

FROM JUDICIAL ACTIVISM TO ENVIRONMENTAL JUSTICE: THE TRANSFORMATIVE ROLE OF PUBLIC INTEREST LITIGATION (PIL) IN INDIA

Author's Name Mranali Saxena¹

Affiliation:

1. Practicing Advocate, District and Sessions Court, Udaipur, India

Corresponding Author Name & E-Mail: Mranali Saxena, mranalisaxena10@gmail.com

ABSTRACT

Public Interest Litigation (PIL) has emerged as one of the most transformative juristic Innovation since the history of Indian constitutional law. Born out of judicial activism in the late 1970s and early 1980s, PIL has fundamentally restructured the relationship between the citizen, the State, and the judiciary. Nowhere has its impact been more profound, and more consequential, than in the domain of environmental law. Over the past four decades, the Supreme Court of India and various High Courts have leveraged the PIL mechanism to carve out an expansive, living body of environmental jurisprudence that has not only enriched the domestic legal order but has also attracted international academic attention.

Keywords: Public Interest Litigation (PIL), Environmental Jurisprudence, Judicial Activism, Environmental Governance, Constitutional Law, Sustainable Development, Access to Justice, Environmental Protection.

INTRODUCTION

Background and Constitutional Context of Public Interest Litigation in Environmental Governance:

The role of courts in India has evolved beyond adjudicating private disputes to protecting public interest and enforcing constitutional values. This transformation is particularly evident in Public Interest Litigation (PIL) and environmental law. In the late 1970s, the Supreme Court began accepting letters and telegrams from citizens as writ petitions, initiating procedural liberalisation that significantly transformed Indian environmental jurisprudence.

Industrialisation, urbanisation, population growth, and technological advancement have imposed severe pressures on natural resources such as air, water, forests, biodiversity, and soil. In India, environmental protection has often relied on judicial intervention through PIL rather than legislative or executive action.

India possesses significant natural resources, including the Western Ghats, Himalayas, Sundarbans, Indo-Gangetic Plain, and biodiversity hotspots of the Andaman and Nicobar Islands. However, economic development, inadequate regulatory systems, and poverty have generated considerable environmental pressures. In this context, PIL emerged as a corrective mechanism through which citizens and civil society organisations could enforce environmental standards.

The origins of PIL are closely linked with constitutional transformation. The Constitution of India not only guarantees fundamental rights but also incorporates Directive Principles of State Policy (DPSPs), which promote a just and ecologically responsible society. The Forty-Second Amendment, 1976 inserted Article 48A, directing the State to protect and improve the environment, and Article 51A(g), imposing a duty upon citizens to protect and improve the natural environment. Read with the expanded interpretation of Article 21, these provisions constitute the constitutional foundation of environmental PIL.

The Pre-PIL Judicial Framework: The Constraint of Locus Standi

Before PIL emerged, courts followed the traditional doctrine of locus standi, under which only a person suffering direct legal injury could approach the court. Derived from English common law, this approach was affirmed in judicial decisions during the 1960s and early 1970s. Its consequences were particularly severe for poor, illiterate, and marginalised sections of society.

Judicial Architects of Public Interest Litigation: The Contributions of Justices P.N. Bhagwati and V.R. Krishna Iyer

Justice P.N. Bhagwati and Justice V.R. Krishna Iyer played a central role in establishing PIL in India. They viewed judicial power as an instrument of social transformation and constitutional enforcement.

In *Ratlam Municipal Council v. Vardhichand*¹, Justice Krishna Iyer recognised the judiciary’s responsibility to enforce public rights. Justice Bhagwati further developed PIL jurisprudence through decisions including *Hussainara Khatoon v. Home Secretary, State of Bihar*², *Mumbai Kamgar Sabha v. Abdulbhai*³, and *People’s Union for Democratic Rights v. Union of India*⁴, dealing with standing, procedure, and judicial remedies.

Constitutional Foundations of Public Interest Litigation in India

PIL derives its constitutional basis primarily from Articles 32 and 226 of the Constitution. The development of environmental PIL became possible through judicial interpretation of Article 21, extending it to include environmental rights.

The constitutional framework is additionally supported by:

- Article 48A — duty of the State to protect and improve the environment;
- Article 51A(g) — fundamental duty of citizens to protect the natural environment.

