

## **PUBLIC INTEREST LITIGATION IN INDIA.CONSTITUTIONAL TRANSFORMATION OR JUDICIAL OVERREACH?**

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### **Abstract**

“Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons any member of the public acting bona fide can move the Court for judicial redress”<sup>1</sup>. Public Interest Litigation is a change in the way courts work. Public Interest Action made it easier for people to access justice by allowing more people to take cases to court and giving courts the power to protect the rights of marginalised people. The Supreme Court decisions helped create a system where people can participate in how the Constitution is used. Over time, PIL has changed from helping people get their rights to a way for courts to govern. Courts are now involved in making policy, supervising administration and managing regulations. This has raised a question about the constitution. Is Public Interest Action a good way to make the constitution work more, or does it hang republic by taking power away from other branches of the government? This article says that Public Interest Litigation needs to be understood as part of India's way of using the constitution to make changes. Public Interest Litigation is necessary in a society that's very unequal. However, for Public Interest Litigation to remain legitimate, courts need to be careful not to overstep their bounds they need to be clear about what they're doing, and they need to have rules in place to make sure everything runs smoothly. By looking at what courts have decided, and considering theory, this study says that Public Interest Litigation is still necessary, but needs to be adjusted so that democracy can work properly. Public Interest Litigation needs to be changed so that it does not disrupt the balance of power in the government.

**Key words:** Equality, Judicial Activism, Judicial Overreach, Transformative Constitutionalism, Access to Justice, Constitutional Governance

### **Introduction**

Public Interest Litigation is a change in Indian law. It started after the Emergency period from 1975 to 1977. The courts wanted to help people who were not being treated fairly. They made it easier for people to go to court on behalf of those who were being treated unfairly. The Supreme Court used Articles 32 and 226 of the Constitution to make things better for people. These articles were used to make changes in society. They were not just used to follow rules. The judges, like Justice P. N. Bhagwati and Justice V. R. Krishna Iyer played a role in Public Interest Litigation. They wanted the courts to hear to people and help them. They wanted to make sure everyone was treated inversely and had access to justice. The courts indeed accepted letters and cards as requests for help. they kept an eye on effects to make sure they were being done correctly. Over time Public Interest Litigation has changed. The courts are now involved in effects like taking care of the terrain and making sure people are n't

wearied. They're also involved in effects like food distribution and police reforms. Some people suppose the courts are doing much and should let the council and superintendent do their jobs. This composition looks at whether Public Interest Litigation's still a good way for the courts to help people. It

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<sup>1</sup> S.P. Gupta v. Union of India, A.I.R. 1982 S.C. 149.

checks court decisions and what the Constitution says. The article says that Public Interest Litigation is still important for India, but the courts need to be careful and follow the rules. They need to be responsible for what they do. Public Interest Action needs to be used in a way that is fair and just. The courts need to make sure they are not overstepping their bounds.

### **History and Evolution of PIL in India**

PIL is a way for the courts to help people who cannot help themselves. This is because they are poor or do not know about their rights. A long time ago, people had to have a personal reason to go to court. This meant that many people could not get help from the courts. They were people like workers who were treated badly, people who were in jail for a long time without a trial and people who were forced to work against their will. The Supreme Court of India decided to change this rule. They did this in the 1970s and early 1980s. Now people who care about others can go to court on their behalf<sup>2</sup>. This was a change. One of the times this happened was when someone wrote a letter to the court. The letter was about people who were in jail for a time without a trial. The court treated this letter like a request for help. This led to the people being released from jail. It also meant that the court had to make sure that people got a trial quickly. Public Interest Litigation in India really started with this case. It showed that the courts could help people who needed it most<sup>3</sup>. The Supreme Court made another decision in a case called *S.P. Gupta v. Union of India* said that people who care about others can go to court even if they are not directly affected. After this many other cases were brought to court. These cases were about things like workers rights protecting the environment and making sure the government is fair. Over time Public Interest Litigation helps the courts make sure that everyones rights are protected. Sometimes the courts have to be careful not to overstep their bounds. They have to make sure that they are not taking on much power. The Supreme Court has given guidelines to help with this<sup>4</sup>. The history of Public Interest Litigation in India shows that the courts are committed to helping people who are marginalized. They want to make sure that everyone is treated fairly and with dignity. Public Interest Litigation in India is a part of this. It helps the courts protect the rights of people who need their help the most. Public Interest Litigation in India is a way for the courts to make a difference, in peoples lives.

