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## **UNIT 3 PUBLIC INTEREST LITIGATION (PIL)**

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### **3.0 OBJECTIVES**

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The Constitution of India in Part III guarantees fundamental rights to all citizens but majority of the poor people are not aware of them. So when their fundamental rights are violated by agents of the State, they fail to seek justice individually through courts of law due to lack of means. Social organisations working for the welfare of these people also could not take the issues related to their injustice and exploitation to courts on their behalf, because of the problem of ‘locus standi’. Realising this obstacle the Supreme Court of India reinterpreted the concept of ‘locus standi’ and held that any member of public even if not directly involved but having “sufficient interest can approach the High Court under Article 226 for redressal of the grievances of the persons who can not move the court because of poverty, helplessness or disability or socially/economically disadvantaged position”. Public Interest Litigation (PIL), is a mechanism through which any public minded individual citizen or social organisations can seek judicial relief in the interest of the general public.

As a person interested in the welfare and development of the weaker sections of society, you may study this subject with a view to understand enabling process in favour of poor, needy and vulnerable sections of the society and to understand importance of PIL in today’s social milieu.

After studying this unit, you will be able to understand:

- the objectives and nature of PIL;
- the adequate changes brought by the Supreme Court in the concept of ‘locus standi’ and the simple procedures adopted by it for filing PIL; and
- the kind of issues which can be taken up by a group of victims of human rights violation or public spirited persons or organisations working for the protection and promotion of these rights.

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### 3.1 INTRODUCTION

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One of the most important developments that took place in the recent years is the process of social action and social reform through legal action known as Public Interest Litigation (PIL). Until the emergence of PIL, justice was a remote reality for our illiterate, underprivileged and exploited masses. This has been largely due to three major difficulties: (i) lack of awareness amongst people; (ii) lack of assertiveness due to their low socio-economic status; and (iii) lack of an effective machinery to give them legal aid. It is only when the poor become aware that the wrong done to them is a legal wrong and that there is a legal remedy available to them, they will seek a legal redressal. Even if they are aware of their legal rights, the poor do not have the means nor the will to go for expensive litigation. And wherever a large number of people are victims of a common injustice or common exploitation, it is not possible for each one of them to file separate petitions and seek remedies individually. These are some of the major obstacles the poor face in the pursuit of justice.

The reinterpretation of the concept of ‘locus standi’ by the Supreme Court has removed one of the major hurdles faced by the poor and has paved the way for easy access to courts of justice. According to the traditional interpretation only a person who had suffered a legal wrong himself could take recourse to the court of law for relief. The new position is that if a legal wrong is done to a person or a class of persons who, by reasons of poverty or any other disability, cannot approach a court of law for justice, it is open to any public-spirited individual or a social action group to file a petition on his or their behalf. This new approach to bring justice to the poor and the oppressed, it is hoped, will give meaning to the constitutional objectives of socio-economic justice for all.

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### 3.2 MEANING OF PIL

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Public Interest Litigation means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. Therefore, PIL is a proceeding in which an individual or group seeks relief in the interest of general public and not for its own purposes.

PIL is a strategic arm of the legal aid movement and is intended to bring justice within the reach of poor masses. It is a device to provide justice to those who individually are not in a position to have access to the courts. It was initiated for the benefit of a class of people, who were deprived of their constitutional and legal rights because they were unable to have access to the courts on account of their socio-economic disabilities.

Today millions of poor particularly those of the oppressed sections of society are looking at the courts for getting justice and improving their life conditions. Responding to the demands of the changing times and needs of the people, the courts are making efforts

to become the courts of the poor, courts for the poor and the struggling masses in this country. Fortunately, this change is gradually taking place and PIL is playing a major part in bringing this change.

### Check Your Progress I

**Note** a) Use the space provided for your answers.

b) Check your answers with those provided at the end of this unit.

1) Why was justice a remote reality for the poor before the emergence of PIL?

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2) Why could not a large number of poor people, victims of a common injustice or exploitation get justice through courts in the past?

