



## ADEQUACY OF PUBLIC INTEREST LITIGATION IN INDIA: AN ANALYSIS

Brijinder Bhushan,

Assistant Professor, BKSM Law College, Jalalabad (E) Dharmkot, Dist. Moga, Punjab

### ABSTRACT

Public Interest Litigation device derived by joint efforts of both judiciary and public spirited NGO's for the beneficial in general and public at large. By adopting this device effectively civil justice can be imparted to the socially and economically disadvantageous people of the society. By making the government accountable through this, it contributes to good governance. Moreover, this device should not be used by the judiciary to administer the country for day- to-day basis or intervene the legislative and executive legitimate domain. Consequently, it becomes the challenges of the states to make balance in permitting legitimate PIL petitions and discouraging frivolous ones. This objective could be achieved by framing economic incentives and only entertaining those issues, which are undermined due to some disability.

### Introduction

Executive, Legislature and judiciary are very important units of every democratic country to play crucial role in the administration of the country. Resolution of disputes about law and order is responsibility of judiciary. Irrespective of the form of government in any country there has its own judiciary and it supposed to be totally impartial and apolitical. During interpretation of law in a wrong way, the role of courts becomes important as the custodians of justice. In recent times, this aspect has given rise to the dual concepts of judicial activism and judicial restraint<sup>1</sup>. Administration of justice through constitutional litigation has become a part of current Indian legal history. This is all due to the seminal preview power of the superior courts. Apart from this emerging socio-political demands and perceptions of the role of courts in the advancement of constitutional goals have generated these changes<sup>2</sup>. Another name 'Social Action Litigation' also given and considered as most important achievement of our supreme court. In Indian legal system its origin and evolution is the evidence behind the

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<sup>1</sup> B.T. Murgaendra, "Judicial activism in public interest litigation" 4 *Madras Law Journal* 14 (2013).

<sup>2</sup> R. Venktaswami and S.C Raina, *Restatement of Indian Law* (Indian Law Institute, Delhi, 2011).

implementation of rule of law constitutionalism. In the past the paradise of justice was the monopoly of affluent which alone possessed its golden key<sup>3</sup>.

Goddess of justice to illiterate brings by this wave of public interest litigation. Evils of local technicality and procedural rigidity drives away by this new trend<sup>4</sup>. Providing justice to the society at large access to the courts is an essential<sup>5</sup>. The Apex constitutional court had become “an arena of legal quibbling for men with long objective”<sup>6</sup>. Now individual rights have become public concern and intervention with demise of *lassiez’s –faire* and resultantly various precedents has developed a new jurisprudence confirming to the contemporary conditions<sup>7</sup>.

### Meaning of Public Interest Litigation

‘Public Interest’ means “well-being of common includes public welfare” and ‘Litigation’ means “a legal action including all proceedings therein started in a court of law with the purpose of enforcing a right or seeking a remedy”. Therefore, this expression means “Some litigation initiated for the benefit of individuals or for removal of some public grievance”. In other words, public spirited citizen can approach the Supreme court and High court under article 32 and article 226 of the constitution to represents the other people for enforcement of their rights<sup>8</sup>. For the judicial redressal of public injury this right given to the members of public, such injury rise from breach of public duty or due to violation of provisions of the constitution. This is only adopted for the weak, poor, ignorant of legal redressal system or otherwise in a disadvantageous position due to their social or economic background. Public perception of the Supreme Court currently dominated by this phenomenon. Therefore, in contemporary period the Supreme Court performs dual functions firstly to provide relief to individuals but also formulating policies which the state must follow<sup>9</sup>.

### Historical Background and Evolution

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<sup>3</sup> Upendra Baxi, “Taking suffering seriously: Social action litigation in the supreme court of india” 4 *Third World Legal Studies* (1985).

<sup>4</sup> Mohan K. Surendra, “Public interest litigation and locus standi” 8 *The Cochin University Law Review* 523 (1984).

