
PUBLIC INTEREST LITIGATION IN INDIA: BOON OR MISUSE - AN ANALYTICAL EXAMINATION OF ITS EVOLUTION, ACHIEVEMENTS, AND ABUSE

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ABSTRACT

Public Interest Litigation (PIL) represents one of the most consequential jurisprudential innovations in the history of Indian constitutional law. Originating in the late 1970s and consolidated through a series of landmark judgments delivered by Justices P.N. Bhagwati and V.R. Krishna Iyer, PIL fundamentally reconceived the doctrine of locus standi to allow any public-spirited individual to approach the Supreme Court under Article 32 or a High Court under Article 226 on behalf of persons who, by reason of poverty, social disadvantage, or physical incapacity, are unable to seek judicial redress for violations of their constitutional or legal rights. In the four decades since its inception, PIL has been the vehicle for some of the most transformative judicial interventions in Indian legal history, including the Hussainara Khatoon series of orders that led to the release of approximately forty thousand undertrial prisoners, the Vishaka guidelines on workplace sexual harassment, the Olga Tellis ruling on the right to livelihood, the M.C. Mehta environmental judgments, and the PUCL right to food orders. This paper examines the twin dimensions of PIL: its enormous contribution to access to justice and the enforcement of socio-economic rights for India's most vulnerable populations on the one hand, and the progressive dilution of that contribution through systematic misuse on the other. It traces the evolution of PIL from a tool for the socially marginalised to an instrument increasingly deployed for private interests, political purposes, or mere publicity, and examines the Supreme Court's own jurisprudential response to this dilution through decisions such as Dattaraj Nathuji Thaware, State of Uttaranchal v. Balwant Singh Chaufal, and Ashok Kumar Pandey. The paper further considers structural reforms proposed by the Law Commission of India in its 228th Report and argues that the long-term legitimacy and effectiveness of PIL as a constitutional institution depends on the development of a robust screening mechanism, the consistent imposition of costs for frivolous petitions, and a principled doctrinal distinction between genuine public interest and private interest masquerading as such.

Keywords: Public Interest Litigation; Locus Standi; Judicial Activism; Access to Justice; PIL Misuse; Constitutional Remedies

I. INTRODUCTION

Public Interest Litigation is one of the most distinctive and debated features of Indian constitutional jurisprudence. Born of a concern that the formal prerequisites of litigation, principally the requirement that only an aggrieved party possessing locus standi may approach the court, effectively denied the poorest and most marginalised sections of Indian society any meaningful access to the constitutional guarantees of fundamental rights, PIL represented a deliberate judicial innovation: the courts would henceforth entertain petitions filed by any public-spirited person on behalf of those who were too poor, too powerless, or too unaware to approach them directly. The writ jurisdiction of the Supreme Court under Article 32 and of the High Courts under Article 226 of the Constitution of India provided the constitutional basis for this jurisdiction.¹ Over the four decades since its inception, PIL has demonstrated both its transformative potential, in cases ranging from prison reform to environmental protection, from workplace rights to food security, and its institutional vulnerability, as the mechanism has been steadily colonised by parties with private grievances, political motives, or a desire for publicity, raising serious questions about the integrity and sustainability of the PIL institution. This paper examines both dimensions with a view to assessing whether, and on what conditions, PIL remains the boon its architects intended rather than a misuse-ridden shadow of its original purpose.

II. ORIGINS AND EVOLUTION OF PUBLIC INTEREST LITIGATION IN INDIA

A. Doctrinal Foundation: The Relaxation of Locus Standi

The conventional rule governing access to courts in India, as in other common law jurisdictions, was that only a person who had personally suffered a legal injury had locus standi to bring a petition before the court. This rule, while appropriate to the resolution of private disputes, operated as a structural barrier to the enforcement of constitutional rights on behalf of those who lacked the material or social resources to initiate litigation themselves. The first decisive breach of this rule in the PIL context occurred in *Hussainara Khatoon v. Home Secretary, State of Bihar*, in which Advocate Pushpa Kapila Hingorani, acting upon a newspaper report describing the plight of undertrial prisoners languishing in Bihar jails for periods exceeding the maximum sentence that could have been imposed upon conviction, filed

¹ Constitution of India arts. 32, 226.

a habeas corpus petition before the Supreme Court on their behalf.² The Court, exercising a purposively expansive reading of its jurisdiction, entertained the petition and, in a series of orders, directed the release of approximately forty thousand prisoners, establishing the right to a speedy trial as an enforceable fundamental right under Article 21 of the Constitution.

