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PUBLIC INTEREST LITIGATION-A BEACON OF HOPE FOR MARGINALIZED VOICE

~ *Korada Devyka*

In our dynamic world, disparities and injustices frequently evade notice. Yet, amidst these challenges, Public Interest Litigation (PIL) emerges as a beacon of hope. This formidable legal mechanism empowers individuals and organizations to advocate for the rights of marginalized communities and hold the powerful to account. This is a right given to people by the Constitution for their protection. The public's challenges and problems will reach the Court through PIL. This is a legal tool that empowers all Individuals and organizations. PIL even address broader issues that are affecting the public good.

Evolution of PIL

In the 1980s, the societal focus was predominantly on private life, with the Indian judiciary, including the Supreme Court and High Courts, primarily addressing individual private rights. Subsequently, the courts acknowledged the necessity for a legal framework encompassing public rights, leading to the introduction of Public Interest Litigation (PIL) during that decade.

The concept of Public Interest Litigation (PIL) in India was pioneered by Justice Krishna Iyer in 1976 in the case of **Mumbai Kamagar Sabha v. Abdul Thai**. In this seminal case, an unregistered association of workers was allowed to file a writ petition under Article 32 of the Indian Constitution to address collective grievances.¹ The first reported instance of PIL was in the 1979 case of **Hussainara Khatoon v. State of Bihar**. An advocate filed the PIL, prompted

¹ Saurabh Uttam Kamble, *Evolution of Public Interest Litigation (PIL) in India: A Comparative Analysis with International Jurisdictions.*, LAWYERSCLUBINDIA, <https://www.lawyersclubindia.com/articles/evolution-of-public-interest-litigation-pil-in-india-a-comparative-analysis-with-international-jurisdictions--16043.asp> (last visited May 30, 2024).

by a news article in the Indian Express, which highlighted that around 40,000 trial prisoners in Bihar had been incarcerated for years without trial. The Supreme Court ruled that the right to a speedy trial is a fundamental right denied to these prisoners. This approach was subsequently adopted in later cases.

What is Public Interest Litigation

The contention that the petitions do not qualify as public interest litigation due to the lack of locus standi on the part of the petitioners was vehemently argued. However, we must disagree with this assertion. The environment, above all else, constitutes a matter of paramount importance. It is a shared resource accessible to all inhabitants of a given region, and its preservation is indispensable for ensuring the sustenance of a wholesome existence. This matter is no longer open to debate; it is firmly established in legal precedent.²

Public interest litigation is not delineated by any statute or act; rather, its interpretation has been shaped by judicial insight, focusing on the broader public good. The petitioner must convincingly demonstrate to the court that the filing serves a genuine public interest rather than being a frivolous action by a meddlesome individual. Public Interest Litigation (PIL) offers a more affordable alternative to traditional legal procedures designed to protect the rights of specific sections, communities, or groups in similar circumstances. For example, in the Samatha case in Andhra Pradesh, the Supreme Court prohibited private companies from leasing forest and tribal lands to others, thereby safeguarding indigenous rights.

In the **Subhash Kumar v. State of Bihar case**, the Supreme Court expounded upon the following principle:

"The fundamental right to life, as enshrined in Article 21 of the Constitution, encompasses the privilege of enjoying uncontaminated water and air, vital for the complete fulfilment of life. Should anything compromise or degrade this standard of living contrary to legal provisions,

² NEXT IAS Content Team, *Public Interest Litigation (PIL)*, (Apr. 25, 2024), <https://www.nextias.com/blog/public-interest-litigation/> (last visited May 30, 2024).

individuals retain the right to seek recourse under Article 32 of the Indian Constitution to address water or air pollution that undermines their quality of life."³

Embedded within the constitutional framework, the judiciary assumes a distinctive and essential role as the guardian of citizens' constitutional and statutory rights. It holds the authority to evaluate legislative and administrative decisions from the standpoint of constitutional law.

Significance of PIL

- PIL makes justice more accessible by enabling individuals or groups with the necessary resources to file petitions for those who lack the ability or means to do so. A prominent example is when Parmanand Katara, an ordinary citizen, brought the issue of hospitals refusing to treat accident victims to the Supreme Court's attention.⁴
- Through judicial review, decisions made by public authorities can be challenged. In the Shreya Singhal case, the Supreme Court overturned arrests made under Section 66A of the IT Act for posting content online, highlighting the importance of protecting freedom of expression. PIL also plays a crucial role in holding the government accountable, serving as a tool to correct any improper actions by the executive or legislative branches. It ensures that legal responsibilities are upheld against those who violate the law.
- It facilitates the establishment of checks and balances essential for addressing any improper actions by the executive or legislative branches, thereby ensuring governmental accountability and enforcing the legal responsibilities of wrongdoers.
- Litigants can focus on and achieve meaningful outcomes related to critical societal issues.
- By focusing on significant societal issues, litigants can use PIL to drive meaningful change, reinforcing the checks and balances necessary for a robust democracy.

³ What is Public Interest Litigation (PIL) and What is Its Importance?, CLEAR TAX, <https://cleartax.in/s/public-interest-litigation> (last visited May 30, 2024).