Article 32, regarded as the “heart and soul” of the Constitution, enables direct access to the Supreme Court for enforcement of fundamental rights, while Article 226 grants broader powers to High Courts. Judicial interpretation of these provisions expanded access to justice and strengthened PIL as a mechanism for environmental governance.

Article 21 and Right to Healthy Environment

The judicial expansion of Article 21 has been one of the most significant developments in Indian environmental law. The Supreme Court progressively interpreted the right to life and personal liberty to include environmental rights.

The foundation for this interpretation was laid in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*⁵, where Justice Bhagwati held that the right to life includes the right to live with human dignity and all that accompanies it. This broader interpretation enabled the inclusion of environmental rights within constitutional protection. Explicit recognition of environmental rights occurred in *Subhash Kumar v. State of Bihar*⁶, where the Court held:

“Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life.”

Similarly, in *Virender Gaur v. State of Haryana*⁷, the Court observed:

“The right to a wholesome environment is as much a fundamental right as the right to life.”

¹ AIR 1980 SC 1622.

² AIR 1979 SC 1360.

³ AIR 1976 SC 1455.

⁴ AIR 1982 SC 1473.

⁵ AIR 1981 SC 746.

⁶ AIR 1991 SC 420.

⁷ (1995) 2 SCC 577.

Landmark Environmental Public Interest Litigations and the Evolution of Judicial Principles

The M.C. Mehta Saga

M.C. Mehta played a crucial role in shaping environmental jurisprudence in India through a series of PILs addressing pollution control, hazardous industries, forest conservation, and environmental protection.

- M.C. Mehta v. Union of India (Oleum Gas Leak Case)⁸

This case strengthened environmental accountability and established important principles concerning liability for hazardous industries.

- M.C. Mehta v. Union of India (Ganga Pollution Case)⁹

The Court introduced continuing mandamus, retaining jurisdiction and issuing continuing directions to monitor compliance. The case also reflected judicial engagement with scientific and technical environmental issues.

- M.C. Mehta v. Union of India (Taj Trapezium Case)¹⁰

The case marked an important application of the Precautionary Principle, where the Court directed industrial relocation to prevent environmental harm.

- M.C. Mehta v. Union of India (Vehicular Pollution Cases)¹¹

The Court ordered conversion of Delhi's bus fleet to CNG, leading to measurable reductions in vehicular emissions and improved air quality.

- Vellore Citizens Welfare Forum v. Union of India¹²

The Court recognised the Precautionary Principle and Polluter Pays Principle as essential components of Sustainable Development under Indian law.

- Indian Council for Enviro-Legal Action v. Union of India (H-Acid Case)¹³

The Court extended the doctrine of Absolute Liability and reinforced the Polluter Pays Principle, holding industries responsible for compensation and environmental restoration costs.

Judicial Doctrines Evolved Through Environmental PIL

- Polluter Pays Principle

The Polluter Pays Principle (PPP) emerged through OECD Guidelines for Member Country Pollution Control Policies (1972) and Principle 16 of the Rio Declaration (1992). It requires those responsible for pollution to bear the cost of prevention and remediation.

- Precautionary Principle

⁸ AIR 1987 SC 965.

⁹ (1987) 4 SCC 463.

¹⁰ AIR 1997 SC 734.

¹¹ AIR 1991 SC 1113.

¹² AIR 1996 SUPREME COURT 2715.

¹³ AIR 1996 SC 1446.

The Precautionary Principle provides that lack of complete scientific certainty should not delay preventive action where environmental harm may occur. The principle originated in the Montreal Protocol (1987) and Principle 15 of the Rio Declaration (1992). It was formally adopted by the Supreme Court in Vellore Citizens Welfare Forum (1996) and later applied in several cases including the Taj Trapezium Case.

- The Burden of Proof Reversal

Under this principle, the burden shifts from the claimant to the proponent of a potentially harmful activity.

In *A.P. Pollution Control Board v. M.V. Nayudu*¹⁴, the Court held that a proposed cement factory near Himayat Sagar Lake had to establish that its activities would not damage the environment.

- Public Trust Doctrine

The Public Trust Doctrine provides that the State holds natural resources in trust for the public. Justice Kuldip Singh observed in *M.C. Mehta v. Kamal Nath*¹⁵:

“Our legal system based on English common law includes the public trust doctrine as part of its jurisprudence.”