The doctrinal foundations of PIL were subsequently consolidated by Justice P.N. Bhagwati in *S.P. Gupta v. Union of India*, where the Court held that any member of the public acting bona fide may approach the court for judicial redress where a legal injury is caused to a person or a determinate class of persons who cannot access justice on account of poverty or social disability.³ This liberalisation of locus standi was grounded partly in Article 39A of the Constitution, a Directive Principle requiring the State to ensure that the operation of the legal system promotes justice on a basis of equal opportunity and provides free legal aid to the poor,⁴ and partly in the judicial recognition that formal equality before the law is meaningless without substantive access to the institutions that enforce it.

B. The PIL as a Vehicle for Socio-Economic Rights

Building on these foundations, the Supreme Court deployed PIL across a remarkable range of subject matters in the 1980s and 1990s, many of which had previously been regarded as non-justiciable or outside the scope of judicial intervention. In *M.C. Mehta v. Union of India*, the Court directed the closure of industries polluting the Ganga and, more broadly, evolved the principle of absolute or strict liability for enterprises engaged in inherently hazardous activities, departing from the English rule in *Rylands v. Fletcher*.⁵ In *Olga Tellis v. Bombay Municipal Corporation*, a PIL filed on behalf of pavement dwellers facing eviction, the Court held that the right to livelihood is encompassed within the right to life under Article 21, since a person deprived of her livelihood is effectively deprived of life itself.⁶ In *Vishaka v. State of Rajasthan*, a PIL arising from the gang rape of a social worker in Rajasthan led the Court to lay

2 *Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar*, AIR 1979 SC 1369, (1980) 1 SCC 98 (the first reported PIL in India, filed by Advocate Pushpa Kapila Hingorani after reading a newspaper report on the plight of undertrial prisoners in Bihar jails).

3 *S.P. Gupta v. Union of India*, 1981 Supp (1) SCC 87, AIR 1982 SC 149 (recognising that any member of the public acting bona fide may approach the court where a legal injury is caused to a person or class of persons who are unable to seek judicial redress on account of poverty or social disadvantage).

4 Constitution of India art. 39A.

5 *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (directing the closure of industries polluting the Ganga and establishing strict liability for hazardous enterprises).

6 *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545 (holding that the right to livelihood is encompassed within the right to life under Article 21 of the Constitution).

down comprehensive binding guidelines on the prevention and redressal of sexual harassment at the workplace, drawing on CEDAW and other international instruments in the absence of domestic legislation,⁷ thus exercising what is often described as a quasi-legislative function in filling a legislative vacuum. The People's Union for Civil Liberties v. Union of India right to food case extended this function further, directing the State to operationalise food security schemes and distribute surplus food grains to the hungry rather than allow them to deteriorate in government warehouses, treating the right to food as enforceable under Article 21.⁸

III. LANDMARK CONTRIBUTIONS OF PIL TO CONSTITUTIONAL GOVERNANCE

PIL has contributed not only to the enforcement of individual socio-economic rights but also to systemic accountability and governance reform. In Vineet Narain v. Union of India, the Supreme Court issued a continuing mandamus directing the Central Bureau of Investigation to conduct free and fair investigations into senior political figures implicated in the Hawala scandal, asserting the principle that the rule of law applies equally to all persons irrespective of their political position.⁹ In the Naz Foundation litigation, a PIL filed before the Delhi High Court challenging the constitutionality of Section 377 of the Indian Penal Code as applied to consensual same-sex relations between adults ultimately led to the Supreme Court's landmark judgment in Navtej Singh Johar v. Union of India, in which the Court unanimously affirmed the constitutional invalidity of this criminalisation and recognised the rights of LGBTQ+ persons to dignity, autonomy, and equal citizenship.¹⁰ These cases illustrate the capacity of PIL, when properly managed, to address structural injustices that Parliament has declined or failed to remedy, thereby performing a genuinely counter-majoritarian constitutional function.

PIL has further demonstrated its capacity for consequential economic and administrative reform. In the coal block allocation and 2G spectrum cases, PILs filed by civil society

7 Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (laying down binding guidelines on sexual harassment at the workplace in the absence of specific legislation, drawing on international instruments including CEDAW).

8 People's Union for Civil Liberties v. Union of India, (2001) 5 SCALE 3 (directing the State to operationalise food schemes and distribute surplus food grains to the hungry rather than allow them to rot, treating the right to food as enforceable under Article 21).

