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Public Interest Litigation and Legal Framework: Indian Perspective

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ABSTRACT

The main purpose of the paper is to interpret the meaningful purpose, leading to the procedure of Public Interest Litigation. The paper will enhance the procedure for Public Interest Litigation, its meaning, and the main significance of its purpose for the same. Public Interest Litigation (PIL) has a vast role in the judicial system that comprises the civil justice system with the major objective of conventional private litigation. It provides a system for enhanced justice in society which enforces ample rights to the people along with civil society to be well aware of human rights. It helps in the significant participation in the governmental decision procedure which enhances the Indian PIL experience to be more critical in a way of fulfilling their private interest along with the political settlement. The right to access justice from the court is also available to individuals who are aggrieved. The affected or the aggrieved party is allowed to approach the court under the law of redressal for PIL. Similarly, it is a mechanism that addresses individual rights when violated. Majorly India follows the rule of locus standi, which means only the party affected can approach the court whose right is violated. As an outcome, it creates a new principle as a strategy for individuals representing their political, social as well as economic constraints. The PIL is one of an initiative by the Indian judiciary to meet such a situation where this doctrine has been tried to address ignorant or illiterate parties who cannot afford to handle or are indigent.

Keywords: Public Interest Litigation, Fundamental Rights, Articles, Society and People

I. INTRODUCTION

The major object of the Indian legal system is to provide justice to all whereas Public Interest Litigation is one of a tool that deals with the societal goal. The preamble of the Constitution has also envisaged economic, social as well as political justice which can be achieved through the preambular goal of justice. It is a court proceeding that is filed by the public-spirited upon the voice of interest. In a general public scenario. The proceeding has been initiated through litigation. It is derived from the expression of the words that are “public interest” and “litigation”. The public interest means the beneficial party that is the general public at large

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where the action is to be necessarily taken for the purpose of the public. The major requirement has varied from case to case.

According to the Black's law dictionary, the public interest can be defined as a community at large with certain pecuniary interest through their legal rights or liabilities which has been affected. Conclusively, it can be stated that Public Interest Litigation provides the major purpose of interest of the people at large with the fulfillment of extensive conditions. These conditions or actions lead to a state of affairs or inaction. The violation of the right of a number of people causes suffering for a similar wrong. The third condition is enforcement of a wrong redressed through a petition appealed to the court and the last is the public-spirited people who have been associated by acting on behalf of each other.

Literature review

The concept of Public Interest Litigation has been initiated by the United States of America back in the 19 century. It has been provided with this concept where nine judges of the Supreme Court have been treated with the initiation of a letter a petition that allowed the plea for the procedural law. Whereas back in 1960, the United States of America noticed social unrest with different changes for which institutions were made to implement significant reforms and introduced certain practices. The significant institutional reform has been the evolution of Public Interest Litigation that headed towards a branch of law under the terminology of public interest litigation. It has been prominently used by practicing lawyers with spirited individuals That provide ordered decrees for reform in the legal rules as well as articulate the public norms for the public interest and benefit that represents the effort of the judicial system.

It has been further demonstrated by India with the concern for access to justice in all sections of society. The PIL has been the major part of the constitutional scheme that provides an ordinary statutory law that works on appreciation of the evolution of Public Interest Litigation in the Indian scenario. It provides a basic understanding of the judicial framework in constitutional understanding. By 26 November 1949, the sovereign, socialist, secular democratic public has been founded with the adoption of founding the social revolution in the Constitution. The main tool has been to achieve social changes with the provisional related fundamental rights as situated in part three of the constitutional framework and the directive principles under part four of the Indian Constitution. It provides attribution to the remedial mechanism for the enforcement of the rights of people in the independent judiciary system.

The public interest has been integrated with the major concept of the general welfare of the

people or the interest of the people at large. The term litigation includes the legal action that can be initiated by the people in the court of law for their remedy as a conclusion of beneficial aspects of public grievances. The citizen can approach a public cause that is for the public welfare by filing a petition under article 32 of the Constitution in the High Court or article 226 of the Constitution before a magistrate, moreover, under section 133 of CRPC. The major emergence of this concept has been provided by the Supreme Court for the protection of fundamental rights. It has been contended in the court regarding Public Interest Litigation that the petitioner had no locus standi, to file the petition. As agreed upon in the submission, it is required to concern the inhabitant for essential environmental maintenance of healthy life. Such an issue is considered to be a breach of fundamental rights under article 21 and is enabled for public interest litigation, stated under the case of **Subhash Kumar v State of Bihar**². The judiciary has been sentinel for constitutional statutory rights, with a special role provided to the citizens under the Constitution scheme.

There are different scenarios that are supposed to be tackled by the court with the splendid efforts made by *P. N. Bhagwati* as well as *V. R. Krishna Iyer*, in the revolutionary concept of the Supreme Court. They had recognised the possibility of providing accessibility of justice to the people who are poor and exploited with the relaxation of the rules. It is the situation of change that is envisaged upon the scenario of government lawlessness, custodial violence, depression, or drawing the attention of lawyers upon the major emergence of social need. It has been reported in 1979, as the case of PIL was initiated which focused upon the inhuman conditions that were seen under the trial court proceeding which is the trial prisoners. It was filed by an advocate on behalf of news that was published under the Indian Express for thousands of prisoners in Bihar³.

