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# *THE CONTRIBUTION OF PUBLIC INTEREST LITIGATION (PIL) TOWARDS COMPLEMENTING JUSTICE IN INDIA.*

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**ABSTRACT**

This article critically examines the transformative function of Public Interest Litigation (PIL) in furthering democratic justice and constitutional accountability in India. Initially conceived as a judicial innovation to redress entrenched socio-economic disparities and structural impediments to justice, PIL has come to become a mighty tool to democratize access to the courts, and specifically for marginalized and voiceless sections of society. The transformation of PIL is a transition from a partisan, adversarial model of legal procedure to a participatory and inclusive paradigm of constitutional democracy. With innovative judicial reforms—like liberalization of locus standi, the emergence of epistolary jurisdiction, and a purposive re-reading of Article 21—the Indian judiciary has broadened the horizon of basic rights and established new vocabularies of socio-economic justice. PIL has been instrumental in spurring legal remedies in wide-ranging areas such as environment, labour welfare, prison and custodial reforms, child rights, health, education, and gender justice. PIL has made it possible for the judiciary to act as a check on executive lethargy and legislative passivity, and in that process contribute to greater transparency, accountability, and good governance.

But the article also questions the increasing PIL criticisms, in particular, judicial overreach claims, procedural irregularity, and abuse of PILs for political or frivolous purposes. The article analyses how criticisms can be met by doctrinal measures and institutional changes.

In addition, the book provides comparative lessons from other jurisdictions, like class action suits in the United States, enforcement of socio-economic rights in South Africa, and amparo cases in the Philippines, to place India's special PIL model in international perspective about access to justice.

The article ends with specific suggestions to retain the legitimacy and effectiveness of PIL, upholding its ongoing relevance as a means of participatory democracy, social change, and enforcement of constitutional principles in India.

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**KEYWORDS:**

Public Interest Litigation, judicial activism, access to justice, constitution, PIL abuse.

## INTRODUCTION

Democratic Justice and the Rise Public Interest Litigation in India

The rise of Public Interest Litigation (PIL) in India is one of the most revolutionary points in Indian constitutional history. Built on the larger vision of providing "justice to all" envisioned in the Preamble, PIL profoundly recharacterized the role of judicial intervention in India. During its formative period, the Indian judiciary operated mostly within the parameters of a conservative and adversary legal system in which access to justice was reserved for persons with sufficient legal knowledge, economic resources, and procedural standing. The focus was on the adjudication of individual complaints and not on correcting the systematic denial of rights to broader marginalized groups. This exclusionary method was found wanting in as socially and economically heterogeneous a nation as India, where illiteracy, poverty, and marginalization kept significant sections of the population away from seeking redress in the courts. It was to correct this judicial unavailability that the Supreme Court of India, spearheaded by a new wave of activist judges like Justice V.R. Krishna Iyer and Justice P.N. Bhagwati, initiated procedural liberalization and enlarged the locus standi concept[1]. Motivated by the principles of transformative constitutionalism and distributive justice, these judges recognized that in a democracy suffering from entrenched structural inequality, the judiciary could not be a mere passive umpire[2]. Rather, the Court had to be more interventionist and participatory in fulfilling its constitutional responsibility under **Articles 32**[3] and **226**[4]**.** In this ethos, PIL developed as a court innovation that allowed concerned citizens, civil society organizations, and even the press to start proceedings in the public interest, especially on behalf of those who could not represent themselves because of socio-economic constraints.

PIL's theoretical bases were not just procedural or doctrinal but were fundamentally ethical and political. The courts understood that rights without access are meaningless and access to rights cannot be guaranteed without an active judicial process that goes around conventional

