
PUBLIC INTEREST LITIGATION IN INDIA: HISTORICAL EVOLUTION, CONTEMPORARY MISUSE, AND THE PATH TOWARD REFORM

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ABSTRACT

Public Interest Litigation (PIL) in India represents a paradigm shift in the constitutional landscape of the global south, fundamentally altering the traditional concepts of adjudication and legal standing. Emerging as a judicial response to the massive socioeconomic disparities and the institutional scars of the Emergency era (1975–1977), PIL serves as a strategic arm of the legal aid movement, aimed at delivering substantive justice to the marginalized and voiceless. This report provides an exhaustive analysis of the historical evolution of PIL, tracing its trajectory from the liberalization of *locus standi* by Justices P.N. Bhagwati and V.R. Krishna Iyer to its modern-day expansion into complex environmental and governance domains.

However, the mechanism currently faces a crisis of legitimacy due to widespread contemporary misuse. The transformation of PIL into "Publicity Interest Litigation," "Political Interest Litigation," or "Private Interest Litigation" has burdened the higher judiciary with frivolous claims, leading to what critics describe as judicial overreach and institutional decay. Through a detailed examination of landmark cases—including *Hussainara Khatoon*, *S.P. Gupta*, and *M.C. Mehta*—and a rigorous assessment of recent judicial trends from 2020 to 2025, this study highlights the urgent need for systemic reform. By integrating recommendations from the Law Commission of India and contemporary academic scholarship, the report outlines a path toward reform that emphasizes procedural screening, the integration of artificial intelligence for case management, and the recalibration of judicial restraint to preserve the sanctity of this transformative legal tool.

Keywords: Public Interest Litigation, Judicial Activism, Locus Standi, Social Justice, Constitutional Remedies, Judicial Overreach, Environmental Jurisprudence, Rule of Law, Judicial Reform, Epistolary Jurisdiction.

Introduction

The Indian legal system, historically rooted in the British adversarial tradition, underwent a "Promethean" transformation in the late 1970s with the advent of Public Interest Litigation (PIL). In a society characterized by deep-seated poverty, illiteracy, and social exclusion, the traditional rule of *locus standi*—which permitted only the aggrieved individual to seek judicial redress—acted as a formidable barrier to justice. PIL emerged as a radical judicial innovation to dismantle these barriers, transforming the Supreme Court of India into a "court for the common man".

The constitutional mandate for PIL is deeply embedded in Article 32 and Article 226 of the Constitution, which grant the Supreme Court and High Courts, respectively, the power to issue writs for the enforcement of fundamental rights. This power is further augmented by the Directive Principles of State Policy, particularly Article 39A, which requires the State to ensure that the legal system promotes justice on a basis of equal opportunity and provides free legal aid. Unlike traditional litigation, which is a private, adversarial contest between two parties, PIL is a collaborative effort between the petitioner, the state, and the court to uphold the rule of law and protect the collective interests of the community.

However, the very flexibility that made PIL a potent tool for social reform has also made it vulnerable to exploitation. In the contemporary era, the mechanism is frequently co-opted by "meddlesome interlopers" seeking personal publicity or by political entities attempting to resolve partisan disputes through the bench. This report seeks to map the historical journey of PIL, critique its current state of misuse, and propose a comprehensive framework for reform that balances the need for judicial access with the necessity of institutional restraint.

Comparison Metric	Traditional Private Litigation	Public Interest Litigation (PIL)
Locus Standi	Strict; limited to the party whose rights are directly infringed.	Relaxed; any public-spirited individual or NGO may file on behalf of others.
Primary Objective	Redressal of individual legal injury and vindication of private rights.	Redressal of public injury and enforcement of constitutional/legal obligations.
Nature of Proceedings	Adversarial; parties dispute facts and law before a passive judge.	Non-adversarial; collaborative and inquisitorial role for the court.

Comparison Metric	Traditional Private Litigation	Public Interest Litigation (PIL)
Judicial Role	Umpire; focuses on interpreting existing statutes.	Proactive; may initiate <i>suo motu</i> action or formulate policy guidelines.
Procedural Standards	Strict adherence to court fees, pleadings, and evidence rules.	Flexible; accept letters, telegrams (Epistolary Jurisdiction) and nominal fees.

