

PIL

LLB – 1st Year | 2nd Semester

- *Only for exam - last min readers*

- *Goms*





PIL – Case names & Issue



PIL – Case name & Issue

1. **Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai** : Dispute over the denial of bonus payments to workers.
2. **Hussainara Khaton & Ors v. Home Secretary, Bihar**: Overlong incarceration of undertrial prisoners without a trial.
3. **Fertilizer Corporation Kamgar v. Union Of India & Ors**: Rights of employees in the context of the corporation's shutdown.
4. **Pt. Parmanand Katara v. Union Of India & Ors**: The right to receive medical treatment immediately regardless of legal formalities.
5. **S.P. Gupta v. Union Of India**: The issue of independence of judiciary concerning the transfer and appointment of judges.
6. **Bandhua Mukti Morcha v. Union of India**: The plight of bonded laborers and their rehabilitation.

PIL – Case name & Issue

7. **MC Mehta v. Union of India:** Environmental issues, specifically pollution caused by industrial activities in the Ganga river.
8. **People’s Union for Democratic Rights v. Union of India:** The rights of construction workers and enforcement of labor laws.
9. **Vishaka v. State Of Rajasthan:** Sexual harassment of women at the workplace and the establishment of guidelines for prevention.
10. **Olga Tellis v. Bombay Municipal Corporation:** The eviction of pavement dwellers and their right to livelihood.
11. **Indian Council for Enviro-Legal Action v. Union of India:** Industrial pollution affecting soil and water quality and health impacts on residents.
12. **M. Siddiq v. Mahant Suresh Das:** The Ayodhya dispute over the religious site claimed by both Hindu and Muslim communities.



PIL – Case name & Issue

13. **Keisham Meghachandra Singh v. Hon'ble Speaker, Manipur Legislative Assembly:** Challenge to the speaker's decision on disqualification of an MLA.
14. **Dr. Upendra Baxi (I) vs. State of Uttar Pradesh & Another:** Inhumane conditions in a shelter for women and the need for reform.
15. **M.C. Mehta vs. State of Tamil Nadu:** The exploitation of children in the Sivakasi firecracker industry.
16. **Prem Shankar Shukla vs. Delhi Administration:** The issue of handcuffing undertrials.
17. **M. C. Mehta vs. Union of India & Others (Taj Trapezium Case):** Protection of the Taj Mahal from environmental pollution.
18. **M. C. Mehta vs. Union of India (Calcutta Tanneries Case):** Relocation of tanneries causing pollution in Calcutta.

M.C.Mehta





UNIT-1



Public interest Litigation (PIL)

Public interest Litigation (PIL) means litigation filed in a court of law, for the protection of “Public Interest”.

Definition of PIL:

Legal actions initiated in a court of law for the enforcement of public interest in which the public or a class of the community have pecuniary interest by which their legal rights or liabilities are affected.



Who can file PIL :

Any **public-spirited citizen** or a non-governmental organization (**NGO**) can file a case on behalf of a group of people, whose rights are affected.



Common Areas for PIL:

- Environmental issues
- Human rights
- Consumer rights
- Constructional hazards
- Corruption in public administration
- Terrorism
- Roadsafety



Few Pointers on PIL

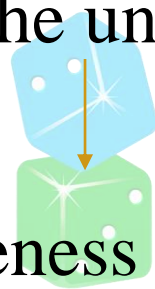
- The expression ‘Public Interest Litigation’ has been **borrowed from American jurisprudence**
- PIL is **not defined in any statute** or in any act. It has been **interpreted by judges** to consider the intent of the public at large.
- It is the **power given to the public** by courts through judicial activism.
- However, the **person filing** the petition **must prove** to the court’s satisfaction that the petition is being filed for public interest and not just as a frivolous litigation by a busy body.

Meaning of PIL

PIL originated in the 1960s in the United States



Legal aid to the underprivileged



Raise public awareness about social issues



Concept has been adopted by several countries



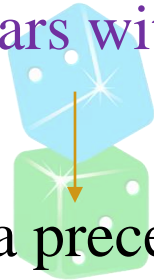
Unique Legal Frameworks

Meaning of PIL

In **India**, PIL was introduced through the landmark case of
Hussainara Khatoon vs. State of Bihar in 1979



Lawyers successfully argued for the **release of undertrial prisoners** who had been
jailed for years without a trial.