### **CONSTITUTIONAL AND STATUTORY FOUNDATIONS**

PIL does not come from one constitutional provision. It comes from reading several parts of the Constitution. These parts include Fundamental Rights, Directive Principles and the powers of courts. This section explains the foundations of PIL.

#### **A. Article 32**

It gives people the right to go to the Supreme Court to enforce their Fundamental Rights. This is different from other constitutions where judicial review is implied. Here it is clearly stated. Dr. B.R. Ambedkar called it as the "heart and soul" of the Constitution. It

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<sup>2</sup> *S.P. Gupta v. Union of India*, 1981 Supp S.C.C. 87 (India).

<sup>3</sup> *Hussainara Khatoon v. State of Bihar*, (1979) 3 S.C.C. 532 (India).

<sup>4</sup> *State of Uttaranchal v. Balwant Singh Chauhal*, (2010) 3 S.C.C. 402 (India).

makes rights more than promises. they become guarantees that can be enforced. The importance of Article 32 in developing Public Interest Litigation is in two areas. It gives the Supreme Court the power to hear cases directly. It allows the Court to issue types of orders like habeas corpus, mandamus, prohibition, certiorari and quo warranto. Initially only someone directly affected could use Article 32. In a case called *S.P. Gupta v. Union of India* the Supreme Court said that any individual who is genuinely concerned and acting in good faith can approach the Court. This change allowed people to bring cases on behalf of others who cannot access justice. As a result Article 32 became a part of bringing about social justice through litigation. So Article 32 is not a way to get into court; it is the foundation that makes Public Interest Litigation legitimate<sup>5</sup>.

### **B. Article 226**

Art 226 allows High Courts to issue writs not for Fundamental Rights but for any purpose. This makes it broader than Article 32. High Courts handle Public Interest Litigation cases concerning administrative actions, Violations of laws, Environmental damage, Failures in local governance. India's federal structure makes Article 226 important. Many public interest issues happen at state and local levels. High Courts' broad powers help ensure that the Constitution is followed at these levels. Thus Article 226 complements Article 32. It helps establish Public Interest Litigation within India's system<sup>6</sup>.

### **C. Article 21. Expanding Rights Through Public Interest Litigation**

Article 21 states. "No person shall be deprived of his life or personal liberty except according to procedure established by law."<sup>7</sup> Through Public Interest Litigation Article 21 has grown from protecting procedures to guaranteeing human dignity. In *Hussainara Khatoon v. State of Bihar*<sup>8</sup> the Court recognized the right to a trial. Later cases expanded Article 21 to include Right to livelihood, Right to an environment, Right to health, Right to education, Right to shelter. A case called *M.C. Mehta v. Union of India*<sup>9</sup> firmly established rights under Article 21.

### **D. Article 14. Equality and Fairness**

Article 14 guarantees equality before the law and Equal protection of laws<sup>10</sup>. In Public Interest Litigation Article 14 has been used to stop actions by the state. Petitioners often use Article 14 to challenge policies, Arbitrary administrative decisions, Unequal distribution of public resources. This principle helps courts check if executive actions are fair in policy matters.

### **E. Article 19. Protecting Freedoms**

Article 19 protects freedoms like speech, association, movement and profession<sup>11</sup>. Public Interest Litigation has been crucial in protecting freedoms especially in cases related to environmental protests, media regulation and public gatherings. The combination of Articles 14

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<sup>5</sup> INDIA CONST. art. 32.

<sup>6</sup> *Id.* art. 226.

<sup>7</sup> *Id.* art. 21.

<sup>8</sup> *Hussainara Khatoon v. State of Bihar*

<sup>9</sup> M.C. Mehta v. Union of India, (1987) 1 S.C.C. 395 (India).

<sup>10</sup> INDIA CONST. art. 14.

<sup>11</sup> *Id.* art. 19.

19 and 21 is often called the "triangle." It forms the core of the framework for Public Interest Litigation<sup>12</sup>.

#### **F. Article 39A and Directive Principles**

Art 39A directs the State to ensure justice and give free legal aid<sup>13</sup>. Though not enforceable directly, Directive Principles influenced Public Interest Litigation in many cases<sup>14</sup>. The Court used Directive Principles to interpret Fundamental Rights. This harmonised the parts of the Constitution. Article 38 which aims for social welfare and reducing inequalities further supports Public Interest Litigation.

