



Evolving Trends in Public Interest Litigation: Scope and Limitations

Dr. Santosh Kumar

B.Sc. (Maths), LL.M., NET, JRF, SRF, Ph.D. (LAW)

ARTICLE DETAILS	ABSTRACT
Research Paper	<i>Public Interest Litigation (PIL) has emerged as one of the most significant judicial innovations in Indian constitutional law, symbolizing the democratization of access to justice. Originally conceived as a procedural mechanism to enable disadvantaged and marginalized groups to seek redress before the judiciary, PIL has evolved into a powerful instrument for enforcing constitutional rights and promoting social justice. This paper critically examines the evolution of Public Interest Litigation in India, tracing its transformation from traditional locus standi restrictions to a dynamic tool of judicial activism. It analyzes key judicial pronouncements, evaluates the expansion of its scope to environmental, administrative, and human rights issues, and assesses the accompanying challenges of judicial overreach, frivolous petitions, and institutional imbalance. The paper further contextualizes the Indian experience within a global comparative framework, identifying best practices and lessons. It concludes that the future of PIL lies in achieving a balance between judicial innovation and constitutional restraint, ensuring that it remains a tool of justice rather than a weapon of political or personal interest.</i>
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1. Introduction

The concept of Public Interest Litigation (PIL) represents one of the most transformative developments in the history of Indian constitutional jurisprudence. It marks a shift from a rigid, technical system of litigation to a more inclusive, people-oriented judicial process. Emerging in the late 1970s and gaining institutional recognition in the early 1980s, PIL has redefined the role of the Indian judiciary as not merely a dispute-resolution body but as a guardian of constitutional governance and social justice.



The traditional Anglo-Saxon model of litigation was premised on the adversarial system, where only aggrieved individuals with a direct personal stake could approach the court. This doctrine of locus standi—the right to be heard—restricted access to justice, leaving vulnerable and marginalized sections of society without effective remedies. In response, the Supreme Court of India reimagined its constitutional mandate under Articles 32 and 226, allowing any public-spirited individual or organization to file a petition for the enforcement of fundamental rights on behalf of others.

This innovation, championed by judges such as Justice P. N. Bhagwati and Justice V. R. Krishna Iyer, transformed the Indian judiciary into a proactive institution. PIL became the “judicial voice of the voiceless”, bridging the gap between constitutional ideals and social realities. It has since evolved to address diverse issues—ranging from bonded labor, environmental degradation, and custodial violence to transparency, corruption, and women’s rights.

However, the very strength of PIL—its flexibility—has also been a source of concern. The gradual expansion of its scope has led to debates over judicial overreach, separation of powers, and the misuse of PIL for private or political motives. Thus, the evolution of PIL presents a dual narrative: one of judicial creativity in promoting social welfare and another of institutional caution in preserving constitutional balance.

This paper examines the evolutionary trajectory of Public Interest Litigation in India, analyzing its constitutional foundations, phases of judicial development, thematic expansion, and emerging limitations. It also situates India’s PIL model within a comparative global context and proposes a framework for responsible judicial activism.

2. Historical Genesis and Constitutional Foundations of Public Interest Litigation

2.1 The Traditional Doctrine of Locus Standi

Prior to the 1970s, the Indian legal system adhered strictly to the classical rule that only persons directly affected by a legal wrong could approach the court. This doctrine, inherited from British common law, ensured judicial economy but often resulted in the exclusion of the poor and unorganized. The Code of Civil Procedure, 1908 and the Rules of the Supreme Court reinforced this individualistic approach, leaving collective and public grievances largely unaddressed.

However, the framers of the Constitution envisioned the judiciary as the custodian of fundamental rights, empowered under Article 32 (Supreme Court) and Article 226 (High Courts) to enforce these rights.



Despite this constitutional empowerment, the procedural rigidity of locus standi limited the judiciary's reach, especially in matters affecting marginalized communities.

