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**THE CURRENT STATUS OF PUBLIC INTEREST
LITIGATION UNDER INDIAN CONSTITUTIONAL LAW:
TRACING ITS GLOBAL JOURNEY, REMEDIAL
JURISPRUDENCE AND HUMAN RIGHT IMPACT**

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ABSTRACT

The evolution of Public Interest Litigation in India was started from a procedural innovation and converted into a defining architecture of India's constitutional remedial jurisprudence. Holding its initial origin in the socio-legal activism of the United States of America in the early twentieth century and shaped by developments in comparative constitutional law, PIL was transplanted into the Indian constitutional framework during the late 1970s. After the adoption it has undergone significant doctrinal and institutional transformation. This paper traces the global intellectual lineage of PIL from American litigation to the doctrines by Justice P.N. Bhagwati and Justice V.R. Krishna Iyer. Followed by the examination of two classical contemporary cases that reveal its current dimensions: the Supreme Court's interventions in the National Capital Region (NCR) air pollution litigation spanning more than three decades, and the contested PIL proceedings in the Sabarimala temple entry case. Through these case studies, the paper argues that PIL has simultaneously become a vital instrument of human rights protection and a site of institutional tension between judicial overreach, democratic legitimacy, and the rights of religious communities. The paper concludes by proposing a principled framework that preserves PIL's transformative potential while curbing its well-documented pathologies.

Keywords: *Public Interest Litigation, Constitutional Remedies, NCR Pollution, Sabarimala, Locus Standi, Judicial Activism, Human Rights, Article 32, Article 226, Environmental Justice.*

I. INTRODUCTION

The judicial innovation in the post-independence history of India, the Public Interest Litigation that began as a modest relaxation of standing rules in the early 1980s has converted into a comprehensive system of epistolary jurisdiction, court-monitored compliance, and judicially constituted oversight bodies over domain of Indian governance from environmental regulation to prison reform, from education policy to religious practice. Today, PIL can be seen as a most distinctive contribution to global constitutional law: a system in which the courts actively solicits petitions from citizens acting on behalf of the voiceless, receives letters as writ petitions, constitutes expert committees to investigate and report, and issues a cascade of continuing mandamus orders stretching across decades. The doctrinal foundation of PIL rests on the interpretative reading of Article 32 of the Constitution¹, the provision that was described as the “heart and soul” of the Constitution by Dr. B.R. Ambedkar. It allows any member of the public, whether or not personally aggrieved, to invoke the Supreme Court’s original jurisdiction on behalf of persons who cannot approach the court themselves by reason of poverty, illiteracy, or disability.² The landmark case of *Hussainara Khatoon v. State of Bihar* marked the beginning of this transformation, when a lawyer’s letter to the Supreme Court about the conditions of undertrial prisoners in Bihar jails was treated as a writ petition.³

This paper is structured as follows Chapter II situates PIL within its global intellectual ancestry, tracing its roots in American structural reform litigation and comparative developments. Chapter III examines the Indian emergence and doctrinal evolution of PIL, focusing on the contributions of Justices Bhagwati and Krishna Iyer. Section IV undertakes a detailed case study of the NCR pollution PIL, one of the longest continuing mandamuses proceeding in Indian legal history. Chapter V analyses the Sabarimala PIL, a case that places PIL’s human rights function in direct tension with religious freedom and democratic self-governance. Chapter VI examines the human rights implications of PIL. Chapter VIII concludes.

¹ The Constitution of India, art. 32.

² *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

³ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81.