The Historical Evolution of PIL in India

The Socio-Political Genesis: The Post-Emergency Context

The emergence of PIL cannot be understood in isolation from the political upheaval of the 1970s. The declaration of a National Emergency in 1975 marked a period of severe state repression, where civil liberties were suspended and the judiciary faced institutional intimidation. The Supreme Court's decision in *ADM Jabalpur v. Shivkant Shukla* (1976), which upheld the suspension of the right to *habeas corpus*, is often cited as the court's "darkest hour".

Following the end of the Emergency and the subsequent restoration of democracy, the judiciary felt a pressing need to regain public confidence and legitimize its role as the ultimate guardian of the Constitution. This led to a "transformative moment" where judges sought to reach out to the masses. The focus shifted from protecting the property rights of the elite to defending the fundamental rights of the impoverished. The judiciary recognized that for millions of Indians, the "right to move the court" remained an empty promise due to the costs of litigation and the complexity of legal procedures.

The Liberalization of Locus Standi: The Doctrinal Foundations

The earliest seeds of PIL were sown by Justice V.R. Krishna Iyer and Justice P.N. Bhagwati, who argued that the legal system must be sensitive to the "social want" and the "suffering of the masses". In cases like *Mumbai Kamgar Sabha v. Abdulbhai* (1976), the court began to signal that technical rules of procedure should not be allowed to frustrate the cause of justice.

The formal conceptualization of PIL, however, arrived with *Hussainara Khatoon v. State of Bihar* (1979). This case originated from a series of articles in the *Indian Express* exposing the plight of undertrial prisoners in Bihar who had languished in jail for years, often exceeding the

maximum sentence for their alleged crimes. Advocate Kapila Hingorani filed a writ petition on their behalf, and the Supreme Court, in a landmark ruling, ordered the release of nearly 40,000 prisoners. This case established two critical precedents: first, that any public-spirited citizen could approach the court for the redressal of a public wrong; and second, that the "right to a speedy trial" is a fundamental right implicit in Article 21.

The doctrinal anchor for this shift was provided by a seven-judge bench in *S.P. Gupta v. Union of India* (1981). Justice Bhagwati, the "founding father of PIL," famously declared that where a person or a class of persons is unable to approach the court due to "poverty, helplessness, or disability," any member of the public acting *bona fide* can invoke the court's assistance. This ruling transformed the Indian judiciary from a passive arbiter of private disputes into a proactive champion of public welfare.

The Development of Epistolary Jurisdiction

A significant procedural innovation during this period was the introduction of "epistolary jurisdiction." In *Sunil Batra v. Delhi Administration* (1980), the court treated a letter written by a prisoner complaining of a fellow inmate's torture as a writ petition. This signaled that the court was willing to dispense with formal affidavits and complex legal drafting if a genuine violation of fundamental rights was brought to its notice. This "flexible access" allowed social activists and even judges themselves (through *suo motu* action) to initiate proceedings based on newspaper reports or personal correspondence.

Phases of PIL Evolution

Scholars generally categorise the evolution of PIL into three distinct phases, each marked by a different thematic focus:

1. **Phase I (Late 1970s - 1980s): The Era of the Downtrodden.** The focus was on the most marginalized sections of society, including undertrial prisoners, bonded laborers, and neglected children.
2. **Phase II (1990s - Early 2000s): Environmental and Gender Jurisprudence.** The judiciary expanded PIL to include environmental protection (M.C. Mehta cases), gender justice (*Vishaka* guidelines), and urban governance.

3. Phase III (2010s - Present): Governance, Accountability, and the Crisis of Misuse.

PIL is increasingly used to challenge administrative policies, target corruption in high places, and enforce transparency (e.g., Right to Information interventions).

Landmark Case	Year	Core Legal Principle / Outcome
<i>Hussainara Khatoon v. Bihar</i>	1979	Established the right to a speedy trial as a part of Art. 21.
<i>S.P. Gupta v. Union of India</i>	1981	Formally relaxed <i>locus standi</i> ; established PIL doctrine.
<i>Bandhua Mukti Morcha v. UOI</i>	1984	Focus on bonded labor; utilized commissioners for fact-finding.
<i>M.C. Mehta v. Union of India</i>	1987	Introduced 'Absolute Liability' for hazardous industries.
<i>Vishaka v. State of Rajasthan</i>	1997	Formulated guidelines against sexual harassment at the workplace.

