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Judicial Activism and Public Interest Litigation in India and Issues Involved

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ABSTRACT

The term "Public Interest" refers to the broader concerns of the general public, encompassing the welfare and interests of the masses. On the other hand, "Litigation" denotes legal proceedings, inclusive of all actions taken in a court of law aimed at enforcing a right or seeking redress. Consequently, the phrase 'Public Interest Litigation' conveys the notion of legal action undertaken for the betterment of the public or the resolution of public grievances. Essentially, public interest litigation allows any concerned citizen to petition the Supreme Court under Article 32 of the Constitution, the High Court under Article 226, or the Court of Magistrate under Section 133 of the Code of Criminal Procedure, 1973, for the advancement of public welfare. The roots of public interest litigation in India can be traced back to Krishna Iyer J.'s landmark decision in the Mumbai Kamgar Sabha v. Abdul Thai case of 1976, where an unregistered workers' association was permitted to file a writ petition under Article 32 to address common grievances. Subsequently, in Fertilizer Corporation Kamgar Union v. Union of India, Krishna Iyer J. advocated for a more liberal interpretation of the rule of Locus Standi, paving the way for the emergence of 'Public Interest Litigation', which reached its zenith in the S.P. Gupta and others v. Union of India case. The term 'Judicial Activism' denotes the courts' eagerness to provide suitable remedies to the aggrieved parties by formulating new rules, especially in cases of legal uncertainty or lawlessness. Judicial Activism in India is exemplified by the Supreme Court's review power under Article 32 and High Courts' powers under Article 226, particularly in Public Interest Litigation cases. When existing rules fail to address specific cases adequately, the courts have taken the initiative to establish new guidelines, a process referred to as 'Judicial Activism'. This study explores the relationship between PIL and Judicial Activism, and the emergence of PIL in India. A convenient sampling method was utilised, collecting data from 200 samples. The independent variables considered were age, gender, education, and occupation. The study reveals that while English laws share similarities with Indian laws, English legal principles have evolved to address the gaps exposed by PIL and Judicial Activism. This paper examines the challenges faced by developing countries like India due to the potential misuse of PIL and Judicial Activism.

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Keywords: *Public Interest Litigation, Misuse of PIL, Judicial Activism, English laws, Justice, Equity and Good conscience.*

I. INTRODUCTION

Public interest litigation, often referred to as social interest litigation, has gained significant importance and attention from various stakeholders. The traditional rule of "Locus Standi," which limited petitioners to those directly affected, has been notably relaxed by recent decisions of the Supreme Court. Now, individuals described as "public-spirited citizens" can initiate public interest litigation to enforce constitutional and legal rights. Any concerned citizen can now approach the courts to address matters of general public interest or welfare. They can file petitions in the Supreme Court under Article 32 of the Indian Constitution, in high courts under Article 226, or in magistrate courts under Section 133 of the Code of Criminal Procedure. At the time of India's independence, legal procedures were inherited from the Anglo-Saxon jurisprudence system. Many citizens were unaware of their legal rights, leading to a disconnect between constitutional guarantees and the laws enacted by the legislature, especially among the illiterate majority. This situation gradually changed after the emergency period, as the Supreme Court introduced radical changes to improve access to justice. Before the 1980s, only directly affected parties could seek remedies, while others couldn't represent the aggrieved party in court. Public interest litigation represents a departure from traditional judicial proceedings. The courts are now seen not only as institutions providing relief but also as formulating policies for the state. Justices P.N. Bhagwati and V.R. Krishna Iyer played pivotal roles in transforming the Indian apex court into a forum for all citizens. Public interest litigation has indeed been an innovative judicial remedy, translating the ideals of fundamental rights into tangible benefits for marginalised segments of society. It has addressed issues such as prolonged incarceration of under-trial prisoners, substandard living conditions in care facilities, and child labour in hazardous occupations. However, the misuse of public interest litigation, particularly since the 1990s, has begun to undermine its original purpose. Overuse of PIL for various public interests risks diluting its primary function of safeguarding human rights for marginalised and disadvantaged groups. This paper **aims** to identify the challenges posed by the misuse of PIL and its impact on society.

