

## **The Indian Judiciary's Role in Enforcing Justice through Public Interest Litigation.**

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### **ABSTRACT**

Public Interest Litigation (PIL) stands as a cornerstone in the legal landscape of India, designed to empower the underprivileged and address societal issues. This paper critically examines the trajectory of PIL, tracing its evolution from a mechanism of justice to a focal point of judicial activism. Focusing on the judiciary's pivotal role, it explores the challenges faced by PIL in recent times and evaluates the impact of judicial overreach. PIL's genesis lies in the principles of judicial review, aiming to provide a legal avenue for the marginalized who face barriers in accessing justice. However, the paper scrutinizes the contemporary application of PIL, revealing instances of misuse and over-enthusiastic interventions by the judiciary. The phenomenon of judicial activism, particularly in the context of PIL, is dissected, emphasizing the blurred lines between correcting government actions and inadvertent encroachments into the executive and legislative domains. Drawing on specific PIL cases, ranging from environmental concerns to intricate engineering projects, the paper illuminates the unintended consequences of judicial activism. It underscores the need for substantial reforms to realign PIL with its original intent while preserving its potency as an instrument for justice. Instances where the judiciary has assumed roles better suited for other branches of government are analysed, raising questions about the delicate equilibrium essential for a functional democracy. Overall, the paper advocates for a nuanced understanding of the judiciary's role in PIL. While acknowledging the importance of safeguarding individual rights and ensuring justice, it emphasizes the necessity for the judiciary to exercise restraint and adhere to the core principles of judicial review. By striking a balance between activism and restraint, the judiciary can fortify PIL as an effective tool for justice without compromising its foundational principles or contributing to unintended consequences.

**Keywords:**Public Interest Litigation (PIL), Judicial Activism, Judicial Review, Separation of Powers, Legal Reform, Locus Standi, Constitutional Mandate

### **PIL: AN OVERVIEW**

PIL empowers public to ask for justice on behalf of the broader community. It is a legal remedy designed to address societal concerns and ensure that public welfare is upheld.

### **Origin and Evolution of PIL**

Public Interest Litigation, commonly known as PIL, is effected by the legal authority to safeguard the public interest in matters of social concern. Unlike traditional litigation, where a dispute is between private parties, PIL involves legal proceedings that seek to protect and promote the rights and interests of the public at large. The primary objective of PIL is to ensure justice for those who might not have the means or opportunity to approach the court.

### Origin and Evolution:

In the landmark case of *Hussainara Khatoon v. State of Bihar* (1979), the Supreme Court of India laid the foundation for PIL by recognizing the right of prisoners to legal aid. This marked a departure from traditional legal norms and paved the way for using litigation as a means to address broader social issues.

### Characteristics of PIL:

Public Interest Litigation possesses certain distinctive characteristics that set it apart from regular litigation:

- Representation of Public Interest: PIL cases are filed not for personal gain but to address issues affecting a significant section of the public. The petitioner acts as a representative of the broader community.
- Informal Procedure: PIL often follows a more informal procedure, allowing for a broader scope of issues to be brought before the court. This flexibility facilitates the expeditious resolution of matters.
- Expansive Locus Standi: Unlike traditional cases, PIL allows individuals and organizations to file petitions on behalf of others, even if they are not directly affected by the issue at hand. This liberal standing principle enhances access to justice.
- Judicial Activism: PIL cases often involve judicial activism, where the courts take a proactive role in ensuring justice, protection of fundamental rights, and the fulfillment of constitutional obligations.

### Private vs Public Interest Litigation

While both private and public interest litigations share the common goal of seeking justice, they differ significantly in their scope, purpose, and the parties involved.

#### Private Litigation:

Private litigation typically involves disputes between private individuals or entities. The goal is to resolve a specific legal conflict, and the parties are primarily concerned with their individual rights and interests.

#### Public Interest Litigation:

In contrast, PIL is concerned with matters of public concern. The objective is not to settle a private dispute but to address issues that have broader societal implications. PIL seeks to safeguard the rights of common people of the society.

#### Parties Involved:

- Private litigation involves parties with a direct and personal interest in the case. The plaintiff initiates legal proceedings to protect their individual rights, seeking remedies such as compensation or specific performance.
- PIL can be initiated by any citizen or group acting on behalf of the public. The petitioner need not have a personal stake in the matter; their standing is based on the broader societal impact of the issue. Courts often allow 'public spirited individuals' to file PIL petitions.

