



## Evaluation and Appraisal of Enforcement of Public Interest Litigation in the State of Goa (India)

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### Abstract

Public Interest Litigation (PIL) plays a momentous role in protecting the community's interest in general. Matters of serious concern and or public importance can be filed by any one on behalf of the entire community. The court will take up the matter and deliver justice in the interest of the public. The judiciary delivered many judgments in India in favour of the public.

The traditional concept of *locus standi* was enforced in the beginning, which means a victim or person whose lawful rights are violated alone can approach the judiciary to get the remedy. Other persons are prohibited from filing the case. Slowly, due to judicial activism, the court evolved a new concept, PIL. Under this idea, cases can be filed by any person on behalf of the public in matters of public concern. During the 1980s Justice Bhagwati enunciated the broad aspects of PIL. He stated that any fellow of the public with *bona fide* intention, having adequate knowledge, can file a case for redressal of any incorrect or civic injury. Besides individuals' nonprofit, non-political, and voluntary organizations consist of public-spirited citizens interested in taking up legitimate public causes by initiating a writ petition before the courts. After the expansion of the notion of PIL, many petitions were filed relating to matters like violation of fundamental rights, under-trial prisoners, arrested persons, and environmental concerns. The judiciary can take cognizance of the matters and accept the petition filed by any person on behalf of the public. Though judiciary has expanded the horizons of justice delivery, it is essential to verify its application in practice hence, this research is noteworthy. In this research article, effort is made to explain the concept of PIL, evolution of

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PIL at International and National levels, merits and demerits, and finally the authors examined the role of High Court in disposal of PILs.

**Keywords:** Public Interest Litigation, Social Action Litigation, *Locus Standi*, Remedies, Jurisdiction, *Amicus Curiae*, *Bona Fide*

## 1. Introduction

The Preamble to the Indian Constitution unambiguously incorporated the term justice, which refers to economic, political, and social justice for all citizens. But, many times, people at the gross root level, economically backward, are not in a position to get justice at the hands of the court. To protect the interest and to provide remedies for such downtrodden public, the court evolved a new concept PIL. PIL plays a significant role in achieving justice for the poor and economically and socially backward public. The idea of *locus standi* has assumed wider dimensions in expanding the scope of socio-economic justice and the welfare state.

The judiciary has sanctioned the concept of PIL, where a question of public interest may be promoted through a writ petition by someone even though he may not be directly injured or affected by it. The petitioner can approach the court to advocate a public cause. PIL is one of the most significant rules of adjudication; this idea cannot be ignored. The awareness about PIL has flourished in India. Many writ petitions are filed before the High Courts and Supreme Court on various matters of public interest or concern.

## 2. Importance of the study

Goa is one of the ecologically sensitive areas with biodiversity hot spots and the most important tourist destination. Due to construction and developmental activities, the green cover is reduced slowly from time to time. NGOs' are coming forward to file PIL to protect nature and natural resources on behalf of the public. To find out how many PILs are filed, petitioners, orders passed, and the status of PILs, data is collected from the Goa Bench of Bombay High Court. The authors collected data relating to all the PILs filed. More emphasis is laid on matters concerning the environment. Till now, no empirical study has been conducted to evaluate and assess

the role of the High Court Goa Bench. Therefore, an attempt is made to verify the importance of the High Court in dealing with PILs in the State of Goa.

### **3. Objectives**

The following were the objectives of the study:

- a) To understand and appreciate the concept and importance of PIL
- b) To determine the development of PIL at International and National level
- c) To appreciate the efforts of the judiciary in bringing the idea of PIL
- d) To verify the functioning of the Goa Bench at Bombay High Court in admitting and disposal of PILs
- e) To provide conclusions and suggestions for better implementation of PIL by the judiciary

### **4. Approaches of Data Collection**

Data for the study were gathered from both primary and secondary sources. Primary sources include statistical data collected from the High Court of Bombay at Goa, Panaji Bench, from 2017 to 2021. Empirical data from various stake holders were collected through questionnaires on awareness of PILs, and other related issues. Collected data is compiled, tabulated and interpreted.

Secondary data sources were collected from text books, Journals, law magazines, encyclopedias, dictionaries, Ph.D. theses, research papers, research articles, relevant statutes, Constitution of India, newspaper clippings, dictionaries and Webliography.

### **5. Limitations of the Study**

The study focused on and was limited to analysing PIL cases resolved by the High Court of Bombay, Goa Bench, Porvorim, Goa (India). PIL is one of the domineering areas where the cases were filed in the general public's interest, who cannot fight for their right. Data for the study was collected from 2017 to 2021. The authors

collected the statistical data through RTI applications. The authors delivered 350 questionnaires. However, due to the Covid-19 restrictions, the response rate was low, as only 156 responses were collected.

## 6. Concept and Evolution of PIL

PIL has been a valuable tool in fulfilling the aims of law and legal systems to provide justice to the disadvantaged sections of society. PIL is the action of the court brought by a public-spirited person to represent the general public's interest. In this situation, the person who filed the case may not have been aggrieved.

