
PUBLIC INTEREST LITIGATION IN INDIA: FROM SOCIAL JUSTICE TO STRUCTURAL TENSION

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ABSTRACT

Public Interest Litigation (PIL) represents a transformative phase in Indian constitutionalism, redefining access to justice by dismantling procedural barriers such as strict locus standi. Conceived as a remedial innovation to empower marginalized communities, PIL initially functioned as an instrument of participatory democracy and judicial responsiveness. Through expansive interpretations of Articles 21, 32 and 226, the Supreme Court restructured the contours of fundamental rights enforcement.

However, the evolution of PIL has generated structural tensions between judicial activism and constitutional restraint. What began as a mechanism to correct executive inaction has, in certain instances, evolved into judicial governance. The increasing prevalence of publicity-oriented petitions and policy-driven interventions raises important concerns regarding separation of powers and institutional legitimacy.

This paper critically evaluates the doctrinal foundations of PIL, its transformative contributions, and its contemporary distortions. It argues that while PIL remains indispensable to Indian democracy, its future depends upon calibrated judicial discipline and principled threshold scrutiny.

Introduction:

Public Interest Litigation (PIL) in India represents a paradigm shift in the enforcement of constitutional rights, transforming the traditional understanding of locus standi. By allowing individuals and organizations to approach courts on behalf of those unable to secure justice themselves, PIL democratizes access to the judiciary and mitigates structural inequalities. Its evolution reflects a conscious effort to ensure that fundamental rights under Part III of the Constitution are not merely theoretical guarantees but enforceable realities¹

.As *Justice P.N. Bhagwati* observed, PIL enables citizens with a genuine interest to seek judicial intervention against breaches of public duty or violations of constitutional or legal provisions, thereby advancing the rule of law and the objectives of constitutional governance.² While Articles 32 and 226 of the Constitution empower individuals to seek direct judicial remedies, PIL has expanded this framework, accommodating broader claims that address systemic and collective grievances.³ From an analytical perspective, PIL serves not merely as a procedural innovation but as a mechanism for participatory democracy, compelling the state to fulfill its duties and promoting judicial responsiveness.⁴ Yet, its expansive nature raises critical questions regarding the balance between judicial activism and institutional restraint, the potential for overreach, and the necessity for principled thresholds to preserve the legitimacy of judicial intervention⁵ This tension underscores the need to evaluate PIL not only as a tool of justice but also as a reflection of structural dynamics within Indian constitutionalism.⁶

Reasons Behind The Enforcement Of Public Interest Litigation In India:

Public Interest Litigation (PIL) emerged as a transformative instrument within the Indian judicial system, reflecting the judiciary's active role in expanding access to justice. The concept gained momentum during the early 1980s under the aegis of judicial activism led by the Supreme Court of India. Justice P. N. Bhagwati, in the seminal case of **S. P. Gupta v. Union of India**, articulated the theoretical underpinnings of PIL, emphasizing its function as a mechanism to provide legal remedies when constitutional or legal rights of individuals or

¹ Constitution of India , art 32; art 226.

² S.P Gupta vs Union of India AIR 1982 SC 149 (India) (Justice PN Bhagwati noting liberalisation of locus standi in matters of public interest)

³ Id; Bandhua Mukti Morcha vs Union of India AIR 1984 SC 802 (India)

⁴ Upendra Baxi ; The crisis of the Indian Legal System 209 (1982); see also P.P Rao , Public Interest Litigation in India : Dynamics and Debates 37 Econ. & Pol

⁵ Arvind P. Datar , Judicial Activism in India Limits and Perspectives 45J of Indian Constitutional Law 123-25 2001

⁶ M.P Jain , Indian Constitutional Law 721-24 (8th edition 2019)

groups are infringed.⁷The introduction of PIL responded to a critical gap in the conventional justice system: marginalized sections of society, including the economically disadvantaged, socially oppressed, or otherwise vulnerable, often lacked the capacity to initiate legal action on their own. By allowing socially concerned individuals—who may not be directly affected—to approach the courts on behalf of the aggrieved, PIL effectively democratized access to justice⁸. This approach aligns with the constitutional mandate to safeguard fundamental rights, particularly through Articles 32 and 226, which empower the Supreme Court and High Courts, respectively, to issue appropriate writs for the enforcement of such rights.⁹

A fundamental feature of PIL is the relaxation of the traditional doctrine of locus standi. Historically, only individuals directly affected by a legal violation could seek redress, a limitation that excluded vulnerable groups from legal recourse. PIL's liberal approach allows any concerned, law-abiding citizen to petition the court, provided the action is motivated by genuine public interest rather than personal or political gain.¹⁰ This liberalization not only enhances judicial accessibility but also positions the judiciary as an agent of social change, particularly in addressing systemic inequalities and legal injustices in a developing nation like India.

