"Nothing rankles more in the human heart more than a brooding sense of injustice. Illness we can put up with. But injustice makes us pull things down. When only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expense puts it beyond their reach, the threat to the continued democracy is not imaginary, but very real because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness."

...Justice Brennon.
CHAPTER I

INTRODUCTION
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In India, legal system is not equally accessible to all. Its complex procedure and adversary character, the high priced lawyers, fleecing stamp fee, passive judiciary, the traditional rules of locus standi, the uncertainty generated because of the contradictory opinions of different High Courts, and frequent reversal of prior holdings, the terrible delays in hearing of the cases even where life and personal liberty are at stake, the awesome court setting -- frighten away the poor man who is incapable of protecting them through law courts because of economical, geographical, psychological, language barriers.

It is a known fact that it is not just the nation's disadvantaged and poor who often feel helpless in the society, but millions of middle class citizens faced with governmental and institutional wrongful conduct, which they do not like but cannot seem to change. Citizens often feel frustrated and overpowered due to gross violation of human rights. They read in the newspapers about impure drinking water and unsafe products; about sky-rocketing utility bills; corrupt politicians; steep rise in prices of essential commodities; and they feel they can do nothing about all these problems that affect their day to day existence. A similar problem occurs, when public institutions such as prisons, school systems, and welfare
systems directly infringe on the rights of the citizens. Such institutions can develop an internal momentum that dictates basic policy, while people affected have no voice in the decision-making process. The unavailability of legal representation to the affected people frequently prevents their practical 'access' to courts, denying them the only forum in which they might assert their basic rights against the institutions that control them. But now Public Interest Litigation has shown that sometimes, something can be done, and that with the effective legal representation, citizen can often make their voices heard and help shape the public policy decisions that affect their lives.

During laissez faire era of late eighteenth and nineteenth century, when State was passive and insensitive to the problems of helping the poor aggrieved person to litigate or defend his rights in the court of law, courts were accessible only to those who could afford its costs. But modern Welfare State has recognized that equal enjoyment of social rights presupposes affirmative state action. Recent years have witnessed occurrence of two phenomena, viz., the Rights Explosion, i.e., the creation of a vast, and still growing, number of legally vested rights; and the Grievance Explosion, that means even minor grievances are elevated to constitutional status. To cope up with the 'rights explosion' and the 'grievance explosion', there came the need to expend the 'judicial protection' which has been achieved by the liberalisation of 'locus standi'.

To make 'access to justice' a reality, the judiciary is
endeavoring to dismantle the barriers of poverty that exist between poor man and the justice system. And this task is accomplished by liberalizing the scope of 'locus standi', and developing 'Public Interest Litigation', i.e., the courts are now allowing even the 'third' parties to vindicate the socio-economic rights of weaker sections.

Public Interest litigation is a litigation in which a person, even though not aggrieved personally, brings an action on behalf of the downtrodden masses for the redressal of their grievances. Public Interest Litigation may be defined as - a litigation undertaken for the purpose of redressing public injury, enforcing public duty, protecting social, collective and diffused rights, interests or vindicating public interest. The greatest service done by Indian Supreme Court to the poor of the country -- is the development of Public Interest Litigation.

Infact, it is due to lack of legislative thinking and executive inaction, coupled with exploitation of masses by the few opportuned, that made a section of the judiciary come down and come out, almost in a revolt to extend its help to atleast some of the needy-poverty-strukken people. The judiciary felt compelled to discard its conservative cloak to the rescue of suffering masses through this innovative strategy called Public Interest litigation. A perusal of cases, in the coming chapters of the present study, will show how the judiciary went on to give relief to the undertrial prisoners, to the amelioration of conditions of women in Protective Homes, to prohibit trafficking
in women, to release and rehabilitation of bonded labour, for protection of environment and consumers, for accident cases, etc. Besides, Public Interest Litigation is also utilized for checking discrimination in giving benefits of 'reservations' to members of SCs/STs; for grant of minimum 'basic needs'; for preventing abuse of power by political executive, making him thus publicly responsible for wrong acts done by taking undue advantage of the official position held; stopping the telecast of serials on Television if they are of controversial character, etc.