(A) Objectives:

- To study the problems faced by the court due to PIL.
- To study Relation between PIL and Judicial Activism and Emergence of PIL in India.

- To study the problems regarding the exercise of judicial activism through PIL.

(B) Review of literature:

The courts have provided benches for collecting information and submitting it before the bench in cases where the petitioner is unable to provide all the necessary evidence either because it is ample or because the party is weak socially and economically (Ghosh). India has a written constitution which gives a framework for regulating the state and its citizens under part III and part IV i.e. fundamental rights and directive principles of state policy respectively (Cassels). The social and economic rights guaranteed by the constitution of India in part IV are not legally enforceable; courts have read them into fundamental rights and made them judicially enforceable (Dixit). (Chowdhury) For example- Article 21 Right to life has been extended right to live with dignity, right to free legal aid, right to work, right to education, freedom from torture etc. (Gill) India has the most developing social legislation difficult to found anywhere in the world for example, child labor, bonded labor, environmental protection, minimum wages etc. which enables the courts to pull up the executive when it abstains from its duties in securing the rights of the poor as per the law of the land (Mbazira). (Mohana and Akter) 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 labor as a case of bonded labor unless proven otherwise by the employer. (Chandrachud) Similarly in the Asiatic 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 labor commissioner and lower courts. (Dembowski) The observant citizens of the country can find public interest litigation as an affordable legal aid due to the fixed nominal court fee involved in this. (Griffith) Through public interest litigation the litigants can concentrate towards achievement of result relating to larger public issues mainly in the field of consumer welfare, environment and human rights. (Mate) The court fee in PIL is very less as compared to private litigations due to which many people have started handling PIL as a tool for harassment. (Gauri) The character of PIL is flexible due to which the opposite party gets an opportunity to ascertain the specific claim and respond to particular issues. (Bhuwania) The judiciary has been criticized as it is unable to implement its orders efficiently due to overstepping of its jurisdiction. (Pleming) PIL is misused by the public to great extent provoked for private grudges and files petition for publicity rather than supporting public issues.

(C) Research methodology:

The current study is based on empirical research. It is consisting of the scientific frame of

research. It began with the finding of research problems based on the review of literature. The major contribution of the study is to collect the legal facts of a particular area and to test the hypothesis of a cause and effect relationship between variables. The research design is exploratory and experimental. It explored the problem tested with hypotheses and provided the solution from the analysis. Convenient sampling method is used (Non probability sampling). The sample size is 200. Data is collected through the primary and secondary sources. Questionnaire is used as the primary data collection and the articles, journals, reports, newsletters are considered as the secondary sources. The analysis is carried out for demographic statistics (Age, Gender, Educational qualification and Occupation) and hypothesis testing graphs are used.

II. ANALYSIS

(A) Variables:

Gender:

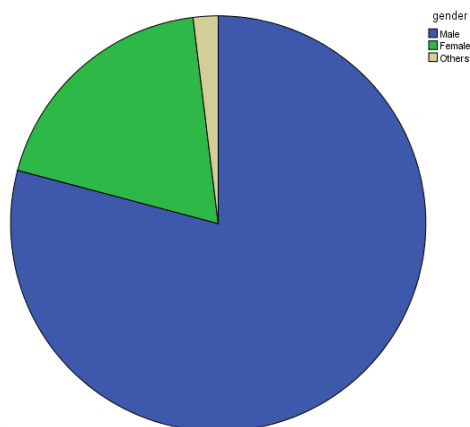


FIG.1

LEGEND: From fig.1 it's observed that the majority of the respondents are men and a small portion of the respondents are women and mere 2% of the respondents belong to the other category.

Education:

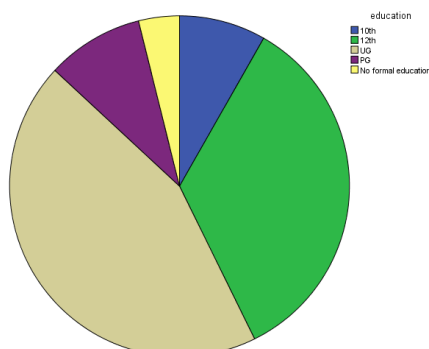


FIG.2

LEGEND: From fig.2 it's observed that the majority of the respondents have completed their UG. Other respondents have completed their HSC out of the other respondents some have completed their PG, SSLS and some have no formal education.