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3) Which obstacle was removed by the Supreme Court to pave the way for the poor to have easy access to courts of justice?

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### 3.3 ORIGIN OF PIL

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The term “PIL” originated in the United States in the mid 1960s. In the nineteenth century, various movements in that country have contributed to public interest law, which are a part of the legal aid movement. The first legal aid office was established in New York in 1876. In the 1960s the PIL movement began to receive financial support from the office of economic opportunity. This encouraged lawyers and public spirited persons to take up cases of the under-privileged and fight against various issues like— dangers to environment, harms to public health, exploitation of vulnerable masses, exploitation of consumers and injustice to the weaker sections. In England PIL made a mark during the years of Lord Denning in the 1970s. He as a petitioner brought several public issues to the court.

PIL had begun in India towards the end of 1970s and came into full bloom in the 1980s. Justice V.R. Krishna Iyer and Justice P.N. Bhagwati, have delivered some landmark judgements which opened up new vistas of PIL.

Some of the Supreme Court Judges felt the need for initiating PIL because they observed that the protection of law had so far been available only to the rich and the politically powerful. The civil and political rights of the poor people existed only on paper and not in reality. The poor and the illiterate were not able to understand their legal problems and did not have legal access to justice through the traditional type of litigation because of its high cost, complicated and slow procedures. Hence they believed that the time has come for the courts of the rich to become the courts also of the poor and the oppressed masses. They wanted to make the judicial system an effective instrument of social justice. Justice Bhagwati has encouraged PIL as chairperson of the committee for implementing Legal Aid Schemes.

The Apex Court realized its constitutional power of intervention which could be used to mitigate the misery arising from repressive practices of government, lawlessness and administrative negligence and indifference. Judges, committed to the cause of social justice, recognized that they could play a proactive role to tilt the balance of governance in favour of the have-nots.

**Check Your Progress II**

- Note :** a) Use the space provided for your answers.  
b) Check your answers with those provided at the end of this unit.

1) What is understood by PIL?

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2) Why was it initiated by the Judges of the Supreme Court?

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3) Who had initiated PIL in India?

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### 3.4 NATURE OF PIL

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According to Justice V.R. Krishna Iyer, PIL is a process, of obtaining justice for the people and of voicing people's grievances through the legal process. The aim of PIL is to give to common people access to courts and obtain legal redressal against injustice done to them. Justice P.N. Bhagwati, opined that "PIL is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution. The government and its officers must welcome PIL because it would provide them an occasion to examine whether the poor and the downtrodden are getting their social entitlements or they are continuing to remain victims of deception and exploitation at the hands of strong and powerful sections of the community. When the court entertains PIL, it does not do so in a caviling spirit or in a confrontational mood or with a view to tilting at executive authority or seeking to usurp it, but its attempt is only to ensure observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. The court is thus merely assisting in the realization of the constitutional objective. (*Bandhua Mukti Morcha Vs. Union of India*, AIR 1984 SC 802.) In PIL unlike traditional dispute resolution mechanism, there is no determination, or adjudication on individual rights. While in the ordinary conventional adjudication, the party structure is merely bipolar and controversy pertains to the determination of legal consequences of past events and the remedy is essentially linked to and limited by the logic of the array of the parties, in public interest action the proceeding cut across and transcend these traditional forms and inhibitions. The compulsion for judicial innovation of the technique of public interest action in the constitutional premise of a social and economic transformation is to usher in an egalitarian social order and a welfare state (Bakshi, 2000 : 189-193).

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### 3.5 ESSENTIALS OF PIL

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The main presumption behind PIL was that radical changes in society would come about through the courts of justice if fundamental rights of weak and poor citizens are enforced effectively. The new technique fashioned by the architects of PIL would bring about far reaching changes in the judicial system of the country. Public enterprises are owned by the people and those who run them are accountable to the people. The accountability of the public sector to the Parliament is ineffective. In such cases the court would be under duty to interfere. (*Fertiliser Corporation V/s Union of India*, AIR 1981, SC 434.)