#### **G. Article 142. Power for Complete Justice**

Article 142 allows the Supreme Court to make any order for "complete justice."<sup>15</sup> This is often used in Public Interest Litigation to issue guidelines and monitor compliance. For example in *Vishaka v. State of Rajasthan*<sup>16</sup> the Court framed guidelines in the absence of legislation.

#### **H. Code of Civil Procedure, 1908 – Order I Rule 8**

It allows suits where many people share the same interest. This procedural rule reflects the principle of representation used in Public Interest Litigation. Section 133 empowers Magistrates to remove nuisances. This is sometimes used in public safety cases<sup>17</sup>.

#### **I. Environment (Protection) Act, 1986**

The Act, plays a significant role in the development of PIL because it provides the statutory backbone for environmental governance, while PIL functions as the constitutional tool for its enforcement. The Act was enacted to implement international environmental commitments. Section 3 gives wide powers to the Central Government to take necessary steps for guarding and perfecting environmental quality. Sections 6 and 25 further authorize the government to frame rules regulating pollution and dangerous substances. Importantly, Section 19 allows any person to initiate a complaint after giving previous notice, which reflects the participatory nature of environmental law. Over time, the Supreme Court has interpreted Composition 21 to include the right to a clean and healthy terrain, thereby linking statutory environmental duties with fundamental rights<sup>19</sup>. Through PIL, courts have compelled authorities to implement environmental standards and have evolved principles such as absolute liability and polluter pays, strengthening environmental accountability<sup>20</sup>.

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<sup>12</sup> *M.C. Mehta v. Union of India*, (1997) 2 S.C.C. 353 (India).

<sup>13</sup> INDIA CONST. art. 39A.

<sup>14</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161 (India).

<sup>15</sup> INDIA CONST. art. 142.

<sup>16</sup> *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

<sup>17</sup> Code of Civil Procedure, 1908, No. 5 of 1908, Order I, Rule 8 (India), Code of Criminal Procedure, 1973, No. 2 of 1974, § 133 (India).

<sup>19</sup> *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395.

<sup>20</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598.

## **J. Legal Services Authorities Act, 1987**

The Act complements PIL by ensuring that access to justice is not denied due to poverty or social disadvantage. Legislated to give effect to Composition 39A of the Constitution, the Act institutionalises free legal aid as an indigenous commitment rather than a charitable measure. Section 4 establishes the National Legal Services Authority (NALSA) to frame programs and oversee the performance of legal aid programs across the country. Sections 12 and 13 specify the orders of persons entitled to free legal services and lay down the procedure for granting analogous backing. While PIL relaxes the traditional rule of locus standi and allows public-spirited individuals to approach courts on behalf of those unfit to do so, the Legal Services Authorities Act removes the financial walls that constantly help marginalized communities from asserting their rights. Together, PIL and the legal aid frame reflect a broader indigenous vision of social justice, insisting that rights aren't simply theoretical but virtually enforceable

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## **Shift From Activism to Judicial Governance**

- **Policy Formulation and Administrative Oversight**

Over time Public Interest Litigation has extended into areas of policy formulation that are normally handled by the government. Courts have given instructions about things like traffic rules banning firecrackers and managing public institutions. People who disagree with this say that the courts are going beyond what they are supposed to do and this is not good for democracy. The courts do not have the knowledge to make policies and they do not have to face the people in elections.

- **B. Supreme Court's Self-Imposed Caution**

In the case of *Divisional Manager, Aravali Golf Club v. Chander Hass*<sup>23</sup>, the Supreme Court warned against the courts interfering with the work of the government. It said that judges must remember that they have to share power with the government and the legislature. Similarly in the case of *State of Uttaranchal v. Balwant Singh Chauhal*<sup>24</sup> the Supreme Court made rules to stop people from filing Public Interest Litigations and said that courts must make sure that petitions are filed because they are really, in the public interest. These decisions show that the judiciary knows it should not overstep its boundaries with Public Interest Litigation.

## **Constitutional Theory and Separation of Powers**

The Indian Constitution does not have a separation of powers but it does have a way to divide tasks among different branches. The Constitution has something called review, which is a fundamental part of it. However, the courts should not try to govern the country<sup>25</sup>. The idea of constitutionalism says that courts should be more active in interpreting the law to achieve social justice. The people we elect should be the ones making big decisions about policies. The Indian Constitution has a system where anyone can bring a public interest case to court, which is a distinct way of doing things. The Indian Constitutional system is an

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<sup>21</sup> INDIA CONST. art. 39A.