Occupation:

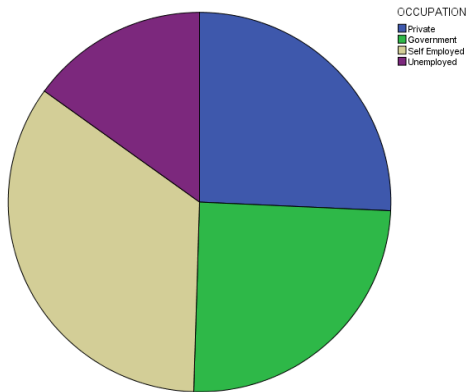


FIG.3

LEGEND: From fig.3 it's observed that the majority of the respondents are self employed. There are an equal amount of private, government employees and a small portion of unemployed respondents.

Age:

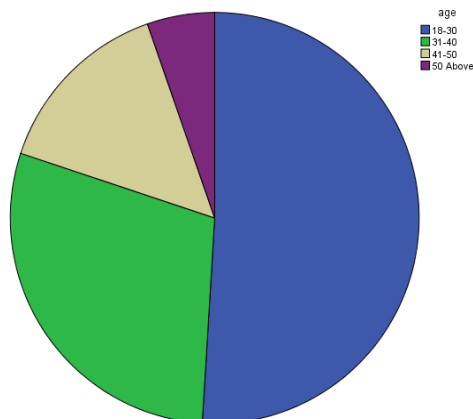


FIG.4

LEGEND: From fig.4 it's observed that the majority of the respondents are from the age group 18-30. The next majority group are 31-40. There are 10% of respondents from the age group 41-50 and mere 4% of respondents belong to the age group of 50 Above.

(B) Questions:

1. "Judicial Activism provides judges to use their personal wisdom in cases where the law failed to provide a balance."

Frequency table:

1. What is your agreeability that Judicial activism is a substitute for the failure of law to provide a balance?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2.0	3	1.5	1.5	1.5
	3.0	5	2.4	2.4	3.9
	4.0	4	1.9	1.9	5.8
	5.0	12	5.8	5.8	11.7
	6.0	39	18.9	18.9	30.6
	7.0	56	27.2	27.2	57.8
	8.0	68	33.0	33.0	90.8
	9.0	17	8.3	8.3	99.0
	10.0	2	1.0	1.0	100.0
	Total	206	100.0	100.0	

LEGEND: The table shows the responses for the question.

Graphical presentation:

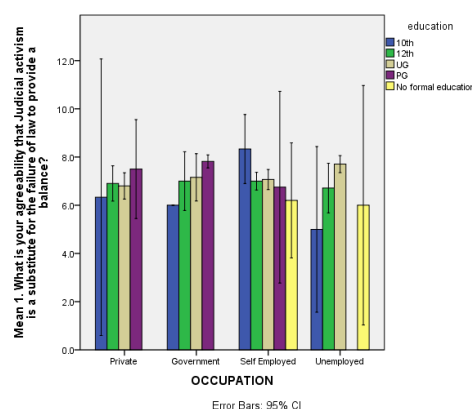
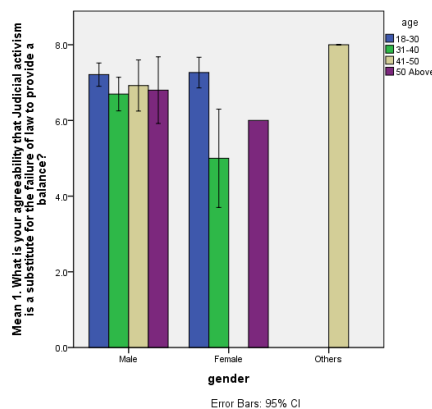


FIG. 5&6

LEGEND: It shows the gender distribution of various Age groups, Occupational distribution

of Educational qualifications and their agreeability towards “Judicial Activism provides judges to use their personal wisdom in cases where the law failed to provide a balance.”

