With the recent surge in litigation in Bangladesh, however, PIL has come under some criticism. But, for people like Murshid, also president of Human Rights and Peace for Bangladesh (HRPB), going to court seems to be the only way to ensure one's basic rights. "It is a relatively new trend and is thus attracting people's attention, some negative, but it is for the good of the people and society," he says.

Barrister Amir-Ul Islam, too, sees the rise in PIL as a healthy trend. "It is a part of the process of a growing democracy, encouraging rule of law and governance," says the eminent jurist. "Every new democracy as it appears has gone through the process; for example, in India the role of PIL has reached its zenith."

There is a question of how far the courts should be involved in governance issues, says Islam, but when people are denied and deprived of certain fundamental rights, there can be a role of an intervener, where non-governmental organisations (NGOs) can be effective in addressing these maladies. However, there are certain risks in PIL cases, with people and organisations taking their professional rivalries to court.

"PIL has at times been abused and the courts should be extremely careful in this regard," says Islam. "PIL cases should be backed by enough research and the groups filing them should have a credible track record of working in these areas. Groups which file them must devote time for research on the issues they are fighting for before taking them to court. Genuine groups should also be generously supported by the community." An institutional framework should be developed -- the more specialised the NGOs are, the better they will perform, opines Islam. Only if genuine and well-researched cases are taken to the courts can the courts help to address the issues before it.

While public interest litigation may be a sign of increased social consciousness in a growing democracy, it is also a clear sign of bad governance in that society. Settled historical matters fall victim to political controversy; legal recourse is sought for unaddressed personal and public grievances instead of their being dealt with by the authorised organs of the state. While critical analysis of public interest litigation is understandable, given our social reality, the practice is a positive one. It can only be reduced by ensuring good governance, where those responsible for ensuring rights and services to the people fulfil their duties.



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