<sup>5</sup> Herihert A. Hirte, “Access to the courts for indigent person: A comparative analysis of the legal framework in The United Kingdom, United States and Germany” 40 *ICLO* 91 (1991).

<sup>6</sup> *Keshvanand Bharti v. State of Kerala*, 4SCC 1973 SC 947.

<sup>7</sup> Faizan Mustafa and Javaid Talib, “Influence of public interest litigation on administration of criminal justice” 11 *Aligarh Law Journal* 66 (1996).

<sup>8</sup> Oxford English Dictionary XII (2006) 993.

<sup>9</sup> Asraf, “Public interest litigation: Its impact on social change” 4 *Supreme Court Journal* 5 (2012).

This public interest litigation term coined in USA which meant ‘Public Interest Law/. SA’s “Fordfound action” explain that public interest law is the name that has recently given to efforts which provide legal representation to previously unrepresented groups and interests. Such efforts have been under taken by consideration that ordinary legal services fail to provide such services to significant segments of the population and to significant interests. It includes environmentalists, consumers, racial and ethnic minorities and others<sup>10</sup>.

Public interest litigation in india is the improved version of public interests in USA. During emergency period (1975-77) there was complete deprivation of civil and political rights of innocent peoples and post the emergency Justice V.R. Krishna Iyer and P.N. Bhagwati recognized the possibility of providing access to justice to poor and exploited people by relaxing rules of representing. In post- emergency investigative journalism also began to expose scenes of governmental lawlessness, repression, custodial violence and drawing attention of lawyers, judges and social activists and resultantly, judiciary starts to perform the administrative judicial role. This concept is a specious construction of locus standi in our socio economic circumstances and allows liberties to individuals the right to invoke the higher judiciary to share the remedy by a large number specially, when they are weaker. The aim of adjective law to lessen the litigation and to make consistency with fair process<sup>11</sup>. The contemporary time through jurists, lawyers, legal academicians, legal aid projects, fellow prisoners, social organisations, public spirited individuals issues are take up to Apex court and other courts such as under trials in jails<sup>12</sup>, pavement dwellers right to live on pavements<sup>13</sup>, the plight of rickshaw pullers<sup>14</sup>, trafficking in human<sup>15</sup>, issues of bonded labour<sup>16</sup> etc. by means of letters, post cards, telegrams, writ petitions, suo motto by the court relying on articles, letters and newspaper.

### **Facet of Public Interest Litigation<sup>17</sup>**

**A.Curative** nature of this concept departs from ancient locus standi rules means it indirectly incorporated the principles of part IV of the constitution into part III of the constitution. The

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<sup>10</sup> Social Change and Public Interest Litigation in India, available at: [http://www.Ngos.india.Com/resources/pil\\_ac.php](http://www.Ngos.india.Com/resources/pil_ac.php), (last visited on August 19, 2022).

<sup>11</sup> *Mumbai Kangar Sabha, Bombay v. Abdul Bhai and others*, AIR 1976 SC 466.

<sup>12</sup> *Hussainara Khatoon v. St. of Bihar*, AIR 1979 SC 1360.

<sup>13</sup> *Olga Tellis v. State of Maharashtra*, ALJ 1985 (2) SC ALE 5.

<sup>14</sup> *Azad Rickshaw Pullers Union v. State of Punjab*, SCR 1981(1) SC 366.

<sup>15</sup> *Coomi Kapoor Ashwani Sarin and Arun Shourie v. St. of M.P.*, Writ Petition no. 2229/81.

<sup>16</sup> *Bandhua Mukti Morcha v. U.O.I* AIR 1984 SC 802.

<sup>17</sup> *Supra note 10*.

changed procedural nature of the Indian law into a dynamic welfare one is due to riding aspirations of part IV into part III of the constitution<sup>18</sup>.

**B. Representative Standing** can be seen as a creative expansion of the well accepted standing exception, which allows a third party to file a habeas corpus on the basis that the injured party unable to approach court personally.

