At the dawn of the new millennium, human rights are acquiring new dimensions and forging into new areas. With the adoption of more than ninety Covenants and Conventions under the aegis of the United Nations, human rights have gained national as well as global importance. Its origin can be traced to such pronounced western landmarks as the English Petition of Rights (1672), the Habeas Corpus Act (1679), the American Declaration of Independence (1776), the American Bill of Rights (1791), and the French Declaration of Rights of Man and Citizen (1789), all of which constitutionalised and institutionalized a western standard of human rights and liberties. One leading protagonist, Paul Sieghart, opines that: “Human rights are universal in the sense that they transcend national boundaries or ideologies. They are deliberately designed to be culturally and ideologically neutral. They are not specifically liberal or socialist, eastern or western, northern or southern, developed or developing, Christian, Buddhist, Islamic, or Hindu”. According to Soli. J. Sorabjee, “Protection of human rights of individual is an abiding concern of every civilized state, it assumes vital importance in the time of emergency when there is invariably vast concentration of power in the executive and considerable direction of safeguard in judiciary, which ensures protection of fundamental rights. Suspension of human rights is a concomitant feature of emergencies, and their violation an inescapable consequence”.

India being the largest democracy and signatory to many international Conventions and Covenants should give special importance to human rights but ironically the record of human rights in India is not very satisfactory and encouraging as many people are subjected to exploitation, injustice, physical torture, and violence. Mass of the people are illiterate, under-privileged and are
unaware of the law or even of their legal rights, unacquainted with the niceties of procedure involved, and too impoverished to engage lawyers, file papers and bear heavy expenditure on dilatory litigation. Briefly speaking, ignorance and poverty are twins and social backwardness a third close associate. These misfortunes intercept the advantage, which the law confers on the disadvantaged. Socio-economic legislation confers benefits on women and children on the working class, and other weaker sections, but these groups are unable to draw the intended dividends, owing to the lack of understanding of their rights and of financial stamina to assert them.

In India, the concept of human rights received constitutional blessings in its different parts. It must be said to the credit of India that within a short span of time, it had in its new Constitution, adopted most of the principles of the Universal Declaration of Human Rights as an integral part of constitutional obligations. Keeping in view the constitutional commitment set forth in Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) and the commitment towards human rights, the courts in India have developed Public Interest Litigation (PIL) as a special device to come to grip with the problems of contemporary society and ensuring that not civil and political rights alone but economic and social rights are also necessary for survival. The global campaign of “All Human Rights For All” includes the disadvantageous sections of society also, and through the mechanism of PIL the Supreme Court of India has become the custodian of people’s rights.

The judiciary is being envisaged not as a redressal forum for elite class in the society. Instead, it is seen and perceived as a forum for raising, redressing and articulating the problems of the have-nots, the deprived, the oppressed and the downtrodden, women and the children, environmental groups, victims of
bureaucratic exploitation and the abuse of power and position by persons holding high public offices. The courts have become a forum for the representation, articulation and protection of the basic human rights of the people who on account of their social and economic disabilities cannot approach the court for the enforcement of their fundamental rights. Underlining the significance of PIL in protecting and preserving the human rights of the people in India, the former Chief Justice P.N. Bhagwati has rightly observed: “Supreme Court has developed the innovative strategy of PIL for the purpose of making basic human rights meaningful for the large masses of the people in the country and making it possible for them to realize their social and economic entitlements.” PIL is directed towards “finding turn-around situations” in the political economy for the disadvantaged and other vulnerable groups. It is concerned with the immediate as well as long-term resolution of problems of the disadvantaged. It also seeks to ensure that the activities of the state fulfill the obligations of the law under which they exist and function.

Thus through the mechanism of PIL the courts seek to protect human rights in the following ways:

*By creating a new regime of human rights by expanding the meaning of fundamental rights to equality, life, and personal liberty:* In this process, right to speedy trial, free legal aid, dignity, and issues like solitary confinement, sexual harrassment and bonded labour, clean environment, emerged as human rights. These new reconceptualised rights provide legal resources to activate the court for their enforcement through PIL.

