



## THE CONSTITUTIONAL CONSEQUENCES OF JUDICIAL ACTIVISM AND PUBLIC INTEREST LITIGATION

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Anubrata Nath\*

### ABSTRACT

*This article examines the development, significance, and constitutional ramifications of judicial activism and Public Interest Litigation (PIL) in India. It starts with the liberalisation of locus standi in the 1970s and follows important rulings that broadened the scope of Article 21 and established creative remedies under Articles 32 and 226 (Hussainara Khatoon, 1979; Vishaka, 1997). The conversation focuses on PIL's contribution to the advancement of environmental preservation, socioeconomic rights, and governmental accountability, including changes to workplace safety, bonded labour, and CBI independence. After examining criticisms of judicial overreach and the counterargument that courts must intervene when the legislature and executive branch fail to protect fundamental rights, it evaluates the conflict between an activist judiciary and the separation of powers principle. Lastly, the paper makes the case for a balanced strategy: excessive meddling runs the risk of disrupting constitutional checks and balances, even while a moderate amount of judicial activism through PIL has improved Indian democracy by guaranteeing access to justice for underrepresented groups. The conclusion urges the prudent use of PIL authority, protecting rights without intruding on areas designated for elected branches to make policy.*

**Keywords:** Public Interest Litigation, Judicial Activism, Separation of Power, Socio-economic Rights, Environmental Jurisprudence.

### INTRODUCTION

Public Interest Litigation (PIL) is a unique legal procedure in India that enables any individual or organisation to file a lawsuit on behalf of marginalised or underrepresented groups. The traditional "locus standi" threshold has been relaxed by the courts, enabling individuals who

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\*BA LLB, SECOND YEAR, NATIONAL LAW UNIVERSITY, TRIPURA.

are not directly involved in a case to pursue remedies for violations of public rights. Judicial activism serves as a proactive judicial strategy. In this method, the courts liberally interpret the Constitution and establish remedies to uphold rights, frequently infringing on areas that were previously under the jurisdiction of the executive or legislative branches. The Supreme Court's critical examination of the other branches and the expansion of fundamental rights during the tenures of Justices P. N. Bhagwati and V. R. Krishna Iyer in the 1970s and 1980s fueled this tendency, which emerged after the 1975–1977 Emergency. Articles 32 and 226 of the Constitution grant the Supreme Court and the High Court extensive jurisdiction to safeguard fundamental rights. PILs, which fall under this legal authority, have helped create a proactive approach by allowing new, "goal-oriented" solutions to social problems. Consequently, PIL developed in tandem with judicial activism and became a valuable instrument for the judiciary's activist mission.

## **HISTORICAL DATA**

In the late 1970s, PIL transitioned into its contemporary era. In the case of *Hussainara Khatoon v. Bihar* (1979), the Court determined that the denial of a timely trial violated Article 21 (the right to life) and awarded a lawyer's request on behalf of detainees awaiting trial. It famously proclaimed that "justice postponed is justice denied" and ordered the release of thousands of prisoners. In 1976, Justice Krishna Iyer argued that "a spacious construction of locus standi... especially when [petitioners] are weaker" served the public interest. In the 1981 case of *S.P. Gupta v. Union of India*, the Supreme Court significantly expanded the extent of standing requirements and declared that "a country like India" necessitates the "democratisation" of justice to realise the rights of the economically and socially disadvantaged. During Phases I and II of PILs, which occurred in the 1980s and 1990s, the Supreme Court heard cases that had a substantial impact on the public interest.

The Court's decision that the right to basic living is part of Article 21 in *Olga Tellis v. Bombay Municipal Corporation* (1985) and the order to free and help bonded labourers in *Bandhua Mukti Morcha v. Union of India* (1984) were both important rulings in public interest litigation. The number of environmental PILs grew because of new rules about strict liability and moving polluting businesses, as seen in important cases like the 1986 *M.C. Mehta Oleum* case and the 1996 *Taj Trapezium* case. In the 1990s, the Court started to tackle problems like bonded labour, women's rights (*Vishaka v. Rajasthan*, 1997), and police violence through public interest litigation (PIL) petitions, using Article 32/226 to push for government action on social and

human rights issues. Notable cases and their outcomes include the right to a speedy trial in Hussainara (1979), the abolition of bonded labor in Bandhua Mukti Morcha (1984), the right to subsistence in Olga Tellis (1985), environmental protection in the M.C. Mehta cases (1986, 1996), and sexual harassment guidelines in Vishaka (1997).

