

*Law Audience Journal, Volume 3 & Issue 3, 3<sup>rd</sup> February 2022,*  
*e-ISSN: 2581-6705, Indexed Journal, Published at*  
<https://www.lawaudience.com/volume-3-issue-3/>, *Pages: 236 to 255,*

**Title:** *“Problem of Facing Public Interest Litigation in India”,*  
**Authored By:** *Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,*  
*Tiruchirapalli, Tamilnadu,*  
**Co-Authored By:** *Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law*  
*College Tirunelveli, Tamilnadu, Email Ids:*  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).



### **Cite this article as:**

MS. RAGAVI PALANIVEL & MS. SAKTHI PRIYADHARSHINI, “Problem of Facing Public Interest Litigation in India”, Vol.3 & Issue 3, Law Audience Journal (e-ISSN: 2581-6705), Pages 236 to 255 (3<sup>rd</sup> February 2022), available at <https://www.lawaudience.com/problem-of-facing-public-interest-litigation-in-india/>.

***Law Audience Journal, Volume 3 & Issue 3, 3<sup>rd</sup> February 2022,  
e-ISSN: 2581-6705, Indexed Journal, Published at  
<https://www.lawaudience.com/volume-3-issue-3/>, Pages: 236 to 255,***

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

***Publisher Details Are Available At:***

***<https://www.lawaudience.com/publisher-details/>***

***Editorial Board Members Details Are Available At:***

***<https://www.lawaudience.com/editorial-board-members/>***

***| Copyright © 2022 By Law Audience Journal |***

***(E-ISSN: 2581-6705)***

All Copyrights are reserved with the Authors. But, however, the Authors have granted to the Journal (**Law Audience Journal**), an **irrevocable, non-exclusive, royalty-free and transferable license to publish, reproduce, store, transmit, display and distribute** it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known.

No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non-commercial uses permitted by copyright law.

For permission requests, write to the publisher, subject of the email must be **“Permission Required”** at the email addresses given below.

Email: [lawjournal@lawaudience.com](mailto:lawjournal@lawaudience.com), [info@lawaudience.com](mailto:info@lawaudience.com),

Phone: +91-8351033361,

Website: [www.lawaudience.com](http://www.lawaudience.com).

Facebook: [www.facebook.com/lawaudience](http://www.facebook.com/lawaudience)

Instagram: [www.instagram.com/lawaudienceofficial](http://www.instagram.com/lawaudienceofficial)

Contact Timings: 5:00 PM to 9:00 PM.

***Law Audience Journal, Volume 3 & Issue 3, 3<sup>rd</sup> February 2022,  
e-ISSN: 2581-6705, Indexed Journal, Published at  
<https://www.lawaudience.com/volume-3-issue-3/>, Pages: 236 to 255,***

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

**DISCLAIMER:**

*Law Audience Journal (e-ISSN: 2581-6705) and Its Editorial Board Members do not guarantee that the material published in it is 100 percent reliable. You can rely upon it at your own risk. But, however, the Journal and Its Editorial Board Members have taken the proper steps to provide the readers with relevant material. Proper footnotes & references have been given to avoid any copyright or plagiarism issue. Articles published in **Volume 3 & Issue 3** are the original work of the authors.*

*Views or Opinions or Suggestions (**if any**), expressed or published in the Journal are the personal point of views of the Author(s) or Contributor(s) and the Journal & Its Editorial Board Members are not liable for the same.*

*While every effort has been made to avoid any mistake or omission, this publication is published online on the condition and understanding that the publisher shall not be liable in any manner to any person by reason of any mistake or omission in this publication or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this work.*

*All disputes subject to the exclusive jurisdiction of Courts, Tribunals and Forums at Himachal Pradesh only.*

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

### **ABSTRACT:**

*“Public Interest Litigation (PIL), has been an invaluable innovative judicial remedy. It has translated the rhetoric of fundamental rights into living reality for at least some segments of our exploited and downtrodden humanity. Undertrial prisoners languishing in jails for inordinately long periods, inmates of asylums and care-homes live in sub-human conditions, children working in hazardous occupations and similar disadvantaged sections. The bulk of citizens were unaware of their legal rights and much less in a position to assert them. And as a result, there was hardly any link between the rights guaranteed by the Constitution of Indian Union and the laws made by the legislature on the one hand and the vast majority of illiterate citizens on the other. However, this scenario gradually changed when the post emergency Supreme Court tackled the problem of access to justice by people through radical changes and the alterations made in the requirements of locus stand and of party aggrieved. Prior to 1980s, only the aggrieved party could personally knock the doors of justice and seek remedy for his grievance and any other person who was not personally affected could not knock the doors of justice as a proxy for the victim or the aggrieved party. Public Interest Litigation as it has developed in recent years marks a significant departure from traditional judicial proceedings. The court is now seen as an institution not only reaching out to provide relief to citizens but even venturing into formulation policy which the state must follow”.*