[1] *P.N. Bhagwati, Judicial Activism and Public Interest Litigation, 23 Colum. J. Transnat'l L. 561 (1985).*
[2] *Sujit Choudhry, Transformative Constitutionalism: Comparing the Apex Courts of South Africa and India, in The Migration of Constitutional Ideas 145 (Sujit Choudhry ed., Cambridge Univ. Press 2006)*
[3] *Nirmalendu Bikash Rakshit, Right to Constitutional Remedy: Significance of Article 32, 34 Econ. & Pol. Wkly. 2379 (1999).*
[4] *K. B. N., Article 32 of the Constitution and Res judicata—Article 226 and the Constitution (Eleventh) Amendment Bill, 1961, 3 J. Indian L. Inst. 373 (1961).*

barriers. PIL therefore emerged not simply as a means of legal remedy but as a means of participatory governance[5]. It spoke for the silenced, visibility for the unseen, and articulation within the law for the structurally silenced. In the process, the Indian judiciary became a co-governor of public policy and social welfare issues, frequently intervening where the executive was in default. Over time, PIL became a powerful means through which the judiciary could enforce constitutional obligations on the state, ensure administrative accountability, and catalyse legislative and institutional reform. This shift was not without controversy. Critics viewed it as judicial overreach, an encroachment into domains reserved for the executive and the legislature.

Yet its supporters welcomed PIL as a moral imperative in a country where constitutional assurances frequently did not equate to lived experiences. The PIL paradigm, thus, is a paradigmatic shift in the Indian jurisprudence—where justice is no longer limited to adjudication of individual rights but also to the wider constitutional enterprise of realizing equality, dignity, and well-being in society. It reflects the awareness that in a democracy, the law must be responsive, evolving, and strongly based on the actual experiences of its population.

## LIBERALIZATION OF LOCUS STANDI AND PROCEDURAL INNOVATIONS IN PIL

The most important doctrinal contribution of PIL jurisprudence in India is the far-reaching liberalization of the locus standi notion[6]. Historically, courts in all common law jurisdictions, including India, worked under the adversarial model in which only the aggrieved party i.e., the direct legal sufferer could go to court. This traditional rule of standing acted as a gatekeeping feature to avoid frivolous litigation and preserve judicial economy. Yet, in a land beset by illiteracy, economic poverty, and social exclusion, such a localized definition of standing effectively denied justice to large sections of people. The Indian Supreme Court, fully aware of this structural imbalance, decisively redefined the doctrine of standing to align with the transformative vision of the Indian Constitution[7]. The turning point was in the judgment in S.P. **Gupta v. Union of India (1982)[8],** in which the Court clearly enunciated the principle

[5] *S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits (Oxford Univ. Press 2002)*
[6] *Zachary Holladay, Public Interest Litigation in India as a Paradigm for Developing Nations, 19 Ind. J. Global Legal Stud. 555 (2012).*
[7] *R.S. Gupta, Widening the Rules of Locus Standi, 26 J. Indian L. Inst. 424 (1984).*
[8] *S.P. Gupta v. Union of India, 1981 Supp. SCC 87*

that any member of the public acting bona fide and possessing requisite interest may approach the Court for redressal of public wrongs or enforcement of public obligation. This ruling solidified the doctrine of "representative standing," under which socially aware citizens, public-minded individuals, or non-governmental organizations could bring a lawsuit on behalf of poor or unorganized groups who, because of their poverty or social backwardness, could not come to the court themselves. This was further supplemented by the doctrine of standing as a citizen, which permitted petitions in cases involving public interest like protection of the environment, corruption, or failure of governance, irrespective of individual harm to the petitioner.

In addition to substantive liberalization of standing, the Court also instituted procedural reforms that reshaped the access and informality of the judicial system. One of the most revolutionary measures was the establishment of "epistolary jurisdiction[9]," where the Court accepted letters, telegrams, newspaper reports, or even postcards as writ petitions. This opened access to justice in a manner never seen before. For example, in the case of ***Hussainara Khatoon v. State of Bihar (1979)[10]***, a newspaper report on the condition of undertrial prisoners generated a PIL that revolutionized the jurisprudence of Article 21 by creating a fundamental right to a speedy trial. In ***Sunil Batra v. Delhi Administration (1978)[11]***, a co-prisoner's letter prompted the Court to review custodial torture, establishing high standards for prison reform. These initial cases heralded a seismic change in the judicial imagination of jurisprudence—from passive umpire to active guardian of public rights.

