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ROLE OF PUBLIC INTEREST LITIGATION IN ADVANCING SOCIAL JUSTICE IN INDIA

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Abstract

Public Interest Litigation (PIL) has emerged as one of the most significant judicial innovations in India, fundamentally transforming the relationship between law and society. Developed in the late 1970s, PIL relaxed the traditional rule of locus standi and enabled public-spirited individuals, social activists, and non-governmental organizations to approach constitutional courts on behalf of disadvantaged and marginalized communities. Rooted in Articles 32 and 226 of the Constitution of India, PIL expanded access to justice and strengthened the enforcement of fundamental rights, particularly under Article 21, which guarantees the right to life and personal liberty.

Through judicial creativity and activism, the Supreme Court and High Courts redefined the scope of social justice by addressing issues such as bonded labour, custodial violence, environmental degradation, gender discrimination, child labour, and the rights of undertrial prisoners. Landmark decisions in cases such as *Hussainara Khatoon v. State of Bihar*, *Bandhua Mukti Morcha v. Union of India*, and *Olga Tellis v. Bombay Municipal Corporation* broadened the meaning of constitutional rights to include the right to speedy trial, livelihood, dignity, and a clean environment.

PIL has also served as a mechanism for governmental accountability and policy reform, compelling the executive to implement welfare measures effectively. However, the expansion of PIL has generated debates concerning judicial overreach and the misuse of litigation for political or personal gain. Despite these challenges, PIL remains a vital instrument for

participatory democracy and constitutional governance. By bridging the gap between legal rights and social realities, Public Interest Litigation continues to play a transformative role in advancing social justice in India.

Keywords: Public Interest Litigation, Social Justice, Judicial Activism, Fundamental Rights, Access to Justice.

I. Introduction:-

The Constitution of India embodies a transformative vision aimed at securing justice—social, economic, and political—for all citizens. Yet, in the decades following independence, access to justice remained largely inaccessible to vast sections of Indian society. Poverty, illiteracy, social exclusion, caste hierarchies, gender discrimination, and economic vulnerability prevented marginalized communities from approaching courts to enforce their fundamental rights. The formal legal system, bound by strict procedural rules and the doctrine of locus standi, often functioned as an exclusive space accessible primarily to the privileged. It was against this socio-legal backdrop that Public Interest Litigation (PIL) emerged as a powerful instrument of judicial innovation and social transformation.

Public Interest Litigation fundamentally altered the traditional adversarial system by relaxing procedural technicalities and expanding standing to allow public-spirited individuals, social activists, journalists, and non-governmental organizations to seek judicial remedies on behalf of disadvantaged groups¹. The Supreme Court of India, under the leadership of progressive judges such as Justice P. N. Bhagwati and Justice V. R. Krishna Iyer, reinterpreted constitutional provisions to make justice more accessible and responsive to social realities. Articles 32 and 226 of the Constitution were creatively employed to expand the scope of judicial review and strengthen the enforcement of fundamental rights, particularly the right to life and personal liberty under Article 21.

The emergence of PIL in the late 1970s marked a shift from procedural justice to substantive justice. Courts began to treat letters and postcards as writ petitions—ushering in what is often termed “epistolary jurisdiction.” Over time, Public Interest Litigation has played a transformative role in expanding the meaning of fundamental rights and holding the executive

¹ Bhagwati, P. N. (1984). *Judicial activism and public interest litigation*. Columbia Journal of Transnational Law, 23, 561–577.

accountable for policy implementation. At the same time, its growth has sparked debates regarding judicial activism, separation of powers, and potential misuse.

II. Concept and Meaning of Public Interest Litigation:-

Public Interest Litigation refers to litigation initiated in a court of law for the enforcement of public or general interest, particularly where the interests of disadvantaged groups are involved.

Traditionally, the doctrine of *locus standi* required that only a person directly affected could approach the court. PIL departed from this rule, recognizing that strict procedural requirements would defeat substantive justice in a society marked by inequality.

