
PUBLIC INTEREST LITIGATION: ITS IMPACT ON JUDICIARY AND GOVERNANCE

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ABSTRACT

Public interest litigation, or PIL, is a crucial legal mechanism for promoting social justice, guaranteeing government accountability, and improving underprivileged and marginalized individual's access to justice. Initially introduced through judicial creativity and first presented in the late 1970s, PIL has been instrumental in transforming the Indian judiciary from a passive legal interpreter to a proactive protector of constitutional rights. It allows individuals or groups, even if they are not directly affected, to appeal to the courts on matters related to the public good. Access to the legal system has become more democratic because the traditional locus standi criteria have been loosened.

This research paper aims to examine the evolution and effect of PIL on the Indian judiciary and governance. It focuses on how the judiciary, particularly the Supreme Court of India and state High Courts, uses PIL to address systemic concerns like corruption, environmental degradation, violence in custody, and violations of fundamental rights of citizens.

There are number of landmark rulings that have influenced the responsibility of executive, policy changes, and increased transparency in public administration. Nonetheless, the growth of PIL has also sparked worries regarding judicial overreach, where courts might interfere into the legislature and executive domain, challenging the separation of power as outlined in the constitution. Additionally, the abuse of PIL for political, individual, or campaign purposes has become an important concern threatening the integrity of this otherwise creative instrument.

This paper looks at landmark cases and scholarly remarks to look into the dual purpose of PIL as a protector of interest of the public and as a focus of critical examination. While PIL has contributed largely towards democratic governance and legal empowerment in India, stricter guidelines and judicial restraint are essential in order to save its purity as well as effectiveness as a device of protection for the interest of the public.

INTRODUCTION

In India, the judiciary plays a crucial role as the protector and upholder of the Constitution. By acting as a watchdog against violations of the Constitution's Fundamental Rights, it protects both—Indians and foreigners from discrimination, the misuse of power of the state, arbitrary decisions, and other wrongdoing by authorities.

For the first time in India, petitions that would have previously been denied on procedural grounds were admitted into the Supreme Court in 1979. This was done to improve access to justice and enable the inclusion of poverty and inequality in legal proceedings. Proactively, the Indian judiciary liberalized the historical doctrine of "LOCUS STANDI," which holds that all those whose fundamental rights are being infringed have the authority to represent to the Supreme Court, and then introduced the American concept of "Public Interest Litigation" or "PIL" in India on a very strong basis. In a novel manner, the Supreme Court has significantly loosened the Locus Standi rule¹. In order to enforce constitutional rights and other legal rights for individuals or groups of individuals that are unable to petition the court for relief owing to poverty or other disadvantages, the Court presently permits PILs, or social interest litigation, at the request of "public-spirited citizens."

The legal revolution of the 1980s, which made the Indian Supreme Court into a Court for all Indians, has been significantly helped by the exceptional work of Justices P.N. Bhagwati and V.R. Krishna Iyer. As a result, any Indian citizen, or a group of Indian citizens, may now approach the nation's highest court for a legal remedy in a matter involving the general public interest. Furthermore, cases in the public interest could be heard before the aforementioned Court without having to pay expenses associated with High Court litigation. A new legal horizon that benefits the impoverished and disadvantaged has been created by this judicial activism project. PIL is also an effective instrument for socially concerned citizens who want to use the legal system to correct it. This type of situation arises when the victim's freedom to approach the court has been restricted or when he does not have the requisite resources to do so. Any citizen may file a petition:

- in the Supreme Court, in accordance with Article 32 of the Indian Constitution.
- in the High Court, in accordance with Article 226 of the Indian Constitution.

¹ Public Interest Litigation: A Catalyst for Ensuring Good Governance Dr Neha Mishra¹ ; Dr. Papiya Golder² ; Dr. Atul Jain³ ; Dr. Pranshu Pathak⁴ ; Adv Pooja Kumar.