The Supreme Court's willingness to bend procedural standards in PILs also indicated its determination to facilitate structural and policy-level solutions. In contrast to traditional litigation, PILs frequently resulted in the assignment of commissions, expert committees, and special investigative units to track and enforce judicial orders. Through this, the Court developed a new adjudicatory process that was especially suited for mass claims and structural injustices—one that was participatory in nature, dialogic in approach, and institutional in character. The Court also utilized continuing mandamus, whereby it kept a matter under its jurisdiction for long periods of time so that its orders could be followed to the letter. This became particularly significant in sophisticated cases that entailed environmental deterioration, public health, or education policy, where compliance entailed long-term

[9] *Abhinav Chandrachud, The Insulation of India's Constitutional Judiciary, 45 Econ. & Pol. Wkly. 38 (2010).*
[10] *Hussainara Khatoon (I) v. State of Bihar, (1980) 1 SCC 81*
[11] *Sunil Batra v. Delhi Administration, (1978) 4 SCC 494*

monitoring.

In addition, the PIL paradigm shifted the dynamic of the relationship between the judiciary and the other two branches of government. Under traditional doctrine, the separation of powers required the judiciary to refrain from interfering in policy-making or executive discretion. But PIL obfuscated these limits by letting the courts move into areas that have normally been considered administrative or political. Although this resulted in charges of judicial activism or encroachment, the courts justified their position by appealing to constitutional necessity for enforcing basic rights and Directive Principles of State Policy. Practically speaking, PIL served as a judicial surrogate for executive delay and legislative stagnation. The increased role of the judiciary was not to capture power but to realize the promise of the Constitution where the other two branches could not. Thus, liberalization of locus standi and the new process innovations created a paradigm shift in the constitutional litigation architecture of India. These changes not only widened access to justice but also shifted the judiciary's role as an important player in the country's governance. By turning courts into areas of social dialogue and institutional change, PIL has redefined the meaning of dispensing justice in a constitutional democracy. It has made the judiciary more responsive, inclusive, and interventionist – an institution that does not wait for justice to come knocking but goes out to find injustice and acts on it with constitutional strength Bottom of Form.

## JUDICIAL IMAGINATION AND EXTENDING THE HORIZON OF THE CONSTITUTIONAL FUNDAMENTAL RIGHTS THROUGH PIL.

The growth of Public Interest Litigation in India cannot be disentangled from the broadening of the meaning, content, and reach of constitutional fundamental rights, especially those under Part III of the Constitution. PIL emerged as a platform whereby the Indian judiciary particularly the Supreme Court embarked upon the task of constitutional interpretation as a non-technical exercise but as a tool of transformatory justice[12]. This innovative judicial activism radically revolutionized the understanding, enforcement, and operationalization of rights. During the PIL era, the courts explained fundamental rights in an expansive, purposive, and context-sensitive way, abandoning formalistic interpretations and adopting a more substantive vision of rights based on human dignity, socio-economic justice, and equality.

[12] *Shylashri Shankar, Scaling Justice: India's Supreme Court, Anti-Terror Laws and Social Rights (Oxford Univ. Press 2009)*

Judicial jurisprudence under Article 21 that protects the right to life and personal liberty[13] is a towering example of such judicial innovation. The courts, by a string of seminal PIL decisions, converted Article 21 from being an insular protection against arbitrariness of the executive to a fertile source of positive rights[14]. In ***Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981)***[15], the Court held that right to life also comprises within it the right to live with human dignity and includes the necessities like proper nutrition, clothing, shelter, and reading and expression facilities. In ***Bandhua Mukti Morcha v. Union of India (1984)***[16], the Supreme Court pushed the scope of Article 21 to encompass the right against bonded labor and the right to decent working conditions, acknowledging that economic exploitation amounted to an attack on the dignity of the labourer.

The most widely hailed example of such interpretive activism is ***Olga Tellis v. Bombay Municipal Corporation (1985)***[17], in which the Court ruled that the right to livelihood is a component of the right to life under Article 21. Here, pavement dwellers against whom eviction without rehabilitation was threatened were not seen as illegal encroachers but as citizens who were entitled to the benefits of constitutional protection. The Court's decision held the balance between the state's interest in civic order and the need to accord social security to the weak by showing how the judiciary was determined to balance development with distributive justice. The extension of Article 21 provided the basis upon which a plethora of socio-economic rights, hitherto located in the non-justiciable Directive Principles of State Policy[18] could be upheld as enforceable fundamental rights by PIL.