<sup>22</sup> Legal Services Authorities Act, No. 39 of 1987, §§ 4, 12–13 (India).

<sup>23</sup> *Divisional Manager, Aravali Golf Club v. Chander Hass*, (2008) 1 SCC 683 (India).

<sup>24</sup> *State of Uttaranchal v. Balwant Singh Chauhal*, (2010) 3 SCC 402 (India).

<sup>25</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

experiment that's different, from others the Indian Constitution is a special document that has its own way of balancing powers.

## **JUDICIAL EVOLUTION OF PUBLIC INTEREST LITIGATION. A CRITICAL CASE LAW EVALUATION**

Public Interest Litigation in India did not emerge through a single judicial pronouncement; rather, it evolved incrementally through a series of landmark decisions. These cases collectively illustrate three phases of PIL jurisprudence. (1) Access Expansion Phase, (2) Rights Transformation Phase, and (3) Governance and Self Restraint Phase. The Access Expansion Phase is about the Liberalization of Locus Standi.

### **1. Hussainara Khatoon v. State of Bihar<sup>26</sup>**

This case is really important because it's like the launch of Public Interest Litigation. It all began when a review wrote about people who were in jail for a time without a trial. The Supreme Court also decided to treat a letter like a petition. The Court said that people have the right to a trial, which is part of Composition 21. What's further significant is that the Court made it easier for people to file desires on behalf of others like captures who can not go to the Court themselves. This case shows that the Court is now focusing more on what's fair and just rather than just following rules. The Access Expansion Phase or Liberalization of Locus Standi is about making sure that people who are treated unfairly can get help from the Court. It marked a change, in how the Court thinks about justice and how it can help people who are affected by inequality. The Liberalization of Locus Standi is a part of this change.

### **2. S.P. Gupta v Union of India**

It was held that anyone can file a complaint on behalf of the public. Justice P.N. Bhagwati said that if someone from the public is genuine in their concern they can file a complaint to fix a problem. The Court said this change was needed because some groups are not in a position to fight for themselves in court<sup>27</sup>. This decision marked the beginning of Public Interest Litigation. However some people criticize it saying it allowed many unnecessary complaints. The problem was that there was no way to check if someones complaint was genuine which led to abuse.

### **3. Bandhua Mukti Morcha v Union of India**

The Court looked into a letter that said some people were being forced to work and treated it as a complaint. They ordered an investigation. Said that labour laws must be enforced. The judgment said that small technical issues cannot stop people from getting their rights. This case shows how the Court started to make sure that everyones basic rights are enforced. They made it possible for people to claim their rights, in court<sup>28</sup>. However some people think that this also started a practice where the Court kept an eye on everything, which some people do not like.

### **4. M.C. Mehta v Union of India**

This case helped create rules for protecting the environment, like the idea that companies must take responsibility for the harm they cause and that they should take steps to prevent harm in

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<sup>26</sup> *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 532 (India).

<sup>27</sup> *S.P. Gupta v. Union of India*, 1981 Supp SCC 87 (India).

<sup>28</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 1

the first place<sup>29</sup>. The Court started making rules for how to protect the environment, which some people think is not the Court's job. They think it is like the job of lawmakers. Still this case helped make India a leader in making sure its constitution helps protect the environment.

### **5. Vishaka v State of Rajasthan**

Rules to stop harassment at work were to be implemented because there were no laws about it. The Court made guidelines that were later made into laws by lawmakers, which shows people agreed with the Court's ideas<sup>30</sup>. However, some people wonder if the Court overstepped its bounds by making rules that are usually made by lawmakers.

### **7. Subhash Kumar v. State of Bihar**

The Court warned people not to misuse this kind of lawsuit. This case is important because it shows that the Court knows people can use public interest lawsuits for their gain or for political reasons.

### **8. Divisional Manager, Aravali Golf Club, v. Chander Hass**

The judgment made it clear that judges should not do things that are supposed to be done by the branch. This judgment is very important because it says that judges have to respect the limits of their power. Judicial Self Restraint is what the Court is talking about<sup>31</sup>. The Court is aware that judges can overstep their boundaries. The Court is talking about Judicial Self Restraint in this case.

