based on an article written by the legendary Mr. N. A. Palkhivala is an honour conferred on me by Forum of Free Enterprise and thus what follows in few words, is a tribute to a person, all who worshipped him, fondly called “Nani”!

The publication represents reproduction of a part of “We, the People” a book Mr. Palkhivala wrote in the year 1984. Thus a chapter titled “The Ideology of Taxation” is presented in this booklet in the fond belief that the present young generation needs to know the relentless and dogged efforts, through writings, meetings, representations, briefings and speeches, by enlightened citizens led by Mr. Palkhivala in the years gone by. Entirely on account of an outdated counter-productive taxation system, we in India in the early seventies (Finance Act, 1972) had the dubious distinction of imposing direct taxes on individual incomes and wealth through highest marginal rate of income tax of 97.5% and wealth tax of 3% aggregating to over 100% of an individual’s annual income!

In early sixties, the Indian Government had chosen to have an infamous integrated system of Direct Taxation under which an individual had to pay income tax on income through the Income-tax Act, 1961; wealth tax on wealth through the Wealth Tax Act, 1957; expenditure tax on expenditure, through the Expenditure Tax Act, 1957; gift tax on gifts through the Gift Tax Act, 1958 and finally fatal blow of estate duty through the Estate Duty Act, 1953 on property passing on death of an individual. This imposition of multiple taxes was based on an eminent English Economist, Prof. Dr. Nicolas Kaldor who in his report on India’s Tax Reform of 1956 suggested these levies to check the unaccounted money with the individual businessmen in India.

The stated purpose of the levies was to ensure equality of income among Indian population. It was to the credit of crusaders like Mr. Palkhivala, to point out the absurdity of such levies. Thus, thanks to pioneering efforts of Mr. Palkhivala that now we have only Income-tax on incomes and that too with the highest marginal rate not exceeding 30%. Levies like Gift Tax, Expenditure Tax, Wealth Tax and Estate Duty have been abolished.

It is in this context that Mr. Palkhivala's writing in the pages that follow make eminent useful reading for students of Economics!

25th July 2022

Kanu H. Doshi
Member - Council of Management
Forum of Free Enterprise

THE IDEOLOGY OF TAXATION

The fiscal stimulus

N. A. Palkhivala*

It is a truism, and like most truisms often forgotten, that taxes, like water, have a tendency to find the lowest level. In the last analysis, almost all taxes ultimately hit the common man.

The ideology of direct taxation has changed with the times. Fashions in this area come and go, like fashions in dress. What was regarded as good fiscal wisdom a hundred years ago is now discarded as unsupportable. In an article on income-tax published in the *Encyclopedia Britannica* around 1846, the learned author said that income-tax was an unpractical levy and could not be imposed successfully. But we have now come to live with income-tax as one of the inescapable hard realities of life.

The ideology of taxation is broadly based on three basic considerations – to raise revenue, to bring about certain economic and social results and to discourage the

* *The author is a former President of Forum of Free Enterprise. The text is based on the M.Ct. M. Chidambaram Chettyar Memorial Lectures delivered on 13th and 14th August 1965 in Madras (now Chennai). Subsequently the text was also reproduced in "We, the People" by N. A. Palkhivala, published by Strand Book Stall, Bombay (now Mumbai), in 1984. The Introduction to this booklet throws light on the relevance of the booklet being published now. This booklet is printed for the benefit of today's youth.*

(*A sketch of Mr. N. A. Palkhivala is given at the end of this article*) consumption and use of articles which the State regards as obnoxious.

Most taxes fulfil the first consideration. The second objective is achieved by taxes like income-tax, wealth-tax and estate duty, which try to reduce disparity between wealth and poverty. The third viewpoint is served by taxes like those on liquor, tobacco and gambling. You will recall the famous dictum of Napoleon that he regarded vices as very good patriots; the love of brandy brought him five million francs every year, and he wanted to know which virtue contributed so generously to the public exchequer. Emerson endorsed this view and added that vices have broad backs and tobacco can cheerfully carry the load of armies.