Adversarial vs. Inquisitorial Nature:

- Private litigation is adversarial, with opposing parties presenting their cases and evidence. The court's role is to impartially adjudicate the dispute between the parties.
- PIL cases often have an inquisitorial nature, where the court actively investigates and ensures that justice is served in the public interest. Courts may take suo-motu cognizance of matters and issue directives for the protection of rights.

### **Universal Approach**

PIL, an Indian concept, has transcended geographical boundaries and found resonance in legal systems across the globe. The universal approach of PIL emphasizes its adaptability to diverse legal frameworks and the pressing need for a mechanism that addresses collective concerns.

Global Recognition of PIL:

PIL has gained recognition in various jurisdictions, albeit under different names and forms. In the United States, it aligns with class action suits and citizen suits, where individuals or groups represent the interests of a larger class or the public. Similarly, in the United Kingdom, the concept is reflected in legal actions.

Cross-Cultural Impact:

The principles underlying PIL are not confined to any particular culture or legal tradition. The emphasis on justice, fairness, and the protection of fundamental rights resonates across diverse societies. The adaptability of PIL to different legal systems is a testament to its universal appeal and the shared goal of promoting the common good.

Challenges and Criticisms:

Despite its global acceptance, PIL is not without challenges and criticisms. Some argue that the broad standing provisions can be misused, leading to frivolous litigation. Additionally, concerns have been raised about judicial overreach and the potential infringement on the separation of powers.

### **PIL IN INDIAN CONTEXT**

Public Interest Litigation (PIL) in India marks a revolutionary departure from traditional legal paradigms, reflecting a progressive approach to justice and social welfare. The inception and manifestation of PIL in India pointed towards pivotal moments that reshaped the landscape of public interest advocacy.

#### **Landmark Cases and Evolution of PIL in India:**

PIL in India had shaped and defined by a series of landmark cases that have not only expanded the scope of the legal system but also transformed the way justice is perceived and pursued. These cases set the ground for the evolution of PIL, turning it into a dynamic instrument for social justice and a powerful mechanism for addressing systemic issues.

1. *Hussainara Khatoon v. State of Bihar* (1979):

The case of *Hussainara Khatoon v. State of Bihar* marked the inception of PIL in India. The Supreme Court, led by Chief Justice P.N. Bhagwati, recognized the dire state of undertrial prisoners stuck behind the bars for extended time without legal representation. Supreme court, in a landmark judgment, not only secured the release of these prisoners but also emphasized the right to speedy trial and legal aid.

2. *S.P. Gupta v. Union of India* (1981):

Commonly known as the Judges' Transfer case, *S.P. Gupta v. Union of India* was a turning point in the evolution of PIL. The Supreme Court, in this case, expanded the scope of locus standi, allowing general citizen to bring forth any violation of legal rights. The judgment acknowledged the concept of PIL and affirmed the right of general citizen.

3. *Bandhua Mukti Morcha v. Union of India* (1984):

This case brought to the forefront the issue of bonded labor, a deeply entrenched social problem affecting the marginalized and vulnerable sections of society. The Supreme Court, recognizing the importance of social justice, invoked Article 32 of the Constitution, allowing any individual or organization to approach the legal authority for safeguarding fundamental rights. The case resulted in the release and rehabilitation of bonded laborers and set a precedent for PIL as a means to address labor rights and exploitation.

4. *M.C. Mehta v. Union of India* (1987):

A landmark case in environmental jurisprudence, *M.C. Mehta v. Union of India* addressed the issue of pollution in the river Ganga. The Apex Court, under Article 32, declared the Ganga a "living entity" and issued a series of directives to industries to control pollution. This case established the principle of absolute liability for hazardous industries. It showcased the evolution of PIL beyond traditional issues, embracing environmental concerns for the greater good.

5. *Vishaka v. State of Rajasthan* (1997):

*Vishaka v. State of Rajasthan* was a pioneering case that addressed job-related molestation cases. The Apex Court, acknowledging the absence of legislation on the subject, created a framework for subsequent legislative action. This case demonstrated the adaptability of PIL to emerging social issues and its capacity to fill gaps in legal protection through judicial activism.

6. *Naz Foundation v. Government of NCT of Delhi* (2009):

This case marked a significant step in recognizing interests of LGBTQ+ in India. The Delhi High Court, in a historic judgment, decriminalized consensual homosexual acts between adults, overturning a colonial-era law. The court, in this instance, expanded the scope of PIL to protect the rights of a marginalized community, signaling a shift towards a more inclusive and rights-based approach in PIL cases.

