

Public Interest Litigation as a Tool of Transformative Constitutionalism in India: Reimagining Social Justice through the Supreme Court

Manav Pratim Dutta¹, Dr. Arvind Kumar²

¹*Research Scholar, Department of Political Science, Monad University, Pilukhawa, Hapur, U.P.*

²*Supervisor, Department of Political Science, Monad University, Pilukhawa, Hapur, U.P.*

Abstract: Public Interest Litigation has emerged as one of the most significant innovations in Indian constitutional law. It transformed the judiciary from a passive adjudicator of private disputes into an active constitutional institution capable of addressing structural injustice and collective suffering. This article examines PIL as an instrument of transformative constitutionalism in India, with special reference to the role of the Supreme Court. It argues that PIL helped shift Indian constitutional law from procedural formalism to substantive justice by widening locus standi, humanizing procedure, and expanding the meaning of fundamental rights under Articles 14, 21, and 32. Through judicial creativity, the Supreme Court converted constitutional promises into actionable remedies for labourers, prisoners, women, children, displaced persons, and environmentally affected communities. The article also critically evaluates the tensions within PIL, including misuse, overreach, and implementation deficits. It concludes that PIL remains a powerful constitutional device when guided by judicial restraint, institutional integrity, and a genuine commitment to social justice.

Keywords: Public Interest Litigation, Transformative Constitutionalism, Social Justice, Supreme Court of India, Article 21, Access to Justice, Judicial Activism

1. INTRODUCTION

The Indian Constitution is not merely a legal charter of governance; it is also a transformative social document. Its core purpose is not only to establish institutions but to reconstruct society on the principles of justice, liberty, equality, and dignity. Yet constitutional ideals cannot attain meaning unless they reach those who are poor, marginalized, and institutionally excluded. In this context, Public Interest Litigation emerged as a vital judicial mechanism that translated constitutional morality into practical justice.

Traditional litigation under the adversarial model was shaped by technical standing rules, strict pleadings, and individual injury requirements. Such a framework often worked against the realities of Indian society, where millions lacked the means, awareness, and social position to seek judicial relief. PIL changed this framework by enabling the Supreme Court to hear claims involving public wrong, collective injury, and structural injustice. It thereby reimagined the judiciary's role within the constitutional order.

1.1 Historical Development of Public Interest Litigation in India

The historical development of Public Interest Litigation (PIL) in India must be understood against the larger constitutional transition from a formal, procedure-bound model of adjudication to a more socially responsive vision of justice. In the early decades after independence, access to constitutional remedies under Articles 32 and 226 was largely governed by traditional common-law rules of standing. In practice, this meant that only a person directly affected by state action could ordinarily approach the court. Such a narrow view of locus standi limited the ability of poor, illiterate, marginalized, and socially excluded groups to seek judicial protection, even where serious violations of fundamental rights existed. The constitutional promise of justice was therefore often available in theory but inaccessible in reality.

The first major shift occurred in the late 1970s and early 1980s, when the Supreme Court began to reinterpret procedural rules in the light of constitutional morality and social justice. Judges such as Justice V.R. Krishna Iyer and Justice P.N. Bhagwati played a central role in this

transformation. They recognized that in a deeply unequal society, insistence on strict standing would defeat the very purpose of fundamental rights. As a result, the Court began allowing “public-spirited” individuals and groups to move the Court on behalf of those who were unable to do so themselves. This judicial innovation marked the beginning of Indian PIL and aligned procedure with substantive justice.

A foundational stage in this development can be seen in *Hussainara Khatoon v. State of Bihar* (1979–80), where the Supreme Court responded to the plight of undertrial prisoners languishing in jails for long periods without trial. The case is historically significant because it demonstrated how the Court could use writ jurisdiction to address structural injustice affecting large classes of invisible citizens. It also linked PIL with the expansion of Article 21, especially the right to speedy trial, thereby showing that constitutional remedies could serve not merely private claims but urgent public concerns involving liberty and human dignity.

The doctrinal consolidation of PIL came with *S.P. Gupta v. Union of India* (1981), often described as the leading case on liberalized standing in India. In this judgment, the Supreme Court gave its most elaborate justification for relaxing locus standi and held that where legal injury is caused to a person or class of persons who, by reason of poverty, disability, or socially disadvantaged position, cannot approach the Court, any member of the public acting bona fide may maintain an action. This case is crucial in the historical evolution of PIL because it converted what had been an emerging judicial tendency into a recognizable constitutional doctrine.

