

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 6 | Issue 3

2024

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Exploring the Contemporary Relevance of Article 32: A Study on Public Interest Litigation, Jurisprudence, and Demosprudence

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ABSTRACT

This paper examines the critical interplay between Article 32 of the Indian Constitution and Public Interest Litigation (PIL), pivotal to safeguarding justice and fundamental rights in India. Article 32 empowers citizens to seek Supreme Court intervention for rights violations, forming the basis for PILs that advocate for the voiceless and marginalized, transcending traditional legal protocols. The study traces the historical evolution of these legal instruments from the Constitution's inception to the present, highlighting the Supreme Court's shift from a conventional judiciary to an active socio-political entity.

This study examines PIL jurisprudence that dates back to the 1980s and highlights key cases that have influenced the field's growth. It highlights how the effectiveness of PILs is influenced by judicial activism and demosprudence, or democratic judicial inventiveness, demonstrating the Supreme Court's dedication to justice outside of inflexible legal frameworks. Analyses comparing PIL in the UK and the USA show both shared and distinct national issues, such as procedural delays and judicial overreach.

A detailed case study of the Narmada Bachao Andolan PIL illustrates the complexities of balancing development with environmental and social justice, emphasizing PIL's role in addressing multifaceted public interest issues. The paper concludes by addressing criticisms of PIL, including potential misuse and judicial overreach, and underscores the need for preserving its integrity as a tool for justice. Through this exploration, the paper highlights the transformative impact of Article 32 and PIL in reinforcing democratic ideals and ensuring justice in India.

Keywords: *Public Interest Litigation (PIL), Jurisprudence, Article 32, Judicial Activism, Demosprudence.*

I. INTRODUCTION: ARTICLE 32 AND PUBLIC INTEREST LITIGATION

“For too long, the apex constitutional court had become an arena of legal quibbling for men with long purses. Now, increasingly the Court is being identified by justices as well as people

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as the 'last resort for the oppressed and the bewildered.' 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 career of the Indian appellate judiciary."³

In the intricate tapestry of India's constitutional democracy, two profound elements stand as sentinels of justice: Article 32 of the Indian Constitution and Public Interest Litigation (PIL). These pillars of law and equity are not merely legal provisions; they are the bedrock upon which the edifice of justice and democracy in India is built.

India's constitutional democracy is built on Article 32 of the Constitution and Public Interest Litigation (PIL). Article 32⁴ grants individuals and groups the right to approach the Supreme Court when their rights are violated. PILs, legal petitions brought before courts by invoking the powers vested in Article 32 of the Indian Constitution, represent the voice of the voiceless, dispossessed, and wronged, transcending traditional courtroom protocol and procedure. These pillars of law and equity are the bedrock of India's justice and democracy.

This project embarks on a profound exploration of the intricate relationship between Article 32 and PILs in India. It endeavors to unearth the historical underpinnings of these legal instruments, tracing their journey from the conception of the Indian Constitution to the present day.

As we navigate through the annals of Indian jurisprudence, we will witness the remarkable empowerment of ordinary citizens to protect their fundamental rights and seek justice. Join us on this enlightening journey as we unveil the intricate workings of Article 32 and PILs, exploring their role in safeguarding the fundamental rights of every Indian citizen and contributing to the vibrancy of Indian democracy.

II. CONSTITUTIONAL ARTICLE 32: FUELLING THE FIRE OF PIL FOR THE COMMON GOOD

*"If I was asked to name any particular article in this Constitution as the most important - an article without which this Constitution would be a nullity - I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it."*⁵

- Dr. Br Ambedkar

When Granville Austin was studying Indian constitution, he analyzed the discussions about the

³ Baxi, Upendra (1985) "Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India," Third World Legal Studies: Vol. 4, Article 6

⁴ Article 32, Indian Constitution, 1950

⁵ B R Ambedkar in the Constituent Assembly Debates (Vol VII at 953) quoted by Chief Justice Y V Chandrachud in Fertilizer Corporation Kamagar Union (Regd.) Sindri and others v Union of India and others AIR 1981 SC 344 at 347.

