



EVOLUTION OF PUBLIC INTEREST LITIGATION IN INDIA : FROM JUDGE'S ACTIVISM TO PEOPLE'S JUSTICE

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Abstract

Public Interest Litigation (PIL) in India has undergone a significant transformation since its inception in the late 1970s. Originally conceived as a judicial innovation to address the systemic exclusion of the poor and marginalized from legal processes, PIL evolved through phases of judicial activism, procedural flexibility, and social justice orientation. This paper traces the doctrinal development and structural shifts in PIL, analyzing how it moved from being a judge-driven instrument of constitutional enforcement to a participatory tool of people-centric justice. It explores the institutionalization of PIL within the judiciary, critiques concerning its politicization and elite capture, and highlights the growing role of civil society and grassroots movements in shaping its democratic potential. The study concludes that while PIL continues to be a powerful mechanism for rights-based litigation, its future effectiveness lies in balancing judicial discretion with inclusive legal processes and public accountability.

Keywords: Public Interest Litigation, Judicial Activism, Constitutional Justice, Legal Empowerment, Civil Society, Access to Justice,

Participatory Democracy, Grassroots Litigation, PIL Reform.

I. Introduction

The Indian legal system, rooted in colonial tradition and adversarial procedure, historically functioned as an exclusive domain, accessible only to those with legal standing and resources.¹ For decades after Independence, litigation remained largely a matter of private disputes, governed by rigid rules of *locus standi*, which required direct personal injury for the invocation of judicial remedies.² As a result, the marginalized and socio-economically deprived remained voiceless within the constitutional framework of rights and remedies.

The post-Emergency era, however, witnessed a radical shift in the judicial approach, particularly by the Supreme Court of India, which reinterpreted constitutional provisions to democratize access to justice.³ Public Interest Litigation (PIL) emerged as a powerful instrument of judicial activism, allowing non-traditional actors—social workers, journalists, NGOs, and even concerned citizens—to approach the Court on behalf of those who could not.⁴ Through PIL, the Indian judiciary began entertaining petitions for the enforcement of fundamental rights of large sections of society, especially the poor, bonded labourers, children, women, and prisoners.⁵

PIL thus represents a transformation from classical legal formalism to an activist constitutionalism rooted in social justice. Initially conceived as a tool for progressive judicial intervention, PIL has evolved over time—both in substance and procedure.⁶ While

¹ P. Ishwara Bhat, *Law and Social Transformation* (Eastern Book Company 2012) 416.

² M.P. Jain, *Indian Constitutional Law* (7th edn, LexisNexis 2017) 1803.

³ Upendra Baxi, 'The Supreme Court under Trial: Undertrial Rights' (1980) 1(2) *Supreme Court Cases* (Journal) 35.

⁴ S.P. Sathe, 'Judicial Activism: The Indian Experience' (2001) 6(1) *Washington University Journal of Law & Policy* 29.

⁵ Justice V.R. Krishna Iyer, 'The Dialectics and Dynamics of Human Rights in India' (1984) 28(4) *Journal of the Indian Law Institute* 429.

⁶ Anuj Bhuvania, *Courting the People: Public Interest Litigation in Post-Emergency India* (Oxford University Press 2017) 14.



the early phases were characterized by judicial benevolence and moral urgency, recent years have seen a shift towards institutional accountability, doctrinal clarity, and participatory governance.⁷ This journey—from judge-led activism to people-oriented justice—forms the basis of this inquiry.

The aim of this paper is to explore this evolution: from the early post-Emergency phase of activist jurisprudence to the present-day landscape, where PIL operates as both a judicial and civic tool. The paper will assess doctrinal developments, landmark judgments, critiques of judicial overreach, and the increasing role of civil society in shaping public interest litigation as a democratic instrument.

II. The Genesis of Public Interest Litigation in India

The concept of Public Interest Litigation (PIL) in India emerged as a judicial innovation to overcome the rigidity of traditional adversarial legal procedures and to address systemic social injustices that were otherwise neglected in the corridors of power. The seeds of PIL were sown in the post-Emergency era—a period marked by a growing distrust of authoritarianism and a desire to make democratic institutions more accountable and responsive.⁸ The Supreme Court of India, conscious of its institutional role and constitutional mandate under Articles 32 and 226, reinterpreted the doctrine of *locus standi* to grant standing to individuals and groups who were not personally aggrieved but sought to represent the voiceless and marginalized.⁹

