

Constitutional Remedies for Violence Against Women: Public Interest Litigation as A Catalyst for Change

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I. INTRODUCTION

Violence against women is a complex problem, manifesting in domestic abuse, sexual harassment, dowry-related crimes, trafficking, and systemic discrimination. Globally, nearly one in three women has experienced physical or sexual violence in their lifetime, according to UN Women statistics (2023). In India, the National Crime Records Bureau (NCRB)¹ reported 341,000 cases of crimes against women in 2022, highlighting the urgency of effective legal remedies. The Indian Constitution provides a strong framework for gender justice. Articles 14, 15, and 21 guarantee equality, non-discrimination, and protection of life and personal liberty, respectively. Furthermore, Directive Principles of State Policy and Fundamental Duties direct the state to ensure equal opportunity, humane working conditions, and protection of women's interests.

Access to justice was transformed in the 1980s with the introduction of Public Interest Litigation (PIL). In situations where direct litigation might be impractical or impossible, it enables organizations, social activists, and public-spirited individuals to represent victims. In order to address systemic violations, force the state to put protective measures in place, and encourage social change, PIL has become essential. Public Interest Litigation (PIL) has emerged as a crucial instrument for resolving systemic problems and guaranteeing justice. PIL enables people, groups, and activists to speak on behalf of victims who are unable to go to court on their own because of fear, social stigma, or financial limitations.

This paper examines the constitutional framework, PIL as a mechanism for change, landmark judicial interventions, and the broader impact on policy and

society, providing comprehensive analysis of how India addresses violence against women through legal and judicial mechanisms.

II. CONSTITUTIONAL FRAMEWORK FOR WOMEN'S PROTECTION

➤ Right to Equality (Articles 14–16)

Article 14 guarantees equality before the law and equal protection of the laws. Article 15 prohibits discrimination on grounds of sex, ensuring women's access to education, employment, and public services. Article 16 ensures equality in public employment. Courts have consistently interpreted these provisions expansively. For example, in *Air India v. Nergesh Meerza*², the Supreme Court reinforced the principle of equal pay and treatment for women employees.

Article 15(1) & 15(3): Prohibit discrimination based on gender and allow the State to make special provisions for women.

Article 19(1)(a) & 19(1)(g): Guarantee freedoms of expression and profession, indirectly supporting women's autonomy.

➤ Right to Life and Personal Liberty (Article 21)

Article 21 protects life and personal liberty. Judicial interpretation has broadened this right to include the right to live with dignity and free from violence. In *K.S. Puttaswamy v. Union of India*³, the Supreme Court emphasized privacy as intrinsic to personal liberty, reinforcing protections against sexual harassment and domestic abuse.

➤ Directive Principles of State Policy

¹*National Crime Records Bureau (NCRB)*

²(1981) 4 SCC 335

³(2017) 10 SCC 1.

Articles 39(a) and 39(d) direct the state to ensure equal pay for equal work and protect women from exploitation. Article 42 mandates the state to make provisions for humane working conditions, including maternity relief. While Directive Principles are non-justiciable, they guide legislative and judicial action to protect women's rights.

➤ Fundamental Duties

Article 51A(e) emphasizes the promotion of harmony and the spirit of common brotherhood, which includes opposing practices that demean women. Courts often rely on this article to interpret state obligations in the context of gender-based violence.

➤ Judicial Interpretation

The judiciary has used these constitutional provisions to provide protective, preventive, and compensatory relief to women. In *Vishaka v. State of Rajasthan*⁴, the Supreme Court invoked Articles 14, 19, and 21 to formulate guidelines against sexual harassment at the workplace, showcasing judicial activism in promoting gender justice.

➤ Evolution of PIL in India

PIL originated in the 1980s as a mechanism to widen access to justice, particularly for marginalized groups. Justice P.N. Bhagwati and Justice V.R. Krishna Iyer start this approach, in which he allows courts to take cognizance of issues without requiring direct petitioning to victim. PIL has become a foundation of judicial activism in India.

III.ROLE OF PIL IN ADDRESSING VIOLENCE AGAINST WOMEN

PIL allows courts to address issues systematically, including:

1. Negligence by law enforcement – PIL has forced police and administrative authorities to act in cases of violence and sexual harassment.
2. Implementation of laws – Courts have directed governments to make policies and guidelines to prevent crimes against women.
3. Public awareness – PIL cases attract media attention, which raises awareness of women's rights.