'Public Interest Litigation' comprises 'Public Interest' and 'Litigation.' The term 'public interest' refers to an action that benefits the public at large or is required for a public purpose. Its requirements, however, may differ from instance to situation.<sup>1</sup>

As per the Stroud's Judicial Dictionary,<sup>2</sup> 'Public Interest' is identified as

"A matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of community have a pecuniary interest, or some interest by which their legal right or liabilities are affected."

As per Black's Law Dictionary,<sup>3</sup> 'Public Interest' is specified as –

"Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in

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<sup>1</sup> Unit 5. Public Interest Litigation. ePathshala, *available at*: <https://www.bbau.ac.in/dept/HR/TM/LL.M.203%20Unit%205.Public%20Interest%20Litigation.ePathshala.pdf>

<sup>2</sup> Volume IV, (1986, Fourth edition).

<sup>3</sup> 1994, Sixth edition.

question, Interest shared by citizens generally in affairs of Local, State or National government....”

Neither the Constitution of India nor any other statute in India could define the term ‘Public Interest’ clearly. It is the paramount duty of the Courts to interpret the word ‘Public Interest’ and entertain only the genuine claims and reject frivolous petitions.

The term “litigation” refers to a legal action brought in a court of law to enforce one’s rights or seek redress for harm done by another person. As a result, lexically, ‘Public Interest Litigation’ refers to a legal action brought in a court of law to enforce a public or general interest in which the public or a class of the community has a financial or other interest that affects their legal rights and duties. It is filed by a person or group whose main purpose is to safeguard the general public’s interest and has no personal gain or interest in doing so.

Four conditions are essential to initiate Public Interest Litigation:

- a) Action, inaction on the part of the state or State of affairs
- b) In case of violation of the rights of a large number of people or causes a large number of people to suffer a similar wrong.
- c) Enforcement of rights or redressal of wrongs done through a petition to the Court
- d) A public-spirited person or an association or organization can file a case on behalf of civic society.

PIL is a new jurisprudence developed by the Supreme Court through judicial activism, which aims to protect the rights and interests of and ensure social and economic justice to the underprivileged and the weaker sections of the society who are socially, economically or otherwise oppressed and find it difficult to approach the court themselves due to various reasons. PIL promotes public interest which emphasizes that legal or constitutional rights of the poor, downtrodden and disadvantaged section of society should not go unredressed.<sup>4</sup>

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<sup>4</sup> Sarkar SK, *Public Interest Litigation*, (2002 Ed, Orient Publishing Company, Allahabad) p. 20.

PIL is a jurisprudence of compassion which uses the concept of human rights to give justice. It is a cooperative litigation in which the petitioner, the State or public authority and the Court collaborate to secure and protect the constitutional or legal rights of the vulnerable sections of society, unlike an ordinary traditional litigation where the two parties are arranged against each other.<sup>5</sup>

In a Public Interest Litigation, courts have the power to issue any direction, order or writ even if the conditions for the same are not fulfilled. It is a cooperative litigation in which the petitioner, the State or public authority and the Court have to cooperate in providing constitutional protection to those who cannot proceed in court to assert their constitutional or legal rights.

The courts must ensure that the public acts appropriately, not for private gain or political purposes. No litigant should have an unlimited right to free court time and public money to resolve his affairs in any way he chooses. The petitioner cannot withdraw the petition at will unless the court permits withdrawal. Interfering where necessary for justice and refusing to intervene when it is in the public's interest and against the court's interests is how courts should ensure social balance.<sup>6</sup> Some of the matters which can be entertained as PIL are in relation to Bonded Labour, Neglected children, Non-payment of wages to workers, exploitation of workers, Environment, women's rights, food adulteration, etc. after going through the concept of PIL now let us understand the importance and advantages of PIL.

### **6.1 Importance and Advantages of PIL**

PIL received significance during the 1980's. Many environmental cases were filed before the HC and the Apex Court. The courts issued appropriate orders to implement the laws/rules/ regulations. The following are the advantages of PIL; the advantages are in the fields of representative, revolutionary, legislative, and remedial in nature.

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<sup>5</sup> Dr. Wadehra BL, *Public Interest Litigation: A Handbook*, (2<sup>nd</sup> Ed, Universal Law Publishing Co, Delhi) p. 54-55.

<sup>6</sup> *Supra* note.3.

**(a) Vehicle for social revolution:** PIL has brought courts closer to the disadvantaged sections of society and is an effective means of bringing social revolution through constitutional means,

**(b) Incorporation of Directive Principles into the Fundamental Rights:** PIL's role in advancing the jurisprudence of fundamental (human) rights in India is also significant. Although Directive Principles are not justiciable, the courts have incorporated some of these ideas into the Fundamental Rights, making some socio-economic rights as significant as civil and political rights. As a result, important rights such as education, health, livelihood, a pollution-free environment, privacy, and a timely trial have been legally recognized.