There are three new elements incorporated in PIL: (a) Liberalisation of law relating to "locus standi". (b) Adoption of simple procedure in entertaining PIL petitions. (c) Expansion of the meaning and scope of Articles 14, 21 and 32 of the Constitution.

Justice Bhagwati in S.P. Gupta's case pointed out the essentials of PIL, as under

- a) There must be a legal wrong caused to a person or to a determinate class of person, on whom burden is imposed in violation of law or without legal authority.
- b) The wrong must arise from violation of any constitutional or legal right.
- c) The wronged person (or determinate group of persons) must be unable to approach court for relief by reason of – (i) poverty, (ii) helplessness; or (iii) social or economic disability or socially or economically disadvantaged person.

- d) If the above conditions are satisfactory, then any member of the public can seek judicial relief for the above wrong.
- e) But the court should be anxious to ensure that the person initiated the proceeding to acting bonafide to get redress for a public grievance and not to pursue personal gains or from malicious motives.
- f) If the case is otherwise appropriate for PIL then the court can act even on letter addressed to it. (SP Gupta Vs Union of India, AIR 1982SC 149)

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### **3.6 CONSTITUTIONAL PROVISIONS**

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The new and liberal interpretation of the fundamental rights found in Part III and the Directive Principles of State Policy in Part IV of the Constitution of India gave the present movement for PIL a radical thrust. They are drawn from the revolutionary documents like the American Bill of Rights and the Universal Declaration of Human Rights. Articles 32 and 226 of the Constitution give power to any citizen to move the Supreme Court or High Courts whenever there is an infringement of a fundamental right.

Article 32 (1) guarantees the right to move the Supreme Court by appropriate proceedings for the enforcement of the fundamental rights. Article 32(2) states that the Supreme Court shall have the power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate for the enforcement, of any of the rights conferred by Part III of the Constitution.

Article 226 states that notwithstanding anything contained in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari; or any of them, for the enforcement of any of the rights conferred by Part III (fundamental rights) and for any other purpose.

The Supreme Court and the High Courts have equal powers to issue writs, orders or directions for enforcement of the fundamental rights. The Supreme Court expanded the meaning and scope of the fundamental rights in favour of the weaker sections of society. The meaning and scope of Articles 14, 21 and 32 of the Constitution were given a wider interpretation in favour of the weaker sections. The right to life was interpreted to mean a right to livelihood as well. Similarly, the right of equality under the law guaranteed by Article 14 was interpreted to provide a right against executive and administrative arbitrariness in any decision making.

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### **3.7 NEW INTERPRETATIONS OF ‘LOCUS STANDI’**

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The Latin words “locus standi” signify the legal right of a person to file a suit or conduct a litigation in a court of law. According to the traditional Anglo-Saxon concept of ‘locus standi’ means only the person whose rights were violated could sue for judicial redress. No one could file a petition in the court on his behalf. This doctrine was evolved in an era when the courts were mainly concerned with the rights of the individual. The old doctrine of ‘locus standi’ had not been found to be adequate to meet the needs of a developing society. In the new age of collective rights, it has been felt that the traditional interpretation of ‘locus standi’ should be changed to bring justice within the reach of the poor masses. According to the new interpretation given to this doctrine by the Supreme Court when the rights of an individual or a class of persons are violated and if by

reasons of poverty or disability they cannot approach the court themselves, any public spirited-person or institution, acting in good faith, and not out of vengeance, can move the court for judicial redress.

The strict rule of ‘locus standi’ was first relaxed in *S.P. Gupta vs. Union of India* (AIR 1982 SC 149). The seven-Judges Constitution bench, by a majority, ruled that any member of the public acting bona fide and having sufficient interest in instituting an action for redressal of public wrong or public injury, but who is not a busy body or a meddlesome interloper, could move the court. The court will not insist on strict procedures when such a person moves a petition on behalf of another or a class of persons who have suffered legal wrong and they themselves cannot approach the court by reason of poverty, helplessness or social backwardness.