Adam Smith, in the 18th century, in his classic, *The Wealth of Nations*, pointed out that four main objectives should be borne in mind by the State in levying taxes. *First*, equity. The taxes must be equitable and fair as between different classes of society. *Secondly*, the convenience of the taxpayer. Taxes must not be so complicated and so cumbersome in their operation as to cause needless inconvenience and hardship to the people. In India, this objective has been wholly overlooked by the Union and by the States. *Thirdly*, economy. The government must economize and levy only the minimum tax which is necessary for the national good. Lord Macaulay, in the famous Minute which he wrote in India when he was here between 1834 and 1838, expressed the same thought when he said that all taxes are evil and the burden is on the government to prove that a particular levy is justified. *Fourthly*, certainty and clarity. The laws imposing taxes must be so precisely and clearly worded as to make the taxpayer understand what exactly is the burden he is called upon to bear.

The canons of taxation in modern times have been stated to be – social justice, consistency with economic goals, ease of administration and compliance, and revenue adequacy.

Social justice is beyond doubt the most important goal of taxation, particularly in under-developed countries. Today there are in the world 100-odd under-developed countries, and India is one of them. Two-thirds of the world's population is to be found in these countries. The main problem facing these under-developed countries is to reconcile the objective of social justice with the need of providing the fiscal stimulus to promote economic goals.

Income-tax is of three types – (i) progressive tax, where the rate increases with the higher slabs of income, (ii) proportional, where the rate remains constant at all levels of income, and (iii) regressive, i.e. the rate comes down as you approach higher slabs of income. Progressive taxation is a fact; proportional taxation is a theory; regressive taxation is only a dream. Great modern thinkers on economics, like F. W. Taussig and E. R. A. Seligman, have supported progressive taxation as the only mode of achieving the democratic ideal of social justice. Although progressive taxation seems to be mainly a 20th century idea and ideal, the great Indian philosopher and jurist, Manu, recognized the principle more that 3,000 years ago. He said: "To make the burden of taxes equal…. is not effected by a mere numerical proportion. The man who is taxed to the amount of one-tenth…. of an income of 100 rupees per annum, is taxed far more severely than the man who is taxed an equal proportion of an income of 1,000 rupees, and to a prodigious bigness more severely than the man who is taxed an equal proportion of 10,000 rupees per annum."

Parkinson, in *The Law and the Profits*, says that taxes are of two types – the tax we impose on ourselves and the tax we impose on others. The taxes which we impose on ourselves are usually within the bounds of reason and good sense, whereas no such limits are known to the taxes which the law-makers merrily impose on others. This is the weakness of human beings who are never able to appreciate the hardships of others exactly in the same light in which they would appreciate their own personal hardships. As the wits say, human nature is human nature, and human nature will continue to be human nature so long as human nature remains human nature.

It was one of history's major ironies when Khrushchev at his meeting with President Eisenhower at Camp David in 1958 remarked that the Soviets "are using the incentive system to increase production far more than the U.S." and that the American tax system "stifles increased productivity". At that time the personal income-tax rates in the U.S.A. ranged from 20 per cent at the lowest taxable income bracket to 91 per cent on $400,000 and over, and the rate of tax on companies was 52 percent. On the other hand, Soviet Russia had a top income-tax rate of only 13 per cent (the rate is even lower now) and has had no inheritance taxes since 1942.

In January 1963, Kennedy, realizing the self-defeating consequences of excessive taxation, proposed a bold measure of tax reform and the Bill was passed by the Congress after his death. The maximum marginal rate of income-tax was scaled down from 91 per cent to 77 per cent in 1964 and was further reduced to 70 per cent in 1965. Similarly, the minimum rate of 20 per cent was brought down to 17 per cent in 1964 and was reduced to 16 per cent in 1965; the tax on corporations from 52 to 50 per cent in 1964 and to 48 per cent in 1965.

As expected, the tax cuts had a galvanizing effect on the national economy and actually increased the revenues of the U.S.A. enormously. In 1960 and 1961, the gross national product at 1954 prices had increased over the previous years by only 2.7 per cent and 1.7 per cent respectively. The rate of unemployment was 6 per cent. After the tax cuts the lethargic economy started on its grand march. The tax cut is estimated to have increased individual and corporate incomes in the U. S. A. by $14000 million a year. The enormous upsurge in the government revenues as a result of the tax cuts gave point to the joke current in Washington about a pre-Keynesian asking his up-to-date companion how the President is to pay for all his new social programs. The answer comes back: “How old-fashioned! Out of tax cuts, of course!”