2.2 The Emergence of Social Action Litigation

The post-Emergency period (1977–1980) witnessed a paradigm shift. The judiciary, seeking to regain public trust after years of executive dominance, embraced a social justice approach. The doctrine of Public Interest Litigation, also known as Social Action Litigation (SAL), was born out of this moral reawakening. The landmark case *S. P. Gupta v. Union of India* (1981), often called the “Judges’ Transfer Case,” formally recognized PIL. Justice P. N. Bhagwati expanded the concept of locus standi, holding that “any member of the public acting bona fide can seek judicial redress for a legal wrong or injury caused to a person or a determinate class of persons who are unable to approach the court.” This decision marked the institutionalization of PIL as a legitimate constitutional tool.

Earlier, in *Hussainara Khatoon v. State of Bihar* (1979), the Court had taken suo motu cognizance of newspaper reports on the plight of undertrial prisoners languishing in jails, declaring the right to speedy trial as a part of Article 21. These cases laid the foundation of a proactive judiciary committed to ensuring access to justice.

2.3 Constitutional Basis of PIL

The legal foundation of PIL is rooted in the directive principles of state policy (Part IV) and the fundamental rights (Part III) of the Constitution. The judiciary has harmonized these two parts through creative interpretation, asserting that the State’s failure to implement directive principles can constitute a violation of fundamental rights.

Key constitutional provisions enabling PIL include:

- **Article 32:** Empowers individuals or groups to move the Supreme Court for enforcement of fundamental rights.
- **Article 226:** Grants similar power to High Courts for broader judicial review.
- **Article 39A:** Directs the State to ensure equal justice and free legal aid, serving as a moral and constitutional mandate for expanding access to justice.

Through these provisions, the judiciary developed PIL as an instrument of constitutional transformation, linking justice with social responsibility.

3. Evolutionary Phases of Public Interest Litigation in India

3.1 The Transformative Phase (1979–1990): PIL as a Tool for Social Justice

The first phase of PIL was characterized by judicial intervention in cases of poverty, exploitation, and human rights violations. Judges actively relaxed procedural rules, accepted letters and postcards as writ petitions, and prioritized substantive justice over technicalities.

Landmark cases from this era include:

- **People’s Union for Democratic Rights v. Union of India (1982):** Recognized the right to minimum wages and safe working conditions under Article 21.
- **Bandhua Mukti Morcha v. Union of India (1984):** Addressed bonded labor and recognized socio-economic rights as enforceable components of fundamental rights.
- **Sheela Barse v. State of Maharashtra (1983):** Protected the rights of women prisoners.

This period witnessed the judiciary’s moral resurgence, positioning PIL as a mechanism of social reform and governance accountability. The Court functioned as an “ombudsman of the poor,” transforming Article 21 into a reservoir of human rights.

3.2 The Expansive Phase (1990–2000): From Social Justice to Environmental and Administrative Accountability

The second phase of Public Interest Litigation in India marked an expansion in both scope and subject matter. During this period, PIL transcended issues of poverty and human rights and began addressing environmental protection, corruption, and administrative accountability. The judiciary emerged as an active agent of governance reform.

A series of landmark cases shaped this transformation. In *M.C. Mehta v. Union of India* (1987), the Supreme Court evolved the doctrine of absolute liability for hazardous industries, leading to a series of judgments on pollution control, industrial safety, and environmental conservation. In *Subhash Kumar v. State of Bihar* (1991), the Court held that the right to pollution-free water and air is a fundamental right under Article 21. Through these judgments, environmental rights were constitutionalized.

The PIL movement also expanded to ensure transparency and accountability in governance. In *Vineet Narain v. Union of India* (1997), the Court issued guidelines to insulate the Central Bureau of Investigation (CBI) and Central Vigilance Commission (CVC) from political interference, demonstrating that PIL could function as a tool of systemic reform. Similarly, in *Common Cause v. Union of India* (1996) and *Centre*

for Public Interest Litigation v. Union of India (2012), the judiciary intervened to prevent arbitrariness in resource allocation, particularly in the allocation of natural resources like coal and spectrum.