The important part of this judgement dealing with the issue of ‘locus standi’ is that it may, therefore, now be taken as well established that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is 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 an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or determinate class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.”

Regarding ‘locus standi’ the Supreme Court in the Judges transfer case [*S.P. Gupta Vs. Union of India* AIR 1982 SC 149 and (1994) 4 SCC 305] ruled that any member of the public having “sufficient interest” can approach the court for enforcing constitutional or legal rights of other persons and redressal of a common grievance.

**Check Your Progress III**

- Note :** a) Use the space provided for your answers.  
b) Check your answers with those provided at the end of this unit.

1) What is the nature of PIL?

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2) What is the main assumption behind PIL?

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3) What is the new interpretation of 'locus standi'?

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### 3.8 PERSONS DISQUALIFIED TO FILE PIL

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The following persons are not entitled to file a PIL case. (a) a person without sufficient public interest; (b) a person acting for self gain or personal profit.; (c) a person with political involvement; and (d) a person with malafide intentions.

A third party who is a total stranger to the prosecution which ended in the conviction of the accused has no 'locus standi' to challenge the conviction and sentence awarded to the convicts through a PIL. It was upheld by the Supreme Court in *Simranjit Singh Mann vs. Union of India*, 1992 (4) SC 65. In this case the two assassins of General Vaidya were found guilty of murdering him. They were awarded death penalty which was confirmed by the Supreme Court. The President of Akali Dal filed a PIL under Article 32 challenging the conviction and the sentence on the ground of violation of Article 22, 21 and 14 of the Constitution. The court held that the petitioner has no 'locus standi' to file the petition as he was a total stranger to the prosecution and more than that he was not even authorised by the convicts. The fear expressed by certain people regarding the liberal view of the Supreme Court on 'locus standi' is that it would lead the court being flooded with writ litigation and therefore they should not be encouraged.

To the above criticism the court declared, "No State, had the right to tell its citizens that because a large number of cases of the rich are pending in our courts, we will not help the poor to come to the courts, for seeking justice until the staggering load of cases of people who can afford rich lawyers is disposed off." (AIR 1983 SC 339).

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### 3.9 ISSUES RELATED TO PIL

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The following issues can be taken for PIL.

- 1) Basic amenities such as roads, water, medicines, electricity, primary school, primary health centre, bus service, etc
- 2) Rehabilitation of displaced persons
- 3) Identification and rehabilitation of bonded and child labourers
- 4) Illegal detention and arrest
- 5) Torture of people in police custody
- 6) Custodial deaths
- 7) Protection of prisoner's rights
- 8) Jail reform
- 9) Speedy trials of undertrials
- 10) Atrocities against SCs/STs

- 11) Neglect of inmates of government welfare homes
- 12) Children in custody
- 13) Adoption of children
- 14) Corruption charges against public servants
- 15) Maintenance of law and order
- 16) Payment of minimum wages
- 17) Legal aid to the poor
- 18) Starvation deaths
- 19) Indecent television programmes
- 20) Environmental pollution
- 21) Unauthorised eviction of poor people from slums
- 22) Implementation of welfare laws
- 23) Violation of fundamental rights of weaker sections

In addition, PIL can also be filed in violation of or infringement of human rights.

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### **3.10 EXAMPLES OF PIL**

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Of the numerous cases on the subject, the following cases are worthy of studies:

- i) S.P.Gupta Vs Union of India, AIR 1982 SC 149, 194 (Scope and basic approach)
- ii) DC Wadhwa Vs State of Bihar, AIR 1987, SC 579 (Locus Standi)
- iii) Ratlam Municipality Vs Vardichand, AIR 1980, SC 1622 (General)
- iv) Fertilizer Corporation Vs Union of India, AIR 1981 SC 344 (Locus Standi)
- v) People's Union for Democratic Rights Vs Union of India, AIR 1982 SC 1473 (General)
- vi) State of Himachal Pradesh Vs Parents, AIR 1985 SC
- vii) Shivaji Rao Vs Mahesh, AIR 1985 SC 910 (Mode of entertaining).

