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PUBLIC INTEREST LITIGATION- A TOOL FOR JUDICIAL INNOVATION

AUTHORED BY - VICTORIA MALSAWMKIMI & DR. JASDEEP SINGH

Abstract

In 1976 the phrase “Public Interest Litigation” was first propounded by Abran Chayes, an American Professor while describing “public spirited” individuals who seek to bring reforms into the judicial system by shining light into the under- represented section of the society and making justice accessible to all¹.

In India, PIL is a legal mechanism used in which people not directly affected by the suit can approach the Court for redressal of grievances in the name of “public interest”. PIL was adopted into the Indian legal sphere by visionary pioneers like Justice B.N. Bhagwati and Justice Krishna Iyer, who were firm believers of accessible justice for all sections of the society. Before the evolution of PIL in the Indian Courts a strict principle of Locus Standi was applied, which means people not directly affected by the suit were not allowed to intervene in the trial proceedings². This resulted in problems because some of the people involved belong to marginalised sections of the society who do not have the means to approach the court. Access to justice differs as India’s demography consists of all types of people belonging to every social class.

Because of this gap the lower class of the society were subjected to infringement of their liberties without any redressal. Justice P.N. Bhagwati established in the case of S.P. Gupta v. Union of India³ that any “public spirited” persons or social activists can approach the Court on behalf of those who are unable due to a number of reasons such as financial disadvantage, lack of social or cultural representation or even lack of legal literacy. Thus, this landmark case led to the relaxation of the traditional rule of the principle of Locus Standi.

¹ B.C. Naik & M.R.K. Prasad, *Public Interest Litigation – Access to Justice*, in Lawp04: Public Interest Litigation, e-PG Pathshala, <https://ebooks.inflibnet.ac.in/lawp04/chapter/public-interest-litigation> (last visited Apr. 19, 2026).

² R. Aziz, *The Role of Public Interest Litigation in Promoting Social Justice in India*, Lawful Legal (July 1, 2024), <https://lawfullegal.in/the-role-of-public-interest-litigation-in-promoting-social-justice-in-india>.

³ *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (India).

Keywords: public spirited, legal literacy, justice, judicial, accessible, demography, disadvantage.

Introduction

The concept of Public Interest Litigation has been borrowed from American jurisprudence and was intended to give legal representation to lower class groups such as racial minorities, or citizens who were passionate about everyday issues such as environmental issue, etc.,⁴ A PIL means a suit filed before the court for the interest of the public, or the welfare of the people, or for the protection of “Public Interest”. A PIL suit can be filed for matters such as Environmental pollution, terrorism, work hazards, etc.,⁵ Any issue where welfare of the people is affected can be taken under the domain of Public Interest Litigation Public Interest Litigation has not been defined in any statute or legislature. It has taken its form through the interpretation of different judges. The concept of PIL in India emerged in the late 1970s and early 1980s under the leadership of visionary leaders like Justice P.N. Bhagwati and Justice V.R. Krishna Iyer. These legal personalities wanted to change the rigid and inflexible legal system of the country into a more inclusive and accessible system for all sections of the society.⁶

In India, the idea of Public Interest Litigation (PIL) arose as a judicial innovation to address systematic socioeconomic injustices that were otherwise ignored in the halls of power and to get beyond the rigidity of traditional adversarial legal systems. The post-Emergency era, which was characterized by a rising mistrust of authoritarianism and a desire to make democratic institutions more responsive and accountable, is when the seeds of PIL were sowed. Aware of its institutional function and constitutional mandate under Articles 32 and 226, the Supreme Court of India reinterpreted the locus standi doctrine to give standing to people and organizations that were not directly wronged but aimed to represent the voiceless and disenfranchised⁷

⁴ *Public Interest Litigation*, Drishti IAS (Mar. 28, 2026), <https://www.drishtiiias.com/to-the-points/Paper2/public-interest-litigation>.

⁵ *Origin and Development of PIL in India*, iPleaders Blog, <https://blog.ipleaders.in/origin-and-development-of-pil-in-india> (last visited Mar. 30, 2026).

⁶ U. Singh, *Judicial Activism Through Public Interest Litigation: An Indian Perspective*, 9 Int'l J. Creative Res. Thoughts (n.d.), <https://www.ijcrt.org>.