Expansion of Rights and Judicial Activism

Environmental Governance: The M.C. Mehta Legacy

One of the most prolific areas of PIL is environmental law. The Supreme Court, primarily through the petitions of advocate M.C. Mehta, adopted a proactive stance in addressing ecological degradation that the executive branch had neglected. In the *Ganga Pollution* case and the *Taj Trapezium* case, the court issued sweeping directions to close polluting industries, relocate factories, and implement sewage treatment plants.

Through these PILs, the court evolved several globally recognized environmental principles:

- **The Public Trust Doctrine:** In *MC Mehta v. Kamal Nath*, the court held that the state is the trustee of all natural resources (forests, rivers, air) which are meant for public use, and cannot permit their conversion into private ownership for commercial gain.
- **The Precautionary Principle:** Mandating that the burden of proof lies on the industrialist to show that their activity is environmentally benign.
- **The Polluter Pays Principle:** Ensuring that the cost of remedying environmental

damage is borne by the responsible party.

Social and Human Rights Interventions

The judiciary used PIL to breathe life into the Directive Principles of State Policy, transforming them into enforceable mandates. In *Bandhua Mukti Morcha v. Union of India* (1984), the court addressed the systemic failure of the state to enforce the Bonded Labour System (Abolition) Act, 1976. The court emphasized that the state must not only release but also rehabilitate laborers to prevent them from falling back into the trap of debt slavery.

In the realm of gender justice, *Vishaka v. State of Rajasthan* (1997) stands as a testament to judicial creativity. In the absence of a specific domestic law on sexual harassment, the court used international conventions (CEDAW) to formulate the "Vishaka Guidelines," which filled a critical legislative vacuum for over 15 years. This "judicial legislation" was justified under the court's powers to protect fundamental rights where the state had failed to act.

The Right to Life and the Expanding Article 21

The most profound impact of PIL has been the expansive interpretation of Article 21—the right to life and personal liberty. Through PIL, the Supreme Court has ruled that the "right to life" is not merely biological existence but the "right to live with human dignity". This has led to the recognition of several derived rights, including:

- The right to food and shelter.
- The right to a clean environment.
- The right to education and medical care.
- The right against custodial torture and solitary confinement.

Contemporary Misuse: The Crisis of "Luxurious Litigation"

While the early era of PIL was marked by a commitment to the "suffering of the masses," the mechanism has increasingly been co-opted for purposes that undermine its original intent. This phenomenon has led to a surge in frivolous, politically motivated, and publicity-seeking petitions that clutter the judicial docket and delay the delivery of justice in genuine cases.

Categories of Misuse

The contemporary misuse of PIL can be broadly categorized into four types:

1. **Publicity Interest Litigation:** Often filed by advocates or "busybodies" to gain media attention or personal fame. Examples include petitions seeking special transport for judges or challenging minor administrative protocols.
2. **Political Interest Litigation:** Used by political parties or individuals as a "war by other means" to target political rivals or challenge executive policies that should be debated in Parliament.
3. **Private Interest Litigation:** Petitions that are camouflaged as public interest but are actually motivated by personal grievances, commercial rivalry, or a desire to settle private scores. In some cases, industrial groups have used PIL to obtain bans on their competitors' products under the guise of environmental concern.
4. **Frivolous and Vague Litigation:** Petitions that lack any substantial legal basis or public interest, such as those seeking to regulate the chemical content of soaps or requesting directions for television shows on legal awareness.

Case Studies in Misuse and Frivolity (2020-2025)

The 2020–2025 period saw several instances where the Supreme Court expressed deep displeasure at the dilution of the PIL jurisdiction.