- in accordance with Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023.²

CONCEPTUAL FRAMEWORK OF PIL

Public interest litigation is a legal mechanism in India that allows social organization or public-spirited citizen to move petition to the court for the enforcement of the rights of any individual or group of individuals who owing to poverty, ignorance, or socio-economic disadvantages are unable to do so by their own³.

In the *Janata Dal v. H.S. Chaudhary*⁴ case, the Supreme Court, held that the term 'PIL' refers to a legal action introduced in a Court of Law to enforce interest of the public or general interest in which the public or a class of the community is interested⁵.

PIL's origin may be traced back to the USA, which went through a period of social unrest in the 1960s and 1970s during which many institutions changed and significant changes were enacted. The phrase "Public Interest law" was coined with the intention of guaranteeing that citizens whose rights might be impacted by decisions made by the government have a voice in the creation of those laws. Public interest law had been influenced by a number of initiatives in the USA at the time.

Public interest law in the USA was influenced by a number of movements at that time. Despite the fact that PIL originated in the United States, this idea has since spread to several other nations. The Indian judiciary's recognition of its constitutional duty to assist the underprivileged or disenfranchised segments of society gave rise to public interest litigation⁶.

The founding fathers desired to encourage a social revolution by drafting the constitution. The primary instruments used to bring such social change are the Directive Principles of State Policy (Part IV of the Indian Constitution) and the portions relating to Fundamental Rights (Part III of the Indian Constitution), similarly, an impartial judiciary capable of assessing whether laws, executive orders, and constitutional amendments are lawful or not⁷.

Justice K. Iyer for the first time introduced the idea of PIL in the case of *Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai*⁸ in which, the business organization stopped paying employee

² *Municipal Corporation, Ratlam v. Vardhichand*, AIR 1980 SC 1622.

³ <https://www.drishtiias.com/to-the-points/Paper2/public-interest-litigation>.

⁴ *Janata Dal v. H.S. Chowdhary*, (1992) 4 SCC 305.

⁵ <https://vajiramandravi.com/current-affairs/public-interest-litigation-pil/>.

⁶ The Constitution of India, art 39A.

⁷ <https://www.constitutionofindia.net/parts/part-iv/>.

⁸ *Mumbai Kamgar Sabha, Bombay v. M/S Abdulbhai Faizullabhai*, AIR 1976 SC 1455.

bonuses. Justice K. Iyer in this case held that as a large number of weaker sections had been impacted, therefore the Union was eligible to file petition on the behalf of the aggrieved person. Consequently, for the first time in Indian history the principle of Locus Standi was loosened leading to the origin of PIL in the country.

In 1979, the case of *Hussainara Khatoon v. State of Bihar*⁹ was the first known case of PIL. Justice P.N.Bhagwati accepted the petition filed by lawyer named Kapila Hingorani, against the illegal detention of thousands of under trial prisoners. It has resulted in the release of more than 40,000 under trial prisoners.

The Constitution of India also lays down provisions of PIL for the safeguard of fundamental rights and public welfare. The concept is based on following provisions:

Article 14- Right to Equality

Article 14 of the Indian constitution guarantees, equality before the law and equal protection of laws to all the individuals within Indian Territory¹⁰. It enables PIL cases to oppose discriminatory practices that put a large number of population under stress.

Article 21- Right to Life and Personal Liberty

Article 21, of the Indian constitution guarantees, right to life and personal liberty to every individual¹¹. Article 21 allows enforcement of PIL particularly at the time of violation such as, environmental pollution cases, deaths in custody and exploitation of marginalized section.

Article 32- Right to Constitutional Remedies

Article 32 of the constitution of India allows every citizen to seek constitutional remedies¹². Any person can petition to the Supreme Court directly in order to defend their Fundamental Rights seeking for writs like habeas corpus, mandamus, prohibition, quo warranto, and certiorari.

Article 39A- Equal Justice and Free Legal Aid

This article puts an obligation upon state to ensure access to justice to every person apart

⁹ *Hussainara Khatoon & Ors v. Home Secretary, State of Bihar* (1979) 3 SCC 774.