A. POSITION IN THE UNITED STATES

In United States, Public Interest Litigation is a name given to efforts to provide legal representation to groups and interests that have been unrepresented or under-represented in the legal process. These include not only the poor and the disadvantaged sections, but also ordinary citizens who have lacked access to courts, administrative agencies, and other legal forums in which basic policy decisions affecting their interests are made, by reason of their inability to afford lawyers to represent them. When there is utter carelessness on the part of governmental machinery, showing blind eye to the problems of the helpless masses, then it is the duty of the legal profession to assist the people to obtain the social rights provided by law. It becomes the duty of the advocates, social activists groups to help the many thousands of people - steeped in poverty or
otherwise unable to approach the court - in effective realisation of their rights.

In United States, public interest lawyers represent social groups and interests which are currently under-represented in the legal and political arenas. They act in the public interest by consciously attempting to correct the bias of the political system.

The ferment of the 1960s led many lawyers to reformulate their professional role in order to attack the problems raised by hostile race relations, poisoned air and water, inadequate delivery of health services, decrepit housing, corporate chiseling, drug addiction, adulterated food, invasion of privacy, monotonous education, family instability, and many more ills that had plagued the society. Besides, employing traditional modes of lawyering, such as litigation and lobbying in novel ways, they also experimented with structures, strategies, and tactics that had never been used before on behalf of the clients groups they represented. And in the process, they redefined their relationship to these clients. While the proportion of attorneys practicing public interest law has never been great, but their impact on the profession, and their impact on the society was, and is, surely profound.

The issues within the sway of Public Interest Litigation are primarily concerned with the civic participation in the governmental decision making. There are Public Interest Law Centres, concentrating in issues affecting broad segment of
public, such as consumer and environmental protection. Public Interest Lawyers are also helping to ensure that governmental agencies are implementing the statutes as Congress and State Legislatures intended. Public Agencies are also serving people in health care, especially for children and poor. Another major role of Public Interest Law has been to assert new constitutional theories, in order to achieve reforms of public institutions, such as schools, mental hospitals, and prisons. In several cases, after all previous attempts at reform had failed, it was the court actions brought by Public Interest Lawyers which brought in those changes successfully.

However, for past few years, we are witnessing that Public interest Law, in United States, has entered an era of uncertainty and flux. Political resistance to the demands of its clients has grown. Funding resources have dried up. Courts and administrative agencies are hardening their attitudes towards new ideas, the realities of organizing the poor, pressuring the legislatures, and exposing injustice have proven harsher than expected. Some lawyers have abandoned public interest work for more lucrative and more conventional practice. Albeit, young lawyers and recent graduates still profess group interest in long-range social change, but they express confusion about identifying useful and effective means to pursue it. Students prefer traditional government or corporate legal work and they justify their choice by complaining that public interest jobs do not provide careful training, suitable working conditions, fair pay, or a high
probability of promoting social change.

However, as is always the case, there is other side of the coin also. Thousands of opportunities now exist for public interest legal work that were not available a decade ago. And also the need for resourceful and imaginative legal work is greater than before because now more visible problems have been attacked. Those lawyers, whose commitment was to old principles, now know that now public interest law is their life work. As a whole the movement shows signs of maturity. The Public Interest Litigation movement is a recognition of the fact that social reform is necessarily incremental and as such is not brought about so much by front page victories as by a painstaking on going process of organization, pressure tactics, training, attention to detail and of course, the hard work. Problem-management, rather than the problem-solving is the work of the those advocating public interest.

B. POSITION IN INDIA

India is a federal republic with a parliamentary system of government with a strong central administration and a president, a titular head. The Preamble to the Indian Constitution expresses a commitment to secure to all its citizens -- justice, social, economic and political; liberty of thought, expressions, belief, faith and worship; equality of status and opportunity; and to promote among them fraternity assuring the dignity of the
individual, the unity and integrity of the nation. Constitution guarantees specific enforceable fundamental rights in Part III of the Constitution. And also the Constitution guarantees non-justiciable 'Directive Principles' of State Policy and governance in Part IV of the Constitution.