In PILs involving environmental rights, the Court creatively read the right to a healthy and clean environment into Article 21. In ***Subhash Kumar v. State of Bihar (1991)***[19], the Court held that the right to life incorporates the right to enjoy unpolluted water and air. This was again solidified in ***the Vellore Citizens' Welfare Forum v. Union of India (1996)***[20] case, in which the Supreme Court enshrined the principles of "sustainable development," "polluter pays," and "precautionary principle" into Indian environmental jurisprudence. These

[13] *Sunil Khosla & M.M. Semwal, Human Rights Jurisprudence in Indian Constitution: Right to Equality and Life: Concept and Substance, 72 Indian J. Pol. Sci. 927 (2011).*
[14] *T.R. Andhyarujina, Judicial Activism and Constitutional Democracy in India (South Asia Institute Lecture Series, 2007)*
[15] *Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608*
[16] *Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161*
[17] *Olga Tellis v. Bombay Municipal Corp., (1985) 3 SCC 545*
[18] *T. Devidas, Directive Principles: Sentiment or Sense?, 17 J. Indian L. Inst. 478 (1975)*
[19] *Subhash Kumar v. State of Bihar, (1991) 1 SCC 598*
[20] *Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647*

principles, borrowed from international environmental law, were localised into Indian constitutional law using PIL, showing the receptiveness of the judiciary to global legal norms in its quest to dispense justice.

Notably, the judiciary also employed PIL to uphold socio-economic rights in areas of education and health. In ***Mohini Jain v. State of Karnataka (1992)***[21] and ***Unni Krishnan v. State of Andhra Pradesh (1993)***[22]**,** the right to education was held to emanate from Article 21, eventually culminating in the 86th Constitutional Amendment that added Article 21-A, declaring education as a fundamental right for those between 6 and 14 years of age. In the ***Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996)***[23] case, the Court ruled that the inability of a government hospital to provide urgent emergency medical care as and when required was a violation of Article 21, thus judicially establishing the right to healthcare.

By such historic judgments, Indian courts made PIL a powerful instrument for the expansion of rights. The Supreme Court, in its PIL calendar, became more than an umpire of legal disputes and turned into an engine of socio-economic change. It erased the line of demarcation between negative and positive rights, pushed the Directive Principles to a near-enforceable position, and brought dignity into the centre of constitutional interpretation. This project of expanding rights remapped not only constitutional law but also remade the position of the citizen towards the state, confirming the obligation of the state to create conditions for effective freedom. Thus, PIL jurisprudence shows us the vision of the judiciary that the Constitution is not a static text but a dynamic document a moral and legal charter dedicated to bringing into being justice in its truest sense.

## PIL AND JUDICIAL OVERSIGHT OF THE GOVERNMENT: - THE STATE ACCOUNTABILITY CASES

One of the greatest achievements of the Public Interest Litigation movement in India is that it has revolutionized the judiciary as a watchdog of governance. The courts, in PILs, have increasingly taken on the role of institutional checkers, enforcing state accountability and holding public authorities accountable for their constitutional and statutory duties[24]. This judicial check, even if frequently contentious, has been a reaction to endemic administrative

[21] *Mohini Jain v. State of Karnataka, (1992) 3 SCC 666*
[22] *Unni Krishnan, J.P. v. State of Andhra Pradesh, (1993) 1 SCC 645*
[23] *Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37*
[24] *Pratap Bhanu Mehta, The Indian Supreme Court and the Art of Democratic Positioning, Univ. of Chi. Pub. Law & Legal Theory Working Paper No. 136 (2008*

lethargy, executive capriciousness, and the inability of representative democracy to respond to the grievances adequately of the marginalized. Thus, PILs have come to represent not just access to justice but also the guarantee of accountable governance.

A telling example of the judiciary's assertive role in governance through PIL is the ***Vineet Narain v. Union of India (1998)***[25] or the "Jain Hawala Case." In this historic judgment, there were allegations of political corruption at the top echelons of government, with public functionaries accused of taking bribes through surreptitious hawala routes. When investigative bodies like the CBI and the Enforcement Directorate did nothing, a PIL was filed. The Supreme Court stepped in firmly, ordering structural reforms in the working of investigative bodies, such as the creation of fixed tenures and insulation from political intervention. The Court stressed that inaction on the part of the state against charges of corruption was a denial of the rule of law and that it was proper for the judiciary to intervene to secure constitutional values.