#### **1) Demands of Asiad Workers for their Rights under Labour Laws**

Delhi Administration in 1981 had employed over one lakh labourers through contractors for the construction of Asiad projects. The government agencies and the contractors did not care for the observance of the labour laws related to the contract workers. They were not even paid the minimum wages. The report of a freelance journalist V.T. Padmanabhan of their exploitation by the contractors which appeared in the Mainstream (August 1981) accompanied by a letter written by the President of the People's Union for Democratic Rights (PUDR) was sent to the Supreme Court. The Court accepted the letter and appointed ombudsmen to study the working conditions of Asiad labourers.

The decision of the court on this case was a landmark judgement which enlarged the scope of locus standi, fundamental rights and liability of the State. (Peoples' Union for Democratic Rights Vs Union of India, AIR 1982 SC 1477)

#### **2) Eviction of Gudalur Farmers**

This PIL was filed in the Supreme Court against the State of Tamil Nadu by a local advocate, Mr. M.J. Cherian, on behalf of the poor farmers of Gudalur who have been cultivating their lands for several years. The petitioner alleged that persons who had for many years been cultivating the land were sought to be summarily evicted without

adhering to the principles of natural justice contained in the State Forest Act. It was stated in the petition that the forest officers and the police were committing atrocities on the Gudalur farmers.

The Supreme Court by an interim order, stopped the destruction of crops and forcible eviction of farmers. The Court finally ordered that the claims of the farmers for grant of pattas to the lands in question should be re-examined by a competent authority. Those farmers whose claims were not substantiated ultimately could make representations on humanitarian and compassionate grounds. The court also ordered the State Government to consider their case sympathetically.

### **3) Liberation of Pichola Bonded Labourers**

About forty bonded labourers working in Pichola in Bhiwani district described their miserable conditions in which they were living, through a letter addressed to the Supreme Court. They wrote “We are all Adivasi Bhils, with great difficulty we are given wages from Rs. 3 to 5 a day which is just enough for our food rations. Drinking water is supplied once in three or four days. Our huts are worse than those used for keeping animals. We want to go away from here now itself but our Master and his goondas tell us that we cannot leave unless we pay back their loan which is Rs. 2,200 to Rs. 8,000 per family. Our master enters our huts and molests our young daughters and also beats them up. Please save us.” Swami Agnivesh, Chairman of the Bandhua Mukti Morcha forwarded this letter to the Supreme Court.

A division bench headed by Justice P.N. Bhagwati appointed two Commissions to enquire into the conditions of these labourers and report to the court. The expenses of the Commissioners were met by the Committee for Implementing Legal Aid Schemes. Through the interim orders of the Court, several groups of bonded labourers were released from the contractors.

### **4) Case Against Custodial Violence**

In 1983, Sheela Barse, a well known journalist, addressed a letter to the Supreme Court complaining of custodial violence committed against women undertrials while they were confined in police lock-ups in the city of Bombay. The court appointed Ms Armaity Desai, from Nirmala Niketan, College of Social Work, to investigate the matter and submit a report. On the basis of Ms Desai’s report, the Supreme Court bench consisting of Justice Bhagwati, Justice R.S. Pathak and Justice A.N. Sen issued directions to the State of Maharashtra to take steps to protect the prisoners in police lock-ups against torture and ill-treatment.