- Absolute Liability

The doctrine of Absolute Liability established in the *Oleum Gas Leak Case* (1987) imposes absolute responsibility upon industries engaged in hazardous activities.

- Sustainable Development and Inter-Generational Equity

Sustainable development seeks to satisfy present needs without compromising future generations. Inter-generational equity treats current generations as trustees of natural resources.

- Right to Environment as a Fundamental Right

The right to a healthy environment forms part of Article 21, enabling citizens to seek remedies through PIL.

These doctrines are significant because they:

- guide judicial decision-making
- ensure accountability and fairness
- align Indian law with international standards

Institutional Innovations and Procedural Developments

- Green Benches and Specialised Judicial Bodies

One of the major institutional developments resulting from environmental PIL has been the creation of Green Benches within the Supreme Court and various High Courts for environmental matters.

¹⁴ AIR 1999 SC 812.

¹⁵ AIR ONLINE 1996 SC 711.

Environmental disputes often involve complex scientific and technical issues such as ecology, hydrology, toxicology, and climate science, requiring specialised consideration.

The Supreme Court gradually developed the practice of constituting dedicated benches in major environmental cases, while High Courts such as the Madras, Bombay, Delhi, and Allahabad High Courts established specialised environmental divisions. These bodies have improved consistency and quality in environmental adjudication.

- The National Green Tribunal

The establishment of the National Green Tribunal (NGT) under the National Green Tribunal Act, 2010, represents a significant institutional innovation in environmental governance.

The NGT possesses original jurisdiction over environmental disputes and authority to provide relief and compensation for environmental damage.

Its establishment addressed several limitations of PIL:

- delays caused by heavy judicial workload;
- lack of specialised technical expertise within constitutional courts; and
- limited ability of PIL proceedings to provide compensation to victims.

- Court-Appointed Committees

Environmental PIL has frequently involved the use of court-appointed expert committees for investigation, recommendations, and monitoring compliance.

In the M.C. Mehta cases, committees such as the Bhure Lal Committee (Air Quality Monitoring Committee) played an important role in monitoring vehicular pollution measures in Delhi. In T.N. Godavarman, the Court appointed the Central Empowered Committee (CEC) to advise on forest-related matters.

Although these committees have strengthened judicial effectiveness, criticisms include:

- possible delegation of judicial functions;
- absence of procedural safeguards; and
- concerns regarding transparency and accountability.

Continuous Mandamus

The concept of continuous mandamus, under which courts retain jurisdiction and issue directions over time, represents a significant procedural innovation in environmental PIL.

It has been applied in cases such as M.C. Mehta and T.N. Godavarman¹⁶, where courts issued continuing directions to ensure compliance with environmental laws. While effective, it also raises concerns regarding judicial overreach and administrative efficiency.

¹⁶ (1987) 4 SCC 463.

Limitations and Contradictions of PIL

Despite its achievements, PIL contains several limitations. One significant concern is the gap between judicial decisions and their implementation. Effective enforcement depends largely on administrative agencies, and weak coordination often leads to delayed or incomplete compliance.

Inconsistency in judicial interpretation can also create uncertainty in environmental governance. Further, concerns regarding judicial overreach arise where courts intervene extensively in policy matters, potentially disturbing institutional balance.

Misuse of PIL for political, personal, or publicity-oriented objectives has also been observed, placing additional burdens on the judicial system and affecting the credibility of genuine public interest litigation. These concerns demonstrate the need for a balanced and structured approach to PIL.

CONCLUSION

Public Interest Litigation has emerged as one of the most influential mechanisms for environmental governance in India. Through judicial innovation, PIL has expanded the scope of fundamental rights and contributed significantly to environmental jurisprudence.

The judiciary has played a vital role by addressing gaps in legislative and administrative action and by developing important legal principles and institutional mechanisms. However, challenges such as implementation gaps, misuse of PIL, and concerns regarding judicial overreach continue to exist.

The long-term effectiveness of PIL depends upon responsible use, stronger implementation mechanisms, improved institutional coordination, and maintaining a balance between judicial activism and restraint. PIL has not only transformed environmental law but has also become an essential element of India's constitutional and governance framework.

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