**(c) Legislative reforms:** Through PIL, the judiciary also triggered legislative reforms and filled in legislative gaps in important areas, as is seen in the Vishaka<sup>7</sup> case, wherein the Court laid down detailed guidelines on sexual harassment in the workplace.<sup>8</sup>

**(d) Remedial in nature:** Public Interest Litigation departs from traditional *locus standi* rules through its remedial nature. It has changed the procedural nature of Indian law by incorporating the principles enshrined in part IV into part III of the Constitution and turning it into a welfare law. *Bandhua Mukti Morcha v. UOI, Unnikrishnan v. State of A.P.*,<sup>9</sup> etc., is an obvious example of this change.

**(e) Representative Standing:** PIL expanded the doctrine of *locus standi* and has become an exception. After the evolution of the idea of PIL, any public-spirited person or interested person on behalf of the public can approach the higher judiciary and obtain an appropriate remedy by filing PIL.

Allowing a third party having sufficient interest to file a petition on behalf of another. In this sense, the concept of PIL in India is much broader than that of the American form of class action.

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<sup>7</sup> (1997) 6 SCC 241).

<sup>8</sup> *Supra* note.3.

<sup>9</sup> 1984 AIR 802, 1984 SCR (2) 67.

**(f) Non-adversarial Litigation:** Public interest litigation is different from ordinary traditional litigation, which is essentially an adversary character involving a dispute between two litigating parties, one seeking relief against the other and the other resisting such relief. It is a collaborative litigation in which effort is made from all sides. The claimant, the court, and the government all work together to check whether basic human rights have become meaningful for the large masses. The Court also acts as a mediator by coming up with possible compromises.

**(g) Relaxation of strict rule of *Locus Standi*:** This strict rule of locus standi has been relaxed by way of a representative standing, and a person having *bona fide* sufficient interest in the petition can approach the court for violation of fundamental rights and statutory provisions, but not for personal gain or private profit.

**(h) Epistolary jurisdiction:** The judicial activism regarding PILs started when Judges of the Supreme Court and High Courts relaxed procedural requirements and began considering letters to newspaper editors, Judges, newspaper headlines, etc. as petitions and took *suo-motu* actions the same as issues concerning public interest. This epistolary jurisdiction provided a platform for the society's disadvantaged class to seek redressal of public interest issues.

**(i) New regime of Human Rights:** PIL has expanded the meaning of fundamental rights and made them accurate and effective. For example, the fundamental right to life and liberty now includes many unenumerated rights, such as the right to a speedy trial, dignity, means and livelihood, education, housing, medical care, clean environment, right against torture, sexual harassment, exploitation, etc.

PIL, a golden result of judicial activism, has changed its shape in the 21st century by widening the scope of fundamental rights through liberalization of locus standi requirement and introduction of epistolary jurisdiction, for protecting the disadvantaged sections of society who could not approach the court for redressal.<sup>10</sup>

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<sup>10</sup> *Supra* note.3.

## 6.2 Evolution of PIL in other countries

PIL is not a new concept; many countries have adopted this idea differently. **Ancient Rome** followed the doctrine Position in Rome *actio popularis* and allowed its citizens to seek redressal on issues of public importance. However, today, the common law and civil law systems exclude it unless the applicant shows personal interest in the matter.

**In the United States of America** during the 19th Century, the famous Gideon case, in which the Supreme Court treated the letter as a petition, created history and formed the basis for the evolution of PIL.

The Courts in **England** during the 19<sup>th</sup> century stressed on *locus standi*, but in recent years, there has been a change in which the concept of *locus standi* was widened. In **Canada**, the requirement of *locus standi* is relaxed in cases where the constitutionality of legislation is disputed.

In **Germany**, the provisions of PIL are included in its Constitution, Civil Procedure Code, etc. However, it is confined only to alleged violations of the Federal Natural Conservation Act by associations officially recognized by environmental authorities. In **China**, as a major breakthrough, the “Civil Procedure Law” amendment in 2012 brought the PIL system within its scope. **Australian** courts have diluted the principle of “aggrieved person”, and PIL has been a method of environment protection. The **South African** legal framework has relaxed pleading requirements to further the commitment of the South African Constitution to achieve human dignity, freedom and equality.<sup>11</sup>

## 6.3 Development of PIL in India

Indian Constitution was adopted on 26<sup>th</sup> November 1949, after obtaining independence from British rule on 15<sup>th</sup> August 1947, with the goal of establishing a “sovereign, socialist, secular, democratic republic.” The Constitution aims to provide all citizens with justice

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<sup>11</sup> Mamata Rao, *Public Interest Litigation: Legal Aid and Lok Adalats*, (2018, 5<sup>th</sup> Ed., Eastern Book Company, Lucknow) pp. 63-77.

(social, economic, and political), liberty (of thought, expression, belief, faith, and worship), and equality (of status and opportunity), among other things. The fundamental rights (FRs) and State Policy Directive Principles were used to achieve these goals (DPs). An impartial judiciary was established to guarantee that FRs were not just hollow declarations. Provisions concerning FRs, DPs, and an independent judiciary combined to offer a solid constitutional framework for the development of PIL in India.