### **5) Petition for Speedy Trials of Juvenile Undertrials**

In this writ petition filed in 1985, Sheela Barse highlighted the inhuman treatment meted out to juveniles. The petition prayed for the release of 1,400 children detained in jails and for speedy trials of juvenile undertrials. It also requested the court for a uniform juvenile justice system. It was a direct outcome of the exposure of this issue through media and public interest litigation that a Juvenile Justice Bill was passed in 1986 which laid down a uniform legal framework and guidelines to the states to try juvenile delinquents. The decision to shift children from jails to observation homes providing educational and vocational training facilities was also taken at the state level. (Sherla Barse Vs Union of India, AIR SC 2211)

### **6) Ban on Harmful Drugs**

Dr. Vincent Panikulangara, Advocate and General Secretary of Public Interest Law Service Society (PILSS), Cochin, filed a writ petition in the Supreme Court in April 1983 seeking a ban on harmful and ineffective drugs. He pointed out that a committee

appointed by the Government recommended to ban 20 fixed dose combinations of drugs including some of the commonly used drugs. This was to have effect on about two thousand drugs used in connection with several diseases. Some of them are banned or are withdrawn from the market in other countries. However, because of the unethical practices of the multinational drug companies, such drugs were still existing in our country.

The petitioner sought an order from the Court to ban the drugs that are found to be harmful or ineffective on the ground that the existence of such drugs in the market affects his fundamental rights to life under Article 21 of the Constitution of India. He also pointed out that though the Directive Principles of State Policy cannot be enforced by a court, government actions contrary to the Directive Principles can and must be prevented by judicial actions. The Court rejected the plea on the ground that it was for the Government to lay down the drug policy.

The judgement, however, recommended the setting up of a Central enforcement machinery to regulate the manufacture of drugs and punish the defaulters.

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### 3.11 PROCEDURE TO FILE PIL

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No person is bound to follow all the prescribed procedures and formalities of a writ under Article 32, when he files a public interest litigation, because procedure, according to the Supreme Court, is but a handmaiden of justice and the cause of justice should never be allowed to be wasted by any procedural technicalities.

“It is true that there are rules made by this Court prescribing the procedure for moving this court for relief under Article 32 and they require various formalities to be gone through by a person seeking to approach this Court. But it must not be forgotten that procedure is but a handmaiden of justice and the cause of justice can never be allowed to be thwarted by any procedural technicalities. The court would therefore unhesitatingly and without the slightest qualms of conscience cast aside the technical rules of procedure in the exercise of its dispensing power and treat the letter of the public minded individual as a writ petition and act upon it.” (*S P Gupta Vs Union of India*, AIR 1982 SC 149)

The Supreme Court held that it was empowered to appoint socio-legal commissions or devise any procedure and forge any tools it considers appropriate for the enforcement of fundamental rights of the poor. (AIR 1987 SC 1087)

The Supreme Court has enormous power under Article 32 to enforce fundamental rights of the citizens. In the case of *Shriram Foods and Fertilizer Industries* the Court held, “Article 32 does not merely confer power on the Court to issue a direction, order or writ for the enforcement of the fundamental rights but it also lays a constitutional obligation on this Court to protect the fundamental rights of the people and for that purpose this court has all incidental and ancillary powers including to forge new remedies and fashion new strategies designed to enforce fundamental rights. It is in realisation of this constitutional obligation that this court has innovated new methods and strategies particularly for enforcing the fundamental rights of the poor and disadvantaged who are denied their human rights and to whom freedom and liberty have no meaning.”

PIL can be filed in the Supreme Court and High Courts in the following ways:

- Sending registered letter petitions with relevant facts and documents to the Chief Justice of the concerned Court.
- By directly filing the PIL in the court through the Free Legal Service Committee of the court.
- Directly filing the case with the help of any lawyer.
- Filing the case through NGOs or PIL firms.

### 3.12 POINTS TO BE FOLLOWED WHILE FILING PIL

While filing a PIL the following points are to be taken for consideration:

- 1) Discuss the legal issue with the affected people thoroughly.
- 2) Find out whether the matter infringes on the fundamental rights of the people or not. It is also important to specify which fundamental rights have been infringed.
- 3) Help the people to decide whether legal action should be taken in the court to enforce their rights or to prevent the violation of their rights.
- 4) Write out a petition with all the facts and details, dates, etc.
- 5) Specify in the petition the type of relief wanted by the people.
- 6) Get the signatures of all the affected people, if possible.
- 7) Collect all the available documents, newspaper clippings, photographs, investigation reports, certificates and affidavits related to the issue and attach them to the main petition as annexures.
- 8) If possible, consult a socially conscious lawyer or the members of the local legal aid society before sending the petition.
- 9) Send the registered petition to the Chairman of the High Court Legal Services Committee of the respective High Court or to the Chairman of the Supreme Court Legal Services Committee, New Delhi-110 001.