Justice P.N. Bhagwati and Justice V.R. Krishna Iyer were the chief architects of this transformation.¹⁰ They departed from the traditional British model of standing—which required personal legal injury—and adopted a liberalized approach that allowed any “public-spirited individual” to file a writ petition on behalf of those unable to access justice. This marked the judicial acknowledgment of what Upendra Baxi described as “the suffering stranger”—citizens too disempowered to assert their own constitutional rights.¹¹

The landmark case of *Hussainara Khatoon v. State of Bihar* in 1979 is often cited as the beginning of the PIL era.¹² It exposed the plight of undertrial prisoners languishing in jails for years without trial and prompted the Court to expand the scope of Article 21 (Right to Life and Personal Liberty) to include speedy trial as a fundamental right. Subsequently, in *S.P. Gupta v. Union of India*, Justice Bhagwati firmly laid down that even a postcard addressed to a judge could be treated as a writ petition in public interest.¹³

The backdrop to this development was India’s complex socio-economic structure, where systemic poverty, caste-based oppression, and illiteracy had rendered large segments of the population incapable of seeking legal redress.¹⁴ Recognizing this, the judiciary took on an activist role, not only to interpret laws but to transform them into tools of social justice.¹⁵ The expansion of PIL was also facilitated by the Court’s adoption of *epistolary jurisdiction*—allowing informal communications to be treated as

⁷ *State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402.

⁸ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press 2002) 9.

⁹ M.P. Jain, *Indian Constitutional Law* (7th edn, LexisNexis 2017) 1805.

¹⁰ Justice V.R. Krishna Iyer, ‘Activist Judge’s Role in Social Transformation’ (1985) 27(1) *Journal of the Indian Law Institute* 1.

¹¹ Upendra Baxi, ‘Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India’ (1985) 4 *Third World Legal Studies* 107.

¹² *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360.

¹³ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

¹⁴ B. Sivaramayya, ‘Law, Poverty and Social Justice in India: The Jurisprudence of Public Interest Litigation’ (1990) 23(2) *JILI* 155.

¹⁵ Prashant Bhushan, *The Case That Shook India: The Verdict That Led to the Emergency* (Penguin Books 2018) 128.



petitions—and the Court’s willingness to appoint commissions, treat media reports as *suo motu* triggers, and go beyond traditional evidentiary requirements.¹⁶ Thus, the genesis of PIL in India must be understood not merely as a procedural shift but as a constitutional innovation aimed at realizing the goals of substantive justice, participatory democracy, and judicial accountability. It signaled a jurisprudential shift from formalism to realism, and from individual rights to collective entitlements.¹⁷

I. The Role of Judicial Activism: Transformative Jurisprudence

The evolution of Public Interest Litigation (PIL) in India is inseparably linked to the phenomenon of judicial activism, particularly as developed by the Supreme Court in the post-Emergency constitutional order. Judicial activism, in this context, signified a proactive judiciary that interpreted constitutional provisions not merely in terms of textual fidelity but with a purposive, moral, and social lens.¹⁸ It enabled the Court to transcend traditional legal boundaries and reimagine its role as a guardian of distributive justice, especially for the marginalized sections of society.¹⁹ This transformative jurisprudence emerged from the realization that a rigid adherence to legal formality often perpetuated structural inequality.

During the 1980s and 1990s, the Indian judiciary assumed a remarkably activist posture, especially under the leadership of Justices V.R. Krishna Iyer, P.N. Bhagwati, and later, Justice Kuldeep Singh.²⁰ The

most striking feature of this phase was the expansion of Article 21 of the Constitution, which came to be interpreted as an umbrella right encompassing a wide range of socio-economic entitlements including the right to livelihood, health, shelter, education, and clean environment.²¹ In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Court asserted that the right to life is not limited to mere animal existence but includes the right to live with dignity.²² This interpretation laid the foundation for a constitutional jurisprudence rooted in substantive human rights.

A distinguishing hallmark of this judicial phase was its break from procedural orthodoxy. The Court began accepting letters and newspaper clippings as writ petitions, appointed investigative commissions, and relied on *amicus curiae* to represent the interests of the poor.²³ This procedural innovation—often referred to as *epistolary jurisdiction*—enabled the judiciary to address issues ranging from bonded labour and prison conditions to environmental degradation and gender violence.²⁴ Landmark PIL cases such as *M.C. Mehta v. Union of India* and *Bandhua Mukti Morcha v. Union of India* exemplify how the judiciary translated abstract constitutional values into enforceable rights.²⁵ Judicial activism also catalyzed institutional accountability, compelling executive agencies to respond to constitutional obligations. In *Vishaka v. State of Rajasthan*, the Court laid down binding guidelines on sexual harassment at the workplace in

¹⁶ Anuj Bhuiwalia, *Courting the People: Public Interest Litigation in Post-Emergency India* (Oxford University Press 2017) 20.

