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ARTICLE - PUBLIC INTEREST LITIGATION : NOW & THEN

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ABSTRACT

This article analyzes how public interest litigation took birth in India with the continuous support and efforts of honorable judges PN Bhagwati and VR Krishnan Iyer . Over the past four and half decades India has seen a remarkable progress in maintaining social justice and spreading the legal aid facilities through out the nation . In this article , I have tried to furnish the significant shift of judicial response from a conservative, property-rights-oriented approach to a proactive, "pro-poor" stance, largely driven by the need to regain legitimacy after the 1975-77 . This article undertakes a doctrinal and analytical study of the evolution of PIL in India by examining its conceptual foundations, scope, objectives, and judicial philosophy. It traces the transformation of PIL from a tool to address social problems such as violation of rights of marginalized section, prisoners rights , environmental issues etc ,to it's contemporary form where it is evolving as concern of misuse along with regulatory mechanism and judicial caution . This article further surfaces the implementation challenges faced by it in evolving stage such as governmental intervention . It also analyses the interrelationship between PIL and legal aid mechanisms, including the role of legal services authorities, para-legal services, and Lok Adalats. The study concludes that while PIL remains a vital instrument for constitutional governance, its sustainability depends on principled restraint, institutional coordination, and a balanced integration with legal aid frameworks.

INTRODUCTION

The term Public Interest Litigation was originated in the US during mid 1980s movement. The phrase Public interest litigation was firstly used by American academic , Abram Chayes , to encapsulate the lawyers and social persons who knock at the doors of court to seek positive social change through court - decrees that reforms or amends the legal rules, enforce existing laws or enunciate general behaviour codes . The movement later was funded by financial holds which inspired the lawyers to take up cases regarding the fight for under privileged section or community of society . The first legal aid office was established in 1876 in New York City.

In Indian context , PIL was first described by Justice Krishnan Iyer in 1976 without assigning terminology in the landmark case , Mumbai Kamgar Sabha Vs Abdul Bhai as Public interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualisation of the right to invoke the higher courts where the remedy is shared by a considerable number, particularly when they are weaker.

PN Bhagwati in his article 'social action litigation' also tried to explain the diameters and essentialism of PIL in India .He on various time stamps of vital cases for social justice tried to laid founding stones for such a litigation arena which allows any other person to fight for a social cause then the victims .

In the Janata Dal's case , they together said that PIL is part of the process of participate justice and standing in civil litigation of that pattern must have liberal reception at the judicial doorstep.

In the vision of Contemporary world, PIL can be defined as below mentioned ;

1. BLACK'S LAW DICTIONARY (6TH EDITION) -

'Public Interest Litigation is something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as a mere curiosity, or as the interests of the particular localities, which may be affected by the matters in dispute'.

2. STROUD'S JUDICIAL DICTIONARY -

“Public interest” does not refer to things that are fascinating as satisfying curiosity, a love of knowledge, or entertainment, but rather to things in which a certain class of people has an economic interest, or an interest that affects their legal rights or obligations.

By observing these definitions we can say that the large extent of PIL doesn't allow us to summarize it's nature and concepts in narrowed version .

JUDICIAL ACTIVISM AND PIL

It is said that PIL is evolved from the process of judicial activism of apex court. Judicial activism is active role played by the judiciary in interpreting and applying the law to protect and promote justice, often beyond the text of the statute. It originated in US similarly as PIL , where the judiciary through the landmark cases played a vital role in shaping public policies . In India , the thought of Judicial activism was from the emergency time when the responsibility of protecting fundamental rights was on the judiciary as the legislature and the executives failed on their part. The immense pressure from the concerned citizens as well as media forced for a mechanism named Judicial Activism .

The idea spread in late 1970s and 1980s when Justice P N Bhagwati and Justice V R Krishnan Iyer saw judiciary's aptitude as a stimulus for social change and justice.