Likewise, in T***.N. Godavarman Thirumulpad v. Union of India (1996)***[26], a PIL regarding wanton destruction of forests and misuse of forest wealth, the Court set itself the task of monitoring forest conservation throughout the nation. The case, still being watched over forty years after it was originally brought, resulted in the establishment of the **Central Empowered Committee (CEC)** and brought about sweeping forest governance reforms, such as guidelines for mining, biodiversity conservation, and encroachment. The Court, in this regard, did not just decide a case; it played the role of an ongoing regulator, giving directions, monitoring compliance, and even rejecting state policies when discovered to be violating ecological protection.

Yet another significant case indicating judicial governance through PIL is ***Sheela Barse v. Union of India (1986)***[27], in which the Supreme Court dealt with the welfare of women in custodial institutions. The Court made directions regarding how women prisoners and undertrials were to be treated, respecting their dignity and protecting them from custodial violence. In ***Lakshmi Kant Pandey v. Union of India*** *(1984)*[28]*,* relating to the unethical practices of foreign adoptions, the Court specified detailed procedures to ensure transparency and protect the rights of the child. These interventions departed from conventional judicial

[25] *Vineet Narain v. Union of India, (1998) 1 SCC 226*
[26] *T.N. Godavarman Thirumulpad v. Union of India, (1996) 2 SCC 267*
[27] *Sheela Barse v. Union of India, (1986) 3 SCC 596*
[28] *Lakshmi Kant Pandey v. Union of India, (1984) 2 SCC 244*

roles and engaged the Court in micro-regulation of state action, thus making it a willing participant in social governance.

One of the most iconic instances of judicial governance through PIL is the Right to Food Campaign launched in **PUCL v. Union of India (2001)**[29]. Here, the Supreme Court reacted to allegations of mass starvation and malnutrition despite surplus stocks of food grains in government godowns. The Court transformed several schemes of welfare, Mid-Day Meal Scheme, Integrated Child Development Services (ICDS), and Public Distribution System (PDS), into enforceable entitlements and ordered the central and state governments to organize these schemes successfully. The Court also assigned commissioners to oversee compliance, thus institutionalizing judicial supervision in the provision of socio-economic welfare[30].

But this increased role of the judiciary has not been without controversy. The judiciary has been criticized for overstepping its brief, trespassing on executive powers, and usurping the role of policymaking without institutional expertise. Scholars have argued about whether such interventions constitute a "juristocracy" undermining democratic accountability. Notwithstanding these criticisms, it cannot be denied that in a polity frequently plagued by executive lethargy and legislative breakdown, the judiciary, via PIL, been able to fill a vital vacuum by making governance accountable to constitutional norms.
On balance, therefore, PIL has made the judiciary an effective instrument of democratic accountability. By forcing state institutions to act in conformity with the Constitution, enforcing openness, and bringing justice to the voiceless, the courts have emerged as a key component of the notion of participatory governance. Judicial activism through PIL, instead of being a deviation, has become a vital mechanism to ensure that the government remains accountable to its people and continues to uphold the constitutional morality hoped for by the architects of the Indian Constitution.

## SECTORAL INTERVENTIONS THROUGH PIL: ENVIRONMENT, LABOUR, PRISON REFORMS, AND MORE.

Public Interest Litigation (PIL) in India has been a useful means of judicial intervention in various fields where state failure or institutional inertia has resulted in violations of rights. Sectoral interventions through PIL not only resulted in redressal of individual injustices but have also ensured structural reforms with precedents setting that have influenced Indian public

[29] *People's Union for Civil Liberties v. Union of India, (2001) 10 SCC 786*
[30] *Javid A. Chowdhury, Recent Welfare Schemes: An Assessment, 39 Econ. & Pol. Wkly. 3165 (2004).*

law jurisprudence. Among the most significant areas affected by PIL are environmental protection, labour rights, jail reforms, child welfare, and gender justice.

In the environmental context, PIL has become a primary force for green jurisprudence. The courts, through PIL, have embraced principles such as the polluter pays, precautionary principle, and sustainable development—adapted from international law but now securely anchored in Indian constitutionalism. In the historic case of **M.C. Mehta v. Union of India (1986)**[31], in the case of the oleum gas leak from Shriram Industries, the Supreme Court laid down the principle of absolute liability, holding hazardous industries liable for harm done, with no exceptions. It was a significant deviation from the ancient principle of strict liability under **Rylands v. Fletcher**[32], marking the Indian judiciary's readiness to move away from colonial-period common law principles in favor of more victim-friendly norms.