**Locus Standi in India:**

Locus standi, a Latin term meaning "standing" or the right to bring a legal action, has been a critical aspect of legal proceedings. The concept has undergone a paradigm shift to facilitate a more inclusive and accessible justice system.

**Expansive Locus Standi:**

One of the defining features of PIL in India is its expansive interpretation of locus standi. PIL allows any citizen or organization acting in the public interest to file a petition, even if they are not directly affected by the matter at hand. This liberal approach to standing has been instrumental in democratizing access to justice.

**Public Spirited Individuals:**

The Indian judiciary has recognized the role of "public-spirited individuals" as catalysts for positive change through PIL. These individuals, often activists or concerned citizens, may reach the legal authority for a group or community facing injustice or discrimination. The judiciary, in its wisdom, has acknowledged the need to empower such individuals to act as guardians of public interest.

**Relaxation of Procedural Technicalities:**

In PIL cases, the courts have displayed a willingness to relax procedural technicalities that might impede the dispensation of justice. The focus is on substance over form, ensuring that meritorious issues are not dismissed on procedural grounds. This approach aligns with the overarching goal of promoting justice and upholding constitutional values.

**Role of the Judiciary:**

The Indian judiciary took charge in shaping doctrine of locus standi in PIL cases. In several instances, the courts have taken suo-motu cognizance of matters based on news reports, letters, or other communications, showcasing a willingness to bypass traditional notions of standing to address urgent public interest issues.

**JUDICIAL REVIEW IN ENFORCING JUSTICE IN PIL**

PIL has become potent machinery for justice in this country, and at its core lies the mechanism of judicial review. The interplay between PIL and judicial review is crucial in addressing systemic issues, protecting fundamental rights, and fostering accountability in the Indian context. This essay explores how judicial review, within the framework of PIL, becomes a catalyst for enforcing justice in India.

**Constitutional Mandate:**

**Upholding Constitutional Values:** India's constitutional framework has empowered the Judiciary to scrutinize the constitutionality and legality of government actions. In PIL, this mandate is employed to ensure that government policies, decisions, and legislative acts align with the constitutional values enshrined in the Indian Constitution.

Article 32 and Article 226: They grant both Apex and State Courts power to issue writs for safeguarding of fundamental rights. PIL leverages these constitutional provisions for effecting Court interference through judicial review to enforce justice.

**Scope of Judicial Review in PIL:**

Challenging Executive and Legislative Actions:

One of the primary functions of judicial review in PIL is to assess the constitutionality of executive and legislative actions. PIL often involves challenging government decisions, policies, and laws that impact public interest. Through judicial review, the courts examine whether these actions adhere to constitutional norms and principles.

Expansive Locus Standi:

Judicial review in PIL goes beyond traditional norms of standing. It allows individuals, public-spirited organizations, and even the courts themselves to take suo-motu cognizance of matters, irrespective of a direct personal interest. This expansive locus standi ensures that issues of significant public interest are not dismissed solely on procedural grounds.

**Ensuring Justice in Public Interest:**

Protecting Fundamental Rights:

One of the paramount objectives of judicial review in PIL is to protect fundamental rights. PIL cases often involve the assertion and defence of rights that transcend individual grievances, encompassing issues affecting large sections of society. The judiciary, through its power of judicial review, safeguards these rights from any infringement.

Addressing Systemic Issues:

PIL, coupled with judicial review, becomes a vehicle for addressing systemic issues. The judiciary, rather than merely settling individual disputes, delves into matters of broader public concern. This proactive approach enables the courts to provide remedies and directives that contribute to the resolution of deep-rooted societal problems.

Social Justice and Equality:

Judicial review in PIL plays a pivotal role in promoting social justice and equality. By scrutinizing government policies and actions, the judiciary ensures that marginalized and vulnerable sections of society are not disproportionately affected. This aspect of judicial review reinforces the constitutional commitment to justice and fairness.

**CHALLENGES OF JUSTICE IN PILCASES**

Over the years, as the landscape of PIL evolves, certain inherent difficulties arise that impact the efficacy and efficiency of the justice delivery system. This essay explores some of the significant challenges faced in PIL cases.