The old-fashioned fiscal theory that income tax rates must be increased to provide larger revenues for the State has long ago been exploded. India pathetically clings to it despite inevitable disillusionment year after year. The modern fiscal policy pursued by the most progressive countries is to make revenues grow, not by increasing income tax rates but by making incomes grow and by enlarging the tax base. In other words, tax revenues must be made self-generating. Nations standing under the shadow of defeat and disaster with their economies in ruins around them, have awakened to the possibility of the modern fiscal policy and have enjoyed its fruits already.

The old truth, buried for years under the tax-piling formally resorted to by countries like the U.K. and the U.S.A. has now been exhumed and found to be a pearl of great price. The truth, in the words of Meckling and Alchian, is that “Incentives are the prizes in the game of life- the goals individuals seek-the carrots. Through the ages of Tutankhamen,Alexander, Ceasar, Louis XIV and the Atom, they have remained the same."

The method of eradicating economic inequalities by giddy levels of taxation involves levelling down. The modern fiscal method aims at levelling up and uses rapid economic growth as the one unfailing instrument for reduction of economic inequalities.

After the last World War, the Allies Occupation authorities imposed a steeply progressive corporate and personal income-tax system on Germany. The result was large-scale evasion and economic stagnation. In the opinion of the German authorities-

"A continuation of the earlier fiscal policy based on Allied legislation would have led to disaster in spite of the Marshall Plan and the currency reform. Because of the existing shortage of capital, a continuation of such excessive taxation would have initiated a process of economic contraction, resulting in growing social burdens in face of shrinking tax revenue and a declining national product."

The German Government, in spite of the mounting public expenditure, "took the only possible way out of the situation into which it had been forced, by making tax reductions the first step in its fiscal policy." The lowering of the tax rates benefitted the small tax-payer as well as large enterprises. Generous, if not complete, tax exemptions were given to individuals and firms who saved and invested funds in "'acceptable" ways such as in capital goods and housing. The taxation measures of 1953 and 1955 together represented an average reduction of 30 per cent in both the personal and corporate rates of taxation. By quick successive stages, the maximum rate of personal tax which was originally at the U.K. level, was reduced to a little more than 50 per cent.

The then Vice-Chancellor of the German Federal Republic, Prof. Ludwig Erhard in *Prosperity Through Competition*, has expressed his unshakeable conviction that the record increase in the real net income of Germany in the last decade, an annual rate of growth of 7.5 per cent exceeded only by that of Japan of 8.8 per cent - would have been impossible but for the “incentive taxation” policy pursued by him.

Japan serves as a great object lesson. It applied the fiscal stimulus and romped its way to a rate of economic growth unparalleled in modern history. The rate of tax on companies, which was 42 percent in 1951, has been brought down to 38 per cent on undistributed income, while on the company’s income distributed by way of dividends, it is as low as 26 per cent. In 1957, the rate of income-tax levied on the average lower middle class and the upper working class was literally cut in half. The highest marginal rate of tax on individuals in Japan is just over 60 per cent. Japan found that every tax cut, the economy boomed and the exchequer garnered golden grain.

Apart from reducing the rate of tax, Japan has granted very liberal exemptions in respect of perquisites enjoyed by employees. It gives generous tax relief for every dependent. As a citizen advances in years, he is given a progressively higher exemption from tax since age must inevitably take its toll of the human body.

In the U. K., both the originator and the long-suffering victim of excessive rates of income-tax, the view that the tax rates need to be slashed is gaining ground. At least this is the view of sound thinkers and far-sighted economists, if not of self-seeking politicians. Professor Kaldor recommended the lowering of the maximum marginal rate of taxation on personal income to 45 per cent. To use his own words:

"From the point of view of the economic effects of taxation the major consideration is to prevent the tax system from becoming too much of a disincentive on effort, initiative or enterprise. Taxes on income make it less attractive to undertake work or to risk capital in productive enterprise; and, through the factor of 'double taxation' of savings, penalize savings and put a premium on spending. The importance of all these effects depends on the marginal rates of taxation. I am strongly of the view that the development of the last 15-20 years which imposed (nominally) fantastically high marginal rates of tax, while permitting the continuance of wide loop-holes for tax avoidance, is highly pernicious in character.