The same petitioner, environmental lawyer M.C. Mehta[33], also filed PILs that resulted in the Ganga Pollution case, in which the Court made a series of orders to prevent untreated industrial effluents from being released into the river, shutting down or relocating polluting industries. In the ***Taj Trapezium case***[34], the Court directed industries surrounding the Taj Mahal to convert to cleaner fuels so as not to cause environmental harm to the monument. These cases show how PIL has played a crucial role in not just saving the environment but also in making private and public actors accountable for environmental degradation. The judiciary, in such matters, has long filled the legislative gap by establishing norms and regulations where statutory control is unfavourable or non-existent[35].

In the sphere of labour rights, PIL has been instrumental in pursuing constitutional protection for unorganized and weak workers. In ***People's Union for Democratic Rights v. Union of India (1982)***[36], the Supreme Court heard exploitative practices involved in treatment of construction workers in Delhi with reference to the Asian Games project. The Court held that denial of minimum wages was a violation of Articles 23 and 21 of the Constitution and ordered the government to enforce labour welfare legislation effectively. Likewise, in ***Bandhua Mukti Morcha v. Union of India (1984)***[37], the Supreme Court acted to alleviate bonded labour

[31] *M.C. Mehta v. Union of India, (1986) 2 SCC 176*
[32] *Rylands v. Fletcher, (1868) L.R. 3 H.L. 330 (Eng.).*
[33] *M.C. Mehta v. Union of India, (1988) 1 SCC 471*
[34] *M.C. Mehta v. Union of India, (1997) 2 SCC 353*
[35] *Shyam Divan & Armin Rosencranz, Environmental Law and Policy in India (2d ed. Oxford Univ. Press 2001)*
[36] *People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235*
[37] *Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161*

conditions in stone quarries. It directed rehabilitation and the enforcement of the ***Bonded Labour System (Abolition) Act, 1976***[38], again linking conditions of labour to the right to live with dignity.

Prison reform is another field in which PIL has made a considerable impact. In ***Sunil Batra v. Delhi Administration (1978)***, the Court, responding to a letter signed by a fellow prisoner, took notice of custodial torture and solitary confinement in Tihar Jail. The judgement saw the shift towards the humanization of prison life, stating that the prisoners do not lose their basic rights at the prison entrance. The Court gave guidelines to prison administration, highlighting the right to legal assistance, speedy trial, protection against torture, and medical facilities. This trend persisted in ***Sheela Barse v. Union of India (1986)***[39], wherein the Court established guidelines for the rehabilitation of women prisoners and juvenile detainees, specifically emphasizing segregation, counselling, and legal protection.

Child welfare too has gained significantly from PIL jurisprudence. In ***Lakshmi Kant Pandey v. Union of India (1984)***[40], the Court acted upon a PIL relating to unethical conduct in inter-country adoptions. The Court established detailed guidelines to ensure the rights of adoptive children and stressed the function of accredited adoption agencies. Another important intervention was in the MC Mehta (child labour case) wherein the Court tackled the exploitation of children by dangerous industries and directed the establishment of rehabilitation schemes sponsored by fines on delinquent employers. These rulings have, in the course of time, contributed to wider acknowledgement of children as rights-bearers rather than objects of state welfare.

PILs have also made an important contribution to gender justice. In ***Vishaka v. State of Rajasthan (1997)***[41], the Supreme Court established the now-famous Vishaka Guidelines against sexual harassment at the workplace, pending enabling legislation. The ruling was premised upon global conventions such as CEDAW and construed Article 21 in harmony with Article 14 and 15 to establish women's right to work with dignity[42]. This is a classic instance of judicial law-making because of a PIL and illustrates the Court's innovative utilization of

[38] *Sunil Batra v. Delhi Administration, (1978) 4 SCC 494*
[39] *Sheela Barse v. Union of India, (1986) 3 SCC 596*
[40] *Lakshmi Kant Pandey v. Union of India, (1984) 2 SCC 244*
[41] *Vishaka v. State of Rajasthan, (1997) 6 SCC 241*
[42] *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Dec. 18, 1979, 1249 U.N.T.S. 13*

international law to bridge legislative loopholes at home[43]. The guidelines continued to be the rulebook until the passing of the ***Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013***.