9 Vineet Narain v. Union of India, (1998) 1 SCC 226 (issuing continuing mandamus directing the Central Bureau of Investigation to conduct free and fair investigations into political figures implicated in the Hawala scandal).

10 Naz Foundation v. Government of NCT of Delhi, (2009) 160 DLT 277 (Delhi High Court) (reading down Section 377 IPC as unconstitutional insofar as it criminalised consensual same-sex relations between adults); Navtej Singh Johar v. Union of India, (2018) 10 SCC 1 (Supreme Court affirming this position).

organisations and individual citizens led the Supreme Court to cancel, respectively, two hundred and fourteen coal block allocations¹¹ and one hundred and twenty-two telecom licences¹² on grounds of illegality in the allocation processes, with far-reaching implications for regulatory governance, the protection of natural resources, and public accountability.

IV. MISUSE OF PIL: THE PATHOLOGY OF JUDICIAL POPULISM

A. Private Interest Masquerading as Public Interest

As PIL became an established and relatively low-cost mode of accessing the highest courts of the country, its potential for abuse became increasingly apparent. The most pervasive form of misuse consists of petitions that are, in substance, private grievances dressed in the language of public interest: disputes between business competitors, challenges to property transactions, complaints against specific government officers, or personal vendettas pursued under the guise of public concern. The Supreme Court confronted this directly in *Subhash Kumar v. State of Bihar*, where it held that a petition filed for personal gain or private profit does not qualify as a genuine PIL¹³ and in *Ashok Kumar Pandey v. State of West Bengal*, where it reiterated that courts must be vigilant in distinguishing genuine public interest from private interest litigation masquerading as PIL.¹⁴

B. PIL as Political Tool and Publicity Vehicle

A second category of misuse involves PILs filed for political purposes or for the purpose of generating media attention, rather than for the genuine enforcement of rights. In *Dattaraj Nathuji Thaware v. State of Maharashtra*, the Supreme Court condemned this tendency in strong terms, noting that PIL had in some cases degenerated into a tool for personal aggrandisement, political vendetta, or publicity-seeking, and directing the imposition of exemplary costs as a deterrent.¹⁵ This concern was most comprehensively addressed in *State*

¹¹ *Manohar Lal Sharma v. Principal Secretary*, (2014) 9 SCC 516 (coal block allocation case, in which PILs led to the Supreme Court cancelling the allocations of two hundred and fourteen coal blocks on the grounds of illegality in the allocation process).

¹² *Centre for PIL v. Union of India*, (2011) 4 SCC 1 (2G Spectrum case, in which a PIL resulted in the Supreme Court cancelling one hundred and twenty-two telecom licences).

¹³ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598 (holding that a petition filed for personal gain or private profit does not qualify as a genuine PIL and is liable to be dismissed with costs).

¹⁴ *Ashok Kumar Pandey v. State of West Bengal*, (2004) 3 SCC 349 (constituting a leading authority for the principle that courts should not entertain PILs that are, in substance, private interest litigations dressed up in the language of public interest).

¹⁵ *Dattaraj Nathuji Thaware v. State of Maharashtra*, (2005) 1 SCC 590 (condemning the filing of PILs for

of *Uttaranchal v. Balwant Singh Chaufal*, in which the Court traced the entire evolution of PIL jurisprudence from its origins as a tool for the poor to its contemporary misuse, and issued specific directions requiring High Courts to constitute screening committees to scrutinise PIL petitions before admission.¹⁶

C. Judicial Overreach and Institutional Concerns

The expansive use of PIL has also raised more fundamental constitutional concerns about the appropriate limits of judicial power. Critics, including several members of the judiciary itself, have noted that some PIL orders amount in substance to the exercise of executive or legislative power by the courts: the *T.N. Godavarman PIL on forests*, which generated over four hundred judicial orders over several decades and effectively placed an entire sector of natural resource governance under the supervision of a court-appointed authority,¹⁷ is frequently cited as an illustration of PIL evolving into a form of judicial administration that may undermine both the separation of powers and the executive's capacity to govern. The *Intellectual Forum* case and subsequent decisions have cautioned that the supervisory jurisdiction of the High Courts under Article 226 is not appellate in character and that PIL is not an appropriate vehicle for resolving disputes between private parties.¹⁸ The *Shaheen Bagh* case, though not a conventional PIL, illustrated the Court's recognition that judicial intervention in politically sensitive public spaces must be exercised with circumspection.¹⁹

V. THE INSTITUTIONAL RESPONSE: SELF-CORRECTION AND REFORM

The Supreme Court's response to PIL misuse has been primarily self-corrective, operating through the progressive development of a body of anti-abuse jurisprudence. Alongside the decisions already noted, the Court has consistently affirmed its power to impose heavy costs

personal aggrandisement, political motives, or publicity and directing the imposition of exemplary costs in such cases).