The robust development of PIL in India was aided by a variety of factors. The constitutional framework governing FRs and DPs is the first factor to consider. Second, various constitutional provisions governing the Supreme Court's authority aided the Court in devising novel and unconventional remedies, raising social expectations in the process. Third, the rise of PIL directly relates to the judicial activism shown by the Supreme Court and High Courts in India.<sup>12</sup> Development of PIL in India is discussed under three phases.

**(a) Phases of PIL in India:**

The evolution of PIL in India could be divided into three broad phases: who is the Petitioner in the PIL cases, the subject matter of PIL, against whom the relief was sought, and the judiciary's response to PIL cases.

- 1) The First Phase:** In the first phase, from the late 1970s till the 1980s, generally, PIL cases were filed by public-spirited persons and mostly related to the rights of disadvantaged sections of society such as child labourers, bonded labourers, prisoners, etc., in which the judiciary recognized rights of these people and issued directions to the government redressing the alleged violations. In the first phase, the PIL was indeed an instrument of social transformation.
- 2) The second phase:** In the second phase of PIL, NGOs and public-spirited advocates became more prominent. These organizations and individuals used PIL to bring many public

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<sup>12</sup> Zachary Holladay, "Public Interest Litigation in India as a Paradigm for Developing Nations", available at: <https://www.repository.law.indiana.edu/ijgls/vol19/iss2/9/>

issues before the court. They advocated issues like the environment, the rights of marginalized communities, and social justice. This phase deals with the starting point of misuse of PIL, which began and reached a disturbing level.

- 3) The third phase:** In this phase, which began in the 21<sup>st</sup> century, the range of issues that could be raised as PIL further expanded, e.g. halting a claimed marriage of an actress with trees for astrological reasons and cancelling the Indian cricket team's tour of Australia.<sup>13</sup>

#### **6.4 Role of Judiciary/Judicial Activism and PIL**

The term 'Judicial Activism' refers to a court's desire to provide an adequate solution for those wronged by developing a new rule to resolve contradictory questions in the event of lawlessness or ambiguous laws. The Supreme Court's review power under Article 32 and the High Court's review power under Article 226 of the Constitution, particularly in Public Interest Litigation, are examples of judicial activism in India. Remedies under both Article 32 and Article 226 are available whenever there is a violation or threat of violation of Fundamental Rights.

However, the Supreme Court's review power under Article 32 is restricted to violation or threat of violation of Fundamental Rights. The High Courts' review power under Article 226 of the Constitution covers violation or threat of violation of Fundamental Rights and statutory rights. In this sense, the power of the High Court under Article 226 is wider than that of the Supreme Court under Article 32.<sup>14</sup>

The judiciary evaluates the law approved by the legislature through its review power. In contrast, the legislature, on the other hand, intervenes in the impeachment of President of India, who is member of the Union Executive.<sup>15</sup>

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<sup>13</sup> *Supra* note. 3.

<sup>14</sup> *Supra* note.7 Dr. Wadehra BL.

<sup>15</sup> Pritam Kumar Ghosh, "Judicial Activism and Public Interest Litigation in India",

### 6.5 Relevance of PIL and Judicial Activism: Advent of PIL in India

PIL originated in the liberalization of the requirement of *locus standi*<sup>16</sup> by the Supreme Court. The Apex Court, through its decisions, has considerably relaxed the traditional rule of “*Locus Standi*” that means aggrieved person only has a right to file a petition. Today, any public-spirited citizen can move/approach the court in the public interest by filing a petition:

- a) In the Supreme Court, under Article 32 of the Constitution of India;
- b) In the High Court, under Article 226 of the Indian Constitution
- c) In the Court of Magistrate under Section 133 of the Code of Criminal Procedure

By transforming the customary necessities of *locus standi*, liberalizing the procedure for filing writ petitions, by expanding the idea of FRs, led to overcoming the evidentiary problems, and developing innovative remedies. The apex Court of Indian judges, *Justice Bhagwati* and *Justice Krishna Iyer*, laid the foundation for the confinement of PIL in India in *Mumbai Kamgar Sabha v. Abdul Bhai*,<sup>17</sup> and later in *Bharatiya Shoshit Karmachari Sangh (Railway) v. Union of India*.<sup>18</sup>

The reasons for relaxing the *Locus Standi* rule were pronounced by *Krishna Iyer J.* in *Fertilizer Corporation Kamgar Union v. Union of India*<sup>19</sup> and the concept of ‘Public Interest Litigation’ grew popularity in *S.P. Gupta and others v. Union of India*.<sup>20</sup>

Modification of the customary standing criterion was essential for the development of PIL. In India, where the mainstream of people is either unaware of their rights or too disadvantaged to go to court, though the need was much greater.

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available at: <http://www.galgotiasuniversity.edu.in/pdfs/issue6.pdf>

<sup>16</sup> Means legal capacity to challenge an act or decision, Ramachandran, VG, *Law of Writs*, (6<sup>th</sup> Ed, 2006, Vol.1, Eastern Book Co, Lucknow) p.26.

<sup>17</sup> AIR 1976 SC 1455.

<sup>18</sup> AIR 1981 SC 298.

<sup>19</sup> AIR 1981 SC 344.