Directive Principles reflect how markedly Indian Constitution differs from that of the United States as these principles are more positive commitment to human welfare measures thus licensing the courts to be more liberal in their interpretations of legal rights. For instance, Article 38 exhorts the state 'to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political shall inform all institutions of national life'. Article 39 enjoins the state to direct its policy towards securing: (a) ... the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ....'

In reality, however, the Constitutional rights, rooted in a liberal understanding of society, instead of improving the

1. Articles 12-35.
2. Articles 36-51.
welfare of the disadvantaged entrench the existing maldistribution of wealth and power. A purely formal understanding of 'equality' serves to exclude from legal comprehension those very aspects of social life that ensure inequality and domination. A purely negative understanding of 'liberty' wherein governmental action is portrayed as the primary duty of human freedoms, leads to the view that the only function of judicial review is to police those very forms of collective action which are necessary to redress inequality. Ronald Dworkin has also suggested that constitutional rights are 'trumps' that can be played against collective decisions. Modern liberal theory recognizes the need for governmental action to ameliorate inequality.

However, strategic considerations including the composition and ideology of the judiciary, the cost of litigation, and the unequal distribution of legal resources militate against litigative strategies aimed at social change.

The question is: Whether constitutionally based Public Interest Litigation offers a viable strategy for improving the lives of the less advantaged members of Indian society.

Painfully aware of the limitations of legalism, the judiciary in India has struggled over last decade to bring law into the service of the poor and oppressed. Under the banner of

Public Interest litigation or Social Action Litigation, to enforce the fundamental rights guaranteed under the Indian Constitution, the courts have sought to re-balance the distribution of legal resources, increase the access to justice for the disadvantaged, and imbue formal legal guarantees with substantive and positive content.

In India, the Public Interest Litigation is primarily concerned with exposing the repression, oppression and exploitation of unorganized poor masses by the agencies of the State, as well as governmental lawlessness.

In India, Public Interest Litigation is channeled through two avenues. If there is a violation of a 'legal right', then the appropriate forum is the High Court of the State under Article 226 of the Constitution. If, however, there is violation of a 'fundamental right', then remedy may be sought from High Court or directly from the Supreme Court under Article 32 of the Constitution. Article 32, sub-section (1) gives the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights guaranteed by Part III of the Constitution, i.e., fundamental rights.

It is humbly submitted that this constitutional guarantee of direct access itself ensures that the less advantaged, individuals and groups, might consider asserting their interests through the courts. And by giving liberal interpretation to these provisions, courts in past few years, have further sought to re-balance the scales of justice for the poor masses.
Traditional rules of adversary litigation required that participants shall have some 'real interest' in the matter. Historically, notion of a 'real interest' meant property and other financial interests. 'Standing' was construed narrowly in order to exclude intermeddlers. Courts were either unable or unwilling to adjudicate on policy matters.

In 1976, Indian Supreme Court declared in Maharaj Singh v State of Uttar Pradesh that:

"Where a wrong against community interest is done, 'no locus standi' will not always be a plea to non-suit an interested public body chasing the wrong-doer in court ... Locus standi has larger ambit in current legal semantics than the accepted, individualist jurisprudence of old".

Since then, the rules of locus standi are extended to the point that they are no longer any real obstacle to the public interest litigant. In India, Public Interest Litigation has been initiated by individuals on behalf of other individuals and groups, by academics, journalists, and by many social action organizations.

5. AIR 1976 SC 2602, 2609.
6. Ibid.
7. For an account of some of the political and social action organizations in India see Shah, "Grass-Roots Mobilization", in Atul Kohli, ed., India's Democracy (1988).
Justice Krishna Iyer in *Mumbai Kamgar Sabha v Abdul bhai* explained:

"Test litigations, representative actions, pro bono publico and like, broadened forms of legal proceedings are in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass the real issues on the merits by suspect reliance on peripheral, procedural shortcomings...Public Interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualization of the right to invoke the higher courts where the remedy is shared by a considerable number, particularly when they are weaker."

Ex Chief Justice P.N.Bhagwati of Indian Supreme Court was even more explicit in *S.P.Gupta v Union of India*:

"Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons...and such a person or determinate class of persons is,  

8. AIR 1976 SC 1455.

9. Ibid.

by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for appropriate direction...."