The next phase witnessed the expansion of PIL into the field of labour rights, bonded labour, prison reform, and custodial justice. In *People’s Union for Democratic Rights v. Union of India*, concerning labour violations during the Asian Games projects, the Court treated rights-related complaints affecting workers as matters of constitutional concern. In *Bandhua Mukti Morcha v. Union of India*, a letter complaining of bonded labour in Haryana was treated as a writ petition, and the Court adopted investigative and remedial techniques that went beyond the traditional adversarial model. Around the same period, in *Sheela Barse v. State of Maharashtra*, a letter concerning custodial violence against women prisoners was entertained by the

Court, further strengthening the practice of epistolary jurisdiction. These cases show that PIL developed not only as a doctrine of standing, but also as a new judicial method for hearing the voices of the vulnerable.

By the mid-1980s and 1990s, PIL had evolved into an important constitutional instrument for enforcing socio-economic entitlements through the language of fundamental rights and Directive Principles. The Court increasingly used PIL to address pavement dwellers, child labour, environmental degradation, prison conditions, sexual harassment, corruption, and governance failures. This phase broadened the meaning of Article 21 and reinforced the idea that constitutionalism in India was not limited to restraining state power, but also required the state to act affirmatively to protect dignity, livelihood, health, shelter, and humane conditions of existence. PIL thus became closely associated with transformative constitutionalism, because it helped convert constitutional ideals into enforceable public norms.

Another important element in the historical development of PIL was the procedural flexibility adopted by the Court. The Supreme Court moved away from a purely adversarial framework and often appointed commissions, committees, and amici curiae to investigate facts and monitor compliance. This was especially visible in cases involving bonded labour, prison reform, and institutional failure. Such innovations enabled the Court to respond to continuing wrongs and complex social realities that could not be resolved through ordinary litigation alone. In this sense, PIL in India became both a procedural reform and a constitutional technique for supervisory justice.

At the same time, the later history of PIL also reflects increasing judicial caution. As PIL grew in popularity, concerns arose about frivolous petitions, publicity-oriented litigation, political misuse, and attempts to convert private disputes into matters of public interest. The Supreme Court gradually responded by emphasizing bona fides, genuine public cause, and limits on misuse. Later decisions and procedural guidance made clear that PIL must remain tied to real public injury and constitutional concern, rather than becoming a vehicle for personal, political, or oblique motives. This corrective phase is also part of PIL’s historical

development, because it shows the Court's effort to preserve PIL as a serious constitutional remedy rather than allow it to deteriorate into a procedural shortcut.

In contemporary constitutional law, the historical journey of PIL in India can therefore be seen in four broad stages: first, the era of restrictive standing; second, the phase of liberalization and social-action litigation in the late 1970s and 1980s; third, the expansion of PIL into governance, environment, and human rights; and fourth, the phase of doctrinal caution and institutional self-regulation. This evolution is central to understanding why PIL is considered a tool of transformative constitutionalism in India. It reoriented the judicial process from individual grievance alone toward structural justice, enabled courts to hear the unheard, and helped the Constitution function as an instrument of social transformation rather than a purely formal legal text.

This article studies PIL as a tool of transformative constitutionalism. It examines how the Supreme Court used PIL to move beyond procedural rigidity and toward a justice-oriented interpretation of the Constitution. It also reflects on the normative limits of such judicial intervention.

2. OBJECTIVES OF THE STUDY

1. To examine the relationship between PIL and transformative constitutionalism in India.
2. To analyze how the Supreme Court moved from procedural formalism to substantive justice.
3. To study the expansion of fundamental rights through PIL jurisprudence.
4. To assess the contribution of PIL to social justice for vulnerable groups.
5. To evaluate the limitations and future relevance of PIL.

3. RESEARCH METHODOLOGY

This article is doctrinal and analytical in nature. It is based on constitutional provisions, judicial decisions, legal scholarship, and interpretative analysis. The study adopts a critical constitutional method, examining PIL not merely as a procedural device but as a rights-enforcing and justice-

producing mechanism. The article is qualitative and non-empirical, relying on case-law analysis and theoretical evaluation.

4. CONCEPTUAL FRAMEWORK: TRANSFORMATIVE CONSTITUTIONALISM

Transformative constitutionalism refers to the use of constitutional law as an instrument for social transformation. It rejects the view that constitutions merely preserve institutional order. Instead, it sees constitutional interpretation as a process of dismantling historical inequality and enabling substantive democracy. In India, this idea is deeply rooted in the Preamble, Fundamental Rights, and Directive Principles of State Policy.

PIL became a practical expression of transformative constitutionalism because it enabled courts to respond to forms of exclusion not adequately addressed through ordinary legal processes. The judiciary began to recognize that legal access must be widened if constitutional justice is to have meaning in a deeply unequal society.