<sup>20</sup> AIR 1982 SC 149.

The Supreme Court's interpretation that the word "appropriate proceedings" under Art. 32 of the Constitution that mentions to the purpose of the proceeding rather than the form, and that any form will suffice as long as the purpose is to enforce a FR. Judiciary is allowed to improve epistolary jurisdiction, in which even letters or telegrams were accepted as writ petitions.

By inferring existing FRs and increasing new FRs, the judiciary then focused on giving a solid foundation led to solution of a variety of problems under PIL. Article 21—"no one shall be deprived of his life or personal liberty unless in accordance with the method provided by law"—evidenced to be the most productive provision, implying supplementary than just physical existence; it "includes the right to live with human dignity and all that goes with it."

The Court expanded the idea of Art. 21 and added various things under Art.21, like the right to health, livelihood, free and compulsory education up to the age of 14, unpolluted environment, shelter, clean drinking water, privacy, legal aid, prompt trial, including rights of under-trials, convicts, and prisoners. In the majority of the cases, such an extension, the judiciary depended on DPs. Article 21 has been used by the courts to grant relief, directives to the government on issues relating to the general public's lives, nullify state actions, or compensate people if the state breaks the rules.

One of the significant tasks of the judiciary is to determine the evidentiary issues and decide suitable remedies for PIL petitioners. In response, the Supreme Court appointed fact-finding commissions and *amicus curiae*.<sup>21</sup>

## 6.6 Misuse/Limitations of PIL

PIL plays an important role in protecting the interests of the poor and the downtrodden public. Besides the affected party, any interested person can approach and file a petition in the interest of

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<sup>21</sup> Pritam Kumar Ghosh, "Judicial Activism and Public Interest Litigation in India", *available at*: <https://www.galgotiasuniversity.edu.in/pdfs/issue6.pdf>

general public. Nowadays, courts reject many petitions and impose penalties for filing private interest litigations. Individuals are filing private interest litigation in the garb of PIL. The judiciary is very cautious in selecting and admitting PILs. Though PIL is one of the most important tools to promote justice to the poor, PIL is not free from drawbacks. The drawbacks are:

- a) **Increase in the Court workload:** PIL has led to an unexpected escalation in the workload of the superior courts. The lack of judicial infrastructure, especially in matters related to the environment, resulted in delays in the disposal of cases by the judiciary.
- b) **Judicial populism:** There is resistance and conflict with corresponding organs of the government and judicial populism, that started in 1990. Today reached a stage where the purpose for which PIL was introduced is weakened.<sup>22</sup>
- c) **Personal interests:** PIL is misinterpreted by the public for their personal gains/issues in the attire of large public interest and trying to pursue advertising rather than public cause.<sup>23</sup> Courts also set up committee to verify the status of application before admission.
- d) **Gap between the promise and reality:** There is a huge gap between the judgment and implementation of a decision. Many a times, the decisions in PILs are not implemented and this non-implementation of decisions results in courts doing representative justice. The judiciary is not in a position to enforce the guidelines or directions in matters related to PIL cases.<sup>24</sup>
- e) **Lack of motivation:** Another limitation to PIL is lack of motivation. This is due to the fact that petitioner has to bear the cost of filing PIL from his own pocket. Also, lawyers charge huge

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<sup>22</sup> *Supra* note. 3.

<sup>23</sup> Desai and Muralidhar in Kirpal et al., *Supreme but not Infallible*, p.181.

<sup>24</sup> Zachary Holladay, "Public Interest Litigation in India as a Paradigm for Developing Nations",

available at: <https://www.repository.law.indiana.edu/ijgls/vol19/iss2/9/>

sums of money as fees. Public spirited people are losing faith and stating that they are not interested in filing or representing PILs.

## 7. Functioning of the High Court in dealing with PILs in the State of Goa

To verify the role of the High Court, data were collected from the High Court and stakeholders. To determine the court's role in enforcing PIL, the authors collected data from the High Court of Bombay at Goa, Panaji Bench, for five years, i.e., from 2017 to 2021.

### 7.1 Analysis of Statistical Data

Statistical data were collected to verify how many PILs were filed, disposed of, or pending, the nature of the PIL, and the time taken for disposal of the PIL. Collected data was compiled, tabulated, analyzed and interpreted.

#### 7.1.1 Status of Cases

Table 1 shows the status of cases filed, disposed and pending. A total of 192 cases have been filed from 2017-2021. One hundred eleven cases were disposed of, and 81 cases were pending. This shows that most cases are disposed of, but a sizeable number of 48% of cases are still pending at the High Court.

**Table 1: Case Status of PILs (2017-2021)**

Case Status	No. of Cases	Percentage
Pending	81	42
Disposed	111	58
Total	192	100

#### 7.1.2 Duration of Pending Cases

Table 2 indicates the time the court takes to dispose of pending PILs. Of 81 pending cases, 52 (64%) petitions were pending for over two years. This shows that the High Court is taking more time to dispose of PILs. 15 (19%) cases are pending for more than 1.5 yrs, up to 2 yrs. The remaining 14 cases are pending for over 6 months to one year.