⁴ Public Interest Litigation in India [PIL] with cases - LAWS STUDY, <https://lawsstudy.com/public-interest-litigation-in-india-pil-with-cases/> (last visited May 30, 2024).

- The court holds the authority to take cognizance of such matters Suo motu, or proceedings may be initiated based on the petition of any civic-minded individual.⁵

Concept of Locus Standi

The concept of Locus Standi is relaxed under PIL. Locus Standi pertains to an individual's standing or position concerning a legal case. To maintain a petition, there must be a direct connection between the petitioner and the cause of action. In other words, the petitioner must have locus standi. However, this requirement does not apply in the context of Public Interest Litigation (PIL).⁶

The legal landscape governing Public Interest Litigation (PIL) in India is delineated by a series of judicially established principles. These legal tenets encompass:

- Broad Interpretation of Locus Standi: PIL operates under an expansive interpretation of locus standi, permitting individuals facing barriers to accessing the courts, such as the marginalized or disadvantaged, to seek judicial relief for their concerns.
- Judicial Oversight: Anchored in Articles 14 and 21 of the Indian Constitution, the judiciary ensures equitable treatment through intervention in cases of perceived injustice, underscoring its commitment to rectify grievances.
- Flexible Procedural Norms: PILs are initiated through various channels, including informal means like letters or postcards, reflecting the courts' willingness to accommodate diverse avenues of legal recourse, as evidenced in notable cases such as **Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh**.⁷
- Disregard for Maintainability Challenges: Objections raised by the government regarding the viability of PILs are dismissed if the court deems the petition essential for upholding constitutional rights, particularly those of marginalized segments of society

⁵ Explained: What is PIL? When can it be filed? Courts view on misuse of PIL, INDIA TODAY (2022), <https://www.indiatoday.in/law/story/pil-explained-when-can-it-be-filed-misuse-supreme-court-high-court-1957970-2022-06-03> (last visited May 30, 2024).

⁶ Public Interest Litigation, DRISHTI IAS, <https://www.drishtiiias.com/to-the-points/Paper2/public-interest-litigation> (last visited May 30, 2024).

⁷ Importance of Public Interest Litigation in India - Academike, (2014), <https://www.lawctopus.com/academike/importance-public-interest-litigation-india/> (last visited May 30, 2024).

- **Adaptable Application of Res Judicata:** The applicability of the res judicata principle in PIL matters is contingent upon individual case dynamics, ensuring judicial flexibility and responsiveness to evolving circumstances.
- **Commission Appointment Mechanisms:** In exceptional circumstances, the judiciary may appoint investigative bodies or commissions to oversee public institutions, facilitating effective governance and resolution of pertinent issues.
- **Pursuit of Holistic Justice:** Empowered by Article 142 of the Constitution, the Supreme Court is vested with the authority to issue decrees or orders to deliver comprehensive justice to individuals or groups, reinforcing the judiciary's commitment to constitutional values.⁸
- **Safeguards Against Misuse:** The judiciary remains vigilant in preventing the abuse of PILs, safeguarding the interests of vulnerable populations. Precedents such as **Kusum Lata v. Union of India** underscore the courts' proactive stance in preserving the integrity of PIL mechanisms.

Jurisdiction to file a PIL

Only a person acting in good faith with sufficient interest in the proceedings will have locus standi to file a PIL under Article 32 in the High Court or Article 226 in the Supreme Court. PILs are an extension of Writ Jurisdiction.

A letter or postcard addressed to the Chief Justice of India or the Chief Justice of the High Court may be sufficient. **M.C Mehta v. UOI and Olga Tellis v. Bombay Municipal Corporations** are the PILs filed by an Individual for the public good.⁹

The procedural steps for filing a Public Interest Litigation (PIL) are as follows:

1. Conduct a thorough assessment to determine the viability of initiating legal action.
2. Seek counsel and collaboration with relevant stakeholders interested in the matter.
3. Exercise caution in commencing legal proceedings due to potential challenges such as:

⁸ Free Law, *Free Law: Get Free Headnotes & Judgments*, FREE LAW: GET FREE HEADNOTES & JUDGMENTS, <https://www.freelaw.in/> (last visited May 30, 2024).

⁹ Public Interest Litigation in India [PIL] with cases - LAWS STUDY, *supra* note 4.

- i. Financial implications
 - ii. Time-intensive nature
 - iii. Risk of diminishing community decision-making autonomy
 - iv. Impact of unfavourable rulings on the movement's momentum
 - v. Potential diversion of community focus from core issues.
4. Upon deciding to proceed:
- i. Gather comprehensive information pertinent to the case.
 - ii. Ensure meticulous documentation, including photographs with corresponding negatives and affidavits and retaining relevant invoices.
 - iii. Communicate clear demands to the relevant authorities through written correspondence.
 - iv. Maintain organized records of all proceedings.¹⁰
 - v. Seek legal counsel to determine the appropriate legal forum for filing the PIL.
 - vi. Retain the services of a proficient lawyer or, if self-representing, obtain expert legal guidance for drafting purposes.
 - vii. Note that PILs can only be filed by registered organizations; if unregistered, PILs must be filed in the name of an office bearer or member in a personal capacity.
 - viii. Consider issuing a legal notice to concerned parties or authorities before filing the PIL, particularly when initiating legal action against government entities, which typically necessitates a two-month notice period.