It has been further interpreted on the basis of other petitions filed, which was observed in **Subash Kumar v State of Bihar**⁴. The court observed that the right to live is one of the major significant aspects of article 21 of the Constitution that fulfills the right to the enjoyment of life with respect to a pollution-free environment. If any of the environment endangers or provides derogation of laws with the effect of quality of life, it can be treated as a breach of constitutional fundamental rights. The judiciary provides a statutory right to the people in the fulfillment of constitutional schemes that work with the framework of litigation and provides equal access to the public at large. It has provided the concept of Public Interest Litigation

² AIR 1990 SC 533

³ **Hussainara Khatoon v State of Bihar (AIR 1979 SC 532)**

⁴ AIR 1990 SC 533

with the concept of the common man.

The development of Public Interest Litigation is an uncovered pitfall known as a drawback that compels certain guidelines to govern the management with the disposal of the PIL concept. There are different PIL activist in the country that has performed it as a handy tool for harassment without investing in, higher court fees in private civil litigation matters that could be negotiated through the victim with a stay order as obtained under the PIL. It has been majorly used as a weapon for defense with the use of the effectiveness of offenses with less requirement of locus standi.

Any public-spirited citizen has the right to approach the court on behalf of the oppressed class which provides attention to the writ. It has provided a new fashion for relief under the writ jurisdiction of the court. For an instance, the court has the power to provide an award for interim compensation to the victim which stands in sharp contrast to the Anglo-Saxon model of adjudication. It helps in providing interim relief in perceiving the pending final decisions that have been granted with the status. Such a grant of compensation under PIL provides precluding aspects to the aggrieved party from bringing any civil suit for certain damages. Judicial monitoring for the purpose of state institutions likewise, for woman's protection homes, mental asylum, jails, or juvenile homes are provided. These judicial efforts help the court in seeking gradual improvement in their administrative activities and management. It can further be characterised as providing jurisdiction through which the court can take administration of these institutions for the purpose of protection of human rights as the major aim of the Constitution.

Public interest litigation has enforced several evolutions in its concept that has been discussed into three different phases. Prior to this, the initial phase has been stringent to certain aspects, which restricted people from obtaining justice in the matter of social rights. It has provided a technique for fact-finding, where the court has appointed its own social legal commission deputed for inquiry into their own official matters for investigation. Court has also expanded its jurisdiction to help the national human rights commission or the CBI, which connotes as the Central bureau of investigation to inquire into the matters of violation of human rights.

With the change of time, the right of people before the court has been shaped as a relief invariably taken on an account of an impact of interest of the public at large. In the present scenario, the court can consider the letter of the writ petition, and on the basis of which, it can take action. But not every letter is supposed to be treated as a petition considerable before the court and requires certain criteria to be fulfilled. These criteria can be significantly considered

as a letter that is addressed by an aggrieved party or person; it should include a public-spirited individual. Similarly, the major criteria are the social action group that is supposed to be compelled for their breach of legal right as a class of people with differentiation of poverty, economic disadvantage, disability, or any other issue. With the PIL advancement, the government is supposed to regulate the outcome of PIL and protest with general awareness for its abuses with the erosion of significant fundamental rights. Under the case of ***Raunaq International Ltd v IVR Construction Ltd***, Justice Sujata V Manohar had enunciated that any stay order is supposed to be obtained with the occurrence of a private party where the litigation in the public interest has been provided. Moreover, the interim orders that stop or prohibit the proceeding are supposed to provide reimbursement of the cost to the people under such a case. Moreover, it can be stated that the public is supposed to be entertained with compensation for the delay in the implementation of such a project as well as cost escalation, resulting in the delay.

Public Interest Litigation is known to be the law, that shall provide benefit to the public at large. The people can directly file a case in the High Court or in the Supreme Court as it is not necessary for the petitioner to suffer the injury or have any personal grievances towards litigation. The concept of Public Interest Litigation provides a significant right on the basis of a socially conscious member or the public-spirited NGOs to fulfill their traditions as public injury. As per the guidelines provided by the Supreme Court, the member of the public group or society have sufficient interest in order to maintain the petition through the framework of public interest litigation. It can function on the basis of any personal injury or a significant injury that provides a disadvantage to the section of people or the population to whom the legal justice system is difficult to be accessed. However, the party has the right to bring an action for sufficient interest in order to maintain any action leading towards public injury that has been seen as a breach of any public duty or a violation that has been considered under the Constitution or any other law.

It is further argued that there was a need for an urgent expansion of old rights or the creation of new rights. Indeed, legal advocacy is required to be reviewed on the basis of social activism, merely on the concept of providing justice to the people. It is important to generate new rights with the vision of the future perspective. For an instance, article 14 of the Constitution has been adversely seen to be treated for citizens as well as for the people functioning under the MNC. It provides equal protection of rights to the citizen along with the people of MNC with increasing activities as a national economy. The Indian constitution had guaranteed to provide all citizens equal rights, in respect of their religion, gender, race, or any

other consideration. Along with this, the directive principles of state policy have been constituted as factors for the government to follow against the citizen as a perspective of minimum standard of living that promises certain fulfillment of their duties. With the greatest maturity of the Indian People, no assurance of the safety of employment or any other level of education is possible as a constitutional right or obligation.

The new branch of proceedings considered Public Interest Litigation or social interest litigation has evolved with complete justice to the aforementioned class of persona. It is to expand the wings of people for relief as legal aid, speedy trial, or other maintenance of the right to prisoners. Article 32 of the Constitution offers a remedy for the enforcement of fundamental rights. This article cannot be denied as it is a major part of the Constitution and is described as the significant role play for Constitution that will be considered as a nullity if not in force. With the inclusion of Article 32 in the fundamental right, the Supreme Court has made it a guarantor or the protector to function for several rights where the application can be made. This application is entertained by the Supreme Court and cannot be refused on any technical ground. In addition to this, it is considered under five different writ petitions proposed to the Supreme Court in any appropriate manner.

