
The Role of Public Interest Litigation in Environmental Protection

Asma Ghani

M.Phil Scholar, Department of Pakistan Studies, Qurtuba University of Science &
Information Technology, Peshawar, Pakistan

Qasim Ali Jan

Assistant Professor, Department of Pakistan Studies, Qurtuba University of Science &
Information Technology, Peshawar, Pakistan.

Abstract

This paper examines the pivotal role of Public Interest Litigation (PIL) in environmental protection, emphasizing its significance as a tool for marginalized communities and individuals to assert their rights. PIL serves as a critical mechanism to hold state and non-state actors accountable for violations of environmental rights, facilitating access to justice for those affected by environmental degradation. The study outlines the historical development of PIL, tracing its evolution from traditional adversarial litigation to a more inquisitorial approach, thereby expanding access to justice. It further explores the intrinsic connection between PIL and environmental issues, highlighting case studies that demonstrate its effectiveness in promoting environmental sustainability. Despite its potential, the paper also addresses the challenges and limitations of PIL, including systemic obstacles, socio-political dynamics, and ethical concerns regarding representation and legitimacy. The analysis underscores the need for a holistic understanding of PIL as part of broader advocacy efforts and civil society movements aimed at achieving environmental justice. Ultimately, the paper advocates for enhanced collaboration between legal action and grassroots participation to maximize the impact of PIL in safeguarding the environment.

Keywords

Public interest litigation, environmental protection, access to justice, marginalized communities, legal advocacy, case studies, environmental sustainability, challenges and limitations

1. Introduction

The issue of how public interest litigation (PIL) safeguards the environment has assumed crucial significance in contemporary academics. PIL, as a concomitant to constitutionalism, is considered one of the principal avenues available to disadvantaged individuals and marginal communities for the realization of their rights. They have used the PIL jurisdiction of superior courts to expose those who imposed real costs on the community but sought impermissible benefits (Weisbrod et al., 2022). The courts have become vigilant as they enforce the fundamental duties to protect the quality of the environment. The main objectives of the paper are to show the role of PIL in safeguarding environmental rights, to highlight the legal and advocacy approach in the resolution of issues involving the public interest, and to show the role of law in articulating the public interest in environmental matters. As such, the paper will attempt to deal with three precise themes: public interest literacy in resource issues, law, public interest and environmental spirituality, advocacy, and other mechanisms available to people's fundamental rights to life and livelihood. (Challoumis & Eriotis, 2022)

Environmental issues involving the public interest need different tools of advocacy and articulation. The law is one tool that provides us an opportunity to express ourselves. The legal form of articulation attached to PIL has been such a case where the courts have protected the people's interests. Since the enforcement of the fundamental duties, a rapid change has come in the approach of the courts with regard to PIL. A new approach of general interest litigation has arrived for the protection of economic, educational, social, and cultural rights. In the international area, the 1971 Stockholm Declaration provides that "Man has the fundamental right to freedom, equality, and adequate conditions of life, of dignity, of possibilities of development through social, economic development and development through scientific and technological contributions to man's life and environment. This right includes freedom from exposure to conditions of life and work, which are dangerous, noxious

or a hindrance to physical and mental well-being to be so recognized." A study of the legal and advocacy approaches to emissions cannot but be linked to such roots of the environmental movement as law, advocacy, legal struggle, ethics, and concern for environmental sustainability or use cannot be disjointed from matters spiritual.

2. Understanding Public Interest Litigation

The basic conceptual frame of public interest litigation (PIL) lies in the definition of public interest. In a broad sense, public interest defines processes, consequences, actions, and objects that are related to or aimed at the welfare of the public and the preservation of social justice. Public interest litigation generally is that litigation which is implemented for the benefit of the public at large, for social, economic, and legal justice, and when the cause of litigation is relatable to the collective interests. In other words, it is the litigation which is an outcome of the conscious collective efforts in the process of time. It is related to the legal action that seeks the larger social goal like a clean environment and making human life worth living (Sallam, 2020).