THE CONSTITUTIONAL FRAMEWORK OF PIL AND JUDICIAL ACTIVISM

Judicial activism developed through PIL is an important element of how the Indian Constitution empowers judges and courts, as represented by the judiciary's ability to enforce and protect the fundamental rights of individuals. Through PILs and the broader interpretation of key provisions of the Constitution, courts are expected to adjudicate issues of public interest related to fundamental rights. Judges can use PILs to improve the conditions of society and enforce the applicable Articles of the Indian Constitution. Specifically, the judiciary is empowered under the Constitution's Articles 32, 21, and 226 to act directly to further enhance justice and promote the common good through effective application of the law.

- i. **ARTICLE 32:** The Right to Constitutional Remedies Article 32 of the Indian Constitution, is often referred to as the “heart and soul” of the Constitution by the father of Indian Constitution, Dr. B.R. Ambedkar. It guarantees the right to constitutional remedies and allows individuals to approach the Supreme Court directly for the enforcement of fundamental rights. It also empowers the Supreme Court to issue directions, orders, or writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari, for the enforcement of these rights.

- ii. **ARTICLE 226:** The High Courts' Power of Writ Jurisdiction - Similar to Article 32 , the article 226 grants the power to issue writs to High courts . It presents a broader scope of jurisdiction as compared to the article 226 as it allows to issue writs not only for the protection of fundamental rights but also in concern of other legal matters .
- iii. **ARTICLE 21:** Article 21 of the Indian Constitution guarantees the right to life and personal liberty, has proven to be instrumental in the development of judicial activism through PIL. Over the past years,Article 21 has undergone through multiple interpretations by the Supreme Court which extended its scope beyond the limits of physical existence to include the right to live with dignity, the right to livelihood, the right to a healthy environment, and the right to education, among others.

CONSTITUTIONAL VISION THEN AND CONTEMPORARY REALITIES NOW

PIL in India has evolved from a social tool for creating a revolution in social issues solution to the mainstream legal mechanism which is now facing heavy criticism of misuse.

In earlier decades , the origin focus of PIL was to provide the access of justice to marginalized, poor , weaker, and socially disadvantage people who themselves couldn't approach the judiciary but now the focus has evolved as a broader spectrum which includes urban development , political disputes , corruption etc.

In the initial times ,Supreme Court drastically relaxed 'Locus Standing for lawyers as well as public spirited litigants to file petitions on the account of downtrodden . This relaxation remains same today too but with some instructions to avoid petitions of frivolous or self benefit nature.

Now , the court acts cautiously to eradicate frivolous petitions whereas earlier court played highly proactive role for social change .

In my views all these changes occur due to use of PIL as a publicity tool rather than a strategic mechanism to address major violations of fundamental rights .

CONCLUSION

Public Interest Litigation has played a revolutionary role in the Indian legal system by granting the citizens of India an access to justice and permitting the judiciary to protect the rights of the marginalized and voiceless. A tool of social change which started as a reform oriented judicial answer to the post emergency era where thee trust was breaking from the democratic nature of the nation evolved into a powerful constitutional mechanism under the stewardship of Justices P.N. Bhagwati and V.R. Krishna Iyer. PIL not only relaxed procedural barriers such as locus standi but also expanded the substantive scope of

fundamental rights, particularly under Article 21, thereby strengthening constitutional governance.

However, the contemporary phase of PIL reflects a vital yet magnificent shift from its original vision. While it continues to address issues of public importance, increasing instances of frivolous, motivated, and publicity-driven petitions have raised question over judicial overreach and misuse. This has compelled courts to adopt a more cautious and regulated approach through developing judicial restraint and accountability. The challenge today lies in preserving the purity and origin motive of PIL without compromising with its accessibility and social purpose.

The future sustainability of Public Interest Litigation highly depends on a balanced integration of judicial activism with principled restraint. Effective coordination with legal aid mechanisms, stricter scrutiny of bona fide petitions, and responsible participation by public-spirited individuals are essential to prevent dilution of its objectives. If used with integrity and discipline, PIL will continue to remain a vital instrument for social justice, constitutional enforcement, and the protection of collective rights in a dynamic democratic society.

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