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Public Interest Litigation



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WHAT IS PIL?

Public interest litigations are those litigations that are conducted as per the common interest of the public in order to solve a grievance.

Public interest means - to the benefit or advantage of the community as a whole.

Litigation means- the process of taking legal action in a court of law with the object of enforcing a right or seeking a remedy.

Thus a legal action initiated in the court of law for enforcement of a general interest in which a class or community has a pecuniary or some interest is known as a public interest litigation. It is the use of law to raise issues of broad public concern in order to advance human rights and equality by aiding the disadvantaged group of individuals or minorities.

Where can a PIL be filed and by whom?

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- PIL(Public Interest Litigation) can be filed in any High Court or directly in the Supreme Court. It can be filed by any socially conscious or public spirited person or NGO's for seeking judicial redressal of a public injury.
- It can be filed under **article 32 of the constitution** in the Supreme Court, under **article 226 of the constitution** in the High Court.
- The court in furtherance of public interest may consider it necessary to inquire into the state of affairs of the subject-matter with the view to correct the wrong and to enforce justice.



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- As far as **article 32** is concerned a person can only approach the supreme court only when a fundamental right is violated but under **article 226** a person can approach the high court for violation of fundamental as well as constitutional rights.
- The basic condition that the aggrieved party should have an interest in the litigation is not present in filing of a PIL(Public Interest Litigation).
- In case of PIL the presence of the aggrieved party is not necessary for the exercise of the courts jurisdiction, the only existing condition to file a PIL is that the same has to be filed in public interest.



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LETTER PETITIONS ENTERTAINED AS PIL

- (1) Bonded Labour matters.
- (2) Neglected Children.
- (3) Non-payment of minimum wages to workers and exploitation of casual workers and complaints of violation of Labour Laws (except in individual cases).
- (4) Petitions from jails complaining of harassment and seeking release after having completed 14 years in jail, death in jail, transfer, release on personal bond, speedy trial as a fundamental right.
- (5) Petitions against police for refusing to register a case, harassment by police and death in police custody.



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(6) Petitions against atrocities on women, in particular harassment of bride, bride burning, rape, murder, kidnapping etc.

(7) Petitions complaining of harassment or torture of villagers by co- villagers or by police from persons belonging to Scheduled Caste and Scheduled Tribes and economically backward classes.

(8) Petitions pertaining to environmental pollution, disturbance of ecological balance, drugs, food adulteration, maintenance of heritage and culture, antiques, forest and wild life and other matters of public importance.

(9) Petitions from riot -victims.

(10) Family Pension.



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CASES THAT CANT BE ENTERTAINED AS PIL

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- (1) Landlord-Tenant matters.
- (2) Service matter and those pertaining to Pension and Gratuity.
- (3) Complaints against Central/ State Government Departments and Local Bodies except those relating to item Nos. (1) to (10) above.
- (4) Admission to medical and other educational institution.
- (5) Petitions for early hearing of cases pending in High Courts and Subordinate Courts.



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INITIATION OF PIL AND DEVELOPMENT IN INDIA

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- During the pre independence and post early independence era people of economically and socially backward classes found it difficult to approach the courts and hence the judicial system came up with the idea of PIL in order to tackle the situation and was introduced to the concept of PIL in the early 1970's.
- The concept of PIL was first brought in through the case of *Kamagar Sabha v. Abdul Thai*, A.I.R 1976 S.C. 1455(India) and was initiated in the case of *Akhil Bharatiya Sosail Karmchari Sangh Railway v. Union of India*, A.I.R. 1981 S.C. 298(India) where in, an unregistered association of workers was permitted to institute a writ petition under article 32 of the constitution.



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- PIL can be filed by any person even though their fundamental rights are not violated provided that he is acting bonafide (true intention) in the interest of public at large. Earlier in time only the aggrieved party could bring an action in the court but with the passage of time the courts felt the need to relax the locus standi (capacity to bring an action in a court).
- This principle was enunciated through the case of *S.P.Gupta v. Union of India and Others where Bhagwati, J quotes:*“Any member of the public having sufficient interest can maintain an action for judicial redress for public inquiry arising from breach of public duty or from violation of some provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision.” In the same case J. Bhagwati also stated that “the court has to innovate new methods and strategies to provide access to justice to large masses of people who are denied basic human rights, to whom liberty and freedom have no meaning.”



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PIL was seen as a relief for those who could only dream of getting Justice. The court explained the philosophy underlying PIL in the case of *Bandhua Mukti Morcha, A.I.R. 1984 S.C. 802(India)*

Where a person or class of persons to whom legal injury is caused by reason of violation of a fundamental right and is unable to approach the court for judicial redress on account that such person is in a socially or economically disadvantaged position then any member of the public acting bona fide can move to the court for relief under Article 32 and a writ of certiorari (by which an appellate court decides to review a case at its discretion) meant for rare use can be issued. The fundamental rights may be meaningful not only for the rich who have the means to approach the court but also for the large masses of people who are living a life of want and destitution and who are by reason of lack of awareness, assertiveness and resources unable to seek judicial redress.



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The case basically deals with the working conditions of the labourers and the bonded labours. The petition was filed by an organization which was entertained by the Supreme Court and a committee was formed by the court to look into the matter. It was found out that the workers were being forced to do bonded labour.

In another case of *Hussainara Khatoon & Ors v. Home Secretary, State Of Bihar*, A.I.R 1979 S.C. 1369. A petition of Habeas Corpus was filed in order to correct a huge administrative disorder in the state of Bihar. A large number of men and women including children were put behind the bars without even conducting trial procedures of which most the offences were petty in nature. Behind the bars for up to 5 to 10 years they were deprived of their freedom. This has been characterized as creeping jurisdiction in which the courts takes over the administration of these institutions for protecting human rights.



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Misuse of PIL

- Even though PIL acts as a mechanism to protect the human rights the courts should see to it that the PIL is not being misused.

According to J.Bhagwati *“we must be careful to see that the member of the public who approaches the court in case of this kind is acting Bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians or by others”*

- In PIL cases, the most crucial question for the court is to measure the seriousness of the petitioner, and to see whether he is actually the champion of the cause of the persons or groups he is representing. The effect of public interest litigation should go beyond the sphere of the parties present in the proceedings, and it is to be noted that public interest litigation must be accompanied by adequate judicial control so as to prevent this technique from being used as an instrument of coercion, blackmail or for other motives.



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Qualities of a PIL Applicant

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In a judgment on public interest litigation rendered by Justice Pasayat, he has laid down the following tests:

“The court has to be satisfied about:

(a) the credentials of the applicant

(b) the prima facie correctness or nature of information given by him

(c) the information should not vague and indefinite. The information should show gravity and seriousness involved.



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CONCLUSION

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PIL is a process of putting a public issue before the eyes of law. It's a mechanism that helps the poor get justice. Justice should be granted to one and all irrespective of whether rich or poor. PIL helps in striking a balance between the two classes to provide justice to one and all. The courts must keep an eye on cases being filed and ensure bonafide interest of the petitioner and the nature of the cause of action in order to avoid unnecessary litigations. Vexatious and mischievous litigation must be identified and struck down so that the objectives of PIL aren't violated. PIL along with other tools like judicial review, activism etc can be used to attain complete independence of justice machinery.