II. GLOBAL INTELLECTUAL ORIGIN OF PUBLIC INTEREST LITIGATION

2.1 The American Origin

The intellectual wellspring of PIL lies in the American legal tradition. When the tension between formal procedural rules and substantive access to justice was generated, over the course of the twentieth century, a fundamentally new model of adjudication was developed. The American “rights revolution” of the mid-twentieth century was premised on the systematic use of litigation as a tool of social change by organised advocacy organisations funded by foundations and government legal aid programmes.⁴ The landmark decision in *Brown v. Board of Education* (1954), in which the United States Supreme Court declared racial segregation in public schools unconstitutional and while doing so also issued a prospective decree requiring systemic institutional restructuring of public education.⁵ This judgment departed from the classical model of litigation was termed as “public law litigation” by Prof. Abram Chayes theorising it as a form of adjudication characterised by forward-looking relief, and judicial superintendence of institutional reform.⁶

The key features of this new model: the lawsuit was not about a past violation between two parties but about the ongoing operation of a public institution; the remedy was not a one-time damages award but a complex decree requiring monitoring and adjustment over time; and the judge’s role was not passive arbiter but active manager.⁷ This discussion was further enriched by Colin Diver by documenting the emergence of the judge as political powerbroker in American institutional reform litigation.⁸

Beginning with *Baker v. Carr* (1962) and accelerating through the Warren Court era, American courts relaxed the requirement that a plaintiff demonstrate a personal, particularised injury to sue.⁹ The emergence of class actions provided citizen suit provisions in environmental statutes, and the legal standing of public interest organisations to litigate on behalf of diffuse groups collectively created the procedural infrastructure within which a PIL-type litigation flourished in the United States.

⁴Charles R. Epp, “The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective” (University of Chicago Press, 1998).

⁵*Brown v. Board of Education*, 347 U.S. 483 (1954).

⁶Abram Chayes, “The Role of the Judge in Public Law Litigation” (1976) Harvard Law Review.

⁷*Ibid.*

⁸Colin S. Diver, “The Judge as Political Powerbroker: Superintending Structural Change in Public Institutions” (1979) 65 Virginia Law Review 43, 48.

⁹*Baker v. Carr*, 369 U.S. 186 (1962).

2.2 Comparative Developments: Canada, South Africa, and the Global South

The liberalisation of standing and the institutional reform model of adjudication were not confined to the United States. Mauro Cappelletti's comparative work documented the emergence across Western legal systems of a "third wave" of access-to-justice reform, following reforms to legal aid and alternative dispute resolution, that focused on vindicating collective and diffuse interests through judicial process.¹⁰

In Canada, the Supreme Court adopted a generous standing doctrine under the Canadian Charter of Rights and Freedoms from its inception in 1982, permitting public interest organisations to challenge government action even without demonstrating personal injury. The South African Constitution of 1996 codified public interest standing in section 38, expressly granting any person acting as a member of, or in the interest of, a group or class of persons, or acting in the public interest, standing to approach a court for enforcement of constitutional rights. Bangladesh, Pakistan, and Sri Lanka similarly developed PIL-type jurisprudences drawing explicitly on the Indian experience, creating a South Asian PIL network of significant regional influence. The global journey of PIL thus represents a convergent evolution in constitutional systems confronting the fundamental challenge of ensuring that formal constitutional guarantees of rights do not remain illusory for the poor, the marginalised, and the systemically excluded. India's contribution to this global conversation, however, has been distinctive in the depth of its doctrinal elaboration, the breadth of its subject-matter jurisdiction, and the radical boldness of its remedial innovations.

III. THE INDIAN EMERGENCE: DOCTRINAL FOUNDATIONS AND EVOLUTION

3.1 The Constitutional Architecture

It can be rightly argued that the Indian Constitution from its commencement has the scope of development of PIL. Part III, encompassing Articles 12 to 35, guarantees a comprehensive list of fundamental rights.¹¹ Articles 32 and 226 vest in the Supreme Court and High Courts respectively a power to issue writs including writs of habeas corpus, mandamus, prohibition, certiorari, and quo warranto for the enforcement of fundamental

¹⁰Mauro Cappelletti, "The Judicial Process in Comparative Perspective" (Clarendon Press, 1989).