The Public Interest Litigation can be filed directly to the High Court or to the Supreme Court. It is not significantly necessary for the petitioner to have certain injuries of their own, or personal grievances in order to litigate. The new law for PIL has been made with the social consciousness of the member or any spirited public to seek judicial redressal as public injury. According to the guidelines given by the Supreme Court, any member of the public having sufficient interest in order to maintain the petition can file a Public Interest Litigation with the aim of justice. The social and economic right under the Constitution stated in part IV is not to be legally unforeseeable. This means that article 21 has the expansion of the right to free legal aid, along with life with dignity and the right to an education that performs with other social rights like the right to work, and freedom from any kind of torture or handcuffing in the prison. The sensitive judges have innovated the perspective for the poor where in the case of ***Bandhua Mukti Morcha***⁵ back in 1983, the burden of proof according to the court is supposed to be upon the respondent. Where every case related to forced labor is to be considered as guilty until proven by the employer. Similarly, under another case of ***the Asiad worker's judgment case***, Justice PN Bhagwati has provided the statement that minimum wages are a major issue that allows an individual to approach the Supreme Court directly.

⁵ Bandhua Mukti Morcha v Union of India (AIR 1997 SCC 549)

The expansion of rights has generated new rights with the purpose of successful legal advocacy through social activism, winning the promoting aspect of human rights. It is important to work with a vision of the future. Where article 14 has been seen to be an Indian Constitution fundamental right for citizens, now it is expanded for MNCs with an inherent equality demolition. Moreover, individual rights and collective rights are the true perspectives that need to prevail under the legal system that recognises, not only private property but also the issue related to the public at large as a social concern and belongs to the state. For that matter, the imposition of the existing British legal system can be appended as a common property recognised in the law, for which Public Interest Litigation can be filed. As a result of which, the collective or shared realities can be the major concern for rights, related to any other legal scheme for human survival.

The major aspect of Public Interest Litigation related to case matters where the person itself is not a party or not an individual whose rights are violated or injured under the law faces the major issue of finding a lawyer. The social activist is required to find a lawyer to prepare the scenario for the fight in the court on the basis of which they are restricted. As the case suggested in 1982, the Supreme Court has stated that any unusual measures which are supposed to be warranted to people who are enabled with the realisation of civil along with political rights they enjoy; economic, social, and cultural rights is to be reached with the decision stated in *PUDR, public's union for democratic rights v Union of India*⁶, has recognised a third party directly filing a petition as a letter to seek intervention in the matter for fundamental rights which were violated.

The major aspect of Public Interest Litigation is to work with the enforcement of fundamental rights along with legal rights for the people who are ignorant of the legal justice system and are considered to be a disadvantageous section of society. The major concern of Public Interest Litigation is to initiate legal matters by people who have a Vindicating interest in public nature and a petition is filed without any personal gain or private motive. Any person in the matter can reach out to the court, irrespective of their indulgence. The major aspect is their intention to fight against social injustice. Social injustice includes matter related to the public interest which is bonded labor, neglected children, casual labor, which are unpaid, harassment, and torture belonging to scheduled caste, scheduled tribe, and economically backward people.

It also includes people who have been under the controlling power of the major section of society with the aspect of environmental pollution, balance of ecological disturbances, drugs,

⁶ AIR 1989 SCC 540

adulteration, heritage, and culture. The petition received is to be treated as a writ petition before the honorable judge as nominated for that purpose. Any individual filing a petition for a complaint of torture or any other harassment related to rape, murder, kidnap, or dowry is to be registered as a writ petition so approved by the honorable judge. Even if the person filing a writ under such a matter of Public Interest Litigation is not a party to the matter, still the letter is supposed to be registered as a writ petition and be heard before the honorable court.

Research Methodology

The research methodology is a significant procedure as well as a technique that is required to identify, process, or select the required information for the topic. The current study has undertaken existing data from previous studies that involve already existing data. It provides the advantage of gaining insight by drawing a conclusion from the collected data with securing time and resources to build up an understanding of the existing knowledge.

The main aim of the research methodology is to provide an implication or suggestion on the bases of the data available that enhances the subsequent research. The recommendations urge for specific actions in regard to the policy of practice and subsequent research that enhances suggestions in way of recommendations to be conducted with an interest of generalising the parameters of the study. The research methodology is an important aspect of the study that provides legitimacy to the research and could provide scientifically sound findings. It helps the researcher in making a systematic plan to follow throughout the research along with the design that is to be undertaken. While designing the research methodology, there are several important features that are supposed to be kept in mind, inclusive of qualitative and quantitative data collection.

Research design

The concept of Public Interest Litigation has been examined through theoretical study. It provides the foundational review of the research study that holds upon the support theory with the description of the statement problem.

Theoretical research is considered to be a systematic examination on the basis of a set of beliefs and assumptions that are aimed to evaluate the learning of the subject matter. The information that is gathered under this procedure is one of a kind of theoretical research that enhances the interpretation of the objective of the study. It works with the scientific method and the social science method.

II. DATA ANALYSIS

Public Interest Litigation is a process that empowers the legal entity with the aim of enhanced capability. It helps in generating the community to lead towards active procedure in the working of hand-in-hand lawyers for the procedure requirement of participation. The affected community can empower themselves through the PIL doctrine which is the major concept for interest in Litigation that bridges the paternalistic gap which has existed between the users of law and the lawyers in the community. The PIL formulation helps in the easy articulation of issues from a legal perspective with the voice of people in the degraded section of society. It is an important significant role play of legal empowerment toward poverty reduction that could establish a nexus between poverty and legal rights.