16 *State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402 (constituting the most comprehensive Supreme Court pronouncement on PIL misuse, tracing the evolution of PIL jurisprudence and issuing specific directions to prevent abuse, including the requirement for High Courts to constitute screening committees).

17 *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267 (a PIL that expanded into an omnibus proceeding running for decades, generating over four hundred judicial orders on forest conservation and management, often in the nature of continuing mandamus).

18 *Intellectual Forum, Tirupathi v. State of A.P.*, (2006) 3 SCC 549 (cautioning that the writ jurisdiction of the High Courts under Article 226 is supervisory and not appellate in character, and that PILs raising disputes between private parties are not maintainable).

19 *Amit Sahni v. Commissioner of Police*, (2020) 10 SCC 439 (*Shaheen Bagh* case, holding that public roads and spaces cannot remain occupied indefinitely by protesters and that the authorities have a duty to remove such encroachments, while affirming the fundamental right to protest).

on frivolous or mala fide PIL petitions²⁰ and has, in a series of judgments, articulated criteria for identifying genuine PILs: the petitioner must be acting bona fide and in the public interest; the cause of action must be one affecting a substantial section of the public; the petitioner must not be seeking any personal advantage; and the grievance must not be capable of being adequately addressed through conventional litigation. The leading academic commentators on PIL, including Justice P.N. Bhagwati himself,²¹ Professor Upendra Baxi,²² and Professor S.P. Sathe,²³ have, from different perspectives, noted that the original vision of PIL as a mechanism for the empowerment of the most disadvantaged sections of society depends critically on judicial discipline in admitting only those petitions that genuinely serve that function.

The Law Commission of India, in its 228th Report of 2009, recommended the establishment of a statutory screening mechanism for PIL petitions at the High Court level, the codification of guidelines governing the grant of PIL locus standi, and the creation of a PIL monitoring committee to oversee compliance with judicial directions issued in PIL proceedings.²⁴ These recommendations have not been implemented by Parliament, leaving the task of controlling PIL abuse to the judiciary's own evolving doctrine, which has proven uneven in its application across different benches and jurisdictions.

VI. CONCLUSION: PRESERVING THE TRANSFORMATIVE POTENTIAL OF PIL

PIL stands as one of Indian constitutional law's most significant and original contributions, both to the domestic enforcement of fundamental rights and to the broader global literature on judicial access and social action litigation. Its achievements in the areas of prison reform, environmental protection, women's rights, food security, and public accountability are substantial and, in many instances, irreplaceable by other mechanisms of constitutional enforcement. Its vulnerability to misuse is equally well-documented, and the risk that systematic abuse will delegitimise the institution and divert scarce judicial resources from genuine grievances is real and pressing. The challenge for Indian courts in the coming decades

²⁰Krishna Swami v. Union of India, (1992) 4 SCC 605 (cautioning that PILs cannot be used as an instrument for political vendetta or personal rivalry and affirming the court's power to impose costs for frivolous petitions).

²¹P.N. Bhagwati, Judicial Activism and Public Interest Litigation, 23(3) Columbia Journal of Transnational Law 561 (1985).

²²Upendra Baxi, Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India, 4 Third World Legal Studies 107 (1985).

²³S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits 120-145 (2002).

²⁴Law Commission of India, Report No. 228, Public Interest Litigation (Nov. 2009) (recommending the establishment of a screening mechanism for PIL petitions at the level of the High Courts and the codification of guidelines governing the grant of PIL locus standi).

is not to retreat from PIL's transformative potential but to develop the institutional architecture, including more rigorous admission screening, consistent cost imposition for frivolous petitions, and a principled doctrinal distinction between genuine public interest and private interest in public-interest dress, necessary to preserve that potential against the erosion caused by misuse. PIL, properly administered, remains an indispensable constitutional institution; improperly administered, it risks becoming precisely what its founders sought to prevent: a mechanism that serves the interests of those who are already capable of navigating the legal system, rather than those for whom it was designed.

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