⁷ K. Raj, *Evolution of Public Interest Litigation (PIL) in India: A Comprehensive Analysis*, 8 Int'l J. for Res. Trends & Innovation 922 (2023), <https://ijrti.org/papers/IJRTI2303135.pdf>

Judicial Activism and PIL complement each other in shaping the legal scene of India⁸. PIL has proved to be a useful tool in the evolution of law focusing on the improvement of needs and demands of the welfare. In the Indian context, Judicial Activism means the active role played by the judiciary in promotion of social justice, upholding of fundamental rights and to close any gaps left by the executive or the legislature, through its interpretation and implementation of law.

This paper seeks to examine the validity of PIL in securing social justice in India through doctoral research methods, primary sources, secondary sources including articles, and reputed legal blogs.

Features of PIL

1. *Relaxation of Locus Standi:*

Under PIL the rule of Locus Standi is relaxed. This means that the court welcomes petitions of those whose rights are not directly violated. This concept differentiates it from traditional litigation. Under PIL any public-spirited person may approach the court as long as the subject matter is concerned with the welfare of the public as a whole.

The Supreme Court in the case of *S.P. Gupta v. Union of India* held that any petition is welcomed by the court on behalf of those who are unable to approach the court due to social disadvantage. Even a third party can file a Pil if it is for the public welfare.

This principle was further reiterated in the case of *People's Union for Democratic Rights v. Union of India*⁹. In this case a petition was filed for the protection of labourers working in hazardous conditions.

Under the traditional rule of Locus Standi only individuals harmed by the case of action of the case are allowed to file a suit, however the concept of PIL clearly defines that public spirited persons who act in the interest of the public, or do not have nothing to gain from the suit are permitted to approach the court if the court finds sufficient proof that they are truly working for the public welfare.

2. *Collective and Cooperative Litigation:* Since the goal of PIL is to ensure and restore constitutional and fundamental rights it is marked by a litigation that is non adversarial

⁸ P.K. Ghosh, *Judicial Activism and Public Interest Litigation in India*, 1 Galgotias J. Legal Stud. 77, 77–80 (2013), <https://www.galgotiasuniversity.edu.in/pdfs/issue6.pdf>.

⁹ *PUDR v. Union of India*, AIR 1982 SC 1473.

in nature. It follows a cooperative litigation that is backed by mutual collective responsibility, unlike traditional litigation in which opposing parties contest before the court for a judgement to be pronounced in their favour, PIL procedures follow a more relaxed process in which the State or authority (often the respondent), the Court as well as the petitioner combine efforts to safeguard fundamental rights and address public injury, systematic institutional failures as well as drawbacks of the government.

3. Epistolary Jurisdiction: A unique feature of PIL is its ability to accept letters or postcards as a petition. This unique feature on PIL is known as its epistolary jurisdiction. Before the introduction of epistolary jurisdiction, only people who could afford lawyers had access to the court, this led to the failure of the judiciary in safeguarding human rights. The Supreme Court highlighted in the case of *S.P. Gupta v. Union of India*¹⁰ that the court shall give precedence over upholding the principles of justice and fairness over technicalities.¹¹

Justice P.N. Bhagwati and Justice Krishna Iyer were of the opinion that justice must be accessible to all sections of the society and advocated for legal aid for the poor. Even so, there were people who were still people who were hesitant to approach the court;¹². In these cases the court has taken suo-motu cognizance of the matter by accepting letters, reports, newspaper articles etc, as petitions

4. Types of issues covered by PIL:

- Neglected children
- Unpaid minimum wages
- Exploitation of workers
- Environmental pollution
- Gender discrimination
- Bonded labour
- Unlawful detention¹³

¹⁰ *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (India).

¹¹ Faculty Adda Team, *Epistolary Jurisdiction in Public Interest Litigation (PIL): A Guide for India*, Faculty Adda (June 5, 2025), <https://www.facultyadda.com/2025/06/epistolary-jurisdiction-pil-india.html>.

¹² Ibid

¹³ M. Patel & S. Gupta, *Public Interest Litigation in India: Meaning, Origin, Features, and Evolution*, iPleaders Blog (Apr. 18, 2025), https://blog.ipleaders.in/public-interest-litigation-3/#Meaning_of_public_interest.

Essentials of PIL

1. Existence of genuine public concern: For a petition to be classified as a PIL it must satisfy the court that the matter at hand must contain an infringement of a fundamental or constitutional right. The matter brought before the Court must be proved to affect the public at large, must affect the rights of the public and must target the rights of marginalised groups of the society.

The matter brought before the Court should address public welfare not the rights of any other individual. When filing a PIL the courts will carefully examine whether the subject matter affects the rights of an individual or a group of people, whether adjudicating of the matter will lead to public wellbeing, whether the reason for which the matter is brought about affects an individual or a marginalised group¹⁴.