- **The Ashok Pandey Cases (2023–2026):** Lawyer Ashok Pandey filed a PIL challenging the oath taken by Justice Devendra Kumar Upadhyaya as the Chief Justice of the Bombay High Court, alleging that the judge failed to use the word "I" before his name. A bench headed by the then Chief Justice D.Y. Chandrachud dismissed the plea as a "frivolous attempt" to gain publicity and imposed a fine of ₹5 lakh, noting that such petitions take the time of the court away from important matters.
- **The Sachin Gupta Petitions (2026):** An advocate filed 25 separate PILs on a range of issues, including common link languages and chemical kill-rates in soaps. The Supreme Court reprimanded the petitioner, asking if he "drafted these petitions in the middle of

the night" and urging him to "concentrate on the profession" rather than rushing to court with vague and baseless claims.

- **Service Matters and Personal Grievances:** In *Sachin Sisodiya v. State of Madhya Pradesh* (2025), the High Court dismissed a PIL with exemplary costs of ₹1 lakh, finding that it was an attempt to settle a personal service dispute between an employee and the state by disguising it as a public interest matter.

Issue Category	Example of Misuse / Frivolity	Judicial Response
Judicial Protocol	Challenge to the wording of a Judge's oath.	Dismissed with ₹5 Lakh fine; termed "Publicity Litigation".
National Security	Request for judicial probe into Rafale Jet Deal.	Refused; ambit of review restricted in security matters.
Private Dispute	Challenge to a rival industrial group's mining activities.	Dismissed; petitioner fined for lack of <i>bona fides</i> .
Policy/Daily Life	Seeking regulation of chemicals in soap and bacteria kill-rates.	Reprimanded for frivolity; told to approach authorities first.
Employment	Challenging the appointment of an Advocate General beyond age 62.	High Court reversed; PIL termed an abuse of process.

The "National Security" Bugbear and Judicial Accountability

A critical area of contemporary debate is the use of PIL in matters touching upon national security. In *Manohar Lal Sharma v. Narendra Modi* (the Rafale case, 2018), the court adopted a "judicial hands-off" approach, stating that it was neither appropriate nor within the court's experience to scrutinize technical feasibility or pricing in defense contracts.

However, in the *Pegasus Spyware Probe* (2021), the court took a firmer stance. When the government refused to file a detailed affidavit on the grounds of "national security," the court ruled that the state does not get a "free pass" every time this spectre is raised. The court noted that unauthorized surveillance infringes on the right to privacy and has a "chilling effect" on freedom of speech and the press. This contrast highlights the ongoing struggle to define the

boundaries of PIL in the face of executive claims of sovereign secrecy.

Judicial Overreach and Institutional Capacity

The expansion of PIL has inevitably led to questions about judicial overreach—when the court exceeds its constitutional mandate and encroaches upon the legislative or executive spheres.

The Separation of Powers Concern

India's democratic framework rests on the separation of powers. Critics argue that through PIL, the judiciary has become a "policy planner and manager," making decisions that involve budgetary allocations and administrative reorganization for which it is not accountable to the public. For example, the court's intervention in environmental matters, such as the Delhi vehicular pollution case, has been criticized for setting policy that should ideally emerge from a sociopolitical process rather than a judicial forum.

The judiciary's foray into "polycentric disputes"—cases where one decision has ripple effects across multiple sectors—often exposes its lack of institutional capacity. Unlike the executive, the court does not have access to technical experts or the ability to conduct long-term cost-benefit analyses.

The "Social Reversal" Phenomenon

Recent empirical analysis of PIL win rates reveals a troubling trend. While PIL was intended as a tool for the poor, the data suggests that fundamental rights claims filed by "advantaged" social groups are significantly more successful than those filed by marginalized groups. This "social reversal" implies that the PIL jurisdiction is increasingly being used to protect middle-class interests—such as urban beautification or environmental cleanup—at the direct expense of the poor, who may face displacement or loss of livelihood as a result of judicial orders.

The Path Toward Reform: Safeguarding the Integrity of PIL

The recurring problem of misuse necessitates a robust framework for reform to ensure that PIL remains a "strategic arm for justice" rather than a "Rampuri knife" for personal gain.