¹¹ The Constitution of India, arts 12 to 35.

rights.¹² The Directive Principles of State Policy in Part IV, while not directly enforceable, have been construed by courts as interpretive aids illuminating the content of fundamental rights.¹³ Article 32(2) grants the Supreme Court power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be a deliberately open-ended remedial canon that courts have used to craft structural remedies unrecognised in classical writ jurisprudence.¹⁴

3.2 From Locus Standi to Epistolary Jurisdiction

The traditional doctrine of locus standi required a petitioner to demonstrate that he had suffered a legal injury in particular, a right which had been violated specifically against him in order to invoke Article 32. This doctrine effectively excluded the constitutional protection of a vast portion of India's population, who lacked the resources, legal literacy, or organisational capacity to litigate their rights.

The transformation began with Justice V.R. Krishna Iyer, whose judgments in the 1970s consistently nudged procedural barriers aside in the service of substantive justice. In *Mumbai Kamgar Sabha*, Krishna Iyer J. articulated the principle that "procedural law must be the handmaiden of justice, not its mistress."¹⁵ His judicial philosophy of 'participatory justice' and 'access to justice for the teeming millions' provided the philosophical foundation on which PIL was constructed.

The decisive juridical move was made by Justice P.N. Bhagwati in *S.P. Gupta v. Union of India* (1982) the 'Judges' Transfer case' where he declared that standing to file a PIL petition would henceforth be available to any member of the public acting bona fide in the public interest, without needing to demonstrate personal aggrievement.¹⁶ Bhagwati J. articulated the philosophy of PIL with characteristic lucidity: 'where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right...and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position unable to approach the Court for relief, any member of the public can maintain an application for an appropriate direction, order, or writ in the High Court under Article 226

¹² The Constitution of India, arts 32 and 226.

¹³ The Constitution of India, arts 36 to 51.

¹⁴ The Constitution of India, art 32(2).

¹⁵ *Mumbai Kamgar Sabha v. Abdulbhai*, AIR 1976 SC 1455.

¹⁶ *S.P. Gupta v. Union of India*, AIR 1982 SC 149, 189 (Bhagwati J.).

and in case of breach of any fundamental right of such person or class of persons, in this Court under Article 32.¹⁷

From locus standi liberalisation, the Court moved to epistolary jurisdiction treating letters, postcards, and even newspaper articles as writ petitions. The Court created suo motu jurisdiction, taking cognisance of matters without any formal petition, sua sponte. It appointed amicus curiae, created court-appointed commissions, and issued continuing mandamus a form of writ not expressly contemplated in classical writ jurisprudence to monitor compliance with its orders.

3.3 The Major Thematic Domains of PIL

PIL rapidly expanded beyond prisoner rights and bonded labour to encompass virtually every domain of public law. In *M.C. Mehta v. Union of India* (Oleum Gas Leak, 1987), the Court developed the doctrine of absolute liability holding that an enterprise engaged in a hazardous activity owes absolute liability to those injured, without any common law defence.¹⁸ In *Bandhua Mukti Morcha*, the Court issued mandamus directing the Government to take specific steps to free bonded labourers and rehabilitate them.¹⁹ In *Vishaka v. State of Rajasthan*, the Court in the absence of legislation formulated binding guidelines on sexual harassment at the workplace, effectively acting as a legislature.²⁰

In *Olga Tellis v. Bombay Municipal Corporation*, the Court held that the right to life under Article 21 includes the right to livelihood, and that pavement dwellers could not be summarily evicted without due process.²¹ In *People's Union for Democratic Rights v. Union of India*, the Court enforced minimum wage laws through PIL and created a precedent of using Article 32 to enforce constitutional rights of workers.²² By the 1990s, PIL had become the primary mechanism through which the Supreme Court policed the administrative state, enforced constitutional rights, and generated social policy in domains Parliament had failed to address.

¹⁷P.N. Bhagwati, "Judicial Activism and Public Interest Litigation" (1985) 23 Columbia Journal of Transnational Law 561, 568.