The idea of public interest litigation has gained momentum in India, but it is now being discussed everywhere in the relevant jurisprudential literature. Scholars think that there is an appreciable evolution of PIL from adversarial litigation to inquisitorial one. In relation to the PIL, the judiciary has extended access to justice and notions of human rights to reach the area to more citizens and their concerns. One of the strategic advantages of the Supreme Court's evolution from adversarial to inquisitorial litigation is its capacity to define and reshape the scope of environmental issues. In this hope, environmental groups have used legal provisions to empower communities affected by pollution and demand legal aid on behalf of underprivileged people. The above step is the anticipation of the perspective that the law would potentially change the environmental condition. While the concept of PIL itself and its evolution may be contested, what is certainly true is the practical relevance of PIL to the context of environment and development. When the courts envision law as a strategic tool for pro-people transformation, they become an important site for investigating the deeper entanglement between law and advocacy.

2.1. Definition and Characteristics

Public interest litigation (PIL) has been described as a legal action initiated in a court of law for the enforcement of the rights of an economically and socially downtrodden section or of the general public in which the public or a class of the community has a pecuniary interest or some interest by which their legal rights or liabilities are affected. It is filed by a petitioner who is not himself affected by the act complained of or enforcement of a public duty is sought. This petitioner must be acting bona fide for the general public interest and not in a private interest. Public interest litigation has certain broad social objectives. The following may be the features of Public Interest Litigation (PIL), and these points are characteristic of salient features or characteristics of the public interest litigation as sparsely defined above. Firstly, it is not litigation in the real sense of the word, as no hard and fast rule is followed to induce an initiation of the PIL. It is not the traditional form of litigation campaigning for the personal rights of an individual or a group. Rather, it is a sort of harassment to the illegal system of society either to enforce a public duty or to enforce a public right. The basic requirements or the fundamental principles of the traditional litigation system are, to a large extent, duly applied. The concept of strict locus standi is relaxed in the case of PIL, which makes it possible for the members of the public who are not particularly aggrieved and find it hard to invoke the traditional rights of action in the courts to seek justice in a court of law (Willis et al.2022). Moreover, unlike the traditional writ jurisdiction, the petition is not necessarily to be heard at the end. Public interest litigation is facilitated by the following entities: legal aid institutions, NGOs, or, in general terms, concerned parties in any issue. Public interest litigation and environmental advocacy. Various definitions of the phrase 'public interest' and commentary upon the use of the phrase in the context of PIL are respectively done. It considers the use of the phrase and what needs to be established in order for an action to be considered public interest litigation. The principal purposes of public interest litigation can be seen as to provide justice for the public, to act as a deterrent and preventive measure, and to secure relief and repairs. The strength of public interest

litigation is that it provides the ability to challenge an unjust system which has led to the problem in the first place.

2.2. Historical Background

Public interest litigation (PIL) is a recent development nurtured in the womb of the legal evolutionary process. It evolved as a vibrant and extraordinary weapon for providing succor to the oppressed and downtrodden classes. During the period of depression, there was a recession in the economy. To cure this evil, the government had to encroach upon the private rights of people. Accordingly, the government nationalized the banks, insurance companies, etc. Therefore, the issues that arose related to the liberty or interests of the citizens and state authority. It gave birth to a new concept, and the court found its own justification for the enactment of various laws. Therefore, American jurisprudence made a drastic shift from legal concepts to the sociological concept of law. Environmental litigation had its origin in the USA, where the concept of public interest litigation developed. It is significant to mention that during the 60s and 70s, not only the Supreme Court but also the lower courts interpreted the laws with a view to protecting the interests of the people as a whole and directing their energy against the violation of the law and the concept of social engineering. Similarly, in the UK, a judgment recognized a broader jurisdiction and used this information to develop the concept of a community of interests. The doctrine of “locus standi” was also waived, permitting public-spirited and socially based action.