**Keywords: Public Interest Litigation, Judicial Remedy, Illiterate Citizens, Justice, Proxy, Victim.**

### **I. INTRODUCTION:**

Problem of facing public interest litigation in India also it is being misused as no heavy court fees are involved as in the case of ordinary civil proceedings. Due to the flexible and non-complex process of filing a PIL, the filing of indiscriminate petitions creates a lot of pressure on the judicial system and delays the process of disposal of bona fide petitions. The concept of public interest litigation (PIL) is suited to the principles enshrined in Article 39A of

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

the Constitution of India to protect and deliver prompt social justice with the help of law. Before the 1980s, only the aggrieved party could approach the courts for justice. After the emergency era the high court reached out to the people and devised a means for any person of the public (or NGO) approaching the court to seek legal remedy in cases where public interest is at stake. Bhagwati and Justice V. R. Krishna Iyer were among the first judges to admit PILs in court. Filing a PIL is not as cumbersome as a usual legal case; there have been instances when letters and telegrams addressed to the court have been heard as PILs.

The genuine causes and cases of public interest have in fact receded to the background and irresponsible PIL activists all over the country have started to play a major but not a constructive role in the arena of litigation. In a recent case the court while dismissing an ostensible PIL against the sale of a plot of land through public auction, held that the matter had not been raised in public interest at all, but to ventilate a private grievance.

Of late, many of the PIL activists in the country have found the PIL as a handy tool of harassment since frivolous cases could be filed without investment of heavy court fees as required in private civil litigation and deals could then be negotiated with the victims of stay orders obtained in the so-called PILs. Just as a weapon meant for defence can be used equally effectively for offence, the lowering of the locus stand requirement has permitted privately motivated interests to pose as public interests.

## **II. PUBLIC INTEREST LITIGATION IS NOT DEFINED IN ANY STATUTE OR IN ANY ACT:**

It has been interpreted by judges to consider the intent of public at large. Public interest litigation is the power given to the public by courts through judicial activism. However, the person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest and not just as a frivolous litigation by a busy body. The court can

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

itself take cognizance of the matter and proceed suo motu or cases can commence on the petition of any public spirited individual.

**Some of the matters which are entertained under PIL are:**

- *Bonded Labour matters*
- *Neglected Children*
- *Non-payment of minimum wages to workers and exploitation of casual workers*
- *Atrocities on women*
- *Environmental pollution and disturbance of ecological balance*
- *Food adulteration*
- *Maintenance of heritage and culture*

### **III. JUDICIAL INNOVATIONS TO HELP THE POOR AND MARGINALISED:**

For instance, in the Bandhua Mukti Morcha, the Supreme Court put the burden of proof on the respondent stating it would treat every case of forced labour as a case of bonded labour unless proven otherwise by the employer. Similarly in the Asia Workers judgment case, Justice P.N. Bhagwati held that anyone getting less than the minimum wage can approach the Supreme Court directly without going through the labour commissioner and lower courts.

In PIL cases where the petitioner is not in a position to provide all the necessary evidence, either because it is voluminous or because the parties are weak socially or economically, courts have appointed commissions to collect information on facts and present it before the bench.

### **IV. WHO CAN FILE A PIL AND AGAINST WHOM?**

**Any citizen can file a public case by filing a petition:**

- *Under Art 32 of the Indian Constitution, in the Supreme Court.*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

- *Under Art 226 of the Indian Constitution, in the High Court.*
- *Under sec. 133 of the Criminal Procedure Code, in the Court of Magistrate.*

However, the court must be satisfied that the Writ petition fulfils some basic needs for PIL as the letter is addressed by the aggrieved person, public spirited individual and a social action group for the enforcement of legal or Constitutional rights to any person who are not able to approach the court for redress.

