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### An Overview of the Public Interest Litigation Mechanism in India

<sup>1</sup> Bui The Huy, <sup>2</sup> Do Xuan Mai, <sup>3</sup> Vu Duc Duy  
<sup>1,2,3</sup> Hanoi Law University, Vietnam

Corresponding Author: **Bui The Huy**

#### Abstract

Public Interest Litigation (PIL) has emerged as a distinctive procedural mechanism within the Indian legal system to enhance access to justice and protect constitutional rights, particularly for disadvantaged and marginalized groups. Originating from the progressive jurisprudence of the Supreme Court of India, PIL has significantly relaxed traditional rules of locus standi, enabling individuals and public-spirited organizations to initiate legal proceedings on behalf of affected communities. This article examines the development, legal foundations, and procedural characteristics of Public Interest Litigation in India. It

analyzes the role of the Indian judiciary in advancing judicial activism and promoting social justice through constitutional adjudication. The study further evaluates the contributions of PIL to human rights protection and highlights certain challenges associated with its expanding use. Through doctrinal legal analysis, the article aims to provide a comprehensive overview of the Indian experience with Public Interest Litigation and to offer insights that may inform discussions on access to justice and public law litigation in other jurisdictions.

**Keywords:** Public Interest Litigation (PIL), Access to Justice, Indian Judiciary, Human Rights Protection, Social Justice

#### 1. The Emergence and Development of Public Interest Litigation in India

The mechanism of Public Interest Litigation (PIL) in India emerged in the late 1970s, within a socio-political context marked by profound social inequalities and widespread human rights violations following the period of the “Emergency Rule” (1975–1977).<sup>1</sup> Pioneering judges such as Justice V.R. Krishna Iyer and Justice P.N. Bhagwati significantly expanded the traditional understanding of locus standi, allowing “any public-spirited citizen acting in good faith to protect the public interest” to bring a petition before the courts. In the landmark case of *S.P. Gupta v. Union of India* (1982), Justice Bhagwati famously stated: “I have no hesitation in holding that any member of the public... acting bona fide can move the Court”. This development is widely regarded as a constitutional turning point in Indian judicial thought, whereby citizens came to be recognized as participants in the co-creation of justice. Subsequently, a series of landmark cases - including *Hussainara Khatoon* (concerning the rights of prisoners), *Bandhua Mukti Morcha* (addressing bonded labour), and *M.C. Mehta* (concerning environmental protection) - significantly expanded the scope of PIL from human rights and labour protection to environmental governance and public administration.

From a theoretical perspective, Public Interest Litigation in India - referred to by Professor Upendra Baxi as “Social Action Litigation” (SAL) - represents a new paradigm of judicial practice, in which the Supreme Court has come to position itself as the ultimate guardian of the Constitution and of human dignity.<sup>2</sup> Unlike the traditional model of litigation, which is premised upon strict adversarialism and judicial passivity, Public Interest Litigation in India is grounded in the theory of “Taking Suffering Seriously.”<sup>3</sup> According to this theory, when other branches of government fail to deliver justice for vulnerable and marginalized groups, the judiciary bears a constitutional responsibility to intervene proactively in order to fill governance gaps and safeguard fundamental human values. Public Interest Litigation has thus transformed fundamental rights from mere

<sup>1</sup> Gauri, V. (2009), “Public interest litigation in India: Overreach or a tool for justice?”, Policy Research Working Paper No. 5109, World Bank.

<sup>2</sup> Upendra Baxi (1985), “Taking suffering seriously: Social action litigation in the Supreme Court of India”, Third World Legal Studies, page 107-132.

<sup>3</sup> Upendra Baxi (1985), tidd.

rhetorical declarations on paper into practical instruments of social emancipation, ushering in an era in which the voices of the disadvantaged are no longer obstructed by procedural barriers or financial constraints.