"These high marginal rates, amounting to 80 to 90 per cent (in the U.K. at one stage they amounted to 97.5 per cent) could never have been imposed had they really been what they pretended to be, a tax on the genuine accrual of wealth. As it is, these confiscatory tax rates truly apply only to a small minority of people who cannot avoid their incidence, and their long-run effect is bound to be wholly pernicious, both in penalizing the prospects of certain careers which are vital from the national point of view, and in undermining public morality."

Colin Clark in his *Taxmanship*, published by the Institute of Economic Affairs in 1964, strongly advocates that the tax rates must be drastically reduced. At certain slabs of income where the present rates are 6 per cent at the low level and 77 per cent in the high income bracket, Colin Clark advocates 2.4 per cent and 48.5 per cent respectively, and he champions scaling down of the tax rates all along the line.

It is not as if unbiased economic thinking in this country has been unmindful of the disastrous consequences of the excessive tax rates. Such an impartial body as the National Council of Applied Economic Research arrived at the following conclusions:

"As regards personal taxation, the cumulative impact of income and wealth taxes on entrepreneurs in the higher income groups, who play a crucial and dynamic role in creating new enterprises and pioneering new industries, seriously curtails their capacity to save... After a point, the disposable income of an individual declines with every addition to his wealth through savings. At such a level of income, the tax liability is generally met at the expense of savings which in the case of most businessmen are likely to be invested. Since the incentive to save is virtually eliminated at this level, there is a sound economic justification for slowing down the pace of progression of taxes at very high income levels."

The importance of fostering enterprise and promoting savings and investment was emphasized by Dr. Lokanathan in his *Taxation and Private Investment*:

"Thus the implementation of the nation's basic economic policy requires not the suppression of private enterprise as some seem to imagine, but the fostering of its continued growth in desired directions. In this context private investment assumes a crucial role. And private saving has an even greater role to play since a considerable part of public investment itself is financed through a draft on private savings. It may, therefore, be said that a central objective of tax policy in India must be to promote the highest possible rate of private saving in the country."

The sine *qua non* of an economy which fosters enterprise and promotes savings and investment, is a reasonably low tax structure.

Other under-developed countries like Ireland and Nigeria have already hitched their fiscal wagon to the star of incentive and experienced a rate of economic growth higher than that of India. Apart from the U. S. A., Germany and Japan, other developed countries like Belgium and Holland (1964 witnessed the largest income-tax reduction in Holland's history) have employed the fiscal stimulus and with lower tax rates reaped ever richer harvests.

The remark that tax rates in India cannot be reduced because of widespread evasion, is on a par with the observation that you should not go into water till you have learnt to swim.

It is well recognized that a high level of taxation is not disinflationary but positively inflationary, because if the solution to the problem of inflation is more production, then a very high level of taxation which reduces the margin of saving and the amount available for investment is a potential inflationary force. Further, it destroys all cost consciousness as it destroys all ethics consciousness: a company has as little incentive to economize when 70 per cent of its expenses are met by the government, as a citizen has to work when it is more profitable to evade tax on Rs. 20 than to earn Rs. 100.

Post-war history shows in luminous contrast the two types of tax policies pursued by different democracies – the nutritive budget which breeds lilacs out of the dead land and stirs dull roots with spring rain, and the bleak budget which saps the nation’s strength, blights confidence and stifles enterprise.

In economics there are no miracles, there are only consequences. The economic “miracle” of Germany and of Japan is nothing but the predictable result of the vision of their government and the discipline of their people.

No doubt, rewards must be shared, but first they have to be earned; wealth must be distributed, but first it has to be created. Only good management and hard work, faith and initiative, on the part of the people can accomplish the end. However, the government’s function is to offer incentives and create the climate in which these qualities can germinate and be brought to mellow fruitfulness. No dispassionate and perceptive observer can pretend that the Government of India has performed this function.