Judicial Guidelines: The Balwant Singh Chauhal Framework

In *State of Uttaranchal v. Balwant Singh Chauhal* (2010), the Supreme Court laid down

comprehensive guidelines to help courts distinguish genuine PIL from abuse. These guidelines form the cornerstone of current reform efforts:

1. **Strict Verification of Credentials:** Courts must *prima facie* verify the credentials and the *bona fides* of the petitioner before entertaining a PIL.
2. **Disclosure of Interest:** Petitioners must file an affidavit stating they have no personal interest and that the petition is not guided by self-gain or political motive.
3. **Correctness of Information:** The court should be satisfied with the accuracy of the information provided before proceeding.
4. **Priority to Genuine Public Interest:** PILs involving larger public interest, such as the rights of the marginalized or environmental protection, should be prioritized over governance-related "busybodies" petitions.
5. **Exemplary Costs:** Courts should not hesitate to impose heavy financial costs on frivolous petitioners to deter future misuse.

Institutional and Procedural Reforms

Academic scholarship and the Law Commission of India (reports 122 and 231) suggest several procedural interventions:

- **Preliminary Screening Committees:** High Courts should establish a designated "PIL Cell" or a committee led by senior judges to screen admissibility before a case is listed.
- **Thematic Specialization:** Specialized PIL benches should be created for areas like environmental law or social welfare to allow for deeper expertise and consistent monitoring of orders.
- **AI-Enhanced Case Management:** The integration of Artificial Intelligence (AI) can assist in scanning case backlogs, identifying repetitive/vexatious litigants, and verifying precedents, thereby increasing judicial efficiency.
- **Data-Driven Monitoring:** For complex PILs (e.g., prison reforms or pollution control), the court should establish "Implementation Mechanisms" with clear timelines and

technical monitoring units.

The Role of Artificial Intelligence in Future Judicial Efficiency

The Indian judiciary is currently burdened by a massive backlog of cases, which is further exacerbated by the influx of frivolous PILs. Emerging research highlights that AI-powered systems can scan large bodies of case law to find pertinent precedents, reducing the time required for legal research by judges. Furthermore, expert systems could help predict the potential outcomes of PILs based on historical data, allowing for a more objective assessment of admissibility at the threshold stage. By automating repetitive administrative tasks like scheduling and case tracking, AI could free up judicial time for substantive adjudication of genuine public causes.

Reform Category	Specific Recommendation	Intended Outcome
Screening	Establish a preliminary judge-led PIL Screening Committee.	Filtering out frivolous or unmotivated petitions at the threshold.
Financial	Impose exemplary costs (₹1 Lakh to ₹5 Lakh) for misuse.	Deterring "busybodies" and publicity seekers.
Technological	Integrate AI for document analysis and precedent-scanning.	Reducing backlog and increasing speed of decision-making.
Doctrinal	Adhere to the 'Doctrine of Restraint' in policy matters.	Maintaining the separation of powers and institutional balance.
Monitoring	Appoint technical experts to supervise 'Continuing Mandamus' orders.	Ensuring long-term compliance and effective implementation.

Conclusion

Public Interest Litigation (PIL) has served as the "conscience keeper" of the Indian Republic for over four decades. From its modest beginnings as a tool to release undertrial prisoners, it

has evolved into a sophisticated mechanism for enforcing environmental governance, gender justice, and administrative accountability. By relaxing the rigid rules of *locus standi*, the Indian judiciary successfully democratized access to justice, ensuring that the poor and marginalized could participate in the constitutional dream.

However, the "golden age" of PIL is currently threatened by a crisis of over-expansion and misuse. The transformation of a tool for the downtrodden into a platform for publicity-seeking and political score-settling undermines the institutional efficiency of the courts and risks a backlash against judicial activism. The path forward lies in a calibrated approach to reform. As outlined in the *Balwant Singh Chauhan* guidelines and the recommendations of the Law Commission, the judiciary must institutionalize screening mechanisms and enforce strict financial penalties for the abuse of its process.

Furthermore, the integration of technology, particularly Artificial Intelligence, offers a promising avenue to streamline the judicial docket and filter out frivolous claims. Ultimately, PIL must return to its roots: focusing on the genuine public interest and protecting those who cannot protect themselves. Only by maintaining this balance of "active empathy" and "institutional restraint" can the Indian judiciary continue to fulfil its role as a bulwark of democracy and social justice.

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