**Table 2: Duration of Pending PILs (2017-2021)**

Duration of Pending PILs	No. of Cases	Percentage
Up to 6 months	5	6
6 months to one year	9	11
One year to 1.5 years	0	0
> 1.5 years to two years	15	19
> Two years	52	64
<b>Total</b>	<b>81</b>	<b>100</b>

### 7.1.3 Status of Petitioner

Table 3 below indicates the status of the Petitioner who filed PIL during 2017-2021. The Individuals filed a total of 127 PIL cases out of the total of 192 cases, and NGOs filed 65 cases. The individual files 66% of PILs in large public interest. This indicates that the people of Goa were aware of their rights and were trying to seek redressal for matters of public importance through PILs. High Court has not initiated any case *suo moto* by itself.

**Table 3: Status of Petitioners**

Status of Petitioner	No. of Cases	Percentage
Individual	127	66
NGO	65	34
Suo Motu by Court	0	0
<b>Total Cases</b>	<b>192</b>	<b>100</b>

### 7.1.4 Disposed cases and time taken

No time limit is fixed for the disposal of matters before the courts. Table 4 indicates the time taken for disposal of the PIL cases filed during 2017-2021. 53% of the cases were disposed of within six months, 25% of the cases were disposed of within 6 months to one year, 6% of the cases were disposed of within 1 year to 1.5 years, 10% of the cases were disposed within 1.5 years to 2 years, and 6% of the cases were disposed after 2 years. This shows that in 2021, most cases were disposed of within 6 months.

**Table 4: Disposed cases and time taken**

Duration of Pending PILs	No. of Cases	Percentage
Up to 6 months	59	53
6 months to One year	28	25
One year to 1.5 years	7	6
> 1.5 years to Two years	11	10
> Two years	6	5
<b>Total</b>	<b>111</b>	<b>100</b>

### 7.1.5 Petitioner benefited from the court's decision

As mentioned in Table 5, 66 cases (59%) were decided in favour of the Petitioner, 35 cases (32%) in favour of the Respondent, and the remaining 10 cases (9%) were withdrawn.

**Table 5: Petitioner Benefited by Court Decision**

Party benefited - Decision	No. of Cases	Percentage
In favour of Petitioner	66	59
In favour of Respondent	35	32
Withdrawn	10	9
<b>Total</b>	<b>111</b>	<b>100</b>

### 7.1.6 Nature of Petition

Goa is a small state with more green cover; it is also one of the hot spots areas in India. The different broad categories under which PIL petitions were filed during the study period are mentioned in Table 6. The majority of 37 cases were filed in the area of *Environment*, followed by 27 under *Illegal Constructions*. On the other hand, three cases were under *Appointments*, and four were under *Medical* categories. Although the number of cases in the miscellaneous category appears to be the highest, it includes significantly fewer cases in all areas covered.

The 'Miscellaneous' category includes PILs filed in the following areas, like increase in ferry rates, permission for night market, holding of panchayat elections, to appoint chairperson under RERA, transfer of NGT cases to Pune (India) instead of New Delhi (India), fixing digital meters on cabs, constitute PDA, filling vacancies at

police station, floating of non-existing Government tenders, expeditious disposal of recovery proceedings, recovery of arrears from promoters of music festival, functioning of Goa Meat Complex, deletion of Goa VAT, closure of sponge iron plant, unauthorised private coaching in Chicalim Sports Complex, BIS compliance of taxi meters, maintenance of Sanads records, illegal use of Parking places, etc.

**Table 6: Nature of Petitions**

Types of PIL Petitions	No. of Petitions	Percentage
Environment	37	33
Illegal Construction	27	24
Appointments	1	1
Medical	4	4
Miscellaneous	42	38
<b>Total</b>	<b>111</b>	<b>100</b>

### 7.1.7 Year-wise cases under the Environment Category

As evident from Table 7, a maximum of 13 cases were filed in 2018, followed by 10 cases in 2019. The least number of three cases were filed in 2017. 2020 and 2021 witnessed six and five cases, contrary to many cases in 2018 and 2019. The downfall may be attributed to the nationwide lockdown due to the Covid-19 pandemic.

**Table 6: Year-wise cases under the Environment Category**

Environment	No. of cases	Percentage
2017	3	8
2018	13	35
2019	10	27
2020	6	16
2021	5	14

### 7.1.8 Types of Environmental Petitions

The types of petitions filed in the broad category of Environment were subcategorised into (a) Environment Pollution, (b) Coastal Regulatory Zone (CRZ), (c) Mining, (d) Forest, (e) Shipping, and (f) Animals.

As evident from Table 7, a maximum of 16 cases were filed under the Coastal Regulatory Zone (CRZ) category, followed by 10 cases under the *Environment Pollution*. Thus, it is clear that people are filing cases to protect the CRZ areas and are concerned about the pollution of nature and natural resources.