The Supreme Court of India reinterpreted procedural laws to allow:

Social activists

NGOs

Journalists

Public-spirited individuals to file petitions on behalf of victims of injustice.

The objective was not private gain but protection of public rights, especially those of marginalized communities such as bonded labourers, prisoners, women, children, tribals, and the urban poor.

III. Constitutional Foundations of Public Interest Litigation (PIL):-

Public Interest Litigation (PIL) in India is rooted in the Constitution's text and transformative vision, even though the term itself is not expressly mentioned. Its foundations may be summarized as follows:

1. Article 32 – Right to Constitutional Remedies:

- Empowers individuals to approach the Supreme Court for enforcement of Fundamental Rights.
- Described by B. R. Ambedkar as the “heart and soul” of the Constitution.
- Allows issuance of writs such as habeas corpus, mandamus, certiorari, prohibition, and quo warranto.
- Through PIL, the Court relaxed *locus standi*, enabling public-spirited individuals to file petitions on behalf of marginalized groups².

² Sathe, S. P. (2002). *Judicial activism in India: Transgressing borders and enforcing limits*. Oxford University Press.

2. Article 226 – Writ Jurisdiction of High Courts:

- Grants High Courts power to issue writs for Fundamental Rights and “for any other purpose.”
- Broader scope than Article 32.
- Strengthens access to justice at the state level and supports decentralized rights protection.

3. Article 21 – Expansive Right to Life:

- Guarantees protection of life and personal liberty.
- Judicial interpretation expanded it to include rights to livelihood, health, education, shelter, clean environment, legal aid, speedy trial, and dignity.
- Forms the backbone of PIL jurisprudence.

4. Directive Principles of State Policy (Part IV):

- Though non-justiciable, they guide judicial interpretation.
- Key provisions influencing PIL:
 - Article 39A – Equal justice and free legal aid
 - Article 42 – Just and humane conditions of work
 - Article 46 – Protection of weaker sections
 - Article 48A – Environmental protection
- Courts harmonize DPSPs with Fundamental Rights to promote social welfare.

5. Preamble and Transformative Constitutionalism:

- Aims to secure justice—social, economic, and political.
- PIL functions as a tool to achieve constitutional goals and reduce structural inequalities.

6. Basic Structure Doctrine and Judicial Review:

- Judicial review is part of the Constitution’s basic structure.
- PIL strengthens judicial oversight over legislative and executive actions.
- Enhances public participation in ensuring constitutional governance.

This constitutional framework collectively provides the legal and philosophical foundation for the development of PIL in India.

IV. Evolution of Public Interest Litigation (PIL) in India:-

The evolution of PIL in India reflects the judiciary’s proactive role in promoting social justice and constitutional governance. It may be understood in the following phases:

1. Emergence Phase (Late 1970s – Early 1980s): Access to Justice:

- Developed in the post-Emergency period to restore civil liberties and accountability.
- Judges like V. R. Krishna Iyer and P. N. Bhagwati liberalized procedural rules.
- Relaxation of *locus standi* allowed public-spirited individuals to file petitions on behalf of the poor.

Key Cases:

Hussainara Khatoon v. State of Bihar – Recognized right to speedy trial under Article 21.

S. P. Gupta v. Union of India – Formally liberalized locus standi³.

Focus: Prisoners, bonded labourers, women, children, and marginalized groups.

2. Expansion Phase (Mid-1980s – 1990s): Broadening Rights:

Expanded interpretation of Article 21 to include socio-economic rights.

Key Cases:

- Olga Tellis v. Bombay Municipal Corporation – Recognized right to livelihood.
- Bandhua Mukti Morcha v. Union of India – Protection and rehabilitation of bonded labourers.
- M. C. Mehta v. Union of India – Developed absolute liability and strengthened environmental law.
- Focus: Environmental protection, labour welfare, child rights, and human dignity.