¹⁰ The Constitution of India 1950, art 14.

¹¹ The Constitution of India 1950, art 21.

¹² The Constitution of India 1950, art 32.

from financial limitation¹³.

Article 226- Powers of High Courts to Issue Writs

Article 226 of the Indian constitution gives the High Court authority to issue writs to enforce constitutional rights¹⁴. It enables a person to file PIL in the high courts.

ROLE OF JUDICIARY IN DEVELOPMENT OF PIL

In India, Public interest action surfaced as a direct result of Judicial Activism. Judicial activism refers to the visionary part of bar in interpreting and applying laws in order to address social issues, guarding citizen rights and filling legislative gaps. Justice V.R. Krishnaiah, Justice P. N. Bhagwati, Justice O. Chinnappa Reddy, and Justice D.A. Desai established the groundwork for judicial activism in India. Judicial activism enabled High courts to reach large number of peoples in order to give justice to them. It made it possible for large millions of underprivileged people to seek justice through Public Interest Litigation(PIL).

Historically, the locus standi rule limited access to the courts to those whose rights had been directly told by the case. The Locus Standi rule has been extended by PIL.. It has not only changed India's legal geography but has also readdressed how the way in which justice is administered and accessed. By providing a stopgap for those unable to seek legal assistance on their own, the extension of locus standi transformed the bar into a defender of social justice.

Regarding the case *S.P Gupta v. UOI* the court observed that in India a large number of marginalized peoples are exploited and ignorant about their rights. They are not in the position to cover them. To maintain justice, the Locus Standi doctrine ought to be loosened. Further, it was also held that whenever legal rights of a person or persons are violated who are not suitable to approach also any public spirited person on behalf of similar individual can file a solicitation under composition 32 in the Supreme court or under composition 226 in the High court¹⁵.

Crucial pronouncement that laid to the development of PIL

In the time 1979, it was held by the court in the case of *Hussainara Khatoon v. state of Bihar*¹⁶

¹³ The Constitution of India 1950, art 39A.

¹⁴ The Constitution of India 1950, art 226.

¹⁵ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

¹⁶ *Hussainara Khatoon v. state of Bihar* (n 10).

that a person's right to free legal aid and speedy trial is a fundamental part of component of Article 21 of Indian Constitution. It was the first case that laid the foundation of PIL Justice in India. It allowed the intervention of third-party on behalf of poor and marginalized groups who are not suitable to approach the court by themselves.

Latterly, in the case of *S.P. Gupta v. U.O.I*, an indigenous bench presided over by Justice P.N. Bhagwati in the year 1981, for the first time formally defined PIL as action accepted for the purpose of redressing public harm, administering public duties, protect social, collaborative, 'diffused rights and interests or demonstrate public interest, any citizen who's acting honestly and with sufficient interest must be granted standing. The court in each individual case would have to decide what constitutes sufficient interest to grant standing to a member of the public¹⁷. The case extended the locus standi principle.

In the time 1984, the case of *Bandhua Mukti Morcha* case addressed the crucial issue, whether any third party i.e., NGO's could file a PIL? The case affirmed that PIL is justifiable indeed if it's filed by social organizations. The court noted that Public interest action is not in the nature of adversary action but it's a challenge and an opportunity to the Government and its officers to make fundamental rights meaningful to the underprivileged and vulnerable sections of the society, and to ensure them social and profitable justice which is the hand tune of our Constitution¹⁸.

In the time 1986, the Supreme Court held the petition submitted by petitioner- Olga Tellis on the behalf of pavement dwellers was justified under Article 32 of the Indian Constitution. According to the court, the Right to Livelihood is a component of Right to life as guaranteed under Article 21. The court noted that Article 2's guarantee of right to life is extensive and comprehensive." Life means commodity further than bare beast actuality. An inversely important hand of that right is the right to livelihood because; no one can survive without the means of subsistence, that is, the means of livelihood. However, denying a person their means of subsistence would be the simplest way to deny them their right to life. As a result, life and the means of livelihood are closely related, and the same thing that makes life possible on its own¹⁹.