**C. Standing Citizenship** by adopting this concept individual right can be protected through the guardian of the rule of law during threatened by official lawlessness.

**D. Non-adversial** this nature of this concept includes firstly, collaborative litigation in which not only claimant but also court, Govt. or the public official takes part and the court also perform other function other than that from traditional means ombudsman, mediator forum etc. Secondly, investigative litigation in which court works on the reports of district magistrate, comments of experts and newspaper etc<sup>19</sup>.

**E. Relaxation of Strict Rule of Locus Standi** through this concept person acting bonafide and having sufficient interest in the proceeding of public interest litigation will alone have a locus standi can approach the court to wipe out violation of fundamental rights and non-generic infraction and statutory provisions except for personal gain or political motive or any oblique consideration.

**F. Epistolary Jurisdiction** due to the opening of PIL cells all over India this concept becomes epistolary jurisdiction to provide footing or platform to the needy class of the society.

**G. Modern Regime of Human Rights** through this term fundamental right to life and liberty has widened and includes free legal aid, right to speedy trial, right to dignity, means of livelihood, education, housing, medical care, clean environment, right against torture, sexual harassment, solitary confinement, bondage, exploitation. These new terms provide legal resources to guide the courts for their enforcement through this concept.

## Literature Review

In article “**The Role of Judge in Public Litigation**”<sup>20</sup> the author discusses that due to the ‘public interest litigation’ fundamental role of American courts was undergoing a vast

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<sup>18</sup> *Ibid.*

<sup>19</sup> *People’s Union for Democratic Rights v. Union of India* (1982) AIR 1473.

<sup>20</sup> Abram Chayes, “The role of judge in public litigation” 89 *Harvard Law Review* 1281 (1976).



transformation. Eight ways identified to differ this new kind of litigation from traditional private law litigation. The author also represents many other thoughts that “the trend towards public law litigation seemed to be on the rise and gathering momentum”. Along with it also placed Indian judicial scene for better than American one.

In article “**Public Interest in Indian Supreme Court: A Study in the Light of American Experience**<sup>21</sup>” author compares decline of public interest litigation in USA with growth in India with great caution and sensitivity to the vast differences in culture, economy and the politics of two countries. This paper also not only examine that how in India outmoded legal traditions have been stripped away, but also observes non qualities which are India’s own may have merged with elements of the common law system to form a more just and enduring jurisprudence.

In article “**Taking Suffering Seriously: Social Action Litigation in Supreme Court of India**<sup>22</sup>” the author is of the view that for Indians supreme court of india is becoming a long last after many years of republic. It is also observed in this paper that the transition from a traditional captive agency with a low social visibility into a liberated agency with a high socio political visibility is a remarkable development in the corner of the Indian appellate judiciary. The author also observes that now people know that court has constitutional power of intervention, which can be invoked to ameliorate their miseries arising from repression, governmental lawlessness and administrative deviance.

In book titled “**The Human Face of the Supreme Court of India**<sup>23</sup>” the author states that Apex court of india played a dynamic role in our national life and considered public interest litigation is as much a species of political activity as it is that of legal also with many innovations such as monitoring information through appointment of commission, pressing social scientists, social activists, voluntary agencies into investigative facts and submitting reports, granting unconventional remedies, devising plan for the executive to put into action and suggesting reforms in administration.

Book titled “**Public Interest Litigation: A Handbook**<sup>24</sup>” in which author tries to explain all areas of the concept of public interest litigation and is of the considered view that almost

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<sup>21</sup> Clark D. Cunningham, “*Public interest litigation in Indian supreme court: A study in the light of American Experience*” 29 *Journal Indian Law Institute* 494 (1987).

<sup>22</sup> *Keshavanand Bharti v. St. of Kerala* 4SCC 1973 SC 947.

<sup>23</sup> Shrish Mani Tripathi, *The Human Face of the Supreme Court of India: Public Interest Litigation in the Apex Court* (Ganga Kaveri Publisher House, Varanasi, 1993).