A Public Interest Litigation can be filed against a State/ Central Govt., Municipal Authorities, and not any private party. The definition of State is the same as given under Article 12 of the Constitution and this includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

## **V. THE ONTARIO LAW REFORM COMMISSION REPORT:**

On the law of Standing, 1989, recommended that any person should be able to commence a proceeding unless a party satisfies the Court that there exist factors against proceeding that outweigh the factors in favour of the proceedings.

### **The factors to be considered by the court would include:**

- whether the issue is trivial;*
- in case where the applicant does not have a personal, proprietary or pecuniary interest the number of people affected;*
- whether another reasonable and effective method exists to raise the issues that are sought to be litigated;*
- whether another proceeding has been instituted against the same opponent in which the same issues arise and the interests of the applicant could be met by intervening in those proceedings and it is reasonable to expect the applicant to do so;*
- whether to proceed would be unfair to persons affected.*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

Public Interest Litigants fear that implementation of these suggestions will sound the death-knell of the people friendly concept of PIL. However, it cannot be denied that PIL activists should be responsible and accountable. It is also notable here that even the Consumers Protection Act, 1986 has been amended to provide compensation to opposite parties in cases of frivolous complaints made by consumers. PIL requires rethinking and restructuring. Overuse and abuse of PIL will make it ineffective. PIL has translated the rhetoric of fundamental rights into living reality for at least some segments of our exploited and downtrodden humanity. Under trial prisoners languishing in jails for inordinately long periods, inmates of asylums and care-homes living in sub-human conditions, children working in hazardous occupations and similar disadvantaged sections. Hence, any change to improve it further should be encouraged and welcomed.

## **VI. SIGNIFICANCE OF PIL:**

The aim of PIL is to give to the common people access to the courts to obtain legal redress. PIL is an important instrument of social change and for maintaining the Rule of law and accelerating the balance between law and justice. The original purpose of PILs have been to make justice accessible to the poor and the marginalised. It is an important tool to make human rights reach those who have been denied rights. It democratizes the access of justice to all. Any citizen or organisation who is capable can file petitions on behalf of those who cannot or do not have the means to do so. It helps in judicial monitoring of state institutions like prisons, asylums, protective homes, etc. It is an important tool for implementing the concept of judicial review. Enhanced public participation in judicial review of administrative action is assured by the inception of PILs.

## **VII. CERTAIN WEAKNESSES OF PIL:**

PIL actions may sometimes give rise to the problem of competing rights. For instance, when a court orders the closure of a polluting industry, the interests of the workmen and their families who are deprived of their livelihood may not be taken into account by the court. It



***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

could lead to overburdening of courts with frivolous PILs by parties with vested interests. PILs today has been appropriated for corporate, political and personal gains. Today the PIL is no more limited to problems of the poor and the oppressed. Cases of Judicial Overreach by the Judiciary in the process of solving socio-economic or environmental problems can take place through the PILs. PIL matters concerning the exploited and disadvantaged groups are pending for many years. Inordinate delays in the disposal of PIL cases may render many leading judgments merely of academic value.

### **VIII. BASIC OF PUBLIC INTEREST LITIGATION:**

In simple words, means, litigation filed in a court of law, for the protection of Public Interest, such as pollution, Terrorism, Road safety, constructional hazards etc. Public interest litigation is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of public at large.

**Although, the main and only focus of such litigation is only Public Interest there are various areas where a public interest litigation can be filed. For e.g.**

- *Violation of basic human rights of the poor.*
- *Content or conduct of government policy.*
- *Compel municipal authorities to perform a public duty.*
- *Violation of religious rights or other basic fundamental rights.*

**In Black's Law Dictionary (Sixth Edition), Public Interest is defined as follows:**

Public Interest, something in which the public, the community at large has something pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interest of the particular localities, which may be affected by the matters in question. Interest shared by the citizens generally in affair of local, State or national government.

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

## **IX. LEGAL HISTORY:**

The Indian PIL is the improved version of PIL of U.S.A. According to Ford Foundation of U.S.A., Public interest law is the name that has recently been given to efforts that provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others. The emergency period (1975-1977) witnessed colonial nature of the Indian legal system. During emergency state repression and governmental lawlessness was widespread. Thousands of innocent people including political opponents were sent to jails and there was complete deprivation of civil and political rights. The post emergency period provided an occasion for the judges of the Supreme Court to openly disregard the impediments of Anglo-Saxon procedure in providing access to justice to the poor.