Our direct tax policies suffer from five patent defects which can be easily remedied but which the government has so far resolutely refused to tackle:

i. Absolute uncertainty; changes in laws and rates of tax, which are as unpredictable as they are frequent.

ii. Complexity which verges upon incomprehensibility.

iii. Excessive and cumulative burdens which make dishonesty immeasurably more rewarding than integrity and hard work, and make India the highest taxed nation.

iv. Injustices inherent in fatuous laws; and arbitrary provisions which stem from individual whims and are not based on any discernible principle of legislation or taxation.

v. An administration marked by petrification of discretion and paralysis of the will to do justice.

With the growing population, the rising prices and the mounting number of the unemployed millions, the real answer can only be greater production and a wider industrial base. It would hardly be an exaggeration to say that the future of India, and in any event the future of democracy in India, depends upon higher production, both in the fields and in the factories. The requisite increase in gross national product is almost unthinkable under the present devastating burden of taxation.

The rates of direct taxes which were steep enough in 1957 have been further raised to blighting heights. Progressive taxation, *i.e.*, taxation at rates which rise with income, is a sound principle of taxation so far as it corrects excessive economic inequality and precludes inordinate enduring differences among families or economic strata in wealth, power and opportunities. But it is not a sound principle of taxation when it reaches the point, as it has in India, where initiative is hamstrung, work and ability are not allowed to earn security and well-being, and endeavor and energy are wasted on the slippery slope of tax avoidance instead of being invigorated and given a momentum in the direction of constructive work and increase in national wealth.

When the citizen who might have started from scratch and by sheer dint of enterprise and hard work might have built up a prosperous business in which most of his capital is locked up, dies, the 85 per cent rate of estate duty and the incidence of capital gains tax can result in his family company passing under the control of the government or passing into the hands of less scrupulous rivals. This is the reverse of the process in progressive countries like

Israel, post-war Germany and Japan, where the State started enterprises and after putting them on a sound footing, handed them over to private citizens.

Whatever economic progress has been achieved by India has been in spite of the fiscal policies of the Centre and not on account of them. With every additional dose of taxation in the recent past, some part of the zest, some part of the faith, of the people has died. Enthusiasm has been replaced by apprehension; vigour by velleity. No wonder that the tiny vitamin shots administered by the Finance Minister occasionally, have failed to revive the patient bled white by the exchequer.

Bringing into existence State-sponsored financing institutions and making State loans to private enterprises bereft of support by the investing public, cannot possibly help to redress the balance. The government’s fiscal policies make it impossible for the nation to breathe freely and it is little consolation that an apparatus for artificial respiration is available for use.

The radiating potencies of taxes go far beyond mere raising of revenue. They propel tendencies which can obstruct effort, deflect enterprise and constrict growth. Bad economics may temporarily be good politics; but politics should be behind a fiscal law, and not in front of it.

The most expensive hobby of Indians is work. The rates of income-tax on individuals, coupled with the liability to make annuity deposit, are the highest in the world at the appropriate slabs, being excelled in some brackets only by one or two countries. No other nation taxes the fruits of labour more heavily than India.

Likewise, the rates on taxation on companies in India are beyond question the highest in the world. They go beyond 70 per cent. Besides, an individual shareholder is charged to full income-tax on the dividend income he receives from the company. In no other country does the rate of aggregate tax on resident companies soar beyond 54 per cent of the total income. Most other nations levy tax on companies at rates around 50 per cent or substantially lower. Only in Chile (where the rate of tax on resident companies is 30 per cent and non-resident companies is 50 per cent), is the exceptional rate of 66 per cent imposed on two U.S.A. corporations alone, because those corporations mine copper in Chile and deplete the national mineral wealth. Thus 66 per cent is intended to be a special confiscatory rate of tax on two foreign exploiters, whereas we impose that rate and even worse on our own national companies.

In physics, there is the absolute zero of temperature, known as Kelvin zero, which is reached at -273.16^{0}C; nothing can, even in theory, be colder. As far as rates of taxation are concerned, India has almost reached Kelvin zero in its treatment of corporate profits.