<sup>24</sup> B.L. Wadhwa, *Public Interest Litigation: A Handbook* (Universal Law Publishing, Delhi, 2<sup>nd</sup> edn., 2009).



everything under the sun has been brought within its purview to serve the larger interest of the public. This book also includes recent cases to acknowledge as to how for PIL has developed into touching upon every aspect of human life.

In book titled “**Public Interest Litigations and Public Nuisances**<sup>25</sup>” author describes detailed meaning, concept, maintainability, validity and other important aspects of public interest litigation and after analyzing this concept is of the view that, now it is tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive. Therefore, courts are now cautious to see that PIL has not been moved under disguise with ulterior motive and started imposing heavy costs during its misuse.

### **Judicial Approach**

In *Bandhua Mukti Morcha v. Union of India*<sup>26</sup> attention of the Supreme Court drawn towards the widespread incidence of age old practice of bonded labour continue despite prohibited by constitutional provisions. This practice was observed as a hallmark of injustice, inequality, cruelty and indignity by court. Despite the enactment of bonded labour Abolition Act, 1976 this bonded labour system continued and the court has painfully recorded in its judgement. Justice Bhagwati has stated “the state can certainly be obliged to ensure observance of such legislation for inaction on the part of state in securing implementation of such legislation, would amount to denial of the right to live with human dignity enshrined under Article 21”. Consequently, directed the Central and State govt. to ensure observance of various social welfare laws through writ petition under Article 32 along with it give assignments to the commissioner appointed by the court to report it for the compliance/ non-compliance the directions by a particular date.

*Rudul Sah v. State of Bihar*<sup>27</sup>: in this petitioner after acquittal by court claim compensation for incarceration for 14 years, Chief Justice Chandrachud found entitlement to claim compensation by victim of unconstitutional arrest or detention from the state and observed that the absence of this provision from the constitution was certainly not accidental. Also Chief Justice said that “if in a case of gross violation of liberty and the court refuses to pass an order of compensation, it would only be paying lip-service to liberty”. The court also held that right provided under Article 21 will be lost its significance. If court’s power only limited

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<sup>25</sup>S.K. Sarkar, *Public Interest Litigations and Public Nuisances* (Orient Publishing Company, Delhi, 2<sup>nd</sup> edn., 2009).

<sup>26</sup>AIR 1984 SC 802.

<sup>27</sup>AIR 1983 SC 1086.



to passing orders of release from illegal detention. The Chief Justice also suggested to prevent the violation of right and due compliance with mandate of Article 21 is to mulct its violators in the payment of compensation.

In *Hussainara Khatoon v. State of Bihar*<sup>28</sup> it was brought to the notice of the Supreme court that some of the under trial in a Bihar jails for longer periods than the maximum permissible sentences for the offences they had been charged with through series of articles published in a prominent newspaper- the Indian Express along with writ petition filed by an advocate drawing the court's attention to the deplorable plight of these prisoners. Consequently, the apex court accepted the locus standi of the advocate to maintain the writ petition, thereafter a number of petitions followed in which court gave directions and considered the right of speedy trial an essential part of the protection of life and personal liberty.

In recent landmark judgement *NALSA V. U.O.I*<sup>29</sup> the Supreme Court through this petition affirmed the fundamental rights granted under the constitution of India will be equally applicable to transgender people and gave them the right to self-identification of their gender as male, female or third gender. This judicial approach is a major step towards gender equality in India and a great milestone in Indian Judiciary. The court also treated transgender as socially and economically backward classes and held that they will be granted reservations in admissions to educational institutions and jobs.