2. Intent of the Petitioner: For a petition to be accepted as a PIL, the petitioner, submitting a petition on behalf of an un-represented group must prove before the court that this submission is done in bona-fide intent and that there is no personal gain from filing this suit before the court. The desired outcome of the petition by the petitioner must be safeguarding of fundamental rights and must not be done for political motives, personal gain or for publicity¹⁵.
3. Promotion of public rights and social justice: for a petition to be considered a valid PIL petition there must exist an aim for promotion of public right. Public rights, also known as community rights are rights vested on the society by the constitution. These rights are enshrined under Article 14¹⁶ or Part III of the constitution. These rights include rights such as right to clean water, right to livelihood, right to education, right to life of dignity etc. social justice on the other hand means securing the aforementioned rights to every individual of the society. When these two concepts work together to safeguard fundamental right the petition will then become valid in the eyes of the law¹⁷.
4. Relaxation of Locus Standi: the traditional rule of locus standi dictates that a person not directly harmed by the suit at hand does not have a “place to stand” in the suit. This essentially means that a person not directly “injured” by the suit has no right to intervene in the proceedings of the suit. However this rule is not applied in the scope of PIL. The concept of PIL allows third party intervention by public spirited individuals

¹⁴ *Basic Essentials of PIL in India: Key Requirements*, SupremeToday, <https://supremetoday.ai/issue/essentials-of-pil-in-india> (last visited Apr. 19, 2026).

¹⁵ Ibid

¹⁶ INDIA CONST. art. 14

¹⁷ Ibid

to approach the court for redressal of grievances. This means that if the people whose rights are being infringed are unable or hesitant to approach the court due to financial constraints, lack of awareness or legal illiteracy, or exploitation; a third party acting in bona fide as their representative can approach the court for them. This rule is put in place to ensure that justice becomes accessible to all sections of the society.

5. Inability of affected individuals: PIL allows a representative of the affected individuals to approach the court. The very reason for the existence of PIL is make justice accessible for people who cannot approach the court themselves. These representatives must be public spirited individuals like social workers, NGO workers or any concerned individuals. The reasons of the affected people not being able to approach the court may vary.

- It may be due to them belonging to a marginalised section of the society and noy having the means to approach the court for redressal of grievances.
- It may be due to financial limitations
- It may also be due to lack of political and legal awareness
- It may be due to disadvantage in the society by reasons of caste, gender, etc¹⁸

Evolution on PIL through Judicial Precedents

*Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai*¹⁹

This is known to be one of the most significant cases of PIL. Mumbai Kamgar Sabha was a labour union in Maharashtra during the 1960s. Abdulbhai and Faizullabhai owned a company where workers were employed. Dispute arose when the company stopped giving its employees yearly bonuses in 1965. A petition was submitted on behalf of the employees against the company. According to Justice K. Iyer the Union had the power to bring about a petition on behalf of the harmed class since the issue had impacted several members of the lower section. This case highlighted the importance of peoples' participation in governance of the country. As a result, the principle of locus standi was relaxed for the first time and led to the origin of PIL in India.

*Hussainara Khatoon & Ors v. Home Secretary, Bihar*²⁰

A publication in a 1979 article carried a piece concerning Bihar's undertrial inmates. It was

¹⁸ Ibid

¹⁹ *Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai*, AIR 1967 SC 1455; (1976) 3 SCR 591.

²⁰ *Hussainara Khatoon v. Home Secretary, State of Bihar*, AIR 1979 SC 1369; (1979) 3 SCR 532.

written that they had endured numerous hardships while incarceration for an extended period of time. While some inmates were incarcerated for long periods of time for minor offences, others were made to stay even longer than the court had mandated. Hussainara Khatoon was one of the seventeen inmates under-trial and were represented by Advocate Hingorani. A writ petition was filed on behalf of the inmates against the state of Bihar.

A bench consisting of Justices P.N. Bhagwati, R.S. Pathak and A.D. Koshal ruled in favour of the prisoners. The court ruled that the detention of the inmates was unlawful and constituted a violation of their fundamental rights under Article 21 of the Indian Constitution.

This case showed that justice can be met through politically and legally conscious journalists. This case gave a new platform for journalists who aim to work for the betterment of the society.

*S.P. Gupta v. Union of India and Anr.*²¹

The facts of this case are as follows:

In the aftermath of the Emergency in March 1981, amid concerns about the arbitrariness of the executive, a circular was issued by the Union Government which requested the Chief Justices of High Court to obtain permissions from the additional judges stating that they would consent to a permanent position in any High Court in the country. Meanwhile, some additional judges were exempted from this position even though they were qualified.