RESULT AND DISCUSSION: The result of Fig. 5&6 shows that judicial activism provides wisdom in cases where law fails to provide balance. Self employed and unemployed postgraduates highly agree that traditional healthcare systems attract foreign tourists, other respondents agree to the question and the government employees who have completed their UG and HSC partly agree (neither agree nor disagree) to traditional healthcare. The gender distribution clearly states that the respondents strongly agree that the judicial activism provides judges to use their personal wisdom in cases where the law failed to provide a balance.

2. “Judges can override any existing law. Hence, Judicial Activism clearly violates the line drawn by the constitution.”

Frequency table:

2. At what level Do you agree that judges through Judicial activism allowed to be override law is against the constitution?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.0	1	.5	.5	.5
	2.0	4	1.9	1.9	2.4
	3.0	5	2.4	2.4	4.9
	4.0	7	3.4	3.4	8.3
	5.0	29	14.1	14.1	22.3
	6.0	24	11.7	11.7	34.0
	7.0	65	31.6	31.6	65.5
	8.0	42	20.4	20.4	85.9
	9.0	28	13.6	13.6	99.5
	10.0	1	.5	.5	100.0
	Total	206	100.0	100.0	

LEGEND: The table shows the responses for the question.

Graphical presentation:

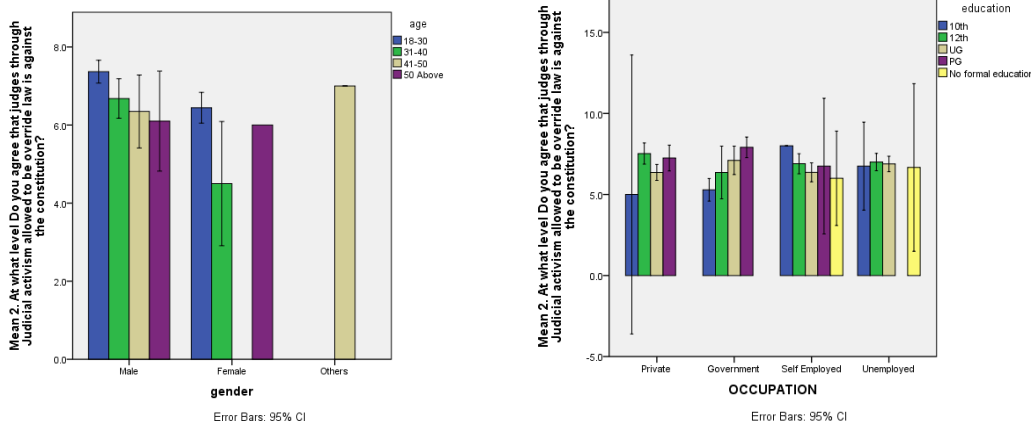


FIG.7&8

LEGEND: It shows the gender distribution of various Age groups, Occupational distribution of Educational qualifications and their agreeability towards “Judges can override any existing law. Hence, Judicial Activism clearly violates the line drawn by the constitution.”

RESULT AND DISCUSSION: The result of Fig.7&8 shows that Judges can override any existing law. Hence, Judicial Activism clearly violates the line drawn by the constitution. Self employed and unemployed postgraduates highly agree that traditional healthcare systems attract foreign tourists, other respondents agree to the question and the government employees who have completed their UG and HSC partly agree (neither agree nor disagree) to traditional healthcare. The gender distribution clearly states that the respondents strongly agree that the Judges can override any existing law. Hence, Judicial Activism clearly violates the line drawn by the constitution.

- “The judicial activism manifested in the strategy of PIL paves the way for the participation of public spirited and enlightened people in India's development process and displays the potentiality of the legal system to offer justice to the poor and the oppressed.”