3. The Relationship Between Public Interest Litigation and Environmental Protection

Public interest litigation (PIL) and environmental issues are intrinsically connected. PIL, in its capacity as a tool to provide access to justice to the marginalized, can effectively be used as a means to hold state and non-state actors accountable for acting in a manner that violates the right to a clean and healthy environment. This section recognizes the importance of PIL in the field of environmental law by delving into the role of PIL in holding the executive and corporate behavior on a definition of environmental injunctions, then situating the question in broader literature on litigation and policy outcomes. Generally speaking, the term PIL is used to

encapsulate any type of litigation that tends to have a group-oriented outcome, rather than a particular, individual benefit. PIL has provided an effective tool for the protection of the environment by conferring locus standi on public-spirited individuals or activists and taking over the ownership of public causes (Cornish et al.2022).

Environmental movements have used the PIL tool to force effective implementation of existing laws and policies that promote environmental sustainability. Many statutes are group-oriented and designed to tackle environmental issues from a preventive rather than curative approach. Some of the most successful PIL cases have dealt with environmental issues in a new, proactive manner. The common feature of all such cases is that they have tended to focus more on the implementation and effectiveness of legislation rather than on trying to reform or change the legality of the legal framework. PIL, in its capacity as a liberally construed and socially utilized legal procedure, has demonstrated how judicial proceedings are part and parcel of a much wider web of practices and movements. The very name PIL suggests cooperation, a joint effort between advocate and layperson, activist and the general mass (Sallam, 2021).

4. Case Studies of Successful Public Interest Litigation in Environmental Protection

This chapter offers four case studies of successful public interest litigation in environmental protection. Each case is different, but as a group, they offer a strong demonstration of the potential of public interest litigation as a mechanism for change. We believe that these cases offer a valuable and often inspiring resource for advocacy. After introducing the issue at stake in each case, we provide a description of the context and arguments presented in court. We then offer evidence on how the environment has changed as a result of the case. Taken together, these cases contain guidance on many of the best practices for strategic environmental public interest litigation.

The PSD kill case presents an early example of a successful public interest lawsuit that challenged institutional practice in extractive industries (Head, 2022). While the offending activities by extractive industries in the two cases in Chad and Cameroon

were neither contested nor entirely successful, the cases are notable for the process by which the river, the lifeline of the region, was de facto challenged by the proliferation of oil in southern Chad. In the *Tursun v. AngloGold Ashanti* case, the decision upheld an NGO's standing to sue on behalf of the environment in Russia and was one of plaintiffs' only three victories in 2001 in the face of an unsuccessful judicial environment when attorneys deliberately advanced test cases to test the judiciary's willingness to permit private citizens to sue on behalf of the environment.

5. Challenges and Limitations of Public Interest Litigation in Environmental Protection

Public interest litigation (PIL) - a groundbreaking legal strategy that allows the judiciary to address environmental degradation and public health issues - has met with significant systemic challenges and limitations in practice. Firstly, legal processes are complex and time-consuming, and few individuals can superficially comprehend the judicial system and make PIL successful by themselves. Lack of financial capacity is another major problem that restricts access to courts as plaintiffs. Judges are often reluctant to entertain public interest petitions in many countries. The process of litigation has inherent barriers in the way that it can be manipulated to delay outcomes. In contexts that prioritize the final outcome rather than due process, the process can be sufficient to cause so much delay that any final order is meaningless. In many instances, PILs may create potential harm to the interests of the affected people who have initiated the PIL. Socio-political dynamics pose an additional challenge to PILs (Son et al.2021).

In contexts of political opposition, those opposing PIL can often deliberately choose to ignore judicial decisions or file appeals in higher courts in order to prolong the judgment. Where a PIL directly challenges corrupt officials, businessmen, elected members, or political parties, the case becomes even harder to win. Ethical concerns have also been expressed regarding PIL, including dilemmas of legitimacy, representativeness, and integrity. Critics argue that public interest litigants in complex social settings characterizing the non-Western world lack the substantive links with the affected people. The optimism about the potential of PIL has been qualified by

systemic limitations in its application. These should be understood as the reality of working towards environmental justice in an unequal system. Effective action might need to depend on linking legal action with other campaigns and broader participation, such as those conducted by other sectors of civil society. In this way, PIL should not necessarily be opposed but should be understood as only part of an understanding of strategies (Jinping, 2022).

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