Originally, Public Interest Litigation was aimed at combatting inhuman prison conditions and horrors of bonded labour. Now Public Interest actions have established the right to a speedy trial, the right to legal aid, the right to livelihood, a right against pollution, a right to be

11.Ibid.
13.People's Union for Democratic Rights v Union of India, AIR 1982 SC 1473; Bandhua Mukti Morcha v Union of India, AIR 1984 SC 802.
Hussainara Khatoon v Home Secretary, State of Bihar, AIR 1979 SC 1360; 1369; 1377; 1819.
protected from industrial hazards, the right to human dignity, right to 'basic needs', etc.

Thus, a great willingness is shown by the India judiciary in altering the rules of procedure where ever necessary, so much so, that now actions may be commenced, not only by way of formal petition, but also by way of letters addressed to the court or a judge who may choose to treat it as writ petition. Several actions have begun even by a postcard written to a judge, and by one judge converting a letter to the editor in a newspaper into a Public Interest Litigation writ petition.

There are mixed reactions to Public Interest Movement. Those in favour of the movement consider it as an important strategy — to represent the under-represented and unorganized interests in the various social and political processes; to deliver socio-economic justice to the unorganized poor masses of the country through judicial process in case of failure of other organs of the State in this respect; and to make the democratic process in India, a participative system.

While those against Public Interest Litigation movement consider it — as unwarranted expansion of judicial power which is aimed at upsetting the already well established principles; as an encroachment on the legislative as well as executive power; and as conspiracy on the part of lawyers, judges, press and social organizations to undermine the democratic process.

Same way, about the nature of Public Interest Litigation also, some consider it as an outcome of judicial populism, whereas others consider it as a strategic arm of legal aid movement. Doubts are raised about the role of the Supreme Court in Public Interest Litigation. There are number of questions relating to origin, legitimacy, impact, scope, growth, limitations, criticisms, prospects of Public Interest Litigation that need to be answered.

Of late, there is spectacular growth of Public Interest Litigation cases in India, contrasting so dramatically with the
simultaneous decline in the movement in United States. This calls for a comparative study. The comparative study between India and United States will provide a measuring unit to probe the validity, utility and justice of the Public Interest Litigation development in India. Also, the American experience provides a relevant message for Indian Legal System, which we can use to objectively measure the development of Public Interest Litigation in India. It is only through a comparative study between the two systems such as India and the United States that one can draw conclusions for the 'future action' in the said area. The objective here, is to describe the nature, origin, its unique characteristics, its use for the future action, the guidelines to streamline the extensive use of Public Interest Litigation, its departure from the traditional conceptions, its consequences for the place of law and the courts in the Indian political and legal system. A detailed - critical analysis of the experience in the United States in Public Interest movement, the problems that it faced, and the consequent decline of Public Interest Litigation movement in United States will give us a yardstick to test the development of Public Interest Litigation in India.

A comparative account of the recent efforts of the judiciary, in India and United States, is attempted in this study to give substance to the promises of law and to extend the benefit of the constitution to the dispossessed and disenfranchised. While, India and United States have a very different culture with unique social problems and priorities, yet India's formal constitution,
and modern legal tradition is not unlike that of the United States. Still the study is one of contrasts. The study demonstrates the limitations upon Public Interest Litigation and sweeping innovations that must take place before this movement play a meaningful role in improving the lives of the poor.

Of course, the comparative legal studies must be made with caution and sensitivity to the vast differences in politics, economy and culture, between such countries as India and United States. Yet, as former British colonies, both share a common British legal heritage, and unlike the British, both share the institution of written constitution, which enshrines fundamental rights and entrust their special protection to courts, which have the ultimate authority in these areas over and above the other branches of the government.