In *State of Uttaranchal v. Balwant Singh Chauhal and Ors*<sup>30</sup> the Apex court observed that Public Interest Litigation is a challenge and an opportunity to the administrative part of the executive to make these basic human rights meaningful to deprived and vulnerable sections of the community and to assure them social and economic justice according to our signature tune of constitution. The government and its officers must praise this social litigation because through this it would provide them an occasion to enquire whether the downtrodden and poor are getting their social and economic entitlements or whether they are continuing to remain victims of clear sections of community along with to check whether economic and social justice has become a meaningful reality for them or it is still merely a teasing illusion and promise of unreality, so that in case claim in the public interest litigation is proved to be true then they can in discharge of their constitutional duty root out injustice and exploitation and resultantly secured rights and entitlements to the weaker sections. The Apex court also

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<sup>28</sup> AIR 1979 SC 1360.

<sup>29</sup> CWP 400 Of 2012 with CWP 604 of 2013.

<sup>30</sup> SCC (2010) 3SC.

directed to streamline this concept due to considered it as a glorious record for more than four decades in India. To prevent abuse of the process of court and ordinary meddlesome by standers are not granted a visa, the court arranged a strict vigilance to ensure this. Also directed the courts to promote bonafide and genuine public interest litigation and curb which filed for extraneous considerations<sup>31</sup>.

### **Constitutional Provisions**

The framers of Indian constitution make certain provisions with respect to social justice to protect the interests of particular and general interests of the society specially to those who are unable to represents themselves due to any disability.

**Remedies for enforcement of fundamental rights** Under Article 32 of Indian constitution fundamental rights are protected by filling appropriate proceeding. Taken into consideration of nature of petition or relief sought by the petitioners' court can pass different writs namely habeas corpus, mandamus, prohibition, quo warranto and certiorari along with it also can pass different directions or orders as seems right in the given circumstances. While granting relief the Apex court have not allowed procedural impediments to come in their way. For the enforcement of rights, other remedies are also available, but these writs put teeth into the fundamental rights provision and are widely believed to be "the cornerstone of freedom and liberty"<sup>32</sup>. To protect the beneficial rights of the weaker section of the society the parliament empowered under article 32(3) of Indian constitution to conferred power on the other local courts to pass orders, writs or directions, which are conferred on the Supreme court by the constitution. Resultantly, the jurisdiction of the courts to grant relief thereby enlarged. The Supreme court empowered to pass guidelines to full-fill the objectives enshrined under part IV (Directives principles of state policy) in the absence of any policy framed by the State under Article 142 of the constitution to administer the complete justice. The Apex court under a solemn obligation to protect the rights and as such it has to play the role of a 'Sentinel on the qui nine'<sup>33</sup> and has always regarded it as the solemn duty to protect fundamental rights 'Zealously and Vigilantly'<sup>34</sup>.

**Power of High Court to issue certain writs** Under Article 226 of the constitution High Courts empowered to pass any writ, order or directions to state, authority or any person for

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<sup>31</sup>Supra note 10.

<sup>32</sup>Austin Granvile, *The Indian Constitution: Cornerstone of Nation*68(Clarendon P, University Michigen1966).

<sup>33</sup>*State of Madras v. V.G. ROW*, AIR 1952 SC 196.

<sup>34</sup>*Daryo v. St. of U.P.* AIR 1961 SC 1457.



the enforcement of fundamental rights part III and for any other purpose. Moreover, the court can pass order in whose local jurisdiction the cause of action partly or wholly arises irrespective of the person or the authority resided or situated within the jurisdiction of the court. Decision as to admit of petition lies with the High Court<sup>35</sup>. The right conferred by this provision does not in any way affect the Supreme Courts power to grant relief through public interest litigation. Wide powers on the High Courts have been conferred by this article to “reach injustice wherever it is found,” also enables the High Courts to “mould the relief to meet the peculiar and complicated requirements of this country<sup>36</sup>”.

**Equal justice and free legal aid<sup>37</sup>** Under Article 39A of constitution in directive principles of the state policy, it is imperative of the state to promote justice on the basis of equal opportunity by providing free legal aid, by making law or schemes or in any other way to guaranteed that opportunities to secure justice are not denied to any citizens due to disabilities caused by economic or others for to secure the ends of justice.