Public Interest Litigation popularly known as PIL can be broadly defined as litigation in the interest of that nebulous entity: the public in general. Prior to 1980s, only the aggrieved party could personally knock the doors of justice and seek remedy for his grievance and any other person who was not personally affected could not knock the doors of justice as a proxy for the victim or the aggrieved party. In other words, only the affected parties had the locus stand (*standing required in law*) to file a case and continue the litigation and the non-affected persons had no locus stand to do so. And as a result, there was hardly any link between the rights guaranteed by the Constitution of Indian Union and the laws made by the legislature on the one hand and the vast majority of illiterate citizens on the other.

**The traditional view in regard to locus stand in Writ jurisdiction has been that only such persons who:**

- a) Has suffered a legal injury by reason of violation of his legal right or legally protected interest; or

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

b) is likely to suffer a legal injury by reason of violation of his legal right or legally protected interest.

Thus, before a person acquired locus stand, he had to have a personal or individual right which was violated or threatened to be violated. He should have been a person aggrieved in the sense that he had suffered or was likely to suffer from prejudice, pecuniary or otherwise. However, all these scenarios gradually changed when the post emergency Supreme Court tackled the problem of access to justice by people through radical changes and alterations made in the requirements of locus stand and of party aggrieved. The splendid efforts of Justice P N Bhagwati and Justice V R Krishna Iyer were instrumental of this juristic revolution of eighties to convert the Apex Court of India into a Supreme Court for all Indians.

Justice V. R. Krishna Iyer and P. N. Bhagwati recognised the possibility of providing access to justice to the poor and the exploited people by relaxing the rules of standing. In the post-emergency period when the political situations had changed, investigative journalism also began to expose gory scenes of governmental lawlessness, repression, custodial violence, drawing attention of lawyers, judges, and social activists. PIL emerged as a result of an informal nexus of pro-active judges, media persons and social activists. This trend shows stark difference between the traditional justice delivery system and the modern informal justice system where the judiciary is performing administrative judicial role. PIL is necessary rejection of laissez faire notions of traditional jurisprudence.

## **X. CONSTITUTIONAL PROVISIONS:**

***Public Interest Litigations can be filed in the Supreme Court and High Courts by invoking their writ jurisdiction under Article 32 and Article 226 respectively;***

- *Article 32 deals with the rights of citizens to move to the Supreme Court against violation of rights conferred by Part III of the constitution, which can issue the*

*Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).*

*writs of mandamus, habeas corpus, certiorari, and quo-warranto as applicable to the case.*

- *Article 226 empowers High Courts to issue writs within their jurisdiction in cases of violation of rights mentioned in Part III of the Constitution.*

### **XI. ABUSE OF PIL:**

However, the development of PIL has also uncovered its pitfalls and drawbacks. As a result, the apex court itself has been compelled to lay down certain guidelines to govern the management and disposal of PILs. And the abuse of PIL is also increasing along with its extended and multifaceted use. Of late, many of the PIL activists in the country have found the PIL as a handy tool of harassment since frivolous cases could be filed without investment of heavy court fees as required in private civil litigation and deals could then be negotiated with the victims of stay orders obtained in the so-called PILs. Just as a weapon meant for defence can be used equally effectively for offence, the lowering of the locus standi requirement has permitted privately motivated interests to pose as public interests. The abuse of PIL has become more rampant than its use and genuine causes either receded to the background or began to be viewed with the suspicion generated by spurious causes mooted by privately motivated interests in the disguise of the so-called public interests.

### **XII. SUGGESTIONS TO PREVENT THE ABUSE OF THE CONCEPT OF PIL:**

*In the opinion of former Attorney General, Soli Sorabji, three basic rules should be followed in order to regulate the filing of Public Interest Litigations. They are:*

- *Not hearing uncertain and doubtful PILs and rejecting them at the beginning itself. Also, it is suggested to impose high costs on them so that they act as a deterrent in the future.*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

- *Petitions which are directed against some socio-economic regulation or important project after a long time should be outright rejected by applying the general rules of litigation.*
- *In order to gain trust, PIL practitioners should be asked to provide assurance in the form of undertaking to the court that they would recover the damages, in case the PIL is dismissed.*
- *The media should highlight cases of abuse of PIL, just as much as it glorifies the concept of PIL and its success. By conducting various kinds of programs and through means of visual media, it can spread awareness about the abuse of PIL and the punishment given to such petitioners to create a deterrent effect on others.*
- *Lawyers should actively refuse to represent such malicious petitioners. Discipline and ethics should be strongly emphasized in the profession and lawyers should not take up to defend such causes which abuse the PIL.*
- *The court should check that the reason for the filing of the petition is bona fide and is not backed by private interests. It should serve the manipulated or corrupt.*