Public Interest Litigations (PILs) encompass a diverse range of pressing concerns, such as:

- The conditions of bonded labourers
- The neglect and maltreatment of children
- The exploitation of temporary workers and the failure to ensure they receive minimum wage

¹⁰ undefined & InsightsIAS, *INSIGHTSIAS - Top IAS Coaching in Bangalore*, INSIGHTSONINDIA (Sep. 17, 2018), <https://www.insightsonindia.com/> (last visited May 30, 2024).

- Violent acts perpetrated against women
- Environmental pollution and the disruption of ecological balance
- The adulteration of food products
- The preservation of cultural heritage and traditions.

Successful PIL Cases:

- The **Vishaka Guidelines**, issued in 1997, offered employers a detailed definition of sexual harassment, preventive strategies, and procedures for lodging complaints.
- In **M.C. Mehta v. Union of India (1987)**, Justice P.N. Bhagwati highlighted the importance of incorporating the polluter pays principle into India's sustainable development strategy in a constitutional article.
- The Supreme Court, in **Hussainara Khatoon v. State of Bihar**, ordered the release of 40,000 undertrial prisoners who had already served the maximum period of detention.
- In the **Parmanand Katara case**, the court granted hospitals the authority to address emergencies without being impeded by ongoing police investigations.¹¹
- The Supreme Court, in the **Sheela Barse case**, mandated that women prisoners be housed in separate police cells to shield them from further abuse and suffering.
- In the **1988 M.C. Mehta case**, the Supreme Court rebuked local officials for allowing the discharge of untreated sewage.
- The Supreme Court, in the **Sumit Batra case**, asserted the right of undertrial prisoners to be free from solitary confinement.
- A PIL facilitated the Supreme Court's cancellation of 122 improperly awarded 2G licenses.
- In the **Indira Sawhney case**, the court ruled that affirmative action measures should not exceed ten years once a particular group is sufficiently represented in society.
- The **2014 NALSA Case** saw the court affirm that individuals identifying as third gender or transgender are entitled to fundamental rights.

¹¹ Kamble, *supra* note 1.

- The **Shreya Singhal Case** led to the Supreme Court invalidating unconstitutional detentions under Section 66A of the IT Act relating to online content.¹²

The absence of Public Interest Litigation (PIL) could engender a spectrum of intricate challenges:

- **Constraint on Legal Access:** Marginalized demographics may encounter hurdles in accessing legal recourse due to financial constraints or a dearth of legal acumen. PIL acts as a conduit, enabling these factions to navigate the legal realm and advocate for their rights.
- **Perpetuation of Societal Dilemmas:** Pressing social dilemmas, encompassing environmental degradation, human rights transgressions, and public health exigencies, may persist without the spotlight afforded by PIL. PIL often catalyzes judicial intervention and prescriptive measures to address these quandaries.¹³
- **Dilution of Oversight Mechanisms:** The absence of PIL could debilitate the mechanisms for scrutinizing governmental and corporate actions, thereby attenuating accountability. PIL is instrumental in fortifying checks and balances, compelling entities to operate within legal confines.
- **Erosion of Democratic Tenets:** The judiciary's role in safeguarding public interests and upholding democratic ideals could diminish sans PIL. PIL empowers citizens to seek redress for collective grievances, buttressing democratic governance.
- **Constriction of Legal Precedents:** PIL adjudications often herald seminal legal pronouncements that shape jurisprudential evolution. Devoid of PIL, the progression of progressive legal doctrines and the expansion of rights through judicial interpretation could be stymied.
- **Neglect of Public Well-being:** Matters germane to public welfare, spanning from carceral conditions to eldercare and child welfare, might be relegated to the periphery sans PIL. PIL ensures the judicious scrutiny and amelioration of these concerns by the judiciary.

¹² Surya Deva, *Public Interest Litigation in India: A Critical Review*, (2009),

<https://papers.ssrn.com/abstract=1424236> (last visited May 30, 2024).

¹³ Public Interest Litigation, <https://legalserviceindia.com/article/1273-Public-Interest-Litigation.html> (last visited May 30, 2024).

- Augmented Judicial Inefficacy: The judicature might grapple with a deluge of individual litigations¹⁴ devoid of a mechanism to redress systemic issues affecting broad swathes of the populace efficiently. PIL affords the judiciary a holistic avenue to address systemic maladies.

Conclusion

Public Interest Litigation (PIL) serves as a vital legal mechanism, especially for protecting the rights of those who lack the means to access the courts independently. It represents a widely utilized form of litigation, particularly prevalent in environmental matters. To encourage the filing of PILs in the public interest and on behalf of disadvantaged groups, the courts have endeavoured to simplify the procedural rules governing PILs. However, instances have arisen where individuals have attempted to advance their interests under the guise of PILs. Thus, the courts must exercise caution to prevent the potential misuse of PILs.

¹⁴ Kamble, *supra* note 1.