¹⁸*M.C. Mehta v. Union of India*, (1987) 4 SCC 463 (Oleum Gas Leak case).

¹⁹*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

²⁰*Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

²¹*Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

²²*People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473.

IV. CASE STUDY I: THE NCR POLLUTION PIL: ENVIRONMENTAL CONSTITUTIONALISM IN ACTION

4.1 Background and Procedural History

Mahesh Chander Mehta, an environmental lawyer, filed W.P.(C) No. 13029 of 1985 in the Supreme Court following the oleum gas leak at the Shriram Food and Fertilizers' plant in Delhi. The petition was, however, quickly reframed as a broader challenge to vehicular and industrial pollution across the National Capital Region- a reformulation the Court accepted, treating the writ as a continuing vehicle for enforcing the right to breathe clean air under Article 21.

Over the following four decades, scores of interlocutory applications were tagged to the original writ number. Each raised a distinct dimension of Delhi's pollution crisis: diesel emissions from heavy vehicles, coal-burning industries in residential areas, leaded petrol, brick kilns, construction dust, open burning of waste, firecracker smoke, and stubble burning from farms in neighbouring states. Various benches of the Supreme Court-presided over by different Chief Justices and constituted differently from hearing to hearing: managed the file, issuing directions that cumulatively altered the regulatory landscape of the NCR. The case therefore does not have a single, coherent judgment in the conventional sense. It is, rather, an extended exercise in judicial governance: a rolling sequence of orders, interim directions, committee reports, and compliance reviews spanning approximately forty years.

4.2 Chronology of Key Orders and Directions

Year	Key Direction / Measure	Outcome and Impact
1985	Petition filed (W.P.(C) No. 13029/1985). Challenge to vehicular and industrial pollution in Delhi under Article 21.	Initiated four decades of continuing mandamus. Set the precedent for using an Article 32 petition as a vehicle for systemic pollution control.
1994	Supreme Court directed phase-out of leaded petrol across India.	Dramatic and lasting reduction in atmospheric lead levels; preceded a complete national ban.
1995	168 heavily polluting factories identified in Delhi; ordered to relocate outside residential zones or shut down.	Commenced a massive industrial decongestion exercise affecting several lakh workers and establishing industrial "flatted estates" on the urban periphery.

1996– 2000	Scope widened progressively to encompass all “non-conforming” industrial units (eventually estimated at over one lakh) across Delhi.	Unprecedented court-directed deindustrialisation of a capital city; drew both praise for environmental gains and criticism for the absence of legislative safeguards and worker compensation.
1998	Supreme Court constituted EPCA (Environment Pollution (Prevention and Control) Authority) under the Environment (Protection) Act, 1986.	Created an expert technical body with a direct reporting line to the Court; EPCA became the principal source of scientific advice on Delhi-NCR air quality for the next two decades.
1998– 2002	Court, acting on EPCA’s advice, directed conversion of Delhi’s entire public bus fleet to CNG, with a deadline of 31 March 2001.	The government sought multiple extensions; the Court imposed a fine of Rs. 1,000 per day on each non-compliant bus. The last diesel bus was withdrawn from service by December 2002.
2015	Environment Compensation Charge imposed by the Court on diesel trucks entering Delhi.	A polluter-pays levy intended to internalise the environmental cost of heavy vehicle traffic; revenues directed to an air quality fund.
2021	Parliament enacted the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021, replacing EPCA with a statutory multi-state body (CAQM).	Legislative institutionalisation of the governance architecture built by the Court over two decades; CAQM has broader statutory powers and greater political accountability than its court-created predecessor.
March 2026	Supreme Court formally disposed of W.P.(C) No. 13029/1985 and directed the Registry to open a fresh suo motu proceeding titled “Re: Issues of Air Pollution in NCR.”	Procedural reset of the continuing mandamus exercise; oversight to continue under a new case number. Marked the end of the original petition’s forty-year run.