⁴(1997) 6 SCC 241.

4. Compensation and relief – Courts give monetary compensation and instituted rehabilitation mechanisms for victims.

Strengths of PIL

1. Effective Implementation: Authorities must make sure that court orders resulting from PILs are strictly followed.
2. Education and Awareness: Programs should educate women about legal recourse, constitutional rights, and channels for reporting violence.
3. Fast-Track Courts: Specialized courts for crimes against women can guarantee that justice is served more quickly.
4. Cooperation with NGOs: Civil society can help with victim support, legal assistance, and compliance monitoring.
5. Periodic Review Mechanisms: To guarantee ongoing improvement, institutional structures should assess the effects of PIL directives.

Limitations of PIL

Despite the benefits, PILs encounter some difficulties:

- Implementation Gaps: Women's practical benefits are limited when court orders are delayed or ineffectively enforced.
- Criticism of Judicial Overreach: Courts may be accused of intruding on executive functions when they issue comprehensive directives.
- Social Barriers: Even with PIL interventions, women are frequently prevented from pursuing justice due to deeply ingrained patriarchal attitudes and social stigma.
- Court Backlog: The growing volume of PILs adds to the backlog in the courts, which delays their resolution.

IV. LANDMARK CASES

*Vishaka v. State of Rajasthan*⁵

In this case PIL arose after the cruel gang rape of a social worker, Bhanwari Devi. The Supreme Court laid down the Vishaka Guidelines, which mandated:

- Employer responsibility to prevent sexual harassment
- Establishment of complaint committees

⁵ *Ibid.at2*

- Confidentiality and timely resolution of complaints

The case led to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

Laxmi v. Union of India (2014)⁶

A PIL challenged the marital rape exemption under Section 375 IPC. While the Supreme Court did not fully criminalize marital rape, it recognized the need for legislative review and emphasized the protection of women's bodily autonomy and dignity.

PUCL v. Union of India⁷

This PIL addressed custodial violence against women. The Supreme Court issued guidelines to ensure accountability of police officers and mandated reporting mechanisms, highlighting systemic issues in law enforcement.

Other Relevant Cases

Sheela Barse v. Union of India⁸ – Addressed the plight of women in prisons, leading to reforms in prison administration.

M.C. Mehta v. Union of India⁹ – Though primarily an environmental case, the court extended PIL principles to protect marginalized women affected by industrial negligence.

V. IMPACT OF PIL ON POLICY AND SOCIAL CHANGE

Legislative Reforms

Public Interest Litigations (PILs) have significantly contributed to shaping progressive legislative reforms aimed at protecting women's rights in India. Landmark guidelines like the Vishaka Guidelines eventually led to the formulation of the Sexual Harassment of Women at Workplace Act, 2013, giving statutory force to workplace safety norms. Continuous judicial scrutiny through PILs also influenced amendments to the Dowry Prohibition Act, highlighting enforcement gaps and the need for stronger safeguards. The Domestic Violence Act, 2005 similarly gained effectiveness as PIL-driven

awareness efforts helped increase its reach and implementation. Alongside these laws, several institutional developments took place—such as the strengthening of the National Commission for Women (NCW) through court-mandated monitoring and the improvement of police reforms and complaint-redressal systems. However, despite these achievements, issues like limited awareness, slow implementation, and cultural resistance continue to hinder progress. Even so, PIL has established an essential framework that promotes accountability and encourages continuous enhancement in the protection of women's rights.

Guidelines, Rules, and Commissions

Public Interest Litigations have played a crucial role in strengthening institutional frameworks designed to protect women's rights. Through continuous judicial monitoring, bodies such as the National Commission for Women (NCW) have been reinforced to respond more effectively to issues of gender-based violence and discrimination. Courts have also directed the creation and refinement of several guidelines and rules to ensure timely redressal of complaints, including improved procedures for filing grievances and increased accountability of authorities handling such cases. Additionally, PIL-driven interventions have encouraged reforms within police systems, promoting more sensitive and efficient mechanisms to handle complaints related to violence against women. These developments collectively enhance the overall structure of support and oversight, making justice more accessible and responsive.

