

PIL & Advocacy

What is PIL?

Over the years, Public Interest Litigation (PIL) has emerged as an effective tool for seeking judicial responses and subsequent government actions to the socio-economic challenges of the unorganised, powerless and those segments of the society who are precluded from resorting to legal redress owing to resource or knowledge constraints. PIL has enabled public-spirited individuals, groups and conscious citizens to litigate in the interest of the poor and disadvantaged; and widened the scope for NGOs and civil society to participate in formulation of pro-people policies and laws.

A PIL (a petition brought before the High Court Division of the Supreme Court of Bangladesh in the nature of writ under Article 102 of the Constitution) is generally instituted for the enforcement of the constitutional and legal rights of the poor and excluded groups as well as ensuring accountability of concerned government and public authorities towards issues of public importance. Persistent efforts by NGOs and social action groups through PIL has, in many occasions, prompted the High Court Division to issue directives and orders that in turn addressed the socio-economic concerns of the poor and the marginalized groups.

History of PIL & Advocacy

PIL is a term of US origin. In the US, PIL means 'Public Interest Law'. But, in Bangladesh it means 'Public Interest Litigation', which is one of the tools used in a number of countries including the US in PIL movement. In this paper, I prefer to go for using the term for Public Interest Law relying on its original meaning.

Some of the PIL activities in countries of the world have been influenced by the PIL movement in the US, which had a particularly productive period in the 1950s, 1960s and 1970s. The US experience drew attention to the potential for law to serve as an instrument for change, and began the processes of thinking law not simply as a method of dispute resolution, but also as an instrument of social justice.

Different terms including 'alternative law', 'developmental law' and 'structural legal aid' have been used interchangeably with 'public interest law'. Senator Jose W Diokno of the Philippines identified the major characteristics of what is often called 'public interest law' saying, '.... development requires a different type of legal aid.... concentrating on public rather than private issues, intent on

changing instead of merely upholding existing law and social structures, particularly the distribution of power within society'.¹

BLAST's approach to PIL & Advocacy

The Advocacy and Public Interest Litigation (PIL) Cell of BLAST was conceived with the objective of effecting systemic pro-poor changes in legislative policy and practice through advocacy as well as litigating in the interest of the poor and the marginalized. BLAST, through its unit offices, has effective presence in 18 districts across the country. It also has a very close-knit network with all bar associations, leading human rights organizations, civil society and the media. BLAST has the advantage of having a very knowledgeable and illustrious Board of Trustees comprising eminent jurists and legal luminaries, retired and experienced Supreme Court Judges and prominent journalists of the country. Since its inception in April 2003, the Advocacy and PIL Cell is endeavoring to ensure increased safety and security and access to justice for the poor and the disadvantaged who are deprived of their basic human rights owing to resource and knowledge constraints. BLAST believes that a 'just society' governed by the Rule of Law can best ensure and protect the fundamental and human rights of the people and the activities of the Advocacy and PIL Cell of BLAST are geared to achieve these objectives.

As a matter of policy and basic mandate, BLAST engages all its strength to ensure an equitable, fair and accessible legal system through which the economically disadvantaged and vulnerable segments of the society, especially women, men and children, can establish and enforce their fundamental rights to life, liberty and property. Simultaneously, the organization is committed to the protection of other fundamental as well as social and economic rights of the indigent people in particular. BLAST strives to empower the poor, women and disadvantaged people through legal aid; legal rights awareness campaigns, mediation and public interest litigation in the establishment of their rights. It also aims to create an enabling legal environment through reviewing and proposing changes to impugned and repressive laws and policies those are discriminatory and oppressive against the poor and the marginalised. The Advocacy and PIL cell is meant to supplement BLAST to achieve its above-noted objectives. To this effect, issues under the following categories will, as a matter of general policy, be prioritized and taken up for advocacy and PIL:

- Legal problems encountered by the hardcore poor;
- Reduction of inequality;
- Fundamental human rights violations of the poor in particular;
- Legal issues having vast implication on the overwhelming majority of the impoverished population of Bangladesh;
- All forms of discriminations (particularly against women);

- Burning issues that have a direct linkage to poverty alleviation;
- Laws those are repressive, discriminatory against the poor and women in particular;
- Legal issues concerning safety and human security; and
- Regulatory reform.

The Advocacy and PIL unit of BLAST filed seven public interest litigations during 1 April 2004- 31 March 2005 covering a range of issues which include, amongst others, challenging the wholesale and blanket arrests of mass people (most of whom are indigent) by law enforcement agencies; money suit claiming compensation to the tune of Taka 290 million on behalf of 121 plaintiffs in a damage suit following the M.V. Nasreen Launch capsized that caused damage to life and property of hundreds of poor people; challenging the forced eviction of 40,000 landless people in Noakhali Chars and residents of Agargaon Basti in Dhaka; challenging the ban on sale and distribution of publications by the Ahmadiya community in Bangladesh; and challenging the legality, lawful authority and propriety of a public notification relating to ... issued by the Additional Divisional Commissioner (General), Chittagong styling himself and acting as Ex-Officio Sessions Judge of Rangamati, Khagrachari and Bandarban districts.