Therefore, the moral duty of lawyers is enhanced with education in public law and to achieve the common good with a positive impact through the same characteristics. Lawyers as well as agents have different role play to building an apparent civil society for medical doctors in underlining different principles of life-saving concepts. The introduction of Public Interest Litigation has been seen in India in different case laws. Similarly in *the Bombay High Court*, 31 August 2006, it has been seen that a broadcaster undertook the cable television network in 1995 along with the court orders. The divisional bench of *S. A Bobde* along with Justice *R. M. Lodha* has significantly performed for the Public Interest Litigation filed by Pratibha Nathani belonging to St Xavier's College, alleging for films without certification provided by CBFC is the censor board for film certification.

III. ISSUES IN PIL

Allowing free public exhibitions was the major concept for a cable channel that had provided a bad impact on children. The court by the date of 23 August has allowed the cable operator and another channel to provide screening based on U and U/A certificate films. It has been vehemently contended by different people on the ground of Public Interest Litigation where the petitions are taken up with a local standard to file the petition. It was earlier unable to agree upon the submission. In the case of *Subhash Kumar v state of Bihar*⁷. Similarly, it has been observed that the right to live is one of the considerable fundamental rights situated under article 21 of the Constitution of India. This right provides a higher ambit for the enjoyment of pollution, free water as well as air as a concept of full enjoyment of life under article 21. Correspondingly, if it endangers or impairs the life of any individual and is

⁷ AIR 1990 SC 533

considered to be derogatory under the law, then the citizen has the secured right as per Article 32 of the Constitution to perform for their detrimental quality of life. The judiciary has performed similarly based upon the enforcement of the fundamental right to move to higher courts like Supreme Court by indulging in writ petitions.

Public Interest Litigation is considered to be a broader term, as defined under the litigation procedure, with the interest of a nebulous entity. The different scenario has provided a gradual change in the legal system where the Supreme Court tackles the issue of justice by radical changes that are supposed to be altered as per the requirement of locus standi based on the aggrieved party. The efforts put in by *PN Bhagwati* along with *Justice VR Krishna Iyer* have been instrumental in the revolution of the Supreme Court. It has recognized different possibilities for providing justice where people are exploited. According to the jurisprudence situated under Article 32 of the Constitution, the right to move to the Supreme Court, along with the appropriate proceeding with enhanced enforcement of the right conferred under the part and is considered to be guaranteed. The PIL is defined as litigation and prior to 1980, only the party who is aggrieved could knock on the door for justice along with remedy for the grievances. The previously non-affected party had no locus standi and they could not link their rights guaranteed by the Constitution of India.

IV. INITIATION OF THE CONCEPT

Public Interest Litigation was given birth with the evolution in India, but it was first situated in the United States which draws a significant comparison between India and experience along with the US. It has been argued that in India, it is supposed to be labeled as social action litigation as a distinctive characteristic. It has been further contended that Public Interest Litigation in the United States majorly focuses upon the participation of people in the decision-making of government and the Indian Public Interest Litigation provides a discourse against the state action or the non-action performance of the disadvantageous section of the society. The character of Indian Public Interest Litigation has changed its significance by limiting it to the disadvantaged section of people or groups of people. By focusing on a middle-class section of society and addressing exploitation, the plea can be entertained. This concept is a new jurisprudence that was developed by the Supreme Court in India through different judicial activism. It provides higher protection to the interest of people who belong to the weaker section of society along with people who are oppressed or economically degraded. It is proved with the different ingredients of public interest that are supported as an unprivileged or economically oppressed segment of the people that has approached the court

who are suffering certain legal wrongs or injuries.

In the emergence of the PIL concept, the main criteria are to support the economically degraded people along with the aim of rescue provided by the court. It is a cooperative litigation that provides the petitioner to perform with authority in the framework of court through constitutional obligation that cannot resort to protection against the constitutional or legal right. It can further be stated that the PIL is an adversary litigation that proposes the promotion of public interest and provides a mandated feature for people who have seen a violation of legal or constitutional rights. It is the duty of the court to undergo the procedure of estimating the wrong where the people can approach the court for the same and is supposed to act with Bonafide intention. The party approaching the court under the ambit of the PIL is not supposed to be gaining a personal benefit or not acting for a private or personal profit with political motivation. The court should not undertake any cognizance in a matter where the party has its own interest instead of public welfare. The same concept has been situated in the case of *SP Gupta v Union of India*⁸, which provided the concept of PIL as a legal wrong or any kind of legal injury that has been suffered by the detriment loss of society or people by the reason of a violation of any legal right or constitutional right. In regard to which, any weaker section of the society facing contravention of legal provisions or constitutional provisions by authority of law in violation of which they are facing injuries, by the reason of poverty or disability, then the court is supposed to maintain direction with writ petition in the High Court under Article 226 for fundamental right and under article 32 for Supreme Court, any legal wrong or injury.

V. AIM OF PUBLIC INTEREST LITIGATION

The major aim of Public Interest Litigation is to provide common people with accessibility to obtaining legal redressal. It is an instrument for social change that supports the maintenance of rule of law as well as a basis for balance between justice and law. The original purpose of PIL has been to make justice assessable to the people who are marginalised or poor. It is significantly stated that PIL is an important tool to enlarge human rights and reach out to the people who had been denied such rights. It helps in democratising access to justice where any organisation or citizen is capable of filing a such petition on behalf of the one who cannot get the right. The judicial monitoring of the state institution helps in providing certain protective homes, asylum, or presence under the concept of Public Interest Litigation that helps in implementing the concept of judicial review. Such an enhancement of public participation in

⁸ AIR 1982 SCR 365

the role of administration for judicial review helps in ensuring the inception of PIL.

