CHAPTER VI

CONCLUSION AND SUGGESTIONS

From the above it is concluded that Public interest litigations are manifestations of the Aristotelian principle of distributive justice which is based on the ideal that there has to be distribution amongst equals and that there should be equal treatment of all. It has to be backed by brandeis briefs. It is ready to fight battles on the question of locus standi. PIL demonstrates that “law is not necessarily a class weapon used by the rich to oppress the poor through the simple device of making justice too expensive and that lawyers are not simply the mercenaries of the propertied class”.

The history of PIL may be traced to the system of action popularis in Roman law which permitted members of Civil society to initiate actions for a public delict in a Court of law or to bring an action for rehabilitation or injunctions for the protection of public property or religious Charitable property. The development of PIL also has parallels in the American Judicial System wherein Louis Brandies, a noted Boston Lawyer, invoked the concept of a public spirited person to enforce social obligations. PILs are a much welcome consequence of judicial activism. PILs have expanded the horizons of human rights.

The main concerns of PIL are the concerns of the poor and their development. Gradually, PIL entered into other domains; viz environmental field, education, corruption in public life, public health, under-trials, awarding

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compensation for victims of human rights, evolving human rights jurisprudence etc.

PIL is a tool of social transformation. It is to usher in an egalitarian social order and welfare state.\textsuperscript{516} It is an actual demonstration of interaction of law and society. A regular writ petition is not required to be submitted. It is enough if a letter, post card is written to the court. Sometimes, \textit{suo-moto} action or entertaining litigation on the basis of newspaper reports is done. Devising new forms of reliefs is a striking feature of PIL. It is departure from the maxim \textit{ubi jus ibi remedium}. It has become a public law remedy.

On the one hand, procedural inventions have broad based the factor of access to justice and contribution of substantive law on the other. Recognition of collective rights is one of the vital contributions to substantive law.

Public Interest Litigation is based on the innovated concept of safeguarding the rights of various categories of persons, who could not approach the Court due to poverty and other social conditions. In India, the Supreme Court thought it proper, to meet the ends of justice to entertain Public Interest Litigations to safeguard the rights of disadvantaged, marginalised sections of the society (i) poorest of the poor; (ii) depraved; (iii) the illiterate; (iv) the urban and rural unorganised labour sector; (v) handicapped by ignorance, indigence and illiteracy; (vi) other downtrodden having no access to justice and (vii) women and children.

In the aforesaid categories, women and children put together constitute more than 70\% of the total population. Without safeguarding the rights of women and

\textsuperscript{516} \textit{Fertilizer Kamgar Union v. People’s Union for Democratic Rights}
protecting the children, based on their constitutional rights and the guidelines given in various international treaties and conventions, we cannot imagine the future of the country.

The important role of PIL is for making justice available to the aforesaid categories of persons, especially the women and children, by way of “social interest litigation”, otherwise known as Public Interest Litigation.

Preventing abuse of Public Interest Litigation is also an important aspect. A litigation does not become a public interest litigation, merely because the question of law involved in a litigation relates to the importance of general public.

Judicial law making in the form of directions is the distinct contribution to substitute the vacuum.  

- PIL has strengthened the rule of law and people’s confidence in the rule of law-based remedies.
- PIL has contributed very much for gender justice, gender equity, gender equality and women empowerment.
- Similarly, PIL has significantly contributed for abolition of child labour, bonded labour. Child trafficking and protection of the rights of children. Ultimately, it has led to juvenile justice.
- PIL has civilised the jail administration and humanised prison jurisprudence. The whole criminal jurisprudence is thoroughly overhauled.

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- It is a challenge and an opportunity to the government and other public authorities to make basic human rights meaningful to the deprived/vulnerable sections of the society. It is a strategic arm of the free legal aid movement.

- PIL is a major break through in the delivery of social justice. It is delivering justice at the door steps of the poor.

- The rigid rule of *locus standi* has now been relaxed in order to vindicate public interest.

- PIL translates into action the preambular message of equality of justice and other constitutional goals.

The Indian Constitution aims at ensuring the enforcement of the rule of law through its mandate under Article 14 and other provisions like Article 21 of the Constitution which incorporates in itself the substantive as well as procedural due process. Because of the growth of the governmental functions as a result of the system of the welfare state, the administration came to exercise so many discretionary powers. However, due to criminalisation of politics, political pressures and compulsions, white collar crime has increased in India. The Governmental machinery has often been misused and discretion vested in the administration abused. It is in this context the constitutional courts, especially the Supreme Court and High Courts have played the role of a watch dog of administration through PIL. The Courts tried to enforce the rule of law and in many cases saw to it that the various scams and scandals committed by the
political leaders and higher officials in the govt, are probed and prosecuted by the law-enforcement machinery in a free and fair manner.518

With the advent of PIL, the Supreme Court of India is at last becoming, the Supreme Court for Indians.519 The last few decades principally through the device of PIL. The Supreme Court has become the last hope of the people. It has become a law reformer and saviour of the teeming millions of people. It has become a champion of the cause of the poor, the under privileged and the deprived. Easy accessibility, expeditious disposal, effective relief and small expenses are the hallmark of the exciting experiment of PIL. As pointed out by Justice Markendey Katju, it is the responsibility of the higher judiciary to prevent the abuse of the concept of PIL.

Mr.Justice Krishna Iyer could be credited with, idealising PIL. He revolutionised Indian Jurisprudence by striking out new directions in the quest for justice. He persuaded his colleagues in the Apex Court to fashion a new jurisprudence and encouraged the liberalisation of access to justice by jettisoning the old locus standi rule.520

However, there are dangers of misuse and abuse of PIL:

- Erosion of the concept of separation of powers has been one of the consequences of the use of PIL jurisdiction to address environmental, developmental and concerns of the poor.

- It encourages vexatious litigation to file unmerited, odious, fictitious claims and abuse of the process of the court.

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519 Ibid at 421
520 Anil Divan, When Justice Krishna Iyer passed away on 04-12-14, The Hindu, 05-12-14 at p.13.
• PIL has resulted in docket explosion and pendency of court cases. Court is already over burdened.

• Valuable time of the court is wasted in private interest, publicity interest, political interest litigations. PIL is not a pil to cure all the ills of the society. It is not panacea for everything.

• The major criticism is usurping of the powers of administration, policy making and law-making functions.

• Inordinate delay in the disposal of PIL cases and non-implementation of judicial directions.

• PIL may be misused by the vested interests. It may be used for extraneous considerations.

• PIL is to be used in the correct dose to kill the discrimination virus of the society.

There is a need for the emergence of public interest law in India on the lines of USA through NGOs, public spirited people and other human rights/civil liberties organizations. The viability of the constitution of a separate bench for PIL in all the constitutional courts may be looked into on the lines of Green Bench etc.