
VOICE OF THE VOICELESS - A JOURNEY OF PUBLIC INTEREST LITIGATION IN INDIA

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ABSTRACT

Public Interest Litigation (PIL) is an important judicial reform that reshaped the relationship between the courts, the state, and citizens. Emerged during the era of the late 1970s and early 1980s, public interest litigation turned out to be a powerful instrument to advance constitutional rights, especially for the marginalized and disadvantaged groups who lacked access to justice. This article uncovers the history of public interest litigation in India, beginning with its foundations enshrined in constitutional morality, social justice, and judicial activism. It examines the landmark judgements that expanded locus standi, simplify the procedural requirements, and allowed citizens, social activists, and organizations to approach courts for collective redress. The paper examines the phases of public interest litigation development, its contributions to administration of government, environment protection, human rights, and the debates surrounding its misuse, judicial overreach, and institutional limitations. Through a comparative analysis, the study examines Indian public interest litigation within global public law frameworks. The article concludes by assessing the current relevance of public interest litigation and the need for balanced judicial intervention to preserve its integrity as an instrument of democratic justice in a democratic country.

Keywords: Public Interest Litigation, Judicial Activism, Social Justice, Locus Standi, Constitutional Law

A. Introduction

Public Interest Litigation (PIL) is one of the most important judicial reform in the modern India, especially in the area of constitutional law and access to justice to common people. Generally the Indian legal system followed the rule of locus standi, permitting only those parties who were directly and personally aggrieved to approach the courts to seek justice. While this approach worked in popular disputes, it formed barriers for the marginalized communities who lacked the resources, a sense of awareness, and the ability to seek legal remedies for violations of their legal and rights. This constructional ostracism demanded a more adaptable and public centric approach to the administration of justice.

The emergence of public interest litigation in the late 1970s and early 1980s, primarily through judicial interpretation, marked a remarkable shift from a formal understanding of rights to a broader understanding of justice rooted in the constitutional law and constitutional morality. Notable judges, including Justice P.N. Bhagwati and Justice V.R. Krishna Iyer, helped in the transformation of the judiciary into an institution capable of addressing collective public grievance and systemic injustice. By reforming the procedural norms and expanding access to courts, public interest litigation law became an instrument through which social activists, journalists, and public-spirited citizens could seek relief on the behalf of disadvantaged groups.

Over the decades, public interest litigation has evolved into a powerful tool of democratic accountability, dealing with diverse issues such as environment protection, labour issues, custodial violence, corruption, gender justice, and transparency of administration. It also imitates the judiciary's evolutionary role as a guardian of constitutional values, legal and fundamental rights, particularly those enshrined under Part III of the Indian Constitution. Despite the criticisms relating to judicial overreach and potential misuse, public interest litigation continues to be an essential aspect of the Indian constitution and governance.

B. Historical Background of Public Interest Litigation in India

The history of public interest litigation in India is connected to the evolving role of judiciary in ensuring access to justice for socially and economically disadvantaged groups. In the early post-independence era, the Indian courts followed to the traditional rule of locus standi, taken from British common law, which allowed only those individuals who are directly affected by an act to approach the court to seek remedy. This rigid approach prohibited a large group of

the society, including prisoners who are under trail, bonded labourers, children, women and the poor people who come from the rural area, from seeking legal redress for violations of their rights.

The socio-political scenario of the 1960s era and 1970s era showed the limits of the standard litigation. Widespread poverty and illiteracy showcased the incompetency of normal legal processes to protect the rights of vulnerable people. During the time of the Emergency era (1975–77), the suspension of fundamental rights further highlighted the need for judicial responsibility and intervention, focusing that the procedure should not be an obstacle in the enforcement of constitutional rights.

The scholarly roots of public interest litigation in India were also affected by the global legal developments, particularly the civil rights movement in the United States of America and public litigation in other jurisdictions, where courts adopted a proactive role in correcting systematic injustices. Judges in India began to recognize that constitutional morality demanded a more broader and inclusive approach to access to justice.