#### Check Your Progress IV

- Note :** a) Use the space provided for your answers.  
b) Check your answers with those provided at the end of this unit.

- 1) Which factor gave the radical thrust to the PIL movement in India?  
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- 2) Which Articles of the Constitution give power to the citizens to move the Supreme Court or High Courts whenever there is an infringement of a fundamental right?  
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- 3) In which case did the Supreme Court relax the strict rule of 'locus standi' for the first time?  
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- 4) Is the Supreme Court empowered to appoint socio-legal commissions or devise any procedure or forge any tools which are considered appropriate for the enforcement of fundamental rights of the poor?  
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## 3.13 EXPLANATION OF IMPORTANT LEGAL TERMS

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### 1) **Fundamental Rights**

They are the basic rights guaranteed to every citizen in Part III of the Constitution of India. These primary rights receive a special treatment under the law. These are distinguished from ordinary rights, for, in as much as an ordinary right may be impaired, abridged or abrogated by legislative action, fundamental rights are immune from interference by law made in the exercise of legislative power. Laws which are repugnant to, or inconsistent with fundamental rights are void. Fundamental rights can be altered or affected only by constitutional amendments.

### 2) **Directive Principles of State Policy**

These are guidelines explained in Part IV of the Constitution as principles of governing policies to the Government with intention to provide guidance to make adequate laws and schemes to achieve the goals of a welfare State. These are fundamental in the governance of the country.

### 3) **Constitutional Courts**

The Supreme Court of India and the High Courts are the constitutional courts. They have the jurisdiction to deal with matters related to fundamental rights and other constitutional matters.

### 4) **Writs**

A judicial process by which any one is summoned by the Supreme Court or High Courts to do a certain act. Under Articles 32 and 226 of the Constitution of India, these courts have powers to issue directions or orders or writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them for—

- a) enforcement of fundamental rights;
- b) redressal of any injury of substantial nature from contravention of provisions of Constitution or any enactment, ordinance, order, rule, regulation, by law or other instrument;
- c) redressal of any injury by reason of any illegality in any proceedings by or before any authority where such illegality has resulted in failure of justice.

### 5) **Litigation**

It means a law suit filed in a competent court.

### 6) **Legal Right**

A 'legal right' is an interest, conferring an advantage, or benefit, upon the person having the right, recognized or protected by a rule, or principle of law, respect for which is duty and the disregard of which is a wrong. It creates a capacity, in the person having the right, of controlling, with the assent and assistance of the State, the actions of others, with reference to a particular object.

### 7) **Lok Adalat**

Lok Adalat (People's Court) is a judicial body created by legislation to settle cases as speedily as possible. This administrative body is empowered to reach a compromise or peaceful settlement between the parties to a dispute, which are compoundable

(compromisable) in nature. A court before which a case is pending may refer that case to the Lok Adalat when it is satisfied that the case is a fit one to be decided by it. Lok Adalat can follow its own procedures but in taking decisions it must be guided by the principles of justice, equity, fair play and other legal principles.

A decision of the Lok Adalat is considered as a decree of a civil court. For settlement of a dispute in a Lok Adalat the parties need not pay court fees.

### 8) Free Legal Services

Free legal services means assistance, aid and advice provided in any legal proceedings by the State to the weaker sections of society to provide equal justice guaranteed by the Constitution of India, especially under Articles 14 and 21.