*By democratization of access to justice:* This is done by relaxing the rule of *locus standi.* Any public-spirited citizen or social action group can approach the court on behalf of the oppressed classes.
**By fashioning new kinds of reliefs under the courts writ jurisdiction:** For example, the court can award interim compensation to the victims of governmental lawlessness. The grant of compensation in PIL matters does not preclude the aggrieved person from ringing civil suit for damages.

**By judicial monitoring of state institutions, such as jails, women's protective homes, and mental asylums:** Through judicial invigilation, the court seeks gradual improvement in their management and administration. This has been characterized as 'creeping jurisdiction' in which the courts take over administration of these institutions for protecting human rights.

**By devising new techniques of fact-finding:** In most of the cases, the court has appointed its own socio-legal commissions of inquiry or has deputed its own officials for investigation. Sometimes it has taken the help of NHRC or judicial experts to inquire into human rights violations. This may be called 'investigative litigation.'

Therefore in the present study an endeavour has been made, to understand how PIL has become a monitoring agency in representing and articulating fundamental human rights of the disadvantageous sections of the society; in what manner PIL has contributed in the protection, preservation and in bringing awareness of human rights; and what are the major loopholes or reasons for its failure in achieving its objectives, when the cry of the litigants for speedy justice have submerged in the courts across the country, where over 2.4 crore cases are pending in different courts. Some of them have been pending since 1950. There are only 10.5 judges for every one million of our people. Undertrials languishing in jails form 73 percent of our total jail occupancy. There are no separate jail rooms for women anywhere in the country except in Tihar.
Only 0.2 percent of the GNP is spent on the judiciary and vacancies in the judiciary are in excess of 2000.

Sources

The present study is mainly based on source material collected from various libraries. The information and data so collected has been analysed and incorporated in the thesis. There are only a few centers of study and libraries which maintain database on PIL and related issues. During the course of this study I visited institutions like The Indian Law Institute, The Indian Social Institute, and libraries like the Supreme Court Library, NASSDOC Library of ICSSR in New Delhi.

Source material available with the Human Rights Programme, and Maulana Azad Library, AMU Aligarh, has been of great help. This thesis is the result of immense library research. Besides innumerable books by eminent jurists, a number of journals and reports have been consulted, to make the study more informative and broad-based.

Chapterisation

The present study focuses on the enforcement of human rights through PIL in India. Some substantive issues of high contemporary relevance have been included. Chapter I is introductory. It explores the origin of PIL in India and the change in the principle of locus standi, along with the growth of PIL. Chapter II analyses various cases reflecting the landmark judgements of the Supreme Court, where the bonded labour have been protected from exploitation and made the right to live with human dignity a reality for millions of workers in the light of various provisions of the Constitution and ILO standards of human rights. Chapter III focuses on the judicial approach to prisoners' rights. The history of
cases decided by the Apex court in recent years reveals the dehumanizing aspect of prison life and ensures that a prisoner is entitled to as many rights as a free man. Chapter IV discusses how effectively PIL protected the rights of women, when legal complexities combined with social realities make the life of an average woman insecure and miserable. Chapter V deals with the development of environmental jurisprudence. The right to clean and healthy environment is a significant contribution of PIL and the sanctum sanctorum of human rights. It also discusses how the Environment (Protection) Act, 1986 has added a new thrust to environment protection.

The concluding chapter highlights the role of courts, and how, through the PIL mechanism, they have raised the expectations of the disadvantaged sections though they happen to be the essential consumers of justice, the actual decision take a long time and the relief given in many cases is very small and insignificant. Moreover is some of the cases the government had not even implemented the decisions and interim direction of the Supreme Court. Thus the study gave heightened attention to problems of implementation and enforcement. It also analyses and identifies the various loopholes in the legal system, and proposes some suggestions so as to improve, rectify and make the Public Interest Litigation system more effective, so that justices should not remain a distant dream for all those who are deprived of it for centuries.