scope of remedies available under Article 32 of the constitution. He also noted that while ordinary remedies were there for the enforcement of rights, but the prerogative writs put teeth into the fundamental rights provisions and were widely believed to be “the cornerstone of freedom and liberty”⁶

To give a brief introduction of this article I would like to say that this article is an adoption of English writ system, and by that this article enables the Supreme Court to issue writs and orders in the nature of certiorari, mandamus, prohibition, habeas corpus and quo warranto. As our topic is mainly concerned with how PIL is connected and developed through article 32, I would like to say that the way in which the use of Article 32 had developed by the Indian Judiciary had laid the foundation for its use in PIL that started from the late 1970s.

Around the year of 1950, shortly after commencement of constitution, the Supreme Court commented on the scope of Article 32, differentiating it from article 226 and 131-139 of the constitution:

*“Article 32 provides a “guaranteed” remedy for the enforcement of those rights, and this remedial right is itself made a fundamental right by being included in Part III. This Court is thus constituted the protector and guarantor of fundamental rights, and it cannot, consistently with the responsibility so laid upon it, refuse to entertain applications seeking protection against infringements of such rights.”*⁷

It was also held that the Court would not refuse to entertain a petition that was filed under article 32 on the ground that it involved a determination of disputed question of facts⁸.

So, after analyzing these court judgements we can see that the foundation stone of article 32 for PIL or to further promote access to justice had already been raised in the courtroom.

While these orders left a wide scope for the use of article 32, but the opportunity was not taken up initially. It was PIL that was to actually utilize this potential, leading to the wide interpretation of this Article:

*“While interpreting Article 32, it must be borne in mind that Court's approach must be guided not by any verbal or formalistic canons of construction but by the paramount object and purpose for which this article has been enacted as a Fundamental Right in the Constitution and its interpretation must receive illumination from the trinity of provisions which permeate and energize the entire Constitution namely, the Preamble, the Fundamental Rights and the Directive Principles of State Policy.”*⁹

⁶ Austin, Granville (1966) at 67.

⁷ *Romesh Thappar v State of Madras*, AIR 1950 SC 124 at 126.

⁸ *Kavalappara Kottarathil Kochunni alias Moopil Nayar v State of Madras and others* AIR 1959 SC 725 at 734

⁹ *Bandhua Mukti Morcha v Union of India and others* AIR 1984 SC 802 at 813.

So, it can be concluded from the judgement that article 32 should be used for the paramount purpose of promoting and providing Justice to everyone, which can be achieved through the tool of PIL.

III. PIL JURISPRUDENCE & ITS EVOLVING LANDSCAPE FROM 1980S

Justice P.N. Bhagwati defined PIL in 1982 as "litigation undertaken to redress public injury, enforce public duty, protect social collective or "diffused" rights and interests, or for vindication of the public interest." As he said:

“Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal position or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of any breach of a fundamental right of such persons or determinate class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.”¹⁰

Although precisely unknown, the origin of PIL as noted by Indira Jaising, a leading practitioner of PIL, has stated that the turning point of this change was in 1978 when the Supreme Court took cognizance of letters written from prison by Charles Sobraj and Sunil Batra,¹¹

The Supreme Court Registry described a case that was not filed or heard until 1980 as the first PIL,¹² while S K Agrawal, regarding PIL, stated that it was Justice Bhagwati who gave the concept of PIL a comprehensive exposition in S P Gupta¹³ popularly known as the Judges' case. The First petition that clearly fulfills the criteria of PIL subsequently established, is a habeas corpus petition filed by an advocate named Kapila Hingorani on basis of news reports in the Indian Express as early as 1979. After the success of this case, she is also called the “Mother of all PIL’s”.