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## 3.14 LET US SUM UP

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The Constitution of India in Part III guarantees fundamental rights to every citizen. The exercise of these rights is necessary for his overall development. The State has an obligation to enforce these rights. When these rights are violated by the State and its agencies, citizens have the right to take the matter to the constitutional courts for enforcement. But in the past, deprived sections of society could not make use of the constitutional provisions to get adequate justice through these courts due to ignorance of their legal rights and lack of means.

Following the new trends in Public Interest Litigation (PIL) in western countries, the Supreme Court of India expanded the concept of 'locus standi' to enable public spirited persons and organisations working for the welfare and development of the weaker sections to approach the constitutional courts to seek justice on their behalf. For this the Supreme Court has expanded the scope of fundamental rights and simplified the proceedings. The main assumption behind PIL is that radical changes could be brought in society through courts of justice if fundamental rights of poor citizens are enforced effectively.

Today public spirited persons can file writ petitions in the Supreme Court under Article 32 or in High Courts under Article 226 to get adequate orders to enforce their fundamental rights. Many PILs filed in the Supreme Court in the recent past on matters related to basic amenities, rehabilitation of bonded labourers, illegal detention of women and children, custodial death, environmental pollution, unauthorized eviction of people living in slums, spurious drugs, etc., have helped the victims of human rights violations to get justice. It is now left to the social activists and non-governmental organisations interested in the development of the weaker sections of society to make the best use of the recent development in the judicial system in India to enforce the fundamental rights guaranteed by the Constitution and to bring adequate socio-economic transformation in society.

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## 3.15 SUGGESTED READINGS

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Peiris, G.L. (1991), 'Public Interest Litigation in the Indian Subcontinent: Current Dimensions,' *International and Comparative Law Quarterly*, January 1991.

'*Public Interest Litigation: A Retrospect and Prospects*', Indian Social Institute, PUCL (Delhi Chapter) & Centre for Public Interest Litigation, 1994.

Susman, Susan D. (1995), 'Transformation of Standing in Public Interest Litigation', *Legal News and Views*, November 1995.

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## 3.16 ANSWERS TO CHECK YOUR PROGRESS

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### Check Your Progress I

- 1)
  - a) Lack of awareness of their legal rights.
  - b) Lack of assertiveness due to their low socio-economic status.
  - c) Lack of an effective machinery to give them legal aid.
- 2) The poor victims were not aware of their legal rights. Even if they were aware of their legal rights they did not have the means nor the will to go in for expensive litigation in courts.
- 3) The obstacle of the traditional concept of 'locus standi' which did not permit any public spirited person to file a writ petition on behalf of the weaker sections of society.

### Check Your Progress II

- 1) PIL is a type of litigation initiated in a constitutional court by a group of poor people when their fundamental rights are violated by the State authorities or agents.
- 2) It was initiated and devised to provide justice to poor people, who are not in a position to have access to the courts on account of their socio-economic disabilities.
- 3) Justice V.R. Krishna Iyer and Justice P.N. Bhagwati, honourable Judges of the Supreme Court of India.

### Check Your Progress III

- 1) PIL is not in the nature of adversary (confrontational) litigation, but it is an opportunity for the government authorities to make the basic human rights meaningful to the deprived and exploited sections of society and to assure to them social and economic justice which is also the constitutional obligation of the executive. The court is merely assisting in the realization of the constitutional objectives.
- 2) Radical changes in society would come about through courts of justice, if fundamental rights of the weak and poor citizens are enforced effectively.
- 3) According to the new interpretation of this doctrine, when the rights of an individual or a class of persons are violated and if by reasons of poverty or disability, they cannot approach the court themselves, any public spirited-person or institution, acting in good faith, and not out of vengeance, can move the court for judicial redress.

### Check Your Progress IV

- 1) The new and liberal interpretation of the fundamental rights found in Part III and the Directive Principles of State Policy in Part IV of the Constitution of India.
- 2) Article 32 and Article 226 respectively.
- 3) In *S.P. Gupta vs. Union of India* [AIR 1982 SC 149]
- 4) Yes.