Apart from the basic injustice involved in excessive rates, our direct tax laws are strewn with other iniquities and arbitrary provisions. They remain unredressed, for a very good reason. The income-tax payers number 0.5 per cent of the total population. They do nothing more drastic than speak on the public platform, publish harmless booklets or write articles for newspapers which take up the space badly needed to publicize the latest homily and exhortation of some powerful individual in public office to the nation. They do not fast, nor do they set fire to themselves or to trams and buses. They do no lead *morchas** or processions to the Houses of Parliament. Above all, their number is relatively so small that any injustice to them, however strident, is of no political consequence whatsoever. (By contrast, many millions have agricultural income which the Center is constitutionally incompetent to tax and which the States are, for obvious political reasons, most reluctant to tax at all, or in any event to tax unjustly).

Tax evasion is reprehensible: it is social injustice by the evader to his fellow citizens. Arbitrary or excessive taxation is equally reprehensible: it is social injustice by the government to the people. Tax evasion aggravates arbitrary taxation; and arbitrary taxation aggravates tax evasion. To break the vicious circle, while there must be every attempt to check evasion, there must equally be every attempt to stop whimsical taxation. There are various provisions of our income-tax law which are truly capricious. They are saturated and dripping with injustice.

In the words of a great jurist, it is not permissible to enact a law which, in effect, spreads an all-inclusive net for the feet of everybody, upon the chance that, while the innocent will surely be entangled in its meshes, some wrong-doers also may be caught.

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* *Sizeable processions in the streets, to ventilate a grievance.*

NANI ARDESHIR PALKHIVALA

(A Sketch)

In 1972-73 the full Bench of thirteen judges of the Supreme Court of India heard with rapt attention a handsome lawyer argue for five months before them that the Constitution of India, which guaranteed fundamental freedoms to the people, was supreme, and Parliament had no power to abridge those rights. The Judges peppered him with questions. A jam-packed Court, corridors overflowing with members of the Bar and people who had come from far away places just to hear the lawyer argue, were thrilled to hear him quote in reply, chapter and verse from the U.S., Irish, Canadian, Australian and other democratic constitutions of the world.

Finally came the judgment in April 1973 in Kesavananda Bharati *vs* State of Kerala, popularly known as the Fundamental Rights case. The historic pronouncement was that though Parliament could amend the Constitution, it had no right to alter the basic structure of it.

The doyen of Indian journalists, Durga Das, congratulated the lawyer: “You have salvaged something precious from the wreck of the constitutional structure which politicians have razed to the ground.”

In 1975 the Government of India sought to get the judgment reversed. Once again, this lawyer came to the defence of the citizen. His six-page propositions before the Supreme Court and arguments extending over two days were so convincing, that the Bench was dissolved and the Court dropped the matter altogether. Commented a Judge: “Never before in the history of the Court has there been a performance like that. With his passionate plea for human freedoms and irrefutable logic, he convinced the Court that the earlier Kesavananda Bharati case judgment should not be reversed."

The man who saved the Indian Constitution for generations unborn, was Nani Ardeshir Palkhivala. Rajaji described him as, "God's gift to India".

Nani Palkhivala was Senior Advocate, Supreme Court of India; Professor of Law at the Government Law College, Mumbai; Tagore Professor of Law at the Calcutta University; and a Member of the First and Second Law Commissions. He was elected in 1975 an Honorary Member of the Academy of Political Science, New York, in recognition of his "outstanding public service and distinguished contribution to the advancement of political science."

Nani Palkhivala argued a number of historical cases in the Courts of India and abroad, including the cases between India and Pakistan before the U.N. Special Tribunal in Geneva and the International Court of Justice at the Hague.

He authored a number of books including *The Law and Practice of Income-Tax*, a monumental work, which is the definitive treatise on the subject. Other books included *Taxation in India*, published by the Harvard University in the World Tax Series; *The Highest Taxed Nation in the World*; *Our Constitution Defaced and Defiled*; *India's Priceless Heritage*; *We, the People* and *We, the Nation*.

