

Examrace

Conclusion, Public Interest Litigation: Social Change and Public Interest Litigation in India

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Conclusion

- Accountability is an essential part of the rule of law. It is essential for another reason, as in the earlier editions of Dicey, of course modified in later editions, referring to John Wilkes's case, that "conferment of any discretion tends to arbitrariness and therefore there is something inconsistent with the rule of law." But then, as time passed, it was realized that conferment of some discretion for the purpose of application to the facts of a given case is something you cannot do away with. The area of discretion should be the minimum possible, and set norms, standards or guidelines should regulate it, so that it does not tend to become arbitrary. Therefore, the rule of non-arbitrariness is something to be tested by the judiciary whenever the occasion arises.
- The growth of judicial review is the inevitable response of the judiciary to ensure proper check on the exercise of public power. Growing awareness of the rights in the people; the trend of judicial scrutiny of every significant governmental action and the readiness even of the executive to seek judicial determination of debatable or controversial issues, at times, may be, to avoid its accountability for the decision, have all resulted in the increasing significance of the role of the judiciary. There is a general perception that the judiciary in this country has been active in expansion of the field of judicial review into non-traditional areas, which earlier were considered beyond judicial purview.
- The Judges have a duty to perform, which is even more onerous to keep the judicial ship afloat on even keel. It must avoid making any ad hoc decision without the foundation of a juristic principle, particularly, when the decision appears to break new grounds. The judgments must be logical, precise, clear, and sober, rendered with restraint in speech avoiding saying more than that, which is necessary in the case.
- It must always be remembered that a step taken in a new direction is fraught with the danger of being a likely step in a wrong direction. In order to be a path-breaking trend it must be a sure step in the right direction. Any step satisfying these requirements and setting a new trend to achieve justice can alone be a New Dimension of Justice and a true contribution to the growth and development of law meant to achieve the ideal of justice.

Public Interest Litigation

Social Change and Public Interest Litigation in India

- Social change is the necessity of any society. In India it is done through Public Interest Litigation. In this article an attempt was made to assess the impact of PIL over Indian Society. The jurisprudence of PIL is necessary to understand the nature of PIL in India.
- Such is the disillusionment with the state formal legal system that it is no longer demanded by law to do justice, if justice perchance is done, we congratulate ourselves for being fortunate. In these circumstances one of the best things that have happened in the country in recent years is the process of social reform through Public Interest Litigation or Social Action Litigation.
- Late 1970s marked discernible shift from legal centralism. Legal pluralism was very apparent now. It was realized that social conduct was regulated by the interaction of normative orders, notion of popular justice, community justice, and distributive justice were sought to be institutionalised, though outside the sphere of the formal legal system and in opposition to it.
- Necessity of informal justice Necessity of informal justice, whether as an alternative to state law or as to its agent to find its identity in opposition to state law stems from the nature of Anglo-Saxon law prescribing legal formalism and due to the failure of formal legal system to deliver justice that forced informal justice to take on a separate identity from state law. The British rule bequeathed to India a colonial legal heritage. The Anglo-Saxon model of adjudication insisted upon observance of procedural technicalities such as locus standi and adherence to adversarial system of litigation. The result was that the courts were accessible only to the rich and the influential people. The marginalized and disadvantaged groups continued to be exploited and denied basic human rights.
- Public Interest Litigation as exists today PIL today offers such a paradigm which locates the content of informal justice without the formal legal system. Non-Anglo-Saxon jurisdiction directs courts to transcend the traditional judicial function of adjudication and provide remedies for social wrongs. PIL had already melded the state in to the instrument of socio-economic change. Social justice is the by-product of this transcends from the formal legal system.
- Evolution of Public Interest Litigation the Indian PIL is the improved version of PIL of U.S.A. According to "Ford Foundation" of U.S.A., "Public interest law is the name that has recently been given to efforts that provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others". The emergency period (1975-1977) witnessed colonial nature of the Indian legal system. During emergency state repression and governmental lawlessness was widespread. Thousands of innocent people including political opponents were sent to jails and there was complete deprivation of civil and political rights. The post emergency period provided an occasion for the judges

of the Supreme Court to openly disregard the impediments of Anglo-Saxon procedure in providing access to justice to the poor. Notably two justices of the Supreme Court, Justice V. R. Krishna Iyer and P. N. Bhagwati recognised the possibility of providing access to justice to the poor and the exploited people by relaxing the rules of standing. In the post-emergency period when the political situations had changed, investigative journalism also began to expose gory scenes of governmental lawlessness, repression, custodial violence, drawing attention of lawyers, judges, and social activists. PIL emerged as a result of an informal nexus of pro-active judges, media persons and social activists. This trend shows stark difference between the traditional justice delivery system and the modern informal justice system where the judiciary is performing administrative judicial role. PIL is necessary rejection of laissez faire notions of traditional jurisprudence.

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