D. CONTENTS OF THE PRESENT STUDY

Chapter 1 of the present study, i.e., the present chapter, has introduced the subject, and explained what is 'Public Interest Litigation'; What is the position of Public Interest Litigation in United States and India?; What is the objective that present researcher has in mind in taking up 'Public Interest Litigation in U.S.A. and India, a Comparative study' - as subject of research? Herein the areas that are to be covered in different chapters of the present study are discussed. Then, the 'research design and methodology' adopted for carrying
In Chapter - II, the present researcher is elucidating, firstly, what is the traditional doctrine of 'locus standi'?; What ends the concept of 'locus standi' is meant to serve?; What is the policy behind the doctrine of 'locus standi'? and Why did the judiciary feel the need to liberalize the doctrine of 'locus standi', both in United States and India? It is felt that restrictive rules of standing are generally inimical to a healthy system of justice. If a plaintiff has a good cause of action, he should not be denied 'access to justice' merely because there is no 'injury' to him. To check governmental lawlessness, it is very necessary that if a person chooses to take up a cause in the court of law in 'public interest', he should be allowed to do so. After all, usually, a public spirited person is not going to spend his time and money on some unreal cause. And judges have enough insights to judge whether a public spirited petitioner is acting bonafide, honestly and is 'serious' enough to be entitled to fight a litigation on behalf of a class. The doctrine of 'locus standi' has undergone various stages of transformation. What are they? How the doctrine has resulted in the birth of Public Interest Litigation, both in India and United States? There will be a critical case analysis demonstrating the transformation stages of the doctrine, both in United States and India.
In Chapter - III of the present study is devoted to position in U.S.A. At the very outset, an attempt is made to 'define' and find the 'meaning' of 'Public Interest Law'. After all, why do we need Public Interest Law? What is the historical background of Public Interest Law in the United States? Albeit, the use of the term 'Public Interest Law' goes back to mid-1960s, but fact is that there are various movements and programs that have contributed to shape and to structure the Public Interest Law. Thus, underlying ideology of Public Interest Law, in United States goes back to as early as 1876. The developmental stages of the concept of Public Interest Law will be discussed in detail, in this chapter. Then, of course, the question arises that - What is the position of Public Interest Law today in United States? How old institutions are adopted to the 'newer needs and goals' in U.S.A.? Then what are the contributions of Public Interest lawyers in Public Interest Litigation, and how they changed the American scene? Public Interest Lawyers have empowered the powerless poor and needy; they have achieved citizen participation in communication media; they have fought for environmental and consumer protection; they have brought in political reform; they have made improvements in mental health, and also reformed prison administration; they have enforced civil rights and women rights. All these achievements are owed to Public Interest Law and Public Interest Lawyers. Then, chapter will be concluded by concluding observations.

Chapter - IV relates to position in India. The present
researcher will firstly, show the 'emerging trends' in Public Interest Litigation in India. What are the 'factors' responsible for the emergence of Public Interest Litigation in India? The press, the State, the public, social or democratic organizations, lawyers, judiciary, all have played a crucial and appreciable role in the emergence of Public Interest Litigation in India.

What is the 'nature' of Public Interest Litigation in India? In India, Public Interest Litigation is of two types, viz., Collaborative Litigation; and Investigative Litigation. Then, what are the 'features' of Public Interest Litigation in India? Judges have indeed acquired a 'new' role in Public Interest Litigation. Is 'res judicata' applicable to Public Interest Litigation? In Public Interest Litigation cases the "parties' right to be heard has changed from 'individualistic' to 'socialistic' due process". There are some 'limitations' also on this movement. What are they? Public Interest Litigation is a divergence from the traditional model of litigation. How? Here, there will be comparative analysis of position in United States and India. In India, Public Interest Litigation has in some cases given 'relief' without declaring 'rights', while in other cases, it has declared 'rights' without giving 'relief'. All these points will be discussed in this chapter. This will be followed by concluding observations.

In Chapter - V of the study, the present researcher has undertaken, in the light of Indian experience, by case study method, to demonstrate thereby - how court has acquired a 'new
role' in Public Interest Litigation? In Public Interest petitions, the court has taken up the task of 'investigation' upon itself to acquire evidence and facts, thus, it has acquired a 'new investigative role' which is analogous to 'inquisitorial role' - typical of continental jurisprudence. The court has allowed 'Third party intervention' also. The court has expanded the scope of writ of 'habeas corpus' to check the violation of fundamental rights of under-trials and convicted. All these aspects will be discussed in this chapter, and thereafter there will be concluding remarks.