¹⁰ Ibid. at 210. For other definitions, see People's Union for Democratic Rights PUDR and others V Union of India and Ors (Asian games) AIR 1982 SC 1473, Labourers Working on Salal Hydro Project V State of Jammu and Kashmir and others (1983) 2 SCC 181 and Fertilizer Corporation Kamgar Union (Regd.) Sindri and others v Union of India and others AIR 1981 SC 344, as discussed in 'Labour' in chapter three.6

¹¹ Jaising, Indira (1986) at 4. Although procedures were relaxed in both these cases, because they were filed by the aggrieved prisoner, they cannot be described as PIL in the form supported by the Supreme Court. See Charles Sobraj v Supdt. Central Jail, Tihar, New Delhi 1978 (4) SCC 104 and Sunil Batra (I) v Delhi Administration and others (1978) 4 SCC 494.

¹² *Khatri and others v State of Bihar and others* (1981) 1 SCC 623, as discussed in 'Prisons and State Institutions'.

¹³ *S.P. Gupta v. Union of India*, AIR 1982 SC 149

Further examples include, the letter written by Sunil Batra, a prisoner in Tihar jail complaining on behalf of another prisoner.¹⁴ Similarly in the case of Vishaka¹⁵, M.C Mehta¹⁶, Parmanand Katara¹⁷ and many others the instances of PIL were visible. Similar to the Supreme court, many High courts began admitting petitions filed under article 226 of the constitution in 1980's using relaxed proceedings.

In such cases, the Court has accepted representative proceedings, where the petitioner is not the aggrieved person or persons, were nonetheless allowed by the Indian courts. By analyzing this trend, we can see that PIL has emerged as a category of Petition different from the Habeas corpus.

After these initial petitions, relaxation of standing requirements brought even more issues to the court, and widened the parameters of Justice. Further, the rules governing procedural aspect of petitions were also relaxed. This resulted in the influx of letters and even telegrams addressed to the Court to ensure justice for the ones who cannot file themselves, due to mitigating circumstances.

This contributed to *Suo Moto* recognition of petitions, newspaper clippings were accepted as evidence. Necessity was felt to provide adequate legal representation, to facilitate the provision of evidence, and to appoint commissions to enquire into the facts of cases.

Innovative directions were issued and the courts began to monitor the implementation of judicial directions. PIL was heralded as a conciliatory form of litigation, and an opportunity for the Government to examine the social and economic entitlements due to the poor.¹⁸

IV. THE DEMOCRATIC FOUNDATIONS OF PIL: A DEMOSPRUDENTIAL ANALYSIS

*“Demosprudence, which is a term of fairly recent origin, can be summed up as democratically-oriented judicial creativity. It uses the prudence of the demos or the people to ensure that the fundamental wrongs which they were hitherto subject to are transformed into fundamental rights”.*¹⁹

In a vibrant democracy like India, the term *demosprudence* embodies the transformative character of Supreme Court to give justice to the subaltern. PIL doesn't limit the Court to hear

¹⁴ Sunil Batra (II) v Delhi Administration (1980) 3 SCC 488, also see Prem Shankar Shukla v Delhi Administration (1980) 3 SCC 526, Kishore Singh Ravinder Dew State of Rajasthan AIR 1981 SC 625, Rakesh Kaushik v B L Vig, Superintendent, Central Jail, New Delhi and another AIR 1981 SC 1767, all of which have been discussed in the section on Prisons and State Institutions' in chapter three.

¹⁵ *Vishaka and Ors. v. State of Rajasthan and Ors.* AIR 1997 SC 3011

¹⁶ *M.C. Mehta v. Union of India (UOI) and Ors.* 1987 SCR (1) 819

¹⁷ *Pt. Parmanand Katara vs Union Of India & Ors* 1989 AIR 2039

¹⁸ See Justice P N Bhagwati in *Bandhua Mukti Morcha* op cit note 13 at 810-811.

¹⁹ Isha Rai and Janhvi Tripathi, *Demosprudence and The Indian Supreme Court: Shaping the Contours of the Transformative Constitution*

and adjudicate cases of adversarial nature.

