

## **A STUDY ON IMPACT OF ECOLOGICAL PUBLIC INTEREST LITIGATION IN INDIA**

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**Abstract:** The purpose of this research paper is to analyze and investigate various aspects of public interest litigation (PIL) in ecological/Environmental jurisprudence. In particular, the paper aims to discover how effective such litigation is. A major aim of the article is to explain how Public Interest Litigation is effective in jurisprudence, as well as the detrimental consequences. Public Interest Litigation is greatly subsidized in comparison to private litigation, which has led to the misuse of PILs. Environmental administrative public interest litigation is a form of administrative litigation that protects citizens' environmental rights. It is intended to safeguard the environment. Abuse of power can occur if the government power isn't under proper supervision and controlled. This could lead to greater harm to the public interest. You can gain insight into the problems and identify effective solutions. The public interest litigation movement has come under criticism in recent years, including issues related to separation of powers, judicial capacity, and equality.

**Keywords:** *PIL, Public Interest Litigation, ecological, effectiveness, Court, regulatory power.*

### **Introduction:**

Litigation in public interest is essential to bring about change and promote social welfare. New criticisms within public interest litigation, including concerns tied to separation of powers, judicial capacity, and unequal access to justice, have been raised in recent years. A few Supreme Court Judges initiated the Indian Public Interest Litigation as a way to resolve public grievances. It was intended to protect the rights of the poor and help them recover from basic violations of their human rights. It also addressed concerns regarding government policy or conduct that was not in the best interests of society (Faure & Raja, 2010). PIL was also viewed as a solution for the problem of "accessing justice" in developing countries, where large numbers of people lack the literacy or the ability to access the legal system to address violations of their fundamental rights. Because the government has enormous regulatory power in India, misuse of power is inevitable. Sometimes, inaction or government policy can pose a threat to the environment (Hashim, 2013). Citizens could be denied protection if the traditional standing doctrine is applied in such cases. The Supreme Court of India has thus expanded the

standing of citizens to allow them to challenge government actions in public interest. This is even though the citizen suffered very little or no harm (Rajamani, 2007).

If viewed from the perspective of public environmental rights, environmental administrative public interest litigation can be considered a form public interest litigation. It dates back to ancient Rome, when public interest litigation was a concept that was distinct from private interest litigation. Public interest litigation was about individuals' rights and can therefore only be brought to court by an individual (Gauri, 2009). Public interest litigation was, however, concerned actions that result in the breach of public and social interests. Civilians were allowed to instigate such actions, except where otherwise specified by law. The modernization of society has led to a greater demand for public interest protection. States must therefore exercise their power accordingly (Shah, 2018).

Public interest litigation is a legal proceeding that seeks to promote equality and protect the rights of the most vulnerable and minorities. This raises concerns for the general public. PILs can concern both private and public law. A PIL is initiated by judicial review. This is a way to examine the activities of the legislature or the executive through the courts. A PIL has the following features:

The government or concerned public agency should be held accountable

- Clarifies the law's provisions
- Give justice to the poor.
- It does not require that the affected party approach the court directly.

The court cannot approach the environment because it is inanimate. The court ordered that anyone with an interest in the legal process can approach the court and initiate it. (Birlie, 2018) Although there are many established laws, there is not an authority to oversee their implementation. PIL can be used by people who don't consider all other options. This has its own consequences. Other provisions of law include the representative suit class-action suit, etc (Tsujita, 2007). This could have been used in the Bhopal gas disaster, which saw mass torts. These alternatives are available in both civil and criminal law. These aren't widely used. They could also be used to provide ideal solutions. The possibility of appeal is also eliminated by directly approaching the higher court. In such cases, the decision is largely based on the whims of the judge (Shah, 2018).

### **PIL's Effectiveness**

PIL is an important tool where environmental NGO's as well as activists have filed many petitions to ensure the effective implementation of the environment laws. It has made a significant contribution to environmental jurisprudence. The courts are more concerned with cases that involve multiple types of pollution than they are about addressing infrastructure destruction (Sahu, 2008). In the aftermath of the emergency, the PIL saw its boundaries expand as the executive began to control the judiciary and exceed its limits. Like most social causes, Indian public interest litigation was probably over-determined. However, most historians agree that it was partially an effort by the courts to address the poverty, social exclusion and powerlessness that most Indian citizens continue to experience. However, many commentators believe that the PIL objective has not been achieved or has been lost (Rathinam & Raja, 2008).

### **Literature Review:**

(Bohra, 2019) India's concept of litigation was in its infancy and was viewed as a private pursuit to protect

private vested interests. The majority of litigation consisted of actions initiated by and continued by individuals to address their own grievances. The injured party or aggrieved person had the right to initiate and continue litigation. The resources available to them made it difficult for even this to be possible. There were few attempts or organized efforts to address larger issues that affected consumers or the entire public. There was little connection between citizens of India and Indian Constitution rights. The legislature makes laws for the welfare of citizens, but the vast majority of illiterate citizens are denied the same.

