

## **JUDICIAL ACTIVISM AS AN INSTRUMENT OF SOCIAL TRANSFORMATION**

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### **ABSTRACT**

*Judicial activism has become a key feature of the Indian Constitution due to the emergence of Public Interest Litigation. This paper critically analyses the role of judicial activism as an instrument of social transformation and primarily discusses the evolution, doctrinal aspects, and socio-legal impact in India. In the late 1970s, there came the emergence of Public Interest Litigation, due to which locus standi was liberalised, and it enabled greater access to justice for the marginalised groups of society. The Supreme Court particularly widened the scope of Article 21 with the help of Public Interest Litigation. Through judicial creativity, Article 21 was expanded to include the right to privacy, right to livelihood, right to health, right to a clean environment, right to free legal aid, right to a speedy trial, etc. Through these transformations, the Court became the central actor in governance, often stepping into the ineffectiveness of the legislature and executive.*

*However, the growth of judicial power has often been criticised, as if not checked, it would abridge the separation of powers and democratic accountability. This paper tries to elucidate the instances of judicial overreach and also the misuse of Public Interest Litigation.*

*By identifying the comparative perspective of both the UK and the USA, this study helps to identify the unique trajectory that is followed by Indian judicial activism. It concludes that Public Interest Litigation has been an instrument of social change, but its success often depends on maintaining the balance between activism and judicial restraint.*

### **INTRODUCTION**

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The Indian Constitution embodies a transformative vision that ensures social, economic, and political justice for all citizens. Within this constitutional framework, the judiciary has played a significant role in interpreting and enforcing fundamental rights and has also taken a proactive role.

Judicial activism reflects this proactive approach, wherein courts go beyond traditional adjudication to address broader societal concerns.

Public Interest Litigation represents the most significant aspect of judicial activism in India, and it has helped in democratising access to justice and also enabling courts to intervene in matters affecting the public at large, even if the aggrieved party is not the petitioner. This paper tries to analyse the extent to which judicial activism through Public Interest Litigation has contributed to social change and also examines its limitations and threats.

### **CONCEPTUAL AND THEORETICAL FRAMEWORK**

Judicial activism in India is closely connected with the idea of transformative constitutionalism, which views the Constitution as an instrument of social change. This perspective is supported by the sociological school of jurisprudence, specifically Roscoe Pound's theory of law as a tool of social engineering.<sup>2</sup>

Furthermore, Ronald Dworkin's concept of law as integrity states that judicial decisions must resonate with the principles of justice and fairness rather than mere literal interpretation.<sup>3</sup> In the Indian context, these theories justify the expansion of judicial interpretation of constitutional provisions so as to achieve substantive justice.

### **EVOLUTION OF PUBLIC INTEREST LITIGATION IN INDIA**

The history of PIL in India can be traced through distinct phases. During the late 1970s and early 1980s, the focus was to enhance access to justice. The judiciary tried to relax procedural technicalities and allowed public-spirited individuals to approach the court on behalf of the

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<sup>2</sup>Roscoe Pound, *An Introduction to the Philosophy of Law* (Yale University Press, 1922).

<sup>3</sup>Ronald Dworkin, *Law's Empire* (Harvard University Press, 1986)

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aggrieved parties. Landmark decisions such as *Hussainara Khatoon v State of Bihar*<sup>4</sup> and *S.P. Gupta v Union of India*<sup>5</sup> have played a crucial role in establishing this foundation.

The next phase witnessed the expansion of fundamental rights, specifically Article 21. The Supreme Court adopted a liberal interpretation in *Maneka Gandhi v Union of India*,<sup>6</sup> thereby transforming it into an expansive repository of various social and economic rights. Earlier, in *A.K. Gopalan v State of Madras*, a narrow interpretation was given.

In the third phase, the judiciary began intervening in matters of public policy and governance and also addressed issues such as environmental protection, speedy trial, corruption, and maladministration.

### **PIL AS AN INSTRUMENT OF SOCIAL TRANSFORMATION**

Public Interest Litigation has contributed to social transformation in India by expanding fundamental rights and also addressing injustice.

The interpretation of Article 21 has specifically helped in social transformation. In *Olga Tellis v Bombay Municipal Corporation*, the Supreme Court recognised the right to livelihood as an integral part of the right to life.<sup>7</sup> Also, environmental jurisprudence evolved through *M.C. Mehta v Union of India*, where the Court introduced the principles of absolute liability and sustainable development.<sup>8</sup>

Judicial activism has also helped in advancing gender justice. In *Vishaka v State of Rajasthan*, the Supreme Court laid down guidelines for sexual harassment of women at the workplace. Later, the POSH Act was enacted in the year 2013.<sup>9</sup>

The judiciary has also addressed issues of human dignity and prisoners' rights in *Sunil Batra v Delhi Administration*.<sup>10</sup>

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<sup>4</sup>*Hussainara Khatoon v State of Bihar*, AIR 1979 SC 1369.