Table 1: Key Orders in *M.C. Mehta v. Union of India* (NCR Air Pollution Litigation)

4.3 Institutional Architecture: From EPCA to CAQM

The institutional evolution of Delhi-NCR air quality governance mirrors the arc of the M.C. Mehta litigation. In 1998, the Supreme Court constituted EPCA as a three-member advisory committee drawing on scientists, administrators, and civil society. Lacking independent statutory authority, EPCA operated entirely under the Court's umbrella: its reports were placed before the Court, which then converted recommendations into binding orders. The arrangement was effective precisely because it combined technical expertise with the Court's coercive authority, but it was also inherently contingent, EPCA's power derived from judicial will rather than legislative mandate.

The creation of CAQM in 2021 attempted to resolve this institutional fragility. CAQM is a permanent statutory commission encompassing representatives of the Central Government, the states of Delhi, Haryana, Punjab, Rajasthan, and Uttar Pradesh, as well as independent technical experts. It has original powers to issue binding directions, conduct inspections, and levy penalties across NCR- powers that EPCA lacked. The Commission is accountable to Parliament rather than to the Court, though the Court continues to review CAQM's performance in the ongoing suo motu proceedings.

The transition from a court-constituted body to a statutory commission is significant for the theory of continuing mandamus. It suggests that, at its best, judicially supervised governance can generate pressure for legislative reform -that courts, by filling an institutional vacuum, create the political conditions in which legislatures eventually step in. Whether CAQM will prove more effective than EPCA in practice remains an open empirical question; what is beyond dispute is that the regulatory architecture of NCR air quality management is qualitatively different in 2026 from what it was in 1985, and that the M.C. Mehta litigation was the principal driver of that transformation.

4.4 Closure of the 1985 Petition and Its Significance

In February 2026, the Supreme Court made a general observation that long-pending PILs on the cause list created a misleading picture of judicial pendency and placed an unfair administrative burden on courts carrying litigation originating with predecessor benches. It urged that such petitions be formally closed and replaced with fresh, purpose-specific proceedings where continued judicial engagement was warranted.

On 12 March 2026, a bench led by the Chief Justice formally disposed of W.P.(C) No. 13029/1985, acknowledging that the case had operated as a continuing mandamus for close to forty years. Simultaneously, it directed the Registry to register a new suo motu writ petition titled “Re: Issues of Air Pollution in NCR” to carry forward any unresolved matters. Pending interlocutory applications were permitted to be refiled in the new proceeding. The order is notable in several respects. It does not represent a withdrawal of judicial interest in NCR air quality: the Court was careful to ensure continuity of oversight through the new docket.²³ What it does represent is an acknowledgement that continuing mandamus cannot remain in its original form indefinitely. After four decades, the Court appears to be recalibrating the balance between judicial oversight and institutional self-reliance: signalling that statutory bodies like CAQM should now bear primary responsibility, with the Court playing a reviewing rather than directing role.

The closure also carries a symbolic dimension.²⁴ It tacitly accepts the critique that a petition filed in response to an industrial gas leak should not, through accumulated accretion, become a permanent all-purpose environmental tribunal. The fresh suo motu file will presumably be managed with greater discipline in terms of scope and duration.

V. CASE STUDY II: THE SABARIMALA PIL - CONSTITUTIONAL RIGHTS AND RELIGIOUS FREEDOM

5.1 The Dispute and Its PIL Framing

The Sabarimala case formally known as *Indian Young Lawyers Association v. State of Kerala* (2019) represents a qualitatively different type of PIL from the environmental cases. Here the PIL was deployed not to enforce socio-economic rights against administrative inaction but to adjudicate a deeply contested question of individual rights against the claims of a religious community’s right to determine its own practices.²⁵

The Sabarimala temple in Kerala is a pilgrimage site associated with the deity Lord Ayyappa, traditionally believed to be a “Naishtika Brahmachari” (eternal celibate). The temple administration maintained a practice sanctioned by a 1991 Kerala High Court judgment of

²³*Hindustan Times*, “reporting the formal disposal of W.P.(C) No. 13029/1985 and the registration of a fresh suo motu proceeding titled Re: Issues of Air Pollution in NCR” (*last visited*: April 18, 2026)

²⁴*Ibid.*

²⁵*Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1 (Sabarimala case).

restricting entry to women of menstruating age (broadly defined as women between the ages of ten and fifty).²⁶ The restriction was said by its proponents to reflect the essential religious character of the deity and the traditional practice of devotees.