**Locus Standi and Abuse of PIL:**

- **Expansive Locus Standi:** A defining aspect of PIL is broad interpretation of locus standi, allowing individuals and organizations to bring matters of public interest before the court, even if they are not directly affected. While this inclusivity enhances access to justice, it also opens the door to potential misuse and frivolous petitions.
- **Abuse of PIL:** A challenge lies in distinguishing genuine public interest from cases filed with ulterior motives, political agendas, or personal vendettas. The potential for abuse of PIL by individuals or groups pursuing non-altruistic goals undermines the credibility of the justice system and burdens the courts with frivolous litigation.

**Judicial Activism vs. Separation of Powers:**

- **Striking a Balance:** Judicial activism in PIL, while often necessary for addressing systemic issues, poses a challenge to the delicate balance of powers between the judiciary, legislature, and executive. Critics argue that an overactive judiciary may encroach upon the policy making domain of the other branches.
- **Policy Decisions vs. Judicial Prerogative:** Determining the boundary between policy decisions that fall within the purview of the executive and those that warrant judicial intervention is a constant challenge. Courts, in their pursuit of justice, may find themselves in a delicate position, navigating between upholding constitutional values and respecting the autonomy of the other branches of government.

**Delay in Justice Delivery:**

- **Procedural Complexities:** The complexity of legal procedures and the adversarial nature of litigation contribute to delays in justice delivery. PIL cases, often involving voluminous documents and multiple parties, face the risk of protracted legal processes that can undermine the expeditious resolution of matters of public interest.
- **Overburdened Courts:** The sheer volume of cases, including PILs, poses a challenge to the Indian judiciary. Overburdened courts, with a backlog of cases, may struggle to provide timely hearings and decisions. Delays in justice delivery can dilute the impact of PILs, particularly in cases where urgent intervention is required.

**Cost Implications and Legal Aid:**

- **Financial Constraints:** PILs, although meant to provide access to justice for all, can be financially demanding. Legal procedures, filing fees, and associated costs may act as deterrents for individuals or smaller organizations seeking to bring matters of public interest before the court. This poses a challenge to the inclusivity and democratization of the justice system.
- **Legal Aid:** While legal aid is available, its effectiveness in ensuring equal access to justice in PIL cases is constrained by resource limitations. The availability of competent legal representation for those without financial means is a persistent challenge, hindering the full realization of the potential impact of PIL.

**Political and Executive Resistance:**

- Political Backlash: PILs, often challenging governmental policies and actions, may face political resistance. Political backlash against judgments that are perceived as encroaching on executive or legislative prerogatives can create an atmosphere of hostility toward PIL litigants and judicial decisions.
- Implementation Hurdles: Even when favourable judgments are obtained through PIL, the effective implementation of court directives can be challenging. Resistance from government bodies and bureaucratic hurdles may impede the execution of orders, diminishing the intended impact on public interest.

**Inadequate Data and Expertise:**

- Lack of Comprehensive Data: PILs frequently require statistical data and expert opinions to substantiate claims and assess the impact of policies. However, a lack of comprehensive, accurate, and up-to-date data can impede the evidentiary foundation of PIL cases, making it difficult for the court to render informed decisions.
- Expertise in Specialized Fields: Issues in PIL cases often involve specialized fields such as environmental science, economics, or technology. The judiciary may face challenges in acquiring and comprehending expert opinions in these areas, potentially impacting the court's ability to make well-informed decisions.

**Media Sensationalism and Public Perception:**

- Media Trials and Sensationalism: PIL cases, particularly those with significant public interest, may attract intense media coverage. While media attention can bring issues to the forefront, it may also lead to sensationalism and "trial by media," potentially influencing public perception before the court has had an opportunity to adjudicate.
- Public Expectations: High-profile PILs often raise public expectations regarding the judiciary's role in resolving complex issues. Managing public expectations while ensuring a fair and impartial legal process is a challenge that the judiciary faces in high-profile PIL cases.

**RECOMMENDATION FOR CURBING JUDICIAL OVER-ACTIVISM**

While judicial activism is often seen as a means to protect rights and ensure justice, it is essential to strike a balance to prevent any encroachment on the functions of the other branches of government. Here are several recommendations to curb judicial over-activism:

**Clarity in Judicial Roles:**

- Defining Boundaries: Clear guidelines and jurisprudential principles should be articulated to define the boundaries of judicial intervention. The judiciary must maintain a judicious balance between protecting individual rights and respecting the legislative and executive domains. Defining these boundaries will help prevent excessive interference in policy matters.
- Role of Interpretation: Judges should primarily interpret laws rather than actively engage in policy formulation. Judicial decisions must focus on upholding the



constitution and existing laws, leaving policy choices to the discretion of elected representatives. This requires a nuanced comprehension of division of authority and limits of judicial authority.