This case set a **precedent** | scope

- **Environmental protection**
 - **Human rights**
 - **Women's rights**
 - **Judicial reforms**

Meaning of PIL

The Supreme Court of India has relaxed the standing requirements for filing PILs



Individual without a direct personal stake to approach the court if the issue affects the public at large.



Concept of PIL

- **Accessibility to Justice** : Accessible to all citizens
- **Protection of Individual Rights**: rights of minorities, discrimination, social exclusion.
- **Broad Application**: Environmental degradation, public health, human rights, consumer protection, and women's rights.
- **Objective**: Protect people's rights and address their grievances.
- **Concerns of Misuse**: Misused for personal gain, and can contribute to judicial backlog.
- **Access for the Marginalized**: Poor and marginalized, who cannot afford legal representation, to address issues like human rights violations and environmental degradation.
- **Public Participation**: PIL encourages public engagement with the legal system, raising awareness
- **Role of the Supreme Court**: The Supreme Court of India has been instrumental in broadening the scope of PIL, introducing concepts like 'continuing mandamus' to ensure ongoing government accountability on certain issues.

Development and scope of PIL in India

- **Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai (1976)**: This case marked the relaxation of the principle of *locus standi* for the first time, allowing a union to file a PIL on behalf of workers for denied bonuses, recognizing the need to support the weaker sections of society.
- **Hussainara Khatoon & Ors v. Home Secretary, Bihar (1979)**: Highlighted the plight of undertrial prisoners in Bihar, leading to a Supreme Court judgment that mandated their release and established the right to a speedy trial as part of the fundamental right under Article 21 of the Constitution.
- **Fertilizer Corporation Kamgar v. Union Of India & Ors (1981)**: Defined the concept of Public Interest Litigation for the first time, emphasizing PIL as a tool for participatory justice and liberal reception at judicial doors. "முதன்முதலில் பொது நலன் வழக்குகள் (Public Interest Litigation) என்ற கருத்தை வரையறுத்து, பொது பங்கீட்டு நீதிக்கும், நீதிமன்ற வாயில்களில் விரிவான வரவேற்புக்கும் அதனை ஒரு கருவியாக விளக்கினர்."

Development and scope of PIL in India

- **Pt. Parmanand Katara v. Union Of India & Ors (1989)**: Based on a newspaper report, this PIL addressed the obligation of hospitals to treat emergency cases immediately, reinforcing the duty of the state under Article 21 to protect life and ensuring medical professionals can perform their duties without undue legal obstacles.
- **S.P Gupta v. Union Of India & Anr (1989)**: Established that any person acting in public interest could approach the Supreme Court or High Courts directly if the constitutional or fundamental rights of a class of people are violated, firmly setting the precedent for relaxing locus standi in PIL cases.

The legal system in India provides various provisions and Acts for filing public interest litigation

Provide few liners for each of these topics. Elaborate the headings

- The Constitution of India
- The Code of Civil Procedure, 1908 (CPC)
- The Public Interest Litigation Techniques Act, 1986
- The Legal Services Authorities Act, 1987
- The Indian Environmental Laws
- The Consumer Protection Act, 1986
- Right to Information Act, 2005
- Protection of Women from Domestic Violence Act, 2005

Criticism of PIL

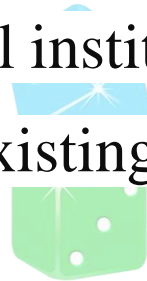
- PIL importance is undermined by increasing misuse over time.
- Frivolous petitions filed under PIL delay legal proceedings.
- PIL is used for gaining publicity, wasting court resources.
- Even dismissed frivolous PILs consume time and effort.
- Advocates and political parties sometimes exploit PIL for personal or political gain.
- Misuse of PIL adds unnecessary burden to the judiciary.

When can PILs be filed

1. Bonded labor issues.
2. Neglect of children.
3. Violation of labor laws and non-payment of minimum wages.
4. Abuse in jails, requests for release, and speedy trials.
5. Police inaction, mistreatment, and custodial deaths.
6. Atrocities against women, including bride burning.
7. Harassment or torture of Scheduled Castes and Tribes.
8. Environmental pollution and wildlife protection.
9. Victim grievances from riots or violence.
10. Issues concerning non-payment of family pensions.