¹⁷ *S.P. Gupta v. Union of India* (n 16).

¹⁸ *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.

¹⁹ *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.* 1985 SCC (3) 545.

For the first time in the time 1985 the scope of PIL was expanded in environmental issues. M.C. Mehta, environmental counsel and activist filed a PIL under Article 32 of the Constitution due to the death of one person and health concern of several others redounded from gas leak passed at a diseases factory. Supreme Court broadened the application of Article 21 and included environmental protection as a part of Fundamental rights. The court also established the principle of absolute liability for dangerous or innately dangerous diligence.

In 1997, the Supreme Court allowed the PIL filed by Vishaka, a NGO dealing with women's rights, touched off by the gang rape of Bhanwari Devi, and addressed the violation of Articles 14, 15 and 21 and also established the rules to prevent sexual harassment at workplace²⁰.

The judiciary has played a pioneering part in evolving and expanding PIL in India, furnishing justice to those who are poor, exploited and speechless and cannot approach the courts themselves. Through, this corner judgment the court has relaxed the procedural conditions, expanded the locus standi principle and interpreted the fundamental rights of citizens in an extensive way.

IMPACT OF PIL ON GOVERNANCE

The impact of PIL on governance in India has both positive and negative impacts. Let us bandy one by one how it impacts the governance.

Positive impact-

1. Impact on policy timber and reform

PIL acts as a catalyst for legislative and administrative conduct in India. PIL helps the court to intermediate whenever there's absence of law or the being laws are outdated or shy. For case, before there was no law that deals with guarding the rights of women at workplace. In the time 1997 a PIL was filed concerning the harassment faced by women at workplace²¹. As a result Supreme Court issued the Vishaka Guidelines on sexual harassment and legislated a specific law- POSH Act, 2013. Further in the case of MC Mehta v. UOI, a number of PIL's concerning terrain redounded in policy changes, similar as CNG- Compressed Natural Gas in public

²⁰ Vishaka & Ors. v. State of Rajasthan & Ors. (1997) 6 SCC 241.

²¹ Ibid.

transport in Delhi and programs on vehicles emigration standard²².

In 2001, PUCL v. UOI a PIL was filed which strengthened mid-day meals and public distribution system. This ruling paved the way for National Food Security Act, 2013²³.

2. Impact on responsibility of Executives

PIL has been surfaced as a pivotal tool in holding the superintendent responsible for its conduct and quiescence. One of the direct impacts of PIL upon superintendent is through judicial scrutiny. The courts have used PILs to oversee, manage and indeed correct the operations of administrative bodies. As in the case of Hussainara Khatoon v. State of Bihar²⁴ the Supreme Court held that the directors liable for the illegal detention of thousands of under trail captures. This case brought reform in India's felonious justice system. PIL have also acted as a tool to expose corruption abuse of power by executives. In the case of Vineet Narain v. UIO²⁵, the SC addressed the superintendent's failure to probe corruption claims against elderly politicians. This ruling was a significant corner in affirming the "autonomy off investigative agencies" therefore, adding responsibility within the superintendent.

3. Impact on empowering marginalized community

PIL has proven to be a powerful tool in helping marginalized communities across India. By enabling individualities and associations to file a case on behalf of those who cannot speak up for themselves, PIL has contributed in securing justice, quality, and rights of underprivileged groups similar as poor, women, children's, Dalit's, adivasis etc. As a result of PIL, right to speedy trial and free legal aid, access to livelihood, protection of women at workplace, and several other rights have been surfaced, forcing the government bodies to apply introductory rights and colorful schemes for the marginalized groups.

4. Impact of PIL on Governmental translucency

PIL has played a major role in enhancing the translucency of governance in India. Traditionally, government conducts were frequently shrouded in secretiveness, with limited public access to policy opinions or executive processes. Through PIL, the bar has created

²² M.C. Mehta v. Union of India, (2002) 2 SCR 963.