**Table 7: Types of Environmental Petitions**

Sub-category in Environment	No. of cases	Percentage
Environment pollution	10	27
Coastal Regulatory Zone (CRZ)	16	43
Mining	5	14
Forest	4	11
Shipping	1	3
Animals	1	3
<b>Total</b>	<b>37</b>	<b>100</b>

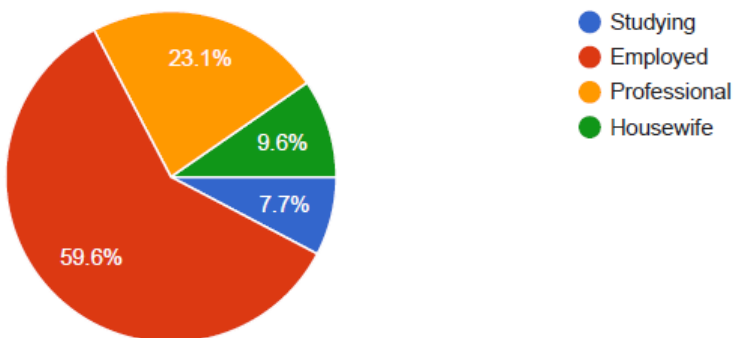
## 8.2 Empirical Data from Stakeholders

Empirical data were collected from stakeholders to cross-verify the statistical data. The questionnaire was circulated among 350 respondents, of which 156 responded.

### 8.2.1 Status of respondents

As depicted in Fig.1, 7.7 % of the respondents were students, 9.6% were housewives, 23.1% were professionals, and 59.6% were employed. Thus, most respondents (82.7%) were employed and professionals (Fig. 1).

**Fig. 1: Status of Respondents**



### 8.2.2 Awareness about Public Interest Litigation (PIL)

Knowledge of Public Interest Litigation is an important aspect of awareness of one's rights as an individual and a part of society. Once they are aware of this, they can file PILs.

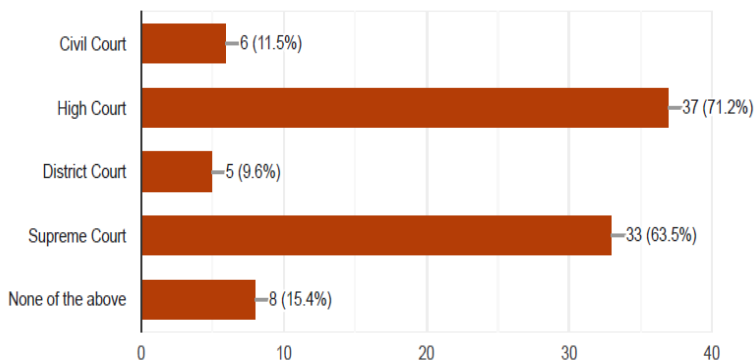
Amongst the participants, 92.3% were aware of the PIL, while the remaining 7.7% were ignorant.

### 8.2.3 Place of filing a PIL Petition

Awareness about the court in which one can file a PIL is important. When participants were asked where they could file the PIL, they were offered multiple choices: Civil Court, High Court, District Court, Supreme Court and none of these.

Out of 156 respondents, 11.5 % of participants chose the Civil Court, 9.6% chose the District Court, 71.2 % chose the High Court, and 63.5% chose the Supreme Court, whereas 15.4 % were not aware of the place of filing PIL (Fig. 2).

**Fig. 2: Place of filing a PIL Petition**



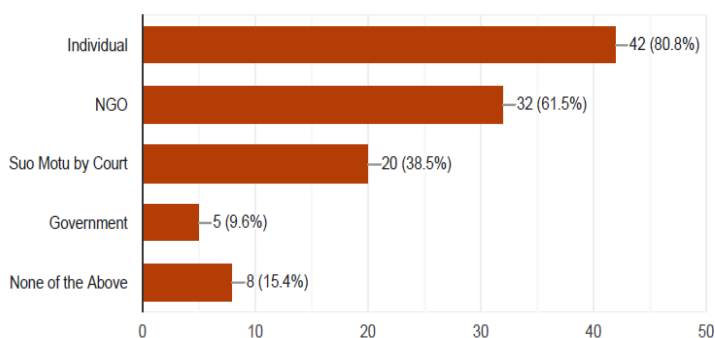
### 8.2.4 Filing of PIL

To find out who can file the PIL before the court, the respondents were offered the options (multiple choice) of Individual, Non-Government Organization (NGO), *Suo Motu* by the Court, Government, and None of the above.

As indicated in Fig. 3, 80.8% chose Individual, 61.5% chose NGO, 38.5 % chose *Suo motu* by Court, 9.6% chose Government, whereas

15.4% reported unawareness. This shows that most participants know who can file a PIL petition.

**Fig. 3: Filing of PIL**



### 8.2.5 Areas of filing PIL

The respondents were asked about their awareness about the pre-defined areas in which PIL can be filled with a choice to select one or more. As evident from Fig. 4, 28.8% chose Environment, 23.1% chose Coastal Region Zones (CRZ), 26.9 % chose Mining, 23.1% chose Academic, 21.2% chose Land Revenue, 23.1% chose Transport, 19.2 % chose Illegal Constructions, 21.2% chose Animal Welfare and 78.8% chose All of the above.