### **XIII. STEPS NECESSARY:**

With the view to regulate the abuse of PIL the apex court itself has framed certain guidelines *(to govern the management and disposal of PILs.)* The court must be careful to see that the petitioner who approaches it is acting bona fide and not for personal gain, private profit or political or other oblique considerations. The court should not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain political objectives. Political pressure groups who could not achieve their aims through the administrative process or political process may try to use the courts *(through the means of PILs)* to further their closely vested aims and interests. There may be cases where the PIL may affect the right of persons not before the court, and therefore in shaping the relief the court must invariably take into account its impact on those interests and the court must

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

exercise greatest caution and adopt procedure ensuring sufficient notice to all interests likely to be affected.

#### **XIV. REMEDIES - PUBLIC INTEREST LITIGATION (PIL) -**

##### **PART: 1:**

A Public Interest Litigation (PIL) can be filed in any High Court or directly in the Supreme Court. It is not necessary that the petitioner has suffered some injury of his own or has had personal grievance to litigate. PIL is a right given to the socially conscious member or a public-spirited NGO to espouse a public cause by seeking judicial for redressal of public injury. Such injury may arise from breach of public duty or due to a violation of some provision of the Constitution. Public interest litigation is the device by which public participation in judicial review of administrative action is assured. ***It has the effect of making judicial process little more democratic;***

- *India has some of the most progressive social legislation to be found anywhere in the world whether it be relating to bonded labour, minimum wages, land ceiling, environmental protection, etc. This has made it easier for the courts to haul up the executive when it is not performing its duties in ensuring the rights of the poor as per the law of the land.*
- *The liberal interpretation of locus standi where any person can apply to the court on behalf of those who are economically or physically unable to come before it has helped. Judges themselves have in some cases initiated suo moto action based on newspaper articles or letters received*
- *Although social and economic rights given in the Indian Constitution under Part IV are not legally enforceable, courts have creatively read these into fundamental rights thereby making them judicially enforceable. For instance, the right to life in Article 21 has been expanded to include right to free legal aid, right to live with dignity, right to education, right to work, freedom from torture, bar fetters and hand cuffing in prisons, etc.*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

- *Sensitive judges have constantly innovated on the side of the poor. For instance, in the Bandhua Mukti Morcha case in 1983, the Supreme Court put the burden of proof on the respondent stating it would treat every case of forced labour as a case of bonded labour unless proven otherwise by the employer. Similarly in the Asia workers judgment case, Justice P.N. Bhagwati held that anyone getting less than the minimum wage can approach the Supreme Court directly without going through the labour commissioner and lower courts*
- *In PIL cases where the petitioner is not in a position to provide all the necessary evidence, either because voluminous or because the parties are weak socially or economically, courts have appointed commissions to collect information on facts and present it before the bench.*

#### **XIV.I PUBLIC INTEREST LITIGATION - PART: 2:**

Though the Constitution of India guarantees equal rights to all citizens, irrespective of race, gender, religion, and other considerations, and the directive principles of state policy as stated in the Constitution obligate the Government to provide to all citizens a minimum standard of living, the promise has not been fulfilled. The greater majority of the Indian people have no assurance of two nutritious meals a day, safety of employment, safe and clean housing, or such level of education as would make it possible for them to understand their constitutional rights and obligations. Indian newspapers abound in stories of the exploitation - by landlords, factory owners, businessmen, and the state's own functionaries, such as police and revenue officials - of children, women, villagers, the poor, and the working class.

Though India's higher courts and, in particular, the Supreme Court have often been sensitive to the grim social realities, and have on occasion given relief to the oppressed, the poor do not have the capacity to represent themselves, or to take advantage of progressive legislation. In 1982, the Supreme Court conceded that unusual measures were warranted to enable people the full realization of not merely their civil and political rights, but the enjoyment of

**Title: “Problem of Facing Public Interest Litigation in India”,**  
**Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,**  
**Tiruchirapalli, Tamilnadu,**  
**Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law**  
**College Tirunelveli, Tamilnadu, Email Ids:**  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).

economic, social, and cultural rights, and in its far-reaching decision in the case of PUDR<sup>1</sup>, it recognised that a third party could directly petition, whether through a letter or other means, the Court and seek its intervention in a matter where another party's fundamental rights were being violated. In this case, advertent to the Constitutional prohibition on beggar, or forced labor and traffic in human beings, PUDR submitted that workers contracted to build the large sports complex at the Asian Game Village in Delhi were being exploited.