## 2. Key Features of Public Interest Litigation in India

### 2.1 Principles of Public Interest Litigation in India

The theoretical foundation of Public Interest Litigation (PIL) in India operates on a system of principles that deeply integrates substantive justice with judicial dynamism, thereby departing from the rigid structure of classical common law civil procedure. The central principle lies in the expansion of *locus standi*, under which any public-spirited individual may initiate proceedings in the public interest. Within this framework, the courts are not merely adjudicatory bodies but also institutions that actively shape policies aimed at safeguarding fundamental rights. Guided by the spirit of Article 32 of the Constitution, the Supreme Court is vested with extensive authority to issue directions, orders, and constitutional writs to enforce individual liberties and promote social justice. A second transformative principle is the non-adversarial and cooperative character of PIL proceedings. Rather than being treated as a conventional contest between opposing parties, a PIL action is often conceived as a collaborative effort involving the bona fide petitioner, the judiciary, and even the government, working collectively to identify the most appropriate solutions for the protection of societal interests, rather than focusing solely on the determination of a winner or loser in litigation.<sup>4</sup> Indian courts have thus shifted from the position of a “passive arbiter” to a more inquisitorial model of adjudication, actively participating in the search for objective truth, often through the appointment of expert committees and investigative bodies. This convergence has produced a flexible legal framework that enables the judiciary to intervene in various aspects of social life, ensuring that the collective interests of society are safeguarded under a deeply humanistic commitment to the rule of law.

### 2.2 Scope of Public Interest Litigation in India

The scope of Public Interest Litigation (PIL) in India has undergone a continuous process of evolution, expanding from the protection of basic civil rights to more complex issues such as environmental governance and political transparency. In its early stages, PIL primarily focused on matters relating to human rights and social welfare. One of the most notable early cases was *Hussainara Khatoon v. State of Bihar*, which addressed the plight of undertrial prisoners and led to the release of tens of thousands of individuals who had been unlawfully detained for prolonged periods. This case is widely regarded as a landmark example of judicial activism in India, in which the Supreme Court affirmed the fundamental right to life and personal liberty.<sup>5</sup> Subsequently, the scope of PIL expanded to address issues such as the eradication of forced labour and the protection of bonded labourers working in stone quarries and brick kilns.

<sup>4</sup> Mehta, M. C. (2020). Environmental justice through public interest litigation: The Indian experience. *Indian Law Review*, 5(3), 382-398.

<sup>5</sup> Dr. Shivarudrappa H S (2024), “The role of judicial activism in India a study”, ShodhKosh: Journal of Visual and Performing Arts, Volume 5 Issue 1.

It also led to the establishment of important legal safeguards for women against sexual harassment in the workplace through the landmark *Vishaka v. State of Rajasthan* judgment. Over time, Public Interest Litigation in India has extended into virtually every sphere of social life where injustice persists and where the voices of vulnerable or marginalized groups remain unheard.

A second major field of Public Interest Litigation in India concerns environmental and ecological governance. Through the persistent efforts of environmental lawyer M.C. Mehta, the Supreme Court of India has gradually developed a comprehensive system of ecological justice that extends far beyond the fragmented provisions of national environmental legislation. The scope of litigation in this area ranges from the preservation of cultural heritage - such as the landmark case aimed at protecting the Taj Mahal from industrial pollution - to large-scale environmental restoration initiatives involving major rivers such as the Ganges and the Yamuna. Notably, the Court has incorporated advanced principles of international environmental law, including the “Precautionary Principle” and the “Polluter Pays Principle,” to establish liability and compensation mechanisms in cases involving air and water pollution.

In the contemporary period, beyond the domains of human rights and environmental protection, Public Interest Litigation in India has also extended into the sphere of public governance, anti-corruption, and the promotion of political transparency. This area is particularly sensitive, as it often reflects a direct confrontation between an activist judiciary and the inertia of administrative institutions. Landmark cases such as *Vineet Narain v. Union of India* established the Court’s supervisory authority over the independence of investigative agencies in cases involving financial scandals of high-ranking public officials. The scope of PIL has further expanded to safeguard the integrity of the electoral system, including judicial directives requiring electoral candidates to disclose their criminal records and personal assets in order to ensure voters’ right to information under Article 19 of the Constitution of India. The inclusion of abuses of political power and misappropriation of public funds within the ambit of PIL has been widely regarded by legal scholars as an important mechanism for strengthening public governance and enhancing governmental accountability to the public.