### **9. State of Uttaranchal v. Balwant Singh Chauhal**

The Court gave rules about accepting Public Interest Litigations (PILs). These rules included: Checking who is filing the petition, Screening at the start, Paying costs for petitions<sup>32</sup>. This case shows that the Court is trying to improve how PILs work. It wants to make sure PILs are legitimate and follow

### **10. Peoples Union for Democratic Rights v. Union of India**

This case was about workers who were not paid the minimum amount of money they should get for working on Asian Games projects. The Supreme Court said that not paying workers the minimum wage is the same as forcing them to work against their will which's against Article

23. They also said that anyone who cares about what's right can go to court to make sure people's basic rights are protected<sup>33</sup>.

### **Key Findings from Research**

1. Access to Justice: The Public Interest Litigation has made the courts more accessible to everyone people who are vulnerable and do not have a lot of power. This helps to make sure that the basic rights of these people are protected. The Public Interest Litigation has

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<sup>29</sup> *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (India).

<sup>30</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

<sup>31</sup> *Divisional Manager, Aravali Golf Club v. Chander Hass*, (2008) 1 SCC 683 (India).

<sup>32</sup> *State of Uttaranchal v. Balwant Singh Chauhal*, (2010) 3 SCC 402 (India).

<sup>33</sup> *Peoples Union for Democratic Rights v. Union of India*

really helped to make the courts more available to people who cannot normally afford to go to court.

2. **Judicial Creativity:** The courts have been very creative in how they interpret the laws and the constitution to deal with problems related to society the environment and how the country is run. The courts have used The Public Interest Litigation to make innovative decisions on these issues.
3. **Integration with Statutes:** There are laws that help to protect the environment and provide aid and these laws work well with The Public Interest Litigation. These laws give people rights and help to remove the financial problems that can stop people from going to court.
4. **Overreach:** While the Public Interest Litigation has helped to make things more fair for people, sometimes the courts can get too involved in things that they should not be involved in. This can make it seem like the courts are overstepping their boundaries and taking on much power.
5. **Evolution of Doctrines:** The Public Interest Litigation has led to some important developments in the law including the idea that some people can be held completely responsible for certain things.

The PIL has also led to the development of important legal ideas, such as the continuing mandamus and the idea that people have rights related to their social and economic situation and the environment under Article 21 of the Constitution.

### **Recomendations**

We should not give up on Public Interest Litigation, it should be reformed.

1. The courts have to be more careful when they first look at a case. People who file a Public Interest Litigation case should show that they are genuinely interested in the issue and tell the court about themselves.
2. Sometimes people file Public Interest Litigation cases that're not serious or are filed for political reasons. In cases, the court should make them pay a fine.
3. The court should also clearly define what is meant by Public Interest Litigation to prevent its misuse.
4. The court can also get help from researchers and experts to make decisions on Public Interest Litigation cases.
5. The goal of reforming Public Interest Action isn't to make the court do nothing. To make the court take action in a responsible manner and stay within its limits, the limits of the Public Interest Action and the Constitution.

### **Conclusion**

PIL in India is one of the important changes in the way the Constitution is interpreted. This is grounded on Articles 32 and 226 of the Constitution. PIL has changed from a way of doing effects into an important tool for social justice. The Supreme Court made it easier for people to go to court by changing the rules in cases like S.P. Gupta v. Union of India. This changed the way people perceive justice from fighting against each other to working together and focusing on rights. The Supreme Court has interpreted Composition 21 in a way, especially in cases like Maneka Gandhi v. Union of India. This has changed the right to life into a commodity that includes quality, livelihood, health and guarding the terrain. It has also helped with equivalency under Composition 14. Freedoms under Article 19. This has happened through court cases that deal with unfairness, bad governance and enterprises about liberties. The court has also used

the Directive Principles, Article 39A and Article 38 to make sure the constitution is followed. Public Interest Action is supported by the constitution Composition 142. This composition gives the Supreme Court the power to make big changes to ensure justice. Public Interest action is not about the court being active, but it is also defended by the

Constitution. There are also laws like the Code of Civil Procedure, 1908, BNSS, 2023, the Environment Protection Act, 1986. These laws have helped the constitution by making sure people can work together to break problems and help one another. These laws show that the government is committed to making sure people have access to justice and are treated fairly. At the time, the courts have been careful not to let Public Interest Litigation be misused. The Supreme Court has said many times that Public Interest Litigation should only be used for real public issues, not for particular gain, hype or political fights. So Public Interest Action is a balance between the court being innovative. The court is being careful. However, between the law and social justice, showing the spirit of the Indian Constitution If Public Interest Action is used rightly and responsibly, it can still be a ground..