## **XV. NON-ADVERSARIAL LITIGATION HAS TWO ASPECTS:**

### **XV.I COLLABORATIVE LITIGATION:**

In collaborative litigation the effort is from all the sides. The claimant, the court and the Government or the public official, all are in collaboration here to see that basic human rights become meaningful for the large masses of the people. PIL helps executive to discharge its constitutional obligations. *Court assumes three different functions other than that from traditional determination and issuance of a decree;*

- i. **Ombudsman:** *The court receives citizen complaints and brings the most important ones to the attention of responsible government officials.*
- ii. **Forum:** *The court provides a forum or place to discuss the public issues at length and providing emergency relief through interim orders.*
- iii. **Mediator:** *The court comes up with possible compromises.*

### **XV.II INVESTIGATIVE LITIGATION:**

It is investigative litigation because it works on the reports of the Registrar, District Magistrate, comments of experts, newspapers etc. Crucial Aspects: The flexibility introduced in the adherence to procedural laws. In Rural Litigation and Entitlement Kendra v. State of U.P., Supreme Court rejected the defence of Res Judicata. Court refused to withdraw the PIL and ordered compensation too. To curtail custodial violence, Supreme Court issued certain

<sup>1</sup> People's Union for Democratic Rights vs. Union of India.



***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

guidelines. Supreme Court has broadened the meaning of Right to live with human dignity available under the Article 21 of the Constitution of India to a greatest extent possible<sup>2</sup>. Relaxation of strict rule of Locus Stand: The strict rule of locus stand has been relaxed by way of Representative standing, and Citizen standing. In Supreme Court held that a petitioner, a professor of political science who had done substantial research and deeply interested in ensuring proper implementation of the constitutional provisions, challenged the practice followed by the state of Bihar in promulgating a number of ordinances without getting the approval of the legislature. The court held that the petitioner as a member of public has sufficient interest to maintain a petition under Article 32<sup>3</sup>.

### **XVI. MERITS:**

- i. Vigilant citizens can find an inexpensive remedy because there is only a nominal rate of court fees.*
- ii. Litigants can focus attention on and achieve results pertaining to larger public issues especially in the field of human rights, consumer welfare and the environment.*

### **XVII. DEMERITS:**

- i. Many people started handling PIL as a tool for harassment because frivolous cases can be filed without heavy court fee as compared to private litigations.*
- ii. Due to the flexibility of character of the PIL, the opposite party gets an opportunity to ascertain the precise allegation and respond to specific issues.*
- iii. The judiciary has been criticised due to the overstepping of its jurisdiction and that it is unable to implement its orders effectively.*
- iv. PIL is being misused by the public agitating for private grievances in the grab of public interest by seeking publicity rather than supporting the public cause.*

<sup>2</sup> Sheela Barse v. State of Maharashtra.

<sup>3</sup> D.C.Wadhwa v. State of Bihar.

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

## **XVIII. PROBLEMS FACING IN PILS:**

The flexibility of procedure that is a character of PIL has given rise to another set of problems. It gives an opportunity to opposite parties to ascertain the precise allegation and respond specific issues. The PIL relating to depletion of forest cover is a case in point. The petition, as originally drafted and presented, pertained to the arbitrary felling of Khair trees in Jammu and Kashmir. The PIL has now been enlarged by the court to encompass all forests throughout India. Individual States, therefore, will not be able to respond to the original pleading as such, since it may not concern them at all. The reports given by court appointed commissioners raise problems regarding their evidentiary value.

No court can find its decision on facts unless they are proved according to law. This implies the right of an adversary to test them by cross-examination or at least counter-affidavits. In such instances the affected parties may have misgivings about the role of the court. In the political arena too, the debate over the limits of judicial activism , particularly in the field of PIL, has been vigorous. The attempt by the judiciary through PILs to enter the area of policy making and policy implementation has caused concern in political circles.

A private members bill, entitled *Public Interest Litigation (Regulation) Bill, 1996*, was tabled in Rajya Sabha. According to it the PIL was being grossly misused. Moreover, PIL cases were being given priority over other cases, which had remained pending in the court for years. It was urged that if a PIL petition failed or was shown to be mala fide the petitioner should be put behind bars and pay the damages.