There have been increasing instances of Supreme Court invoking its power through Article 142 for 'complete justice' using PIL. In PIL jurisprudence, instead of adhering to the rigid legal rules that jurisprudence purports, the court places higher priority on achieving justice and mitigating injustice. Pragmatism and activism have been adopted to pave the way to justice.

A striking feature of PIL is that it is primarily led and even induced by judges. This, in turn reflects the juristic and judicial activism on the High Bench.²⁰

In India, the idea of jurisprudence existed prior to the notion of PIL, gauged from the cases of *Golaknath*²¹ and *Kesavnanda Bharti*²², wherein, the justices who wished to limit the Parliament's unbridled power of amending invariably sought to justify it in the name of and for the sake of "teeming millions" of impoverished Indians.²³

We may see the burgeoning jurisprudence in the early 1970s by reading the following excerpts from Justice Dewvedi and Justice (now Chief Justice) Chandrachud in *Kesavananda*: "*The Constitution is not intended to be the arena of legal quibbling for men with long purses. It is made for the common people. It should generally be so construed as that they can understand and appreciate it. The more they understand it the more they love it and the more they prize it.*"²⁴

Furthermore, the elevation of Justice Krishna Iyer to the Supreme Court in 1974 reinforced the tendency towards jurisprudence in India. He used every conceivable occasion, on and off the Bench, to further the cause of the 'toiling masses' and 'the weaker sections of the society'.²⁵

The success of PIL as a jurisprudence instrument began in 1979, when a lawyer Kapila Hingorani filed a petition for the successful release of almost 40,000 undertrials from Patna's jails in the famous "*Hussainara Khatoon's*"²⁶ case.

After Bihar's undertrial case success, two professors of law (1980) wrote a letter describing the barbaric conditions of detainees in the Agra Protective Home for Women for a writ petition

²⁰ Baxi, Politics, Supra Note 4; K.K. Mathew on Democracy, Equality and Freedom.

²¹ *Golaknath v. State of Punjab* 1967 AIR 1643

²² *Kesavananda Bharati and Ors. Vs. State of Kerala and Anr.* (1973) 4 SCC 225

²³ For examples of populist stances see U. BAXI, POLITICS ON THE NATURE OF CONSTITUENT POWER IN THE INDIAN CONSTITUTION 127-51; Baxi, Some Reflection:.. in TRENDS & ISSUES 122 (R. Dhavan & A. Jacob ed. 1977); R. DHAVAN, THE SUPREME COURT & PARLIAMENTARY SOVEREIGNTY (1979). The debate over the reaches of the amending power has preeminently been concerned with the 'right' to property (with the conspicuous exception of *Raj Narain v. Indira Nehru Gandhi*, 1975 I Supp. S.C.C. 1) The 'right' now stands deleted. But the socialist content of the Preamble and the Directive Principles of the State Policy have provided, and will continue to do so, fruitful topic for populist judicial reasoning.

²⁴ *Kesavnanda* at 947 (para 1947)

²⁵ E.g., V.R. KRISHNA IYER, LAW AND THE PEOPLE: A COLLECTION OF ESSAYS (1972); V. IYER, LAW FREEDOM & CHANGE (1975); V. IYER, COME HALF HIDDEN ASPECTS OF SOCIAL JUSTICE (1980).

²⁶ *Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar*, 1979 AIR 1369

under article 21, to the Indian Express.²⁷

Subsequently, a similar petition for Delhi Women's Home was filled by a third-year law student in Delhi Law Faculty and a Social worker, in the case of Uhinamma Sivdas v. State (Delhi Administration)²⁸.

Another case of a law teacher successfully bringing the completion the trial of four young tribals, who grew up in a sub-jail awaiting trial.²⁹ Also the cases of Ms. Gomi Cappor³⁰, Ghanashyam Pardesi³¹ and etc. paint the same picture.

After studying all these cases along with current cases that are going on in the Supreme Court regarding PIL, we can conclude that PIL is connected and even based on the ideas of Demosprudence.