### Statutory Provisions

**Public nuisances and other wrongful acts affecting the public<sup>38</sup>** Under section 9 of civil procedure code, 1908 in case of public nuisance or wrongful act or likely to affect the public, suit for declaration and injunction or for such other relief as may be appropriate in the circumstances of the case may be instituted by advocate general or two or more persons with the leave of the court even no special damage caused to such persons by such public nuisance or other wrongful act. Therefore, it proves that section 91 and order 1 Rule of civil procedure code as the root of the changed procedures such as locus standi, which enabled public interest litigation to be used.

**Inherent power of the High court<sup>39</sup>** Section 151 of civil procedure code, 1908 empowered court to make any order to give effect to any provision under this code or to prevent the abuse of process of court or to secure the ends of justice.

**Suit by or against minor or person of unsound mind<sup>40</sup>** Order 32 of civil procedure code permits standing in a representing capacity which made exception for minor and for those of unsound mind person.

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<sup>35</sup> *Abraham v. Income Tax Officer, Kottayam and Ors*, AIR 1961 SC 609.

<sup>36</sup> *Dwarka Nath v. Income Tax Officer, Special Circle, Dward Kapoor and Ors*, AIR 1966 SC 81.

<sup>37</sup> Narendra Kumar, *Constitutional Law of India*, 559 (Allahabad Law Agency, Faridabad, 10<sup>th</sup> edn., 2018).

<sup>38</sup> C.K. Takwani, *Civil Procedure* 495 (Eastern Book Company, Lucknow, 9<sup>th</sup> edn., 2021).

<sup>39</sup> *Supra note 38*.at 802.

**Conditional order for removal of nuisance**<sup>41</sup>Section 133 of Criminal Procedure Code empowered sub-divisional magistrate, executive magistrate or district magistrate on receiving report from any police officer or on receiving any information from any other person about public nuisance, obstruction in public place, conduct of trade or business against the interest of public, construction of building against the interest of public, excavation of tank or well and dangerous animal to pass immediate conditional order to prevent it. If the person against whom order is passed does not prevent it then person is called by the court to ask why this order should not be absolute. Therefore, interest of public considered as paramount and resultantly rule of locus standi relaxed.

**Inherent power of High court**<sup>42</sup>Section 482 of Criminal Procedure Code, 1973 empowered court to pass any order to give effect to provision under this code or to prevent the abuse of the process of court or to secure the ends of justice. Therefore, the court promoted the public interest litigation by applying the principle “Procedure is hand made of justice” for the welfare of public at large.

**Disobedience to order promulgated by public servant**<sup>43</sup>Under Sec.188 IPC disobedience to order by a public servant results into causes or tends to causes obstruction, annoyance or injury to any person lawfully employed or endanger to human life, health or safety is liable for punishment. Moreover, the intention of the violator is irrelevant to make liable but only it is sufficient that he or she knows the order and its harms in case of its violation. The codification of this provision also shows the paramount interest of public and also can be enforced by way of PIL in the court of law.

### **Critiques of Public Interest Litigation**

Even though initially this technique was introduced for the beneficial interest of the society, but with the passage of time it over shadow the bright side of this project.

**Ulterior motive**<sup>44</sup>Oftenly, this remedy is used for serving the personal interests or take publicity in the garb of public interest due inexpensive, quick response and high impact alongwith it is not easily distinguishable ‘public interest’ from ‘private interest’. It is criticized

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<sup>40</sup>M.P. Tandon and R Tandon, *The Code of Civil Procedure* 424 (Allahabad Law Agency, Faridabad, 2006).

<sup>41</sup>R.V. Kelkar, *Criminal Procedure* 799 (Eastern Book Company, Lucknow, 6<sup>th</sup> edn., 2014).

<sup>42</sup>*Supra note 41* at 901.

<sup>43</sup>PSA Pillai, *Criminal Law* 437 (Butterworth of India, 9<sup>th</sup>edn., New Delhi).