¹⁷ S. Muralidhar, ‘The Expectations and Challenges of Judicial Enforcement of Social Rights’ in R. Dhavan (ed), *Law and Poverty* (N.M. Tripathi 1995) 233.

¹⁸ P. Ishwara Bhat, *Law and Social Transformation* (Eastern Book Company 2012) 408.

¹⁹ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press 2002) 20.

²⁰ P. Kant, ‘Human Rights under the Indian Constitution: A Comprehensive Legal Analysis’ (2025) SSRN Paper No. 5289013

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5289013.

²¹ Justice V.R. Krishna Iyer, ‘The Dialectics and Dynamics of Human Rights in India’ (1984) 28(4) *Journal of the Indian Law Institute* 429.

²² *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

²³ Upendra Baxi, ‘The Supreme Court under Trial: Undertrial Rights’ (1980) 1(2) SCC (J) 35.

²⁴ Anuj Bhuiwalia, *Courting the People: Public Interest Litigation in Post-Emergency India* (OUP 2017) 47.

²⁵ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395; *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.



the absence of a legislative framework, thereby performing a quasi-legislative function.²⁶ The justification for such interventionist judicialism was grounded in the argument that inaction by the legislature and executive necessitated judicial innovation in order to give meaning to constitutional promises.²⁷

IV. Institutionalization and Critique: From Judicial Heroism to Accountability

The early decades of Public Interest Litigation (PIL) in India were marked by the celebrated ideal of judicial heroism—judges acting as social reformers to correct systemic inequities through expansive constitutional interpretation. However, as PIL matured into an established feature of Indian constitutional law, it inevitably underwent a process of institutionalization, which brought with it both procedural safeguards and substantive criticisms.²⁸ While early PILs were often filed by concerned individuals with genuine causes, the gradual proliferation of such litigation led to concerns of misuse, judicial overreach, and politicization.²⁹ By the late 1990s and early 2000s, the Supreme Court of India acknowledged the need to regulate PILs by framing clear guidelines. This culminated in the landmark case of *State of Uttaranchal v. Balwant Singh Chaufal*, where the Court emphasized that PIL must not be allowed to degenerate into "Publicity Interest Litigation" or "Private Interest Litigation".³⁰ It prescribed a structured framework for admissibility,

including verification of credentials, bona fides of the petitioner, and scrutiny of the subject matter.³¹ This institutional recalibration aimed to preserve PIL's democratic value while protecting judicial time and authority.

Despite these reforms, criticism of PIL's evolving character remained intense. Scholars have argued that PIL, originally intended to serve the poor and marginalized, has increasingly been co-opted by elites to push regulatory agendas—particularly in environmental governance, urban eviction, and economic reforms.³² Anuj Bhunia's seminal critique highlights how PILs in recent decades have often marginalized due process and democratic deliberation, especially in cases involving slum demolition and infrastructure projects.³³ He contends that the Supreme Court, under the guise of constitutional guardianship, has engaged in executive-like decision-making without participatory checks.

Another critique arises from the erosion of the separation of powers. Courts, through PILs, have entered domains traditionally reserved for legislatures and bureaucracies—drafting environmental policies, directing police reforms, or even managing pandemic response.³⁴ While some see this as a necessity in the face of state inaction, others argue it undermines institutional accountability and democratic legitimacy.³⁵ The *Vishaka* judgment, where the Court issued guidelines on workplace sexual harassment in the absence of legislation, has often been celebrated as

²⁶ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

²⁷ S. Muralidhar, 'Judicial Enforcement of Economic and Social Rights: The Indian Scenario' (2004) 2(4) Law, Social Justice & Global Development Journal http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2004_2/muralidhar/.

²⁸ Prashant Bhushan, *The Case That Shook India: The Verdict That Led to the Emergency* (Penguin Books 2018) 232.

²⁹ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press 2002) 85.

³⁰ *State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402.

³¹ *Ibid*, para 181–189.

³² Usha Ramanathan, 'Illegality and the Urban Poor' (2006) 41(29) *Economic and Political Weekly* 3193.

