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In Public Interest

PILs are necessary to safeguard

citizens' rights

Does public interest litigation (PIL) help? We may soon have empirical data to see if it does. (The Supreme Court has asked for a case-by-case examination of PILs.) However, the significance of the PIL process is much more than what such data can reveal. The Supreme Court initiated the PIL process in the 1980s to take the law to the people. It resulted in landmark rulings that have since influenced public policies on issues ranging from human rights to the environment. There is no reason to imagine that the PIL process has lost its utility or relevance in India, despite the odd example of the process being misused by a citizen intent on mischief or an overzealous judge.

The criticism of the PIL process has come on two counts: one, it is ineffective, and two, it is often an encroachment on the executive's domain. The first reason is easily disputed. PILs concerning the rights of mentally ill, custodial deaths, prisoners' rights and protection of the environment were instrumental in highlighting these issues and initiating public debates that had far-reaching impact. These interventions prodded the executive and the legislature to act. But should we view these interventions as violating the constitutional balance that ought to be maintained among the legislature, the judiciary and the executive? The Constitution does not clearly spell out the powers of each of these pillars of the state, but it is accepted that policymaking and implementation are the exclusive preserve of the legislature and the executive while the judiciary interprets the law. However, they are all expected to contribute equally to a system of checks and balances. The best of PIL interventions have exposed the failings of the legislature and executive and prodded them to take remedial measures. This is truly in the spirit of the Constitution.

The Supreme Court felt the need for a legal instrument like the PIL in the 80s because many citizens aren't aware of their rights or are intimidated by the judicial process to seek enforcement. Despite advances in literacy, including in legal matters, the situation is still more or less the same in India. Politicians and bureaucrats have to be constantly reminded of their duties. Public institutions need to be monitored regularly to ensure that they are accountable to the people.

However, there is a need to streamline the PIL process. Screening of petitions is necessary to keep out frivolous cases. Judges should be careful not to overstep their briefs. These suggestions can be easily implemented.