(Krushna & Dalai, 2013) Hussainara Khatoon, (I) was one of the first cases of public interest litigation. This case involved a series of articles in the Indian Express that exposed the dire situation of prisoners under-trial in Bihar. An advocate filed a writ petition to draw the Court's attention to the deplorable conditions of these prisoners. Many of these prisoners had been held for longer than the maximum sentences allowed for the offenses they were charged with. The Supreme Court granted the locus standi to the advocate in order to keep the writ petition. The Court issued directions in a number of cases that followed, which established that the 'right of speedy trial' was an integral part of the protections of life and personal freedom.

(Bhuwania, 2018) The doctrine of Public Trust has been upheld by the Indian Judiciary. The directives and orders of the Supreme Court and High Courts at State cover a broad range of subjects, including air, water and solid waste. This vast field includes vehicular pollution, pollution from industries, depletion and illegal cutting of trees, conservation of wildlife, dumping of hazardous materials, solid waste management, plastic decay, pollution of rivers, illegal mines, etc. There are many other topics. There are many other orders from the Supreme Court that have been issued by them. They include closures of polluting aqua-farms and closed down illegal mining activities. They also mandate cleaner fuel for vehicles.

(Bhuwania, 2018) The case of Research Foundation for Science Technology and Natural Resources Policy ((2007) 8 SCC 553) was filed in 2005 by the petitioner. He had filed a PIL with the Supreme Court invoking Article 21 of Constitution of India and asking for an intervention because a French ship named 'Clemenceau' had threatened the maritime environment at Alang Shipbreaking Yard in Gujarat. The Supreme Court issued a directive denying the ship access to Alang Shipbreaking Yard to be dismantled. The Supreme Court expressed deep concern about the shipbreaking operation and asked for suggestions from the Committee of technical experts (Dilay et al., 2020). The Government was also given directions. India will enact legislation on this issue. As an interim measure, the court has established guidelines that can be followed to reduce the incidence. This activity caused harm to the environment and included the decontamination and classification of any shipbreaking waste into hazardous and non-hazardous categories.

(Faure & Raja, 2011) The case of Him Privesh Environment Protection Society vs. State of Himachal Pradesh through Secretary Industries and Ors. was filed in 2010 before the High Court of Himachal Pradesh challenged the establishment of a cement plant by an industrial house in District Solan (H.P. The cement plant was built in violation of all environmental laws, including the EIA Notifications. Without a proper public hearing, the plant had destroyed a large portion of the forest and taken lands from nearby villages. Conscientious that the passing of a demolition or closure order for the cement plant would result in immense hardship and negatively impact the livelihoods of thousands, innocent citizens, the High Court invoked the principle "polluter pays" to impose damages on the Cement Plant owner of Rs.100 crores (i.e. 25% of the total project cost). All of the above The Cement Plant owner challenged the decision before the Supreme Court, but the appeal was denied in 2013.

(Hongqing, 2018) Tarun Bharat, Alwar, Union of India (Sariska Bio-Reserve), a prominent NGO had filed a PIL to the Supreme Court in 1991 regarding large-scale issues. Mining activities within the protected area were illegally authorized by the State Government and were steadily destroying Tiger habitats and pushing them towards extinction. A Committee was established by the Supreme Court, headed by Justice M.L. Jain) was tasked with preparing a list of mines in the protected area, and to enforce the Court's orders and notifications. It banned all mining in Sariska National park and areas designated as Tiger Reserves. The Chief Justice of India created a permanent Forest Bench in 1996 to handle cases related to forest and environment. The Forest Bench was renamed the "Green Bench" in 2013. It continues to supervise matters relating to National parks and Sanctuaries, as these matters are not under the National Green Tribunal's jurisdiction (Desai & Muralidhar, 2000).

**Research objectives:**

- To find out the effectiveness and various impact of environmental PIL (Public Interest Litigation) in India.

**Finding & Conclusion:**

The government didn't really pay much attention to environmental issues during those times. The problem of pollution grew as a result. Many environmentalists and non-governmental organisations approached the court after the state agencies failed to offer suitable measures to protect the environment. PIL is the most effective way they could approach court. These issues concerning the environment have been effectively dealt with by the Indian judiciary. The judiciary made several attempts to manage the conflict between environment and development. It can be concluded from this that India's environment jurisprudence has been shaped by Public Interest Litigations. Although the phenomenon of PIL is well-studied and much attention has been paid the Indian Supreme Court's application in environmental cases, this article attempts to place the seemingly successful PIL within an economic context. The basic economic literature was used as a starting point (Rathinam & Raja, 2008). It generally states that administrative and regulatory agencies have clear information advantages over courts, and are therefore better able to establish environmental standards. One could ask why and how courts intervene when regulatory authorities fail to protect the environment. The court's proposed environmental solutions have been criticized on technical grounds. It lacks the democratic legitimacy and can be replaced by the legislature or executive. Voters may not hold it accountable for their actions.

This paper argue that the case of India is significant because it provides valuable lessons about what the best tools of environmental policy in developing countries and for general environmental policy (Chaturvedi, 2021). The relative strengths and competitive advantage of institutions in developing countries should be used. These institutions are well-developed and ready to support environmental goals in the public's interest. While standard-setting through administrative bodies remains the best and most effective solution, courts can temporarily provide protection for environmental issues where regulatory authorities or legislative agencies fail. In this regard, however, it is crucial that courts encourage and stimulate cooperation with regulatory and legislative authorities (Dilay et al., 2018). Court intervention can be used to encourage other branches of government to take action and fulfil their responsibilities.

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