V. COMPARATIVE ANALYSIS OF PIL IN DIFFERENT COUNTRIES

A. Public Interest Litigation in India

In India, the approach to Public Interest Litigation (PIL) is characterized by the judiciary's proactive position in resolving societal concerns. PIL gives the possibility for any individual or organization to file petitions in the interest of the public, even on behalf of those who may be unable to approach the court independently. PIL lawsuits in India have encompassed a broad spectrum of topics, embracing subjects such as defending the environment, promoting social equity, and guaranteeing government accountability. Through PIL, the judiciary frequently assumes an active role in creating and executing policies, rendering it a significant vehicle for achieving social change and upholding justice within the country.

PIL in India has led to some land cases including:

- a. *Parmanand Katara v. Union of India*³²: A landmark judgement that enlarged the scope and jurisprudence of emergency medical care in India.³³
- b. *Vishaka v. State of Rajasthan*³⁴: This case was the initiating or ignition point for the tremendous implementation of Harassment laws in the workplace.³⁵

²⁷ *Dr. Upendra Baxi v. State of U.P.*, (1983) 2 SCC 308

²⁸ *Uhinamma Sivdas v. State (Delhi Administration)*, W.P. 2526 of 1982; initiated by Ms. Nandita Haksar, who later also assisted the Court by surveying the conditions in the Home as a Member of the Committee headed by the District Judge, Delhi.

²⁹ *Kadra Pahadiya v. State of Bihar*, W.P. 5943 of 1980

³⁰ *Ms. Gomi Cappor, Aswini Sarin and Arun Shourie v. State of M.P.*, W.P. 2229 of 1981.

³¹ *Ghanashyam Pardesi v. State of Tamil Nadu*, W.P. 2261/80; 9347/81 & 4252/81.

³² *Pt. Parmanand Katara vs Union Of India & Ors*, 1989 AIR 2039

³³ Deeksha, *Parmanand Katara vs. Union of India*, *Legal Services India*, available at <https://www.legalserviceindia.com/legal/article-5314-parmanand-katara-vs-union-of-india.html>

³⁴ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011

³⁵ Staff Desk, *Public Interest Litigations (PILs) That Changed The Face Of India*, *Vakil Search*, available at <https://vakilsearch.com/blog/public-interest-litigations-pils-that-changed-the-face-of-india/>

B. Public Interest Litigation in the United States of America (USA)

In the United States, Public Interest Litigation (PIL) shows itself through class actions and impact litigation. Class actions permit single or several litigants to stand for a greater assemblage of individuals with comparable claims. Meanwhile, impact litigation attempts to promote societal or policy transformation by confronting systemic challenges through legal action.

The First Amendment's ability to petition the government to redress grievances and the notion of standing, which authorizes individuals or collectives to commence claims upon showing a concrete injury, are fundamental legal bases enabling PIL in the USA.

Several historical cases in the USA have proved the usefulness of Public Interest Litigation in altering policy and improving social justice. Some prominent cases include:

- a. *Brown v. Board of Education*³⁶: Racial segregation in public schools was questioned in this case which resulted in the Supreme Court's landmark finding that the segregation was unconstitutional.³⁷
- b. *Roe v. Wade*³⁸: This case established the constitutional right to reproductive freedom by upholding a woman's right to choose whether or not to have an abortion.