3. Governance & Accountability Phase (2000s Onwards):

- Addressed corruption, electoral reforms, natural resource allocation, and transparency⁴.
- Strengthened democratic oversight and administrative accountability.
- Courts introduced safeguards to prevent misuse of PIL and discouraged frivolous petitions.
- Debate emerged on judicial activism vs. judicial restraint.

³ Deva, S. (2009). Public interest litigation in India: A critical review. *Civil Justice Quarterly*, 28(1), 19–40.

⁴ Jain, M. P. (2022). *Indian constitutional law* (8th ed.). LexisNexis.

4. Contemporary Trends

Addresses emerging issues: digital privacy, environmental sustainability, marginalized rights, and welfare implementation. Courts adopt a balanced approach—ensuring social justice while maintaining separation of powers.

V. PIL and Advancement of Social Justice (Short Points):-

Public Interest Litigation (PIL) has significantly advanced social justice in India by expanding rights and ensuring accountability.

1. Prisoners' Rights:

Hussainara Khatoon v. State of Bihar – Recognized right to speedy trial. Sunil Batra v. Delhi Administration – Ensured humane treatment of prisoners.

2. Bonded & Child Labour:

Bandhua Mukti Morcha v. Union of India – Directed release and rehabilitation of bonded labourers. Strengthened enforcement of Article 23.

3. Livelihood & Shelter:

Olga Tellis v. Bombay Municipal Corporation – Recognized right to livelihood under Article 21.

4. Environmental Justice:

M. C. Mehta v. Union of India – Introduced absolute liability; linked environment with right to life.

5. Gender Justice:

Vishaka v. State of Rajasthan – Laid down guidelines against workplace sexual harassment.

5. Right to Food & Welfare:

People's Union for Civil Liberties v. Union of India – Strengthened food security and socio-economic rights.

6. Governance & Accountability:

Addressed corruption and policy failures. Reinforced constitutional accountability and rule of law.

VI. Judicial Activism vs Judicial Overreach:-

The evolution of Public Interest Litigation (PIL) in India has been closely associated with the broader debate on judicial activism and judicial overreach. While judicial activism refers to the proactive role played by the judiciary in protecting constitutional values and

fundamental rights, judicial overreach denotes situations where courts are perceived to have transgressed into the domain of the legislature or executive, thereby disturbing the balance of separation of powers. The expansion of PIL has brought this debate to the forefront of constitutional discourse.

1. *Judicial Activism: A Catalyst for Social Justice:*

Judicial activism in India emerged prominently during the post-Emergency period, when courts sought to restore public confidence in constitutional governance. By liberalizing locus standi and expanding the interpretation of fundamental rights, the judiciary assumed a transformative role.

In cases such as *Vishaka v. State of Rajasthan*, the Supreme Court framed binding guidelines to prevent sexual harassment at the workplace in the absence of legislation. Similarly, environmental cases like *M.C. Mehta v. Union of India* demonstrate how judicial intervention strengthened environmental regulation and corporate accountability⁵.

2. *The Concern of Judicial Overreach:*

Despite its achievements, the expansion of PIL has attracted criticism. Critics argue that courts, in certain instances, have ventured into policy-making domains traditionally reserved for the executive and legislature. Orders directing administrative reforms, monitoring infrastructure projects, regulating educational admissions, or supervising policy implementation have raised concerns about institutional competence and democratic legitimacy.

3. *Balancing Activism with Restraint:*

The challenge lies in maintaining a balance between necessary judicial activism and undue interference. The Constitution empowers courts with judicial review as part of its basic structure, thereby authorizing them to check arbitrary state action. However, this power must be exercised with prudence and self-restraint.

4. *A Continuing Constitutional Dialogue:*

The debate between activism and overreach is not merely institutional but reflects the evolving nature of Indian democracy. In a context where governance failures may threaten fundamental rights, judicial intervention often becomes necessary. At the same time, sustained legitimacy of the judiciary depends on adherence to constitutional boundaries.