The transitional phase of public interest litigation began with idealistic judges like Justice V.R. Krishna Iyer and Justice P.N. Bhagwati, who supported the idea that the court should act as an instrument of providing social justice rather than merely resolving disputes between the private individuals. Landmark judgements, including those addressing the inconvenience of undertrial prisoners, bonded labourers, and custodial violence, helped in establishing the idea of public interest litigation on behalf of the marginalized groups. By accepting petitions based on letters, reports, and articles of the newspaper, the courts helped in forming a new form of public interest litigation.

Through these judicial reforms, public interest litigation emerged as a tool to democratize access to justice, give priority to collective welfare, and provide remedies for the violations of fundamental and legal rights. It marked a transition from a narrow and rigid formal approach to a broader, rights-based and flexible idea of justice, laying the foundation for India's public interest litigation jurisprudence.

C. The Emergence of PIL in India

The formal rise of PIL occurred during the late years of 1970 and the early years of 1980,

mainly because of proactive judicial action aimed for addressing systematic social injustice. Before this, the courts followed a narrow definition of locus standi, which limited the legal action to individuals with a personal interest. This approach, was suitable with conventional legal doctrine, prevented the most vulnerable sections of society from reaching the courts to seek justice. Recognizing this gap, the judiciary began to expand its scope of litigation to include social activists, and non-governmental organizations filing petitions on behalf of weaker group of people.

One of the earliest examples of this shift was the *Hussainara Khatoon v State of Bihar*¹ case, which discussed the problem many undertrial prisoners languishing in prisons for periods which were longer than the maximum sentence prescribed for their alleged offence. The Supreme Court directed their release, emphasizing the fundamental right to a speedy trial under Article 21². This landmark judgement is a turning point in the Indian judiciary, showcasing that the judiciary could act to protect the rights of group of people who are not able to reach the courts themselves to seek justice.

Another important case that helped establish the framework of PIL was *Akhil Bharatiya Soshit Karamchari Sangh v Union of India*³, in which Supreme Court allowed the humanitarian organizations to file petitions on the behalf of marginalized group of people and also upheld the validity of reservation under Article 16(4)⁴. Similarly, *Sunil Batra v Delhi Administration*⁵ expanded the Court's jurisdiction to consider letters and reports that deals with custodial torture, showcasing the judiciary's willingness to relax judicial procedure for delivering justice. These early steps laid the foundation for the recognition of public interest litigation as an effective tool for social justice.

Through these landmark judgements and judicial pronouncements, public interest litigation evolved from an idea into a tool of democratic justice, allowing the courts to intervene in the matters of public importance, expand access to legal remedies, and promote social equity in our country.

¹ *Hussainara Khatoon (1) v. State of Bihar*, (1980) 1 SCC 81

² INDIA CONST.art.21

³ *Akhil Bharatiya Soshit Karamchari Sangh v Union of India*, (1981) 1 SCC 246

⁴ INDIA CONST.art.16(4)

⁵ *Sunil Batra v Delhi Administration*, (1978) 4 SCC 494

D. Judicial Activism and Public Interest Litigation

Judicial activism and PIL are closely linked to each other. Public interest litigation came into existence because the judiciary adopted a more socially accountable role, especially after the Emergency period, which exposed significant institutional challenges due to which the marginalized group had to suffer.

➤ Judicial Activism as a Departure from Traditional Adjudication

Before the late 1970s, the Supreme Court followed a strict rule of locus standi, which limited fundamental rights enforcement to directly affected people whose rights were violated. Judicial activism introduced a transitional shift by enlarging court's responsibility to protect constitutional rights of the weaker section and address governmental failures. This shift later allowed public interest litigation to come forward as an instrument for public justice.

➤ The Post-Emergency Context and Rise of Activist Jurisprudence

The emergency era (1975–77) showed the dangers of uncontrolled executive power and the judiciary's own limitations, particularly visible in the judgment of *ADM Jabalpur v Shivkant Shukla*⁶, where the Court accepted suspension of fundamental rights during the emergency. After the emergency period, the courts followed a more activist move to restore public trust and strengthen constitutional rights, leading to the rise of public interest litigation.

➤ Public Interest Litigation as a Tool of Activist Justice

Judicial activism significantly shaped public interest litigation by relaxing locus standi. The Supreme Court in *S.P. Gupta v Union of India*⁷ held that any citizen could reach the court for redressal of rights violations affecting those who are unable to reach the courts by themselves. Similarly, in *People's Union for Democratic Rights v Union of India*⁸, the Court increased the scope of right to protection of life and personal liberty by adding labour protections, reinforcing public interest litigation as a tool for ensuring social justice.