This action pertaining to Public Interest Litigation provides the problem of competing rights where the court orders for such disclosure of polluting industry, such an interest of workmen along with families who are deprived of their livelihood, may not be accountable in the court. These PIL make the court overburdened where different parties have vested interests. Corporate, personal gain, or political gain has been seen under the PIL, as it is not only limited to the issues of oppressed or poor people. Judicial overreach is the basic concept of resolving social, economic, or environmental issues and is seen to be exploited.

This concept of Public Interest Litigation has provided certain astonishing results for bonded labor, women, prisoners or the torture seen under trial, exploited children or beggars, and blinded prisoners with judicial intervention. It has provided the greatest contribution to the enhancement of government accountability for the human rights of poor people. The jurisprudence for such accountability has been seen with the enlargement of PIL that develops the liability of the state for the constitutional violation of the legal rights that is adversely affected in terms of the interest of the community or the weaker element in the community. The judiciary is supposed to be cautious enough for the application of PIL, in order to avoid any judicial overreach that may be violative of the separation of power.

In the case of *Anil Yadav v State of Bihar*⁹, In 1981, the explosion of brutality was seen by police. The newspaper has revealed almost 33 suspected prisoners were blinded by the police behind the bars and put acid into their eyes. The interim order was represented by the Supreme Court that directed the Bihar government to bring those blinded men to Delhi for certain medical treatment. It ordered speedy prosecution for the policemen who were guilty of such an act where the court provided free legal aid under the concept of the fundamental right to the execution of the accused. Anil Yadav acted for the growth of social activism and further investigated the litigation matter. Furthermore, in the case of *citizen for democracy v State of Assam*¹⁰, it was declared that handcuffs or any forceful concept shall not be included in prisoners' activity while lodged in jail during transport or transit. Further the procedure for filing Public Interest Litigation has been assured where it is required to make an informed decision for filing a case and consulting it with the interest group that is the possible allies and to be careful about filing the case. It includes litigation that could be expensive and could be time-consuming which will further include decision-making capabilities. Such an adverse decision affects the strength of the movement and litigation involves diverges in really

⁹ AIR 1982 1008 SCR (3) 533

¹⁰ AIR 1995 SCC 743

matters. The purpose of taking a decision requires the collection of relevant information and gathering details acting meticulously. For such a matter, it is required to consult a lawyer and the PIL could be filed by any registered organisation. If the organisation is unregistered, the PIL is supposed to be in the name of the office bearer or under any personal capacity.

VI. PIL FILLING

The PIL petition is supposed to be filed in the same manner as a writ petition. Where the PIL is to be filed under the High Court for which separate copies are submitted and if the matter is required to be reached out to Supreme Court, then almost 5 sets of copies are submitted. A writ petition filed by the aggrieved person on behalf of such a group of people is to be considered a Public Interest Litigation where only the aggrieved party can file a case in the old scenario that violates the main feature of implementing PIL. The jurisdiction under Articles 32 and 226 of the Constitution is supported by the fundamental rights that are guaranteed under the part III of the Constitution. As it supports the right provided under the Indian Constitution that has to be executed with legislative actions and guaranteed. Their executive or legislative actions, if infringes on the fundamental right of people then it can be declared void as per article 13 of the Constitution. In addition to which this power issue the prerogative rate which is considered an extraordinary remedy to the citizens for enforcement of a right against authority in the state to be supported by the court. The rates are considered habeas corpus, mandamus, certiorari, prohibition, and Quo-warranto.

VII. FORMULATION OF LOCUS STANDI

The interpretation of locus standi has been applied to the court for those who are economically unable to represent or physically come to the court. Court itself in certain cases initiates a *Suo Moto* action based on the letter received. Such socially or economically given rights are provided under the Indian constitution, as per the ambit of part IV, making judicial enforcement of the right to life under Article 21. It expands the right to free legal aid, life with dignity, the right to education, or any freedom from torture in prison.

It can be stated that the seeds were sown by Krishna Iyer in 1979, under the case of *Mumbai Kamgar Sabha v Abdul Tai*¹¹. Along with this case, it was initiated in *Akhil Bharatiya Shashank karamchhari Sangh railway versus Union of India*¹², where the unregistered Association of workers was permitted to file a writ petition under Article 32 of the Constitution for the purpose of their common previous settlement. It was enunciated by

¹¹ AIR 1976 SC 1455

¹² AIR 1981 SC 298

Krishna Iyer towards the liberalisation of the rule of locus standi for *corporation Kamgar union v union of India*¹³, with the idea of Public Interest Litigation which blossomed in the court under the case of *SP Gupta and others v Union of India*¹⁴.

Judicial activism has provided the significant use of anxiety of the court to provide an appropriate remedy to the aggrieved party, formulating the rule for confliction in the event of lawlessness or under uncertain laws. The doctrine of separation of power has been founded by French tourism Montesquieu and was adopted further in India with the executive powers vested in President. The legislative power under the Parliament signifies the judicial power in Supreme Court or other subordinate courts. The legislature and judiciary are considered to be independent where the judiciary is interested in the certain implementation of laws that are made by the legislature and under the case of absence of law, the judiciary function with the issued guidelines for directions provided by the legislature. Public Interest Litigation, also known as Social Interest Litigation is of great significance in today's time for consideration of the traditional rule of locus standi. The concept of locus standi represents that the person whose right has been infringed could only file a case or a petition in court. With the implementation of PIL, the Supreme Court has supported that public-spirited citizens could come or approach the court for constitutional or legal rights violations.