In Chapter VI of the study, deals with Indian position but wherever required the American position is also given in. Firstly, there will be a discussion on 'right to life and personal liberty' - both in India and United States. How judiciary interpreted 'procedure established by law' in Pre - Maneka Gandhi Era? Since in Maneka Gandhi case, Indian Supreme Court has given a very wide interpretation to Article 21. So far so good. But now the question is - in the background of such a liberal interpretation of Article 21, how long and how far, the judiciary will entrench upon the field reserved for the legislature or executive? What is the impact of Public Interest Litigation on Personal Liberty? What is the impact of the movement on 'prison jurisprudence'? The court has tested all aspects of prison administration on touchstone of 'procedural and substantive fairness' as - 'prison justice', 'bar fetters', 'hand cuffing', "right to 'life', 'human dignity', and
The activist role of the judiciary is seen to ameliorate the conditions of 'mentally sick' persons also, whether in jail or in mental hospitals. Public Interest Litigation has helped in the improvement of their inhuman living conditions and mental health. The court has provided a 'forum' for the agitation of...
rights of those 'mentally sick'. Albeit, presently, it is not so fruitfully used, but first step is definitely taken, which has empowered the mentally sick persons with their basic human rights. So there will be a discussion on this aspect also.

Then, persons dwelling in 'slums' and pavements have also come to the courts for vindication of their rights through Public Interest Litigation through social activists. When social activists brought to the attention of the court the conditions of persons dying of starvation in Kalahandi district, selling their own children compelled by circumstances, the court recognized the responsibility of the State to provide 'minimum basic needs' to the poor masses. Satisfaction of hungry people dying in famine and starvation conditions is of utmost importance to save their life. A critical analysis of Kalahandi food petitions will demonstrate how Public Interest Litigation has attempted to achieve the ideal of satisfaction of 'basic needs', at least for food, and how the court has not gone beyond giving merely two directives, not understanding the logic and the need of filing 'food petitions' by public spirited persons.

Previously, doctors used to feel apprehensive in 'accident' cases to treat the injured, even though battling between life and death. They would send accidentally injured to the doctors authorized to take up medico-legal cases. But now Court has ruled in Public Interest Litigation that all procedural criminal investigations, to check negligent deaths, can follow after the injured is treated. The court has assured that doctors
will not be unnecessarily harassed during the trial. The court said it is the state obligation and duty on doctors to provide immediate medical assistance to person injured to save his life as life is of paramount importance. There is also duty on judiciary and it's instrumentalities, the lawyers to not to call doctors unless very essential, for 'witnessing' and 'cross-examining'. They should respect the noble profession of doctors, and call them only when necessary so that their time is not wasted. Then, in the area of 'protective discrimination', if there is discrimination in giving benefits of 'reservation' then Public Interest Litigation can be filed to help the members of SCs/ STs but it cannot be utilised as affirmative litigation to compel the government to provide 'reservations'.

Doctrine of 'equal pay for equal work' is commonly used in Public Interest petitions to get parity in wages. Public Interest Litigation has made political executive publicly accountable for misappropriation of money, corruption, nepotism, fiscal crimes etc. Also, by the use of Public Interest Litigation, a check is put on communication media, the Television to see if they are showing serials of controversial nature, or whether the serial relating to epics are showing the correct version and there are no distortions. A limitation is also put on public interest petitioner that - if public interest petitioner engages in criticism of the court and it's functioning during the pendency of litigation to which he/she is a party, court can commence even 'contempt' proceedings against that petitioner. But a healthy
criticism against the judiciary and its instrumentalities, outside, is permissible.

Thus, all these 'newer arenas' where Public Interest Litigation has entered, will be discussed in this chapter. This will be followed by concluding remarks.

In Chapter - VII of the study, an attempt will be made to show how Public Interest Litigation is used as a strategy to deliver social justice to the poor, both in India and United States of America. Public Interest Litigation is interchangeably used with the term Social Action Litigation because Public Interest Litigation is mainly used as a strategy to vindicate fundamental rights or legal rights of poverty-stricken masses who have had no 'access' to justice in adversarial model of litigation. Therefore in this chapter, the present researcher will firstly describe - what is the concept of 'poverty'? Then, what is 'poverty syndrome'? What was the position of the poor prior to Public Interest Litigation? What is the position of the poor after the advent of Public Interest Litigation? How the strategy of Public Interest Litigation has helped the poor to realise his rights in the courts of law, both in United States of America and India?