⁶ *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521

⁷ *S.P. Gupta v. Union of India*, 1981 Supp SCC 87

⁸ *People's Union for Democratic Rights and Others v. Union of India and Others*, (1982) 3 SCC 235

➤ Significance of Judicial Activism in Strengthening Public Interest Litigation

Through a liberal interpretation of Articles 32⁹ and 226¹⁰, the courts allowed public interest litigation to address not only individual harms but also systematic violations. Judicial activism gave the courts the freedom to monitor ongoing violations, issue continuous writs of mandamus, and give structural reforms whenever necessary, thereby greatly increasing the access to justice.

➤ Criticism and Concerns

Although being a revolutionary step, judicial activism in public interest litigation has also being criticized for softening constitutional boundaries and infringing upon legislative and executive domains. The critics of public interest litigation have argued that excessive interference by the courts may lead to judicial overreach. However, many people consider such activity necessary in situations where institutions fail which prevent the effective realization of fundamental rights which are mentioned in our constitution.

E. Phases of PIL Development in India

The development of public interest litigation can be divided into three phases, each representing a shift in the Indian judiciary's approach towards the protection of rights, social justice, and accountability.

Phase I: Access to Justice for the Disadvantaged (Late 1970s to Early 1980s)

The first phase marked the Indian judiciary's efforts to democratize access to courts in the post-Emergency period. Public Interest Litigation focused on allowing socially and economically weaker groups to secure justice. Courts made the procedural technicalities easy for normal people and extended locus standi so that public-spirited organizations could reach the courts on behalf of those who are not able to do so by themselves.

An important judgement in this phase is *Bandhua Mukti Morcha v Union of India*¹¹, in which the Supreme Court interfered on the behalf of bonded labourers and ordered for their release

⁹ INDIA CONST.art.32

¹⁰ INDIA CONST.art.226

¹¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161

and rehabilitation, showing early public interest litigation activism directed toward socio-economic rights.

Phase II: Expansion of Scope and Judicial Innovation (Late 1980s–1990s)

Public interest litigation in this phase extended beyond individual injustice to matters such as protection of environment, consumer rights, and administrative accountability. Indian courts issued directives to give compliance and to ensure systematic reforms.

An important case is *M.C. Mehta v Union of India*¹², in which the Supreme Court gave directions regarding industrial pollution and environmental hazards, and also gave remedies and gave a monitoring mechanisms. Judicial reforms like “continuing mandamus” allowed judiciary to inspect ongoing compliance and institutional reforms.

Phase III: Governance Oversight and Concerns of Judicial Overreach (2000s–Present)

In the third phase, public interest litigation became a tool to address corruption, ensuring administrative accountability, and in protecting public resources. The judiciary monitored the actions of the government and issued directions that were in the interest of public.

However, concerns start to rise regarding judicial overreach and the misuse of public interest litigation for personal or political purposes. In *State of Uttaranchal v Balwant Singh Chaufal*¹³, the Supreme Court emphasized the need to prevent minor PILs and established guidelines to maintain the integrity of judicial intervention. This phase describe the judiciary’s dual role: empowering citizens to challenge government’s inaction while guarding against misuse of the mechanism of public interest litigation.

F. Evolution of Locus Standi in India

The word locus standi, which traditionally, means to the **right or capacity of a person to bring an issue before the court**. In classical legal theory, only people who are directly affected by a legal wrong can approach the court to seek justice. However, in India, that idea has been evolved significantly, especially with the evolution of public interest litigation, that transformed the idea of locus standi from a narrow principle into a wide and broad doctrine

¹² M.C. Mehta v. Union of India, (1987) 1 SCC 395

¹³ *State of Uttaranchal v Balwant Singh Chaufal*, (2010) 3 SCC 402

which is socially responsive.

1. Traditional Locus Standi

Initially, the judiciary followed a **restrictive definition** of locus standi. Only those directly harmed by a legal violation of their rights could file a petition. This ensures that courts were approached by people with a stake in the case but also limited access to justice. Marginalized communities, disadvantaged groups, and those who were lacking resources were effectively excluded from seeking justice, as they could not afford to litigate or were unaware of legal procedures.