⁵ Bhagwati, P. N. (1983). Public interest litigation. *Journal of the Indian Law Institute*, 25(4), 561–577.

VII. Contemporary Relevance of Public Interest Litigation:-

Public Interest Litigation (PIL) continues to remain a vital instrument in India's constitutional democracy, even decades after its emergence. While its early phase focused primarily on access to justice for marginalized groups, its contemporary relevance extends to complex issues of governance, environmental sustainability, digital rights, transparency, and welfare implementation. In a rapidly transforming socio-economic landscape, PIL serves as a constitutional mechanism to address emerging challenges and ensure that state power is exercised within legal and ethical boundaries.

1. Protection of Environmental and Ecological Rights:

Environmental degradation, climate change, deforestation, and industrial pollution pose serious threats to public health and sustainable development. PIL remains a crucial tool for environmental governance. Courts have continued to apply principles such as sustainable development, the precautionary principle, and the polluter pays principle in environmental cases.

The jurisprudence developed in *M.C. Mehta v. Union of India* laid the foundation for environmental accountability, and contemporary PILs have expanded this framework to address issues like air pollution, river conservation, waste management, and protection of biodiversity. In the face of administrative inaction or regulatory gaps, PIL ensures judicial scrutiny of environmentally harmful activities affecting vulnerable communities.

2. Governance, Transparency, and Accountability:

PIL has become an important mechanism for promoting transparency in public administration. Courts have entertained petitions relating to corruption, misuse of public funds, allocation of natural resources, and electoral reforms. By subjecting executive decisions to judicial review, PIL reinforces the principle that public authorities are accountable to constitutional norms.

3. Protection of Socio-Economic Rights:

Contemporary PILs frequently address implementation gaps in welfare schemes concerning food security, health care, education, housing, and labour welfare. Judicial monitoring ensures that government programs reach intended beneficiaries. The continuing mandamus technique allows courts to supervise compliance and ensure effective policy execution.

In *People's Union for Civil Liberties v. Union of India*, the Supreme Court emphasized the state's obligation to prevent hunger and starvation, reinforcing

socio-economic entitlements as part of Article 21. Such interventions remain relevant in addressing poverty, unemployment, and social vulnerability.

4. *Digital Rights and Emerging Technologies:*

With the rise of digital governance, surveillance technologies, and data-driven administration, new questions of privacy, data protection, and digital inclusion have emerged. PIL provides a forum for addressing constitutional concerns related to technological advancements. Issues such as data security, internet shutdowns, and digital exclusion increasingly come before constitutional courts, reflecting PIL's adaptability to modern challenges⁶.

5. *Human Rights and Vulnerable Groups:*

PIL continues to play a significant role in protecting the rights of women, children, persons with disabilities, LGBTQ+ communities, migrant workers, and tribal populations⁷. It facilitates judicial intervention where systemic discrimination or state neglect threatens constitutional guarantees of equality and dignity.

6. *Strengthening Participatory Democracy:*

In contemporary India, PIL also functions as a participatory democratic tool. It enables civil society organizations, social activists, and concerned citizens to engage with constitutional governance. By providing a legal platform for collective grievances, PIL strengthens the dialogue between citizens and the state.

7. *Need for Responsible Use:*

While PIL remains relevant, courts have increasingly emphasized responsible and bona fide use of this mechanism. Strict scrutiny of petitions and imposition of costs in frivolous cases ensure that PIL retains its integrity and credibility.

VIII. Challenges and Way Forward:-

While Public Interest Litigation (PIL) has played a transformative role in advancing social justice in India, it faces several structural, institutional, and procedural challenges⁸. The continued legitimacy and effectiveness of PIL depend on addressing these concerns while preserving its foundational objective of protecting the rights of the marginalized and ensuring constitutional accountability.