### **UTILIZING PUBLIC INTEREST LITIGATION (PIL) TO PROMOTE JUSTICE**

The judiciary has been able to address a diverse array of public-interest issues as a result of PILs-

**Expansion of Rights:** The Article 21 right to life is capable of being interpreted broadly to encompass social and economic rights, as evidenced by legal precedent. For example, Olga Tellis (1985) acknowledged the right to subsistence as a component of dignity, and Vishaka (1997) established regulations that prohibit sexual harassment in the workplace as a component of the right to life. PILs have also been employed to enforce constitutional directives (DPSPs) concerning the environment, health, and education.

**Environmental Protection:** Judicial activism has made a substantial contribution to the advancement of environmental law. The court imposed new obligations on the government and industry through PILs. The Supreme Court recognised the full responsibility of hazardous industries in the 1986 case of M.C. Mehta v. Union of India (Oleum Gas Leak). The Taj Trapezium (1996) compelled hundreds of polluting factories to relocate or modify their operations to preserve the Taj Mahal. These cases demonstrate the application of Public Interest Litigation (PIL)-based campaigning to enforce environmental standards and address regulatory gaps.

PILs have heightened awareness of the impoverished and advocated for reform in the realms of human rights and social justice. The Supreme Court mandated that the states locate bonded labourers, release them, and provide assistance in reestablishing their lives in the Bandhua Mukti Morcha case (1984). In the 1982 case People's Union for Democratic Rights v. UOI, the Supreme Court implemented minimum wages and safe working conditions for construction labourers at the Delhi Asiad site through public interest litigation (PIL). PILs utilised for prison reform, torture cases (such as PUCL v. UOI, 1997), women's rights, and other causes have increased the judiciary's preservation of fundamental rights.

**Governance and Accountability:** Public Interest Litigation (PIL) has bolstered government agencies and facilitated the prevention of corrupt activities. The Supreme Court utilised its authority over judicial nominations and transfers in the 1981 case of Judges' Transfer, S.P. Gupta v. UOI, to promote judicial independence. The PIL on CBI reforms, Vineet Narain v. UOI, established guidelines in 1997 to safeguard India's premier investigative agency from political interference. According to one observer, these PILs have "facilitated increased transparency and accountability in governance and mitigated the abuse of power."

Collectively, these cases demonstrate how the courts were able to become proactive change agents in society as a result of PIL-driven activism. Injunctions, monitoring committees, and substantial compensation awards are among the inventive remedies that the courts have developed and implemented as enforceable directives under Article 141. The judiciary has "played a pivotal role in advancing the protection of civil liberties vis-à-vis other branches" (CJI Balakrishnan, 2009), supporting civil liberties, holding public institutions accountable, and guaranteeing socio-economic entitlements.

### **EFFECT ON TH/E CHECKS AND BALANCES**

The rapid ascent of PIL activism has prompted inquiries regarding the legislative, executive, and judicial branches' checks and balances. Critics of active PILs assert that the courts possess the authority to "arbitrarily interfere with policy choices" made by the legislature. An example of such an opinion is the Supreme Court's declaration in the public interest litigation (PIL) case BALCO v. UOI (2002), which sought to prevent the government from disinvesting, that "disinvestment is a matter of policy, involving complex economic factors" and is therefore beyond the judicial jurisdiction. Judges have also advised that public interest litigation (PIL) should be employed to address public injustices rather than as a platform for private parties to indulge in "publicity interest litigation." From this perspective, the legislative branch's jurisdiction is being violated by the judiciary's substantial influence in the crafting of policies through PIL.

