



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Role of Public Interest Litigation in Advancing Social Justice

Introduction

The principles provided under the Preamble states that India provides and promotes social justice for all individuals. These principles are stated under Fundamental Rights and Directive Principles of State Policies as well. Although India is a welfare state due to its huge population inequality and differences can be seen among its residents in their social and economic status. This also includes unequal opportunities to get access to judiciary. Poor face challenges to approach court due to lack of educational and financial resources. Thus, the concept of Public Interest Litigation developed in India as a means to end injustice and inequality among all. This blog deals with introduction to PIL, its background as well as current status in our society.

Understanding Public Interest Litigation

Public Interest Litigation is a legal process where a person can go to court regarding matters of public concern like pollution, terrorism, road safety, etc. It can also filed by a person to deal with matters related to public morality, justice and health. Under general rule of Locus Standi, a person can only approach court that they can only approach court if they are directly affected by the issue or their rights are getting violated. However, PIL is an exception to this. Unlike traditional process where only an individual can seek justice and relief, under PIL anyone can file for relief in court if the matter benefits the society. Not only this Public Interest Litigation can be filed if rights of an individual are violated and they don't have the means to approach the judiciary for remedies. For example, a PIL can be filed in case a company is causing pollution

that is harming the health of the people that are living in the nearby area (Ganga Pollution case¹) or it can be filed if any custom or practice is harming the rights of an individual (Triple Talaq case²). Apart from the core concepts of PIL, through the case of S.P. Gupta v. Union of India³ the Hon'ble Supreme Court of India has also laid down certain guidelines for PIL.

Historical Context of PIL

The concept of PIL originated and developed in the United States of America during the 1960's. Therefore, it can be said that PIL is a concept of American Jurisprudence. It was a result of social injustice that was faced by the blacks and other races in their society. PIL helped them to get justice. About 20 years later, this concept was adopted in Indian legal system by Justice V.R. Krishan Iyer and Justice P.N. Bhagwati through Mumbai Kamagar Sabha vs. Abdul Thai⁴.

Later, through Hussainara Khatoon v. Home Secretary, State of Bihar⁵ basic rights were provided to prisoners against the inhumane treatment given to them in custody. This was the first case which was filed through Public Interest Litigation. This resulted in release on more than 40,000 under trial prisoners who become the victim of these conditions⁶. After this landmark judgment, then Supreme Court Judge, Justice P.N. Bhagwati led the PIL movement and with time many cases were filed through PIL.

The Role of PIL in Addressing Social Justice Issues

Social Justice is a concept that states that everyone should have equal opportunities and rights irrespective of their caste, wealth and status. The Fundamental Rights mentioned under Part III⁷ of the Indian Constitution contains various rights that provide justice to all individuals including Social Justice. It prohibits state or any individual to discriminate on grounds of race, caste, creed, religion or gender⁸, provides equal opportunities to all⁹, provides for a healthy and

¹MC Mehta v. Union of India; AIR 1988 SC 1037, <https://indiankanoon.org/doc/59060/>

²Shayara Bano vs. Union of India; (2017) 9 SCC, <https://indiankanoon.org/doc/115701246/>

³1982(2)SCR 365, <https://indiankanoon.org/doc/112850760/>

⁴1976 SCR (3) 591, <https://indiankanoon.org/doc/191016/>

⁵AIR 1979 SC 1369, <https://indiankanoon.org/doc/1373215/>

⁶<https://www.drishtias.com/to-the-points/Paper2/public-interest-litigation>

⁷Article 12-32, <https://www.constitutionofindia.net/parts/part-iii/>

⁸Article 15, <https://indiankanoon.org/doc/609295/>

⁹Article 16, <https://indiankanoon.org/doc/211089/>

dignified life¹⁰, and prohibits forced labour¹¹ and so on. Since PIL promotes and protects Fundamental Rights, it is filed in the same manner as a writ is filed for violation of FR's. It means a person can directly approach Supreme Court and High Court under Article 32¹² and Article 226¹³ respectively through Public Interest Litigation.

Challenges of Social Injustice in India

With a population of 140 million, huge differences can be seen between 2 groups of society. As per 2023 Multidimensional Poverty Index Report¹⁴ over a third of all poor people in the world live in South Asia—which is around 389 million people. India contributes significantly to this number, accounting for almost 70 percent of the increase in extreme poverty¹⁵. Due to lack of inadequate means of livelihood and education, these people lack resources to approach court and get justice. It is also due to these inadequate means they are vulnerable to violation of their rights by the rich and upper class.

Role of PIL in Empowering the Marginalized

Under these circumstances, PIL act as a relief to the weaker and economically backward groups. These instances include M.C. Mehta v. Union of India¹⁶, in which a PIL was filed to stop factories from polluting Ganga River¹⁷. Yet in another case, sexual harassment was recognized as a violation of the fundamental constitutional rights of Article 14, Article 15 and Article 21¹⁸. Similarly in the Asiad Workers judgment case¹⁹, Justice P.N. Bhagwati Justice P.N. Bhagwati stated that individuals earning below the minimum wage have the option to go directly to the Supreme Court²⁰.

Expanding Rights through PIL

¹⁰ Article 21, https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

¹¹ Article 23, https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

¹² <https://www.constitutionofindia.net/articles/article-32-remedies-for-enforcement-of-rights-conferred-by-this-part/>

¹³ http://constitutionofindia.etal.in/article_226/

¹⁴ <https://hdr.undp.org/system/files/documents/hdp-document/2023mpireportenpdf.pdf>

¹⁵ <https://www.forbesindia.com/article/explainers/poverty-rate-in-india/90117/1>

¹⁶ AIR 1988 SC 1037

¹⁷ <https://indiankanoon.org/doc/59060/>

¹⁸ Vishakha v. State of Rajasthan; AIR 1997 SC 3011, <https://main.sci.gov.in/jonew/judis/13856.pdf>

¹⁹ People'S Union For Democratic Rights v. Union Of India & Others; AIR 1982 SC 1473,

²⁰ <https://indiankanoon.org/doc/496663/>

Over the last few decades, it has helped them to get justice and new era of rights through various cases that were filed by various organizations, NGO's as well as individuals. These cases helped to expand the ambit of Article 21 which provides that everyone has the right to life and personal liberty. With time various rights including right to free legal aid, right to live with dignity, right to education, right to work, freedom from torture, bar fetters and hand cuffing in prisons, etc. came within its limits²¹. These rights have helped these individuals to live a dignified life along means of livelihood.

Conclusion

In conclusion, public interest litigation has been crucial in promoting social justice in India. PIL has broadened access to justice, allowing marginalized individuals to contest infringements on their rights and request fair access to resources. It continues to play a vital role in striving for a fairer and more inclusive society.

²¹ <https://www.drishtiiias.com/to-the-points/Paper2/public-interest-litigation>