The petition before the Supreme Court was filed not by women who had themselves been denied entry but by the Indian Young Lawyers Association a public interest organisation with no direct connection to the pilgrimage or to the women whose rights were at stake precisely as a PIL. This feature proved central to the ensuing controversy: the PIL mechanism was being deployed to adjudicate a question of religious practice on behalf of potential petitioners who had not themselves sought to approach the Court.

5.2 The Constitutional Questions

The case raised fundamental tensions between multiple constitutional provisions. On one side stood Articles 25 and 26 guaranteeing freedom of religion to individuals and to religious denominations to manage their own affairs and the “essential religious practices” doctrine under which the Court had long recognised that certain practices so central to a religion’s character as to be essential to it were constitutionally protected.²⁷ On the other side stood Article 14 (equality), Article 15 (prohibition of discrimination on grounds of sex), Article 17 (abolition of untouchability), and Article 21 (right to dignity).²⁸

The central constitutional question was whether the exclusion of women from a place of public religious worship on grounds related to physiological characteristics constituted a constitutionally impermissible form of discrimination amounting, in the Court’s subsequent analysis, to a form of untouchability in the expanded sense or whether it fell within the protected sphere of religious denominational autonomy.

5.3 The Supreme Court’s Decision

By a 4:1 majority with the dissenting opinion of Justice Indu Malhotra dissenting, the Supreme Court struck down the practice of exclusion of women of menstruating age from the Sabarimala temple. The majority’s analysis, delivered through four separate concurring opinions, rested on several distinct grounds.

²⁶S. Mahendran v. The Secretary, Travancore Devaswom Board, AIR 1993 Ker 42.

²⁷ The Constitution of India, art 25, 26.

²⁸ The Constitution of India, art 14, 15, 17, 21.

Justice Dipak Misra (CJI *then*, writing for himself and Justice A.M. Khanwilkar) held that the exclusion failed the test of constitutional morality, a test requiring that constitutional values of equality and non-discrimination prevail over social or religious morality.²⁹ Justice Rohinton Nariman held that the rule fell foul of Article 25(1)'s guarantee of freedom of conscience and free profession, practice, and propagation of religion, which extended to women devotees of Lord Ayyappa as much as to male devotees.

Justice D.Y. Chandrachud in his opinion, locating the exclusion as a form of “physiological othering” that relegated women to second-class constitutional citizenship. He questioned whether Ayyappan devotees constituted a ‘religious denomination’ within the meaning of Article 26, a finding that, if accepted, would dissolve the protection available to the temple’s management practices under that article. He held that menstruation, being a physiological attribute of womanhood, could not constitute a constitutionally permissible ground for exclusion from a public place of worship.³⁰

In dissent, Justice Indu Malhotra argued with force that in matters of religion and religious practice, the Court ought to exercise judicial restraint and ought not to use PIL as a vehicle to adjudicate questions of faith on behalf of communities who had not brought those questions to court. She emphasised that neither the petitioners (the Young Lawyers Association) nor the women in whose interest they purported to act had themselves sought to climb the Sabarimala hill and been refused entry. She warned that PIL was being misused to interfere in religious affairs in a manner that violated the denominational autonomy guaranteed by Article 26.³¹

5.4 The Aftermath: Review and Reference

The judgment triggered protests in Kerala and across India. Review petitions were filed, and the Supreme Court, referred the review petitions to a larger bench of nine judges effectively acknowledging that the constitutional questions raised were of such complexity and sensitivity as to require reconsideration by a fuller court.³²

The nine-judge Constitution Bench reference also swept in related questions arising from PIL proceedings concerning the entry of Muslim women into mosques, the entry of Parsi women

²⁹*Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC.