When comparing Public Interest Litigation (PIL) in the United States and India, several noteworthy distinctions and parallels come to light:

- a. **Legal Framework:** Both nations contain legal frameworks conducive to PIL, however the USA largely relies on class actions and impact litigation, whereas India features a particular constitutional clause (Article 32) expressly dealing with PIL.³⁹
- b. **Doctrine of Standing:** In the USA, the doctrine of standing needs the presence of a concrete injury, while in India, PIL can be instigated by any concerned person or organization acting in the public interest.⁴⁰
- c. **Judicial Activism:** India demonstrates a more proactive court approach in PIL, sometimes called as judicial activism. Conversely, the USA adheres to a history of judicial restraint, where the judiciary normally yields to elected institutions of government.⁴¹

³⁶ *BROWN V. BOARD OF EDUCATION*, 347 U.S. 483 (1954)

³⁷ *Justicia*, U.S. Supreme Court, <https://supreme.justia.com/cases/federal/us/347/483/>

³⁸ *ROE V. WADE*, 410 U.S. 113 (1973)

³⁹ Hari Bansh Tripathi, Public Interest Litigation in Comparative Perspective, available at https://www.academia.edu/14844664/Public_Interest_Litigation_in_Comparative_Perspective

⁴⁰ *Supra* note 40

⁴¹ *Supra* note 40

- d. **Impact:** PIL in the USA has usually focussed on topics connected to civil rights and freedoms, whereas in India, it has addressed a broader spectrum of concerns involving environmental preservation and social equality.

C. Public Interest Litigation in the United Kingdom (UK)

Public Interest Litigation (PIL) in the United Kingdom is largely regulated by common law theories and legislative enactments. Individuals or entities possess the capacity to oppose the actions of public bodies by means of judicial review processes. Significant statutes upholding PIL in the UK encompass the Human Rights Act of 1998, which assimilates the European Convention on Human Rights into the UK's legal system.

PIL in the UK has led to significant legal advances and policy improvements. Some prominent cases include:

- a. *R (Miller) v. Secretary of State for Exiting the European Union*⁴²: This case examined the government's authority to trigger Article 50 of the Treaty on the European Union, setting the process for the UK's withdrawal from the EU.
- b. *R (on the application of UNISON) v. Lord Chancellor*⁴³: In this case, the legitimacy of employment tribunal costs was disputed, and the outcome resulted in their abolition.

When comparing Public Interest Litigation (PIL) in the United Kingdom and India, numerous important distinctions and parallels come to light:

- a. **Legal Framework:** Although the United Kingdom lacks an explicit constitutional clause like Article 32 does in India, it does have a well-established judicial review system that permits people to appeal governmental decisions.⁴⁴
- b. **Judicial Restraint:** Similar to the US, the UK judiciary generally demonstrates judicial restraint, refraining from meddling in problems of public policy until there has been a clear legal infringement.⁴⁵
- c. **Human Rights:** In the UK, Public Interest Litigation (PIL) often focuses on matters relating to human rights, notably those concerning the European Convention on Human Rights. The PIL in India, however, has a wider focus, which contrasts with this.

⁴² *R (Miller) v. Secretary of State for Exiting the European Union*, [2017] UKSC 5

⁴³ *R (on the application of UNISON) v. Lord Chancellor*, [2017] UKSC 51

⁴⁴ Saroj Bohra, Public Interest Litigation: Access to Justice, available at <http://www.manupatra.com/roundup/379/articles/public%20interest%20litigation.pdf>

⁴⁵ *Supra* note 40

From the foregoing comparative analysis, we understand that one important distinction in the PIL approaches of these three nations is the extent of judicial activism. India has a predisposition towards judicial activism, with its judiciary actively addressing societal issues. In contrast, the USA and the UK primarily adhere to judicial restraint, deferring to elected institutions of government.

In addition to this, access to justice is also a point of distinction between the three ways, with India having Article 32 permitting citizens to submit a PIL petition. In the USA, mechanisms like class actions and impact lawsuits exist for those seeking justice. In the UK, the judicial review system permits citizens to appeal government acts.