This phase illustrated the judiciary's willingness to redefine the boundaries of state accountability. However, it also raised concerns regarding the separation of powers. The courts began to engage in policy formulation and monitoring, often stepping into executive domains. Critics argued that while PIL expanded justice, it also blurred institutional boundaries.

3.3 The Institutionalization Phase (2000–2010): Judicial Governance and Rights Expansion

The early 21st century witnessed the institutionalization of PIL as a central feature of judicial functioning. Courts increasingly dealt with issues of good governance, electoral reform, and human rights. PIL petitions became a recognized form of public accountability.

In *Vishaka v. State of Rajasthan* (1997), although decided earlier, the Court's influence continued to resonate. The judgment laid down guidelines for the prevention of sexual harassment at the workplace, exercising judicial creativity in the absence of legislation. Similarly, in *People's Union for Civil Liberties (PUCL) v. Union of India* (2001), the Court directed the implementation of food security measures, transforming the right to food into an enforceable constitutional guarantee.

The Court's role evolved from adjudicator to policy overseer. It began monitoring the implementation of social welfare programs through continuing mandamus, a judicial technique allowing ongoing supervision. This procedural innovation expanded judicial reach but also led to debates about judicial overreach. The PIL mechanism was now being used not only for protection of rights but also for ensuring administrative performance, indicating a shift from "Public Interest Litigation" to "Public Interest Governance."

3.4 The Contemporary Phase (2010–Present): PIL, Technology, and Accountability

In the contemporary era, PIL has adapted to the digital and globalized context. The judiciary now addresses issues like data privacy, online harassment, digital access, and environmental degradation linked with technology. For instance, in *Prajwala v. Union of India* (2015–2018), the Supreme Court directed the government to establish protocols for reporting and removing non-consensual sexual content online, leading to the creation of the National Cyber Crime Reporting Portal.

Recent PILs have also challenged algorithmic bias, misuse of artificial intelligence, and digital surveillance, reflecting the judiciary's recognition of technological rights. However, this expansion has



reignited debates on judicial activism versus judicial restraint. The courts, while protecting rights in the digital age, must ensure consistency with the separation of powers and democratic accountability.

4. Expanding Scope and Emerging Dimensions of Public Interest Litigation

4.1 PIL and Environmental Jurisprudence

The environmental dimension of PIL is one of its most significant contributions. The “green bench” jurisprudence developed through a series of M.C. Mehta cases has influenced global environmental constitutionalism. The Court evolved doctrines such as the precautionary principle, polluter pays principle, and public trust doctrine. These judicial innovations filled legislative gaps, enabling citizens and NGOs to act as environmental watchdogs.

The Court’s intervention in matters like the Ganga pollution, Delhi vehicular emissions, and forest conservation demonstrated the potential of PIL as an instrument of environmental democracy. However, critics point out that judicially imposed bans and directions, though well-intentioned, sometimes overlooked socio-economic implications and administrative feasibility.

4.2 PIL and Human Rights

PIL has been instrumental in expanding the ambit of fundamental rights under Article 21. The Supreme Court has interpreted the right to life to include a wide range of socio-economic entitlements—education, livelihood, housing, health, and dignity. In *Olga Tellis v. Bombay Municipal Corporation* (1985), the right to livelihood was recognized as an integral component of the right to life. In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal* (1996), the right to health and emergency medical treatment was similarly recognized.

The human rights orientation of PIL has transformed constitutional law into a vehicle of social justice. It has empowered marginalized communities, women, prisoners, and minorities to claim recognition and relief. However, the proliferation of petitions and judicial interventions has at times diluted the doctrinal rigor of fundamental rights adjudication.