²³ PUCL v. UOI (2001).

²⁴ Hussainara Khatoon v. state of Bihar (n 10).

²⁵ Vineet Narain v. UIO 1996 SCC (2) 199.

pathways for lesser exposure, scrutiny, and public participation, compelling the superintendent to be more transparent in its conduct and opinions. In several cases, authorities have been reticent in publishing policy documents, environmental concurrences, or disquisition reports. Nonetheless, the bar has used PILs to dictate the government to expose similar documents. For case, in *Centre for PIL v. UOI*²⁶, a PIL was filed challenging the appointment of the Central Vigilance Commissioner (CVC) due to enterprises girding translucency and integrity. The SC annulled the appointment, pressing the need of translucency and institutional credibility for governance.

Negative impact-

PIL has really brought significant changes to Indian republic by fostering responsibility, social equity, and citizen engagement. Nonetheless, along with its successes, PIL has also stressed colorful adverse goods on governance.

- One of the most concerned examines about PIL is judicial overreach- where courts begin to apply programs, a part traditionally assigned to the superintendent and council.
- Earlier, PIL end was to profit the public, still, over times courts have witnessed frivolous, political driven or hype driven PILs, staying judicial time and coffers.

In the case of *state of Uttaranchal v. Balwant Singh Chauhal*²⁷ the SC observed the adding abuse of PILs and laid down strict guidelines to only encourage genuine and bonafide PILs.

- PIL has redounded in backlog affecting the right to prompt justice for the regular petitioners as courts prioritize addressing critical public issues by means of PIL which redounded in detention of regular civil and felonious cases. Thus, there's a need for balance approach in respecting separation of powers while guarding indigenous rights in order to maintain efficacy of credibility of PIL in India.

IMPACT OF PIL ON JUDICIARY

PIL has significantly influenced judiciary in India. It has both positive and negative impact. Let us discuss one by one.

²⁶ *Centre for Public Interest Litigation & Anr v. Union of India & Anr* (2011) 4 SCC 1.

²⁷ *State of Uttaranchal V. Balwant Singh Chauhal* (2010) 3 SCC 402.

Positive Impacts-**1. Impact on judicial activism**

PIL has expanded a role of judiciary by transforming it from a passive arbiter to an active protector of general public interest. Judicial activism means courts power to go beyond the applicable law and influence public policy through its rulings. With PIL, judiciary has gained the authority to step into the matter relating to health, education, the environment, social welfare. Through PIL, judiciary has led to broader interpretation of fundamental rights, especially Article 21 of the Constitution, which now also includes right to livelihood, health, education, clean environment and dignity.

2. Impact of PIL on Access to Justice

In India, PIL has played a very important role in guaranteeing access to justice, particularly to marginalized groups who are not able to seek justice by themselves. By relaxing the traditional requirement of locus standi, the court have made it possible for concerned persons or organizations to approach the court on the behalf of poor, weaker or marginalized persons of society. PIL has broken the traditional barriers that prevented poor and illiterate persons from seeking justice. Various landmark judgments through the help of PIL have recognized the rights of several under-trial prisoners, women, adivasis, and several others.

3. Impact of PIL in bringing social changes

PIL has encouraged judiciary to take proactive actions to resolve societal wrongs and protecting fundamental rights of citizens. The PIL moved in the case of Hussainara Khatoon has brought significant reforms in the criminal justice system. Further in the case of T.N. Godavarman, the SC issued directives for forest conservation and sustainable development.

Negative Impacts-

It is undoubtable that PIL has played a transformative role in promoting accountability, social justice and social changes. However, PIL also have some negative consequences on governance.

- PIL has led to judicial overreach, where the traditional role of policymaking kept with the legislature and executive has begun to be usurped by the judiciary. Supreme Court

in the case of *Rameshwaram Prasad v. UOI*²⁸ clarified the tensions between judicial intervention and policy-making by striking down the dissolution of the Bihar Assembly.