Chapter - VIII of the study is concluding chapter. Albeit, the present researcher has made suggestions at appropriate places, a few suggestions are humbly made in this chapter also. Besides drawing final analysis from foregoing chapters, present researcher has also answered few questions
and removed doubts, relating to Public Interest Litigation movement, that have arisen in the minds of scepticals.

In **Appendix - 1**, a copy of the 'Questionnaire' issued by the present researcher is enclosed.

In **Appendix - 2**, a list of experts 'interviewed' by the present researcher is enclosed.

In **Appendix - 3**, a list of experts to whom 'Questionnaire' was mailed by the present researcher is enclosed.

In **Appendix - 4**, there is 'computation of responses' along with 'answers' received - from judges, lawyers, social activist, and academicians - in response to the 'Questionnaire' mailed and 'interviews' taken by the present researcher.

**Appendix - 5** contains 'Bibliography' giving the list of reports and government documents; books; articles; and cases.

### E. RESEARCH DESIGN AND METHODOLOGY

Since the study involves the identification, description and analysis of Public Interest Litigation, the source material for the project is books, cases, articles in various Indian and foreign journals. Thus study is based on primary, secondary and even tertiary data available. Besides, the present researcher has attempted to carry on extensive field work by interviewing those interested and involved in Public Interest Litigation movement.
which included — judges, lawyers, Professors, journalists, and also those belonging to the institutions and organizations, in Delhi and Ahmedabad. The present researcher has also mailed 'Questionnaire' to all those interested in the movement, throughout India to seek answers to various queries related to Public Interest Litigation. Lists of the persons interviewed, and to whom 'Questionnaire' is sent, and a copy of the 'Questionnaire' are given in Appendix 1, 2 & 3. Hence, 'doctrinal' as well as 'non-doctrinal' method is followed in carrying this research project.

F. TECHNIQUE OF DATA COLLECTION

The books, articles, cases are collected from various Indian and foreign journals from the Libraries of Indian Law Institute, Delhi; Law Faculty Library, Delhi; World Affairs Library, Sapru House, Delhi; American Centre Library, both in Bombay and Delhi; Supreme Court Library, Delhi; Judge's Library, High Court, Ahmedabad; M.N. Law College Library, Ahmedabad; and L.A. Shah Law College Library, Ahmedabad.

The literature available, even in up-to-date libraries, lags behind the present day position, accordingly the present researcher has tried to make the study up-to-date by interviewing and mailing the 'questionnaire'. In addition, there is also search for latest opinion by going through newspaper clippings - for articles, and news items related to the topic of the present study.
G. SIGNIFICANCE OF THE PRESENT STUDY AND ITS CONTRIBUTION

The emergence of Public Interest Litigation has recognized that the right to effective access to justice is the most basic and fundamental human right in the welfare state which guarantees social rights. Whether it was traditional legal rights or the new social rights, there was a need for new technique for their effective protection which we have found now in strategy of Public Interest Litigation. The great advantage of Public Interest Litigation of course is that it short circuits the political process where the interest of the unorganized poor are rarely represented and are often discarded.

Public Interest Litigation has come to stay in India. However, in United States it is on decline. The case analysis in the present study will show that Public Interest Litigation Movement is entering into new arenas. Now it is not only vindicating the governmental commitment to the welfare of downtrodden poor people, but is also helping in maintaining social control and communal harmony. It is a technique of non-revolutionary struggle against domination, abuse of law, decline of public morality and subversion of rule of law. Thus, Public Interest Litigation is empowering the victims of governmental lawlessness to use the court as a vehicle to force the government to fulfill its commitments. Seeing the spectacular rise of Public Interest Litigation cases and the cooperative attitude of the judiciary, there is no doubt that Public Interest Litigation is
acquiring total legitimacy. A comparative study of the kind undertaken will provide a 'measure-scale' by which we can measure the development of Public Interest Litigation in India, test its validity, and propose suggestions for its institutionalization.