VI. CASE STUDY – NARMADA BACHAO ANDOLAN PIL

A. Context

The Narmada Bachao Andolan (NBA)⁴⁶ represents an important Public Interest Litigation (PIL) case in India, dramatically effecting environmental protection, indigenous rights, and social fairness. ‘Emerging in the 1980s in reaction to the construction of the Sardar Sarovar Dam on the Narmada River, the NBA addressed the combined objectives of supplying regional water supplies and energy while creating a considerable threat of relocation, particularly to indigenous tribes. Under the leadership of activists like Medha Patkar, the NBA started PIL petitions in the Indian Supreme Court to challenge the dam's construction. Their arguments relied on environmental regulation infractions, the displacement of vulnerable groups, and detrimental ecological repercussions.’⁴⁷

B. Litigation Process

The litigation process unfolded over several decades, encompassing numerous hearings, expert committees, and environmental impact assessments. Throughout this time, the Supreme Court issued multiple orders and directives, temporarily halting construction and mandating assessments of the project's environmental and social implications.

A central legal issue in the case concerned the displacement of indigenous communities and infringements on their rights, as enshrined in the Forest Rights Act⁴⁸ and other statutes. The Supreme Court meticulously examined these concerns, striving to balance developmental imperatives with the protection of human rights and the environment.

⁴⁶ NARMADA BACHAO ANDOLAN V. UNION OF INDIA AND ORS, AIR 2000 SC 3751

⁴⁷ Narmada Bachao Andolan v. Union of India and Ors Judgement, available at <https://main.sci.gov.in/jonew/judis/37998.pdf>

⁴⁸ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

C. Implications

The Narmada Bachao Andolan case has yielded several significant consequences and outcomes:

- a. **Enhanced Transparency and Accountability:** The Supreme Court's interventions brought about greater transparency and accountability in the dam construction process, compelling the government to adhere to environmental regulations and provide rehabilitation and compensation to affected communities.⁴⁹
- b. **Indigenous and Marginalized Rights Awareness:** The case highlighted the rights of indigenous and marginalized populations, emphasizing the importance of their involvement in development projects affecting their livelihoods.⁵⁰
- c. **PIL's Role in Complex Issues:** It underscored PIL's capacity to address intricate matters characterized by competing interests, such as economic development and environmental preservation.
- d. **Civil Society's Influence:** The case demonstrated civil society movements' ability in India to employ PIL as a tool for effecting social change and justice.

Nonetheless, the case also highlighted the inherent challenges and delays in the PIL process, with litigation extending for many years before reaching a conclusive resolution.

VII. CHALLENGES AND CRITIQUES OF PIL

Unquestionably, Public Interest Litigation (PIL) has been an effective vehicle in India for advancing justice, preserving constitutional ideals, and resolving societal challenges. PIL, however, is not without its issues and critiques, much like any other legal system. Here are some of the most serious issues that need to be solved swiftly

A. Misuse of PIL

One of the key difficulties linked with Public Interest Litigation is the potential of its improper usage. 'In certain cases, PIL petitions might be started with hidden goals, such as settling personal vendettas, seeking attention, or tormenting adversaries. This misuse can burden the judicial system with frivolous litigation and waste resources from truly relevant public interest matters'⁵¹

⁴⁹ Suresh, Karthik, A Comment on Narmada Bachao Andolan, etc. v. Union of India and Others (AIR 2000 SC 3751), available at SSRN: <https://ssrn.com/abstract=2223080>

⁵⁰ *Supra* note 50

⁵¹ Sibin, Critique of Public Interest Litigation in India: Challenges and Limitations, available at <https://vakilsearch.com/blog/critique-of-public-interest-litigation-in-india-challenges-and-limitations/>

B. Judicial Overreach

Another source of criticism about PIL revolves around the potential for judicial overreach.⁵²When the court actively inserts itself into policy considerations or executive decisions, it can be considered as trespassing onto the realms of elected institutions of government.

C. Delayed Dispensation of Justice

PIL cases, particularly those entailing intricate problems and several parties, typically result in protracted legal proceedings. These delays can have actual effects, especially in circumstances where rapid action is necessary to address public interest issues, including environmental catastrophes or human rights violations. This was shown in the case of Narmada Bachao Andolan PIL petition where the conclusion took too much time.