- Earlier PIL aim was to benefit the public, however, over years courts have witnessed frivolous, political driven or publicity driven PILs, wasting judicial time and resources.
- As a result, of prioritizing PIL, it has affected the regular civil and criminal litigations, which have created backlog affecting the right to prompt justice.
- The decisions made by the courts in PIL are not a result of wide consultation and expert input which leads to decision that may be legally sound, but they may be socially or economically impractical.

CRITICISM AND CHALLENGES

In India PIL has been a landmark judicial innovation, which provides justice to the marginalized and disadvantaged groups. Since 1980s PIL has played an important role in providing justice and enhancing accountability, it has also faced challenges and criticisms. Some of them are as mentioned.

- Misuse and frivolous litigation

One of the major criticisms of PIL is the increasing number of misuse and frivolous litigations. Sometimes PILs are filed owing to personal grudges, political gains or media publicity. This results in the wastage of judicial resources, compromising the very essence of PIL as a tool for providing social justice.

- Judicial overreach

The courts under the premise of PIL have exceeded their constitutional role and have interfered in policy making and administrative issues. This resulted in the disruption of the principle of separation of powers. The interference of judiciary sometimes jeopardize the democratic accountability.

- Backlog in judiciary

Increase in the number of PILs particularly the frivolous one has resulted in the overload of judiciary. Courts are engulfed with countless numbers of petitions which

²⁸ *Rameshwar Prasad and Others v. Union of India* (2006) 2 SCC 1.

consumes the important time and cause judicial backlog. This impacts the overall effectiveness of the judicial system.

- Implementation challenges

Even after the pronouncement of progressive judgments in PIL cases still there are significant hurdles in implementing it. Owing to lack of resources or capability, an executive body fails to carry out the judicial orders. Most of the welfare decisions suffer from inadequate implementation in practice, undermining the intended social benefits.

- Threat to judicial neutrality

Concern may arise about the judiciary's independence as they are directly involved in policy making through PIL. The court may face allegations of politicization. These judicial decisions in PIL cases pressurize the judiciary, thus impacts its independence.

REFORMS AND WAY FORWARD FOR PIL

PIL has played a very important role in providing access to justice and holding public authorities accountable. Nonetheless, it has also raised some key concerns which require timely reforms to maintain its integrity and efficacy. Some of the key reforms and recommendations are as follows.

- Stricter admissibility and initial screening

In order to avoid frivolous and vexatious litigations a stricter admissibility evaluation should be instituted. Establishing dedicated benches for initial screening of PIL could assist in finding out the baseless petitions.

- Encouraging Mediation and ADR techniques

ADR techniques such as mediation, negotiation etc should be promptly used to address PIL issues. This will lessen the judiciary's workload and encourage quicker resolutions.

- Clear guidelines for PIL

There is a need to create and enforce detailed guidelines that outline the scope and limits of PIL. It should clarify what qualifies as a public interest.

- Strengthening Legal Aid and Awareness

Providing free and effective legal aid facilities to the, marginalized petitioner will lessen the dependence on third party who may misuse PIL for self-interest.

- Limiting Judicial overreach

Court should not overstep into executives and legislative territories. Judiciary shall respect the principle of separation of powers and must engage in discussions with executives and legislative bodies prior to issuing policies.

CONCLUSION

The principle of Fiat Justicia finds for itself a true meaning in PIL's practice of justice. PIL was designed to close the gap separating the privileged from the underprivileged. It has also played such an important role in the protection of fundamental rights and in providing justice. PIL notably improved transparency along with responsiveness in governance; likewise, through PIL, the courts have started taking proactive approach toward addressing human rights, environmental protection, and corruption, among others.

Still, the adding abuse of PIL for particular or political earnings has hovered its original purpose. PIL must not be used as a tool for particular earnings. In substance, PIL is an important tool for furnishing access to justice, and its impact depends upon its reasonable use. PILs can still have a key role in promoting justice in society through reform and care.