³³ Anuj Bhunia, *Courting the People: Public Interest Litigation in Post-Emergency India* (Oxford University Press 2017) 76–81.

³⁴ S. Satheesh, *Labour, Nature and Capitalism: Exploring Labour-environmental Conflicts in Kerala, India* (Google Books 2025) https://books.google.com/books?id=vnxTEQAAQB_AJ.

³⁵ R. Dhavan, 'The Supreme Court of India: Working and Jurisprudence' (2008) 1(1) *Indian Journal of Constitutional Law* 1.



an instance of creative constitutionalism.³⁶ However, repeated judicial interventions in policy-making without parliamentary scrutiny have raised questions about long-term governance and institutional balance.³⁷

V. People's Justice: Democratising PIL Beyond the Courtroom

Over the years, Public Interest Litigation (PIL) in India has evolved beyond the confines of judicial chambers, progressively transforming into a mechanism for participatory democracy and grassroots justice. The emergence of this new paradigm — sometimes referred to as “people’s justice” — underscores a significant shift from a court-centric model to one that engages civil society, community-based organisations, and marginalised groups directly in shaping and accessing justice. This democratization of PIL reflects a deeper realisation that social change cannot be achieved solely through judicial interventions but must include the voices and struggles of the people it seeks to represent. Institutions like the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan have used PILs as a supplementary tool while simultaneously mobilising people at the grassroots for accountability and transparency, notably through the Right to Information (RTI) movement. Such efforts highlight how legal mobilisation, when coupled with social mobilisation, can strengthen the architecture of participatory democracy in India³⁸.

Civil society organisations have played a crucial role in expanding the reach of PILs to address not just high-profile issues but also quotidian grievances of the underprivileged. Through the creation of legal aid clinics, people’s tribunals, and rights-based campaigns, NGOs have become intermediaries that democratise access to the courts and legal redress mechanisms³⁹. Scholars argue that this bottom-up legal mobilisation has redefined the “public” in PIL by incorporating voices from Dalit, tribal, LGBTQ+, and other marginalised communities who were previously outside the ambit of formal legal representation⁴⁰.

However, the shift towards grassroots PIL also raises questions of legitimacy and representation. Who speaks for the people? Are NGOs always accountable to the communities they represent? As PILs become embedded in broader movements, these tensions need careful negotiation to ensure that participatory justice does not become elite-driven under the guise of public interest⁴¹.

Ultimately, the movement towards “people’s justice” signals a maturation of PIL in India. It calls for a reinvigorated understanding of the legal process — one that is not only accessible and inclusive but also rooted in the lived realities of those it aims to empower. In this sense, the courtroom becomes one node in a larger democratic network of legal, political, and social mobilisation.

VI. Conclusion

³⁶ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

³⁷ M. Khosla, ‘Making Social Rights Conditional: Lessons from India’ (2010) 8(4) *International Journal of Constitutional Law* 739.

³⁸ N Jaysawal, ‘Civil Society, Democratic Space, and Social Work’ (2013) *Sage Open* <https://doi.org/10.1177/2158244013504934> accessed 25 September 2025.

³⁹ E Bornstein and A Sharma, ‘The Righteous and the Rightful: The Technomoral Politics of NGOs, Social Movements, and the State in India’ (2016) *American*

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⁴⁰ F Bhabha, ‘Institutionalizing Access-to-Justice: Judicial, Legislative, and Grassroots Dimensions’ (2007) 33 *Queen’s LJ* 101 <https://heinonline.org/HOL/P?h=hein.journals/queen33&i=113> accessed 25 September 2025.

⁴¹ H Dembowski, ‘Can Courts Empower Civil Society? Public Interest Litigation and the Public Sphere’ (2000) *Asien* 77 <https://hasp.uni-heidelberg.de/journals/asien/article/view/19238> accessed 25 September 2025.



The journey of Public Interest Litigation (PIL) in India reflects a remarkable transformation from an instrument of judicial activism to a vehicle for participatory democracy. Initially pioneered by an empathetic judiciary to bridge the access-to-justice gap, PIL has gradually evolved into a broader tool of “people’s justice,” empowering civil society and grassroots movements. While institutional safeguards have helped regulate its misuse, challenges related to legitimacy, representation, and judicial overreach remain. Going forward, the vitality of PIL will depend on preserving its constitutional ethos—ensuring it remains both a legal remedy and a democratic expression for the voiceless.

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