2. Liberalisation through PIL

With the emergence of PIL in the late 1970s era and 1980s era, the courts recognized the need to **relax the doctrine of locus standi** to enable access to justice for marginalized groups. Public-spirited citizens, social activists, NGOs, and even concerned citizens can file petitions **on behalf of those who are unable to approach the courts by themselves.**

The judiciary emphasized more on **substantive justice rather than procedural formalities**, often accepting petitions on letters, postcards, or newspaper reports. This phase marked a shift in Indian judiciary, reflecting the judiciary's commitment to uphold the fundamental rights and protecting the vulnerable population.

3. Expansion to Societal and Environmental Issues

As public interest litigation grew over a period of time, locus standi evolved further to cover issues that were **affecting the society at large**, including environment protection, proper governance, public health sector, and socio economic rights of the people. The judiciary recognized that **any individual or group concerned with public welfare could approach the court**, even if they were not directly affected.

This expanded understanding of locus standi allowed the courts to address systematic issues and interfere where government inaction or negligence threatened constitutional rights or interest of the public.

4. Contemporary Developments and Regulation

In recent times, the broader scope of locus standi has been maintained, but the courts have

emphasized **responsible use** of this right. While social activists, NGOs, and concerned citizens continue to play an important role in bringing public issues before the courts, the petitions are expected to be **genuine, well-documented, and truly in the interest of the public**.

Modern jurisprudence recognizes the balance between the **access to justice for the underprivileged** and **prevention of misuse** of judicial processes. Locus standi has thus become a flexible and important tool that empowers citizens while safeguarding the judiciary from minor or motivated petitions.

G. Criticism and Misuse of Public Interest Litigation

Public interest litigation although has been an instrument in protecting the constitutional rights and strengthening the democratic vision, it has also generated criticism. Various jurists, scholars, practicing advocates, and even judges have expressed their concern that the mechanism of PIL which was originally designed to help the marginalized and the disadvantaged group of people has over a period of time has changed into a tool which is often misused, overextended, and manipulated very strategically. The criticisms applies not only to procedural misuse but also to a broader institutional outcomes for governance and the judicial system of our country.

1. Judicial Overreach and Constitutional Balance

One of the constant criticisms of public interest litigation is its nature that enable the courts to look into the executive and the legislative domains. The judiciary has from time to time assumed various roles that involve monitoring of administration, formulation of policy, and supervision of various departments of governments. These interference, although sometimes motivated because of inaction of state, highlight the concerns regarding the separation of powers in our country which is an important feature of a democratic country like India.

There are many cases, where judiciary has given directions regarding the matters such as planning of environment, improving the standards of education, regulatory norms, and welfare administration. Various critics assert that this approach substitutes the judgement for specialized administrative or legislative expertise, also when judiciary assumes the continuous monitoring through “court-directed governance,” executive accountability may shift from elected institutions to judicial bodies, which may weaken the democratic process.

2. Proliferation of Frivolous and Publicity-Oriented PILs

Over a period of time the public interest litigation has become more accessible, the courts has seen a rapid rise in the number in petitions filed without a genuine public interest. These petitions often halt from personal grudges, political rivalries, or a desire to gain attention in the media rather than doing something that helps in public welfare. Such petitions are called “busybody petition” that increase the burden on the courts and weaken the helping potential of public interest litigation.

Minor PILs which are not important not only consume valuable resources of the court but also neglect important public issues. They intervene with administrative efficiency, disrupt ongoing government projects, an create unnecessary controversies. Courts has over a period of time expressed concern that unrestricted filing of PILs allows the litigants to misuse the court processes under the justification of serving the society.

3. Politically and Commercially Motivated PILs

An important area of misuse of public interest litigation emerges when the petitions are strategically used to advance hidden interests. Political parties may use public interest litigation to challenge the initiatives of the government, influence public discourse, or settle political rivalries. Similarly, business owners may file petition to shuffle the tenders, delay the projects of infrastructure, or stop regulatory approvals.

These types of misuse of PILs change the real objective of the mechanism of public interest litigation. These petitions also levy financial costs and administrative costs on the state and may occlude economic development of the country. This issue becomes more serious in complex areas where judiciary may not have access to the expertise required to check the commercial and economic considerations.