VIII. CASE EVALUATION FOR PIL

Justice Bhagwati was known as a pro-poor activist judge of the Supreme Court where it was seen in the case of *SP Gupta v Union of India*¹⁵, which was also known as the judge's transfer case. Here it established the Public Interest Litigation validity after which a number of PIL petitions were filed. With this evolution, it can be stated that PIL has been developed in India into a different form of group litigation driven primarily on the basis of consideration with the access of providing justice to the societal constituents. In India, constitutional rights and legal rights have been the major part of civil litigation which can be stated with an example of public nuisance under section 91 of the Indian code of civil procedure. Which is a wrongful act that affects the public at large and the public can file a suit for declaration and injunction for relief. The basic understanding of the Constitutional framework has been provided by the Indian judiciary system that has evolved the PIL concept in India.

The preamble of the Constitution has provided security to the citizens on the basis of justice, which is grounded in social, economic, and political, along with the liberty of thought,

¹³ AIR 1981 SC 344

¹⁴ AIR 1982 SC 149

¹⁵ AIR 1982 SC 149

expression, belief, worship, and faith, which enhances the principle of equality of opportunity and status. The main aim has been aspirational on the foundation of social revolution where the main tool is the social change of fundamental rights along with directive principles which were described as the conscience of the Constitution, funded by Austin. The fundamental right and directive principles are the independent judiciary which together forms the Constitutional foundation that has been a major role-play in the evolution of Public Interest Litigation in India. The Constitution laid down fundamental rights as the specific ground which limits the right as a remedy to protect the citizen. This remedy has approached the Supreme Court for the enforcement of part three of the Constitution as a fundamental right and cannot be waived under any situation as stated in the case of *Basheshvar Nath v CIT*¹⁶, and *Nar Singh pal v Union of India*¹⁷. The fundamental rights can either be curtailed or amended according to constitutionality. If the curtailment is happening against the structure of the Constitution, then it can be availed by the citizen. For an instance under article 15 clause 2 of the Constitution where right to non-discrimination is situated and cannot be breached under any situation. However, under article 15 clause 4, the special provision for certain advancement has been given to the backward class of citizens on socially and educationally backwardness, or the criteria is based on schedule caste and schedule Tribes. This equality on the basis of opportunity has been given in the public employment scenario under article 19 and protection of the interest of minorities under article 29. Under such a situation injustice has not been seen upon citizens or non-citizens, it includes a juristic person for an extensively guaranteed constitutional right.

According to the case of *State of Madras v Champakam dorairajan*¹⁸, it shall function with the deviation that has been purported by the Supreme Court that accepted fundamental rights not to be superior on account of the directive principles of the state. This implies that fundamental rights and directive principles are considered to be complimentary to each other and provide the achievement of goals as an indicator of each other. The issue has been put forward in contravention to the case of *Minerva Mills Ltd v Union of India*¹⁹, which held that harmony and balance among fundamental rights and directive principles is an essential characteristic of the constitutional framework and its basic structure. Since the directive principles are employed by the judiciary and are driving the content of different fundamental rights as constituted by the Supreme Court. It has envisaged the perspective of rights and

¹⁶ AIR 1959 SC 149

¹⁷ AIR 2000 SC 1401

¹⁸ AIR 1951 SC 226

¹⁹ AIR 1980 SC 1789

justice provided by the judiciary by Austin where the independent judiciary is armed towards the power of judicial review which provides the constitutional device for the achievement of their objectives. The enforcement of such power of fundamental rights is conferred by the Supreme Court along with the High Court, according to articles 32 and 226 of the Constitution of India 1950, where the court entertains the PIL cases.

The judiciary has the power to test the validity of executive actions and Losses along with constitutional amendments. It can be interpreted on the ground of orders, which support the power to punish for contempt which could reach out to the territory of the country. By the inception of the Supreme Court, it has delivered judgments involving disputes not only related to adjudication but with the determination of public policies that establish further constitutionalism and rule of law.

IX. MODIFICATION AND LIBERALISATION OF PIL FILING

The groundwork was prepared in the mid-1970s till the early 1980s for the implementation of Public Interest Litigation by the Supreme Court, through judge Bhagwati and Justice Iyer. It includes the traditional requirement of locus standi as a modification and liberalisation of the procedure to initiate a writ petition that enhances the expansion of fundamental rights with evolving innovative remedies and evident problems in relation to constitutional justice and poverty. Human rights are considered to be the major framework in India after independence and are required to be supported by public participation in the justice administration. There is a need for the country, to work with the greater majority, for either ignorant right or people who are too poor to reach out to the court.

With the realisation of the need of an hour, the court has held that any member of the public acting with the interest of positive framework of Bonafide intention has sufficient interest to reach for redressal of any legal or constitutional wrong. When the actual plaintiff suffers the disability, the violation for collective diffusion of rights can be sought with the emergence of public interest litigation. The merging representative standings were represented by the transfer case held before the Supreme Court named *Gupta v Union of India*²⁰, and the case of *PUDR v Union of India*²¹. These cases have interpreted that the legal wrong or any legal injury that is caused by a person's indeterminate class of society by the reason of any constitutional or legal right violation, then the major significance of approaching the court for relief is not to be the party for the case.