An emerging area of Public Interest Litigation in the contemporary era concerns the protection of socio-economic rights, particularly the right to education and the right to food. In the case of *Unni Krishnan v. State of Andhra Pradesh*, the Supreme Court of India formally recognized primary education as a fundamental right, a development that subsequently contributed to significant constitutional reform. Similarly, the historic litigation initiated by the People’s Union for Civil Liberties (PUCL)<sup>6</sup> concerning the right to food transformed government food welfare

<sup>6</sup> People’s Union for Civil Liberties (PUCL) is widely regarded as a guardian of the nation’s conscience. Established under the leadership of Jaya Prakash Narayan, the organization has, for more than three decades, consistently devoted its efforts to the protection of vulnerable and marginalized individuals, while contributing to the advancement of a genuinely democratic and just society.

programs from acts of state benevolence into enforceable legal entitlements for impoverished citizens. This area illustrates how PIL in India seeks to address the tension between the Constitution's socialist aspirations and the realities of economic inequality, employing judicial mechanisms to compel the implementation of the Directive Principles of State Policy.

### 2.3 Legal Requirements for Filing Public Interest Litigation

Within the traditional structure of common law civil procedure, the doctrine of standing strictly requires that only an "aggrieved person" who has suffered a direct and tangible injury to a legally protected interest is entitled to bring a claim before the court. This requirement was criticized by Professor Upendra Baxi, who argued that it effectively transformed access to justice into a privilege reserved for those possessing sufficient economic resources and legal knowledge. However, a major doctrinal turning point emerged in the landmark case of *S.P. Gupta v. Union of India* (1981), commonly referred to as the "Judges' Transfer Case." In this decision, the Supreme Court of India declared that where a public injury occurs and the persons directly affected are unable to approach the courts due to barriers such as poverty, illiteracy, or social disadvantage, any member of the public acting in good faith may seek judicial redress on their behalf.<sup>7</sup> This relaxation was not an arbitrary exercise of judicial discretion but was grounded in the doctrine of "Constitutional Trust," which affirms that the foremost responsibility of the judiciary is to safeguard the right to life and the dignity of every citizen, rather than passively awaiting claims brought under the traditional private-law model of litigation. Under the contemporary framework of Public Interest Litigation, standing may therefore be conferred upon non-governmental organizations (NGOs), lawyers, journalists, and even informal social groups to initiate proceedings aimed at protecting indivisible public values, such as environmental integrity and the probity of public administration.

However, in order to preserve the integrity of the judicial system and to prevent the abuse of litigation for illegitimate purposes, the Supreme Court of India has established stringent requirements concerning the honesty and motives of petitioners in Public Interest Litigation. According to the standardized guidelines articulated in *State of Uttaranchal v. Balwant Singh Chauhal* (2010), a PIL petitioner must demonstrate that they are acting bona fide and that the petition is filed entirely without motives of personal gain, extortion, or self-promotion. The Court has consistently adopted an exclusionary approach toward so-called "busybody" litigants or petitions that essentially constitute political disputes disguised as actions brought in the public interest.<sup>8</sup> Another important filtering requirement is that the matter must genuinely concern the interests of an indeterminate group of people or a section of the population that is genuinely deprived of the ability to seek judicial redress on its own. Indian jurisprudence clearly stipulates

that the institution of Public Interest Litigation cannot be used as a substitute for personal grievances arising from contractual disputes, individual labour relations, or purely private property disputes, all of which are already governed by the ordinary procedures of civil litigation. This process of scrutinizing standing requirements functions as a safeguard to ensure that Public Interest Litigation continues to fulfill its historical mission as a legal instrument designed to assist the disadvantaged in India, serving as a means of social emancipation rather than becoming a disruptive force within the ordinary civil justice system.