Cases when PIL will not be entertained

1. Landlord-tenant disputes.
2. Issues concerning annuities and gratuities.
3. Complaints against the Central or State Government policies.
4. Admissions to medical or educational institutions.
5. Requests for expedited hearings of existing cases.



Relaxation of Locus Standi in PIL

- Originally, only those whose rights were directly affected could file petitions.
- Courts now accept PILs from third parties advocating for others' fundamental rights.
- **Hussanara Khatoon v. State of Bihar:** Recognized the right to a speedy trial as fundamental, leading to reforms for undertrial prisoners.
- **Sheela Barse v. State of Maharashtra:** Addressed custodial violence against women based on a journalist's letter.
- **Sunil Batra v. Delhi Administration:** Accepted a prisoner's letter about jail brutality, leading to fundamental rights enforcement for prisoners.
- **M.C. Mehta v. Union of India:** Tackled river Ganga pollution on behalf of affected public.
- The principle now aids the protection of fundamental rights where personal litigation is not feasible.
- Misuse is possible; courts caution against using PIL for personal agendas.

Who Can File a PIL

- Any Indian citizen can file a PIL in the Supreme Court ([Article 32](#)).
- Any Indian citizen can file a PIL in any High Court ([Article 226](#)).
- Any Indian citizen can file a PIL in a Magistrate's court ([Article 133](#), Criminal Procedure Court).
- Petitioners should be public-spirited or part of a social action group.
- PIL must be filed against government entities, not private parties.



Where Can a PIL Be Filed?

- PILs can be filed in the Supreme Court under Article 32 or any High Court under Article 226 of the Indian Constitution.
- Even a simple letter or postcard to the Chief Justice of the Supreme Court or a High Court can initiate a PIL.





UNIT - 2





Article 142 – Power of Supreme Court

Article 226 – Authorizes High Courts to enforce fundamental rights by issuing writs / Constitutional Rights

Article 32 – Fundamental Rights



Power of Supreme Court Under Article 142

- **Plenary Powers:** Article 142 grants the Supreme Court comprehensive powers to issue any orders necessary to do complete justice in any matter before it.
- **Enforcement:** Orders under Article 142 are enforceable throughout India as prescribed by Parliament.
- **Equity and Justice:** Empowers the Court to go beyond strict legal provisions to ensure justice, filling gaps where the law is silent or inadequate.



Power of Supreme Court Under Article 142

Landmark Cases:

- **Union Carbide Corporation v. Union of India**: Demonstrated use of Article 142 in granting relief beyond statutory limitations during the Bhopal Gas Tragedy.
- **S.P. Gupta v. Union of India**: Expanded the Court's role in administering justice, especially in matters involving public policy and fundamental rights.
- **Ayodhya dispute case** : Supreme court used Article 142 – Entire 2.77 Acre land to Hindu and grant 5 Acre land to Muslims in alternative site

Power of Supreme Court Under Article 142

- **Complete Justice:** Used to address cases where legal frameworks fall short, ensuring justice is not only done but seen to be done.
- **Restrictions on Legislative Power:** [Article 142](#) combined with [Article 144](#) restricts [legislative actions](#) that nullify Supreme Court decrees or orders.



- **Public Interest and Judicial Activism:** Illustrates the Supreme Court's role in adapting law to contemporary needs, such as environmental protection or fundamental rights, often acting when legislative measures are insufficient.
- **Judicial Discretion:** Article 142 is employed judiciously, typically in unique or exceptional cases, to ensure justice aligns with the larger public interest and ethical considerations.

Article 226 Under the Indian Constitution - Highcourt

- **Objective:** Provides an inexpensive and quick remedy for aggrieved persons.
- **Empowerment:** Authorizes High Courts to enforce fundamental rights by issuing writs.
- **Scope:** Wider than the Supreme Court's powers under Article 32, including actions declared final by statute.
- **Writ Types:** Includes **habeas corpus, mandamus, prohibition, quo warranto, and certiorari** for enforcing fundamental and other legal rights.
- **Jurisdiction:** Extends to persons or authorities within or partly within the High Court's territorial jurisdiction based on the cause of action.
- **Interim Orders:** Specifies procedures for challenging interim orders that lack proper notification or hearing opportunities.
- **Authority:** Emphasizes that High Court powers under Article 226 do not diminish the Supreme Court's authority under Article 32.