Nani Palkhivala was India's Ambassador to the U.S.A. from 1977 to 1979. He was in constant demand during this period and delivered more than 170 speeches in different cities, which included speeches in more than 50 Universities, on subjects as varied as Gandhi, the nuclear issue, human rights, India's foreign policy, democracy, political developments in India, the role of an ambassador, the importance of international studies and international understanding, civil liberties in India, Indo-U.S. relations, Indian agriculture, apartheid and the Third World.

Two American Universities – Lawrence University, Wisconsin and Princeton University, New Jersey - bestowed honorary doctorates on him. Princeton was the first to do so on 6th June 1978. The citation reads:

"Defender of constitutional liberties, champion of human rights, he has courageously advanced his conviction that expediency in the name of progress, when at the cost of freedom, is no progress at all, but retrogression. Lawyer, teacher, author and economic developer, he brings to us as Ambassador of India intelligent good humor, experience, and vision for international understanding. As we see the bonds of trust and respect grow between our two countries, Princeton takes pride in now having one of its own both in New Delhi and in Washington."

Lawrence University honoured him with a doctorate of Laws on 28th March 1979. The citation said:

"What is human dignity? What rights are fundamental to an open society? What are the limits to political power? Ambassador Palkhivala, you, more than most, have pondered these great questions, and through your achievements have answered them.

As India's leading author, scholar, teacher and practitioner of constitutional law, you have defended the individual, be he prince or pauper, against the state; you have championed free speech and an unfettered press; you have protected the autonomy of the religious and educational institutions of the minorities; you have fought *for the preservation of independent social organizations and multiple centres of civic power.*

As past president of the Forum of Free Enterprise and as an industrialist, you have battled stifling economic controls and bureaucratic red tape. You have always believed that even in a poor and developing country, the need for bread is fully compatible with the existence of liberty…

You are also an enlightened patriot and nationalist. You have successfully defended your country's cause in international disputes before the special tribunal of the United Nations and the World Court at the Hague.

Never more did you live your principles than during the recent 19-month ordeal which India went through in what was called 'The Emergency'. When those who had eaten of the insane root, swollen with the pride of absolute political power, threw down the gauntlet, you did not bow or flinch. Under the shadow of near tyranny, at great risk and some cost, you raised the torch of freedom…"

His annual talks on the Union Budget in Mumbai, New Delhi, Kolkata and other places were immensely popular and attracted attendance in excess of 100,000. He eloquently espoused the cause for a more rational and equitable tax regime. He was conferred the Dadabhai Naoroji Memorial Award in 1997 and in 1998 he was awarded the Padma Vibhushan.

Nani Palkhivala was associated with the Tata group for about four decades. He was Chairman of Tata Consultancy Services, Tata International Ltd., Tata Infotech Ltd., the ACC Ltd. and was Director of Tata Sons Ltd. and several other companies. He was Founder Chairman of The A.D. Shroff Memorial Trust (1966 – 2002).

Nani Palkhivala passed away on 11th December 2002.

Nani A. Palkhivala Memorial Trust was set up in 2004 to perpetuate his memory. The present Trustees are: Mr. Y. H. Malegam, Chairman, Mr. F. K. Kavarana, Mr. Bansi S. Mehta, Mr. Deepak S. Parekh, Mr. H. P. Ranina, Ms. S. K. Bharucha and Mr. Arvind P. Datar.

Mr. Soli J. Sorabjee, a Founder-Trustee, passed away on 30th April 2021.

Mr. Nani A. Palkhivala was Forum's President from 1968-1977 and 1979-February 2000

"People must come to accept private enterprise not as a necessary evil, but as an affirmative good".

- Eugene Black
Former President,
World Bank

FORUM
OF FREE ENTERPRISE

The Forum of Free Enterprise is a non-political and non-partisan organisation started in 1956, to educate public opinion in India on free enterprise and its close relationship with the democratic way of life. The Forum seeks to stimulate public thinking on vital economic problems through booklets, meetings, and other means as befit a democratic society.

In recent years the Forum has also been focusing on the youth with a view to developing good and well-informed citizenship. A number of youth activities including elocution contests and leadership training camps are organised every year towards this goal.

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