Although the bill lapsed, the debate in parliament revealed some of the criticism and suspicion that PIL had begun to attract. The credibility of PIL process is now adversely affected by the criticism that the judiciary is overstepping the boundaries of its jurisdiction and that it is unable to supervise the effective implementation of its orders. It has also been increasingly felt that PIL is being misused by the people agitating for private grievance in the

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

grab of public interest and seeking publicity rather than espousing public cause. The judiciary has itself recognized and articulated these concerns periodically. A further concern is that as the judiciary enters into the policy making arena it will have to fashion new remedies and mechanisms for ensuring effective compliance with its orders. A judicial system can suffer no greater lack of credibility than a perception that its order can be flouted with impunity.

This court must refrain from passing orders that cannot be enforced, whatever the fundamental right may be and however good the cause. It serves no purpose to issue some high-profile mandamus or declaration that can remain only on paper. Although usually the Supreme Court immediately passes interim orders for relief, rarely is a final verdict given, and in most of the cases, the follow-up is poor.

To regulate the abuse of PIL the apex court it has framed certain guidelines (to govern the management and disposal of PILs.) The court must be careful to see that the petitioner who approaches it is acting bona fide and not for personal gain, private profit or political or other oblique considerations. The court should not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain political objectives. At present, the court can treat a letter as a writ petition and take action upon it. But it is not every letter which may be treated as a writ petition by the court. ***The court would be justified in treating the letter as a writ petition only in the following cases;***

- i. It is only where the letter is addressed by an aggrieved person or*
- ii. a public-spirited individual or*
- iii. a social action group for enforcement of the constitutional or the legal rights of a person in custody or of a class or group of persons who by reason of poverty, disability or socially or economically disadvantaged position find it difficult to approach the court for redress.*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

Even though it is very much essential to curb the misuse and abuse of PIL, any move by the government to regulate the PIL results in widespread protests from those who are not aware of its abuse and equate any form of regulation with erosion of their fundamental rights.

In his recent write up, *Mr. Soli Sorabji, the former Attorney General* while applauding the liberalization of the rule of locus standi by the Supreme Court of India benefiting under-trial prisoners languishing in jail for inordinately long periods, inmates of asylums and care homes living in sub-human conditions, children working in hazardous occupation and similar disadvantaged persons, has lamented that PIL is being abused with increasing frequency and that over the years.

### **XIX. CASE LAWS:**

With the increasing number of PILs filed, a trend has emerged of filing frivolous petitions which is contrary to the soul of the concept of PILs. The Supreme Court and High Courts have time and again warned against such conduct.

***However, the Covid-19 pandemic only gave rise to the filing of more such petitions;***

- i. The Public Interest Litigation, in this case, was dismissed as follows. The following are the facts of the case: The petitioner prayed that the High Court may apply its power under Article 226 of the Indian Constitution to issue a writ of Mandamus directing the respondents to issue orders to conduct compulsory medical tests of candidates who were contesting in the Tamil Nadu Legislative Assembly Elections that were in process. This was prayed to protect the 6, 29, 43,512 voters from being infected with COVID-19. The court held that there was no basis for such a petition and it was completely frivolous. It also asked the petitioner to be more responsible before filing such petitions in court. The petition was dismissed with costs and the*

***Title: “Problem of Facing Public Interest Litigation in India”,***  
***Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,***  
***Tiruchirapalli, Tamilnadu,***  
***Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law***  
***College Tirunelveli, Tamilnadu, Email Ids:***  
***[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

*petitioner was banned by the court from filing petitions for a period of one year without taking prior leave of the Bench<sup>4</sup>.*