²⁰ AIR 1981 SCC 87210

²¹ AIR 1982 SC 1473

Such party or detriment class of person has a reason of helplessness, disability, or poverty on the ground of socially and economically disadvantaged position who is unable to undertake relief before the court can put in any public member within the application of appropriate direction within order or writ petition. The court has justified these extensions of standing orders for the enforcement of rule of law with justice to disadvantaged society. Later the Supreme Court observed appropriate proceedings according to article 32, not to be referred to as a form for the purpose of the proceeding. This implies that the proceeding is to be enforced upon the fundamental rights or any other form with the jurisdiction of the writ petition. When the hurdles are posed by locus standi, the procedure of writ petitions functions with the judiciary, focusing on attention to provide robust pursuit with the range of issues under the public interest litigation. By interpreting the existing fundamental rights along with creating new rights, the achievement has been fulfilled where article 21 which provides the right to life with dignity and personal liberty with the establishment of law, by a procedure that fertile the provision through physical existence as stated in *Kharak Singh v State of UP*²².

For Public Interest Litigation cases, it has been seen that there are no quick solutions that are provided by the court. It requires development for a jurisdiction that issues interim orders and directions as grounded by third-world legal studies, 107, 1 to 2. The PIL is considered to be an adversarial project along with cooperative and collaborative concern for the parties acting together for realisation of human rights towards disadvantaged people of the society that emphasises the judiciary of PIL.

Three phases of PIL

The PIL can be broadly understood with three different phases the aspect of oversimplification with variables to initiate the cases, the subject matter, relief, and judiciary response.

The first phase has been initiated in the 1970s and continued till the year 1980 when it was generally accepted as a public-spirited person known to be a social activist, academic or journalist, and lawyer. These cases were related to the rights provided to disadvantaged people that includes children, labor, bonded labor, mentally challenged people, prisoners, and women. The relief was sought against the non-action or action that is executed by agencies in relation to any fundamental right violation according to the Constitution of India. This phase enhances the judiciary's responses to the recognition of rights for these people and provides direction to the government for redressal that alleges violation. It can be argued on the basis of PIL as an instrument for transformation or revolution founded under the Constitution.

²² AIR 1963 SC 1295

The second phase has initiated in 1990 when significant changes in PIL took place. In comparison to the initial phase, the filing of the cases was institutionalized and given to the specialised NGO. It was required for lawyers to make matters specified in the interest of the public to the court on regular basis. It raised the PIL cases with an expansion of protection of the environment, on the basis of the right to education, any sexual harassment at the workplace, rule of law, good governance, general, accountability of government, corruption, free, administration, and other situation like relocation of industries.

The second phase has provided relief against another execution of action and non-action of the procedure based on private individuals as well. In relation to certain matters, it regarded policy matters to clearly fall against the domain of legislature that responded as well as unconventional ways of rights in relation to 1st phase. In the second phase, the legislative gaps were filled and courts were given more powers to enforce private individual rights based on their fundamental right and grant relief even if the violated party is the state party.

The features of public interest litigation are considered to be a mechanism for human rights in different variations. It can be concluded by stating that it has generated a regime for human rights that expands the meaningful understanding of fundamental rights upon personal liberty and life. This is considered to be a process that provides the right to a speedy trial, where dignity means efficient livelihood, housing, medical care, a clean environment, and any right against torture, sexual harassment, and solitary confinement, along with free legal aid. It helps in the democratisation of access to perceived justice in a relaxed way, as compared to the traditional rule of locus standi.

It is apparent that PIL disclosure for new grounds was seen under the second face that shattered on the unknown part of the initial phase. The court has taken resort to judicial legislation when required, without hesitating upon the power of government, and extended the protection of fundamental rights for any non-state actors, which provided protection of the interest of middle-class people, poor opulence, or any other misuse of ulterior purpose of the public interest litigation.

The third phase which is the current situation of the 21st century has provided the right to file a Public Interest Litigation for any purpose that seems to be in violation of public rights at large. It has extended its vision to raise a PIL in a form of preventing any alleged reason from a judiciary point of view. The third phase has undertaken judicial introspection to review the intention of public interest litigation.

In comparison to the second phase, now the judiciary is seemed to provide more restraint in

issuing the direction to the government of India. With the approval of government policies for liberalisation, the judiciary has shown disinvestment along with development in the policies of the multinational corporation. The project of PIL in India is, however, a judicial attitude that provides sympathetic responses to the rights and improvement of vulnerable sections of society.

With the revolution of three phases, in response to the judiciary, it has perceived the issue in vogue. The rights of prisoners and other people who are considered as a disadvantaged section of society are provided with a free consideration to react in the Public Interest Litigation that reflects judiciary power.

X. MISUSE OF PIL

The misuse of PIL seen in 1990 has reached the stage which started undermining the purposes that were generated for the establishment of PIL. The major misuse was the ulterior purpose deviation. The people or public under the concept of PIL majorly stand substituted for private purposes and not public purposes. The major rationale that has been supported by the court for PIL was its usefulness in providing public interest. It is undoubtedly waving the major concept or the goal for the purpose for which PIL was generated. It was presented in the court in the guise of interest for the public at large that was interpreted as it serves an inexpensive, high-impact structure. It is not very easy for the court to make a differentiation between a private and public interest, as it was the major aspect that was arguable in the court. The PIL had the potential to effectively contribute and work with efficient disposal of people's grievances. But with the consideration of a number of judges in India, lower the aspect of redressal procedure that backlog several cases and puzzled the court.