D. Harmonizing Individual Rights and Public Welfare

PIL typically implies a delicate balancing between the rights of individuals or organizations seeking redress and the greater public interest. Courts must assess the rights of persons seeking remedies against the potential repercussions on society as a whole. Sometimes the court may need to adjudge either the individual rights or the public good as having more relevance in the judgment, but it has to ensure that the fragile balance is not moved towards one side. These are several glaring loopholes that are frequently taken advantage of by malicious intent. While PIL has been a productive tool in India for advancing social justice and resolving matters of public concern, it is not without its own difficulties and critiques. It is still challenging and ongoing work to find a balance between individual rights and the general benefit, avoid misuse, and ensure that justice is given expeditiously.

VIII. CONCLUSION

This project dug into Public Interest Litigation (PIL) and the idea of demosprudence, with a focus on its jurisprudential features. PIL, anchored on democratic principles, acts as a legal tool enabling individuals and organizations to seek judicial remedy for infringement of constitutional rights and matters impacting the public interest. Article 32 of the Indian Constitution offers a specific structure for PIL. As a way to promote social justice and defend democratic norms, PIL will remain a crucial instrument in diverse legal systems. Nonetheless, resolving difficulties like misuse, judicial overreach, delayed justice, and the complicated balance between individual rights and public interests will be crucial to sustaining its efficacy.

Public Interest Litigation has substantial repercussions for society, democracy, and individual liberties. As legal institutions adapt to the increasing requirements of society, PIL will play an expanding role in addressing sophisticated and crucial concerns. Legal professionals and policymakers must guarantee that PIL continues its dedication to achieving justice, democracy, and the welfare of the public.

IX. BIBLIOGRAPHY

A. Articles, Reports & Guidelines

- a. Baxi, Upendra (1985) "Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India," *Third World Legal Studies*: Vol. 4, Article 6. Available at: <http://scholar.valpo.edu/twls/vol4/iss1/6>
- b. Isha Rai & Janhvi Tripathi, *Demosprudence And The Indian Supreme Court: Shaping The Contours Of The Transformative Constitution*, available at <https://gyansanchay.csjmu.ac.in/wp-content/uploads/2021/11/Volume-IX-Issue-II-223-252.pdf>
- c. Hari Bansh Tripathi, *Public Interest Litigation in Comparative Perspective*, available at https://www.academia.edu/14844664/Public_Interest_Litigation_in_Comparative_Perspective
- d. Saroj Bohra, *Public Interest Litigation: Access to Justice*, available at <http://www.manupatra.com/roundup/379/articles/public%20interest%20litigation.pdf..13>
- e. Suresh, Karthik, *A Comment on Narmada Bachao Andolan, etc. v. Union of India and Others (AIR 2000 SC 3751)*, available at SSRN: <https://ssrn.com/abstract=2223080>

B. Sabin, Critique of Public Interest Litigation in India: Challenges and Limitations, available at [https://vakilsearch.com/blog/critique-of-public-interest-litigation-in-india-challenges-and-limitations/Books & Treatises](https://vakilsearch.com/blog/critique-of-public-interest-litigation-in-india-challenges-and-limitations/Books%20&%20Treatises)

- a. MONIKA SANGEETA AHUJA, *Public Interest Litigation In India; A Socio-Legal Study* GRANVILLE AUSTIN, *The Indian Constitution*

C. Online Resources

- a. Deeksha, Parmanand Katara vs. Union of India, *Legal Services India*, available at <https://www.legalserviceindia.com/legal/article-5314-parmanand-katara-vs-union-of-india.html>
- b. Staff Desk, *Public Interest Litigations (PILs) That Changed The Face Of India*, *Vakil Search*, available at <https://vakilsearch.com/blog/public-interest-litigations-pils-that-changed-the-face-of-india/>
- c. *Justicia*, U.S. Supreme Court, <https://supreme.justia.com/cases/federal/us/347/483/>
- d. *Narmada Bachao Andolan v. Union of India and Ors* Judgement, available at <https://main.sci.gov.in/jonew/judis/37998.pdf>