### 2.4 Burden of Proof in Public Interest Civil Litigation in India

In Indian Public Interest Litigation, evidentiary responsibility is no longer conceived strictly as an adversarial obligation of the parties but has gradually evolved toward a model of proactive judicial facilitation, designed to overcome the structural asymmetry of information between citizens and powerful institutional actors. Courts have adopted a lower threshold for preliminary proof, whereby the petitioner is required only to present prima facie evidence indicating a potential violation of public interest. Once the Court perceives a serious risk, the burden of proof may shift to the respondent - typically a state authority or corporate entity - requiring it to demonstrate that its conduct complied with applicable legal and safety standards. This mechanism provides crucial support for impoverished victims who lack the financial capacity to engage independent experts or conduct complex technical investigations. Within Indian jurisprudence, enterprises engaged in hazardous or inherently dangerous activities are subject to a doctrine of absolute liability, under which they are deemed responsible for any resulting harm without the possibility of invoking traditional defenses such as natural disasters or the fault of third parties. Furthermore, Indian courts have incorporated key principles of international environmental law, including the precautionary principle and the public trust doctrine. Under the latter, the State is regarded as a trustee of natural resources on behalf of the people, which empowers the judiciary to impose ecological restoration obligations upon the polluter regardless of whether intentional fault can be conclusively established.

### 2.5 The Issue of Costs in Public Interest Litigation in India

The financial framework of Public Interest Litigation (PIL) in India is designed to eliminate cost barriers for civil society actors by maintaining extremely nominal court fees, which are typically around 50 rupees for each petition filed before the Supreme Court. The courts do not require the complex security deposits or financial guarantees that are commonly imposed in ordinary private civil litigation. In addition, the judiciary is prepared to provide free legal aid counsel for indigent persons and prisoners. This policy ensures that poverty is never a barrier to seeking justice, even when claims are brought against powerful economic or administrative actors. Notably, in cases initiated through complaint letters where the petitioner does not have legal representation, the Court may appoint an *amicus curiae*. Such appointments are often supported either through state-

<sup>7</sup> Baxi, U. (1985). Taking suffering seriously: Social action litigation in the Supreme Court of India. *Third World Legal Studies*, 1985, 107-132.

<sup>8</sup> Supreme Court of India. (2010). *State of Uttaranchal v. Balwant Singh Chauhal*. (Civil Appeal Nos. 1134-1135). New Delhi: SCI.

funded legal aid schemes or through the pro bono assistance of senior members of the legal profession.<sup>9</sup>

To preserve the integrity of the judicial process and prevent abuse, Indian courts employ a deterrent cost-imposition mechanism against petitions filed in bad faith or for personal motives. While genuine public interest litigants are protected from financial barriers, so-called “busybody” litigants who initiate proceedings for political or ulterior purposes may be subjected to substantial punitive costs, sometimes amounting to several million rupees, payable to environmental protection funds or legal aid funds. This approach was notably illustrated in the *Kalyan Eshwari* case. Furthermore, the courts retain the authority to require the unsuccessful party to reimburse the full costs of litigation, including expenses related to fact-finding investigations, expert assessments, and legal representation incurred by civil society organizations that have diligently pursued the case. This framework establishes a balanced financial incentive structure: it simultaneously facilitates substantive access to justice for genuine public interest claims while creating meaningful economic disincentives against the misuse of PIL for improper purposes.

### 3. Some Academic Insights for Discussions on Access to Justice and Public Interest Litigation in Comparative Legal Systems

*First, expanding standing to enhance access to justice.* One of the most significant contributions of Public Interest Litigation in India lies in the relaxation of the doctrine of *locus standi*. Rather than requiring the petitioner to be the directly injured party, Indian law and jurisprudence allow individuals, civil society organizations, lawyers, or groups of citizens acting in good faith to initiate proceedings in order to protect the public interest or the rights of vulnerable and marginalized groups. This experience suggests that, in many legal systems - particularly those characterized by strict procedural traditions in civil litigation - the expansion of standing may serve as an effective mechanism for the protection of collective rights. This is especially relevant in situations where the direct victims are unable to access the courts due to economic constraints, social barriers, or limited legal capacity.