<sup>44</sup>Desai, Muralidhar, *et.al.* (eds.), *Supreme but Not Infallible* 181 (Oxford University Press, England, 2000}.



that courts have not strictly enforced the essentials of PILs being aimed at espousing some public interest.

**Limited judicial resources**<sup>45</sup> Even this technique has effective potential to redress the public grievances, but much lower number of judges per capita than other countries higher judiciary faces huge number of backlog cases. By allowing false and frivolous petitions valuable time of courts wasted and thereby right to speedy trial of others gets violated through conventional adversarial litigation. Consequently, it suggests that courts are not suitable forum to deal with the issues in hand as PIL.

**Judicial populism**<sup>46</sup> Presiding officers of the courts are human beings thereby some time unfortunately accept PIL on account of raising an issue popular in the society to become peoples judge. Due to this it would hinder to admitting PIL involving public interests but are potentially unpopular. Therefore, courts should refrain from perceiving themselves as campaigners constitutionally obliged to redress all failures of democracy.

**Symbolic justice**<sup>47</sup> Usually, PIL cases doing symbolic justice only. It could be noted from the two facets of this problem. Firstly, judiciary unable to ensure its guidelines or directions are complied with. For instance, in Vishaka case regarding sexual harassment at work place or procedure of arrest in D.K. Vasu case. Therefore, there have little progress in combating sexual harassment of women and in limiting police atrocities in matters of arrest and detention. Secondly, the futility of over conversion of DP's into FR's and making them justiciable. Nothing gained by recognizing rights which cannot be enforced values of their nation.

**Constitutional imbalance of power**<sup>48</sup> By invoking this technique judiciary mostly interfere in the executive, legislative organs by making policy guidelines and legislate on matters and resultantly encroaches upon the other organs thereby accountability of executive and legislative towards public ceased because they considers that if they fail to act judiciary always there to step in.

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<sup>45</sup> Marc Galanter and Jayanth K. Krishnan, "Bread for the poor: Access to justice and the rights of the needy in India" 55 *Hastings Law Journal* 789-790 (2004).

<sup>46</sup> *Kesavanand Bharti v. Union of India*, 4SCC 1973 SC 225.

<sup>47</sup> S.P. Sathe, "Judicial Activism: The Indian Experience" 6 *Wash. U.J.L. & Pol'y* 29 (2001).

<sup>48</sup> Verma and Kusum (eds.), *Fifty Years of Supreme Court of India* 86 (Oxford University Press, England, 2000).



**Frequently invoke**<sup>49</sup> Any grievance even if it relates to public interest this technique should not be used to redress that in a routine affair which is not taken seriously by the Bench, Bar and mostly by the masses otherwise commitment to protect the human rights of disadvantaged and victims gets diluted.

### **Conclusion and Suggestions**

PIL acts like a ladder to provide civil justice to disadvantaged sections of the society. Even this technique provides opportunity to identify and enforce diffused rights alongwith who have no incentives to knock at the door of the courts. Resultantly, it contributes good governance, accountability of government, awareness of human rights, voice to disadvantaged section of the society and permit them to take participation in decision making. By seeing the past and present time it is critical to certain that PIL does not a backdoor to enter temple of justice to accomplish their self- interests, gain publicity and settle political scores.

To maintain balance judiciary should only allow legitimate PIL and discouraging frivolous ones. Moreover, PIL only should be confined to those undermined by some disability. The other to offer monetary disincentives to those used for ulterior purpose alongwith to offered funding for PIL civil society, protective cost order, legal aid, amicus curie and pro bono litigation for not discouraging justified PIL cases to full fill the undergoing original objective that aggrieved petitioners would not always be resourceful<sup>50</sup>.

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<sup>49</sup>Goerlich and Von Hauff, "Human Rights and Basic Needs: Theory and Practice" *1NJUS Law Review* 328(2008)

<sup>50</sup>*The cost of Access to courts*, a paper presented at the conference on "Confidence in the Courts" (Canberra, February 2007), 48-64.