³⁰ *Ibid.*

³¹ *Ibid.*

³²*Kantaru Rajeevaru v. Indian Young Lawyers Association*, (2020) 2 SCC 1 (Nine-Judge Constitution Bench Reference).

married to non-Parsis into the Agiary (fire temple), and the practice of female genital mutilation in the Dawoodi Bohra community. These references reflect PIL's growing entanglement with questions of religious pluralism, minority rights, and the limits of constitutional adjudication in matters of faith.

5.5 PIL's Role in the Sabarimala Controversy

The Sabarimala case illustrates both PIL's power and its peril. Its power: PIL provided the mechanism through which a question of constitutional importance whether the state can permit, through the licence of a statutory religious body, the systematic exclusion of half the population from a public place of worship could be brought before the highest constitutional court and adjudicated on fundamental rights grounds. Without PIL's liberalised standing doctrine, no directly aggrieved individual petitioner might ever have been in a position to mount such a challenge. Its peril: the case demonstrates the risk that PIL can become a tool for the adjudication of contested questions of theology, religious practice, and community identity by judges who may lack the contextual and theological knowledge necessary for the task, on petitions filed by parties with no direct stake in the matter. Justice Malhotra's dissent captured this concern precisely: the legitimacy of PIL as a human rights instrument depends on its being used to advance the rights of those who cannot themselves approach the court, not to impose particular ideological or constitutional visions on religious communities who have not invited judicial intervention.

VI. PIL AND HUMAN RIGHTS: IMPACT, TENSIONS, AND TRANSFORMATIONS

6.1 PIL as a Human Rights Instrument

Measured against its origins and its aspirations, PIL has generated an impressive human rights record. The judicial expansion of Article 21 through PIL has given constitutional content to an extraordinary range of rights that would otherwise remain unenforced: the right to health, the right to education (later codified in Article 21A), the right to a clean environment, the right to livelihood, the right to speedy trial, the right against custodial violence, the right against sexual harassment at the workplace, and the right to dignity in its fullest sense.

PIL has created a constitutional channel through which marginalised and excluded communities bonded labourers, undertrial prisoners, street children, victims of industrial disasters, residents of polluted urban areas have been able to access the highest court and obtain at least some measure of relief. In *Consumer Education and Research Centre v. Union of India*, the Court held that the right to health and medical assistance is a fundamental right integral to the right to life.³³ In *Common Cause v. Union of India*, the Court recognised the right to die with dignity as part of the right to life a development in the law of passive euthanasia that required the Court to engage with cutting-edge issues of medical ethics and constitutional liberty.³⁴

In the domain of gender justice, PIL has produced jurisprudence of lasting significance. The *Vishaka* guidelines created the first binding legal framework on workplace sexual harassment in India. The *National Legal Services Authority v. Union of India* judgment recognised transgender persons as a 'third gender' and directed the Government to provide reservations and welfare measures for them.³⁵ The *Navtej Singh Johar* judgment which decriminalised consensual same-sex relations under Section 377 of the Indian Penal Code was itself catalysed by PIL petitions.³⁶

6.2 The Right to Privacy and PIL's Role

The nine-judge Constitution Bench decision in *K.S. Puttaswamy v. Union of India* (2017) recognising the right to privacy as a fundamental right under Articles 14, 19, and 21 was itself a PIL proceeding in its origins, arising from a challenge to the Aadhaar biometric identity programme.³⁷ The Puttaswamy judgment represents the apex of PIL's capacity to generate systemic constitutional doctrine: a single writ petition produced a 547-page judgment by a nine-judge bench that reoriented the entire jurisprudence of fundamental rights.