The analytical significance of PIL lies in its capacity to effect structural and policy-level reforms. For instance, in *Bandhua Mukti Morcha v. Union of India*, the Supreme Court intervened to release bonded laborers, highlighting the judiciary's proactive role in enforcing socio-economic rights.¹¹ Finally, **Vishaka Case** represents a landmark intervention where the Supreme Court formulated guidelines to prevent and punish sexual harassment in workplaces, pre-empting legislative action and laying the foundation for statutory protections.

From an analytical perspective, these cases collectively illustrate that PIL is not merely a procedural innovation but a substantive instrument for social engineering. By bridging the gap between law and socio-economic realities, PIL empowers the judiciary to protect human rights, catalyze progressive legal reforms, and enhance governmental accountability. Nevertheless, the effectiveness of PIL is contingent upon responsible judicial oversight to prevent frivolous or politically motivated petitions, a concern that continues to provoke scholarly debate.¹²

⁷ S.P. Gupta v. Union of India, (1981) 2 SCC 87 (India).

⁸ P.N. Bhagwati, Judicial Activism and Public Interest Litigation, 23 J. Indian L. Inst. 1 (1981).

⁹ INDIA CONST. Art. 32; art. 226.

¹⁰ Ibid

¹¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

¹² Madhav Khosla, Public Interest Litigation in India: Problems and Prospects, 45 Econ. & Pol. Wkly. 24 (2019)

Hussainara Khatoon v. State of Bihar: The Genesis of Public Interest Litigation in India

The landmark case of *Hussainara Khatoon v. State of Bihar* (1979) marked a seminal moment in Indian jurisprudence by inaugurating the concept of Public Interest Litigation (PIL). The case arose from the plight of undertrial prisoners in Bihar, many of whom had been detained for periods far exceeding the maximum sentence prescribed for their alleged offences. The judiciary's intervention not only addressed these immediate injustices but also established the right to a speedy trial as a fundamental legal principle under Article 21 of the Constitution of India, which guarantees the protection of life and personal liberty.¹³

Background and Judicial Concerns

Prior to this case, the traditional doctrine of *locus standi* limited legal recourse to individuals directly affected by a matter. However, the extreme conditions faced by prisoners—overcrowding, inadequate facilities, and prolonged pre-trial detention—prompted concerned lawyers, journalists, and activists to bring these issues to the Supreme Court's attention through media reports, letters, and postcards¹⁴. The case challenged not just individual incarcerations but systemic deficiencies in the judicial and prison systems.

Justice P. N. Bhagwati emphasized that administrative or financial constraints could not justify denial of constitutional rights. The court directed the state to undertake comprehensive measures, including the construction of additional courts, appointment of more judges, recruitment of staff, and enhancement of investigative and operational mechanisms, to ensure timely trials¹⁵.

Establishing Public Interest Litigation

The *Hussainara Khatoon* case represented the first instance where the Supreme Court permitted a lawyer to litigate a matter without a direct personal interest, thereby dismantling the strict *locus standi* requirement. This innovation laid the groundwork for PILs as a mechanism through which marginalized populations could access justice. Following investigations into Bihar's prisons, the court ordered the release of thousands of undertrial inmates who had been detained for disproportionately long periods.¹⁶

¹³ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

¹⁴ V. R. Krishna Iyer, *The Judicial Awakening: Public Interest Litigation in India 1987* (Oxford Univ. Press 1987).

¹⁵ P. N. Bhagwati, *Judicial Activism and the Right to Speedy Trial*, 1979 Sup. Ct. Cases J. (1979)

¹⁶ M. P. Singh, *Constitutional Law in India* 452–56 (Eastern Book Co. 2010).

Pushpa Kapila Hingorani, the lawyer who initiated the PIL, later reflected on its transformative impact, highlighting how it democratized access to the courts and enabled legal remedies for the poor and disadvantaged⁵. The success of the case led the Supreme Court to establish a dedicated PIL division within its Registry in the 1980s, facilitating the systematic screening and prioritization of citizen petitions.¹⁷

Evolution and Contemporary Significance

Over time, PIL evolved into a crucial legal instrument for addressing issues of public concern, including environmental protection, media ethics, and heritage conservation. For instance, in *Lalit Valecha v. Union of India*¹⁸, the Delhi High Court issued guidelines to regulate media reporting of deaths and suffering, while in *Rajeev Suri v. Delhi Development Authority*, the Supreme Court clarified that PIL should not be misused for administrative or policy intervention¹⁹. These developments reaffirmed the principle that PILs are intended to uphold fundamental rights and access to justice, not to supplant governance functions or interfere with routine administration.

Thus, *Hussainara Khatoon v. State of Bihar* not only remedied a pressing human rights crisis but also institutionalized PIL as a potent tool for social justice in India, bridging the gap between the marginalized and the judiciary.