There is an important judgement of *Balco Employees' Union v Union of India*¹⁴, where the Supreme Court has emphasized that the economic and policy decisions are generally beyond the scope of public interest litigation unless there is a clear violation of constitutional provisions. This case highlighted court's acknowledgement of its own institutional limits in

¹⁴ *Balco Employees' Union v Union of India* (2002) 2 SCC 333

such areas.

4. Over-Judicialisation of Policy and Administrative Issues

The critics of public interest litigation criticize that the public interest litigation has transformed the courts into alternative policy making institutions. Issues such as planning of the city, public health, environment protection, education curriculum, and development of infrastructure involve technical judgements, assessment of resources, and long-term planning, these are the areas that are traditionally managed by the executive.

When judiciary interfere excessively in these matters, it causes unintended consequences. Standards or directives that are crafted by law may be difficult to implement. Agencies may become reluctant to act independently because of the fear of judicial scrutiny, that potentially causes hindrance in administration or excessively cautious while taking decisions.

5. Increased Burden on the Judiciary

Indian courts are already overburdened with a large backlog of civil and criminal cases which are pending before the courts. Petitions especially those that requires or involve multi-stakeholder issues takes important time of the courts. Judges must analyse complex data, interact with different administrative bodies, and oversee implementation, which deflect attention from regular adjudication.

These types of petitions may slow down justice in other cases, thereby affecting the overall efficiency of the judicial system. Although public interest litigation often addresses systemic issues, excessive court engagement in such cases risks compromising judiciary's traditional adjudicatory functions.

6. Lack of a Formal Statutory Framework

Public interest litigation in India is an innovation of the courts. There is no law that defines its scope, sets the procedural safeguards, or establishes standards for its admission. This absence of a uniform framework results in the inconsistent judicial practices across various different courts and benches.

The standards for determining what embodies "public interest," who can file a PIL, or when

the court can interfere varies from time to time. This discrepancy creates uncertainty for advocates and may lead to misuse, as petitioners may rely on uncertainties to seek personal agendas.

7. Dilution of Locus Standi and Reduced Accountability of Petitioners

The flexibility of locus standi, which originally looked to empower underprivileged communities, has also opened the doors for excessive interference by individuals those who are not having sufficient expertise or legitimacy. In many petitions, the petitioners have very less connections to the issues raised, which leads to poorly drafted petitions or incomplete submissions.

This creates various issues:

- Courts may be misled because of incomplete or false information.
- Complicated matters may be advocated without adequate understanding of the matter.
- Petitioners may not follow through on proceedings, leaving the matters unresolved.

Unlike traditional advocates, PIL petitioners are not always required to demonstrate harm or stake, making the accountability difficult to enforce.

H. Conclusion

The growth and development of PIL in India reflect a remarkable judicial innovation that altered the constitutional landscape and expanded the meaning of justice. From its origins as a device to ensure access to justice for the marginalized, PIL emerged to become a strong tool for the enforcement of fundamental rights, governmental accountability, and redressing systemic injustices which traditional legal processes were unable or unwilling to cure. By relaxing procedural barriers such as locus standi, the judiciary turned itself into an institution more responsive to the needs of disadvantaged groups and more accessible to the public at large.

With time, PIL expanded to include environmental protection, governance reforms, social welfare matters, and protection of public resources. The developments opened ways for the courts to intervene in matters of great public concern, thereby strengthening the constitutional

commitment to social justice, equality, and rule of law. Simultaneously, however, the expansion in PIL heralded criticisms of judicial overreach, politicization of petitions, and attempts to abuse the process for personal, commercial, or ideological gain. These criticisms ensured the gradual evolution of judicial safeguards to ensure PIL remained a true instrument of public welfare and did not become a tool for vested interests.

Regardless of these difficulties, PIL continues to play an important role within India's democratic framework. It has empowered participatory governance by giving space to citizens to raise matters that might otherwise remain unattended. As India grapples with newer social, environmental, and economic complexities, PIL remains relevant--if approached with integrity and applied with judicial restraint. The future course of PIL depends upon striking a balance between accessibility and accountability: retaining the spirit of social justice in it while ensuring that PIL remains a credible, responsible, and principled method of securing the public good.