*Second, the proactive role of courts in protecting the public interest.* The PIL model in India demonstrates that courts do not merely perform the traditional function of dispute resolution but may also assume a more active role in safeguarding constitutional rights and promoting social justice. Through the issuance of judicial writs, the establishment of expert committees, and the ongoing supervision of the implementation of judicial decisions, courts can directly participate in addressing systemic social problems. This experience raises an important line of discussion in comparative legal theory: whether judicial institutions should be entrusted with a more proactive role in resolving public interest issues, particularly in circumstances where administrative or legislative bodies have not adequately fulfilled their responsibilities in protecting human rights and environmental interests.

*Third, the use of public interest litigation to address large-scale social issues.* The Indian experience demonstrates that Public Interest Litigation can be employed across a wide range of fields, including human rights protection, environmental protection, anti-corruption efforts, political transparency, and socio-economic rights. This illustrates that public interest litigation may function as a flexible legal mechanism for addressing systemic social problems, rather than being confined to the resolution of traditional individual disputes. For other legal systems, this experience suggests the possibility of establishing or expanding legal mechanisms for public interest actions, particularly in areas that have broad societal implications, such as climate change, the protection of natural resources, and consumer rights.

*Fourth, adjusting the burden of proof to address informational asymmetries.* A notable feature of Public Interest Litigation in India is the flexibility in evidentiary obligations, whereby courts may shift the burden of proof to state authorities or corporate actors when there are credible indications of violations affecting the public interest. This mechanism helps mitigate the asymmetry of information and resources between ordinary citizens and powerful institutional actors. From a comparative law perspective, this experience suggests that the adaptive application of evidentiary rules can play an important role in ensuring the effective protection of collective rights, particularly in litigation concerning environmental protection or human rights.

*Finally, designing cost mechanisms to encourage public interest litigation.* The Indian PIL system also demonstrates the importance of minimizing financial barriers for petitioners through mechanisms such as low court fees, free legal aid, and the participation of pro bono lawyers. At the same time, the courts maintain the authority to impose financial penalties on petitions filed in bad faith, thereby preventing the misuse of litigation procedures. This approach suggests that, in other legal systems, a well-designed financial framework may play a decisive role in promoting public interest litigation. By lowering economic barriers while preserving safeguards against abuse, such mechanisms can ensure that individuals and civil society organizations are able to access the courts without being deterred by excessive litigation costs.

### 4. References

1. Gauri V. Public interest litigation in India: Overreach or a tool for justice? Policy Research Working Paper No. 5109, World Bank, 2009.
2. Upendra Baxi. Taking suffering seriously: Social action litigation in the Supreme Court of India. *Third World Legal Studies*, 1985, 107-132.
3. Mehta MC. Environmental justice through public interest litigation: The Indian experience. *Indian Law Review*. 2020; 5(3):382-398.
4. Dr. Shivarudrappa HS. The role of judicial activism in India a study. *ShodhKosh: Journal of Visual and Performing Arts*. 2024; 5(1).
5. Baxi U. Taking suffering seriously: Social action litigation in the Supreme Court of India. *Third World Legal Studies*, 1985, 107-132.
6. Supreme Court of India. *State of Uttaranchal v. Balwant Singh Chauhal*. (Civil Appeal Nos. 1134-1135). New Delhi: SCI, 2010.

<sup>9</sup> Cunningham, C. (2010). *Public Interest Litigation in India*. Retrieved from: <http://www.clarkcunningham.org/PDF/PublicInterestLitigationInIndia.pdf>

7. Cunningham C. Public Interest Litigation in India, 2010. Retrieved from: <http://www.clarkcunningham.org/PDF/PublicInterestLitigationInIndia.pdf>