- ii. A PIL was filed in the Delhi High Court to direct News and TV channels to follow the Code of ethics and regulations while reporting sensitive content of mass deaths and suffering. It prayed to curb the spread of negativity by restraining media channels from broadcasting such news. The petition also gave the ground that freedom of speech and expression under Article 19 is not absolute. The petition was dismissed by the bench and it was pronounced that reporting the number of deaths to the public is not negative news<sup>5</sup>.*
- iii. The Delhi High Court dismissed a petition which alleged that the Government of Delhi was misusing public money. The petition prayed for an investigation into the funds collected by the Delhi Government for Covid-19 relief. The petitioner made no effort to find out the information using the Right to Information Act, 2005, and merely relied on a tweet posted by someone else. The court pulled up the petitioner for not doing any homework before filing the petition. The petitioner was also asked to pay Rs 50,000 for misusing the PIL<sup>6</sup>.*
- iv. The petition was initially filed before the Delhi High Court, but the Supreme Court transferred it to itself. This petition challenged the possibility of the Central Vista project and the way clearances were obtained for environment, heritage, and land use matters. It also called this a matter of high political significance which required judicial scrutiny. The Supreme Court lamented and called this a misuse of the concept of PIL. It reiterated the intention behind PIL and said that PIL was not meant to make the judiciary the superlative authority over everyday governance but to open the doors of constitutional courts for those humans who were facing injustice and to secure their rights<sup>7</sup>.*

<sup>4</sup> SPV Paul Raj v. The Chief of Electoral Officer and Anr.

<sup>5</sup> Lalit Valecha v. Union of India.

<sup>6</sup> Pratyush Prasanna and Anr. v. State of NCT of Delhi.

<sup>7</sup> Rajeev Suri v. The Delhi Development Authority.

***Title: “Problem of Facing Public Interest Litigation in India”,  
Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,  
Tiruchirapalli, Tamilnadu,  
Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law  
College Tirunelveli, Tamilnadu, Email Ids:  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).***

## **XX. CONCLUSION:**

Public Interest Litigation is an important component of judicial activism. It strengthens the judiciary to come to the rescue of its people. Hence, it is pertinent that the concept is widely used and is not abused to make personal gains. Recent years have seen examples of such abuse and exploitation of the PIL, which should serve as a deterrent to prevent similar incidents in the future. If used in the correct manner and for the right causes, PIL can prove to be an asset to the people.

New ways and methods should be formulated to sieve out frivolous petitions so that justice is served fairly and well within time. The Supreme Court has laid down ***guidelines*** to be followed with respect to Public Interest Litigation, courts should keep these rules in mind while dealing with Public Interest Litigations to avoid frivolous petitions and save time.

Public Interest Litigation popularly known as PIL can be broadly defined as litigation in the interest of that nebulous entity: the public in general. Prior to 1980s, only the aggrieved party could personally knock the doors of justice and seek remedy for his grievance and any other person who was not personally affected could not knock the doors of justice as a proxy for the victim or the aggrieved party. In other words, only the affected parties had the locus stand (***standing required in law***) to file a case and continue the litigation and the non-affected persons had no locus stand to do so.

And as a result, there was hardly any link between the rights guaranteed by the Constitution of Indian Union and the laws made by the legislature on the one hand and the vast majority of illiterate citizens on the other.

**Title: “Problem of Facing Public Interest Litigation in India”,**  
**Authored By: Ms. Ragavi Palanivel (B.A.LL.B), Government Law College,**  
**Tiruchirapalli, Tamilnadu,**  
**Co-Authored By: Ms. Sakthi Priyadharshini (B.A.LL.B), Government Law**  
**College Tirunelveli, Tamilnadu, Email Ids:**  
[ragavipalanivel2002@gmail.com](mailto:ragavipalanivel2002@gmail.com), [sakthisaksi4327@gmail.com](mailto:sakthisaksi4327@gmail.com).

## **Bibliography:**

### **i) Books:**

- 1) *Public Interest Litigation - With Model PIL Forms Paperback – 1 April 2016 by B.L. Wadhera (Author).*
- 2) *People Law and Justice : Case Book on Public Interest Litigation Volume-2, 1/e PB 01 Edition (English, Paperback, S Ahuja).*
- 3) *Whytes & Co's Public Interest Litigation (PIL) by P. M. Bakshi Paperback – 1 January 2018.*
- 4) *The Indian Constitution: Cornerstone of A Nation (Classic Reissue) Paperback – 15 July 1999 by Austin Granville (Author).*
- 5) *M P Jain Indian Constitutional Law Paperback – 4 February 2018 by M.P. Jain (Author).*

### **ii) Online Sources:**

1. <https://www.lawctopus.com/>.
2. <https://www.mondaq.com/>.
3. <https://lawcirca.com/>.
4. <http://www.iosrjournals.org/>.
5. <https://www.firstpost.com/>.
6. <http://historycooperative.org>.
7. <http://www.thehoot.org>.
8. [www.thehindu.com](http://www.thehindu.com).
9. <https://timesofindia.indiatimes.co>.
10. <http://www.livelaw.in>.