5. PIL AND THE SHIFT FROM PROCEDURAL FORMALISM TO SUBSTANTIVE JUSTICE

The greatest transformation brought by PIL lies in the relaxation of procedural formalism. Under classical rules of locus standi, only a directly aggrieved person could move the court. This model assumed equal capacity among litigants, an assumption that did not correspond with Indian social reality.

The Supreme Court, especially under Justices V. R. Krishna Iyer and P. N. Bhagwati, reoriented this framework. It allowed public-spirited citizens, journalists, lawyers, and social organizations to bring cases on behalf of those unable to access justice themselves. Epistolary jurisdiction further advanced this transformation by allowing even letters to be treated as writ petitions in appropriate cases.

This procedural change was not merely technical. It represented a philosophical shift in the meaning of adjudication. Justice was no longer confined to formally perfected claims. It became connected to human suffering, collective harm, and constitutional obligation.

6. EXPANSION OF FUNDAMENTAL RIGHTS THROUGH PIL

One of the most enduring contributions of PIL is the expansion of Article 21. The right to life was gradually interpreted to include:

- the right to live with dignity,
- the right to livelihood,
- the right to legal aid,
- the right to speedy trial,
- the right to shelter,
- the right to health,
- the right to education, and
- the right to a clean environment.

This development reflects the Supreme Court's willingness to treat rights as living guarantees rather than narrow textual entitlements. PIL thereby brought socio-economic and welfare concerns into the constitutional domain. It moved Indian public law from negative liberty toward positive dignity.

7. PIL AS A VEHICLE OF SOCIAL JUSTICE

PIL proved especially significant in matters affecting bonded labourers, undertrial prisoners, child workers, women facing structural injustice, slum dwellers, and communities suffering environmental degradation. The Supreme Court used PIL to address not just isolated wrongs but patterns of systemic injustice.

This made PIL an instrument of substantive equality. It recognized that equal treatment before the law is insufficient where access to law itself is unequal. Thus, PIL strengthened the constitutional commitment to social justice by making invisible suffering legally visible.

8. KEY JUDICIAL TRENDS

The Supreme Court's PIL jurisprudence reflects several transformative trends:

First, procedural democratization through relaxed standing.

Second, rights expansion through Article 21.

Third, structural remedies such as monitoring, commissions, and continuing mandamus.

Fourth, the linking of public administration with

constitutional accountability.

Fifth, the recognition of dignity as the core of social justice.

9. CRITICAL CONCERNS

Despite its achievements, PIL is not free from criticism. Some petitions are filed for publicity, politics, or private rivalry rather than genuine public interest. There are also concerns that excessive judicial intervention may disturb the balance between courts, legislature, and executive. In some cases, implementation remains weak despite strong judicial language.

These criticisms do not invalidate PIL, but they do remind us that transformative constitutionalism must operate with institutional discipline. A socially responsive judiciary must also remain conscious of democratic limits.

10. FINDINGS

1. PIL transformed access to justice in India.
2. It played a major role in constitutionalizing social welfare and dignity-based rights.
3. The Supreme Court emerged as the principal architect of rights-oriented social justice jurisprudence.
4. PIL is most effective when it serves the voiceless rather than elite or political interests.
5. Its future depends on sincerity of use, stronger implementation, and judicial balance.

11. SUGGESTIONS

1. Courts should adopt stricter scrutiny against frivolous PILs.
2. Genuine social justice PILs should receive priority hearing.
3. Better follow-up mechanisms should be developed for enforcement.
4. PIL should remain focused on structural injustice and vulnerable communities.
5. Judicial innovation must be balanced with constitutional restraint.

12. CONCLUSION

Public Interest Litigation remains one of the most meaningful innovations in Indian constitutional law. It reimagined the relationship between citizens and

the Constitution by allowing the judiciary to hear those who were previously unheard. In doing so, it advanced transformative constitutionalism by making justice more accessible, rights more substantive, and governance more accountable. Though it faces problems of misuse and implementation, its constitutional value remains undeniable. PIL is at its best when it acts as the conscience of the Constitution and as a bridge between legal promise and lived reality.

REFERENCES

- [1] Baxi, U. (1985). *Taking suffering seriously: Social action litigation in the Supreme Court of India*.
- [2] Bhuiwalia, A. (2017). *Courting the people: Public interest litigation in post-emergency India*. Cambridge University Press.
- [3] Jain, M. P. (2019). *Indian constitutional law*. LexisNexis.
- [4] Sathe, S. P. (2002). *Judicial activism in India*. Oxford University Press.
- [5] Shukla, V. N. (2019). *Constitution of India*. Eastern Book Company.
- [6] S.P. Gupta v. Union of India, 1981 Supp SCC 87.
- [7] Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.
- [8] Hussainara Khatoon v. State of Bihar, (1980) 1 SCC 81.
- [9] Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
- [10] Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.