Frequency table:

3. What level Do you think that Judicial activism manifested in the PIL is beneficial to for the public spirited and the economically weaker ?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.0	1	.5	.5	.5
	2.0	3	1.5	1.5	1.9

	3.0	6	2.9	2.9	4.9
	4.0	10	4.9	4.9	9.7
	5.0	21	10.2	10.2	19.9
	6.0	33	16.0	16.0	35.9
	7.0	75	36.4	36.4	72.3
	8.0	41	19.9	19.9	92.2
	9.0	15	7.3	7.3	99.5
	10.0	1	.5	.5	100.0
Total		206	100.0	100.0	

LEGEND: The table shows the responses for the question.

Graphical presentation:

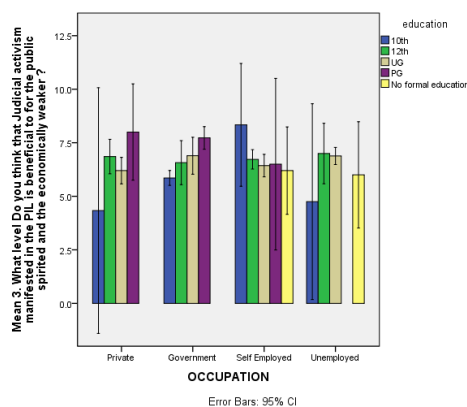


FIG. 9

LEGEND: It shows the gender distribution of various Age groups, Occupational distribution of Educational qualifications and their agreeability towards “The judicial activism manifested in the strategy of PIL paves the way for the participation of public spirited and enlightened people in India's development process and displays the potentiality of the legal system to offer justice to the poor and the oppressed.”

RESULT AND DISCUSSION: The result of Fig.9 shows that The judicial activism manifested in the strategy of PIL paves the way for the participation of public spirited and enlightened people in India's development process and displays the potentiality of the legal system to offer justice to the poor and the oppressed. Self employed and unemployed postgraduates highly agree that traditional healthcare systems attract foreign tourists, other

respondents agree to the question and the government employees who have completed their UG and HSC partly agree (neither agree nor disagree) to traditional healthcare. The gender distribution clearly states that the respondents strongly agree that the Judges can override any existing law. Hence, Judicial Activism even if it clearly violates the line drawn by the constitution it is useful to offer justice to the poor and the oppressed.

III. CONCLUSION

The concept of judicial activism, as demonstrated through Public Interest Litigation (PIL), offers a platform for the participation of socially conscious individuals in India's development trajectory. It highlights the judiciary's ability to deliver justice to the marginalised and oppressed segments of society. PIL has shed light on archaic practices prevalent in India, such as the conditions of prisoners, the challenges faced by women in protective shelters, victims of human trafficking, juveniles in correctional facilities, and the exploitation of marginalised groups including bonded labourers, untouchables, and tribal communities. By taking up such cases, the Supreme Court of India assumes the role of guardian for those subjected to repression, cruelty, and torture, simplifying cumbersome legal procedures to ensure justice. In the 1980s, the Court's activist stance, particularly in PIL cases, accelerated socio-economic reforms and extended justice to the doorsteps of the vulnerable and marginalised, thereby transforming constitutional jurisprudence. PIL plays a pivotal role in the civil justice system by providing access to justice for disadvantaged sections of society, many of whom may be unaware of their rights. It facilitates the enforcement of diffuse rights where aggrieved individuals may lack the resources or incentives to pursue legal remedies. Additionally, PIL fosters good governance by holding the government accountable and empowering civil society to advocate for human rights and social justice. However, the Indian experience with PIL underscores the importance of guarding against its misuse for personal gain, political vendettas, or sensationalism. Courts must refrain from overreach into the domains of the executive and legislature, maintaining a balance by prioritising legitimate PIL cases that address systemic injustices. Economic disincentives may deter frivolous PIL filings, while incentives such as protected cost orders, legal aid, and funding for PIL initiatives can support genuine efforts to advance public interest causes. It is imperative to strike a balance that preserves the integrity of PIL while ensuring access to justice for those with legitimate grievances. This includes considering economic incentives and disincentives to prevent abuse while promoting the original intent of PIL as a mechanism for social justice.

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