Conversely, advocates for public interest litigation (PIL) maintain that the Constitution mandates the judiciary to safeguard rights when the legislative and executive branches are incapable of doing so. According to Article 141, the Supreme Court's decisions are considered "the law of the land," and Article 32 assigns the courts the duty of safeguarding fundamental rights. Courts are only fulfilling their constitutionally mandated duties by adopting an activist

posture when the legislative and executive branches fail to address social, economic, and environmental issues. Proponents of PILs contend that they can increase the political participation of the impoverished and vulnerable and underscore the pluralistic character of Indian democracy. PILs have "democratised" judicial remedies to aid "deprived and exploited" groups in obtaining their socioeconomic rights, according to a study. In reality, the equilibrium has been disturbed. For example, the Supreme Court has fluctuated between deferring and creatively utilising its extensive Article 142 powers in policy matters. Commentators draw attention to the Court's preservation of the constitutional framework. The line that distinguishes judicial restraint from excess is "blurry," as reported in a recent assessment. Consequently, courts should exercise their extraordinary powers with caution while maintaining the constitutional principles and "respecting the separation of powers."

### **PROPONENTS AND OPPONENTS OF JUDICIAL ACCOUNTABILITY**

There are valid grounds for both advocates and opponents of advocacy led by PIL: The empowering effect is the primary focus of its advocates. Legal aid is provided to the impoverished through public interest litigation (PILs), which guarantees that their fundamental rights are upheld and that they receive the justice they need. They have made a significant impact on individuals' lives by providing services such as accommodation, education, environmental health, and expedited trials. The rule of law has been fortified by public interest litigation (PILs), which have held governments and institutions accountable (e.g., the remediation of toxic areas or the CBI reforms in Vineet Narain). Courts have implemented public interest litigation (PIL) to advance transparency, social justice, and civil liberties, as previously mentioned. Such litigation is perceived by many as a step toward a more robust democracy that will better represent the interests of all citizens, not just the majority.

Activists, according to critics, undermine representative democracies. Regarding the initial concern of judicial overreach, only Parliament has the authority to establish policy. Occasionally, standing rules have been relaxed, allowing for the submission of frivolous or self-serving PILs. The Court has even expressed its disappointment with the failure of the "publicity interest" litigation trend. The second issue is inconsistency, which can result in legal ambiguity due to the unpredictable policy decisions made by justices with varying degrees of opinion. Thirdly, legitimacy and accountability: There are those who query the legitimacy of granting a life-tenured bench the authority to determine societal priorities in areas such as economic policy and environmental preservation. The overabundance of PILs has placed a

strain on court resources, potentially resulting in a delay in justice. All in all, detractors contend that extreme activism can undermine checks and balances and replace public discourse with judicial decree.

## CONCLUSION

The Indian judiciary has become significantly more assertive in its defence of the rights of its citizens because of public interest litigation. The courts have intervened to address significant gaps left by other branches by altering established principles and broadening remedies, frequently safeguarding the vulnerable. One way in which judicial activism through PIL has strengthened democracy is by ensuring that the promises made by the constitution (Article 21, DPSPs, etc.) are not left unfulfilled for individuals without political influence. Nevertheless, this alteration also implies that the courts have a significant amount of work to complete. Disruption of the constitution's structure may result from excessive government involvement. It is imperative to identify a satisfactory equilibrium. The court must be vigilant and innovative in its defence of the rights safeguarded by Article 32/226, but it must also exercise caution and recognise when to refer matters to the executive or legislative branches. One astute commentator stated that the responsibility of "using [them] sparingly...upholding constitutional principles and respecting the separation of powers" is a consequence of its immense powers. I believe that a slightly activist judiciary role, as demonstrated by the practice of public interest litigation (PIL), typically fortifies Indian democracy by promoting accountability and justice. Nevertheless, courts must exercise prudence when addressing all policy concerns as PILs. To maintain institutional equilibrium, activism must be founded on the legitimate enforcement of rights; it is prohibited from infringing on policymaking domains that are reserved for Parliament.

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