<sup>5</sup>*S.P. Gupta v Union of India*, 1981 Supp SCC 87

<sup>6</sup>*Maneka Gandhi v Union of India*, AIR 1978 SC 597

<sup>7</sup>*Olga Tellis v Bombay Municipal Corporation*, AIR 1986 SC 180

<sup>8</sup>*M.C. Mehta v Union of India*, (1987) 1 SCC 395

<sup>9</sup>*Vishaka v State of Rajasthan*, (1997) 6 SCC 241

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## **COMPARATIVE PERSPECTIVE**

Judicial activism in India is comparatively different from that in other countries. In the United States, the judiciary plays an active role, especially in *Brown v Board of Education*. In contrast, the United Kingdom follows the doctrine of parliamentary sovereignty, and judicial review is comparatively restrained.

India's approach is quite unique due to the liberalisation of locus standi and also the development of epistolary jurisdiction, according to which even a postcard could be treated as a petition.

## **JUDICIAL ACTIVISM AND CONSTITUTIONAL INTERPRETATION**

The Indian judiciary follows a dynamic approach towards the interpretation of the Constitution. The courts look beyond the law and also try to reflect the objectives mentioned in the Constitution.

This approach can be clearly seen during the expansion of Article 21, where the judiciary included various socio-economic rights within its scope.

## **ROLE OF PIL IN STRENGTHENING DEMOCRATIC GOVERNANCE**

Public Interest Litigation has played a vital role in strengthening democratic governance by ensuring accountability, transparency, and effective responsiveness in public institutions. Public Interest Litigation has helped the judiciary to act as a corrective mechanism by reducing inefficiency at the administrative level and also addressing corruption.

The courts, by pronouncing several landmark cases, have compelled the authorities to perform their statutory duties and protect constitutional principles. PIL has helped judicial

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<sup>10</sup>Sunil Batra v Delhi Administration, AIR 1978 SC 1675

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intervention in matters such as environmental protection, speedy trial, electoral reforms, health, and clean air, etc.

Furthermore, Public Interest Litigation has empowered the public to address collective grievances. It has bridged the gap between citizens and the legal system. It has also helped in deepening democratic participation.

### **IMPACT OF PIL ON MARGINALIZED AND VULNERABLE GROUPS**

The significant contribution of PIL is the participation and access to justice given to marginalised and vulnerable sections of society. This helps those vulnerable groups to raise their voice, including prisoners, children, women, and economically weaker sections.

The liberalisation of locus standi has helped public-spirited persons to raise their voice for the voiceless.

Moreover, PIL has helped in recognising socio-economic rights. The judiciary has ensured that the rights mentioned in the Constitution are properly implemented.

### **BALANCING JUDICIAL ACTIVISM AND JUDICIAL RESTRAINT**

Even though judicial activism has played a vital role in social transformation, if unchecked, it would lead to judicial overreach, and there will be disruption among the three organs of government.

Judicial restraint points out that courts should remain within their scope of functions and not encroach upon the fields of the other organs. This is essential to maintain integrity and uphold the doctrine of separation of powers.

India is a developing country, and there are still socio-economic inequalities prevalent. Because of this, judicial activism is essential to attain the goals mentioned in the Constitution.

The courts must strictly intervene only when there is a violation of fundamental rights or maladministration. The courts should be restrained from unnecessary involvement in policy

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decisions. If such a balance is maintained, judicial activism through Public Interest Litigation can play a vital role in social transformation.

### **CRITICAL ANALYSIS**

Despite several contributions made by the judiciary, there are various criticisms. One of the concerns is with regard to judicial overreach, where courts encroach upon the domain of the legislature and executive. In *Divisional Manager, Aravali Golf Club v Chander Haas*, the Supreme Court cautioned the courts to prevent excessive judicial intervention.<sup>11</sup>

Another issue is the misuse of Public Interest Litigation. Petitions filed for personal or political motives are increasing, and sometimes they are not genuine. This leads to the dilution of the original purpose of Public Interest Litigation.

Moreover, questions arise about democratic legitimacy, as unelected judges are increasingly involved in policy-making decisions.

### **REGULATION AND FUTURE OF PIL**

Recognising these concerns, the judiciary has taken several steps to regulate Public Interest Litigation by imposing stricter scrutiny mechanisms and fines for frivolous petitions. These measures help in preserving the integrity of PIL.

The future of judicial activism depends on the balance between intervention and restraint. The judiciary must continue to protect the fundamental rights of individuals and also respect the roles of the executive and legislature.

### **CONCLUSION**

Judicial activism, particularly with the help of PIL, has played a vital role in social transformation and in shaping Indian constitutional jurisprudence. It has helped in expanding the scope of fundamental rights and providing access to justice even to marginalised groups.

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<sup>11</sup>*Divisional Manager, Aravali Golf Club v Chander Haas*, (2008) 1 SCC 683

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However, its effectiveness can be maintained only with a balance of judicial restraint and compliance with constitutional principles. The judiciary must ensure that PIL remains relevant and is not misused.



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