VI. CHALLENGES IN IMPLEMENTATION

While Public Interest Litigation (PIL) has been a powerful tool for addressing violence against women, its practical implementation faces several significant challenges that hinder its full effectiveness. These challenges are not only legal but also social, administrative, and cultural in nature.

1. Delay in Enforcement of Court Order

The discrepancy between court orders and their actual implementation is one of the main issues. In PILs,

⁶(2014) 4 SCC 427

⁷(1997) 1 SCC 301

⁸(1986) 3 SCC 596

⁹(1987) 1 SCC 395

courts frequently issue detailed orders pertaining to victim protection, rehabilitation, or compensation. However, the directives may be delayed or poorly carried out because of bureaucratic inefficiencies, a lack of resources, or a lack of coordination among government agencies. For example, prompt financial assistance and rehabilitation are essential for victims of domestic abuse or acid attacks, but delays frequently extend their suffering, leaving them without timely relief or support. This slow execution of court directions not only weakens the purpose of the judgment but also erodes the trust of victims in the justice system. As a result, the gap between judicial orders and ground-level action becomes a major roadblock in ensuring effective protection and rehabilitation for women

2. Limited Accessibility and Awareness

Many women are still ignorant of their constitutional rights and legal options, despite the fact that PIL permits third parties to petition the courts on behalf of victims. They are unable to seek assistance due to patriarchal norms, socioeconomic issues, and illiteracy. Furthermore, the practical reach of PILs is diminished in rural areas due to the lack of legal aid, knowledge of PIL mechanisms, and access to attorneys and courts. Because of this, the intended beneficiaries frequently do not fall under the judicial activism's protective purview.

3. Judicial Overreach and Executive Limitations

Courts issuing PIL directives sometimes face criticism for overstepping into the functions of the executive or legislature. While judicial intervention is necessary when laws fail or authorities are negligent, extensive directives may be difficult to implement because the relevant executive agencies lack resources or expertise. For example, the Supreme Court may order state governments to set up specialized shelters for women or conduct safety audits in workplaces, but the absence of adequate funding or trained personnel delays implementation

3. Overburdened Judiciary and Case Backlogs

The Indian judiciary already struggles with a significant backlog of cases. With the increase in PILs, especially related to social justice and women's rights, the courts face added pressure. This can lead to delayed hearings and judgments, reducing the timeliness of relief provided to victims. In cases of

violence against women, such delays may exacerbate trauma and hinder recovery.

4. Societal and Cultural Barriers

Deep-rooted patriarchal attitudes, stigma, and social pressures act as significant barriers to the effective implementation of PILs. Women may fear retaliation from family members or society if they assert their rights. In many cases of domestic violence, dowry harassment, or sexual assault, victims may not cooperate fully with authorities due to shame or intimidation, making it challenging for PIL-mandated measures to be effective

5. Lack of Monitoring and Accountability Mechanisms

Implementation of PIL directives requires continuous monitoring, evaluation, and accountability of the authorities involved. Often, there are no systematic mechanisms to track whether government agencies comply with court orders concerning women's protection, rehabilitation, or compensation. This lack of follow-up diminishes the impact of PIL and allows lapses to continue unaddressed.

6. Resource Constraints

Many PIL-directed measures, such as establishing shelters, fast-track courts, or rehabilitation programs, require substantial financial and human resources. Inadequate funding or shortage of trained personnel can prevent effective implementation, even when the court has issued clear directives. This is especially true in smaller towns or rural areas, where resources are limited

7. Fragmented Coordination Between Agencies
Implementation often requires coordination between multiple government departments, such as police, social welfare, and health departments. Poor coordination or inter-agency conflicts can delay or obstruct the execution of PIL-mandated directives. For example, a PIL directing compensation for acid attack survivors may require police registration, hospital rehabilitation, and financial aid from different departments, which may not function seamlessly.

VII. COMPARATIVE PERSPECTIVE

Countries such as South Africa, the USA, and the UK have also applied mechanisms similar to PIL, like class-action lawsuits or human rights commissions, to protect women's rights. India's PIL framework is

unique because of its dynamic judicial intervention which focus on marginalized groups. Comparative analysis suggests that combining legal remedies with social awareness campaigns is key for effective change.