**Limitation on Public Interest Litigation (PIL):**

- **Stringent Locus Standi Criteria:** Restrictive criteria for standing in PIL cases can help filter out frivolous or politically motivated petitions. Requiring petitioners to demonstrate a genuine and direct interest in the matter at hand can prevent the misuse of PIL for purposes other than the pursuit of public interest.
- **Screening Mechanism:** Implementing a screening mechanism or preliminary review process for PIL petitions can ensure that only cases with substantial public interest and constitutional significance proceed. This mechanism could be overseen by a designated body to assess the merit and legitimacy of the PIL before it reaches the court.

**Judicial Restraint:**

- **Adherence to Legal Principles:** Judges should exercise restraint by adhering strictly to legal principles and avoiding unnecessary pronouncements on policy matters. Decisions should be based on the interpretation of existing laws and the constitution, limiting judicial opinions to the specific legal issues presented in the case.
- **Avoiding Policy Prescriptions:** Judges should refrain from prescribing detailed policy measures. While the judiciary may identify constitutional violations, it should leave the implementation of remedies to the executive and legislative branches, thus avoiding an overreach into policy-making.

**Strengthening Alternative Dispute Resolution (ADR):**

- **Promoting Mediation and Arbitration:** ADR, as a collaborative and non-adversarial approach to dispute resolution, can address issues without the need for extensive judicial intervention, reducing the scope for judicial overreach.
- **ADR in Public Matters:** Exploring the feasibility of incorporating ADR in certain public matters, especially those involving policy disputes can help depoliticize issues and provide a more consensual resolution. This could involve establishing specialized ADR mechanisms for specific types of disputes.

**Enhanced Judicial Accountability:**

- **Judicial Review of Judicial Decisions:** Instituting mechanisms for judicial review of decisions that may be perceived as exceeding constitutional bounds can enhance accountability. An independent body, perhaps a judicial review commission, could assess decisions to ensure they align with established legal principles and the separation of powers.
- **Transparent Decision-Making:** Judicial opinions should be transparent and well-reasoned, clearly articulating the legal basis for decisions. This transparency can foster public understanding and scrutiny, enabling a more informed discussion on the appropriateness of judicial interventions.

**Educational Initiatives:**

- **Judicial Education:** Ongoing education programs for judges on constitutional limits and the potential consequences of over-activism can enhance awareness. Training should focus on imparting a deep understanding of the judiciary's role within the broader democratic framework.
- **Public Legal Literacy:** Promoting legal literacy among the public can foster a nuanced understanding of the judiciary's role and limitations. Public awareness campaigns can contribute to a more informed citizenry that appreciates the importance of the separation of powers in a democratic society.

**Legislative Checks and Balances:**

- **Legislative Oversight:** The legislature should play an active role in scrutinizing judicial decisions that may appear to overstep constitutional boundaries. Legislative committees could be tasked with reviewing specific cases to ensure the judiciary remains within its designated sphere.
- **Legislative Clarification:** Legislatures should consider enacting laws or resolutions to clarify the intent of certain statutes, especially in areas where judicial activism is more prevalent. This proactive approach can reduce ambiguity and provide clearer guidance to the judiciary.

**CONCLUSION**

In conclusion, the judiciary's function in enforcing justice through public interest cases is a pivotal element in upholding the democratic principles of fairness, accountability, and protection of fundamental rights. Through PIL, Judiciary emerges as a guardian of the collective well-being, scrutinizing governmental actions and policies to ensure they align with constitutional values. The dynamism of the judiciary in interpreting laws, setting precedents, and providing innovative remedies underscores its proactive role in addressing systemic issues affecting the public interest.

In the Indian context, landmark judgments in PIL cases have reshaped legal landscapes, influenced policy changes, and contributed to the evolution of societal norms. While the judiciary's intervention is crucial, a delicate balance must be maintained to prevent judicial overreach and respect the separation of powers. The judiciary's commitment to justice in public interest cases exemplifies its role as a bulwark against injustice, safeguarding the democratic ideals that form the bedrock of a just and equitable society. As the judiciary continues to navigate complex issues through the lens of public interest, its unwavering dedication to enforcing justice remains a cornerstone of the legal and constitutional framework.

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