These sectoral interventions via PIL exemplify the judiciary's overall approach of employing constitutional imperatives to obtain substantive justice. While some critics have expressed concern that the judiciary is venturing into areas best left to the legislature or executive, these criticisms often ignore the systemic failures that necessitate judicial intervention in the first place. PIL, in these contexts, functions not only as a legal tool but as a corrective mechanism within India's democratic architecture. It becomes a tool to ensure that the governance is responsive, inclusive, and constitutionally appropriate in areas where state inertia has created misery and denial of rights in the past.

## PIL CRITICISMS AND CHALLENGES: JUDICIAL OCERREACH AND MISUSE CONCERNS

Despite its redemptive possibilities, the Public Interest Litigation institution in India has not been without criticism. Throughout the years, complaints have been raised among scholars, jurists, and political analysts regarding PIL's abuse, misuse, and judicial overreach[44]. Although PIL was initially developed as a device to bring about democratization of access to justice and checkmate those who wield excessive influence, it has sometimes been misused for frivolous, partisan, or publicity purposes, thus weakening its moral and legal potency.

One of the most serious allegations pertains to judicial overreach. With the courts becoming increasingly interventionist in spaces traditionally occupied by the executive or legislature policymaking, budget allocation, and institutional reform there has been criticism regarding the separation of powers and the legitimacy of the judiciary. For example, in cases such as Vellore Citizens' Welfare Forum or the Right to Food case, the Court made sweeping judgments that necessitated constant monitoring and micromanaging of executive activities. Although such interventions might have been necessary due to the urgency of the situation, critics contend that courts lack institutional capacity, technical know-how, and accountability frameworks to deal with complex administrative and policy matters on a long-term basis[45].

[43] *Kalpana Kannabiran, Tools of Justice: Non-Discrimination and the Indian Constitution (Routledge 2012*

[44] *Anuj Bhuwania, Courting the People: Public Interest Litigation in Post-Emergency India (Cambridge Univ. Press 2017)*

[45] *Nick Robinson, Expanding Judiciaries: India and the Rise of the Good Governance Court, 12 Wash. U. Global Stud. L. Rev. 1 (2013)*

The judiciary has also been criticized for indulging politically inspired or publicity-hungry PILs. The practice of "PIL activism"—whereby lawyers or individuals move petitions to attract publicity, harass political rivals, or prolong bona fide government undertakings—has led the courts to exercise greater scrutiny over maintainability. In ***Ashok Kumar Pandey v. State of West Bengal (2004)***[46], the Supreme Court cautioned against PIL's abuse for oblique reasons, reminding again that PILs ought to be brought in bona fide public interest and not for vendetta or personal interest. The Court also made a point about judicial restraint, observing that unfettered proliferation of PIL would result in judicial tyranny.

Additionally, the absence of uniform procedural standards for PILs has at times resulted in inconsistency in judicial reaction. While some High Courts have rejected PILs on technical grounds, others have accepted ***Suo motu*** cognizance of newspaper reports without scrutinizing facts. Inconsistent application degrades predictability and raises apprehensions of judicial arbitrariness. Also, there is a risk that the burdened judiciary, in hearing PILs, might take attention away from standard dockets, further hindering justice in ordinary civil and criminal cases.

A second challenge is post-judgment compliance. Most PILs have terrific judicial verdicts, but execution of court orders proves ineffective because of bureaucratic resistance, political pushback, or lack of resources. In the absence of vigorous enforcement mechanisms, the changemaking potential of PIL becomes symbolic rather than actual. This is particularly seen with environmental or urban development PILs, where state governments often postpone or overlook court orders.

Despite these criticisms, one must note that the issue is not in the idea of PIL itself but in its uncontrolled spillover and inadequate protections. The judiciary has in recent times noted these issues and created channels through which frivolous petitions could be weeded out. The Supreme Court's principles of PIL maintainability, judicial cautions against abuse, and orders for costs in vexatious cases have all played a role towards upholding the sanctity of PIL as an instrument of justice.

