NAVANETHEM PILLAY: A SHORT BIOGRAPHY

*Sugan Naidoo*

Navanethem Pillay (Navi) is renowned for her determination and inexhaustible energy in the fight against injustices. Her first appearance in a court came at the age of six when she was called as a witness in a criminal case involving the theft of money belonging to her father, who was a bus driver. Although her testimony led to a conviction, at that early age Navi questioned whether justice had been done as her father didn’t recover his money.

Navi commenced her legal career as an Attorney in Durban, South Africa. As a young non-white woman in Apartheid South Africa and at a time when law firms were predominantly white-owned, Navi was unsuccessful in securing employment in the law firms she approached because of racial, gender and class discrimination. She was told that white secretaries could not and would not take instructions from a non-white person such as herself; was asked to explain what would happen to her work if she had to fall pregnant; and was told that she was not likely to bring new clients to the law firm as she did not belong to a family of lawyers or businessmen. Faced with these difficulties, she contemplated opening her own law firm but was advised by some of her colleagues that she was being presumptuous in believing that she, as a woman, could successfully head a law firm. However, those difficulties did not stop Navi. She opened her own law practice and became the first woman to do so in the province of Natal.

During her twenty-eight years as an Attorney, Navi represented anti-apartheid and human-rights activists, and trade unionists. Through these defence representations, Navi exposed the torture of political prisoners by the South African apartheid regime, as well as the poor conditions under which they were detained. She also won the right for political prisoners on Robben Island, including Nelson Mandela, to have access to lawyers. Navi appeared in courts where the judiciary

---


lacked the ability to protect against the unjust and racially discriminatory laws.\(^3\) She recalled that it was difficult to raise human rights defences in court proceedings when the laws themselves were immoral and unjust, and the judges were not receptive to considering international law or foreign law.\(^4\)

One of the opponents of apartheid represented by Navi was her husband, detained in 1971 under the Terrorism Act No 83 of 1967 (‘Terrorism Act’). This Act gave the authorities unlimited power to detain thousands of men, women and children for indefinite periods of time, to hold them in solitary confinement, and to interrogate them. It also prohibited the courts from ruling on the validity of the detentions or granting any *habeas corpus* relief.\(^5\) Navi applied to the then Supreme Court of South Africa on behalf of her husband for an injunction prohibiting the security police from torturing him. Affidavits recounting torture and ill treatment of ten other men detained with her husband were tendered in support of the application. The court ordered the police to refrain from using unlawful methods of interrogation against Navi’s husband and to serve the order on him even though he was in solitary confinement. This application was the first successful challenge against the Terrorism Act.\(^6\) This case drew public attention to the abuse of the law by the authorities and set precedent.\(^7\)

Navi also represented a number of persons from the Unity Movement and the African National Congress who were charged for political activities under the Terrorism Act.\(^8\) In one such case, Navi called an eminent psychiatrist, Dr. Louis Jolyon West from the University of California, Los Angeles, to provide expert evidence on Depression, Dependence, and Debility Syndrome and its effects on detainees kept in confinement for long periods of time. A significant feature of this evidence was the tendency of detainees to please their interrogators. While the court accepted the expert evidence as authoritative, it dismissed the defence argument that evidence of the detainees was inherently unreliable.\(^9\) Many opponents of the apartheid regime were

\(^3\) Ibid, at p. 659.  
\(^4\) Ibid.  
\(^5\) Ibid.  
\(^6\) Ibid, referring to Paranjothee *Anthony Pillay v. Minister of Justice*, 1971 (unreported) (S. Afr.).  
\(^7\) *Arizona Law Review*, p. 660.  