The PIL plaintiff was allowed frivolous complaints that wasted the time as well as the energy of the court which might have violated the right provided to them for a speedy trial. Judges are considered to be basic human beings, and admitting cases on the basis of their popularity in society is raising inefficiency. Conversely, the desire of people's judges is considered to be providing involvement of public interest that was potentially unpopular. This fear of the judiciary, not only on the basis of academics but has also provided an observation in *Kesavananda Bharati v State of Kerala*²³, that the court is not chosen by the people and is not to be considered responsible for the same. However, the argument is the moral authority that is the judicial review, focused on numerical concepts on the basis of minority protection with enhanced humanitarian concepts that protect a weaker section of the people. It was submitted

²³ AIR 1973 SC 1461

before the court and it refrained them from proceeding as crusaders.

Although it is considered that the Indian Constitution does not restrict any strict separation of power and is bodied by the doctrine of checks and balances which is supposed to be respected by the judiciary as well. The judiciary on different aspects has not had to exercise self-restraint and could allocate the legislature, taking over governance along with executive agencies and settle policy questions. The PIL is a weapon that is supposed to be used with circumscription, where the "need to keep a view under the guise of public grievance redressal and not encroach the fair justice that is reserved for executive and legislature perspective of the Constitution. However, a huge lack of consistency was seen in several cases. The Supreme Court has not hesitated to intrude on making these policy questions. The judiciary has intervened in several aspects like sexual harassment or custodial torture in order to regulate the adoption of a child by foreigners and did not intervene in the uniform civil code to provide educational institutions or combat ragging of it.

XI. CONCLUSION AND RECOMMENDATION

Conclusion

Public interest litigation is an important instrument that functions for social change in society. It has been working for the weaker section of society for the purpose of welfare. It is a sword for everyone to seek justice at the largest scale which is characterised by the disadvantaged section of society. This innovation has provided legitimate instrument benefit that is proven for developing countries likewise, India. It has been considered as a strategy to combat the other cases that are prevailing in society by change of time. Such institutional initiative for the welfare of the needy class of society has been reluctant in the past time, by enhancement of certain cases like *Bandha Muktha Morcha v Union of India*. Under this case, the court has clearly ordered the release of bonded labor. Similarly, there are different case laws that are the landmark judgment of *Delhi domestic working woman forum v Union of India* which has likewise issued the guidelines for compensation along with rehabilitation for raped the working woman.

Supreme Court has laid out the exhaustive guideline to prevent sexual harassment at the workplace in *Vishakha v state of Rajasthan*. The PIL has represented the first attempt in developing common law across the country to break out of legal imperialism that are perpetuated for decades. It is contested on the ground of the assumption for western law could improve economic and social development through developing states. The shift from legal centralism to pluralism has been promoted through disillusionment along with the formal

legal system.

It can be humbly submitted with the concluding statement that PIL was an experimental stage, that has undertaken many deficiencies in keeping hold of kind litigation to deviate deficiencies that can be removed through innovative techniques. In a sense to the development of new jurisprudence along with the public interest litigation, the accountability for the state related to constitutional violation along with legal violation has been affected adversely on the basis of weaker elements in the community. This concept all over the country has not been very kind according to the court decisions, the court always fears that this will sound like a death knell. Moreover, the Bonafide litigants do not fear, PIL activists who preferred to file frivolous complaints on the basis of achieving public interest, removing the issue of acquiring human rights with its essence.

Recommendation

The major steps that are required to be taken in order to prevent the over-activist aspect of the judiciary can be explained as a prominent segment of the jurisdiction of the Supreme Court and the High Court. There are several misapplications of PIL jurisdiction that can be avoided at the initial stage by remembering that it is an application for the certain well-settled principle of judicial review in an action of government along with public authorities. Through this modification of the court, the petitioners could be allowed to approach the court on a speedy basis and no overburdening of the cases will be seen. As per this concept, the court relaxes the strict rule focus on the locus standi of the applicants and functions with the procedural formalities. It may also work on a letter addressed to the court on the basis of a complaint where PIL must mean a redressal for the basic rights of marginalised sections of the people who are unable to acquire judicial help on their own. It must also be borne in the mindset of people that public interest litigation is not very unique to India as it also has jurisdiction in different states and functions with procedural relaxation.

The jurisdiction of PIL should not exceed the permissible limits or the judicial review parameters where the action of the court or omission of the government is underlining. The basic concept of the Constitution like judicial review is a democratic constitution is not supplant the normal procedure of self-government, it helps in making choices and policies for the correct idea and setting rights for people at large.

Another misconception that is purported in society is equating PIL with judicial activism in India. The concept of judicial activism is not equivalent to public interest litigation, which is supposed to be understood at an early stage by the public at large. The court can be judicially

active or work inactively irrespective of the litigation filed by the public. The concept of judicial activism is a word of different shades that can be put together to provide justice to the people with the framework of human rights. The judges are supposed to make law and do make law but not in a manner for legislature that has already been created with the scope of creative judicial activism. The interpretation of the function of judges is supposed to be inherited from the functional gaps in the legal rule that are created.

Another misconception that is seen in public along with the court is the function of the judiciary as per the Constitution, which is particularly made for PIL that it is employed. It appeared before the court that the public has developed a different kind of syndrome for routine resources to the court for the perceived failure of government along with the court on part of believe that the judicial duty is to intervene in the failure of making the order correct or improvement in the government. It is a catalog that is vast in nature of micromanaging orders that are made by the Supreme Court itself. It cannot be justified by the principle of judicial review and must include the concept of public interest litigation as an independent feature that provides redressal to the public at large, irrespective of the party approaching the court.