Essentially, the future challenge is not to trim PIL but to strengthen its doctrine, discipline its procedures, and bring it in sync with the constitutional ethos. A properly structured PIL regime can remain an important democratic tool, subject to being used wisely both by the petitioners

[46] *Ashok Kumar Pandey v. State of West Bengal, (2004) 3 SCC 349*

and the judiciary. Therefore, instead of dismissing PIL as judicial overreach, emphasis needs to be placed on institutionalizing checks that enable it to thrive in a disciplined and ethical legal paradigm.

## COMPARATIVE GLOBAL PERSPECTIVES ON PIL AND ACCESS TO JUSTICE

The development of Public Interest Litigation in India finds echo in international movements in favor of expanded access to justice, although the Indian paradigm continues to be unique in its extent and jurisprudential depth. The United States, South Africa, and the Philippines have all tried out similar doctrines like class action suits, social action litigation, and amparo proceedings, respectively. India, however, is unique for the constitutional stature and revolutionary reach that it has given to PIL.

In the United States, class action litigation under Rule 23 of the Federal Rules of Civil Procedure permits a group of affected persons to file for remedy in a collective form. Strict rules of standing typically restrict such access to those who have direct and concrete injury. India, by contrast, relaxed locus standi as developed in ***S.P. Gupta v. Union of India (1981)***[47], allows even citizens with public spirit to move courts in the interest of marginalized groups, a liberal approach unparalleled in many democracies.

Likewise, South Africa under its post-apartheid Constitution has adopted a rights-based litigation strategy like Indian PIL. In ***Minister of Health v. Treatment Action Campaign (2002)***[48], the South African Constitutional Court pushed the government to offer anti-retroviral medication to pregnant women, illustrating the ability of courts to enforce socio-economic rights. The Indian Supreme Court has also rendered such interventions, most notably in food security, education, and housing cases, and brought the Indian model of PIL in the form of a tool for enforcing positive obligations of the State into international focus. Nonetheless, India's experience also offers cautionary tales. Other jurisdictions have institutionalized pre-screening mechanisms, independent ombudsmen, or public defenders to prevent misuse of rights-based litigation. India, while pioneering in accessibility, has not yet formalized a structure for filtering or prioritizing PILs beyond judicial discretion, thereby leading to inconsistency and occasional abuse. As Indian courts keep taking cues from and

[47] *S.P. Gupta v. Union of India, 1981 Supp SCC 87*

[48] *Minister of Health v. Treatment Action Campaign, 2002 (5) SA 721 (CC) (S. Afr.).*

contributing to comparative constitutional practice, there is a chance to export the PIL model and import global regulatory innovation

## CONCLUSION AND RECOMMENDATIONS

Public Interest Litigation has permanently transformed the Indian constitutional law and democratic governance landscape. PIL has transformed the role of the judiciary from a passive judge to an active social change facilitator. PIL has opened the courts' doors for marginalized voices and expanded the scope of fundamental rights under Part III of the Constitution, thereby reasserting India's constitutional promise of justice, social, economic, and political as enshrined in the Preamble.

But PIL is at a crossroads today. Its success is profound—be it in defending the environment, abolishing bonded labour, humanizing penal conditions, or promoting gender justice but the road ahead must be carefully recalibrated. The possibility of erosion through unnecessary filings, politically driven petitions, or judicial encroachment cannot be brushed aside. Mechanisms must be put in place to ensure that the instrument does not lose its integrity. These may range from stricter precepts on maintainability, greater locus standi scrutiny, establishing pre-litigation grievance redressal mechanisms, to setting up specialized PIL benches with area knowledge.

Furthermore, the judiciary must balance institutional humility and activism. The aim should not be to rule, but to hold powers to account when they abdicate constitutional obligations. In this regard, PIL has to transform as a conciliatory, as opposed to adversarial, tool one that unites judicial review with democratic ideals and participatory government.
To sum it up, Public Interest Litigation is still among India's most significant legal innovations a testament to the potential of law to be used in the interest of the many and not merely the powerful few. Its fate hinges on keeping the delicate balance between openness and oversight, sympathy and restraint, extension and limitation. With wise reforms and salutary adjudication, PIL can remain the keeper of constitutional morality and a pillar of justice in the world's largest democracy.