1. United States of America

The United States has a strong legal framework to protect women from violence, combining federal laws, state statutes, and judicial oversight.

Key Laws: Violence Against Women Act (VAWA), 1994 – Provides legal remedies, funding for shelters, and protection orders for victims of domestic violence, sexual assault, and stalking.

Title IX of the Education Amendments, 1972 – Prevents sex-based discrimination, including sexual harassment, in educational institutions. Judicial and NGO Intervention: U.S. courts allow civil suits for violations of women's rights, and NGOs play a crucial role in advocacy, victim support, and monitoring enforcement. Although PIL in the Indian sense does not exist, class-action lawsuits and civil rights litigation serve a similar purpose of protecting marginalized groups.

Lessons for India:

The U.S. experience shows the importance of comprehensive federal legislation, strong enforcement, and civil society engagement alongside judicial oversight to protect women.

2. United Kingdom

The role of public advocacy: Like PIL in India, NGOs and advocacy groups can raise awareness of systemic problems and have an impact on legislation and court procedures. Particularly in cases alleging human rights violations under the Human Rights Act (1998), strategic litigation in UK courts has frequently resulted in changes in government policy and statutory interpretation. To address violence against women, the UK has created a number of laws, statutory guidelines, and independent oversight organizations. Crucial Legal Actions: The Domestic Violence, Crime and Victims Act of 2004 makes coercive control illegal and enhances protection for victims of domestic abuse. Lessons for India: The UK highlights the importance of clearly defined legislation, specialized support services, and the role of advocacy groups in ensuring effective remedies for women.

3. South Africa

In order to combat gender-based violence, South Africa uses law, aggressive judicial scrutiny, and constitutional guarantees. Constitutional Protections: The South African Constitution's Section 9 forbids discrimination based on gender and guarantees equality. When systemic rights breaches occur, the Constitutional Court regularly checks government compliance.

Essential Law: The Domestic Violence Act of 1998 gives victims support resources and protective orders. The 2007 Criminal Law (Sexual Offences and Related Matters) Amendment Act fortifies the laws prohibiting sexual assault

PIL-like Interventions: While South Africa does not have a direct PIL system, civil society organizations and human rights bodies can approach the Constitutional Court to enforce constitutional rights. Cases involving gender-based violence have led to national guidelines and policy reforms, reflecting a judicial approach similar to India's PIL.

Lessons for India: South Africa demonstrates that constitutional remedies, when combined with proactive civil society and judicial activism, can drive systemic change.

4. Sweden

Sweden's gender-sensitive legislation, preventative measures, and support networks make it a popular example for combating violence against women. Important Characteristics: comprehensive legislation against domestic abuse, which may require reporting in certain situations. Robust victim support facilities, social assistance, and survivor rehabilitation programs on victim protection and rehabilitation as well as criminal punishment. National campaigns and policy have been impacted by strategic lawsuits against gender-based violence.

Instructions for India: Sweden emphasizes the value of a comprehensive strategy in which social services, awareness campaigns, and preventative actions support legal remedies.

VIII.CONCLUSION AND RECOMMENDATIONS

Constitutional remedies, provided by PIL, form a strong mechanism to address violence against women in India. PIL has proven to be a catalyst for systemic

reform, legislative change, and social awareness. However, continuous efforts are needed to improve enforcement, reduce judicial delays, and expand public awareness. Recommendations include:

1. A good mechanism should be created to regularly review whether government departments and police authorities are actually following court-issued guidelines related to women's safety or not.
2. Awareness campaigns should be made to educate women about their rights, complaint mechanisms, and available legal remedies available to them.
3. Regular meetings must be held so that ground-level issues reported by civil society can directly move to policymakers.
4. Techniques such as independent grievance committees, digital complaint tracking, and victim-friendly protocols used in other countries may be modify for the Indian context.
5. Government departments should ensure that gender sensitivity training becomes compulsory for police, judiciary, and workplace authorities.
6. Technology-based tools such as digital evidence submission, online hearings, and automated case-tracking can speed up resolution
7. Officials who fail to comply with court directives should face penalties, administrative action, or mandatory retraining.

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