6.3 Environmental Justice and Intergenerational Equity

PIL has been the primary vehicle through which Indian courts have developed an environmental jurisprudence that integrates human rights and ecological protection. The public trust doctrine, the precautionary principle, the polluter pays principle, and the concept of sustainable development have all been incorporated into Indian constitutional law through PIL proceedings.

³³*Consumer Education and Research Centre v. Union of India*, (1995) 3 SCC 42.

³⁴*Common Cause v. Union of India*, (2018) 5 SCC 1 (passive euthanasia). ³⁵*National Legal Services Authority v. Union of India*, (2014) 5 SCC 438. ³⁶*Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (Section 377 case).

³⁷*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (Privacy case nine-judge bench).

The Taj Trapezium case protecting the Taj Mahal from industrial pollution is another landmark example of PIL being used to vindicate the right of future generations to their cultural and natural heritage.³⁸

6.4 Tensions: Judicial Overreach and Separation of Powers

Against these achievements must be set the growing body of criticism that PIL has produced a form of judicial governance that operates without the institutional competencies or democratic accountabilities that executive and legislative governance possess. The Supreme Court's orders in the NCR pollution case directing specific fuel choices, vehicle technologies, and industrial relocations represent exercises of discretion for which the Court is institutionally poorly equipped. Courts lack the informational capacity of executive agencies, the deliberative processes of legislatures, and the technical expertise of regulatory bodies. The problem is compounded by the proliferation of court-constituted monitoring committees, empowered groups, and special commissions whose authority derives from judicial order rather than parliamentary statute. These bodies operate in a constitutional grey zone, exercising executive power without executive accountability.

In *State of Uttaranchal v. Balwant Singh Chaufal*, the Supreme Court itself acknowledged the problem and issued guidelines to High Courts on how to manage PIL petitions, cautioning against the misuse of PIL for private interests.³⁹ Scholars like Anuj Bhunia have argued, provocatively, that PIL represents a form of elite judicial governance that has systematically displaced popular politics and democratic deliberation.⁴⁰

VII. CONCLUSION

Public Interest Litigation has traversed a remarkable arc in four decades of Indian constitutional history: from a modest procedural innovation designed to ensure that the poor could access the Supreme Court to a sweeping system of judicial governance that has reshaped Indian environmental policy, labour law, gender jurisprudence, religious practice, and administrative accountability. Drawing on a global intellectual lineage rooted in the American public law litigation model and comparative constitutional developments, PIL has become India's most

³⁸*M.C. Mehta v. Union of India*, (2002) 4 SCC 356 (Taj Trapezium).

³⁹*State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402 (guidelines for PIL).

⁴⁰Anuj Bhunia, *Courting the People: Public Interest Litigation in Post-Emergency India* (Cambridge University Press, 2017) 17.

significant contribution to the global practice of constitutional adjudication. The NCR pollution PIL and the Sabarimala PIL, examined in this paper, illustrate the range and complexity of PIL's contemporary operation. The former shows PIL functioning as a constitutional forcing mechanism using sustained judicial pressure to compel environmental governance improvements that the executive and legislative branches had systemically failed to deliver with significant though imperfect human rights benefits for Delhi's polluted population. The latter shows PIL operating at the frontier of religious liberty, gender equality, and community autonomy, where the boundaries of appropriate judicial intervention are deeply contested and where the Court's engagement has generated as much controversy as constitutional resolution. The future of PIL depends on whether Indian courts can develop a principled framework that distinguishes its legitimate human rights function from its capacity for overreach that preserves its power to vindicate the constitutional rights of the excluded while respecting the institutional limits of judicial governance. If PIL's architecture can be reformed to achieve this balance, it will endure as one of the great innovations of Indian constitutionalism. If it cannot, the risk is that PIL will gradually undermine its own legitimacy and, with it, the legitimacy of the constitutional framework it purports to serve.