Issues and Concerns Surrounding Public Interest Litigation (PIL)

1. **Strain on the Judiciary:** The proliferation of PILs has contributed to significant pressure on India's courts, particularly the Supreme Court and High Courts, often leading to delays in the resolution of routine cases and contributing to judicial backlogs.²⁰
2. **Misuse of PILs:** There has been a growing trend of PILs being filed for personal or vested interests rather than the public good.²¹ Such misuse diverts judicial attention from genuine grievances and results in unnecessary litigation.
3. **Interference in Governance:** PILs, originally intended to address social justice and

¹⁷ Pushpa Kapila Hingorani, *Public Interest Litigation: A Practitioner's Perspective*, 1985 J. Indian L. & Soc'y (1985).

¹⁸ *Lalit Valecha v. Union of India & Ors.*, W.P.(C) No. 5109/2021 (Del. H.C. May 3, 2021).

¹⁹ *Rajeev Suri v. Delhi Development Authority*, AIR 2006 Del 187; *Lalit Valecha v. Union of India*, 2002 Del HC 101.

²⁰ Arghya Sengupta, *The Burden of PILs on Indian Courts*, 23 Ind. L.J. 45, 47 (2021).

²¹ A.K. Chaturvedi, *Public Interest Litigation: Misuse and Implications*, 15 J. Indian L. & Soc'y 12, 14–15 (2020).

fundamental rights violations, increasingly involve matters of governance and policy.²²

This expansion sometimes encroaches upon the functions of the Executive and Legislature, raising concerns about separation of powers.

4. **Judicial Overreach:** Courts have occasionally used PILs to challenge government policies, administrative decisions, or legislation rather than strictly protecting marginalized or vulnerable groups.²³ This practice invites criticism of courts overstepping their constitutional boundaries.

Judicial Activism and Public Interest Litigation: A Transformative Legal Development

Judicial activism in India reflects the judiciary's willingness to reinterpret legal principles to uphold constitutional values and address social inequities. A landmark innovation in this evolution has been the development of Public Interest Litigation (PIL), which relaxed the traditional locus standi requirement to permit individuals and organizations to seek judicial remedies on behalf of disadvantaged groups.²⁴ This broadened access to justice strengthened democratic participation and enabled courts to address issues transcending private disputes, such as environmental degradation, prison conditions, and human rights violations

The Supreme Court has clarified that PIL must originate from genuine concern for public welfare rather than personal interest, underscoring the need for judicial restraint even within an activist framework.²⁵ As Justice J.S. Verma observed, judicial activism entails proactive enforcement of the rule of law essential to a functional democracy.²⁶

PIL has significantly expanded judicial oversight in areas traditionally dominated by the executive. For example, in *D.K. Basu v. State of West Bengal*, the Court prescribed comprehensive safeguards against arbitrary arrest and detention, illustrating the judiciary's commitment to protecting fundamental rights.²⁷ Similarly, in *Sheela Barse v. Union of India*, the Court directed the establishment of separate facilities for juvenile detainees, reflecting a concern for humane treatment within the criminal justice system.²⁸

Environmental jurisprudence represents another area shaped by judicial activism. In *T.N. Godavarman Thirumulpad v. Union of India*, the Supreme Court imposed strict prohibitions on

²² M. P. Jain, *Judicial Activism and Governance in India*, 30 *Ind. J. Const. L.* 101, 104–05 (2019).

²³ P. N. Bhagwati, *Judicial Activism in India: The PIL Experience*, 10 *Nat'l L. Rev.* 55, 58–60 (1981).

²⁴ See *S.P. Gupta v. Union of India*, (1981) Supp. SCC 87 (expanded locus standi in public interest litigation).

²⁵ See *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (emphasizing bona fide PIL and judicial restraint).

²⁶ J.S. Verma, J., quoted in *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301.

²⁷ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610 (arrest and detention safeguards).

²⁸ *Sheela Barse v. Union of India*, AIR 1986 SC 1773 (juvenile detention reforms).

non-forest activities within forest limits, effectively strengthening ecological conservation laws.²⁹

The activism of the Supreme Court has also deepened the scope of Article 21 — the right to life and personal liberty — by recognizing rights such as protection from torture and custodial violence, free legal aid for the indigent, and the right to a healthy environment.³⁰ By articulating these dimensions, the Court has transformed Article 21 into a substantive guarantee of dignity and human welfare. Overall, judicial activism through PIL has enabled the judiciary to fill institutional gaps, protect vulnerable populations, and contribute to the evolution of rights-based governance in India. Nevertheless, this activism continues to be balanced against principles of judicial restraint to prevent overreach and maintain the separation of powers.³¹

Conclusion:

PIL's main goals are to allay public complaints, guarantee that underprivileged groups who do not completely understand their rights receive justice, and educate the public about human rights. The court must be in a position to guarantee that the parties seeking justice have come with good intentions and for the greater good of society; they cannot intervene with political parties or other groups while they are in court. The Supreme Court's and the High Court's overwhelming backlog may occasionally result in excessive delays in PIL cases, disturbing the constitutional balance of power and raising concerns about judicial populism.

²⁹ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267 (forest conservation).

³⁰ See Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746; Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 (expansion of Article 21 protections).

³¹ Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1369.