1. *Misuse and Frivolous Litigation:*

⁶ Baxi, U. (1985). Taking suffering seriously: Social action litigation in the Supreme Court of India. *Third World Legal Studies*, 4, 107–132.

⁷ Baxi, U. (2010). *The Indian Supreme Court and politics*. Eastern Book Company.

⁸ Austin, G. (1999). *Working a democratic constitution: The Indian experience*. Oxford University Press.

One of the most significant challenges confronting PIL is its misuse. Over time, some petitions have been filed for personal gain, political rivalry, publicity, or to settle private disputes under the guise of public interest. Such “publicity interest litigations” dilute the credibility of genuine causes and burden already overburdened courts⁹.

2. *Judicial Overreach and Separation of Powers:*

Another challenge lies in maintaining institutional balance. While judicial activism has strengthened social justice, excessive judicial intervention in policy-making may raise concerns regarding separation of powers. Courts lack administrative machinery and technical expertise required for long-term policy implementation.

3. *Implementation Deficit:*

Even when courts deliver progressive judgments in PIL cases, effective implementation often remains weak. Administrative inefficiency, lack of political will, and resource constraints may hinder compliance with judicial directives.

4. *Judicial Backlog and Resource Constraints:*

Indian courts face heavy pendency of cases. Entertaining numerous PILs may further strain judicial resources. Prioritization and structured screening mechanisms are necessary to ensure that urgent matters affecting public rights receive timely attention without delaying regular cases.

5. *Need for Clear Procedural Framework:*

Although flexibility is a hallmark of PIL, clearer procedural guidelines can enhance consistency and transparency. Standardized criteria for admissibility, verification of facts, and expert consultation can improve the quality of judicial outcomes while preserving access to justice.

Way Forward:

Strengthening Screening Mechanisms

Encouraging Institutional Collaboration

Promoting Legal Awareness: Balancing Activism with Restraint

Ensuring Accountability in Compliance

⁹ Seervai, H. M. (1996). *Constitutional law of India* (4th ed.). Universal Law Publishing.

IX. Conclusion:-

Public Interest Litigation (PIL) stands as one of the most significant contributions of the Indian judiciary to constitutional governance and social transformation. Emerging in the post-Emergency era as a response to systemic inequalities and barriers to justice, PIL fundamentally altered the traditional contours of litigation. By relaxing the doctrine of locus standi and prioritizing substantive justice over procedural technicalities, the judiciary transformed courts into accessible forums for the marginalized, the disadvantaged, and the voiceless.

Through a series of landmark judgments—such as *Hussainara Khatoon v. State of Bihar*, *Bandhua Mukti Morcha v. Union of India*, *Olga Tellis v. Bombay Municipal Corporation*, and *Vishaka v. State of Rajasthan*—the Supreme Court and High Courts expanded the scope of fundamental rights and reinforced the constitutional commitment to dignity, equality, and social welfare. PIL has addressed issues ranging from bonded labour and prison reforms to environmental protection, gender justice, food security, and administrative accountability. It has bridged the gap between constitutional ideals and social realities by ensuring that rights are not merely theoretical but enforceable in practice.

At the same time, the expansion of PIL has generated concerns regarding judicial overreach, misuse, and institutional imbalance. The challenge before the judiciary is to maintain a delicate equilibrium between necessary judicial activism and constitutional restraint. The credibility and effectiveness of PIL depend upon its responsible invocation, careful judicial scrutiny, and faithful implementation of court directives.

Ultimately, Public Interest Litigation reflects the spirit of transformative constitutionalism embedded in the Indian Constitution. It reinforces the principle that law must serve society and that justice must be inclusive, participatory, and responsive to evolving social needs. As India continues to confront complex socio-economic and technological challenges, PIL remains a dynamic and indispensable instrument for advancing social justice, protecting fundamental rights, and strengthening democratic governance.

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