This shows that more than 78% of the participants are fairly aware of areas in which a PIL petition can be filed.

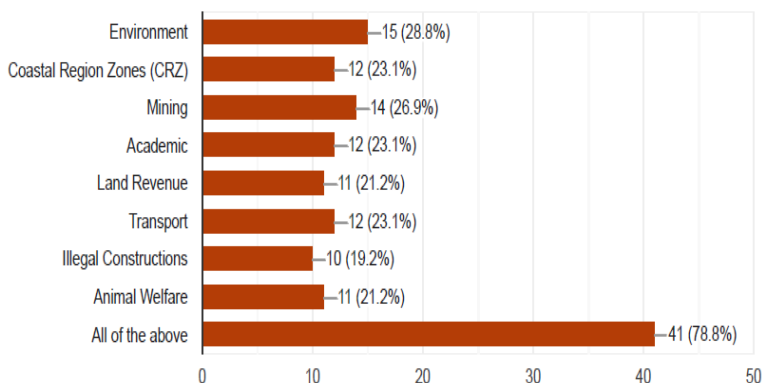
### 8.2.6 Time taken for disposal

The participants were asked whether they knew the time taken by Courts to dispose of a PIL petition, the options being less than 6 months, 6 months to 1 year, 1 year to 1.5 years, 1.5 years to 2 years, 2 years or more.

50% of the response group felt that Courts take less than 6 months to dispose a PIL petition, 25% opted for 6 months to 1 year, 11.5% chose 1 year to 1.5 years, 9.6% chose 1.5 years to 2 years, and 3.9% chose 2 years or more. This shows that though 50% of the

participants feel that PILs in Goa are disposed of within 6 months, 25% feel that it takes longer time in disposal of cases.

**Fig. 4: Areas of Filing PIL**



### 8.2.7 Satisfaction with Court order

Justice delivery is an important aspect of the court system. One of the most significant aspects of justice is the petitioner. Of the 156 respondents, 30 had prior experience filing the PIL (19.23%). Of these 30 experienced respondents, 12 were satisfied with the Court's Order, while 18 reported dissatisfaction.

### 8.2.8 PILs and promotion of private interest

In today's world, PILs are often used to promote private interests. When asked about the misuse of PIL, 69.2% agreed that they are filed for private interest, while the remaining 30.8% disagreed with the statement. Thus, a need arises to educate the public so that they understand the idea of PIL for personal gain.

## 9. Conclusions and Suggestions

Recognizing that legal remedies to enforce individual rights often prove inadequate in dealing with public rights, the Indian Judiciary developed and evolved a new idea, PIL, to protect the rights of the community and the downtrodden and disadvantaged sections of society.

This involved the relaxation of rule of *Locus Standi*, and other procedural requirements, introducing remedies, such as the appointment of amicus curie and epistolary jurisdiction. One negative impact of this was the litigation explosion, following which the Judiciary introduced several guidelines to regulate the use of Public Interest Litigation and prevent its abuse.<sup>25</sup> There is a need to avoid private interest litigation as public interest. Judiciary will verify the petition and feel that it is not PIL it is a private interest. courts are imposing penalties on the party who files such private litigation. Recently, the HC imposed a fine of 20 lakhs upon the Bollywood actress *Juhi Chawla* in the 5G spectrum petition, stating that the issue is of private interest.<sup>26</sup>

### 9. Suggestions for improvement

The following suggestions are offered to improve Public Interest Litigation in the State of Goa and general public at general.

- a) There is a need to create mass awareness about PIL, including its advantages and misuse for private interest. Students, irrespective of age and gender, should be acquainted with the concept.
- b) Need to provide the opportunity to E-filing of PIL, online petition filing option should be available to general public who are staying at taluka or village level.
- c) More promptness is required from the Courts to dispose PIL, followed by a follow up by a Monitoring committee established by the judiciary.
- d) As large number of cases are pending before the higher judiciary, hence, stakeholders suggest for special courts for hearing PIL matters and the same should be disposed of within 6 months

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<sup>25</sup> *Supra* note. 3

<sup>26</sup> *Short news* 25<sup>th</sup> January 2022, The Delhi High Court, proposed to reduce the fine imposed on the actress for wasting judicial time, in a lawsuit regarding implementation of 5G issue in frivolous and casual manner, from Rs.20 lakhs to Rs. 2 lakhs if she accepts to do public service.

- e) Proper scrutiny of PIL petitions by a scrutinizing process should be done to filter out frivolous petitions and effective implementation of orders which will save precious time of the Higher Judiciary.
- f) It is mandatory to inculcate values among the young generation to file PIL only for genuine purposes, in public interest, without any personal motives or personal vengeance or personal benefit or motives.
- g) Secondary committee needs to be established to see if the implementation and enforcement of the orders of the court are followed thoroughly or not. If not, needs to initiate immediate action and penalty for nonfulfillment of court orders.
- h) By adopting the above suggestions, we can evaluate and appraise the role of Higher Judiciary in implementing the idea of PIL evolved through judicial activism and its implementation in letter and spirit in practice.