These issuances led to concerns about the Executive stepping over its bounds and asserting control over the Judiciary.

This circulation was challenged by many lawyers including S.P. Gupta who sought after clarity in not only the circular but also the arbitrary function of power by the government.

This case is regarded as one of the landmark contributors of the evolution of PIL because the Supreme Court upheld the *relaxation of the principle of Locus Standi* which is an important feature of PIL. PIL was introduced into the legal scene of India through this case as it highlighted that the Court is open to all 'public- spirited' persons working for the welfare of the public. It showed that the court is accessible for all sections of the society and promoted transparency in the functioning of the government.

*Fertilizer Corporation Kamgar Union v. Union of India (1981)*²²

Although this petition was dismissed by the Supreme Court it still served as one of the most pivotal cases in the evolution and development of PIL in India. This case proved that the people

²¹ *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (India).

²² *Fertilizer Corp. Kamgar Union v. Union of India*, (1981) 1 S.C.C. 568.

had the right to scrutinize the actions of their government and proved that the will of the people shall prevail.

Constitutional Basis of PIL:

1. Judicial Review (Articles 13)²³: the Constitution of India has granted the Judiciary the power of judicial review under Article 13 and It not only examines the constitutional validity of laws but also looks into the functions of the branches of the government (executive and the legislature). Article 13 of the Constitution states that any law which is not in consonance with the Constitution or any law which violates any of the fundamental rights prescribed in Part III of the Constitution will be void.
2. Article 32²⁴: article 32 is regarded as the “Heart and Soul of the Constitution” which guarantees constitutional remedy because it gives citizens the right to approach the Supreme Court if their fundamental rights have been violated. It is the foundation of Judicial Activism because it gives the judiciary direct power to safeguard these fundamental rights.
3. Article 226²⁵: “Article 226 of the Constitution is one of the most powerful tools a citizen can use to seek justice against the state. It empowers every High Court in India to issue writs — binding judicial orders — not just to enforce fundamental rights, but for *any other legal purpose*”²⁶. Article 226 is much broader than Article 32 because a person can approach the Supreme Court not only for restoration of fundamental rights but also if any right is violated. This means that the scope of Article 226 extends beyond the bounds of restoration of fundamental rights; it can be used to restore other legal rights such as statutory rights, rights arising under service rules and rights created through government notifications.²⁷

The High court under Article 226 issues a number of orders in the form of writs for restoration of fundamental rights.

- ²⁸Habeas Corpus: Literally means to *produce the body* can be issued against the state or individuals accused of illegal detention.

²³ INDIA CONST. art. 13.

²⁴ INDIA CONST. art. 32,

²⁵ INDIA CONST. art. 226.

²⁶ *The Broad Reach of Article 226: Empowering High Courts to Uphold Rights*, TheLaw.Institute, <https://thelaw.institute/indian-legal-system/empowering-high-courts-article-226-rights> (last visited Mar. 31, 2026).

²⁷ *Ibid*

²⁸ *Ibid*

- **Mandamus:** Literally meaning “we command”. It is issued by the Court to a government official, lower court or public authority who have failed or refused to perform a mandatory task.
- **Prohibition:** this writ is issued by a superior court to its subordinate courts as a preventive remedy to cease proceedings of a case that is beyond its jurisdiction.
- **Quo Warranto:** Literally meaning “by what authority”. It is a writ issued against a public authority figure to inquire into the legal basis of his position. The court issues this writ to enquire into the qualifications of the authority.
- **Certiorari:** Literally meaning “to be certified”. It is issued by a superior court to its subordinate court when it finds that its decisions or orders are unconstitutional or beyond its jurisdiction.

Conclusion:

Public Interest Litigation (PIL) emerged in India as a judicial innovation to overcome the inflexibility of traditional adversarial legal systems and confront systemic socioeconomic inequities that were otherwise disregarded in the corridors of power. The seeds of PIL were sown during the post-Emergency period, which was marked by a growing distrust of authoritarianism and a desire to make democratic institutions more responsive and responsible. The Supreme Court of India modified the locus standi concept to grant standing to individuals and groups that were not directly harmed but sought to represent the voiceless and downtrodden, cognizant of its institutional role and constitutional obligation under Articles 32 and 226. PIL from its initial stage has always aimed at bringing equity to the country by providing a platform for all citizens to access justice through the Courts.

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