

Research Project for Degree of LL.B.

**THE IMPORTANCE AND PRACTICALITY OF
PUBLIC INTEREST LITIGATION AND THE ROLE OF JUDICIARY
IN PAKISTAN**



Supervisor

Prof. Ahmed Ali Khan

This research project is submitted in partial fulfillment of the requirements for the degree of LL.B

Submitted By

Salman Zaka

(01-177111-023)

Hammad Zahid

(01-177111-006)

Syed Muhammad Ali Hamdani

(01-177111-019)

Department of Law
Bahria University, Islamabad
December, 2015

DECLARATION

I, as a student of Bahria University, hereby declare that;

Firstly, I have abided by the research ethics while writing this research project.

Secondly, I have not committed any acts that may dis-credit or damage the credibility of my research. These include, but are not limited to: falsification distortion of research findings or plagiarism.

Thirdly, I need to go through a plagiarism check before submitting this research project.

Date: 25 November, 2015

Degree: LL.B

Department: Law

Supervisor: Prof. Ahmed Ali Khan

Name & Signature of Students:

Salman Zaka | Hammad Zahid | Syed Muhammad Ali Hamdani

Acknowledgement and Dedication

The completion of this research project could not have been possible without the participation and assistance of many people whose names may not all be enumerated. Their contributions are sincerely appreciated and gratefully acknowledged.

However, the group would like to express their deep appreciation and indebtedness particularly to the following:

Mr. Adnan Khan (Lecturer, BUIC)

Advocate. Malik Naseer Anjum Awan (Lecturer, BUIC)

for their endless support and guidance.

We express our appreciation and are immensely grateful to:

Prof. Ahmed Ali Khan (HoD Law, BUIC)

for sharing his pearls of wisdom with us during the course of this research.

We are also immensely grateful to:

Miss. Saadia Zahoor Abbasi (Lecturer, BUIC)

for the comments on an earlier version of the manuscript and for her guidance.

Although any errors are our own and should not tarnish the reputations of these esteemed professionals.

Above all, to the Great Almighty Allah, the author of all knowledge and wisdom, for his countless blessings.

We Thank You.

**This research work is dedicated to the ‘Respectable Faculty Members’ of
‘DEPARTMENT OF LAW, BAHRIA UNIVERSITY ISLAMABAD CAMPUS’**

TABLE OF CONTENTS

Chapter #		Page #
1.	Introduction	1 – 2
2.	Historical Development of Public Interest Litigation	3 – 4
3.	General Concept of Public Interest Litigation	5 – 8
(i)	Matters which may fall under public interest litigation	5
(ii)	Matters which are not to be entertained as Public Interest Litigation	6
(iii)	Directions for the Preservation of Purity and Sanctity of Public Interest Litigation	7
4.	Strict Rule of Locus Standi for Public Interest Litigation	9 – 10
5.	Public Interest Litigation in Pakistan	11 – 17
(i)	Precedents	14
(ii)	Human Rights Cell	16
6.	Who Can Apply for Public Interest Litigation	18 – 29
(i)	American Law	18
(ii)	English Law	19
(iii)	Indian Law	22

(iv)	Pakistani Law	25
▪	Precedents	27
7.	Role of Judiciary in Pakistan	30 – 31
8.	Recommendations	32
9.	Conclusion	33 – 34
10.	Bibliography	35

List of Case Laws

Pakistani Law Cases

- 1) PLD 1972 SC 139.
- 2) PLD 1975 SC 66.
- 3) PLD 1988 SC 416.
- 4) PLD 1991 Journal 126 (Quetta Declaration for Public Interest Litigation)
- 5) PLD 1994 SC 693.
- 6) PLD 1994 SC 102;
- 7) PLD 1996 SC 324.
- 8) PLD 1998 SC 161.
- 9) PLD 2004 SC 482;
- 10) PLD 2004 SC 482.
- 11) PLD 2004 SC 484.
- 12) PLD 2006 SC 394.
- 13) PLD 2006 SC 564.
- 14) 2001 SCMR 1320.
- 15) PLD 2009 Lah 22.

Indian Law Cases.

- 1) AIR 1980 SC 470.
- 2) AIR 1981 SC 344.
- 3) AIR 1982 SC 149.
- 4) AIR 1982 SC 1473.
- 5) AIR 1982 SC 1477.
- 6) AIR 1982 SC 149.
- 7) AIR 1985 SC 910.
- 8) AIR 1989 SC 356.
- 9) 1991 AIR SCW 121.

- 10) AIR 1993 SC 892.
- 11) AIR 1993 SC 892.
- 12) 1994 AIR SCW 2190.
- 13) AIR 2002 SC 350.
- 14) AIR 2005 Raj 171.
- 15) AIR 2007 SC 758.
- 16) AIR 2010 SC 2550.

English Law Cases

- 1) *Sierra Club v. Morton*, 405 US 727 (= 31 L.E.d.2d. 636)
- 2) *Data Processing Service v. Camp*, 397 US 150 (= 25 L.E.d.2d. 184)
- 3) *United States v. Scrap*, 412 US 669 (= 37 J. Ed. 2d, 254)
- 4) *Simon v. Eastern Ky. Welfare Rights Organization*, 426 US 26 (= 48 L.E.d.2d. 450)
- 5) *Blackburn v. Attorney General*, 1971-1 WLR 1037.
- 6) *R v. Commissioner of Police, ex parte Blackburn*, 1968-2 QB 118.
- 7) *R v. Police Commissioner ex parte Blackburn*, 1973 QB 241.
- 8) *R v. Greater London Council, ex parte Blackburn*, 1976-1 WLR 550.
- 9) 1978 AC 435.
- 10) [1978] AC 435, [1977] UKHL 5, [1977] 3 All ER 70.
- 11) *R. v. Inland Revenue Commissioners*, 1980-2 All ER 378.

Abstract

In common law system a number of forums are given to redress injury or hardship at every level and 'public interest litigation' has got a pride of place in the matters of public curiosity. Judicial interference by way of public interest litigation is always available if due to non-fulfillment of Constitutional or Statutory obligation by the government the public is suffering injury or can suffer on the later stages.

The main objective of this research work was to analyze public interest litigation in its true form by gathering relevant information with the help of Statutes and the settled precedents and to compare that law of Pakistan with other common law countries.

During this research work we analyzed practical implications of public interest litigation in different countries; we intended to bring up a focused study through which one can easily grasp the essence and the ambit of public interest litigation by understanding it in its true spirit.

Furthermore, a comprehensive study has been made for the practical understanding of public interest litigation in the judicial system of Pakistan. In this research work we determined the origin, scope, nature, purpose and the boundaries set up by the Courts for public interest litigations in developed countries (i.e. U.K & U.S.A) and compared them with Indian and Pakistani law.

However our research design is very simple and is based upon Statutes, Precedents and Policies. Specifically the views of the legal experts have certainly provided us a wide platform to conclude the extensive research work.