Article 226 Under the Indian Constitution - Highcourt

Landmark Cases:

Oil and Natural Gas Commission vs Utpal Kumar Basu and ors. - The case emphasized that the jurisdiction of the High Court to grant a writ petition depends on the allegations in the petition, particularly in terms of territorial jurisdiction.



Sunil Batra II vs Delhi Admn. (AIR 1980 SC 1579) - This case treated a letter written by a convict as a writ petition, emphasizing the court's role in addressing illegal detention.

Rudul Shah vs State of Bihar (AIR 1983 SC 1806) - Issued to release a person who had served 14 years of wrongful imprisonment, awarding him exemplary damages.(35K)

Type of writ under Article 226 of the Indian Constitution

1. Writ of Habeas Corpus: [have the body]

Description: Orders a person or authority to produce an unlawfully detained individual before the court to examine the legality of the detention.

Famous Case: Sunil Batra II vs Delhi Admn- Recognized a letter from a convict as a legitimate petition, leading to a review of his detention conditions.



2. Writ of Mandamus: [We command]

- **Description:** Directs a public official, government, or court to perform a mandatory duty they have failed or refused to perform.

- **Famous Case:** Gujarat State Financial Corporation vs Lotus Hotels Pvt. Ltd. - Mandamus issued to enforce the contractual obligation of financial assistance agreed upon for hotel construction.

Type of writ under Article 226 of the Indian Constitution

3. Writ of Prohibition:[stop]

Description: Issued by a higher court to a lower court or tribunal to prevent them from exceeding their jurisdiction or to halt a proceeding that violates the law.

Famous Case: S. Govinda Menon vs Union of India - Issued to stop lower courts from exercising jurisdiction beyond their mandate.



4. Writ of Certiorari: [Certify or Inform]

- **Description:** Used by a higher court to review and quash an order or judgment of a lower court that has exceeded its jurisdiction or has not complied with the procedure of law.

- **Famous Case:** A.K. Kripak vs Union of India - The writ was used to quash the selection list of the Indian Forest Service on grounds of bias by a selection committee member

Type of writ under Article 226 of the Indian Constitution

5. Writ of Quo Warranto: [By what authority]

- **Description:** Challenges the right of a person to hold a public office to ensure that the office is not held by someone who does not have the legal right to hold it.
- **Famous Case:** Shivakant Shukla vs. Harish Chandra - Examined the legality of holding public office, ensuring offices are held by legally authorized individuals.



Description of Article 32 and Article 226

Article 32 vs. Article 226: Article 32 is a fundamental right, while Article 226 is a constitutional right.

Emergency Situations: Article 226 remains effective during emergencies, unlike some fundamental rights.

Rights Classification: Fundamental rights are basic rights directly enforceable under the constitution, while constitutional rights include broader legal protections.

Enforcement Powers: Article 226 empowers High Courts to issue writs for enforcing both fundamental and other legal rights.



UNIT - 4



Key doctrines and related case law

1. Doctrine of Sustainable Development: Balances environmental protection and developmental needs, ensuring both current and future generations can meet their needs.

Key Case: Vellore Citizens Welfare Forum v. Union of India established this doctrine in Indian law.



2. Precautionary Principle: Mandates that lack of scientific certainty should not be used to postpone measures to prevent environmental degradation where there are threats of serious or irreversible damage.

Key Case: Vellore Citizens Welfare Forum v. Union of India emphasized precaution in environmental protection.

Description of Article 32 and Article 226

3. Polluter Pays Principle: Holds that the polluter is responsible for environmental damage and must bear the cost of remedial actions.

Key Case: Indian Council for Enviro-Legal Action v. Union of India applied this principle to require industries to compensate for environmental damage.



4. Absolute Liability Principle: Imposes liability without exceptions on enterprises engaging in hazardous activities.

Key Case: M.C. Mehta v. Union of India established that industries undertaking hazardous activities are absolutely liable for harm caused, irrespective of fault.

Description of Article 32 and Article 226

5. Public Trust Doctrine: States that certain common properties such as air, sea, waters, and forests have a status of public trust upon them, making the government their trustee.

Key Case: M.C. Mehta v. Kamal Nath emphasized the state's duty to protect natural resources for public use without giving them away for private ownership.



6. Basic Structure Doctrine: Limits Parliament's power to amend the Constitution, ensuring the preservation of its essential framework.

Key Case: Kesavananda Bharati v. State of Kerala established this doctrine, preventing any amendment that could alter the fundamental structure of the Constitution.