4.3 PIL and Good Governance

In the governance domain, PIL has addressed issues of corruption, electoral reforms, and transparency. The Court’s directions in *Union of India v. Association for Democratic Reforms* (2002) mandated the disclosure of criminal and financial records of candidates, introducing an unprecedented level of electoral transparency. The recognition of the Right to Information (RTI) as a constitutional right through *People’s Union for Civil Liberties v. Union of India* (2004) further strengthened participatory democracy.



PIL has thus emerged as a constitutional mechanism for ensuring administrative accountability and ethical governance. Yet, its extensive use in matters of policy formulation, including resource management and infrastructure development, has raised concerns over judicial encroachment on executive functions.

5. Limitations and Challenges of Public Interest Litigation

5.1 Misuse and Political Motivations

The liberalization of locus standi, while democratizing access to justice, has also opened the floodgates for frivolous and politically motivated petitions. Courts have observed the rise of “Publicity Interest Litigation” and “Private Interest Litigation”, where petitioners seek media attention or pursue personal vendettas under the guise of public interest. The Supreme Court in *State of Uttaranchal v. Balwant Singh Chaufal* (2010) laid down detailed guidelines to curb misuse, directing courts to verify credentials and bona fides of petitioners.

5.2 Judicial Overreach and Separation of Powers

Judicial activism through PIL has often been criticized for transgressing constitutional boundaries. In cases like *Divisional Manager, Aravali Golf Club v. Chander Hass* (2008), the Supreme Court warned against judicial interference in policy matters, emphasizing that the judiciary must not assume the role of governance. While the Court’s proactive stance has remedied executive inaction, it has also, at times, undermined democratic accountability.

5.3 Lack of Institutional Follow-Up

Many PIL judgments are not effectively implemented due to weak institutional mechanisms. Courts often issue broad directions without adequate monitoring or follow-up. The absence of statutory enforcement agencies for PIL decrees leads to judicial fatigue and administrative inertia.

5.4 Overburdening of Courts

The exponential growth of PILs has added to the judiciary’s workload. The Supreme Court’s docket increasingly includes PILs on issues ranging from pollution to potholes, diluting its constitutional focus. The judiciary must, therefore, adopt a filtering mechanism to prioritize genuine cases that involve systemic constitutional violations.

5.5 Need for Accountability and Code of Conduct

While PILs aim to hold others accountable, the process itself lacks a formal accountability framework. There is a growing demand for a Judicial Code of Responsibility in PIL Adjudication, ensuring



transparency, consistency, and restraint in judicial interventions. Such a framework would preserve PIL's credibility as a constitutional tool rather than a populist instrument.

6. Comparative Perspective: PIL and Global Judicial Activism

Public interest litigation in India has influenced and been influenced by global trends. In the United States, class action suits serve as a mechanism for collective redress, though limited to private law domains. In South Africa, the Constitutional Court allows broad standing for public interest cases, particularly in enforcing socio-economic rights. Similarly, the UK's judicial review system permits third-party interventions in matters of administrative fairness.

India's PIL model stands out for its combination of accessibility, constitutional depth, and moral legitimacy. However, unlike the structured systems of class action or judicial review abroad, India's PIL remains judge-driven rather than legislatively regulated. This creates flexibility but also unpredictability, making it dependent on judicial philosophy.

7. Conclusion

Public Interest Litigation remains a cornerstone of India's constitutional democracy. It has expanded access to justice, empowered marginalized groups, and transformed the judiciary into an active guardian of rights. From *Hussainara Khatoon* to *Prajwala*, PIL has evolved into a symbol of constitutional compassion and institutional innovation.

Yet, its future depends on judicial restraint and procedural integrity. The challenge is to maintain the delicate balance between activism and overreach, between constitutional duty and institutional discipline. The judiciary must preserve PIL as a remedy for injustice, not a substitute for governance.

A sustainable model of PIL requires four commitments: genuine public spirit, judicial discipline, government cooperation, and civil society participation. If these conditions are fulfilled, Public Interest Litigation will continue to serve as India's most powerful instrument of social transformation—an enduring testament to the Constitution's promise of justice, liberty, equality, and fraternity.

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